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CHARTERS

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THE WASHINGTON STAR (GREEN LINE)
13 March 1980

The Nation

■ Carter Backed on CIA Secrecy

A House committee relented yesterday and approved legislation that would allow the president to withhold advance notification to Congress of sensitive covert U.S. intelligence operations.

A subcommittee voted earlier to require prior notice of all covert intelligence activities, but Carter administration officials objected that some operations might be too sensitive.

The compromise would allow the president to withhold advance notification if the delay was necessary "to meet extraordinary circumstances affecting the vital interest of the United States or . . . to avoid unreasonable risk to the safety of the personnel or methods employed."

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ON PAGE A1-14THE WASHINGTON POST
13 March 1980

Panel Backs New Secrecy For CIA Acts Covert Operations Reports Restricted To Two Committees

By George Lardner Jr.
Washington Post Staff Writer

The House Foreign Affairs Committee voted yesterday to supplant the law governing the Central Intelligence Agency's covert operations with a new rule providing for much more secrecy.

Acting on a series of voice votes after a closed-door briefing from the CIA, the committee decided to restrict reports to Congress about covert operations to the Senate and House Intelligence committees, and to allow the president to avoid prior notification when he deems it "essential."

A move to require the president to give at least some vague advance notice of especially risky operations — without specifying any details — was beaten down.

It was the first test this year of the Carter administration's drive to get rid of restraints imposed on the CIA in the mid-1970s and provide it with a freer hand in the new Cold War atmosphere.

Rep. Lee H. Hamilton (D-Ind.) had won approval last week from a Foreign Affairs subcommittee of a flat rule calling for prior notice to Congress of all covert operations, but he trimmed it back substantially in the face of opposition from the CIA and committee Chairman Clement J. Zablocki (D-Wis.).

The final version, cosponsored by Hamilton and Rep. William S. Broomfield (R-Mich.), calls for advance notice of covert activities to the two intelligence committees, but with two broadly stated exceptions.

Under the committee-approved measure, "the president may defer, for the shortest practicable period, such prior reporting if, at the time the report is given, the president certifies that such deferral was essential to meet extraordinary circumstances affecting the vital interest of the U.S. or was essential to avoid unreasonable risk to the safety or security of the personnel or methods employed."

Hamilton said he meant this provision to be invoked only in highly unusual circumstances, but some members voiced fears that it would become the rule rather than the exception.

"The president can certify these conditions any time he wants," protested Rep. Donald J. Pease (D-Ohio). "We're essentially saying here that whenever the president is so inclined, there can be a covert operation without notification to Congress" for as long as he chooses.

Pease moved to add a proviso that would require the president at least to tell the intelligence committees "that an unspecified covert operation is about to be undertaken," but the idea was rejected.

"It would provide a field day for the press," declared Rep. David R. Bowen (D-Miss.).

Pease vainly sought to remind his colleagues that the notifications themselves are supposed to be tightly guarded secrets. "There's nothing in my amendment that says it would be broadcast to the media or anyone else," he said.

The present law governing covert operations, known as the Hughes-Ryan amendment, was enacted in 1974 as part of that year's foreign aid bill. The Foreign Affairs Committee yesterday approved the new version in the process of marking up this year's foreign aid authorizations.

Under the provisions of Hughes-Ryan, no covert actions in foreign countries can be undertaken "unless and until the president finds each such operation important to the national security and reports, in a timely fashion, a description and scope of such operation to the appropriate committees" of Congress. Eight Senate and House committees, including Foreign Affairs, are entitled to receive those reports under the law, although one of the panels, House Armed Services, has said it doesn't want them.

Yesterday's action would cut the number to two, the traditionally tight-lipped Senate and House Intelligence committees. Rep. Howard E. Wolfe (D-Mich.) arguing that covert operations clearly affect foreign policy, sought to keep the House Foreign Affairs Committee and Senate Foreign Relations Committee on the list, but his colleagues turned him down, again on a voice vote.

Instead, Hamilton said the Foreign Affairs Committee will seek a change in House rules that would entitle it to three seats on the House Intelligence Committee. It currently has one seat, which is occupied by Chairman Zablocki.

ARTICLE APPEARED
ON PAGE 20THE NEW YORK TIMES
13 March 1980**House Panel Votes****to Ease Requirement on Reporting Covert C.I.A. Acts**

By CHARLES MOHR

Special to The New York Times

WASHINGTON, March 12 — Five and one-half years after being given the right to review the Central Intelligence Agency's covert operations, the House Foreign Affairs Committee voted to discontinue that responsibility and to give the President discretion to carry out clandestine actions without informing Congress.

The voice vote by the 34-member committee seemed to be an illustration of a strong sentiment in this session of Congress, fed by the Iran and Afghanistan crises, to "unleash" the intelligence agency.

If, as seems likely, the committee measure is upheld by the full House, it will probably undercut efforts in the Senate to write into law an obligation on the White House to give prior notification of covert intelligence operations to the Senate and House Select Committees on Intelligence, Senate sources said.

Today's action by the Foreign Affairs Committee rewrote an amendment to the Foreign Aid Authorization Act of 1974, which specifies that no funds can be expended on covert operations "unless and until" a "timely" notification is given to the House Foreign Affairs and the Senate Foreign Relations Committees and other "appropriate" Congressional Committees.

That so-called Hughes-Ryan amend-

ment led to what advocates of less-restrained intelligence operations called the "absurd" situation in which eight Congressional committees with more than 200 members were briefed on covert acts. However, a recent study indicated that in practice only 46 members of Congress were briefed.

The Foreign Affairs panel today voted to require that only the select intelligence committees of each House of Congress receive briefings on clandestine operations.

However, the committee also approved language that would, in effect, permit the President to order a covert operation without informing the intelligence committees, in "extraordinary" circumstances affecting the "national interest" or to protect the safety of intelligence personnel and methods.

The author of the measure, Representative Lee H. Hamilton, Democrat of Indiana, originally also included a provision that would have permitted the President, apparently at his discretion, to limit notification to the two chairmen and ranking minority members of the intelligence committees.

But even this limited form of prior notification was dropped when Representative Stephen J. Solarz, Democrat of Brooklyn, and some other liberals, attempted to suggest legal wording that might have limited the President's discretion to restrict briefing to the four sen-

ior members of the two intelligence committees.

The committee's action today gave the Central Intelligence Agency and the White House the authority to limit notification to Congress, which Adm. Stansfield Turner, the Director of Central Intelligence, requested last month in testimony before the Senate Intelligence Committee.

Representative Gerry E. Studds, Democrat of Massachusetts, argued that the Foreign Affairs Committee was possibly exceeding its jurisdiction by legally excusing the Administration from full reporting to other committees. Clement J. Zablocki, the Wisconsin Democrat who heads the committee, responded that varying versions of intelligence legislation would probably have to be reconciled before final passage.

Officials of the Carter Administration and the Central Intelligence Agency have argued that the Hughes-Ryan amendment "inhibited" covert intelligence operations because of the fear that widespread reporting to multiple committees would lead to disclosures of secret plans.

However, it was learned this week that in 1977 the Administration sought and received from the Department of Justice a legal opinion asserting that the Hughes-Ryan amendment did not require prior notification. Sources said that, presumably, the C.I.A. had used that loophole and might have difficulty demonstrating that it had been inhibited by the law.

THE WASHINGTON POST
12 March 1980

CIA Operations Proposal Splits Hill Panel

By George Lardner Jr.

Washington Post Staff Writer

The battle over the law governing the Central Intelligence Agency's covert operations broke out yesterday in the House Foreign Affairs Committee with a conflict on the crucial issue of when Congress should be told of them.

A Foreign Affairs subcommittee last week approved a proposal that would require advance notice, but Rep. Clement J. Zablocki (D-Wis.), the committee chairman, countered yesterday afternoon with an amendment that would allow the president to ignore the rule whenever he thought it necessary.

Both plans would sharply reduce the number of congressional committees that would share the secrets.

The current law, enacted in 1974 as an amendment to the Foreign Assistance Act, calls for reports to all the "appropriate committees" of Congress, a description that now covers seven House and Senate panels. The new legislation would restrict such notices to the House and Senate Intelligence committees.

The 1974 law, known as the Hughes-Ryan amendment, is somewhat ambiguous on when the reports are to be made. Conflicting interpretations, although written down years ago, have surfaced in the past week.

A study by the Congressional Research Service, conducted in 1975 but just made public by Rep. Les Aspin (D-Wis.), concluded that advance notice is already required under Hughes-Ryan.

The Justice Department then made public a portion of a secret opinion drawn up in 1977 for then-Attorney General Griffin B. Bell, which drew exactly the opposite conclusion. Lawyers for the Justice Department's Office of Legal Counsel held that it was "clear from the legislative history [of Hughes-Ryan] that reports to Congress need not occur before the operation is conducted."

A Justice Department spokesman said the rest of the 10-page opinion on the Hughes-Ryan amendment was being kept secret for "strategic reasons." He denied that the portion dealing with the prior-notice issue was being released with an eye on the congressional debate. He said it was made public this week at Bell's re-

quest simply by coincidence, as the result of a newspaper interview with the former attorney general.

In practice, the CIA generally notifies the House and Senate Intelligence committees, and several other panels such as Foreign Affairs, in advance of its covert operations. But President Carter has come out strongly against writing the practice into law, contending that this would encroach on his constitutional prerogatives.

The dispute has already led to an impasse between the White House and the Senate Intelligence Committee over a legislative charter for the CIA. The charter would also repeal Hughes-Ryan, but progress on the charter legislation has been slow.

In the House Foreign Affairs Committee, Rep. Lee H. Hamilton (D-Ind.) sponsored the subcommittee version that would require notification to Congress of covert operations "prior to the initiation of such operation."

Zablocki moved yesterday to tack on a proviso that would permit the president to wait whenever he decides that prior notice would "prejudice" the operation itself, the national security, or the lives of the individuals involved in the operation. An aide to Hamilton indicated he feels exceptions should be made only when lives might be endangered. The issue may come to a vote today during the full committee's markup of this year's foreign aid bill.

NORTHERN VIRGINIA SUN

11 March 1980

CIA Should Stay "Leashed"

Editor:

There is a great cry to "unleash the CIA".

The CIA's primary function is intelligence gathering. In the past it has not been too good at this. In 1978 CIA predicted that the shah was secure; earlier, that Vietnam would not collapse in 1975, and that war would not break out in the Middle East in 1973. CIA has a very difficult job. It has to winnow out the significant bits of information from the great mass of data, tips, and misinformation received. This is a function that should be the primary agency mission, and it should be done well. It is essential that significant data be relayed promptly to the president. This "intelligence function" is not under any debilitating restrictions that I know of. The CIA is already "unleashed": I hope it is improving its capacity in this regard.

Covert activity (subversion of other governments) is an entirely different matter. Here, too, the CIA has not always performed brilliantly. It botched the Bay of Pigs and a "grotesque mixture of evil and clownishness" characterized its

assassination attempts." I do not want the CIA "unleashed" in the area of covert activity: I want a legislative charter for CIA that spells out its functions and allowable procedures. It should specifically prevent any covert foreign adventurism without prior approval of the president and the Congress. CIA has engaged in covert activity in the past that many disapproved (when they found out about them after the fact). Interference in someone else's government should not occur without prior approval by our elected representatives.

I hope your paper will publicize the proposed contents of the CIA charter being debated on the Hill. All citizens should have a chance to comment on the proposed charter, and to inform their congressional representatives of their views. I, for one, do not want the CIA "unleashed" in the area of covert activity. I want it under firm control by our elected representatives—that is, "leashed".

THEODORE W. TAYLOR
Arlington

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10 March 1980

Ominous CIA/FBI Charters on the Way

The Continuing Nixon Presidency

By Nat Hentoff

"If the truth is the first casualty of war," *The Nation* said recently, "civil liberties are the first casualty of cold war."

Predictably, the Cold Warrior in the White House has called for the removal of "unwarranted restraints" on United States intelligence agencies. He particularly wants to liberate the CIA. But, as we shall see in this examination of prospective CIA and FBI charter legislation now before Congress, the President also yearns to return the FBI to its glory days when special agents were so resourcefully free to protect the nation against its indigenous enemies that they could strangle the Bill of Rights with impunity. Well, maybe Carter doesn't intend to go all the way back to the boundless criminality of J. Edgar Hoover, but the Justice Department's FBI domestic charter now in the Senate Judiciary Committee has more than enough loopholes to gladden the black-bag heart of the departed Director.

Four years ago, Carter campaigned as a born-again civil libertarian, so appalled at pyramiding revelations of CIA and FBI abuses that he pledged his Administration would practically compel Congress to enact charters spelling out what our intelligence agencies, at home and abroad, are empowered to do and what they are forbidden from doing. Like breaking the law. But four years is quite ancient history in the American psyche, and besides, such niceties as the civil liberties of Americans who are not intelligence agents surely become dispensable when the nation may be

at the brink of World War III. Or so Carter, his intelligence chiefs, and various members of Congress—most notably the ever-alert Daniel Patrick Moynihan—believe.

Yet, even though it was four long years ago, some of you may remember the Senate Select Committee on Intelligence's report on "COINTELPRO: The FBI's Covert Action Programs Against American Citizens." COINTELPRO was the often devastatingly successful campaign by our secret police to disrupt and destroy lawful dissenting political parties, provoke violence among members of black nationalist organizations, and even, when in the national interest, destroy marriages of heretics.

The Senate Committee concluded that these FBI operations were "unworthy of a democracy and occasionally reminiscent of the tactics of totalitarian regimes."

The remarkably industrious FBI also engaged—without judicial warrants—in wholesale wiretaps, mail openings, and plain breaking and entering. Moreover, that Senate committee, headed by Frank Church, disclosed that "between 1960 and 1974, the FBI conducted over 500,000 separate investigations of persons and groups under the 'subversive' category predicated on the possibility that they might be likely to overthrow the government of the United States. Yet not a single individual or group has been prosecuted since 1957 under laws which prohibit planning or advocating action to overthrow the government." (Emphasis added.)

So, over a half-million dossiers—at

least—were maintained on innocent citizens for no lawful purpose whatever. Many were surveilled, had their mail opened, and, as is often the case with intelligence agencies, had their investigatory records as "subversives" transferred to other government departments, with results they may never know.

As for the CIA, although the 1947 Internal Security Act barred these otherwise unguided missiles from performing domestic security functions, dashing CIA agents were all over the American landscape. They cultivated covert informants among professors (some of whom doubled as recruiters of students). They engaged for 20 years in MKULTRA, an experimental mind-control program based on drugs. Among MKULTRA's guinea pigs were a sizable number of wholly unwitting Americans. (For instance, LSD was administered, under CIA auspices, to students, inmates in state prisons, and patients in mental hospitals throughout the country. They weren't told it was LSD.)

And for its most ambitious domestic venture, the CIA created Operation CHAOS, which involved surveillance of hundreds of thousands of anti-Vietnam-War activists. The entirely disingenuous rationale for this massive CIA violation of the National Security Act—let alone the First and Fourth Amendments—was that its agents had to collect information on the political activities of these citizens in order to find out whether they had foreign connections. Some of these CIA agents, by the way, actually infiltrated "leftist" groups, so you may have been demonstrat-

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ing alongside a veteran of the Bay of Pigs.

One of the targets of Operation CHAOS was this columnist, as I found out recently when, in response to a Privacy Act request, the CIA sent me a "sanitized" version of my dossier. It is as abundant as my previously obtained FBI file. There is nothing in the CIA dossier that I did not write about in the *Voice* or other publications, although I question the accuracy of certain unnamed agents' reporting of my anti-war speeches. (Their minds seem to get terribly confused by discussions of constitutional law.) In any case, although these spy reports awaken a certain nostalgia and momentarily amuse my children, I am not amused, because I do not like being secretly surveilled, especially by my government. All these years later, it's still a disquieting feeling.

With regard to the "foreign connection," there is only one link to another country in my dossier. Under "an intercept program" called HTLINGUAL, the bastards took a letter to me from Moscow, opened and read it, put a copy in my file, and then sent it along. In June 1962, a 21-year-old Russian student and reader of *The Jazz Review* (which I co-edited) had written me about the suddenly vigorous state of jazz in his country. He also included the foreign intelligence that Benny Goodman, at that very moment, was playing a gig in Moscow. And the Russian ended with references—obviously code names—to Coltrane, Monk, Stitt, and O. Coleman.

Markings on this farrago of "subversive" documents indicate that some of them traveled back and forth among the CIA, the FBI, the Department of State, and other agencies whose names I can't make out. If dissenting were not my profession, I might well worry about where these tracings of this "suspect" citizen have taken root—and with what malignant harvest.

Other lives were maimed, however, and some were destroyed, because of the "excesses" of the intelligence agencies. Yet, despite the exhaustively documented Church Committee reports and the variously astounding exposes by civil liberties groups, journalists, and former intelligence agents, no legislation controlling the CIA and the FBI has been enacted.

Accordingly, when the President, as in his recent State of the Union address, so earnestly urges the emancipation of the intelligence agencies, he is whistling Dixie. They have hardly been fettered. In the February 9 *New Republic*, Morton Halperin, a former National Security Council staff official, points out: "Four years after congressional investigators documented that the CIA and other intelligence agencies had seriously abused the rights of Americans, Congress has done nothing but create committees and charge them with considering legislation."

Now, however, Congress might finally do something. The wrong thing. CIA and FBI "charters" have been introduced in this session, but they are very light on reform, and very heavy on legitimatizing many of the abuses of the past. As Halperin notes: "Now the intelligence agencies and others have seized the opportunity of the current crisis to press for legislation weakening the democratic limits on intelligence behavior that already exist."

One of the bills, S. 2284, has been introduced by Senators Walter Huddleston, Charles Mathias, Birch Bayh, and Barry Goldwater. Much of it is supported by the Carter Administration. It's called the National Intelligence Act of 1980. (Worth noting is that the last such bill introduced was the National Intelligence Reorganization and Reform Act of 1978. Ain't no emphasis on reform this time around.)

It is somewhat of an exaggeration to say, as do some critics of the bill, that its only substantial limitation on the CIA is to prohibit it from assassinating people. But it is true that the measure hardly puts much of a legal strain on our native James Bonds. By the way, even the stricture on assassination bothers such of the CIA's more devout admirers as the *Wall Street Journal*. In a February 21 lead editorial, that guardian of the liberties of covert operators complains that the Huddleston bill overly restricts the CIA by not defining the term, "assassination." What looser definition does the *Wall Street Journal* have in mind? Maybe assassination should be permissible only if done by a hired third party from another country. Or another galaxy. Or maybe assassination should be "lawful" if no mark is left—either on the surface of the cadaver or in the tissues. Or if the poison doesn't take effect until a year and a day have gone by.

To its credit, however, the *Wall Street Journal* does not equivocate on how far the CIA should be allowed to go in all matters: "Given the world that has emerged, we should be able to recognize that the CIA is not a law-enforcement agency; in important respects it is intended as a law-breaking agency." (Emphasis added.) And that indeed is the spirit of much of the National Intelligence Act of 1980. The bill also includes a charter for the FBI when it is involved in operations in this country dealing with foreign intelligence. (As already noted, the domestic FBI charter, quite another bill, is marinating in Ted Kennedy's Senate Judiciary Committee. It's S. 1612, The Federal Bureau of Investigation Charter Act. The House version is HR. 5030.)

Vying with Senator Huddleston's National Intelligence Act in the Senate is a measure introduced by the CIA's best friend, Daniel Patrick Moynihan. In the rest of this series, I shall explore Moynihan's garden of horrors, as well as the domestic FBI charter (S. 1612), which Ted Kennedy, alas, is not equipped to understand in civil liberties terms because, in his student days, he was apparently absent the day they studied the Bill of Rights.

As for Huddleston's National Intelligence Act of 1980, the American Civil Liberties Union has greeted its appearance by sounding a loud alarm. Under the bill, warns the ACLU, "The FBI at home and the CIA abroad could search records, engage in physical surveillance, plant agents, and use other techniques to secretly gather foreign intelligence information in the possession of innocent Americans." (Emphasis added.) Or, information thought to be in the possession of innocent Americans. These provisions in the new bill "would have authorized the FBI and CIA surveillance of the anti-war movement."

In other words, putting these particular spy-licenses into a congressional charter no longer makes these kinds of operations at all dubious. On the contrary, it encourages them. Similarly, says the ACLU, if the bill is passed, "FBI agents could break into the homes of Americans suspected of being agents of a foreign power and steal papers without serving a warrant or having probable cause to believe that a crime has been or is about to be committed."

Who is to give these FBI agents the secret warrants—that they do not have to serve—which will legalize these burglaries? A secret Federal court, already in operation and currently deciding on applications for national security wiretaps. You never heard of it? You are not alone.

Also in the bill is this vintage J. Edgar Hoover stratagem, as distilled by the ACLU: "Americans could be secretly investigated under the guise of considering them for use as sources or agents or because they are believed to be targets of a hostile intelligence service." The latter is "exactly the kind of justification the FBI used in attempting to defend its surveillance of Martin Luther King, Jr., at the height of the Civil Rights Movement." Who was targeting Dr. King? The KGB, of course. If you believe the FBI.

The Huddleston bill also has no effective restrictions on the CIA's covert use of academics, journalists, or members of the clergy. The government will continue to nurture a seemingly innocent person's betrayal of fellow professors, of students, of journalistic sources, of readers (through planted stories), and of true believers. And in the process, the credibility of academics, journalists, and clerics who are not spies will be increasingly damaged. "Whom can you trust?" will become the national credo.

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But I have left out one ultimate safeguard. After proclaiming the need to extirpate all "unwarranted restrictions" on the CIA, Jimmy Carter has reminded us that he personally would "guarantee that abuses do not occur."

So long as we have Honest Jimmy, of what need is the Bill of Rights?

Also next week: the patriots' push in Congress to exempt the CIA from most of the requirements of the Freedom of Information Act. That way, you'll never know about the next Bay of Pigs, the next Operation CHAOS, or the CIA's next mind-control venture. And not knowing, you'll have much less to worry about and will learn to be a much more contented citizen. ■

ARTICLE APPEARED
ON PAGE 3-4

U.S. NEWS & WORLD REPORT
17 March 1980

Letters

Limits on CIA

If only things were as good as Representative Ted Weiss envisions in "Take the Wraps Off CIA?" [Pro and Con, February 25]. The U.S. cannot, in a world of such diverse idealistic beliefs, carry on an effective intelligence network if it is to be subjected to such scrutiny. At times, "legitimate intelligence gathering" is not as advantageous as covert (cloak and dagger) operations. If we were to do what the good representative advocates, we may as well invite the KGB to the next National Security Council meeting. So, Mr. Weiss, cut the moralistic garbage. Utopia is a long way off.

PAUL A. SCRUDATO
*Denison University
Granville, Ohio*

Your February 25 editorial comparing the CIA unfavorably with the KGB overlooks the reason why we frequently find ourselves in conflict with the Soviet Union in the first place: The Soviets have no qualms about ignoring the most fundamental rights of their citizens—and those of other countries—to freedom from government intrusion into their lives. Nothing could defeat our own purpose more than to mimic the KGB by sanctioning a return to the gross abuses of the Nixon-era CIA.

JIM KLANN
Mount Prospect, Ill.

For 30 years, the CIA has proved over and over again that no war effort or U.S. foreign-policy effort is complete without the supplementary support of the agency's covert action. Since 90 percent of these highly professional operations depend on improvisation, swift flexibility and speed in execution, it stands to reason that all politicians should be summarily disqualified from having anything to do with them. If we fought wars by political committee on the firing line, everybody would be dead. Everybody has seen politicians mess up practically everything. They are now messing up the biggest, best and most efficient secret intelligence organization in the world.

HANS V. TOFTE
Washington, D.C.

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ON PAGE A8THE WASHINGTON POST
10 March 1980

Rep. Aspin Charges CIA Has 'Buffaloed' Congress

By George Lardner Jr.
Washington Post Staff Writer

The chairman of the House Intelligence oversight subcommittee charged yesterday that the Central Intelligence Agency has "buffaloed" Congress into accepting a warped interpretation of the law governing covert operations.

Subcommittee Chairman Les Aspin (D-Wis.) said the Hughes-Ryan amendment of 1974 was intended to require notice to the congressional committees before the CIA could undertake covert activities in foreign countries.

The CIA has maintained that it need not give Congress prior notice. President Carter opposes provisions of a proposed charter for the CIA that would require prior notice even more explicitly. White House aides and CIA officials contend that this would encroach on the president's constitutional prerogatives.

However, Aspin, said a study by a senior lawyer for the Library on Congress' Congressional Research Service concluded that prior notice is required by the 1974 law.

"But in an effort to cooperate with the intelligence community, we have accepted a warped interpretation of the law" Aspin said.

"The key term is 'unless and until,'" he declared. "The CIA cannot launch a covert action 'unless and until' Con-

gress has been notified. And that plainly means prior notification."

The Hughes-Ryan amendment was enacted after a furore over CIA activities in Chile. Under it, the CIA may not undertake any foreign operation—other than those strictly limited to intelligence gathering—"unless and until the president finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of Congress. . . ."

The CIA has always emphasized the "in timely fashion" clause. The words, "and until," were added on the House floor at the behest of Rep. John Burton (D-Calif.) shortly before the law was passed in final form.

In practice, the CIA notifies key members of the House and Senate Intelligence committees, and several other panels, in advance. But CIA officials contend that the practice ought not to be nailed down in law on the grounds that there always will be a need for unforeseen exceptions.

The practice, in any case, is somewhat diluted. The notifications sometimes are extremely vague. Both Presidents Ford and Carter have made so-called "generic findings" declaring in advance that the CIA could carry out a wide range of covert operations dealing with narcotics, terrorism and counterintelligence, according to informed sources.

Other secret subjects, sources say, since have been added to the list. The congressional committees are not told of the specific covert actions dealing with those problems unless they ask about them.

The author of the Library of Congress legal study, Raymond J. Celada, said the legislative history of the Hughes-Ryan amendment strongly suggests that the conditions it laid down—for presidential approval and for notice to Congress—"must be complied with before the planned covert activity is put into operation."

The study pointed out that the law was enacted after a more stringent effort to outlaw covert activities. The House version, drafted by the late Rep. Leo Ryan (D-Calif.), was the one that became law, with Burton's amendment. Celada concluded that it still was meant to require prior notice, except in wartime when reports "in timely fashion" would suffice.

His study was done in 1975 and made public yesterday by Aspin, who recently discovered it.

The CIA has been seeking repeal of the Hughes-Ryan amendment for years, primarily on the grounds that it requires reports to too many congressional committees. But Aspin said only three—the two Intelligence committees and a House Appropriations subcommittee—systematically review covert actions.

ARTICLE 1, PARAGRAPH 2
ON PAGE Part V pg 2THE LOS ANGELES TIMES
9 March 1980

Free

Again

In Its Hawkish New Mood Congress Is Too Eager to Remove CIA Restraints

By DAVID WISE

The smile on the face of Adm. Stansfield Turner told it all. It was there for 50 million Americans to see during President Carter's Jan. 23 State of the Union speech. The television cameras focused on the CIA director just as Carter came to the part about removing "unwarranted restraints" on the intelligence agency.

The admiral's smile lit up the screen. There was his old Annapolis classmate, the President of the United States, ready once again to unleash the CIA. In that brief moment, one could easily visualize the agency rising from the ashes of intelligence reform.

The CIA's timing is flawless. In the present hawkish atmosphere in Washington, intelligence reform has become almost a dirty word, an X-rated idea whose time has come—and probably gone. Thanks to the Ayatollah Ruhollah Khomeini, the Soviet takeover in Afghanistan and Carter's hard-line foreign policy, the emphasis now is on strengthening the CIA's powers and punishing its critics with jail sentences and fines.

All but forgotten are the abuses that were revealed by a Senate investigation in a much different atmosphere five years ago, when a committee headed by Sen. Frank Church (D-Ida.) disclosed how the CIA had tested drugs on unsuspecting American citizens (one of whom, Dr. Frank Olson, committed suicide); how it opened first-class mail in violation of federal law, spied on the anti-Vietnam War movement in Operation CHAOS, and hired two Mafia-osa, Johnny Rosselli and Sam Giancana—both of whom have since met violent deaths—to try to murder Fidel Castro. The list of CIA horrors was much longer, of course.

Last month, the Senate Select Intelligence Committee, with the "virtually complete" support of President Carter, introduced an intelligence "charter" that seemed only remotely related to the findings of the Church committee. While outlawing CIA assassinations, the bill would loosen procedures for covert operations; give the agency a free hand to use the press, clergy and academics as spies; and all but exempt the CIA from complying with the Freedom of Information Act.

For a time, in the wake of the Church committee investigation, there was considerable pressure to reform the CIA, the FBI and the other intelligence agencies. Two years ago, the Senate intelligence committee, the successor to the Church panel, hammered out its first charter, attempting to define in law what the agencies could and could not do. The bill, S 2525, set off a great howl among the agencies and their conservative supporters on Capitol Hill. Too restrictive, they said.

The staff of the Senate committee diligently went back to the drawing board. An endless series of meetings ensued between the committee staff and representatives of the National Security Council, the Justice Department and the intelligence agencies. Little by little, the provisions of the reform bill were whittled away.

In the meantime, the original reform measure died at the end of 1978. It was not reintroduced last year. The new, milder version of the charter that made its appearance on Feb. 8 was supposed to have been unveiled by the White House and the Senate committee last fall. But a series of foreign policy crises intervened—first the skirmishing over SALT II, then the seizure of the hostages in Iran, then Afghanistan. In the wake of these events, Adm. Turner and his deputy at the CIA, Frank C. Carlucci, saw the hole in the line and plunged through. Not only might it be possible to avoid any reform, but in the crisis atmosphere the agency might be able to ram through legislation vastly expanding its powers.

The President's speech had barely ended when Sen. Daniel P. Moynihan (D-N.Y.) broke ranks with his colleagues on the intelligence committee and introduced a three-pronged, CIA-backed legislative package. The first part of his bill would repeal the Hughes-Ryan amendment and free the CIA to conduct more covert operations without telling Congress in advance. The second part would virtually exempt the agency from the Freedom of Information Act, and the third is a mini-Official Secrets Act that would punish government officials and—until Moynihan later modified his position—the press and other citizens who talked or wrote about the agency if "identities" were revealed.

Moynihan's ploy was not designed to endear him to Sen. Birch Bayh (D-Ind.), chairman of the Senate Select Committee on Intelligence, or to Sen. Walter D. Huddleston (D-Ky.), who heads the subcommittee that has been trying to salvage a CIA charter bill.

In varying form, all three of the features of the bare-bones Moynihan bill are contained in the Carter-backed CIA charter package. The danger, however, is that Congress in an election year—and amid the relentless beating of war drums—will choose to pass only the three pro-CIA parts of the package and abandon all or most of the curses on the agency.

There is broad support in Congress for repeal of the Hughes-Ryan amendment, which has required the CIA to report covert operations to as many as eight congressional committees.

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The amendment, sponsored by the late Rep. Leo Ryan of California and former Sen. Harold Hughes of Iowa, was passed in the wake of the CIA's covert undermining of the regime of President Salvador Allende in Chile (on Richard Nixon's orders) and the failure of CIA Director Richard Helms to tell Congress the truth about it. Its language is simple. No funds may be spent by CIA on covert operations abroad unless the President finds the operation is "important" to national security and reports "in a timely fashion" to the "appropriate" committees of the Congress, including the foreign relations committees of both houses.

In practice, the CIA initially reported to those committees plus the armed services and appropriations committees in both houses, six in all. By 1977, with the formation of intelligence committees in the Senate and House, the number had grown to eight. (Currently it is down to seven, since the House Armed Services Committee has decided it does not want to be briefed.) The CIA and its supporters argue that Hughes-Ryan meant sharing CIA secrets with 163 members of Congress and 41 staff members. This, the agency argued, would result in leaks of secrets to the press. When it is pointed out that no such leaks of covert operations have occurred, the agency's advocates fall back on the claim that the mere requirement for reporting to so many committees has so inhibited and intimidated the agency that it has virtually ceased running covert operations. The truth is, however, that the agency has continued to conduct covert operations.

The Carter-backed intelligence charter would require the CIA to report to only two committees, the Senate and House intelligence committees. It would weaken the existing requirement that the President certify covert operations as "important" before they could take place. The bill would require the President to do so only if the operation involved "substantial resources, risks or consequences." And it would establish whole categories of covert operations that the CIA could conduct without telling Congress about each individual operation, as long as the President had approved the categories and informed the intelligence committees about them. Members of the Senate panel say that in practice, the CIA has customarily notified it in advance of conducting any covert operations. It is a vital point, since reporting after the fact gives Congress little voice in controlling them.

But the senators came in for a rude shock when Turner recently testified before the Senate Select Committee on Intelligence that it was "not correct" that the agency had notified the committee in advance of every covert operation. Indeed, he indicated that such information had been withheld more than once.

The issue had come to a head when Senators Bayh, Huddleston, conservative Jake Garn (R-Utah), and liberal Charles Mathias Jr. (R-Md.) met at the White House on the morning of Jan. 30 with the President, Turner, Zbigniew Brzezinski, Carter's national security adviser, and David Aaron, deputy adviser. According to Huddleston, the President and his aides argued against prior notification in "extremely difficult cases where lives were at stake" and in cases where "another country would refuse to deal with us if it had to be reported to anyone."

Chairman Bayh was unconvinced, arguing that even in "extremely sensitive" operations of "short-term duration" it would be possible to notify the committee in advance if the senators and the President could agree on "special procedures" for doing so. After the White House meeting broke up, lawyers for both sides stayed behind and attempted to draft language that would bridge the gap between Carter's position and the committee's. That effort failed.

When the charter was made public, a little more than a week later, it contained language requiring the President to give the two committees "prior notice" of covert operations, except in "extraordinary circumstances" when for 48 hours the advance notice could be limited to the chairmen and ranking minority members of the two committees and the four leaders of the House and Senate. These were the "special procedures" Bayh had in mind.

Carter would not go along with blanket prior notice. In a letter to Bayh, he gave the bill his general support but made it clear that "a few issues remain to be resolved" so that the CIA would be free to carry out "action in extraordinary and difficult circumstances." At the same time, Carter endorsed "a majority of the provisions" in the charter.

Among those provisions is the one exempting the CIA from the Freedom of Information Act, except for requests by Americans for data about themselves contained in CIA files. Critics of the measure argue that there is no valid reason to exempt the agency and that if such a law had been in effect, the details of the CIA's drug-testing program and information about CIA spying on Americans in Operation CHAOS would have been suppressed.

Morton H. Halperin, a former National Security Council official and director of the Center for National Security Studies, argues that the CIA already has substantial control over what it chooses to release, since the Freedom of Information Act permits the agency to withhold classified data. Although the courts could conceivably force the CIA to release secret material under the Freedom of Information Act, no such information has been made public by court action up to now.

One of the more difficult measures being pushed by the CIA is the so-called "Agee" bill, prompted by former CIA officer Philip Agee's disclosure of the names of dozens of CIA officers and agents in his book, "Inside the Company: CIA Diary." In the Carter-Senate committee version, the CIA charter legislation would impose criminal penalties on government officials or former officials who disclose classified information that reveals the identities of CIA agents, informants or sources.

The much broader Moynihan version—as originally proposed—would have provided jail or fines, or both, for reporters or other persons outside the government who disclosed information that could reveal the identities of CIA agents, informants or sources. On Feb. 20, Moynihan retreated. He said he would withdraw the section applying to the press because "it might have a chilling effect" on journalists.

Another troublesome issue that Congress will have to face if it passes a comprehensive intelligence charter is whether and to what extent the CIA should be allowed to use journalists, clergy and academics as spies. In 1976, George Bush, then the CIA director, announced that the agency would no longer pay full-time U.S. reporters to act as intelligence agents. Stated another way, it meant the agency would not employ spies using full-time reporting jobs as cover. (In the same announcement, the CIA said it would not use American clergy as spies.) But the Church committee revealed that of 50 CIA journalists, fewer than half would be terminated under the new rule, since it did not apply to news executives or free-lance writers. A year later, Turner issued a new directive eliminating "stringers"—part-time or occasional news correspondents—but continuing the use of executives and free-lance writers. It also permitted "exceptions" to be made by the CIA director allowing the agency to use press cover at will.

CONTINUED

Turner, in fact, recently testified that he had waived the ban on the use of such groups "on rare occasions," and that he had done so without informing the senate committee. The CIA's deputy director, Frank C. Carlucci, subsequently told the Senate intelligence committee that, although Turner had authorized waivers for the use of the proscribed groups, the waivers had not been used.

How this and other reform issues will be resolved by the 96th Congress is not yet clear, but most observers in Washington are doubtful whether even Carter's tame reforms will pass. And CIA critic Halperin points out that none of the changes sought by the agency "would improve the CIA's ability to predict world events." Jerry J. Berman, Washington legislative counsel for the American Civil Liberties Union, warned gloomily that if the three CIA "goodies" are enacted, "that will be the end of charter reform. The train may be going out of the station without the protection against abuses that the congressional investigations disclosed." Small wonder that Stansfield Turner is smiling. □

David Wise, co-author of "The Invisible Government" and author of the "The American Police State," writes from Washington. His article is adapted from the current issue of Inquiry magazine.

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9 March 1980

Spy units pushing for end to curbs

By James Coates
and John Maclean

Chicago Tribune Press Service

WASHINGTON—The United States' intelligence community has seized on a chanced national mood to press for the removal of restrictions on their agencies.

Moving on several fronts under leaders of the Central Intelligence Agency, administration officials are seeking to ease demands on disclosure of agency files under the Freedom of Information Act and to decrease requirements of informing Congress of covert schemes in advance. The restrictions were imposed in the 1970s after agency abuses of civil rights were brought to light.

Perhaps most importantly, the agencies have won support for the idea that new charters should be written for the Federal Bureau of Investigation and the CIA in a fashion to increase their powers in some areas while restricting their methods in others.

The moves are in sharp contrast to the past when, for example, then-CIA Director William Colby sat meekly at a hearing table while former Rep. Bella Abzug [D., N.Y.] ridiculed him for having her mail opened.

INTELLIGENCE OFFICIALS, obviously pleased, contrast Colby's humiliation to the forceful — some have said arrogant — presentations recently made by CIA Director Stansfield Turner on Capitol Hill.

At a session of the Senate Intelligence Committee, Turner stunned Sen. Stevenson [D., Ill.] by disclosing that he has broken a promise to advise the intelligence panel in advance of all covert CIA activities.

Turner insisted that when he said under oath in 1977 that he would have "no difficulty" in reporting all covert plans to Stevenson, he only meant he would "try" to pass on data. Besides, Turner told Stevenson's Senate Select Committee on Intelligence, there is no law forcing him to inform that committee.

Later, Turner aides disclosed one story that the CIA had withheld from the Senate — the agency's knowledge that the Canadian diplomatic mission to Tehran was hiding six American embassy workers.

WITHIN THE so-called intelligence community, recent events in Iran and Afghanistan are credited with winning support, rather than condemnation, for the various spy agencies after nearly a decade of concern over civil liberties, domestic spying against U.S. citizens, and even efforts to kill U.S. dissenters.

A newsletter circulated among the intelligence and defense communities recently summed up the new climate by saying: "Out of the gathering clouds of the Iranian and Afghanistan crises there may be a silver lining.

"... Because of the lack of good information about Iran [before the Shah's downfall and since] there is growing sentiment on Capitol Hill to revamp the laws governing the intelligence agencies in such a way as to restore a clandestine capability."

The letter was endorsed by several hardliners, including Adm. William Moorer, former chairman of the Joint Chiefs of Staff.

Many hardliners argue that clandestine operations are limited severely by the 1974 Hughes-Ryan Amendment to the Foreign Assistance Act, which requires the House and Senate Foreign Affairs committees be informed of plans for covert operations.

SPEAKING ABOUT Hughes-Ryan and the Freedom of Information Act at a recent House hearing, Frank Carlucci, deputy CIA director, said that numerous foreign intelligence networks have refused flatly to work with the CIA or other U.S. intelligence operations because they fear leaks on Capitol Hill.

Just as Turner had surprised the Senate committee with his strong position, Carlucci startled the House Government Operations Committee when he argued that he personally believes the CIA can guarantee that no information will leak. But foreign spies just don't believe that, Carlucci argued.

"Foreign agents — some very important—have either refused to accept or have terminated a relationship on the grounds that, in their minds—and it is unimportant whether they are right or not—but in their minds the CIA is no longer able to absolutely guarantee that the information which they provide the U.S. government is sacrosanct."

Following Carlucci and Turner, FBI Director William Webster and Bob Inman, director of the super-secret National Security Agency, along with representatives of the Defense Intelligence Agency made congressional appearances to argue that their agencies need some of the same relief from past reforms.

At the White House, an official told reporters that President Carter endorses "relief across the board" for intelligence officers who have complained about the Freedom of Information Act.

That prompted Sen. Daniel P. Moynihan [D., N.Y.] to wonder aloud about the changes in national mood.

Moynihan said that in the fall of 1978 Vice President Mondale, who led the drive for CIA reforms as a senator, displayed a change of heart at a meeting with lawyers for the CIA, National Security Agency, defense intelligence, and the FBI.

MINNESOTA DAILY

4 March 1980

CIA, journalists disagree on news ethics

By Richard Hoops

The guarded border between the press and the Central Intelligence Agency (CIA) has grown tense during the past month. The CIA is showing new interest in using reporters as agents but is cracking down on agents who want to report about the agency.

Many fears of CIA involvement with the media were laid to rest several years ago by self-imposed agency regulations. Journalists' concern has been renewed by the Feb. 19 U.S. Supreme Court ruling in *Snepp v. United States* and by the opposition of both the CIA and the Carter administration to sections of a proposed charter for U.S. intelligence agencies that would protect reporters.

The Supreme Court ruling in the case of Frank Snepp, a CIA agent-turned-reporter, upheld as constitutional a CIA contract requiring prior agency approval of any book written about it by a past or present employee. Editorials across the country denounced the ruling as a serious blunder into delicate First Amendment territory. The CIA, an agency representative said, is "delighted" by the ruling.

A touchy issue in the new charter—the National Intelligence Act of 1980—is a provision to clearly separate journalists and government agencies like the CIA. In the past, the press has been tapped by the CIA for agents, information and cover. Former CIA director George Bush limited these practices in 1976, and a year later the CIA's current director, Stansfield Turner, banned agency contact with journalists, clerics and academics, except in rare instances. But in recent testimony before the U.S. Senate Select Committee on Intelligence, Turner said he opposes legislated restrictions of the CIA's use of journalists and admitted that he has made exceptions to his own rules.

In a February visit to Minneapolis, Turner also labeled the unwillingness of reporters to cooperate with the CIA as "cynical and disloyal."

Not everyone shares Turner's sentiments. "I'm not under the impression that reporters are under any obligation to be loyal to the CIA," said Bobby Ray Miller, deputy foreign editor for United Press International (UPI). "What we are under the obligation to do is to be loyal to fairness and unbiased reporting. That means not being members of the CIA, the KGB or anything else."

The agency maintains it is not trying to revert to days when the press was open territory.

"We're not advocating the use of journalists," said Herb Hetu, public affairs director for the CIA. "We agree that they should not be used except in extraordinary circumstances," he said.

Interaction between the press and the CIA goes back as far as the agency itself. The CIA received routine briefings from correspondents in the 1950s and actively employed reporters in the 1970s.

Convicted Watergate conspirator E. Howard Hunt told a Senate panel and the New York Times in 1973 that his duties as a former CIA officer included financing a Washington, D.C., news service and subsidizing a travel guide publisher. The news service, Continental Press, provided material for foreign clients; the travel guide, Fodor's Modern Guides, gave CIA agents cover as travel writers.

In 1976, after inquiries into abuses by U.S. intelligence agencies, the select committee reported the CIA had subsidized hundreds of books during the 1960s. One of them, a book about China, was even favorably reviewed in the New York Times—by a CIA agent.

A section of the new charter, written by the select committee, would prohibit activities like these. Part D of the bill bars any agent's "real or ostensible" affiliation with a U.S. media organization for use as a cover. A select committee representative said the ban would extend to religious and academic institutions and to any media abroad that might influence domestic news, except when the government's role is acknowledged.

Both the Carter administration and the CIA oppose the press restrictions. The CIA would rather rely on its own "internal guidelines," the committee representative said. "They (CIA and administration) don't want it hardened into law."

The CIA opposes the press ban because it "would tie our hands too much," agency spokesman Hetu said. The agency would rather follow its own regulations, which allow use of journalists with the director's approval, he said, because "we want to have that option under specialized circumstances."

UPI's Miller disagreed and said "the CIA and American journalism should be kept very separate." Any chance that a reporter could be a CIA agent creates suspicion, Miller said. This causes problems for reporters, he added, because even if none of them are agents, "the suspicion will be there that all of them are."

Also under Senate consideration is a bill which would exempt the CIA from parts of the Freedom of Information Act that allows public access to the unclassified files of government agencies. The bill—the Intelligence Reform Act of 1980—is sponsored by Sen. Daniel Patrick Moynihan (D-N.Y.). It would also prohibit any past or present CIA employee from naming undercover agents. Moynihan last month withdrew one section of the bill that would outlaw publishing names of CIA agents. Critics pointed out that if the bill had been law during the Watergate investigation, printing conspirator Hunt's name would have been illegal because of his connection to the CIA.

Press advocates support a ban on CIA use of journalists, arguing that when CIA agents and reporters collaborate or become one and the same, the media is compromised.

Hetu disagreed. "I don't see how it does that," he said. "Are journalists such moral weaklings that they need a law to protect them from this?"

Miller countered that credibility is a critical issue. "A reader should have the confidence in what he reads in the newspaper and hears on the radio and television newscasts, to believe that what he hears is the truth and not some CIA plant or the official U.S. government line," he said.

"Journalism," he added, "is not an arm of the U.S. government."

THE RETIRED OFFICER
March 1980



TOO LATE?

"The history of failure in war can be summed up in two words: Too late. Too late in comprehending the deadly purpose of a potential enemy; too late in realizing the mortal danger; too late in preparedness; too late in uniting all possible forces for resistance; too late in standing with one's friends."—Gen Douglas MacArthur

MacArthur's words of decades ago forcefully remind us that this nation needs the best intelligence services possible. Events of the more immediate past—Iran and the onslaught of Soviet power in Afghanistan—are even tougher reminders that timely, accurate intelligence and military preparedness go hand in glove in this hostile world.

We are deluged with communications of every description from electronic and printed media. We know everything and yet we know nothing. From around the world, almost as if we were one people, the concussions and inflammations of each community are instantaneously passed to others. The floodtide tells all, but we are drowned in its immensity. The scale of values within our societies is so different that the true significance of events is lost. And in our rush to protect our civil liberties, we forget that there will be none to protect if we fail to put first things first.

INTELLIGENCE SERVICES EMASCULATED

The all-out assaults of the civil libertarians in the Congress and the press in the aftermath of civil disobedience in the United States and failure in Vietnam, emasculated what used to be the best intelligence services in the world. The CIA, the Defense intelligence agencies and the FBI made mistakes. They needed to be corrected. Unfortunately, those agencies were effectively shackled, even blinded, in the zeal to correct real and imagined abuses. Undoing that mischief will be a long, difficult process.

Those unhappy events in the Middle East and Southwest Asia have their brighter side. From all appearances, the Administration and most members of Congress seem determined to halt the disgraceful and dangerous decline in the prestige and capabilities of our intelligence services. They have seen the truth and it is bitter. They have learned that the danger to our security lies far less in the likelihood of the intelligence services willfully preempting our civil rights than in their incompetence to perform their vital tasks.

What is it that hurt the intelligence agencies so badly? The Hughes-Ryan amendment of 1974—a parody of accountability—requiring the CIA to report covert activities to eight committees of Congress made any effective clandestine operation impossible. Further, in the face of anarchy, war and anti-Americanism abroad, our government has retired or dismissed many of our experienced intelligence officers who were tempered in the conflicts of the 1950s and 60s, according to a former CIA deputy director



for intelligence. Thus much of the human element so necessary to knowing what potential adversaries are thinking has been cut in favor of "technical means." Cut off from many valuable foreign sources, CIA effectiveness and morale have suffered.

Noble as it is in purpose, the Freedom of Information Act, in addition to allowing Americans greater access to government information, has permitted enemy agents to tap the same sources—to obtain critical files from CIA and FBI, at taxpayer expense!

Leaks, official and unofficial, together with statements by disaffected former members of the intelligence community, have gone unpunished. The result is that Allied intelligence services are losing confidence that we can keep a secret. One old intelligence hand has observed that the American news media conduct the only unrestricted intelligence operation in the country—they are protected by the First Amendment.

Self-imposed administrative restrictions and judicial interpretation of U.S. laws have further hampered operations essential to the security of the nation. Recognizing that information is power in this dangerous world, there is an increasing demand to unshackle our intelligence agencies.

MEET THE CHALLENGE

Is it too late? Only time can answer that question. But we had best be started. We must have intelligence services that can meet the challenge of the Soviets and their surrogates. Intelligence must be responsive to national security and not be paralyzed by the fantasies of civil libertarians.

An obvious necessity for survival is to help our friends and thwart our enemies. We can take a long step in that direction by removing from the intelligence agencies those unwarranted fetters which were put in place by Congress and the Administration.

ARTICLE APPEARED
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1 March 1980


Inside Washington

Grave Defects in New Intelligence Charter

Hard-headed intelligence analysts are less than happy with the National Intelligence Act of 1980, recently introduced with much fanfare by Sen. Walter Huddleston (D.-Ky.) and co-sponsored by Senators Birch Bayh (D.-Ind.), Charles McC. Mathias (R.-Md.) and Barry Goldwater (R.-Ariz.).

Despite Goldwater's backing, these specialists say the Huddleston intelligence charter—apparently being surreptitiously pushed by Vice President Walter Mondale and his man on the National Security Council staff, David Aaron—is, in the words of one expert, “badly written, badly constructed and confused. In fact, it would place into law many of the existing restrictions and would go even further than current regulations.”

Called the National Intelligence Act of 1980, this charter could, for instance, require a CIA agent overseas to obtain a U.S. court order before placing a tap on an American, even though that individual was likely to be meeting with foreign enemies of the United States. Because the court order would have to contain certain information which, if disclosed to an outsider, would almost certainly expose the agent, many specialists feel the taps would never be initiated.

The charter would also place severe restrictions on even physical surveillance of American subjects, and would prevent the CIA from working with U.S. students or even foreign clergymen.

There has been much discussion in recent years about the inhibitions on covert operations imposed by the Hughes-Ryan amendment. Under that amendment, as Prof. Roy Godson points out in an excellent booklet called “The CIA and the American Ethic,” which he co-authored with Ernest Lefever, no fewer than *eight* committees of Congress are to be informed about “covert operations.” This, in practice, means about 30 senators and 25 staffers. And under the rules of both houses, any individual member who wants to know about such operations can have access to the information as well.

In short, virtually any covert action is likely to be blown through leaks. As Godson writes, “Under these circumstances, almost all former senior CIA officials concerned with clandestine activities maintain covert action has become a thing of the past.”

While the new Huddleston charter reduces the number of committees that would have to be informed—from eight to just the House and Senate intelligence panels—the legislation also makes a *new* requirement: the CIA must give *prior* notice to the Congress of covert action. Yet “prior notice,” it is said, could have just as “chilling” an effect on covert operations as the current reporting requirements.

Indeed, it is believed that the liberals put in the “prior notice” requirement in the hope that the more leftish legislators in Congress will be able to squelch any significant covert actions before they even enter an embryonic stage.

Aside from these perceived defects, intelligence analysts are concerned that the Huddleston bill offers little protection against the public exposure of an officer or agent in the field.

While the CIA's Chief of Station in Athens, Greece, Richard Welch, was murdered after his CIA affiliation was exposed through an American publication called *CounterSpy*, the Huddleston bill barely addresses the problem and poses no real threat to those engaged in exposing undercover CIA employees.

In referring to the Huddleston legislation, Godson, who also edited a recently released publication on intelligence put out by the highly respected National Strategy Information Center, told

HUMAN EVENTS:
“This bill was written primarily by a closed group of congressional staffers in cooperation with the Administration and the American Civil Liberties Union. It focuses in too large a part on the concerns of those who believe this country has had an excess of intelligence. Unfortunately, like the Foreign Intelligence Surveillance Act of 1978, it has been endorsed by a leading conservative who has not yet awakened to the hard facts of our current vulnerability. Instead, we need to look coldly and dispassionately at the threats and challenges facing us and to decide upon the kind of intelligence we need to maintain our freedom.”

INDIANAPOLIS NEWS (IN)
18 February 1980

'CIA Exceptions Necessary'

The Central Intelligence Agency should be allowed to "make exceptions" to its general policy against using the paid services of newsmen or university professors, according to agency director Stansfield Turner.

Turner made the comment at a private luncheon preceding a speech Saturday to a gathering sponsored by Sen. Birch Bayh, D-Ind., and a number of veterans' and other military-service related organizations.

Bayh chairs the Senate's Select Committee on Intelligence.

Turner said an exceptional situation arose when the U.S. Embassy personnel in Iran were taken hostage.

"I have a regulation not to use or pay academics or newsmen. We keep both of these two professions out of the intelligence process under normal circumstances. But here we were in a situation where a newsman might be able to find us something that would be of great help to the hostages.

"You would not want me not to be able to pay his ticket to Iran?"

He did not say the CIA had or had not done so.

"What we will set up," Turner said, "is guidance that generally, we'll not use a newsman or academic if we can

avoid that, but we would have the latitude to make exceptions."

He also said the Soviet Union's invasion of Afghanistan has put the Russians on the propaganda defensive for the first time in decades.

Turner said, "... for the first time since World War II, the Soviet Union is really on the defensive about something they have done.

"They got away with the Berlin Blockade, they got away with Hungary, they got away with Czechoslovakia, but this time they bit off something different. I don't think they anticipated how difficult it was going to be for them, the amount of resistance they have encountered from the freedom fighters inside Afghanistan and more particularly, it seems they underestimated the Ameri-

can and world opposition to this act.

"They are internationally on the defensive with respect to the many Moslem nations of the world. One of the reasons they may have underestimated is they have a closed society. Perhaps they don't understand as well what the rest of the world is thinking and saying.

"We have such international communications you just can't get away with some of the things the Soviets tried without someone perceiving what is happening.

"So this time, the Soviets have run into a much more difficult time than they ever had before. How they are going to extricate themselves is going to be a fascinating development of international affairs over the months and years to come."

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STOCKWELL/SNEPP/KISSINGER

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15 March 1980

TRB

The Supreme Legislature

Is the Supreme Court a court or a super-legislature? Many think of it as an automatic vending machine; put in a quarter, press the button, and out tumbles a decision, like a bottle of Coke. The machinery was invented, according to this theory, by the Founding Fathers 200 years ago. It shocks some people to think of the court as a place of uncertainty, where there is constitutional give and take.

Ronald Reagan attacked the court last month over a supposed ruling on federal funds for Medicaid abortions. "This time the court's majority has gone too far!" he cried. "Its unprecedented grasp for power over the federal treasury must be blocked." He said the court needed a new majority and that he would supply it.

Actually the court hadn't made a ruling at all; it had just agreed to a hearing on the subject later; Reagan was shooting from the hip again. (A famous earlier case was in September 1975 when he proposed turning welfare, food stamps, education, health, and other functions amounting to a total of \$90 billion—a quarter of the budget—back to the states. Later he said enemies had "distorted" his proposal.)

The tattle-tale book *The Brethren* continues on the best-seller list because people are fascinated with behind-the-scenes tales of these nine black-robed justices in their marble palace, palavering and bargaining. There are too many "leaks" in Washington, the justices seem to have decided, perhaps smarting from their own experience in the book. They have imposed, six to three without oral argument, an unexpectedly harsh penalty against former CIA agent Frank

Snepp, requiring him to "disgorge" his profits (\$115,000 so far) from his book *Decent Interval*. He disregarded the written pledge of all CIA workers not to publish "any information" without submitting it for prior review. He wrote an angry account of the last hours on the US embassy roof in Saigon in 1975. The Justice Department does not claim that he violated secrets, but that Snepp failed to submit his manuscript in advance to the CIA. Now a case from another agency is on its way up. The Supreme Court can make Washington a different city if it widens its precedent.

It's different in London. Once, while in service there, I dialed a government office for a harmless statistic that I needed, just as I would have done in Washington. You proceed in Washington on the assumption that somewhere, in some agency, some little man knows just the fact that you want, and is bubbling over to give it to you on the phone. In London a shocked upper-class voice registered astonishment at my presumption and ultimately promised to send me a "chit" which, of course, never arrived. There is a ferocious libel law in England, and a sweeping Official Secrets Act. It is questionable whether Watergate could have been exposed in England. It is one of the most surprising differences I know in the usually comprehensible parallelisms of the two common-law countries.

Let me come back to the Supreme Court. If you don't think of it as a policy-making body, study these decisions. One ended racial school segregation, when Congress and president hesitated. Another took prayers out of public schools. The Court instituted one-man-one-vote reapportionment, ending an abuse in which some rotten boroughs had 18 times the ratio of votes to representatives as others. It shook up the criminal justice system, guaranteeing accused persons the right to a lawyer. It loosened federal and state obscenity laws (for better or worse), producing the present controversial era of permissiveness. And it opened up the right of birth control and abortion services to millions of low-income women and girls.

The Constitution does not say in black and white that the public must wait 25 years to see Henry Kissinger's transcripts of his telephone conversations while he was secretary of state. Congress passed a freedom of information act that might be interpreted as giving immediate access to them. But the court last week said no. The vending machine

button was pushed and a papal bull popped out: a handy device indeed in an uncertain democracy, if not abused.

It has been abused. In 1932 the court was "in the grip of a sterile and outmoded laissez-faire economic philosophy" says Martin Shapiro, University of California. It tried to excommunicate the New Deal; it failed; it surrendered in 1937. The court has been in general accord with lay authorities since then. Shapiro thinks of the high court as a "super legislature" that can change the direction of public policy in vital particulars. He gives an example.

The Warren Court, dominated by Roosevelt appointees, declared the constitutional right of citizens to equality in many fields such as voting and birth control. It seemed headed toward similar expansion in housing, education, subsistence, and so on. The Burger Court checked the drive abruptly in 1973. The key case involved a wealthy San Antonio school district that was able to maintain a lower local tax rate and yet spend far more per student than poor districts. Was this fair?

The system is universal in the United States. Rich kids get better public schools than poor kids because their parents are wealthy. A plaintiff named Rodriguez brought suit. If upheld, Rodriguez would have been as famous as the *Brown v. Board of Education* decision that ended school segregation in 1954. Two state supreme courts had already declared against the San Antonio system. But the Burger Court said no, five to four, and the system remains. The majority: the four Nixon appointees (Burger, Powell, Blackmun, Rehnquist) with Justice Stewart concurring. The minority: the egalitarian veterans of the Warren Court—justices Marshall, Douglas, White, and Brennan. That's the way the high court legislates.

This does not mean that the Burger Court is necessarily conservative: on the contrary, in various fields (abortion, for example) it can shock Ronald Reagan. But justices exercise considerable discretion. "There is no reason not to say openly what the justices care so little to disguise," explains Professor Shapiro. "They make their decisions on the basis of seat-of-the-pants predictions of the immediate and direct policy benefits of the various alternatives available to them."

Few people want to believe this. They prefer the vending-machine illusion. It is to be hoped that the high court doesn't extend the Snepp gag rule all over Washington.

ARTICLE APPEARED
ON PAGE 6THE CHICAGO TRIBUNE
11 March 1980

The Kissinger files

The Supreme Court, which only weeks ago was so imaginative in finding a way to punish an ex-CIA agent accused of mishandling information he obtained in the course of his employment, suddenly lost its boldness when it came to a dispute concerning the papers of Henry Kissinger.

Granted, the cases were in some ways dissimilar. The one involving ex-spy Frank Snapp concerned his publication, without prior clearance by the Central Intelligence Agency as required by an agreement he signed, of a memoir of the final days in Saigon before the North Vietnamese victory.

The one involving Mr. Kissinger raised the question whether individuals could use the Freedom of Information [FOI] Act to get copies of summaries of telephone conversations Mr. Kissinger made while he was assistant to the President for national security affairs and later secretary of state.

But in both cases the court was asked to create law protecting the public interest in the way ex-government employees treat information they gain in the course of employment. In both, Congress had failed to authorize clearly the kind of protection the plaintiffs sought. In the case of the ex-spy, the court willingly—and without so much as the courtesy of oral argument—created a law Congress had not seen fit to enact. It ordered Mr. Snapp to surrender to the government every penny his book earned in royalties. In the case of Mr. Kissinger, the court took Congress at its word—in its narrowest possible definition.

Mr. Kissinger, as he left the State Department, moved from his office to the New York estate of Nelson Rockefeller documents containing summaries of his phone conversations [which had been prepared from transcripts made by secretaries who listened in on the line or tape recorded the words]. Later, he deeded these documents to the custody of the Library of Congress, which like all congressional affiliates, is exempt from the FOI requirements Congress saw fit to impose upon the executive

branch.

A number of people called on the State Department under the FOI Act to make the documents public. The court ruled that even if Mr. Kissinger removed the documents illegally and even if the State Department had a legal right to those files, it could not be compelled under the FOI Act to recover them and make public those that were not appropriately left confidential under the act's exemptions concerning classified information and other matters. The reason given by Justice William Rehnquist for the five-man majority was that Congress had not empowered federal courts to issue such an order.

This reversed a lower court opinion that found judicial authority in the courts' traditional powers of "equity." But in the Snapp Case, the Supreme Court used the same sort of "equity" power to seize back the ex-spy's royalties. And it did so with scant concern for the First Amendment issues the dispute raised.

When the Snapp Case was announced, commentators condemned its result and the way in which the Supreme Court reached it. They criticized the court for going out of its way to write new law in the absence of legislation. Now, some of the same commentators are criticizing the court's failure of creativity in the Kissinger case.

We have no quarrel with government efforts to stop ex-spies from disclosing the government's most highly classified secrets. And we support the greatest possible freedom of access to unclassified material—which is the purpose the FOI Act serves.

But the Supreme Court should defer to the people elected to write the laws. The court was right to hew closely to Congress' expressed intentions in the Kissinger case. And the fact that when it came to a less exalted ex-employee the court was willing to overstep its bounds and act like a legislature does not reflect badly upon this principle of judicial restraint. It reflects badly only upon the Supreme Court.

ARTICLE APPEARED
ON PAGE G-19

THE NEW YORK TIMES
11 March 1980

IN THE NATION

Bringing Back Secrecy

By Tom Wicker

This has not been a good winter for Americans who believe in the free flow of information and an informed public as the most fundamental safeguards of democracy. The Supreme Court, the Central Intelligence Agency and President Carter's war scare have combined to bring back secrecy—that hardy perennial of arrogant government.

First, in one of its least defensible decisions, the Burger Court ruled that Frank Snepp had violated a valid secrecy agreement in publishing—without C.I.A. approval—a book about the disgraceful performance of the agency during the last days of the South Vietnamese Government in Saigon. As a consequence, the Court ordered him to pay over to the Government every cent—about \$120,000—earned by the book, "Decent Interval," together with all future earnings.

The Government did not accuse Mr. Snepp of disclosing classified information or damaging the national security. At issue, ostensibly, was nothing but the validity of the secrecy agreement the C.I.A. made him sign when he went to work there, and which the Court held to override his First Amendment rights. But the real issue was whether Mr. Snepp, who had been rebuffed by the C.I.A. in trying to report his story through official channels, had the right to inform the public about the deficiencies of an agency paid for by taxpayers and operated supposedly in their interests.

The Burger Court held that he had no such right, and the stiff penalty it imposed on him guarantees that, in future, whistle-blowers will be unlikely to take their stories to the public as openly and in such convincing detail as he did. Already, the agency is trying to apply the decision to John Stockwell, who wrote "In Search of Enemies," detailing agency bungling in Angola.

The Snepp ruling will also encourage other agencies with claims on national security information—say, the State and Defense Departments—to use and

enforce secrecy oaths. That may not only limit the freedom of many more Government employees to speak out; it could even discourage bold and independent persons from entering Government service at the price of such a restriction on what would otherwise be their constitutional rights.

On the heels of that decision, the Burger Court also ruled that requests and suits under the Freedom of Information Act could not apply to stenographic notes of Henry Kissinger's telephone calls as Secretary of State. The reason was not any special security value attached to the notes, but that Mr. Kissinger had removed them from State Department custody before any demands for them were made. Hence, the Court held, the State Department had no means of responding to Freedom of Information requests for these official—and certainly valuable—Government records.

It does not take a cynical veteran of Washington ways to predict the consequence. Officials in possession of documents they do not want made public will simply find means to remove them from official custody, as Secretary Kissinger did. This sharp limitation on the reach of the Freedom of Information Act can hardly result in anything but further concealment of the public's business from the public.

Following the Iranian and Afghan crises, meanwhile, a new war spirit has been flaring in the country, owing much to Mr. Carter's hard-breathing response and his calls for draft registration and increased military spending. Seizing the moment, the C.I.A. has been seeking to reverse numerous restrictions it brought on itself with its free-wheeling activities. Among other things, the agency wants virtually total exemption from the Freedom of Information Act.

Under the pending bill, all its operational and technical files would be untouchable; illegal activities probably could be concealed; inquiries about documents could be rejected out of hand, without anyone—even the courts—having the right to inspect them to see if the withholding was proper.

Yet, the C.I.A. already has the power, under present law, to withhold legitimately classified information from Freedom of Information demands. That is apparently not enough to satisfy the agency, for several dubious reasons.

One is that, at present, if the C.I.A. withholds a document, a Federal court can review the document to see if the decision was a proper defense of a legitimate secret. Another is the agency's ritual insistence on protecting its "sources and methods"—which sounds fine except that it's a grab-bag term under which can be lumped almost anything that the C.I.A. wants to cover up. Agency officials also say they need to be able to persuade foreign intelligence services that information they share can be kept secret by the C.I.A. No doubt that's so, but the present authority to protect classified information ought to be sufficient.

The C.I.A.'s more likely reason, and one the public should beware, is its oft-stated desire to be "uncashed." It's easier, after all, to destabilize a government, wage a secret war or try to make Fidel Castro's beard fall out if you can operate in secrecy and under the pious label of national security.

ARTICLE APPEARED
ON PAGE C-5

THE NEW YORK TIMES

11 March 1980

Why Decision in Snepp Case Disturbs Publishers

By RICHARD EDER

THE recent Supreme Court decision curtailing the right of former Government employees to write about their experiences has left publishers and constitutional lawyers seriously disturbed; it has left Frank Snepp both gagged and broke.

All professions have their powerful mysteries: medicine has psychiatry, journalism has unattributable sources, and the legal profession has injunctions and equity jurisprudence. When the Supreme Court decided three weeks ago that Mr. Snepp had violated his contract with the Central Intelligence Agency, his former employer, by publishing his account of the last days of the United States presence in Vietnam, without clearing it with the agency, it applied a punishment not out of law but equity; and left him tied up with an injunction to boot.

The court did not grant Mr. Snepp's request to be heard in appeal. Instead, it issued an opinion confirming, in effect, an original Federal District Court judgment against him two years ago. It permanently enjoined him from circulating any of his writing arising from his years in the C.I.A., unless it was first cleared by the agency. It went on to punish his failure to clear his book, "Decent Interval," with something considerably beyond the normal legal remedy for a breach of contract. Such a remedy, as recommended by the intermediate Circuit Court of Appeals, would have been an order for a new lower-court trial to determine damages.

Background of Other Books

Instead, the Supreme Court applied a punishment based on equity jurisprudence. More than simply breaching a contract, it held, Mr. Snepp had breached a position of trust — even though classified material was not held to be at stake. Therefore, he must pay to the Government not a specific sum to be determined, but all present and future profits from "Decent Interval."

The Government's prosecution of Mr. Snepp was taken against a background of numerous other books that former agents have published or are seeking to publish. It sought to establish the C.I.A.'s widespread right of clearance on all material, classified or not. It cited as specific justification the contract that all its agents must sign; more generally, it argued that an intelligence agency must be sole judge of whether material would be damaging.

A minority of the court — Justices John Paul Stevens, Thurgood Marshall and William J. Brennan Jr. — supported the Snepp defense argument that the contract could not reasonably cover more than classified material, and that to extend it further might be a violation of the First Amendment.

The majority, however, said that Mr. Snepp's failure to get clearance was the kind of action that could cause the United States "irreparable harm and loss" and was in violation of his contract. It ordered the trust remedy on the grounds that a new trial for specific damages could risk exposure of confidential Government affairs — even though the Government had accepted the less sweeping Circuit Court trial order.

\$120,000 Held in Escrow

For publishers, the court decision raises serious questions about the freedom to write and publish; enunciating, as it does, a concept of breach of trust that could theoretically bind all kinds of former public or even private employees who wanted to write about their experiences. For lawyers, apart from these First Amendment issues, it raises questions about the temper and procedures of the present Supreme Court. For Mr. Snepp, the concern is more urgent and odder.

The \$120,000 that he has earned from his book is tied up in an escrow account at a local bank. Barring an unlikely decision by the Court to rehear the case, it must be paid to the Government. Mr. Snepp has been writing steadily for the last two years and has virtually completed two other manuscripts: a novel about the C.I.A. and the assassination of President Kennedy, and an account of his legal difficulties.

His publisher, Random House, has lent him \$12,000 for living expenses, in expectation of being shown the manuscripts. These were lying on the table in a borrowed apartment when Mr. Snepp was in town the other day, but he cannot let Random House even see them, let alone publish them. The injunction requires Mr. Snepp to let the C.I.A. see them first and make whatever deletions it decides upon, before showing them to anyone else. Thus, Mr. Snepp cannot convert his debt into the advance that his publisher would provide if it could look at his manuscripts.

Submission to C.I.A. Planned

"I'm absolutely impoverished," said the author, who was the C.I.A.'s principal analyst and briefer in Saigon before the evacuation at the end of the Vietnam War. "I've spent the last two years writing; I couldn't go out and get a job because I was going to pay back Random House with the advances on the new books. Now the novel is ready and I can't even submit it. This must be the first novel in American history that is enjoined in advance."

Mr. Snepp intends to submit his novel to the C.I.A. review apparatus in the next week or two. Because of the vigor with which the Government moved against his first book — it details the haste with which United States officials evacuated Saigon, making few provisions for vulnerable Vietnamese who had worked with the C.I.A. and other agencies — he doubts that it will be cleared without major deletions.

The peculiarities in Mr. Snepp's situation are considerable. For one thing, his British publisher plans to send him on a promotional tour in Britain when "Decent Interval" is published there. "Assuming that the tour sells books, I'll really be working for the Government: they'll get my profits. But at least I'll be fed," he said, passing over the theoretical possibility that the C.I.A. would bill him for the price of his food.

To the publishing world, the implications of the Supreme Court opinion are highly disturbing. The freedom to read committee of the Association of American Publishers is expected to consider the matter when it meets later this month. It will have before it a lengthy memorandum by the association's general counsel, Henry R. Kaufman.

"The entire opinion, from beginning to end, including several absolutely incredible footnotes, is an unadulterated disaster," Mr. Kaufman wrote. He pointed out, among other things, that the Supreme Court opinion, and its use of the equity concept of "trust," could be used to penalize the writings of any former Government employee deemed to have violated confidences.

"Furthermore," Mr. Kaufman said in an interview, "the notion of the constructive trust could allow the Government to get money from the publishers as well." In the Snepp case, the Government did not ask for Random House's profits, but it could have, in theory.

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Alan Dershowitz, a Harvard Law School professor who specializes in First Amendment cases and who assisted in Mr. Snepp's defense, noted that the implications could go further. "Take Deep Throat, in the Woodward-Bernstein book," he said. "If he turns out to be an official under fiduciary obligation, which surely he was, then the authors and The Washington Post could be sued for their profits."

Editing Question Raised

At Random House, its president, Robert Bernstein, called the situation "very serious and very sad." "They have set up a censorship system. There are no rules of any kind. They have said that an organization that is criticized can censor its critic."

"Furthermore," Mr. Bernstein continued, "how do you edit a book? Supposing the original manuscript is cleared and sent to us. How do we suggest changes? Each change would have to go off to Washington, unless they had a C.I.A. man sitting in our office."

Among constitutional lawyers, the opinion by the court is causing a considerable stir. "I am appalled," Prof. Thomas Emerson of Yale said. "I look at it as a continuation of what they have been doing in other cases, but moving beyond them. They have been treating this as if it were a private contract. If one thing is clear, it is that for a Government to impose that kind of blanket inhibition on its employees is a kind of action that is simply not governed by normal contract rules. It raises First Amendment rules about the right of an employee, and the right of the public to obtain information and the right of the press to publish it."

'It's a Loaded Gun'

Professor Dershowitz and other lawyers expressed concern not merely at the substantive results of the decision, but at the procedures used. Reflecting the dissent submitted by Justices Stevens, Marshall and Brennan, they noted that the Court had decided grave constitutional matters without hearing arguments from the two sides; by simply deciding the question upon submission of the writ of certiorari.

"It's a loaded gun," Professor Dershowitz said of the decision. "It contains extraordinarily open and loose language. It comes from writing the decision without briefs. My God, when three members of the Court want to hear the briefs, doesn't simple courtesy call for arguments to be heard?"

Noting that the Government had asked for less than the Court awarded, Mr. Dershowitz said:

"It's the greatest example of overreaching and lack of judicial restraint in our memory. None of us can think of any other example where the Government asked for a remedy and the Court gave so much more. There was one example, in an antitrust suit, but then there was full argument by both sides."

Both publishers and lawyers expressed hope that Congress might be persuaded to limit the theoretical effects of the Court ruling. Two pending pieces of legislation — the unified crime bill and a C.I.A. charter — were mentioned as areas where limiting language might be adopted.

PUBLISHERS WEEKLY

7 March 1980

Supreme Court Says Snapp Violated CIA Contracts

In a decision which threatens to severely curtail disclosures of information by government employees, the Supreme Court ruled February 19 that Frank W. Snapp III had violated secrecy contracts with the CIA and must forfeit earnings from his 1977 book, "Decent Interval."

The six to three decision upheld the lower court's ruling that Snapp had violated contractual obligations to the CIA by not submitting his Random House book to the agency for prepublication review. Proponents of greater government disclosure, who viewed this case as a test of the right of federal employees to reveal unclassified information, saw the ruling as a setback for First Amendment guarantees.

In stipulating that Snapp "disgorge the benefits of his faithlessness" by returning his royalties to date from "Decent Interval"—approximately \$115,000—the Supreme Court reversed the Court of Appeals judgment that Snapp should be allowed to retain his earnings.

"Since the remedy is swift and sure, it is tailored to deter those who would place sensitive information at risk," declared the unsigned majority opinion.

A dissenting opinion by Justice John Stevens, joined by Justices William Brennan and Thurgood Marshall, charged the Court with granting the government "unprecedented and drastic relief" by establishing the "constructive trust" over Snapp's profits. The brief argued that such action "is not supported by statute, by the contract, or by the common law." Justice Stevens also criticized the Court for granting the government its petition for certiorari but not granting Snapp's. He wrote: "The majority obviously does not believe that Snapp's claims merit this Court's consideration, for they are summarily dismissed in a footnote."

The dissenting opinion expressed a fear that the Snapp ruling may lead to restrictions upon "a citizen's right to criticize his government." Declared Justice Stevens: "Inherent in this prior

restraint is the risk that the reviewing agency will misuse its authority to delay the publication of a critical work or to persuade the author to modify the contents of his work beyond the demands of secrecy."

In a conversation with *PW*, Snapp pronounced the Court's action "an incredible decision wrought without regard for due process." He said that in two years of litigation he was never granted a jury trial and he criticized the Supreme Court for not hearing oral arguments before making its ruling.

He warned that the decision constitutes "a green light for the government to aggressively pursue sanctions against other former employees and against their publishers—even in the absence of secrecy agreements. Publishers are now facing severe penalties for publishing information from government employees. I wouldn't be surprised if the government decided to go after Random House," he said.

He felt that the Court's treatment of his case as a contractual issue "misses the point" of the controversy. "These secrecy agreements are unlike agreements found in commercial law," he said. "They infringe upon the right of the American people to know."

Snapp will be able to repay the \$115,000 from an account into which his profits were placed at the time the Justice Department moved to impound them.

Voicing alarm at the ruling, Random House president Robert L. Bernstein declared: "Even if secret information is not at issue and even if a secrecy agreement has not been signed, the Court has empowered the CIA, and has invited all other branches of Government, to filter and shape news and information about itself by effectively muzzling with a 'fiduciary duty' those employees and former employees who are in the best position to know of bungling and wrongdoing—and to call attention to them in the public interest. Employees of the State and Defense Departments, for example, the Commerce and Agriculture Departments, and even employees of the Supreme Court itself can now be bound by this free-floating concept of censorship.

"It is not too far-fetched to say that the decision in *United States v. Frank Snapp* sets us firmly on the road toward legal censorship throughout our country and that it may be just a short step

to extending this ruling to state and local governments. That the Court took this unprecedented action by an unsigned opinion without receiving a single brief on the merits, and without allowing a single word of oral argument, is simply mind-boggling."

Reaction from the legal community ranged from disappointment at yet another defeat for a First Amendment issue to criticism of the Supreme Court for deciding the case on what are considered narrow grounds.

Norman Dorsen, professor at New York University's School of Law, decreed the ruling "a potentially dangerous precedent which should be reversed or allowed to quietly perish before the government uses it to further any censorship action."

Thomas I. Emerson, professor of law emeritus at Yale Law School, agreed that the ruling imposes "serious limitations" on the ability of government employees to disclose information. He found the most disturbing aspect of the ruling to be the Court's dismissal of the issue as "purely a disagreement over private contract violation" rather than a matter involving constitutional and political questions. Further, he deemed it "very unusual procedure" for three judges to join in dissent against the manner in which the Court disposed of the case.

"If enforced, this decision threatens to shut up practically every government employee," Emerson remarked. Though he was "not entirely clear" on the probable impact of the ruling on publishers, he conjectured: "It's possible that a publisher could be held liable for conspiracy to violate a contract, or for inducing a former government employee to break a contract."

Benno C. Schmidt, Jr., professor at Columbia University Law School, told *PW*: "Fairly substantial harm has been done to First Amendment interests in this ruling. The liabilities involved in publishing a book not submitted for review are so heavy that they will undoubtedly prevent much valuable material from reaching the public in book form." Schmidt added that the decision does not strongly affect "leaks" of unclassified material to the press.

Ira Glasser, executive director of the American Civil Liberties Union, which assisted in Snapp's defense, accused the Supreme Court of granting censorship powers to the government. "The decision gives the government even

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more power to interfere with the First Amendment than it asked for. It establishes very substantially a censorship principle in the hands of the government," he declared.

Attorney Melvin L. Wulf, whose client Philip Agee faced prosecution charges for his book "Inside the Company: CIA Diary" (*Stonehill*), attacked the decision as "a disaster for First Amendment interests." Wulf objected both to the procedural manner in which the ruling was carried out and to the resulting "license for the government to begin actions against others it considers disloyal."

Wulf lambasted the order that Snapp return his earnings as "outright stealing." He accused the government of hypocrisy in pursuing action against "whistleblowers" such as Snapp, Agee, Victor Marchetti (author of "The CIA and the Cult of Intelligence") and John Stockwell (author of "In Search of Enemies"), but not questioning the right of such former government officials as Henry Kissinger or Richard M. Nixon to publish their memoirs.

"It's Easter Sunday for the CIA. They're back in business with a vengeance," he declared. "Authors and publishers will not only be reluctant to publish critical material; they're going to be terrified." He described the Supreme Court ruling as "completing the total resurrection of the CIA."

STELLA DONG

ARTICLE APPEARED
ON PAGE 21NEWSWEEK
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The CIA's Case Against Snepp

MY TURN/GEORGE A. CARVER JR.

On February 19, the Supreme Court issued a 6-3 decision in *Snepp v. U.S.*, No. 78-1871 that generated a predictable firestorm of press criticism. (One New York Times columnist termed it "lawless," a sign of "disorder in the court.") Much of this impassioned criticism, however, has been flawed by factual error or a misunderstanding of the questions at issue.

The case involves a former Central Intelligence Agency officer, Frank Snepp, who was stationed in Saigon at the time it fell and who subsequently wrote a book about Vietnam entitled "Decent Interval." The government took Mr. Snepp to court because he did not submit his manuscript to the CIA for security review prior to its publication—arguing that in so acting, Mr. Snepp violated the secrecy agreement he had signed in initially accepting CIA employment, as a condition of that employment.

Mr. Snepp's basic defense, argued by the American Civil Liberties Union, was that his secrecy agreement did not apply because nothing in his book was "classified." The Supreme Court ruled unambiguously in the government's favor, endorsing the government's contention that the question of whether or not "Decent Interval" contained any classified material was irrelevant in this action; that this was a breach-of-contract case, not one raising First Amendment issues; and upholding a lower-court ruling that for breaching his contract, Mr. Snepp had to forfeit all earnings derived from his book.

Appeals: The issues raised by this case are complex and important. Though not a lawyer, I have considerable familiarity with all sides of all of them. From 1966 to 1973, I was special assistant for Vietnamese affairs to three successive directors of Central Intelligence; for the following three years, I was deputy for national intelligence to two. In that latter capacity, I was a member of the CIA's highest appellate board (under the director), considering appeals on, among other things, recommended deletions in manuscripts submitted for prepublication review by current or former employees. I am now retired and on the other side of the fence, earning much of the money needed to support my family by writing.

I have known Frank Snepp and his work for many years. We have often disagreed,

but our disagreements have always been within a context of reciprocal professional respect and personal regard. He and the ACLU, in fact, had me subpoenaed—from overseas—as a *defense* witness in this case, and voluntarily bore the expense of my round-trip travel. Frank Snepp cannot be legitimately faulted for writing or publishing "Decent Interval." His mistake lay in not submitting his manuscript for prepublication review, as required by the secrecy agreement he had signed—voluntarily—since no one is obliged to work for the CIA.

Despite mythology to the contrary, CIA prepublication security review of employees' manuscripts is not "censorship" as that term is normally understood. As I know

*To have good
intelligence, our
nation must effectively
protect legitimate
intelligence secrets.*

from my own experience on both sides of this fence, such review focuses on one thing only: the exposure of information that, in the agency's institutional opinion, needs to be kept classified to protect sensitive intelligence or intelligence sources and methods—not on criticism, accuracy, personal opinions or anything else.

As the government argued and the Supreme Court ruled, whether or not anything in "Decent Interval" still required the protection of classification was irrelevant. I think several passages in it should have been considered classified, and would have so ruled had I been officially reviewing Mr. Snepp's manuscript; but since I did not review the manuscript officially, this is a strictly private, personal opinion. That, however, is precisely the central point here involved. No former agency employee, let alone any journalist, has any private right to determine what is or is not properly classified. The right to make that determination is institutional, vested by statute in the United States Government.

Ruling on classification is not censor-

ship. Any claim that it is, or that our government's exercise of this legitimate, legally sanctioned right has a "chilling effect" on former government employees' exercise of their private rights of free expression as protected under the First Amendment is hogwash—as I also know from my own experience. Since retiring last September, I have published several articles, and signed a book contract. All my manuscripts have been or will be submitted for prepublication security review in compliance with the secrecy agreement which I freely signed (as did Frank Snepp). Honoring this obligation, however, has been no bar to remunerative productivity; nor, as anyone who reads my published prose will see, has it been any impediment to criticizing the U.S. Government or its policies.

We are unlikely to survive this strife-ridden and now thermonuclear era without good intelligence, and our nation cannot have good intelligence without an effective ability to protect legitimate intelligence secrets. Prepublication screening of CIA employees' or former employees' manuscripts—for *this* purpose—is essential; for legitimate secrets can hardly be protected if every employee or former employee assumes a private right to make declassification determinations individually and unilaterally.

Remedies: I would be more than prepared to go to the mat with the agency and the government and fight tooth and nail, in the courts if necessary, if I were ever to feel that any CIA prepublication review of my prose was being expanded beyond what I considered legitimate classification determinations into anything I considered illegitimate censorship. This has not happened, however, and there are ample remedies available to me, as an American citizen, if it ever should.

Even though I now earn a major portion of my living with my pen and typewriter, I applaud the Supreme Court's "Decent Interval" decision. It was wise, sound, just—and necessary to protect me as an American citizen and to protect our country.

George A. Carver Jr., a retired CIA officer, is currently a senior fellow at Georgetown University's Center for Strategic and International Studies.

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State Secrets

How to keep them

Federal officials intent on shielding records from journalists, biographers and other inquirers may have hit upon a very simple way: remove the files from the agency involved before anyone seeks access under the Freedom of Information Act (FOIA). In a case involving transcripts and summaries of telephone conversations that Henry Kissinger recorded during his years in Government, the Supreme Court last week ruled 5 to 2 that the State Department had no obligation to retrieve those records for members of the public.

Two lower courts had ruled against Kissinger. They said that the records of phone conversations he made while serving as the President's National Security Adviser should remain under wraps, but that those from his 3½ years at State were within the reach of the FOIA. In December 1976, shortly before he left office, Kissinger donated these documents to the Library of Congress (which is not covered by the FOIA) under a complex deed that limits access to them until the year 2001 at the earliest. Since Kissinger's donation came before the FOIA requests were made by the Reporters Committee for Freedom of the Press and other groups, the Supreme Court concluded that State could not be said to be wrongfully "withholding" the documents. The proper remedy, said the majority, is the Federal Records Act, which allows agencies to seek retrieval of files they believe should not have been removed. State has not yet decided whether to pursue Kissinger's records.

As with last month's *Snepp* decision, which backed the CIA's right to enforce its secrecy pledge on former agents, the new ruling is likely to help Government keep a tighter lid on its secrets. ■

ARTICLE APPEARED
ON PAGE 60NEWSWEEK
17 March 1980

JUSTICE

The Kissinger Transcripts

Henry Kissinger was never a man to be bound by narrow conventions. For eight years, he made daily stenographic and tape transcripts of his telephone conversations, which he and his foreign-policy staff used to keep track of official business. When it came time to retire as Gerald Ford's Secretary of State, he collected these phone records and had them delivered to the Hudson River estate of his friend, Nelson Rockefeller. There, among other things, the documents would be safely out of the reach of the Freedom of Information Act and the American public. Kissinger did not discuss this move with State officials; he just took the files. On Christmas Eve, 1976, however, Kissinger gave them back to the government on his own terms: the Library of Congress accepted the papers with the understanding that he controlled access to them until he finished his memoirs and died. Last week, the U.S. Supreme Court sanctioned this maneuver, ruling that citizens have no right to get at government records once a public official spirits them away.

The Court's 5-2 decision turned on whether the State Department improperly withheld copies of Kissinger's transcripts from groups of journalists and scholars who sought them under the 1966 Freedom of Information Act. The FOIA, designed to give Americans access to government files, presumes that except for very sensitive

matters, citizens are entitled to the documents they ask for. In effect, the Justices ruled that Kissinger had taken the papers outside the State Department's—and therefore the FOIA's—jurisdiction. "The agency has neither the custody nor control to enable it to withhold," Justice William Rehnquist wrote for the Court.

Advisers: Then Rehnquist went further. Only the government has the right to seek to retrieve the papers from the Library of Congress, he declared. A private citizen may not use the information law to force a Federal agency to bring such a suit. This ruling overturned two lower courts that had ordered the records returned to the State Department. Besides the State Department records, some of the plaintiffs also sought Kissinger's transcripts from his four-and-one-half-year tenure as Richard Nixon's national-security adviser. At each level, the judges flatly rejected that request because the FOIA does not apply to close Presidential advisers.

The two dissenters, Justices William Brennan Jr. and John Paul Stevens, argued that the Court's decision will badly erode the FOIA. Both contended that the FOIA should apply to documents which have been removed from an agency's custody or control. The Kissinger ruling, Stevens wrote, "creates an incentive for outgoing agency officials to remove potentially em-

barrassing documents from their files in order to frustrate future FOIA requests." He added that agencies that had a right to documents but failed to go after them could be presumed to be illicitly "shield[ing] them from scrutiny." Justices Harry Blackmun and Thurgood Marshall did not vote in the decision.

Classified Information: The Kissinger material is clearly sensitive. He argued that the transcripts were personal papers, and that he left behind summaries of any official business discussed in phone conversations. In short, the State Department's records are complete. Not so, said a government archivist who reviewed a sample of the files. His conclusion: "The majority were State Department records and their substance was hardly reflected in the extracts." Moreover, when Kissinger left, he signed an agreement that he was not taking any classified information or other materials relating to the department's business.

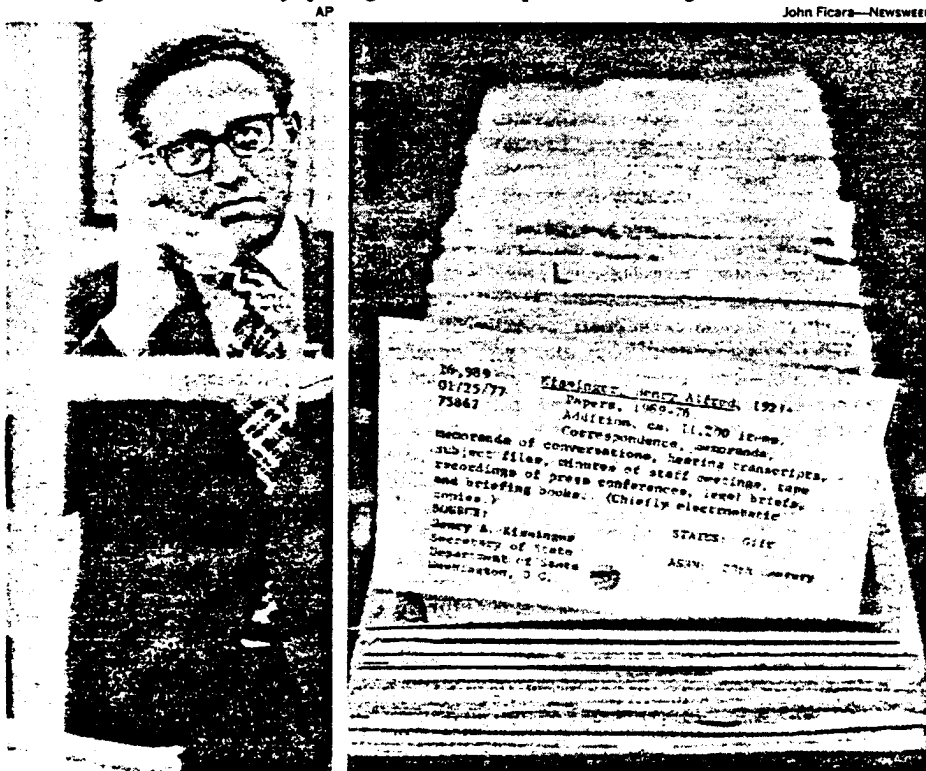
The Supreme Court decision will only encourage other efforts to diminish the FOIA. While lower courts for the most part have interpreted the act broadly, the Supreme Court has reversed a number of these decisions. Just last week, the Justices ruled 7-2 that the Department of Health, Education and Welfare did not have to make public raw data from a medical-research study that was conducted by a private group funded by a Federal grant. In that decision, Rehnquist said that since the data from a study of oral drug treatment of diabetes was never given to HEW, it could not be considered an agency record subject to release under the information act.

Both the CIA and the FBI are seeking Congressional authorization to withhold more information. At present, the law directs agencies to release records except in matters involving national security, active criminal investigations, trade secrets or invasions of privacy, among others. The CIA would like a broader provision to cover its operational files. The FBI wants a total exemption for any material relating to counter-intelligence, terrorism or organized crime. "These people wouldn't be screaming so much if the act wasn't working," says David Vladeck of the Freedom of Information Clearinghouse, a Washington watchdog group.

Détente: Last week's decisions offer further insight into the Supreme Court's view of official secrecy. Recent decisions suggest that the Justices will side with the government's position as often as possible. In practice, this means the Court will even make law when necessary, although the Justices will act as strict constructionists when it suits their purposes. With the Burger Court and the Carter Administration now seemingly in tandem on these matters, only Congress can move to protect the shrinking interests of the public in this new era of détente between branches of government that theoretically are supposed to check each other.

ARIC PRESS with DIANE CAMPER in Washington

Kissinger and his Library of Congress card: The public has no right to look



ARTICLE APPEARED
ON PAGE 3-7

THE PHILADELPHIA INQUIRER
9 March 1980

Appearing in return engagement: Secrecy in government's workings

By Aaron Epstein
Inquirer Washington Bureau

WASHINGTON — Once again, secrecy is on the rise in Washington.

The 13-year-old Freedom of Information Act, intended to open the processes of government to public examination, is under multiple assaults in Congress.

Several agencies, particularly the Justice Department and the CIA, routinely delay requests for information made under that law for months, often years.

Now, in the last few weeks, the U.S. Supreme Court has put its stamp of approval on three ways that the government can place vital information beyond the reach of journalists, historians, scientists, public-interest groups and the rest of the people.

As a result of the court's actions, the government can lawfully:

- Deter disclosure by requiring an employe in a national security job to sign a contract binding him to secrecy for life. If he later writes an unauthorized book about his job, he can be forced to surrender all profits — even if the book disclosed no classified information whatsoever (*Snepp v. U.S.*).

- Transfer sensitive documents to the Library of Congress or some other place not covered by the Freedom of Information Act (*Kissinger v. Reporters Committee for Freedom of the Press*).

- Keep the information in the hands of a private organization under contract with the government. It can remain secret, even though the private group is paid millions in tax dollars and compiles data that critically influence significant public policy (*Forsham v. Harris*).

"The Supreme Court has consistently screwed up the Freedom of Information Act," said American Civil Liberties Union lawyer Mark H. Lynch, an expert on the act. "There have been around 10 Supreme Court decisions on the act and virtually all of them ... are attempts to shrink the act."

Fortunately, Lynch said, the court rulings deal with statutes and not the

Constitution, so "Congress can always straighten things out if it wants to."

In the first of the court's 1980 rulings on secrecy, former CIA agent Frank W. Snepp 3d was ordered to forfeit all profits — \$125,000 so far — on his book, "Decent Interval," which criticized CIA activities in South Vietnam but contained no confidential data.

Still, the court said, Snepp had violated an employment contract in which he promised that he would write nothing about the CIA "without specific prior approval of the agency." That, said the court, was a breach of trust for which he must pay the "swift and sure" penalty of giving up all "the benefits of his faithlessness."

The court did not weigh the public benefits of the revelations in Snepp's book, which was published in 1977. Nor did it consider the fact that Snepp's employment contract mentioned no penalty for breach, much less a penalty so severe.

Now, however, a drastic penalty has been sanctioned by the nation's highest court and will become, as Justice John Paul Stevens wrote in dissent, "a species of prior restraint on a citizen's right to criticize his government."

Already, the CIA has filed suit for all the profits from the work of a second former agent, John R. Stockwell. His book, "In Search of Enemies — A CIA Story," accused the agency of mounting covert military operations in Angola and then lying to the public to keep them secret.

Now that public support for the CIA and the FBI is apparently reviving, both agencies are urging Congress to give them broader exemptions from requests for documents under the Freedom of Information Act.

The Kissinger ruling, delivered last week, presented a different secrecy problem.

While Kissinger he was the top foreign-affairs policy-maker from January 1969 to January 1977, his secretaries kept records of his telephone conversations. From tapes and

stenographic notes, detailed summaries and some verbatim transcripts of Kissinger's conversations were prepared. Taken together, these documents unquestionably contain information vital to an understanding of the foreign-policy decisions of the Nixon and Ford presidencies.

While still secretary of state, Kissinger moved the documents from the State Department to the New York estate of the late Nelson Rockefeller, then gave them to the Library of Congress under a deed that bars public access for at least 25 years.

The notes were sought by reporters, historians and political scientists. The Supreme Court denied them access because the documents were no longer in the possession of the State Department, which is subject to the Freedom of Information Act, but in the hands of the Library of Congress, which is exempt.

The court sidestepped the question of whether the telephone notes belonged to Kissinger or to the government. It simply decided that there was nothing improper about the State Department having given up possession of the documents before the request for them was filed.

"If FOIA (Freedom of Information Act) is to be more than a dead letter," Justice William J. Brennan Jr. wrote in dissent, "it must necessarily incorporate some restraint upon the agency's powers to move documents beyond the reach of the FOIA requester."

He urged Congress to require executive agencies to keep important records likely to be in demand by the public.

The Snepp and Kissinger decisions were publicized widely. But Lynch and other authorities on government secrecy believe that the third ruling may have the broadest impact of all.

That case focused on the relationship between the federal government and private enterprise paid by tax dollars to do research, write government pamphlets and give advice on an astonishing array of public policy issues.

Should information collected by

CONTINUED

private enterprise in the service of the government be hidden from us? That critical question arose when medical scientists sought the raw data collected by the private University Group Diabetes Program (UGDP) under federal grants totaling \$15 million.

Over an eight-year period, the UGDP tested 1,000 diabetics with five treatment programs that generated millions of documents. The UGDP then suggested that two drugs used in diabetes treatment, tolbutamide and phenformin hydrochloride, increased the risk of heart disease. As a result, federal officials sought to get warning labels on the drugs, and suspended the use of phenformin.

The validity of the study was challenged by scientists and a bitter dispute erupted. But a Freedom of Information Act request for the data was spurned by the Supreme Court.

Narrowly interpreting the act, Justice William Rehnquist concluded that the raw data were not "agency records," subject to public access — although they were collected with public money under public contract and produced important public health decisions.

Rehnquist's analysis centered on the technical question of who owns the documents. But to Brennan, writing in dissent, the appropriate question was a broad one: What is the value of the document to the people?

"Government by secrecy is no less destructive of democracy if it is carried on within agencies or within private organizations serving agencies," Brennan wrote.

Advocates of government secrecy can only be encouraged by these recent court decisions to expand the exemptions in the Freedom of Information Act. The CIA and the FBI are not alone in this effort. Corporations, for instance, are supporting legislation to require the Federal Trade Commission to keep secret such currently available information as safety tests on consumer products, corporate pricing policies, executive pay and benefits, and profit and loss statements.

MINNESOTA DAILY
28 February 1980

Snepp's non-secrets

In cases involving a conflict between the government and an individual, the Burger court usually sides with the government. The most recent casualty of this practice is former CIA employee Frank Snepp. But all government employees who might ever want to publish a book or speak to a reporter may suffer from the fallout of the court's execrable ruling on Snepp's case.

Snepp, you may recall, published a book called "Decent Interval," criticizing the conduct of the American intelligence community during the fall of Saigon. When he joined the agency Snepp was required to sign a promise that he would not publish anything about the CIA without first submitting the manuscript for review. Fearing the agency might delay publication or suppress his book, Snepp chose not to turn it over for approval.

The CIA responded by suing Snepp for breach of contract. The government did not claim that Snepp had used any classified information. In fact, he had taken great care not to disclose classified information. But Snepp did not fare well in court. A district court held that he had broken a legal contract and ordered him to pay the government all the earnings from his book. An appeals court agreed, but held that to collect damages the government would have to prove to a jury that Snepp had intentionally deceived government officials into thinking that he would abide by his promise.

Last week, the Supreme Court notified Snepp that it would not hear the case. Incredibly, the court—without hearing oral arguments—went on to say that Snepp had violated a "fiduciary obligation." In other words, though Snepp had not used classified information, the court concluded that Snepp's access to sensitive and confidential materials put him in a position of trust and he violated that trust. The court held that Snepp must turn over the \$125,000 in royalties his book earned. Requiring the government to return to court to prove to a jury that Snepp had violated a contract, the court argued, would not provide a "reliable deterrent" to further violations of government oaths of secrecy.

This action was without precedent in Supreme Court history, in the views of dissenting justices John Paul Stevens, Thurgood Marshall and William Brennan. Even if Snepp had submitted his work, Stevens' opinion pointed out, the government's authority to censor the book would have been limited to classified material. And since Snepp did not include classified material, the book would have been published unaltered anyway.

The court majority acted in clear violation of their own procedures by penalizing Snepp for violating a law that doesn't exist. Snepp may be guilty of violating some kind of contract with his employer, but he did not violate a "fiduciary obligation" such as he might have done had he released classified information. In fact, Congress still has not passed a law penalizing the disclosure of classified information. The situation remains unchanged from six years ago when former CIA director William Colby testified that there was "no statutory authority" to go to court against some former agents turned authors.

Yet the court saw fit to roughshod over the principle of separation of powers, furthering its efforts to protect government institutions at the expense of the press, suspects, defendants and other individuals. Some observers have warned that the court's decision opens the way for a major increase in government secrecy. The decision may affect thousands of government employees who routinely sign secrecy oaths as a condition of employment.

It was only a decade ago that the Supreme Court, over the objections of the Nixon administration, decided to permit the publication of the Pentagon Papers, citing First Amendment rights and the fact that Congress had not acted to formulate a remedy. Last week, the court denied Frank Snepp the right to argue his case on a sensitive issue involving an agency that has trespassed individual rights for decades, and then voted to penalize him.

THE LONDON GUARDIAN
22 February 1980

CIA looks at curbs on unauthorised books

From Alex Brummer
in Washington

The Central Intelligence Agency is looking at the possibility of further court action against people who write unauthorised books about its activity.

The move follows the Supreme Court's ruling this week that the US Government can severely restrict the release of information with a bearing on national security by employees, or former employees.

The court had ordered that a

former CIA agent, Frank Snepp, should pay to the Government the \$150,000 in royalties he made from his book on the CIA, *Decent Interval*. The court contended that Snepp had broken his contract of secrecy with the CIA when he wrote the book, even though much of its material was unclassified.

The Justice Department has already moved to take similar action against a former CIA agent, Philip Agee, who has written two controversial works about the CIA's operations. The Government is now looking at

the possibility of further actions against authors of books about the CIA.

The Supreme Court's decision has been criticised in the press here because of its sweeping nature, which at the extreme would mean that books, such as Dr Kissinger's memoirs, *The White House Years*, might in future have to be scrutinised by Government censors before being released.

The Washington Post said in its leading article that "by failing to discuss seriously the First Amendment implications

of such a review process, the court opened the possibility that review by contract can be imposed in almost any area of government." The First Amendment guarantees the freedom of the press and the freedom of expression.

There was some relief in newspaper circles yesterday, however, that Senator Daniel Moynihan had decided to withdraw from his bill, governing the intelligence agencies, the section that would have made it a criminal act for the press to disclose the names of intelligence agents.

NEWSDAY (GARDEN CITY, N. Y.)

22 February 1980

Who'll Restrain the Censors in the CIA?

The Constitution says Congress "shall make no law abridging the freedom of speech." But the Supreme Court has just decided that you can still sign away your own First Amendment rights.

Employees of the Central Intelligence Agency, for example, have routinely been required to sign an agreement not to publish "any information" about the agency without getting its approval first.

But when former CIA employee Frank Snepp wrote a book called "Decent Interval," which was critical of the agency's performance in Vietnam, he refused to submit it for censorship. Now the Supreme Court has accepted the CIA's contention that Snepp made an enforceable contract and has ordered him to forfeit his royalties to the government.

The issue here is not simply the protection of official secrets. The government prosecutors have never contended that Snepp's book contained any. The question is whether it's necessary for the CIA to impose an extraordinary restriction on a First Amendment right when adequate penalties already exist for those found guilty of revealing classified material.

Three justices who dissented from the majority opinion found the penalties against Snepp "highly inappropriate and perhaps even beyond this court's jurisdiction." Perhaps when Congress finally passes a CIA charter, it can find a way to restrain the censors in the executive branch even if the judicial branch will not.

Approved For Release 2009/06/05 : CIA-RDP05T00644R000501360003-7

AFGHANISTAN

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ARTICLE APPEARED
ON PAGE 5THE BOSTON GLOBE
12 March 1980

Cambridge man reported held in Kabul

Friends, business associates say rug merchant was arrested Feb. 23

By Ben Barber
Special to The Globe

A carpet merchant from Cambridge who reportedly vanished recently in Kabul, Afghanistan, is being held by Russian or Afghan authorities, according to friends and business associates.

Rug dealer Charles Brockunier was arrested Feb. 23, according to acquaintances of his who were interviewed in Cambridge yesterday. State Department officials have begun secretive efforts to secure his release, sources said.

A business associate of Brockunier's said he had recently spoken by telephone with friends in Afghanistan who confirmed to him "positively" that Brockunier had been arrested, though it was not known in which jail he was being held.

Brockunier, a 41-year-old Harvard graduate and former history teacher, was drawn to the turbulent Asian country by his concern for Afghan friends and a desire to purchase carpets for his Cambridge shop before nationalization might cut off access to rug markets, they said. Brockunier is part owner of the Turkoman Balouch Rugs shop on Arrow street.

Brockunier's mother, Barbara Brockunier of Cambridge, has been contacted by the State Department, but she said yesterday she had been asked not to comment on what efforts were being made to free her son.

The tall, red-bearded Brockunier left Cambridge in late January, telling a friend that he intended to travel by bus among the people, as had been his custom since he first visited Afghanistan in 1972. He had traveled there every two or three months for the past three years to supply his shop with carpets. The last trip previous to this one was made in November, before the Soviet invasion but during the troubled pro-Moscow regime of Hafizullah Amin, who was killed when the Soviets invaded in late December.

One person associated with the rug shop, who asked not to be identified, said Brockunier intended to buy up to \$20,000 worth of the colorful brown and red hand-knotted carpets to replace stock sold during Christmas.

Don Meier, an employee at the shop and a personal friend of Brockunier, said he had received reports from sources in London that the merchant was seized at his hotel following participation in a street demonstration

"which he may have been forced to join."

Brockunier had been staying at Kabul's Khorason Hotel for nearly a month, unable to leave the capital because of travel restrictions and political and military unrest.

"Even Mike Malinowsky, who was serving as a consular officer in Kabul, warned Charles not to go, saying he didn't want any additional Americans over in Kabul to worry about and be responsible for," said his partner.

Brockunier was described as a history teacher who fell in love with the living history of feudal Afghanistan.

"He liked the kind of life over there — the bargaining over cups of tea. Over here he was a lonely person."

"I think his sense of adventure just got him in trouble," said a friend of Brockunier's. "He isn't political — he just wanted to see what was going on."

"He's been very lucky," Pergola said, visiting Afghanistan every two months or so for the last year and a half.

State Department spokesman Ron Lorton said yesterday that Brockunier had been reported to American officials only as missing in Kabul.

"We have yet to get any information from Afghan authorities about him," said Lorton. "I'm not going to get into a discussion of this case with someone from the press at this stage." Lorton declined to say who had reported Brockunier missing.

Last month, during general strikes in Kabul in which many persons were arrested and killed, the Afghan government announced that among those incarcerated were several Pakistanis and an American identified as Robert Lee. The Afghans accused Lee of being a CIA agent and warned that he could be tried on espionage charges.

United Press International yesterday quoted an American businessman arriving in New Delhi from Kabul as saying he had witnessed the arrest of an American and several Pakistanis. The businessman identified the American as a rug dealer from Boston and said he was arrested for taking photographs.

This raised the possibility that Brockunier, upon his arrest, had offered up the name of Robert Lee as an alias, but the State Department denied this.

"Brockunier is not Robert Lee to my knowledge," Lorton said. "I have heard this theory before, but we do not believe they are the same person."

ARTICLE CONTINUED
ON PAGE 2THE NEW YORK DAILY NEWS
12 March 1980

Afghan rebs report trapping Soviet tank column; 100 die

Islamabad, Pakistan (UPI)—An Afghan rebel spokesman said yesterday that insurgents trapped a Soviet armored column in the eastern Afghan province of Paktia and killed more than 100 Russian soldiers in a two-day battle.

The Islamic rebels also reported an attack on Soviet and Afghan government forces in and around the strategic city of Jalalabad on the main highway between the capital of Kabul, 89 miles to the east, and the Khyber Pass frontier with Pakistan.

By attacking the Soviet and Afghan forces in and around the town, the rebels cut between Soviet troops deployed in offensives in the provinces of Kunar to the north and Paktia to the south.

There was no independent verification of rebel claims, but United States intelligence sources did confirm that heavy fighting was continuing in the region.

Soviets extend offensive

Rebels also said that Soviet forces, backed by tanks and fighter planes, had extended their antiguerrilla offensive that began last week in Kunar Province to Paktia, also a guerrilla stronghold on the border with Pakistan.

Hzibi Islami (Islamic Front) spokesmen said in Peshawar, Pakistan, that rebels suffered losses in the heavy Paktia fighting, but they declined to provide any figures or to say when the fighting occurred.

"More than 100 Russians were killed in a 48-hour battle," a rebel spokesman said. He said that Islamic guerrillas used ancient hunting methods to trap the column of Soviet tanks and armored personnel carriers.

"Our men dug a large pit in the road and covered it up and leading Russian tanks fell in, bringing the column to a halt so we could attack," the spokesman said.

In Washington, U.S. intelligence sources said Soviet bombing raids had inflicted heavy casualties on Afghan civilians and rebel forces in eastern Afghanistan.

ARTICLE APPEARED
ON PAGE A1-14THE NEW YORK TIMES
11 March 1980

Reporter's Notebook: Kabul Family Grieves And Swears Revenge

By PRANAY B. GUPTA

Special to The New York Times

KABUL, Afghanistan, March 7 — Four days after his wife had given birth to their second child, Amir Faryabhi died. A fusillade of bullets fired from a Soviet armored personnel carrier tore through his body as the 28-year-old bricklayer participated in a huge anti-Russian demonstration in Jadh Maiwand Square. He was among scores of Afghans killed that afternoon in Kabul, two weeks ago.

Zehrab Faryabhi, his wife, remembers how cold and sunny it was that day, and she remembers how hastily the funeral arrangements had to be made because under Shiite-Moslem custom a dead person must be buried by sundown. Amir Faryabhi's grave is marked by a simple whitewashed stone, on Karte Sakhi hill, just a mile or two from the mud-walled, two-room house that he shared with his brothers, Sultan and Aziz.

Only Hazara Moslems, like Mr. Faryabhi, are buried in this graveyard. There are perhaps 200 simple white tombstones on this site; only Mr. Faryabhi's grave is decorated with two tiny flags that his family makes certain stay in place there.

One of the flags is stark white, the other is a very bright red. The flags are crossed and pushed into the hard soil just in front of Mr. Faryabhi's tombstone. "Such crossed flags in Afghanistan mean that the dead man's family will some day avenge his death," Aziz Faryabhi, a gangly 17-year-old, said. "We will avenge Amir's murder."

Zehrab Faryabhi hides her grief well and even manages to smile occasionally as she tends to her newborn boy and keeps watch over her other son, two-year-old Hassan.

"They have come to save Afghanistan, these Russians — that is what we are told," Mrs. Faryabhi said, speaking in Dari. "But what we know is that we are being butchered, especially us Hazaras."

In recent weeks, there appears to be a campaign by the Soviet-supported Government of President Babrak Karmal against the Hazara Moslem community of Kabul. The Hazaras are mostly poor, among the poorest in a country of poor people, and they work at menial jobs like street-sweeping or in trades like brick-laying. But there seems to be a belief among the authorities that the Hazaras are at the heart of the rebel movement in Afghanistan.

Every day, Soviet and Afghan soldiers sweep through areas like Karte Sakhi to look for hidden arms, and every night some Afghan sentry gets shot at. The Russians send only Afghan troops to such neighborhoods at night.

Here in Kabul, residents have a special, derisive, name for the Soviet soldiers. They call them "mamaa," a sarcastic use of the word "uncle."

"Look, mamaa is rumbling around," Ajit Singh, a Sikh money-changer in the Shehzadeh market in the old section of Kabul, said to his 15-year-old son, Jagjit, as a column of Soviet tanks passed near their shop the other morning.

"You mean mamaa is stumbling around," the youth replied.

The Russian troops do not mingle with Kabulites. They live in barracks beyond the airport, or in a heavily fortified camp on the Bala Hissar hill. Their officers and the Russian civilian "advisers" live mostly in a section of town called Mikroyan, where there are tall apartment blocks.

Kabulites have been puzzled about the ethnic origins of the Soviet troops. A recent experience added to the confusion for one young Indian expatriate who works for a German pharmaceutical concern here.

It was about eight o'clock in the evening, the time when the curfew started, but the streets of Kabul had long been deserted — except for the roving tanks and the military police jeeps. The Indian, a bachelor, had just fixed himself a Scotch, when there was a loud banging on his front door.

Soviet Soldiers Ask for Drinks

A dozen Russian soldiers stood there. They pushed themselves in and, in German, asked for cigarettes and drinks. Since the Indian spoke German, he was able to get along conversationally with the troops.

They were passing by the house, the soldiers said, and they just wanted a rest and a bit to drink and eat. The Indian's servant, an Afghan, cooked additional kebabs for the "guests." The Russians kept drinking and left the kebabs untouched. The Indian grew worried and he slipped away for a moment and surreptitiously called the local police station. The policeman he spoke to said there was nothing he could do about the situation.

The "guests" talked about how they missed their families, how dull things were in Kabul. They grew boisterous, according to this Indian, and soon ribald jokes were being made about Afghans. It was six o'clock the next morning when the soldiers left.

"But they voluntarily emptied out the ashtrays and offered to wash the glasses before they left my house," the Indian later said.

As more and more Soviet troops flood into this capital city, there are fewer and fewer other foreigners left here.

Not only have the Pakistanis evacuated most of their embassy personnel, so have the Saudis, the French, the British and others.

There is little doubt among embassy people in Kabul that, with the obvious exception of the Soviet diplomatic compound, every foreign Government representative in the city is kept under surveillance by the Afghan secret police force, which is now being supervised, according to Afghan military officials, by the K.G.B. All phones of foreigners are tapped, too.

In particular, local Afghans who are employed by these embassies are subjected to house searches and prolonged questioning by the authorities.

Some of these Afghans who have been questioned say that the authorities wanted to know of any links President Hafizullah Amin, who was killed in the takeover, may have had with the Central Intelligence Agency of the United States. Recently, the American Embassy got a formal letter from the Karmal regime urging that it turn over to the Government all C.I.A. files on President Amin.

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ON PAGE A18

THE WASHINGTON POST
10 March 1980

CIA Sees Soviet Role in Reported Atrocity by Afghan Troops

By George Lardner Jr.
Washington Post Staff Writer

The Central Intelligence Agency is "almost certain" that Afghan troops massacred hundreds of civilians in eastern Afghanistan last year under instructions from Soviet advisers, according to CIA Director Stansfield Turner.

In a letter to Sen. Lloyd Bentsen (D-Tex.), Turner listed several other alleged atrocities — "with details omitted to protect our sources" — that have come to the CIA's attention in the past year.

Bentsen, who released Turner's report last week, urged President Carter to seek an investigation by the United Nations or another international organization.

Bentsen wrote Turner last month inquiring about a Feb. 4 article in the Christian Science Monitor concerning the reported murder of 1,170 men and boys in the Afghan town of Kerala, not far from the Khyber Pass, last April 20.

A similar dispatch from Agence France-Presse appeared in The Washington Post. According to the reports, based on interviews with several of the widows, the villagers were told to

proclaim their support for the Marxist regime and then were shot when they responded with Moslem sayings.

The troops, reportedly including about 20 Soviets in Afghan uniforms, then used a bulldozer to bury the victims, some still alive, the reports said.

Turner said the CIA had no "on-the-spot confirmation from our own sources," but pointed out that a strikingly similar account, putting the death toll at 1,300, appeared in a Pakistani newspaper last April 29.

The CIA director's letter, which he told Bentsen could be made public, appeared to reflect a concerted effort by the agency to expose Soviet-backed brutality in Afghanistan.

Other reported incidents that Turner cited included:

- The slaying of 20 villagers who refused to cooperate with the Kabul regime and the destruction of their village by Afghan troops. "The children among the victims were mutilated in front of their parents before the entire group was slain," Turner said.

- The killing by Afghan soldiers of 300 people in another village, reportedly for "noncooperation."

- Instances of aggravated rape by Afghan soldiers, some resulting in the victims' deaths.

ARTICLE APPEARED
ON PAGE A18THE WASHINGTON POST
10 March 1980

Soviets Grapple With Popular Wrath in Afghanistan

By Stuart Auerbach

Washington Post Foreign Service

NEW DELHI, March 9—As resentment intensifies and open resistance grows to the Afghan government of Babrak Karmal and his Soviet masters, they find themselves facing a dilemma: every move they make to gain control over the country further enrages the already rebellious population.

In the view of senior diplomatic analysts and intelligence sources here, the smoldering hatred of the Soviets and the Babrak government they installed in power Dec. 27 poses a far greater threat to Moscow's aims than the sporadic, hit-and-run attacks by rebel groups.

These groups still appear to be fragmented and too poorly armed to be more than a nuisance to the Soviet forces.

According to reports reaching here, authorities are more preoccupied with a mood of protest by shopkeepers and civil servants in the Afghan capital, Kabul, that has continued since a week-long general strike ended there 10 days ago. In an indication of this official concern, threats are scattered through daily programming on Radio Afghanistan, warning merchants to open for business or face losing their shops.

These threats are not contained in the more closely monitored news bulletins, which continue to report business as usual in Kabul's bazaar, but in the regular programs.

These factors complicate international efforts to find a face-saving way for the Soviets to pull out of Afghanistan. Diplomats here, and in Washington believe the Soviet invasion has become far costlier than Moscow anticipated a little more than two months ago.

Analysts here expect to see an intensification of civil disobedience, fueled by an increasing hatred of the estimated 80,000 Soviet troops trying to pacify Afghanistan.

"The problem is the more force the government uses to try and put down these uprisings, the more unpopular the Babrak government becomes," one Western diplomat here said.

The lack of support for the government is becoming increasingly clear from reports of travelers arriving here:

They say rebel groups stop traffic on key roads and look specifically for government officials and Soviet troops. The Soviets, according to reports reaching here from Kabul, dare not travel by road; they take helicopters around the country.

There are also reports here that bus traffic between Kabul and Pakistan has been stopped because of rebel ambushes.

Adding to the Soviets' problem is the continued disintegration of the Afghan Army, many of whose members have either simply deserted or have taken their weapons and joined rebel bands.

It is widely believed here that Moscow was surprised by the depth of resistance to Soviet troops and to the Babrak government, especially since Babrak had been viewed as a popular figure in Afghanistan.

Whatever popularity he had was eroded by the way he was installed by the Soviets. Among a fiercely independent people, he is seen as a Soviet stooge.

"Anyone they put in will be similarly tainted," said one diplomat here.

According to some diplomats, the big question is how badly the Soviet plan has been damaged by the popular resistance of the Afghan masses.

"I believe their game plan was to move in, stabilize the institutions such as the Army, the party and the government and then get out, maintaining Afghanistan in everything but name as a mini-Soviet republic," said one well-informed Western diplomat.

"If that was their game plan they must be terribly disappointed."

The Soviets first must rebuild the Afghan Army, however, and the mass desertions may in fact help them by cleansing the force of disloyal elements.

There are signs that the Soviets are moving in vast amounts of military supplies for a spring offensive against the rebels once the snow melts in the mountains in about a month.

Analysts here differ, however, over who will have the advantage once the weather clears — the Soviet Army or the rebel forces.

One view holds that the Soviets' vast superiority in manpower and equipment — especially the heavy firepower of the MI24 helicopter gun-

ships — will then allow them to make short work of the lightly armed rebels hiding in the mountains and fighting 19th century-style battles.

The Soviet troops have shown themselves to be utterly baffled by guerrilla attacks. According to observers, they lack rudimentary training in how to react to an ambush. Instead of taking cover, they tend to gather in groups with fixed bayonets, which makes them all the more vulnerable.

However, some experts believe the past two months have given the Red Army leaders a chance to refine their tactics for dealing with guerrilla warfare. Moreover, they are gaining an opportunity to see how their modern weapons perform under battle conditions.

On the other hand, the Afghans are masters of ambushes and hit-and-run raids, tactics that drove the British from Afghanistan in the 19th century. The terrain favors the insurgents, some analysts believe, because the rebels know the mountains and valleys where Soviet tanks cannot reach them.

This school of thought sees the coming of spring as an aid to the rebels, opening their mountain hideaways.

A major question though, is how much damage the heavy firepower from the MI24 helicopter gunship, being used here in combat for the first time, will inflict on the rebels. It clearly is the most powerful weapon on the Soviets' side, and one the rebels have not been able to counter.

ARTICLE APPEARED
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NEWSWEEK
17 March 1980

PERISCOPE

A Kremlin Ploy to Stir Up the Mideast

Western intelligence sources report that the Soviet Union, acting through its embassy in Beirut, has ordered Palestinian guerrilla groups under Soviet influence to launch terrorist raids in Israeli-occupied Arab territory. Carter Administration officials think the object of the Kremlin maneuvering is to "build a backfire"—that is, to provoke Israeli retaliation that might embarrass the U.S. and its Western allies and take some heat off the Soviets for their invasion of Afghanistan.

'Robert Lee' Isn't Really a Spy

Western diplomats in Moscow say that the mysterious "Robert Lee," an American under arrest in Afghanistan as a CIA agent, is really just a "wanderer" with an affinity for the Middle East. His parents have been trying for months to get him to come home. Lee, also identified as "Robert Lezzard," has been charged with abetting anti-government unrest in Kabul and is believed to be awaiting trial there.

ARTICLE APPEARED
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U.S. NEWS & WORLD REPORT
17 March 1980

Washington Whispers

U.S. intelligence officials, who had figured it would take 200,000 Soviet troops to subdue Afghanistan, now say it will take up to 500,000. Experts say the Russians badly underestimated needs because they were relying on their experiences decades ago in Hungary and Czechoslovakia, when the mere presence of Soviet soldiers intimidated local residents.

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THE CHICAGO TRIBUNE
9 March 1980

Afghan war turns into blood feud

By John Maclean

Chicago Tribune Press Service

WASHINGTON — A Soviet army patrol in Qonduz Province in northern Afghanistan recently came upon a grisly monument to their increasingly brutal relations with the Afghan people.

According to one of many similar reports reaching American analysts here, the Soviets found the butchered remains of two Soviet women who fell into Afghan hands. A note left near the pile of flesh warned that such would be the fate of all Soviets in Afghanistan.

As the Soviet troops begin their spring offensive against Afghan insurgents, the war has taken on the appearance of a blood feud. The majority of Soviet casualties sustained so far reportedly have come from knifings and snipings, not from the sporadic military engagements in the mountains.

AMERICAN ANALYSTS see two main developments in recent weeks: The Soviets have launched a ruthless offensive against the insurgents, but their hold on major cities has grown shakier. The recent six-day general strike was only the most visible sign of this.

As an illustration of the state of relations between the Soviets and Afghan citizenry, American analysts describe a recent episode in the Kabul marketplace: Three Soviet soldiers went into a butcher shop to buy meat. When the shopkeeper demanded a price that was triple the amount charged Afghans, the soldiers complained loudly. The shopkeeper settled the matter by closing the door of his shop and butchering the Soviets.

American analysts, who asked not to be identified, said the United States government has received credible reports of such incidents.

The four analysts who were interviewed have access to official reports. They said some reports were unverifiable, but in no case did they rely solely on statements from refugees.

THEY SAID they did have reliable reports of the bodies of mutilated Soviet soldiers being sent back to the Soviet Union. Grieving families have opened coffins, as is the custom in Central Asia, despite warnings to keep them closed. Inside they have found soldiers quartered or with ears and noses cut off or eyes put out.

"There are lots of stories around of Soviets being invited to play an Afghan version of polo," one analyst said to have been raped. The officer reportedly went they laid down their guns. He said 52 Soviets were reported killed in that manner in one instance.

There also have been many stories about Soviet soldiers making advances to Afghan women and touching off violent reactions among relatives and other villagers.

In one report, an Afghan army officer's sister was said to have been raped. The officer reportedly went berserk, killed several Soviets, and then shot himself.

So strict are Moslem and Afghan taboos on this subject, the American officials said, that a riot began in a marketplace when a Soviet soldier touched an Afghan woman.

"It's no more Mr. Nice Guy," one said. "They now are willing to use whatever force is necessary to demonstrate power in those areas they consider important."

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9 March 1980

Soviet Casualties in Afghanistan: Rumors and Questions Abound

By CRAIG R. WHITNEY
Special to The New York Times

MOSCOW, March 8 — "Have you heard?"

"The hospitals in Tashkent are full of the wounded from Afghanistan."

"She was informed yesterday. The urn with her son's ashes is on its way."

"The police had to break up the crowd after the telegrams arrived." These rumors and others have been heard by a foreigner in Moscow in recent weeks. "That's what I've heard," Russian acquaintances said. "What do you know?"

Hushed and Anxious Whispers

All over the Soviet Union, talk of casualties among the forces in Afghanistan goes on in hushed and anxious whispers. An elderly woman whose son marched proudly in uniform through Red Square during the annual parade in November now weeps with worry for his safety, although she does not know where he is.

Coffins for the war dead — the first in more than a decade in a country that suffered 20 million casualties in World War II — are said to be arriving daily in Moscow, in Odessa, in the cities of Central Asia, but nobody knows for sure.

The reason for the ignorance and the fears is the silence in the official press on casualties in Afghanistan. In a country that normally conceals news of airliner crashes, this may not be surprising.

What is more so is that no details have been revealed about the Soviet military role in Afghanistan — how many men and women are there, their activities, their bravery or their triumphs.

The only word is the official explanation, that a "limited military contingent" was requested by the Afghans and will be withdrawn as soon as an end is put to "outside interference" in that country.

Left to rumors and word-of-mouth reports, Russians draw their own conclusions.

One is that Soviet leaders are finding

war to be really as unpopular in this country as they keep telling the world it is.

The official version, that the Afghan Government is in charge, is as difficult for the Kremlin to sustain as it was for the Johnson Administration to contend that Americans would have only a limited role in Vietnam in the 1960's.

"It's Vietnam," said a minor Soviet official, "with the difference that we don't have supply lines that stretch across 10,000 miles of ocean."

Russians with access to secret reports say that the army does not have a direct combat role in Afghanistan. Its mission is to protect key roads and towns, they say, and as a result casualties have been minimal, although how low they will not say.

Some 3,000 to 5,000 Soviet soldiers may have been killed or wounded, according to Western intelligence estimates that have been broadcast in Russian by Western stations.

In public statements, Soviet leaders have been enigmatic. Marshal Dmitri F. Ustinov, the Minister of Defense, spoke on the eve of Army Day last month, but his only mention of exploits in Afghanistan was a reference to "our friendly help to the Afghan people." He denied that Soviet troops were in an occupation role.

On Feb. 4, a national party secretary, Boris N. Ponomarev, who is an alternate member of the Politburo, alluded to Western radio broadcasts on the Voice of America and from Pakistan but did not speak of casualties.

"The Afghan authorities and the Afghan people have friendly relations with the Soviet soldiers," he said in a speech. "There are no conflicts between the Afghans and our soldiers, as various 'Voices' have cynically reported."

Western Estimates at 75,000

Since he spoke, according to United States estimates, the number of Soviet troops has risen to 75,000, with 30,000 others poised at the border.

Recently, Soviet troops were reported to have participated in a massacre of villagers and to have been using a sweet-smelling but deadly nerve gas in operations against guerrillas. When such allegations are made, they are passed off in the Soviet press as "inventions" of the Central Intelligence Agency.

"A lie, even if it is repeated a thousand times, will not become the truth," Tass, the Soviet Government's press agency, said of a report by Jack Anderson, the columnist, charging that poison gas was used.

Izvestia, the Government newspaper, said today in a dispatch from Kabul that Soviet soldiers had helped villagers near the Pakistani border to repair a bridge washed out by storms, and that Soviet military doctors had treated children without charge. A villager was quoted as having described the soldiers as "unpretentious," and "brave, strong and valiant." There was no indication that they were involved in fighting.

The official explanations are less evasive in public affairs meetings conducted by the Knowledge Society, the official lecture bureau.

At a lecture in Leningrad on Feb. 23, according to a Russian who attended, a questioner asked whether it was true that 3,000 troops had been killed in Afghanistan. The speaker told of a "complex" situation there and said Western reporters could never find the big battles Soviet troops were allegedly fighting, but he did not answer the question directly.

Since the intervention began, some of the cities in the staging areas of the Soviet Central Asian republics of Turkmenia, Uzbekistan and Tadzhikistan have been closed to foreigners.

Some travelers have been allowed into Tashkent, the Uzbek capital, but there, too, the military keeps its secrets. Two

CONTINUED

Americans who came back from Tashkent said their hotel maid, an ethnic Russian with a slightly skewed view of the geography of events, complained that she could not get treatment for her influenza because "all the hospitals are full of the wounded from Iran."

Russians returning from Fergana, another Uzbek city, said it echoed with the wail of Moslem women mourning their dead. The initial Soviet force sent into Afghanistan in December was said to have included many Central Asian reservists.

Babrak Karmal, the Afghan leader who was installed by the Soviet forces on Dec. 27, said in January that not a single Soviet soldier had been killed, but most people here say that cannot be true.

Pravda, the Communist Party newspaper, has written of violence and death among civilians in the Afghan capital, where anti-Soviet protests led to strikes and fighting last month.

Pravda blamed the demonstrations on outside agitators trained and equipped by the C.I.A.

"As a result of the events that have taken place," Pravda wrote on Feb. 26, "there are a small number of casualties among the peaceful population." The sound of automatic rifle fire rattled around Kabul, the paper acknowledged. Readers could conclude that, with so much shooting going on, their own troops may have been affected as well.

The Soviet Union, with three and a half million men and women under arms, has universal military service for males, who are drafted after their 18th birthday and serve two years in the army or three years in the navy. Soldiers' mail is censored, and those stationed outside the country are usually not allowed to tell their relatives at home where they are. If a soldier is killed in action, his family gets a telegram saying only that he died "in the service of his country."

In January, some families in Moscow reportedly were told that correspondence with soldiers in units stationed in Central Asia was temporarily suspended. Some of the relatives speculated that the reason was the authorities' fear that the soldiers would complain about living conditions in the harsh snow-swept mountains of Afghanistan, where many live in tents.

Lack of public support for the operations in Afghanistan may be inferred from a letter published on Feb. 1 in *Kommunist Tadzhikistana*, a newspaper published in the Tadzhik republic, which adjoins Afghanistan and where the people are ethnically related to the Afghans.

The letter, by G. Remukhov, a teacher, recalled the support of Soviet citizens for the Communists in the Spanish Civil War in the 1930's, emotions the teacher said "served us well" in World War II.

"Apparently," the letter said, "it is not enough to raise our children only in the spirit of love and good will; we should teach them not only to love, but to hate, not only to respect, but to show contempt, not only to agree, but to object."

The schoolchildren of Tadzhikistan, discussing the Afghan events, "did not have sufficient experience to analyze such events profoundly," the letter said.



Afghan rebels made available this document, which they said was the Soviet Army identification card of Pfc. Yuri A. Borovik, a soldier from Kazakhstan, who they asserted was killed in Afghanistan's Badakhshan Province.



Rumors in Moscow say that hospitals in Tashkent and elsewhere in Central Asian republics of Turkmenia, Uzbekistan and Tadzhikistan are filling with Soviet soldiers wounded in Afghan fighting.

THE PHILADELPHIA INQUIRER
8 March 1980

International



Stansfield Turner

A CIA charge of a massacre is denied by Moscow.

The charge, which appeared in a letter by CIA Director Stansfield Turner that was released this week, said it was "almost certain" that Afghan troops massacred 1,300 civilians last year on Soviet orders. But the official news agency Tass labeled the assertion a "monstrous lie." Tass writer Vadim Biryukov said the comment on the alleged massacre demonstrated that the CIA had "completely exhausted the ability of its brain center to invent false reports." Turner cited an earlier news report about the alleged massacre last April in the town of Kerala in eastern Afghanistan.

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8 March 1980

Soviet Soldiers Reappear in Kabul As New Protest Plans Are Reported

By PRANAY B. GUPTA
Special to The New York Times

KABUL, Afghanistan, March 7 — Wary Soviet soldiers reappeared on the streets of Kabul today and Soviet fighter jets and helicopter gunships buzzed the city as opponents of the Soviet-supported regime of President Babrak Karmal gave indications that they were preparing for a fresh round of strikes and shop closings next week.

The Russian soldiers, armed with Kalashnikov automatic rifles and shivering in the bitter cold despite their fur caps and coats, parked themselves at street corners in the bazaar in the old section of Kabul, near Government buildings and on bridges spanning the sluggish Kabul River.

It was exactly two weeks ago today that hundreds of civilians and some Soviet and Afghan troops were reportedly killed in a wave of protests against the Soviet presence in Afghanistan.

This week, at least, the shops in Kabul's bazaars were open. And although there were scattered incidents of shooting at Afghan troops in poor neighborhoods as well as house-to-house searches for weapons by Government soldiers, there was relative calm in Kabul. But it was also a week of much snow, sleet and rain, which may have contributed to the political calm, according to Afghan Government officials and foreign diplomats interviewed here.

Opponents of the Karmal Government, many of them believed to be Moslem fundamentalists, who bristle at the thought of any foreign, especially Communist, intervention in this mountainous country, have charged that Soviet soldiers fired into crowds two weeks ago as they gathered in squares and chanted anti-Russian slogans.

In the aftermath of the initial shootings and shop closings, Soviet troops seemed to have disappeared from the dusty streets and aging neighborhoods of this capital city of 600,000 people, possibly to placate the agitated population, according to Western analysts here.

The re-emergence of Russian troops around the city today followed an increase in patrolling over the last two days by light tanks and other armored vehicles bearing Soviet insignia. Starting last Tuesday, shopkeepers as well as residents of poorer areas, such as Karte Sakhi and Sharenu, have been receiving

letters delivered surreptitiously by unidentified Government opponents. These leaflets, composed in Farsi, Pashto and Dari, the three most commonly used languages in Afghanistan, have urged a large-scale popular civil disobedience movement starting next Monday.

President Karmal's administration seems to be anticipating such a protest, and daily radio and television announcements have warned Kabul residents that any unauthorized marches, rallies, shop closings or job actions will be dealt with severely.

"It is counterrevolutionary to engage in such things, which are the product of imperialist plotting," a radio announcer said gravely this morning. Soviet officials are running the Government-owned Radio Afghanistan, according to Afghan Government officials, as well as The Kabul New Times, which was known as The Kabul Times before the Soviet intervention.

But at the same time that the Soviet presence in Kabul and elsewhere is being strengthened, President Karmal has been undertaking measures that one of his aides this week characterized to a third-world diplomat as "moves of conciliation."

Each day, for example, busloads of villagers from nearby areas are brought to mosques in Kabul where officials of the Karmal Government deliver speeches on the need for national unity and progress. Some mullahs, sympathetic to the Karmal regime, are also called on to speak to the villagers.

Underscores Religious Support

President Karmal also has tried to curtail any criticism of his regime on religious grounds by publicly underscoring his religious support. The evening television news programs and newspaper photographs often show Mr. Karmal kissing and hugging mullahs, and Mr. Karmal has taken to wearing a green lapel pin with an Islamic inscription.

This week, too, the Karmal Government announced the formation of a number of commissions designed to streamline its work. A panel, for instance, will make recommendations on the composition of a new judiciary, another will offer suggestions on overhauling the country's primary and secondary school system, and still another commission has been asked to examine the sensitive question of land redistribution.

Mr. Karmal's predecessors, Presidents Noor Mohammad Taraki and Haf-

zullah Amin, both now dead, attempted to undertake radical redistribution of land, much to the distress of landowners. Mr. Karmal said this week on television that land redistribution would now be undertaken only at a pace suitable to the needs of the country.

Broad-Based Government Claimed

Every day, both television and radio stations carry news items about how the President has been trying to broaden the base of his administration. This week, for example, the appointment of Dr. M. A. Nausheen as head of the prestigious Malaria Institute was hailed in the press here as a sign that qualified technical experts were being reinstated in Government after a period of "insidious, C.I.A.-inspired terror and dismissal" by the Amin Government.

Nevertheless, these measures were viewed by many Afghans as only cosmetic in nature. Their perception of Mr. Karmal continues to be that of a man who is controlled by the Soviet Union and serves at the pleasure of the Soviet Union.

At the Metropole Hotel, a barman and three waiters watched the evening television news and cried "lies, what lies" when the announcer spoke about the Government's rural "pacification" program.

Kabul has also been rife with stories of alleged atrocities by Government and Soviet troops in other parts of the country.

"No one believes Babrak any more," said Hakim Faridi, who runs an antique shop here. Even as he spoke, Soviet helicopter gunships flew overhead on patrol. He stared at them, then he shrugged.

Attacks on Villages

In addition to the patrolling by Soviet planes, soldiers and armored vehicles, there have also been continuous attacks on outlying villages by Soviet MIG-21 jets.

Some of these villages are believed by the Karmal Government to harbor insurgents and to be conduits for weapons smuggled into Kabul. Almost every night, the snow-dappled valleys around Kabul echo with the sounds of the bombing. Sometimes window panes crack with the reverberations, and always the bombings trigger barking among the packs of wild dogs that roam this city at night.

According to Afghan Army officials based in Kabul, Soviet forces have also stepped up military operations in such areas as Kandahar, Barakhsan, the Konar Valley, Kundu, Takhaar, Herat and near Jalalabad. But there have also been continuous civilian protests in the form of shop closings and job actions by Government employees in towns like Jalalabad, according to these officials, as well as Western and third-world diplomats.

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8 March 1980

Afghan drive being prepared, U.S. believes

By Alex Efty
Associated Press

KABUL, Afghanistan — The Soviet Union is preparing to mount a spring offensive against the Afghan rebels with a huge airlift and road caravan of supplies for an estimated 80,000 Soviet troops, according to military analysts in Washington.

At the same time, the Soviet-backed Afghan government issued a new draft call-up to fill vacancies in its own weakened army.

Afghan President Babrak Karmal issued the draft call yesterday over the Kabul radio. The force has been weakened seriously by desertions and defections and the broadcast said soldiers now in service would not be released, even on completion of service, until replacements arrived.

In Washington, government sources said the Soviets were preparing to bolster their forces in Afghanistan and could send in as many as 70,000 new troops — which would bring the force there to about 150,000.

A steady stream of giant four-engined civilian jet transports has been landing at Kabul's international airport for the last two days at a rate of one every 30 minutes, as Soviet MiG jets scream overhead during the unloading.

Scores of Soviet soldiers carried out hundreds of wooden crates that were loaded onto trucks and into helicopters for distribution to the troops. For three days, southbound trucks laden with supplies and escorted by tanks and armored cars have clogged the main highway from the Soviet Union, witnesses and foreign reporters said.

The Afghan army, which numbered 100,000 troops in 1978, was estimated to have fewer than 40,000 men now, according to U.S. intelligence sources. The Soviet invasion backing a coup against the government in December has been blamed on the poor Afghan performance in its campaigns against Muslim rebels.

Afghan President Karmal was quoted yesterday in a Lebanese leftist magazine as saying that he had sought the Soviet intervention in December to prevent the United States, China and Pakistan from partitioning the country.

The three nations had 60,000 guerrillas ready to invade, Karmal said in the Paris-based Al Watan Al Arabi. It reported that Karmal said the north-eastern provinces would have been given to Pakistan and the north-western provinces to China.

"The capital, Kabul, and central Afghanistan was to become under active control of U.S. operatives," Karmal added.

In Washington, U.S. intelligence sources said the Soviets had begun flying their families home from Afghanistan after recent anti-Soviet rioting in Kabul. The dependents of civilians were leaving aboard Aeroflot planes, the sources said, and about 1,000 were thought still to be in the city.

In Washington, analysts said a Soviet spring offensive was indicated by the movement against rebels in the Konar Valley of eastern Afghanistan. The analysts said the Soviets had used rockets and poison gas along the way to clear out villages, but it was not known what type of gas.

The combined airlift and road transport operation got under way Wednesday, immediately after a severe five-day snowstorm — possibly the season's last.

Meanwhile, Soviet troops in the Afghan capital reportedly have told foreign reporters (U.S. reporters have been banned from the country since mid-January) that they were bored, scared and, sensing Afghan hostility, that they traveled only in groups. Afghans have reported that troops, looking for liquor in this Muslim country, have raided homes and staged all-night parties.

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IRAN

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KHOMEINI SUPPORTS MILITANTS, BARRING HOSTAGES' TRANSFER; U.N. PANEL TO QUIT IRAN TODAY

TERMS OF AYATOLLAH

He Suggested Commission Question Americans Accused of Spying

By JOHN KIFNER

Special to The New York Times

TEHERAN, Iran, Tuesday, March 11 — The United Nations inquiry commission, which had come here hoping to find the means to end the four-month captivity of the American hostages, prepared early today to leave in failure after Ayatollah Ruhollah Khomeini had thrown his support to the militants holding the United States Embassy.

The fate of the hostages now seemed to rest with a parliament, yet to be elected, that is not likely to take office until mid-April and is not expected to make a decision for several weeks after that.

The Ayatollah's ruling, in response to a request from the ruling Revolutionary Council for clarification, came in a fiery statement that overruled the efforts of Foreign Minister Sadegh Ghotbzadeh to force the militants to either turn over the hostages or to allow the United Nations panel to meet with all of them.

Meeting Only After Panel's Report

The commission, the Ayatollah said, could be admitted to the embassy only for the purpose of questioning those hostages who were said by the militants to be linked to grievances against the deposed Shah, Mohammed Reza Pahlevi, and against the United States.

The revolutionary leader, in a statement read by a spokesman, went on:

"If the panel issues its report on the crimes of the deposed Shah and on interventions of the invading United States in Teheran, it will be allowed to see all the hostages."

The conditions appeared unacceptable to the United States, which is understood to have accepted a package arranged by Secretary General Kurt Waldheim in the belief that the dispatch of the United Nations commission to hear Iran's grievances would somehow be linked to the release of the hostages.

The usefulness of the United Nations panel thus seemed to be at an end, at least for the time being. Foreign Minister Ghotbzadeh announced that the commission would depart after holding a final meeting with him.

Thus, as the aging, ailing Ayatollah had often before, he turned the situation into yet another stalemate with a few fiery words.

The statement was a setback not only for Mr. Ghotbzadeh, but also for President Abolhassan Bani-Sadr and for the authority of the Revolutionary Council, since the Ayatollah had, in effect, sustained defiance of their authority.

At the American Embassy, there was jubilation as the statement by the Ayatollah, who is known as the Imam in Iran, was read over the radio yesterday. A group of several thousand cheered and chanted, "Death to the compromisers."

"The Imam's word is our word, but now our words are the Imam's words," a militant said.

Along with the United States, both President Bani-Sadr and Foreign Minister Ghotbzadeh had seen the United Nations panel as a potential way out of the impasse. They are known to regard the detention of the hostages as distracting from the business of building a new society in Iran and as preserving a power center that challenges the Government.

Pawns in an Internal Struggle

The hostages are also pawns in a struggle between those revolutionaries who have Western ideas and those who follow Moslem fundamentalism.

Mr. Ghotbzadeh has been associated most prominently with the effort to have the United Nations panel visit the hostages. Mr. Bani-Sadr, who was only recently elected President, has not been in the public eye and is believed to regard his authority as too fragile to risk in a showdown with the militants.

The proposed visit, which was understood to have been part of an accord worked out by United Nations representatives with Iran and the United States, would not only have allowed the commis-

sion to check on the condition of the hostages, but would have satisfied the demand of the United States that the commission look into its grievances, too.

The militants insisted that the commission meet only with hostages accused of being spies — they are believed to number about 13 — and then only as witnesses in the investigation of the Shah and of United States involvement in Iran.

Initial Offer to Yield Captives

On Thursday, as the commission prepared to leave, having completed the first part of its mission — the collecting of evidence presented by the Iranians against the Shah, the militants announced that they would relinquish custody of the hostages to the Revolutionary Council.

The militants said that, while they still opposed the visit by the panel, they would give up the hostages so as not to be accused of hurting the revolution by acting as "a government within a government." On Saturday, as preparations were being made for a transfer at 5 P.M., the militants balked at turning the hostages over to Mr. Ghotbzadeh and asked the ruling council to name another custodian.

The council insisted that the militants either yield the hostages to Mr. Ghotbzadeh or allow the United Nations commission to meet with all of them. On Sunday, after another council meeting, Mr. Ghotbzadeh said the militants had 24 hours to comply and plans for the takeover would be announced in the morning.

Council Meets With Khomeini

Yesterday morning, the council assembled at the Ayatollah's house in northern Teheran. When the meeting broke up at 11:45 A.M., Mr. Ghotbzadeh drove to the Hilton to meet with the United Nations panel. The commission members also conferred for two hours with President Bani-Sadr, then returned to their hotel to ponder the situation.

While Ayatollah Khomeini's decision appeared to undercut the council's authority, a number of council members, particularly the clerics, had seemingly been busy undermining Mr. Ghotbzadeh.

Indeed, Mr. Ghotbzadeh had put himself on the line over the issue.

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11 March 1980

Khomeini Sides With Militants On Hostages

By Jonathan C. Randal
Washington Post Foreign Service

TEHRAN, March 11—The U.N. commission to help solve the U.S.-Iranian crisis admitted defeat today and left Iran after Ayatollah Ruhollah Khomeini personally dealt its mission a fatal blow by refusing to allow it to visit all the American hostages unconditionally.

In a short statement before the five-man commission took off for Zurich, a spokesman said the panel was "not in a position to prepare its report." But the statement avoided specifying that Iran's refusal to allow the commission to see the hostages was the cause of the breakdown.

The carefully worded statement said the commission would confer with U.N. Secretary General Kurt Waldheim in New York "with a view toward pursuing its task, which it regards as indivisible."

The commission's U.N. executive jet took off at 3:10 a.m. Tehran time, barely five hours after Iran failed in a final effort to persuade the United Nations to change the commission's mandate. The panel, which had been in Iran for 17 days without seeing the hostages, turned down Iranian officials' entreaties to extend its stay during three hours of talks after midnight.

Foreign Minister Sadegh Ghotbzadeh told reporters after the negotiating session that he was "a bit disappointed" by the commission's decision to leave. But he claimed the departure was "neither a victory nor a defeat for anyone" and said he hoped the commission "would return here soon" to continue its work.

The failure of the commission leaves the hostages still in the custody of their militant student captors with little hope of being freed, or transferred to government custody, until well into April, if then. Two weeks ago, Khomeini said the hostage issue would have to be decided by a parliament that is to be elected this month but is not expected to be ready for serious business until sometime in April.

The commission's failure was sealed at an hour-long morning meeting of the divided Revolutionary Council at

Khomeini's north Tehran residence yesterday. Khomeini then swung his authority behind the militant captors who have held an estimated 50 Americans hostage for the past 128 days.

In a communique implicitly repudiating efforts by President Abol Hasan Bani-Sadr and especially Ghotbzadeh to allow the commission to visit all the hostages, Khomeini reiterated the militants' most extreme demands, as formulated 11 days ago.

As broadcast by Tehran Radio news, Khomeini said that:

• The students should "make available to the commission" copies of seized U.S. Embassy documents to help them investigate "crimes of the U.S. and the traitor shah," Mohammad Reza Pahlavi, now living in exile in Panama.

• The commission could meet the unspecified number of hostages considered guilty of crimes committed by the United States and the shah and interrogate them."

• But the commission could see all the hostages only if it first "expressed its views about the crimes of the deposed shah and interference of the aggressive United States."

Under the original "package deal" agreed to by Iran, the United Nations and the United States, the commission was to have seen all the hostages as part of its visit, before issuing its report.

Ignoring the blows he thus dealt the prestige of his hand-picked governing body, which had set a deadline for the students to permit the visit or transfer control of the hostages, Khomeini declared "my support for the Revolutionary Council and the person of the president once again, and I ask all to assist them and not spare support for them."

Despite the humiliation, Bani-Sadr and Ghotbzadeh separately spent hours at their offices yesterday afternoon and evening with the commission trying to put Khomeini's announcement in the best possible light and presenting new and vague promises in efforts to keep the mission alive.

Ghotbzadeh and Revolutionary Council spokesman Hassan Habibi arrived at the commission's Hilton Hotel quarters shortly before midnight in what appeared to be yet another effort to dissuade the U.N. commission from leaving.

During three hours of conversations, a succession of telephone calls between Tehran and the United States indicated that a compromise effort of some sort was being discussed.

But at least two commission members—Andres Aguilar of Venezuela and Louis Pettiti of France—were known to be sufficiently unimpressed from the start to demand privately that their colleagues join them in formally ending the mission.

Only Mohammed Bedjaoui of Algeria was reported to favor the Iranian thesis that Khomeini's statement did not preclude the commission's continuance in Tehran, with Adib Daoudi of Syria and Harry Jayewardene of Sri Lanka said to be sitting on the fence.

Also favoring their departure was a rash of recent newspaper attacks accusing the commission of being manipulated by the United States and, in one case, of being "accompanied by many CIA diplomats."

Sources close to the commission made no secret of their fears of being sucked into the parliamentary election campaign now under way.

In any case, Khomeini's communique left the commission little leeway, according to diplomats.

Analysts noted that the United States, in agreeing to the commission, had specifically ruled out any visit that included interrogation of the hostages, which Khomeini now favors.

Moreover, the demand that the commission first judge the presumed guilt of an unspecified number of alleged "spies" was described by specialists as juridically unacceptable.

The commission from the start refused to accept any purloined embassy documents as evidence for fear of appearing to exceed its humanitarian brief in visiting the hostages and becoming involved in grand jury style-operations smacking of an anti-U.S. show trial.

After the commission had left the Hilton Hotel for Mehrabad airport this morning, three of the militants from the embassy turned up in the lobby with three large cartons, vaguely resembling pizza boxes, crammed with documents that they said they wanted the commission to have.

U.N. officials told the militants they were unable to accept the documents in that form.

The commission briefly seemed close to success Thursday when the militants—citing intense pressure by the Iranian government—offered to hand over the hostages to the Revolutionary Council rather than allow the commission to see all the Americans.

The militants apparently had never thought the Revolutionary Council would accept responsibility for the Americans because that would bring the council under international pressure to free the hostages outright.

But after the offer was accepted, the captors fought back, rallying support from both extreme right-wing clerical forces and extreme leftists. They staged demonstrations in front of the embassy to rally support. Although the crowds were far smaller than those in the early days of the crisis, when hundreds of thousands of Iranians turned out to back the embassy occupation, they apparently were sufficient to discourage any government attempt to take custody of the hostages.

CONTINUED

Khomeini first tipped his hand Saturday after the captors had promised to hand the hostages over to Ghotbzadeh. Khomeini's office said he previously had remained "silent" on the transfer issue.

Isolated in the Revolutionary Council, which grudgingly had approved his transfer plan, Ghotbzadeh insisted that the council's orders be respected.

But in the end the issue was put to Khomeini, who apparently preferred to keep his revolutionary credentials intact rather than back up his foreign minister and president. As he has in the past, Khomeini humiliated his closest lieutenants, to whom he had entrusted day-to-day government operations.

At the embassy, the militants and a large crowd outside the main gate cheered and broke into revolutionary songs praising Khomeini when his announcement was read over the radio and rebroadcast on loudspeakers on the embassy walls.

Only days ago Bani-Sadr said in an interview, "The students have nothing to decide. They have only to obey." However, events have made it clear that they will not obey his government; but Khomeini.

What effect this setback will have on Bani-Sadr's hopes of winning a clear-cut majority in the new parliament remains to be seen.

But the timing of the hostages' eventual liberation is not likely to be advanced if the Islamic Republican Party emerges as the most important force in the new parliament.

The party's clerical right-wingers, buoyed as a result of the commission's failure, now have taken their revenge for Bani-Sadr's landslide presidential victory in January by frustrating his proclaimed desire to solve the hostage problem and press ahead with his vision of a radical grass-roots revolution.

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SOVIET/UN SPIES

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ON PAGE 13CHICAGO TRIBUNE
12 March 1980

Perspective

Bob Wiedrich

A spy can strike from deep cover

THE SOVIET government has few virtues. But patience is one of them.

So when it buries an espionage agent like KGB Col. Rudolph Albert Herrmann for nearly a dozen years in the United States, it expects to reap benefits from his presence in our midst — sooner or later.

For a decade or two, perhaps even a lifetime, a Soviet spy like Col. Herrmann may lead the life of a normal appearing American. He may perform a few mundane chores for his Kremlin masters. But mostly, he will be left alone.

Then some day — in a time of serious diplomatic rupture or war between the U.S. and Soviet Russia — the agent will be activated as though someone had pushed a button to launch a missile back in Moscow.

Then that normal-appearing American will be transformed into a deadly saboteur, terrorist, or intelligence agent. He will perform the one function for which he has been waiting most of his adult life.

And if he retains the talents so carefully refined in the communist training academies of the U.S.S.R. and Eastern Europe, that patient investment in time and money made by Moscow so many years earlier will have paid off.

A critical military facility will be reduced to rubble. A nuclear installation will be destroyed. A political leader will be assassinated. Or the secrecy of naval, airborne, and troop movements will be compromised with disastrous results.

PEOPLE LIKE Col. Herrmann, who successfully posed as a New York freelance photographer for 11 years before being turned into a double agent by the Federal Bureau of Investigation, are called illegals.

That means they are foreign nationals who have slipped into the country with forged credentials and blended into the American lifestyle.

Invariably, they are highly trained espionage specialists who have been trained in scientific or technical fields to provide them with easy access to employment in sensitive areas.

Unlike the Soviet and Eastern bloc diplomats who are more readily identifiable as spies, the illegals are only a few among nearly 220 million Americans. They are tough to ferret out. But they are the most potentially dangerous.

For they are the agents who would swing into destructive action in a time of crisis or hostilities when their diplomatic counterparts are interned or deported.

In the interim, illegals perform certain low-risk tasks that a foreign diplomat doubling as a KGB agent might not dare to carry out because of the constant fear of FBI surveillance. That includes making physical contact with American citizens who have wittingly or unwittingly become Soviet informants.

Or, as in the case of Col. Herrmann, traveling to Chicago or some other city to bury two containers at the foot of a tree for subsequent retrieval by another Russian agent.

"ILLEGALS ARE tough to discover," a counterespionage specialist told me. "They are professionals. And there are very few of them. We have no accurate handle on how many actually exist in the United States.

"It takes a tremendous amount of time and money to put these people in place. But once there, they are invaluable. Their real value will come in a time of severed relations or war.

"But they still can provide certain services that prevent jeopardizing the cover of KGB agents working in Soviet embassies and consular offices. The fact that Herrmann held the high rank of colonel in the KGB demonstrates the great confidence with which he was held in Moscow.

"A guy like that, once triggered, could cause incalculable harm. His prime purpose is to maintain a low profile until a time of dire need. But then, watch out. He can be dynamite.

"The Western intelligence community considers illegals a major problem. We're not talking about a trickle. But even if we were talking about only one or two illegal agents, that could be lethal. Even one agent could create chaos."

COL. HERRMANN was the classic example of the illegal espionage craftsman: Trained in East Germany after having been recruited from the military of a Soviet bloc nation, he entered West Germany as a phony refugee.

After six years in Canada, he came to the U.S. in 1968 as an immigrant with the assumed identity he had polished. Then, for nearly a dozen years, he remained buried like a time bomb behind the facade of a friendly neighbor in the New York suburb of Hartsdale.

The FBI isn't saying how it converted Herrmann into a double agent. Nor is it revealing how it unearthed him. But the agency's spectacular success with an illegal agent is an admitted rarity. Your next-door neighbor could be Herrmann's colleague and you'd never know it.

Make no mistake. The woods are crawling with Soviet spies, many of them also under business and diplomatic cover.

As of a year ago, the FBI had identified 35 per cent of the 1,200 Soviet personnel working in the U.S. as members of Kremlin intelligence services. And that figure does not include Soviet exchange students and merchant seamen who float through the country.

If nothing else, the surfacing of Col. Herrmann by the Justice Department last week dramatizes the need for a strong American intelligence structure and FBI and Central Intelligence Agency congressional charters that don't hamstring U.S. agents.

Anything less could spell national disaster.

ARTICLE APPEARED
ON PAGE 10

THE BALTIMORE SUN
10 March 1980

Spy Story

"Rudolph Albert Herrmann," the deep-cover Soviet KGB colonel, asked people in his Westchester suburb about their choices for president and reported the responses to his masters in the Kremlin. In 11 years, he never stole a secret.

One of the revelations in the FBI's extraordinary press conference for its latest KGB catch was that much of spying is not merely humdrum but proper. No secrets or illegality are involved. It is a little like the "revelations" by Iranian terrorists holding Americans hostage in the U.S. embassy "nest of spies" in Tehran. The activities "uncovered" so far are what every embassy is supposed to be doing in every country.

Of course, there was more to Colonel Herrmann than talking politics with ordinary folks. He maintained clandestine routes for communications by other spies. That is the real thing. Illegally gathered security and industrial secrets no doubt traveled his route.

He tried once to harass NASA with anonymous phone calls of disinformation, but to no effect. And most impressive, he took 10 years to get from West Germany to residence in the United States, indicating a patience on the part of his superiors that ordinary Americans cannot understand and with which American counterspies have trouble coping.

But more mysterious even than Colonel Herrmann is why the FBI put on this bit of theatrics worthy of J. Edgar Hoover when the Cold War was new. Was it to alert ordinary Americans to the danger that the innocuous next door neighbor might be a sinister spy? Doubtful. To pin one on the Russians now that the Cold War is tensing up? The KGB already knew that Colonel Herrmann had gone over, and five spy-diplomats were quietly withdrawn last year. To embarrass the Kremlin publicly? Perhaps.

Or was it to create a public climate of approval for wide-ranging FBI activities with a demonstration that there are real spies out there, now that Congress is considering an FBI charter that might inhibit some of those activities?

There *are* real spies out there and we need the FBI to guard effectively against them. Colonel Herrmann by his own and the FBI's account was a small fish who never damaged this country as Rudolph Abel and Kim Philby did. The next one might.

Colonel Herrmann of the silhouette and disguised voice has retreated to his new identity, and the FBI speaks guardedly, so the mystery of the Herrmann press conference may not be cleared up. But everyone likes a good mystery.

ARTICLE APPEARED
ON PAGE 39NEW YORK DAILY NEWS
9 March 1980

They're as American as apple (s)pies

By JOSEPH VOLZ

WASHINGTON—The remarkable thing about that press conference in FBI headquarters last week with Soviet KGB Col. Rudolph Herrmann was that the FBI found him at all.

The toughest job FBI counterintelligence agents have is tracking down Soviet "illegals," spies who have spent decades preparing for illegal entry into this country. FBI officials claim they have "a rough ballpark estimate" of how many illegals are operating in the United States but they won't give it out.

Asked for a number, FBI Executive Assistant Director Homer Boynton cracked: "We won't know until the KGB lets us file a Freedom of Information Act request."

The late William J. Sullivan, who headed FBI intelligence activities in the 1960s, told then-FBI Director J. Edgar Hoover in 1971 that "we have not identified one" illegal operating on the East Coast.

Herrmann, who was caught by a fluke when a KGB contact "blundered," serves as a good example of why the deep cover spies are so hard to find. He has been a spy for 25 years. All of that time he has been training for one target, the U.S.

Posing as refugees, the Herrmann family entered West Germany a few years after World War II. Armed with legitimate West German papers (but based on the alias "Herrmann") the family immigrated to Canada, then moved to New York 11 years ago.

Anyone trying to check out the family would have had to go all the way back to war-torn Eastern Europe.

Because Herrmann said he collected political information, readily available to anyone reading the papers, the initial reaction of many reporters was that Herrmann was a dud—hardly an important spy. But that shows a lack of understanding of what the mission of an illegal is.

The fundamental assignment is to burrow deeply into American society so that, say, if diplomatic relations between the Soviets and U.S. are broken, the illegal can provide intelligence. In wartime, the illegal can be invaluable.

Perhaps the most valuable Soviet illegal was Richard Sorge, a Soviet who became a German citizen before World War II, went to Tokyo as a foreign correspondent for Nazi newspapers and developed close relations with the German ambassador in Tokyo.

Sorge gave the Soviets advance warning of the June 1941 German invasion of the Soviet Union, but Soviet Premier

Joseph Stalin didn't believe him. Sorge was discovered and executed by the Japanese in 1944.

There was yet another key role for the Herrmann family. Herrmann's teenage son, who has spent most of his life in the U.S., was being trained as a second-generation illegal.

Herrmann bragged the other day that his son would have the "perfect 'legend.'" (A legend is a spy's cover story.) The son could pose as an American speaking fluent English because, after all, he was an American—as American as any other boy growing up in Hartsdale, N.Y., where the family lived for 11 years.

THE SON would get an entry level job in government and, it is hoped, work his way up in 10 or 20 years to a high position. He would be "a mole," an enemy agent burrowed deeply into a sensitive U.S. agency.

The last major Soviet illegal discovered by the FBI was Col. Rudolph Abel who, like Herrmann, was undone by a co-worker in the KGB.

Abel had posed as an artist in Brooklyn for 10 years, taking the same route from East Germany as Herrmann did. Abel even obtained an authentic birth certificate—of an American citizen named Emil Goldfus, who died in infancy in New York. Abel was arrested and imprisoned but never cooperated with the FBI. He was exchanged for CIA spy pilot Francis Gary Powers in 1962.

The FBI nabbed another illegal, Kaarlo Tuomi, who had lived in the U.S. as a youth, when he crossed the Canadian border. Tuomi's job was to watch troop movements and munitions in the New York area for the GRU, Soviet military intelligence.

Another Cold War case involved an unnamed Soviet lieutenant colonel who was posing as a New York beautician in the 1960s. When the FBI uncovered her, she committed suicide.

There may be hundreds more illegals at work right now—only the KGB knows for sure.

Although it is possible that the CIA has planted American illegals in the Soviet Union, it is not as likely. The big problem is that the Soviet Union is such a closed society—with the KGB watching virtually every major move of its citizenry—that it would be almost impossible to penetrate key government agencies. However, chances are that the CIA over the years has had some limited success in "turning" Soviet and Third World diplomats into CIA agents.

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ON PAGE E4

THE NEW YORK TIMES
9 March 1980

The Nation

In Summary

F.B.I. Shows Off Its Tame Spy

American-Soviet double-agentry has never quite had the dash of the London-Moscow axis, with its Philbys, Penkovskys and Blunts. And so it was last week when the Federal Bureau of Investigation unveiled Col. Rudolph Albert Herrmann, a 25-year K.G.B. veteran, who apparently has been working for Washington while working for Moscow for years.

In the suburban New York community where he lived since 1968, Mr. Herrmann was known as Rudy — a friendly and popular man, who said he was a freelance filmmaker. He did make films. He also traveled, across the country, to pick up political and economic information, and on Soviet orders, once tried (unsuccessfully) to thwart a manned Apollo flight by sending an anonymous letter to American space officials warning the mission was sabotaged. Generally, his work seems to have been pretty prosaic.

Nevertheless, his efforts won him several Moscow promotions, and American intelligence attention. In return for freedom from prosecution, he began supplying information on other agents of the Soviet Committee for State Security and on Russian spy-craft. Part of the deal was last week's "public" appearance, behind an illuminated screen and through a voice-disguising device, and a new identity for himself and his family.

But the new F.B.I. has been concentrating as much on white-collar crime as on spies, and last week director William H. Webster got a less than warm reception from members of a House subcommittee. Their concern: that the eight legislators caught in the bureau's Abscam sting were law-abiding citizens lured into taking bribes by G-men posing as sheiks. Mr. Webster called the process little different from that of catching truck hijackers. The Congressmen, he said, were attracted by a process of "self-selection."

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ON PAGE A 4

THE NEW YORK TIMES
8 March 1980

World News Briefs

U.N. Worker From Poland Gets 7 Years in Spy Case

WARSAW, March 7 (Reuters) — A secret military tribunal sentenced a Polish employee of the United Nations to seven years' imprisonment today for spying for an intelligence service of a NATO member.

The official press agency, PAP, said the tribunal announced the sentence after the judges declared Alicja Wesolowska, 35 years old, guilty of "cooperation" with the intelligence service.

Miss Wesolowska pleaded guilty at the two-day hearing that ended Wednesday. She was arrested in Warsaw in August on her way to take up a new United Nations position in Mongolia.

There were reports here that she had been accused of trying to recruit Poles to work for the American Central Intelligence Agency. But the press agency report stuck to the formula officials have used throughout the secret proceedings, saying only that she was found guilty of spying for a NATO member.

ARTICLE APPEARED
ON PAGE 52NEWSWEEK
17 March 1980

POLAND:

A U.N. Staffer Guilty of Spying?

Alicja Wesolowska stood with head bowed before three military judges in a Warsaw court last week. After seven months in solitary confinement, the 36-year-old woman looked drawn and old, and her hair had begun to fall out. Flanked by burly women wardens, she heard a string of witnesses charge that she had used her position as a secretary at United Nations headquarters in New York to spy for an unnamed NATO power, recruiting fellow Poles for her foreign "masters." After two days of testimony, she was found guilty. Her sentence: seven years in prison.

Although Poland conducted the trial in secret, sources said that a key government exhibit was an address book in which Wesolowska had listed the phone numbers of her many acquaintances in New York. At the U.N., her friends and former colleagues scoffed at the spy charges, describing Wesolowska as idealistic and thoroughly dedicated to her job as an international civil servant. What had bothered Warsaw authorities, they theorized, was that Wesolowska had obtained a job at the U.N. while she was in the U.S. as an exchange student. By doing so, she had bypassed the Polish Government's so-called *comité de jalousie* (jealousy committee), which screens candidates for U.N. posts—and attempts to ensure that those selected give their primary loyalty not to the U.N. but to Poland.

Family Visit: The case had broader significance than the fate of Wesolowska. She had been arrested in Warsaw last August while visiting her family en route to a new U.N. assignment in Mongolia. She was using U.N. travel papers, and under terms of a 1946 international convention designed to foster apolitical status for U.N. employees, she was theoretically immune from arrest, even by her own government, in the performance of her duties. Warsaw turned down appeals for details and access to her by U.N. Secretary-General Kurt Waldheim. Last week, more than 1,300 U.N. staffers signed a petition demanding stronger action by Waldheim, whose approaches to Poland many considered feeble. "If this can happen to Alicja, it can happen to anyone," Lowell Flanders, president of the U.N. employees union, told NEWSWEEK's Joyce Barnathan. "Where does the U.N. stand if it can't protect its own staff members?"

Wesolowska

Krzysztof M. Krawczyk



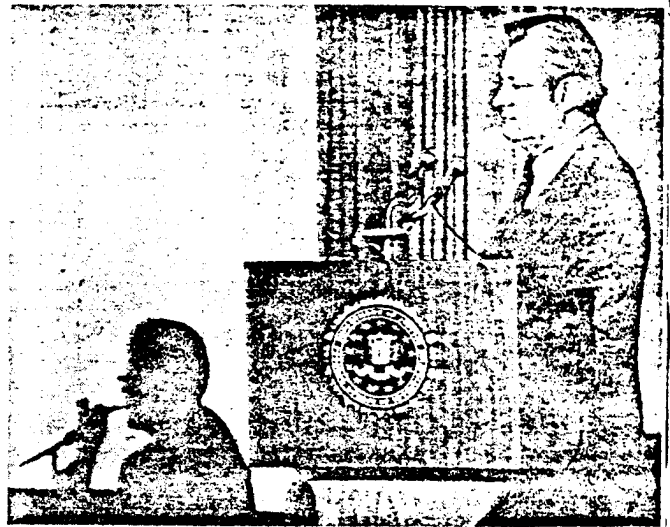
ARTICLE APPEARED
ON PAGE 40NEWSWEEK
17 March 1980

From the KGB to the FBI

To their neighbors in New York's Westchester County, Rudolph and Inga Herrmann were East European émigrés who traveled frequently and asked a lot of questions about American politics. He was a successful free-lance photographer, she a friendly homemaker who helped a crippled neighborhood boy. Last fall, the Herrmanns suddenly moved away. Last week, their neighbors found out why. Sitting behind a frosted screen at a Washington press conference, his voice disguised electronically, Herrmann admitted that he was a longtime spy for the Soviet Union—and, for the last several years, a double agent for the U.S.

Most KGB agents pose as diplomats and operate under diplomatic cover. But, as FBI officials told it, Herrmann was an "illegal" agent posing as an ordinary citizen. "I tried to blend in with the local community," Herrmann said. All the while, however, he received weekly coded instructions from Moscow on a short-wave radio at his home. His assignments seemed tame. He was to study American political attitudes, get close to a Presidential candidate if he could and collect messages from other KGB agents. But Herrmann's real function, the FBI said, was as a "sleeper" agent. If U.S.-Soviet diplomatic ties were severed and "legal" operatives ordered home, the unassuming Westchester photographer was to help run KGB spy operations in the U.S.

New Identity: Federal agents picked up Herrmann's trail several years ago because of a blunder by one of his KGB contacts. They offered him a choice: either face prosecution or turn double agent. Herrmann turned, supplied details about Soviet communications methods and helped identify other KGB oper-



Boynton unveils Herrmann: A 'sleeper' comes out of the cold

atives in the U.S.—several of whom were quietly expelled last year. FBI officials decided to bring Herrmann out of the cold last fall, when the KGB ordered his 21-year-old son to return to Moscow for advanced espionage training. Now, Herrmann and his family will be relocated and given new identities. "He's a very talented man," said FBI spokesman Homer Boynton. "Quite possibly, he can find his way into the mainstream of American life."

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FOIA

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THE CHRONICLE OF HIGHER EDUCATION
3 March 1980

Scholars Mount Campaign to Prevent CIA from Avoiding Freedom of Information Act

By Anne C. Roark

WASHINGTON

Historians, political scientists, and other scholars are launching a campaign against the Central Intelligence Agency's efforts to free itself from public scrutiny.

Unless prompt, concerted efforts are made to block the C.I.A.'s efforts, representatives of several scholarly associations told *The Chronicle*, university research into current political and diplomatic affairs will be nearly wiped out.

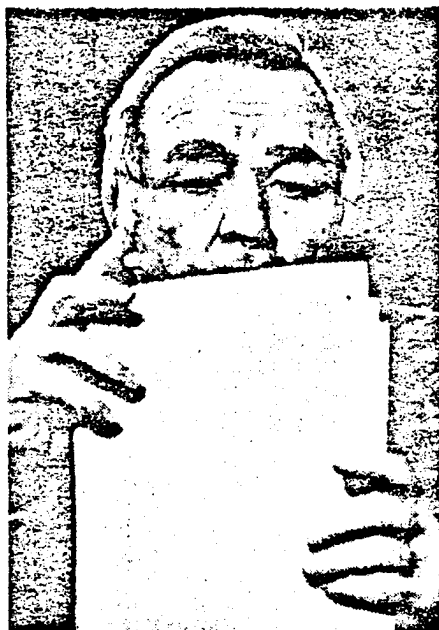
At issue is a proposed exemption for the C.I.A. from coverage by the Freedom of Information Act, the federal law that provides public access to government documents. The exemption is one of many proposals in a proposed charter for the C.I.A. that would give the President more flexibility in ordering intelligence missions.

Bill Would Extend Exemption

While highly sensitive intelligence material is now exempt from public disclosure, the legislation being considered by Congress would extend the exemption to all of the C.I.A.'s operational and technical files. The only exception would be for people who request information on themselves.

So far, the Organization of American Historians and several other scholarly groups have spoken out against the exemption provisions in the C.I.A. charter. Many others are expected to follow suit soon.

A grassroots lobbying campaign is already under way, some sources say. In



WIDE WORLD

Stansfield Turner says C.I.A. needs flexibility in dealing with universities.

Maryland, for example, university professors are sending letters to their Senators and Representatives, urging them to oppose any further limitations on public access to government documents.

In most places, the efforts are being coordinated by historians, although some legal scholars and a few researchers from other disciplines are expected to join.

"I have very strong feelings about this

subject," said William Appleman Williams, a diplomatic historian at Oregon State University, who is the new president of the Organization of American Historians.

In a telephone interview last week, Mr. Williams said the effort to exempt C.I.A. records from disclosure would virtually "close down serious scholarship in recent contemporary history."

John Rosenberg, a historian and an adviser to the Organization of American Historians, described the proposed exemption as "frightening" and full of "implications far more serious" than the C.I.A. has admitted.

The exemption that is causing scholars so much concern is included in a bill, S 2284, introduced last month by Sen. Walter D. Huddleston, Democrat of Kentucky; Sen. Charles McC. Mathias, Jr., Republican of Maryland; and other members of the Senate Select Committee on Intelligence.

Additional Bills Being Considered

Other bills, now being considered by both the Senate and the House of Representatives, also would lift many of the restraints imposed on the C.I.A. in the 1970's, when it was discovered that the agency had been involved in questionable activities both at home and abroad.

Most of the proposals now being considered would exempt the agency from the

Freedom of Information Act, but few of them go as far as C.I.A. officials would like.

In testimony before the Senate intelligence committee last month, C.I.A. Director Stansfield Turner urged Congress to extend the exemptions to the National Security Agency, the Federal Bureau of Investigation, and other intelligence groups.

"The same problems which face the C.I.A. in this regard face the other intelligence-community components as well," Admiral Turner said.

Frank C. Carlucci, deputy director of central intelligence, explained in testimony before the House Subcommittee on Government Information and Individual Rights how enemy agents could make use of the Freedom of Information Act.

Moreover, Mr. Carlucci said, the requirement to make certain documents public under the act has left many U. S. intelligence sources with the "impression" that their secrets are not being properly guarded.

CONTINUED

"Although we assure these individuals that their information is, and will continue to be, well protected, we have on record numerous cases where our assurances have not sufficed," he said.

Not only is the Freedom of Information Act dangerous to the security of the nation, it is also difficult for the intelligence agency to administer, Mr. Carlucci said.

\$900 per Request

Requests from universities, Mr. Carlucci said, are "extremely broad," making them time-consuming and costly to answer. The average cost of processing requests amounts to about \$900 each, he said.

Over the past five years, he told the committee, the agency has received an average of 4,744 information requests per year—about 18 per day. Because senior staff members, familiar with the intricacies of the information, must review each request, a backlog of over 2,700 requests has built up.

Mr. Carlucci admitted that the proposed exemption from the Freedom of Information Act would cut the agency's work by only about 15 to 20 per cent, since the public can request information through a variety of other legal means.

Scholars say they are troubled because Congress has heard only about the weaknesses of the Freedom of Information Act and not its strengths. Most lawmakers, the critics say, simply do not understand how much important scholarly research would be destroyed, if public access to intelligence documents were to be eliminated.

How Many Publications?

Some scholars are now trying to make an accurate assessment of the number of scholarly publications that have resulted from information obtained under the Freedom of Information Act. In the meantime, researchers are quick to point to a number of important scholarly works that have relied heavily on C.I.A. documents, including Allen Weinstein's *Perjury: The Hiss-Chambers Case*, and Peter Wyden's *Bay of Pigs: the Untold Story*.

Several historians familiar with the controversy expressed fear last week that the Freedom of Information Act exemption would become a political pawn to be traded in negotiations over the proposed C.I.A. charter.

When the Senate intelligence committee's hearings began last month, it was clear that the White House and Congress were still at odds over many provisions in the proposed new charter.

Oregon State's Mr. Williams said that his theory is that the lawmakers don't care much about the Freedom of Information Act and, as a result, will be willing to trade it in on the pieces of the charter they are concerned about.

One of the most ticklish issues is whether the Congressional intelligence committees should be given prior notice of covert operations. The C.I.A. has said it should be allowed to keep such operations to itself.

Another issue that remains to be settled is what contacts should be allowed between C.I.A. agents and representatives of academic institutions, the press, and the clergy.

As it stands, the proposed charter would bar the C.I.A. from using universities and other private institutions as cover for its operations. The charter, however, would continue the current policy of allowing "voluntary contacts" and "voluntary exchange of information" between individual faculty members and intelligence agents.

Admiral Turner told Congress his agency needed "flexibility," particularly in dealing with universities.

"There can arise," he said, "unique circumstances in which intelligence relationships with members of these institutions are not only warranted, but may be the only means available for accomplishing important intelligence objectives."

Among the activities the C.I.A. is said to be interested in pursuing are the recruitment of professors who study overseas and the use of foreign students in counterintelligence operations.

The C.I.A.'s attitude toward universities has led some professors to persuade their institutions to adopt statements forbidding any covert operations on their campuses.

Recently, however, the C.I.A. has been making it clear that it does not intend to stand by quietly as efforts are made to hamstring its operations.

In some cases, the agency has taken its arguments to the courts.

Mind-Control Case

One case now before the U. S. Court of Appeals for the District of Columbia involves the release of information on university involvement in the C.I.A. mind-control projects of the 1950's and 1960's, under the code name MK-ULTRA. According to documents now available, 185 researchers were involved in 149 mind-control and behavior-modification projects, one of which resulted in the deaths of two Americans.

Although a lower court ordered the release of the names of all the institutions and individuals involved, the C.I.A. refused to cooperate, arguing that disclosure would "substantially

harm" the agency's ability to develop new intelligence sources and could also damage the reputations of many scientists.

"The disclosure of the researchers' names," the C.I.A. told the appeals court, "may seriously affect their careers and other personal relationships, causing both embarrassment and public harassment."

Next Few Weeks Critical

In another case before the courts, the C.I.A. argued that former agents should not be allowed to publish information about the agency without prior approval. That case, involving an account of the fall of Saigon published by Frank W. Snepp, III, was decided in the C.I.A.'s favor earlier last month by the Supreme Court.

Yet another round of court battles is expected if Congress fails to settle some of the more serious disputes between scholars and intelligence agents over access to information and the right to carry out intelligence activities on campuses.

Most experts agree that the next few weeks will be critical in determining whether Congress can draft a new charter for the C.I.A. that provides both the safeguards the agency needs to carry out its operations and the access to information the universities need to pursue academic research.

"Drafting an intelligence charter," said Sen. David Durenberger, Republican of Minnesota and a member of the Senate intelligence committee, "is a little like being the judge in 'Kramer vs. Kramer': There are legitimate interests on both sides, and everyone's going to cry when you're done."

C.I.A. Symbolism

Testifying February 20 before the House Subcommittee on Information and Individual Rights, Deputy Director of Central Intelligence Frank Carlucci repeated the Agency's oft-stated plea to be largely exempted from the Freedom of Information Act (F.O.I.A.). Admitting, as he has in the past, that sufficient "national security exemptions do exist" in the F.O.I.A. to protect vital secrets, and that the act itself had not caused leaks, Carlucci nonetheless argued that would-be spies, informers and accomplices "have an entirely different perception." They refuse to sell us information because the act has assumed "a larger-than-life role as a symbol" of the Agency's inability to keep secrets. Although Carlucci insisted that this perception was not correct, he nevertheless wanted the Agency freed from the act's disclosure provisions because, as he explained, "It is unimportant whether they are right or not . . . in our business perception is reality."

Setting aside our questions about the value, ethics and corruptive quality of the C.I.A.'s intelligence-by-bribery policies, we find Carlucci's argument intriguing. By the same logic, how long will it be before some creative prosecutor takes up the cry to repeal the Fourth Amendment on the ground that, though it may not actually cause criminals to go free, some policemen and crooks think it does? And if a marginally more efficient C.I.A. justifies removing it from public accountability, then why would not marginally safer streets justify removing such inefficient prohibitions as those against unreasonable searches and seizures?

Carlucci also testified that the F.O.I.A. was no longer needed as an oversight device because Congress now has its own oversight committees, and he affirmed that those committees were being supplied with "whatever information they need" to prevent abuses. The very next day, however, C.I.A. Director Stansfield Turner informed a Senate intelligence committee that sensitive information had been and would continue to be withheld from the committees, despite his assurances to the contrary in his confirmation hearings. The Senate, to its credit, does seem to be concerned about this deception, but Turner's revelation should serve as a timely reminder that in the past Congress has done more overlooking than overseeing. The Freedom of Information Act provides an independent check; no wonder the intelligence agencies and their friends want to get rid of it.

Carlucci's testimony was also revealing in other respects. Given his confession that the C.I.A. depends on sources who are unable to recognize the difference between symbol and reality and the Agency's inability to explain the difference to them, it is not surprising that the quality of the intelligence it provides has been so disappointing. How can an agency that cannot abide the public accountability our system requires and that cannot explain that system to its own accomplices represent our interests abroad?

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MISCELLANEOUS

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12 March 1980

Carter Got Opinion on C.I.A. Acts

By CHARLES MOHR

Special to The New York Times

WASHINGTON, March 11 — The Department of Justice confirmed today that it advised President Carter in 1977 that he had no legal obligation to give Congressional committees advance notice of covert intelligence operations abroad.

However, some members of Congress believed that subsequently Mr. Carter promised to give them advance notice of such operations.

The Los Angeles Times reported today that a legal opinion written for former Attorney General Griffin B. Bell by the Justice Department's office of legal counsel had "freed" the President and the Central Intelligence Agency from fully complying with a Presidential executive order issued in January 1978 governing the operation of the C.I.A.

However, a spokesman for the Justice Department said today that the legal opinion, issued in October 1977, was actually an interpretation of the so-called Hughes-Ryan Amendment to the Foreign Aid Authorization Act of 1974.

Intelligence System Oversight

The Hughes-Ryan law created the present system by which some members of several Congressional committees oversee the intelligence community.

The amendment stated that no funds could be spent on covert intelligence operations "unless and until" the President finds that it is important to national security and reports on it in a "timely fashion" to designated committees.

The 1977 Justice Department opinion said: "It is clear from the legislative history that reports to Congress need not occur before the operation is conducted. Nevertheless, reports should be made as soon as reasonably possible, whether or not this occurs before the operation is conducted."

Testimony in February by Adm. Stansfield Turner, the Director of Central Intelligence, left unclear whether the designated committees of Congress had in fact been told of all covert operations. It was thus unclear whether Admiral Turner had been complying with the legal opinion's admonition at least to report covert actions after the fact.

Also, in negotiations on the wording of the executive order governing intelligence operations that Mr. Carter issued in early 1978, members of the Congressional intelligence committees felt that a gentleman's agreement had been reached to give the committees prior notice of covert operations. The order said that the President would keep the committees "fully and currently informed" on such acts.

A spokesman for the Senate Intelligence Committee said the committee had asked the Justice Department for the full text of the legal opinion and would also ask Mr. Bell and the present Attorney General, Benjamin R. Civiletti, to testify this month.

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ON PAGE 5THE GEORGETOWN VOICE
(GEORGETOWN UNIVERSITY)
11 March 1980

CIA and Georgetown

The Hilltop Connection?

By Philipp Borinski

Georgetown University's special position within the political establishment of this country is not any hot news. Nixon kept referring to Kissinger and his political circle as the "Georgetown-Set", and in these days it has almost become a commonplace to speak of the SFS-faculty and the GU-run "Center for Strategic and International Studies" (CSIS), sprinkled as they are with former high government-officials, as a (republican) "government in exile". What strikes, however, is the "special relationship" GU seems to enjoy with a particular part of the political establishment—the CIA, or, more accurately, the "pre-Carter-CIA".

"Unholy alliance" or "Entente cordiale"? These terms appear to characterize the respective viewpoints of the two camps in which the GU-community is split over the issue and who all too often fail to discuss it seriously. This article is meant to shift the debate somewhat from emotional or self-righteous mutual accusations, based on moral and political principles, to a more objective approach toward the matter, based on the available, for a *Voice*-reporter naturally limited information.

To the student-observer, the mentioned "special relationship" presents itself mainly in the form of personal bonds, on the academic level, between the CIA and CIA-related private organizations on the one side and GU on the other. Beyond that, however, these "CIA-academics" do engage in open political activities, chiefly in the context of the current efforts to beef up a supposedly impotent CIA and of the Bush-campaign. Finally, the CIA, qua CIA operated and presumably still operates on Campus—both overtly and covertly. It is those three points—academic relations, political activities and CIA-operations on Campus—that are worth illuminating in GU's "CIA-connection".

The list of former high CIA-officers now associated to GU/CSIS is indeed impressive. It even includes two retired Directors of Central Intelligence, James Schlesinger, now senior adviser and chairman of a study-group with the CSIS, and William Colby, a "friend of the School of Foreign Service". In the "Second rank" one finds names of CIA-career-officers who held crucial positions during their time of active duty: Cord Meyer, formerly station chief in London, now senior research associate at the SFS; Jack Maury, formerly station chief in Athens till shortly after the coup of the colonels in April 1967, then legislative counselor to the CIA, now member of the MSFS-faculty; Ray Cline, formerly deputy director for intelligence, now executive director of the CSIS; George Carver, formerly station chief in Saigon and West Germany, now senior fellow at the CSIS. And Allan Goodman, professor of international politics at the SFS, is also an active CIA-officer, serving on Turner's presidential briefing staff.

To be sure, there remained a gray-zone between the politically oriented research-interests of retired CIA-officers and the limits GU could possibly go to in offering these individuals facilities for teaching and publishing, without compromising its reputation for academic freedom and practiced Catholic ideals. This gray-zone was filled out by the National Intelligence Study Center, founded and organized by Ray Cline, and the Consortium for the Study of Intelligence, with Cline as a prominent member and Roy Godson, professor of government at GU, as chief-coordinator. Comprised of former CIA-people, other retired government-officials and scholars of some of the country's top-universities, these organizations, according to Cline, "serve the purpose of encouraging serious study and writing on the role of intelli-

gence in the American society and thus represent an educational and constructive long run-effort". Yet again, with Cline and Godson as the respective heads, a direct connection to GU is established. On top of that Cline helped to organize the Association of former intelligence-officers, in his words a "public interest group" with 3000 members.

Whatever the role of all those institutions and no matter whether Cline distinguishes himself in them in his capacity as a former CIA-officer or as a scholar at Georgetown, by virtue of their extracurricular activities alone people like Cline and Godson cannot help providing for a certain intimacy between Washington's intelligence community and GU. This aspect applies even more to the staff of the CSIS. In a *Voice* interview CSIS senior fellow George Carver did not preclude the possibility that some colleagues of his "may privately engage in classified research". But who else except some "good old friends" being still on the government-payroll can turn up the necessary sources?

In the eyes of Father McSorley, well-known on Campus for his pacifist opinions, all these facts are simply a "disgrace". According to McSorley it is "harmful for GU to have persons on Campus who represent an organization guilty of severe violations of law, morality and human dignity". Only if they disassociate themselves from the values embodied by the CIA, he said, may they teach here. One may well assume that Father McSorley does not stand aloof with this view on our Campus.

In-defending their presence at GU the persons in question themselves usually cite its high academic calibre and advantageous location as reasons for their decision to join it. "Most retired CIA-people want to stay in D.C., because they cannot do without their daily fix of interesting information and political action", Cline says. "When I started to look about for a place with the right atmosphere, administrative support and good research facilities, I discovered that Georgetown, in its kind of curriculum, faculty and students, came closer to my ideas than any other institution. In so far Cline sees a natural affinity, especially between the SFS and the intelligence-community".

CONTINUED

However, both he and George Carver denied any institutional connections or even affiliations between GU and the CIA. Carver even went so far as strictly to negate a clear institutional line within the CSIS itself. "All are individuals, whatever we write is not going to sound unified, for instance, that James Schlesinger and I share the same office and spend some time during the day talking to each other does not mean at all that we also share the same opinions on every issue. Ours and some other people's CIA-background does not mean anything in itself", Carver stated.

Taking the two irreconcilable positions at face-value we find ourselves in a deadlock. It surely cannot be in GU's interest to have its name tainted through links to a, in Father McSorley's words, "club of assassins, saboteurs and coup-directors", but, all the same, should one refuse to open our gates to a few, without doubt able, private individuals who happened to be covert operators or intelligence analysts and want now to escape their former anonymity by uttering their views on a free academic forum?

The question is whether or not the trench between both positions can be bridged. For his part, Father McSorley calls for a "disassociating from values" like those that were signified in the "Phoenix-Program" and the overthrow of Allende. But is it really an implicit set of "values" that relentlessly drives the CIA in ever new covert adventures? Notwithstanding a deeply rooted professional loyalty to the agency on part of most CIA-officers, it was mostly the "crusader-spirit" of other people, namely those on the policy-making level, that gave birth to all the well-publicised "atrocities" which the CIA then was left with to plan and carry out. Moreover, many of these covert actions reportedly met with basic disagreements among CIA-officers themselves, as in the case of "operation Mongoose"; the Kennedy-brothers' program "to get rid of Castro" (an outspoken order to kill Castro was apparently never issued).

The National Security Act of 1947 clearly spells out the respective areas of responsibility. "It shall be the duty of the CIA to *perform* such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time *direct*." "Prof. Stearman, the widely respected head of the "Russian area studies program" at the SFS, was a permanent member of the NSC-staff in charge of Vietnam. He describes the CIA-people he came to know as "not necessarily conservative". According to him, "most of them displayed more liberal attitudes than a good deal of officials from other parts of the government". This is by no means astonishing. People, whose very job it is to provide the President with that undistorted and comprehensive information which all the other, naturally biased agencies cannot be expected to provide, are likely to disregard the own official propaganda in their judgments. They are rather cynics than hot-blooded cold warriors, but, according to Cline, the type of the "sophisticated analyst" is the most wide-spread. "Within the CIA the emphasis always rested upon analysis. The attention paid by the media and the public to the more conspicuous actions always obscured this fact. CIA-people are analysts by nature.

"These words by Cline do square with the impression which the *Voice* grasped during my conversations with GU's "agent-turned-academicians". These few individuals probably still do not represent the CIA at large, which has not got into the twilight because of incorrect analyses. But, after all, there are yet a lot of former CIA-officers going about in this country who are not employed by GU, and it surely is more appropriate to assess the integrity of those few, who are, from their individual backgrounds rather than to include them in a wholesale condemnation of an institution which they have quit meanwhile.

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THE CHRISTIAN SCIENCE MONITOR
11 March 1980

Fresh outlook in US-Turk-Greek — and NATO — relations

By John K. Cooley
Staff correspondent of
The Christian Science Monitor

Washington

Some encouraging signs for better US-Greek-Turkish relations, with consequent strengthening of Western defenses and the NATO alliance, are brightening an otherwise cloudy eastern Mediterranean horizon.

The United States and Turkey are expected to sign, on or before March 31, their new defense cooperation agreement initialed in Ankara in January. This paves the way for action by Congress on US help for Turkey's crisis-ridden economy and military forces. Such an aid package was recommended by an authoritative new study of Turkey's problems presented to Congress March 10.

Heartened by the Feb. 22 reciprocal opening, on Turkey's initiative, of the long-closed Aegean Sea air corridors between Greece and Turkey, US defense analysts now say they believe prospects are better for Greece's long-delayed return to the NATO military command.

This hope persists despite recent Greek rejection of the latest proposals for its return by NATO's Supreme Commander, Gen. Bernard W. Rogers.

(Greek Prime Minister Constantine Caramanlis quit the NATO military command when NATO did not react against Turkey's 1974 invasion of Cyprus. That crisis closed the Aegean air corridors and froze Greek-Turkish military, air, and naval relationships, paralyzing NATO command and control channels in Southeastern Europe.)

The Monitor has learned that the Greek government recently informed the Carter administration that it wants to negotiate a new Greek-US defense agreement (one initialed in 1976, like a similar US-Turkish accord, was

never ratified). But Greece wants first to conclude its return to NATO on satisfactory terms.

The pro-Western Carmanlis government, like the Turkish government of Premier Suleyman Demirel, is committed to fight on the allied side in any world conflict, regardless of NATO command problems. Events in Iran and Afghanistan, and the uncertain situation in Yugoslavia, appear to have strengthened both Greek and Turkish interest in NATO.

However, Greek spokesmen, in their talks with General Rogers and other US and NATO officials, make it clear that US bases in Greece, still governed by a 1956 US-Greek status-of-forces accord, must be placed within the framework of NATO requirements to justify their continued existence. To ensure this, Greece must again become a fully participating NATO partner.

Already, the restoration of normal air traffic between Greece and Turkey, including US and NATO military flights, is saving the US Defense Department and European allies the 300-mile detour south of the island of Crete, or over Communist Bulgaria. This lops millions of dollars off Pentagon and NATO fuel bills each year, US analysts say.

Insiders report the next step in Greek-Turkish détente may be negotiation over military air traffic controls on the Greek islands of Limnos and Samothrace in the northern Aegean. The islands are near the strategic Turkish straits, through which Soviet warships must pass between the Black Sea and the Mediterranean.

Limnos airport has been proposed as a possible staging place for Western reinforcements which might be airlifted eastward into Turkey in an emergency. However, Turkey, accusing Greece of wrongly "militarizing" Limnos and other islands close to Turkey's Aegean coast, has long insisted on curtailing the airspace controlled by the Limnos military air control tower.

Resolution of this dispute would be an important new step in untangling the snarled US-Greek-Turkish command and control arrangements which presently hamper NATO operations.

Turkey's present dilemmas are discussed at length in a new US Congressional Research Service report on Turkey by defense analysts Richard F. Grimmett and Ellen Laipson. The report was prepared for Rep. Lee Hamilton

(D) of Indiana, chairman of the House subcommittee on Europe and the Middle East, and sent to the House Foreign Affairs Committee.

It notes Turkey's present desperate economic and political straits, its strong reaction to Soviet aggression in Afghanistan, and says: "In time of war, Turkey's participation in three of the four major theaters in NATO's southern region — eastern Turkey, the Mediterranean, and Greek and Turkish Thrace" — would be vital.

Dr. Grimmett and Miss Laipson cite US defense officials characterization of US and NATO activities in Turkey — such as at Incirlik air base and the electronic intelligence-gathering sites which monitor missile tests, communications, and other Soviet military developments — as "irreplaceable" and "critical." The most valuable intelligence these facilities provide is "on Soviet weapons development and Soviet force readiness and movement," they add.

The authors, who answered questions on their study at a congressional seminar March 10, recommend in the study that Congress "consider increases in present levels of military aid" to Turkey, which is inflation-ridden, poor in energy, and burdened with international debts.

They also suggest US technical assistance to Turkish internal security forces fighting terrorism and new security precautions for the large US diplomatic and military community in Turkey, often a target of terrorists.

The report also urges "fresh" US diplomatic initiatives to solve the Cyprus problem and help resolve other Greek-Turkish issues. Its bottom line is that Turkey's crisis is "the most immediate threat to US interests" and Congress should deal with this urgently. Some of the congressmen who attended the March 10 seminar want strings tied to new US aid to Turkey until it evacuates Cyprus.

ARTICLE APPEARED
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11 March 1980

Are Russians using poison gas in Asia?

Reports of 'chemical warfare' surface
in Afghanistan, Laos, and Cambodia

By Frederic A. Moritz
Staff correspondent of
The Christian Science Monitor

Hong Kong

Charges that Soviet-backed forces are using toxic gas have appeared in three important areas of Soviet involvement: Afghanistan, Cambodia, and Laos.

The latest of the accusations comes from US military officials, who say they have strong but not irrefutable evidence that Soviet forces in Afghanistan may be using, or are about to use, chemical warfare.

Pentagon experts have not pinpointed the exact type of gas used in Afghanistan. "Some form of gaseous agent has been used, but we cannot confirm that it was poison or nerve gas," State Department spokesman Hodding Carter III said recently.

According to some reports, a lethal nerve gas called Soman was spread by bombs dropped by Soviet aircraft in northeast Afghanistan. Although these reports have not been absolutely confirmed, the gas in question causes vomiting, breathing difficulties, and blindness. Other reports indicate that debilitating, but not lethal, gases have been used.

Some refugees from Cambodia have reported Soviet-backed Vietnamese troops used toxic gas against China-backed Khmer Rouge guerrillas.

So far these reports have been extremely sketchy and hard to pin down. But they have gained attention because many Hmong refugees from neighboring Laos have leveled similar charges against Vietnamese and communist Lao forces there.

Earlier allegations that gas had been used in Cambodia had concerned the country's northeast. But last week Thai military sources told newsmen for the first time that Vietnamese-led Cambodia troops are using toxic gas in efforts to clear Cambodia's western border of Khmer Rouge guerrillas.

A military spokesman said the gas — possibly a type of tear gas — had been used in a six-day battle for the bridge over the Huei Sa-Lao River. The spokesman said no one was killed by the gas fired from artillery above the stream.

The Khmer Rouge themselves have accused Vietnam of using toxic chemicals and gas in both bombs and mortar shells. According to these charges, the gas produces a burning throat, vomiting, and eventually death. Vietnam has denied using poison gas and toxic chemicals.

Both Lao and Cambodian charges had prompted speculation that the Soviet Union was using these battlegrounds to test its sizable arsenal of chemical weapons.

This speculation surfaced in the case of Laos when refugees of the anti-communist, formerly CIA-supported Hmong army of Gen. Vang Pao initiated gas charges. The allegations covered the period of 1976 to midsummer 1979.

One State Department official concluded, "We do not have absolute proof of these charges. However, the result of US government investigations supports the conclusion that some chemical agent or agents were used in Laos during the period in question. It has been very difficult to obtain physical evidence of poison gas. Some of the symptoms described could possibly result from materials other than lethal poison gas, e.g. defoliants, riot-control agents, phosphorous shells, etc."

One problem in confirming the Lao charges was spotty information. A US State Department report on the subject was based on only 20 refugee interviews. No one has produced physical evidence of gas or chemical warfare. And doctors in refugee camps have been reluctant to claim symptoms are specifically from gas.

In the case of Afghanistan, the problem of detection is compounded by the fact that the Soviet divisions are customarily equipped with chemical warfare capability, whether or not that capability is actually to be used. Even if these units are in Afghanistan, further proof is necessary to determine if they are or will be used.

US intelligence is reported to have noted that special TMS 65 trucks equipped to decontaminate soldiers and combat zones are now in Kabul. The presence of highly mobile Frog and Scud missiles able to carry toxic gas has also been reported.

ARTICLE APPEARED
ON PAGE A4THE WASHINGTON POST
11 March 1980

CIA Prolonged Research On Germ War, Group Says

By George Lardner Jr.
Washington Post Staff Writer

The CIA funded a project aimed at maintaining biological warfare "harassment systems" for nearly three years after President Nixon renounced the use of such weapons, according to a Church of Scientology study of CIA records.

The Scientologists said the CIA spent more than \$100,000 through 1972 on a program established years earlier to develop "operational capability (and dose investigative work) in the field of covert BW (biological warfare) and CW (chemical warfare)."

In a report scheduled to be made public today, the Scientologists traced the history of the project, originally known as MK-ULTRA 78, from 1957 until it ended eight years ago.

The program involved the use of a Baltimore laboratory that was assigned to obtain specimens of various microorganisms and breed large quantities with a machine called a Biogen, according to the study.

Using documents made public under the Freedom of Information Act, primarily CIA financial records, the Scientologists said receipts for repairs and replacement parts indicated the machine was steadily used for 13 years and may have produced hundreds of pounds of various biological agents and microorganisms.

President Nixon stated on Nov. 25, 1969, that the United States was renouncing use of any form of biological weapons that kill or incapacitate. He also ordered disposal of stocks of bacteriological weapons.

According to a July 10, 1972, memo for the CIA deputy director of plans, however, CIA work—known as MK-SEARCH—was still being carried on "to maintain an operational support capability in the cover utilization of chemical and biological materials and techniques."

The Scientologists said the Baltimore-based project became part of MK-RESEARCH around 1965 in an effort to single out some MK-ULTRA activities that, as another CIA memo put it, "can now be carried under some other administrative and fiscal mechanism."

Citing one invoice from the early 1960s, the Scientologists said there was evidence that at least two disease-causing agents, one that could touch off undulant fever and another that could bring on tularemia, were mass produced in Biogen.

According to the July 10, 1972, CIA memo recommending termination of all MK-SEARCH projects, the agency had received "no approved operational requests" for its biological and chemical materials or techniques for four years but had not abandoned the funding needed "to maintain an operational capability."

The CIA had no immediate comment on the study. It is scheduled to be submitted today to several congressional committees. Church of Scientology spokesman Brian Anderson maintained that "Congress should demand the full story from the CIA regarding its chemical and biological tests, research and stockpiling" before any further debate on the CIA's calls for an exemption from the Freedom of Information Act.

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ON PAGE 1

LOS ANGELES TIMES
11 March 1980

'Bell Opinion' Let President Withhold Reports on CIA

By ROBERT C. TOTH
Times Staff Writer

WASHINGTON—A previously undisclosed "opinion" attributed to former Atty. Gen. Griffin B. Bell freed President Carter and the Central Intelligence Agency from complying fully with a promise to give Congress prior notification of covert CIA actions abroad.

The "Bell opinion," The Times learned Monday, held that the complex language of Executive Order 12036, issued Jan. 24, 1978, meant not "prior" notice as was generally assumed, but "timely" notice—which could come after the fact.

That opinion, which appears to have been drawn for Bell by the Justice Department's Office of Legal Counsel, was a "critical" factor in getting intelligence agencies and the White House to support the executive

order, according to one source. Without it, another source said, CIA Director Stansfield Turner had been refusing to endorse the order, under which the CIA was to operate.

Congress has been unaware of the opinion, however, according to a spokesman for the Senate Intelligence Committee. He said the order had been accepted at face value by the committee to mean prior notification, since it uses the same language as that of Senate Resolution 400, which set up the Senate Intelligence Committee.

The President, the resolution states, shall keep the House and Senate committees "fully and currently informed concerning intelligence activities, including any significant anticipated activities."

The "Bell opinion" may explain the surprise of the Senate group Feb. 21 when Turner testified that it had not been getting all the information it believed it was getting.

Turner strongly objected to language in the new intelligence charter, proposed by the committee after years of negotiating with the Administration, because it would require notice in advance of covert CIA actions. That was "unnecessary" improper and unwise," he said.

Yet the charter language is again precisely the same as in the Senate resolution and the executive order under which the CIA has been operating.

A puzzled Sen. Walter D. Huddleston, (D-Ky.), chairman of the subcommittee that drafted the charter, complained that he and the full Intelligence Committee had believed they were receiving and had, except in one case, received prior notice of actions undertaken by the CIA.

"That is not correct," Turner said. He did not then or later explain further, and the "one exception" was not detailed.

It is understood, however, that President Carter did not notify the committees in advance of operations involving the secret return of six Americans who had been hiding in the Canadian Embassy in Tehran. The Canadian government said, according to sources, that it would not help in the escape if members of Congress were notified, since any leaks of such information would jeopardize Canadian diplomats in Iran as well as the six Americans.

The story broke after the Canadians withdrew all their personnel from Tehran.

Whether this was the single exception is not known, but Administration sources said it illustrates the need for any President to retain power to withhold sensitive information in advance of a highly risky operation.

PHILADELPHIA INQUIRER
9 March 1980

Lively mirror on a decade

By REBECCA SINKLER



The publication date for a book bears about as much relationship to its appearance in bookstores as Easter does to the arrival of marshmallow bunnies on your grocery shelves. Weeks before a new book officially comes out, it's available for sale. ("Princess Daisy," for example, has

been hovering at the top of the best-seller lists for weeks and it still hasn't been "published.")

Apparently the CIA has failed to spook out this not-so-secret fact of American life. On Feb. 6, on behalf of the CIA, the Justice Department sought an injunction to stop publication of "Dirty Work 2: The CIA in Africa." The book, whose publication date is March 28, is a kind of yellow pages of all the covert agents operating in Africa, listed conveniently by country and complete with biographical information on each spy. Understandably, it could be embarrassing to the agency if it were to get out. Even more embarrassing, though, was that at the time the injunction request was filed, the book was selling at a good clip in the nation's bookstores.

According to Lyle Stuart, the book's publisher, the people at the agency told him they were a bit chagrined about the mixup. They dropped the injunction plan.

Stuart said he probably would have published the book anyway. He said that although the CIA accused him of being unpatriotic after publication of the original "Dirty Work," a similar book on the agency's operatives in Western Europe, he is vehemently opposed to all secret services and regards publication of "Dirty Work 2" as his patriotic duty.

"World patriotism, if you want to call it that," he said. "They'd have to blow up the place to keep me from publishing these books."

EXCERPTED

ARTICLE APPEARED
ON PAGE 19THE LOS ANGELES TIMES
8 March 1980**Paper Lists Dozens of Alleged CIA Agents Abroad**

WASHINGTON (UPI)—A periodical opposed to intelligence agencies Friday listed the names and "covers" of more than three dozen alleged CIA agents it said are stationed from Bahrain to Yugoslavia—including Moscow and Beijing.

Covert Action Information Bulletin, published in Washington, gave names and biographical background of 16 alleged CIA chiefs of station and 23 other alleged senior officers.

It also described "cover" positions the purported agents held in U.S. embassies, the Department of the Army, or other government posts.

The report named one woman whose alleged post in an African nation was described.

Covert Action, which lists renegade CIA agent Philip Agee on its board of advisers, said it would continue to

name CIA agents despite Administration and congressional moves to make such disclosures a criminal offense.

"Since the material presented here is researched from public documents," the publication said, "we have always maintained that it would be unconstitutional to criminalize this sort of research."

Covert Action's main article concerned Agee, who has written extensively on the CIA despite a secrecy agreement he signed when he resigned in 1968 not to disclose anything about the agency without permission.

He went to England to publish "Inside the Company: CIA Diary," which listed hundreds of names of alleged co-workers.

The Supreme Court, on the basis of a similar secrecy agreement, recently

ruled that former CIA agent Frank Snepp must surrender to the agency the profits from his book on the fall of Saigon, "Decent Interval."

In Covert Action's article, alleged chiefs of station were identified as working in the capitals of China, the Soviet Union, Yugoslavia, Belgium, Cameroon, Chad, Chile, Denmark, Egypt, Guinea, Indonesia, Lebanon, New Zealand, Paraguay, Togo, United Arab Emirates and the United Kingdom.

Two alleged "chiefs of base" were identified as working in Japan and Switzerland.

Other alleged senior CIA personnel were identified as working in Bahrain, Chile, Denmark, Ethiopia, Ghana, India, Indonesia, Jordan, Portugal, Senegal, Turkey, Switzerland and the United Kingdom.

LONDON OBSERVER
2 March 1980

CIA is blamed as top spy escapes

from WILLIAM SCOBIE in Los Angeles

THE MYSTERY surrounding the escape of top spy Christopher Boyce from California's high security Lompoc Prison deepened last week amid new charges that the Central Intelligence Agency had broken him out.

It is more than a month since Boyce—convicted of selling CIA spy satellite plans to the Russians—vanished into the hills around Lompoc, 170 miles north of Los Angeles, alone and on foot. Despite a manhunt by FBI and police using helicopters, bloodhounds and human trackers, no trace of him has been found.

'Boyce is supposed to be the most damaging spy since the Rosenbergs,' says Kenneth Kahn, lawyer for Boyce's accomplice at their 1977 trial. 'Yet he virtually walks out and vanishes into thin air. Never before have we lost a spy of this calibre. I think he was sprung by the CIA.'

Kahn, the last outsider to see Boyce before his 21 January escape, claimed last week that the crew-cut 21-year-old told him at that meeting: 'The CIA knew what was going on.' That, said Kahn, meant Boyce had either been a CIA operative from the outset, or now knew he had been duped into peddling false information.

He hasn't gone back into the cold. He's warm and well somewhere with a new CIA-supplied identity.

Boyce's strange odyssey began in 1975 when, through his father, a former FBI agent, the young college drop-out landed a sensitive job with TRW, a conglomerate that makes spy satellites for the CIA. In TRW's California 'black vault' communications centre, he had access to top secret American codes and surveillance systems.

Boyce, one of nine children in a Roman Catholic family from a wealthy part of Los

Angeles, claimed in court that disillusion over Vietnam and what he had learnt of CIA meddling abroad led him to plot, with a boyhood friend, Andrew Daulton Lee, the sale of CIA material to KGB agents at the Soviet's Mexico City embassy.

For nearly two years, Boyce and Lee made many open visits to the embassy, regarded as the top Soviet Spy centre in Latin America, and under constant CIA watch.

Lee spent most of the \$76,000 paid out by the KGB to finance a small-time cocaine and heroin smuggling operation. Although warrants were out for his arrest on drug charges, he repeatedly crossed the border unchallenged.

By the time Boyce and Lee were arrested in January 1977, they had, according to a CIA spokesman, 'cleaned out the company store.'

Found guilty of treason, Lee got a life sentence, Boyce 40 years. Although both were confined at Lompoc, they were not on speaking terms. Since the escape, Lee has been moved to a remote Indiana prison.

Boyce's flight poses some baffling riddles. Officials say he was helped by at least

three other inmates—yet none went over the fence with him, and none has been punished.

Fellow-inmates apparently supplied him with metal shears from the prison workshop, a forged prison pass that allowed him out of a high-security block, and a 'home-made' ladder. Later they stripped his cell to wipe out clues, all in friendship.

Boyce, the official account runs, hid in a drainage tunnel for hours before climbing over a chain-link fence topped with barbed wire, 'razor-wire' and electronic alarms. Why wasn't his absence noted in a 4 p.m. cell check in which guards are supposed either to see a prisoner awake or make 'flesh contact' if he appears asleep? They were fooled by a papier-mâché dummy on his cot.

How did he deactivate the fence alarm? 'With a device made of a broom handle and a toothbrush bound by packing tape,' say prison officials. 'Which held the wire stable.' Boyce snipped rows of wire, scaled the ladder and made a 10 ft jump to earth.

Why did bloodhounds fail to pick up his track? Because his blankets and personal articles couldn't immediately be found, and the trail went cold.

How did he evade helicopters and search parties? Because he was an accomplished woodsman, say officials, who jogged 10 miles a day in prison and had recently received a costly new pair of running shoes.

Police and prosecutors of the pair discount the theory that Boyce was sprung by the CIA. And the man who knew Boyce best in his prison years, author Robert Lindsey, says that while 'nothing can be ruled out,' he believes Boyce may have reached Arizona there to retrieve CIA documents hidden before his arrest which could be sold to the Soviets to finance his escape from the US.



CHRISTOPHER BOYCE
Vanished after escape.

THE CHRONICLE OF HIGHER EDUCATION
25 February 1980

■ CIA Files a Brief
in Mind-Control Suit

The Central Intelligence Agency argues that more harm than good would result from disclosure of the names of university researchers involved in mind-control experiments financed by the agency in the 1950's and 1960's.

In response to a suit filed last year by John Cary Sims, a lawyer for Ralph Nader's Public Citizen Litigation Group, U. S. District Judge Louis Oberdorfer ordered the C.I.A. to release names of researchers involved in human-behavior-modification projects, known by the code name MK-ULTRA.

Although the C.I.A. released some names of individuals and institutions involved, it appealed the lower-court ruling. In a brief filed this month with the U. S. Court of Appeals for the District of Columbia, the agency argued that full disclosure could not only damage reputations but "substantially harm" the C.I.A.'s ability to develop intelligence sources.

HOUSTON CHRONICLE (TX)
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Contradictory on its face

We wince at times over some of the ingenuous attitudes taken toward national security matters.

This is illustrated rather well in the debate over lessening present inhibitions on the CIA's conduct of secret operations abroad: One attitude is exemplified by the American Civil Liberties Union statement: "We oppose covert operations as inconsistent with the workings of a democratic society."

Well, of course covert operations are

inconsistent with the workings of a democratic society as a matter of pure philosophy. But the world at large is not a democratic society and it is completely beside the point to wish that it were or make believe that it is.

To equate a non-democratic world with a democratic U.S. society and say the same national security rules should apply is simply contradictory on its face.