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'Leaky' oversight committees frustrate foreign policy efforts

This is the first of several articles on intelligence oversight.

By Bill Gertz
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In late 1981, President Reagan authorized covert assistance to the resistance forces in Nicaragua. Within months, the particulars leaked to U.S. newspapers, and a covert operation became overt.

Congressional support evaporated. The Marxist Sandinista government in Managua suddenly was awash in sentiments of solace and goodwill from America and the West.

The propaganda dividends are only just now diminishing.

The leaks surrounding the Nicaragua operation caused "serious divisiveness" between the CIA and the congressional oversight committees, disrupting a period of relative harmony that followed the anti-intelligence hysteria of the mid-1970s.

Gary Schmitt, who was minority staff director for the Senate Select Committee on Intelligence until this year, says the Nicaragua leak illustrates the difficulty of conducting covert operations without a clear national consensus of what the nation wants its foreign policy to accomplish.

In particular, Mr. Schmitt sees the Nicaragua case as one example where the congressional oversight of intelligence played a major role in influencing the conduct of foreign affairs.

In essence, "only non-controversial findings remain covert," says Mr. Schmitt in a forthcoming paper on intelligence oversight.

Once public, whether disclosed by the White House or the Congress, congressional support for covert operations inevitably unravels. Under congressional rules, congressmen cannot discuss intelligence matters and are thus left to posture against leaked operations as a means of defense.

The president's freedom to maneuver with a variety of "special activities" — beyond diplomacy but short of sending in the Marines — is thus more limited.

Covert operations that have been blown by leaks include the Nicaragua operation, support for Afghan rebels through Egypt and China after 1979, support for political parties in El Salvador, support for Cambodian rebels after 1980, support of anti-Qaddafi forces in Libya and Chad, and support for anti-Khomeini exiles.

Mr. Schmitt, a former aide to Sen. Daniel P. Moynihan, D-N.Y., says that congressional oversight has, on the whole, been "uneven," and driven by events rather than policy and partisan.

Recently, Sen. Patrick Leahy of Vermont, the Democratic vice chairman of the Senate Intelligence Committee, announced that Democrats on the panel would conduct an independent investigation of stories of a CIA counter-terrorist training program in Lebanon among five other CIA operations.

The Leahy announcement was made the day The Washington Post published a report from Lebanon linking the CIA to a "runaway mission" by a Lebanese counter-terrorist unit that had bombed a building in a Beirut suburb. (The House Intelligence Committee later absolved the CIA of any links to terrorism in Lebanon.)

A short time later, Sen. Leahy, after accusing the CIA of not fully informing Congress of its Lebanon program — his suspicions presumably encouraged by the erroneous story in The Post — backed away from what had taken on the appearance of an investigation motivated by partisan politics.

Sen. David Durenberger, R-Minn., the chairman of the Senate Intelligence Committee, says the problem of partisanship in the oversight process only occurs "when covert action becomes overt."

"Pat [Leahy] had a camera in front of him and he had to say something," Sen. Durenberger said in an interview of the vice-chairman's

idea for a Democratic investigation. "He feels strongly about counter-terrorism, so he said it, and he backed off because he was in a little bit over his head."

Mr. Schmitt notes that the anti-intelligence hysteria of the '60s was the inevitable result of a breakdown in the post-World War II foreign policy consensus — a consensus dissolved by the frustrations and disappointments of the Vietnam War and the public disgust with government institutions in the wake of Watergate.

Many analysts trace the beginning of modern intelligence oversight to late December 1974.

In a series of front page articles in that month, The New York Times reported that the CIA had engaged in a "huge" domestic intelligence program in violation of CIA regulations against conducting business inside the United States.

The articles, citing "well-placed government sources," touched off a firestorm of congressional investigations. Eight days after the first article appeared, President Gerald Ford signed into law the Hughes-Ryan Amendment, restricting the CIA from conducting any operations without presidential approval — eliminating the reliable intelligence technique of "plausible denial." The intelligence agencies could no longer conduct covert operations that, if unsuccessful, would be denied, leaving the president out of it.

In addition, the law required the CIA to report to "all appropriate committees" — eventually eight legislative bodies. The law all but eliminated covert action operations through unauthorized press disclosures.

Besides the foreign affairs, armed services and defense appropriations subcommittees of both houses, which exercised what Mr. Schmitt called "de minimus" oversight since 1947, the intelligence agencies would also report to the newly created intelligence oversight committees, headed by Rep. Otis Pike and Sen. Frank Church, respectively.

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The Church and Pike committees, formed in January of 1975, spent a year and half investigating the CIA and found evidence of domestic surveillance operations of individuals tied to foreign powers, assassination plans (notably against Fidel Castro and Africa's Patrice Lumumba), mail intercepts from suspected foreign agents, plans to infiltrate groups with foreign ties, and efforts to topple foreign governments.

Sen. Church's widely reported remark that the CIA was "a rogue elephant" set the tone for congressional oversight. In 1976 the Church Committee became the Senate Select Committee on Intelligence, with Sen. Church as chairman, and a year later the Pike Committee became the House Permanent Select Committee on Intelligence.

Roy Godson, a professor of government at Georgetown University and an expert on intelligence issues, called the oversight of the mid-1970s the anti-intelligence "hysteria period" and described the Church committee "incredibly biased."

No intelligence service in the world has ever been subject to that kind of investigation, Mr. Godson said in an interview. "It had a crazy thesis — that covert action controls the whole of the intelligence community."

Mr. Schmitt describes the concept that a representative body such as Congress would attempt to reflect and refine public opinion on intelligence as "revolutionary."

"In fact this arrangement was not only revolutionary in the United States but the rest of the world as well; no other legislature had ever created such an entity" as congressional Oversight Committee, Mr. Schmitt said.

It wasn't until 1980 that the Intelligence Oversight Act reduced to two the number of committees the intelligence agencies were required to tell of their operations.

But the lack of consensus on foreign policy — and subsequently on intelligence policy — has left the oversight system "susceptible to sudden and sometimes disabling shocks," Mr. Schmitt says.

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Hill oversight of intelligence shifts focus to effectiveness

This article is the second in an occasional series on intelligence oversight.

By Bill Gertz
THE WASHINGTON TIMES

In 1978, a team of intelligence experts with the President's Foreign Intelligence Advisory Board competed with the CIA in analyzing Soviet strategic capabilities. They came to the startling conclusion that the CIA had been underestimating Soviet nuclear capabilities for a decade.

Angelo Codevilla, an intelligence expert with the Senate Select Committee on Intelligence until this year, said the committee's 1978 report on the competitive analysis, produced by the Subcommittee on Collection, Production and Quality, marked the beginning of a new period of congressional oversight.

He believes the findings of this so-called "A Team-B Team" report were an important first step in reorienting the congressional oversight process. Instead of attempting to uncover alleged abuses or place restrictions on intelligence-gathering activities, the oversight committees began to examine the quality of U.S. intelligence.

Mr. Codevilla said in a recent interview that the findings of the president's "B-Team" showed that intelligence quality must be checked. He compared the questioning of CIA estimates by outside experts with the congressional efforts to curb alleged abuses of the CIA in the mid-1970s.

"The greatest abuse that could ever have been perpetrated on the American people is to have them wake up 10 years after an event that profoundly affects their likelihood of staying alive and find that they missed it," Mr. Codevilla said of the B-Team findings of Soviet strategic capabilities.

Mr. Codevilla and other present and former intelligence oversight experts remain divided on how best to improve U.S. intelligence capabilities.

But interviews with congressional intelligence experts reveal that a fundamental shift in emphasis

has taken place in the last 10 years that has led to modest improvements in American intelligence capabilities.

Where congressional committees once sought to "legislate virtue" — as one former intelligence official described oversight — today's intelligence committee chairmen have begun to concentrate on improving the effectiveness of intelligence collection and analysis. In other words, instead of placing curbs on intelligence agencies, Congress today is more concerned with cost effectiveness.

Sen. Dave Durenberger, R-Minn., believes the solution to getting the taxpayers' money's worth out of the untold billions of dollars spent each year on intelligence is to establish a long-range strategy for the intelligence community.

A member of the Senate Select Committee on Intelligence since 1979, Sen. Durenberger was appointed chairman earlier this year. He does not agree with the prevailing philosophy of past years, which he characterized by the simple formula of telling the intelligence community "make sure you don't screw up."

"I think the best way to do oversight is to agree with the executive branch [on] what intelligence is all about, and [say] this is our long-range plan to build the world's best intelligence organization," Sen. Durenberger said in a recent interview.

Last week Sen. Durenberger's Intelligence Committee held closed-door hearings on what he refers to as long-range intelligence strategy. He hopes the hearings will lead the administration to target goals, objectives and resource investment for a 10-year or longer intelligence policy.

To improve intelligence oversight, Sen. Durenberger wants to prevent

"shifting resources every time the political panic button gets hit [and] you shift billions of dollars in commitment from one part of the world to the other part of the world. That's ridiculous," he said.

On the House side, Rep. Lee Hamilton, D-Ind., sees intelligence oversight as the only mechanism available outside the executive branch to check the administration's use of an enormous intelligence bureaucracy which churns out vast quantities of data.

Rep. Hamilton, chairman of the House Permanent Select Committee on Intelligence, does not view the oversight process as a means of correcting abuses. His prescription for improving intelligence is to strengthen the analysis and collection components of intelligence and to do away with military and paramilitary covert operations.

"I look upon it as a means of trying to improve the intelligence product and to provide the executive branch with another set of opinions, if you will, about intelligence operations," Mr. Hamilton said in an interview.

Mr. Hamilton believes one of the "major questions" of oversight is cost effectiveness. He is not satisfied that the intelligence community has performed the best possible job for the amount invested.

"We are spending a very large amount of money, on intelligence, [and] it is not just a question of are you getting the intelligence, but are you getting it to the right people at the right time?" Mr. Hamilton said. "That's really the critical point. It doesn't matter how much mass of intelligence data you produce. The key thing is the analysis of that data and getting it to the policymakers or decision-makers at the right times so that it's timely, in terms of the decision-making process.

"I think we in the intelligence

committees and in the intelligence community have to spend an awful lot more time on the question of cost effectiveness," he said.

Regarding public perceptions of intelligence oversight, Mr. Hamilton said that "the media often mistakes oversight for oversight of covert action."

"Oversight is much broader than that and, if you look at the intelligence budget, only a very, very small portion of it goes for covert action — very small," he said.

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The media, he said, tends to view all covert action as military and paramilitary operations, but "that represents a very small part of covert action."

"I'm talking about ... genuine intelligence work, as apart from covert actions, which really are not intelligence in the strictest sense," Mr. Hamilton said.

"If I were present at the creation, in [former Secretary of State Dean] Acheson's phrase, I'm not really sure where I would put covert actions," Mr. Hamilton said.

He feels "uneasy" that covert actions are conducted by the CIA, "but I'd be uneasy if they were conducted by the Defense Department. I don't know where you put them."

A widely respected intelligence expert, Mr. Codevilla believes the efforts of Sen. Malcolm Wallop, R-Wyo., along with Sen. Daniel P. Moynihan, D-N.Y., and others on the intelligence committees, succeeded in initiating some reforms of the agencies' analytical methods and counterintelligence controls.

"They developed an entirely different approach, based on the empirical proposition that the United States does not have a surfeit of intelligence," Mr. Codevilla said in an interview. "We have a variety of shortfalls, and any reforms should meet these shortfalls," he said.

Mr. Codevilla said the congressional and press "attack" on U.S. intelligence agencies during the mid-1970s grew out of internecine bureaucratic conflict within the intelligence community on resource allocation. What was portrayed as a fight over civil liberties was really a struggle between proponents of

detente and cold warriors over the agencies' reliance on technical systems — as opposed to human agents — for collecting and analyzing data.

"We built up our entire arsenal of technical intelligence wholly mindless that they are not working against nature, but against human beings," Mr. Codevilla said.

Mr. Codevilla described the conflict within the intelligence agencies over the integrity of technical intelligence as the "primary issue" dividing factions competing for resources.

"It has less than zero to do with civil liberties," Mr. Codevilla said.

As result of the intelligence community conflict, vast numbers of the most experienced Central Intelligence Agency personnel left the agency through voluntary and forced retirements in what Mr. Codevilla described as a purge of "old boys."

"This transformation of American intelligence occurred between '74 and roughly '78 during which time an estimated three-quarters of all supergrades in the CIA turned over — a huge turnover," Mr. Codevilla said.

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CIA and oversight groups reaching amicable terms

The third in an occasional series on congressional oversight of intelligence activities.

By Bill Gertz
THE WASHINGTON TIMES

Cooperation has improved between congressional oversight committees and the Central Intelligence Agency after a period of "tenuous relations" with CIA Director William Casey over the issue of covert CIA support for Nicaraguan resistance forces.

Following press disclosures in the spring of 1982 about CIA-supported operations, the House of Representatives passed legislation prohibiting support for anyone trying to overthrow the Sandinista regime. Later disclosures caused congressional support for the operations to evaporate.

Then, earlier this year Congress approved a \$27 million non-military aid package, but the CIA and Pentagon were barred from distributing the funds to the rebels.

Sen. Dave Durenberger, R-Minn., chairman of the Senate Select Committee on Intelligence, said the Nicaragua episode from roughly 1981 to 1984 disrupted a long period of improved relations between Congress and the CIA. Beginning in 1981, trust between the Senate oversight committee and the CIA soured after the disclosures about Nicaraguan covert operations.

"That period of time was unfortunately characterized by the sort of tenuous relationship between the DCI [Director of Central Intelligence] and the Congress of the United States," Mr. Durenberger said in an interview in his Senate office.

He said the problem was that "Bill [Casey] was charged with running an overt, covert action and there was no way he could make a success of it."

"He treated us like we didn't know what we were doing and we treated him like he didn't know what he was doing — it was not very good oversight," he added.

Sen. Durenberger characterized Senate oversight of the CIA during the early 1980s as "bring us your findings, covert action, your budget and when you get in hot water we're gonna have you in here and beat up on you," he said during a recent interview in his Senate office.

Since then, Mr. Casey and Sen. Durenberger have come to terms. After a series of conversations "about [Mr. Casey's] attitude, more than anything else, toward the process" of oversight, the Senate committee chairman feels a renewed "trust relationship" has been established.

Rep. Lee Hamilton, D-Ind., Sen. Durenberger's counterpart on the House Permanent Select Committee on Intelligence, also agrees relations have improved since the public revelations of the Nicaraguan operations which he described as atypical of oversight.

Mr. Hamilton said the CIA failed to inform the House committee of "a number of things," but did not charge the agency with "bad faith" or of trying to deceive the panel because its members have a responsibility to "ask the right questions."

"If we don't ask the right questions, we don't get the right answers," he said.

He also believes the problem surrounding poor relations with the CIA over the Nicaragua case was "attitudinal."

"The thing that frustrated the Nicaraguan problem so greatly was that we kept getting information from the media that we had not had from the Central Intelligence Agency," Rep. Hamilton said, recalling the rocky period of 1983 and 1984.

After checking news reports with the CIA, the agency would confirm details of the leaks to the House committee, he said.

"So," Rep. Hamilton said, "there developed a pattern of distrust, or a lack of confidence that they were in fact reporting to us all significant intelligence information."

The CIA's role in supporting rebels who planted mines in Nicaraguan harbors was a case in point, he said.

Under current U.S. law, the CIA is required to inform the two intelligence committees about all significant intelligence activity. Problems in the Nicaraguan affair arose over what was considered significant.

"Does the mining of a harbor constitute a significant intelligence activity? Does the publication of a manual which runs contrary to American policy constitute it? It does in my view — maybe it doesn't in somebody else's," Mr. Hamilton said.

Sen. Durenberger also mentioned the mining of the Nicaragua's harbors as one problem that caused partisan divisions on the normally non-partisan committee.

"There are no politics on this committee, except when nobody is told we are going to mine harbors," the senator said. "Then its every senator for himself."

The key to effective oversight is to develop a confident relationship between the CIA and Congress on the flow of information between the two entities, Mr. Hamilton said. Congress, for its part needs to back off the idea that everything the CIA does is "nefarious," while

the agency must overcome its reluctance to report to Congress unless arms are twisted, he contended.

Rep. Hamilton dispelled the notion that Mr. Casey created a "personality problem" blocking effective congressional oversight, as other congressmen have charged.

"I personally have a good relationship with Bill Casey and I think he has tried to keep the committee and me well informed," Mr. Hamilton said.

Herb Romerstein, a House Intelligence Committee staff member during the controversy over Nicaraguan covert aid, said the leaks about Nicaragua resulted in "considerable bad blood" between congressional oversight staff members and CIA officers.

One example is provided by Mr. Romerstein in a forthcoming paper on intelligence oversight. He writes that in 1983 the New York Times, quoting an unnamed Democrat on the House Intelligence Committee, falsely reported the CIA planned to march on the Nicaraguan capital and overthrow the Sandinista regime. The plot was allegedly revealed by Mr. Casey in a secret briefing.

The Times reporter corrected the story a day later saying the revelation did not come out of a briefing, but was mentioned by Mr. Casey as he left a briefing.

"This version was also false," Mr. Romerstein states. "This writer left the room behind Mr. Casey and no such conversation took place," he writes in the forthcoming book "Intelligence Requirements for the 1980s: Intelligence and Policy."