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SECURITY WEEK 1973

Address by The Honorable William F. Colby  
Director of Central Intelligence

Good morning ladies and gentleman, it is a real pleasure for me to be here.

When I assumed this new post, I made a talk to some of our people out at CIA and some of the other people in the Community, and made the point that I thought my appointment by the President and my confirmation by the Senate, with a few exceptions, was an appointment of the profession - of the intelligence profession and that it wasn't so much a personal thing, but that it was a mark of the confidence of the Government and the Congress and through them the people of the United States in the long term contribution that the profession can make and that the profession was given the responsibility for running its own affairs in somewhat the same system as some of the other professions: the military - the air, navy, army, and so forth. So it is a particular pleasure for me to be here to be this part of the profession, this part of the Community.

I have been a customer of yours many years. I've worked at a very low level on some of your operations and tried to contribute "little bits and pieces" into that enormous computer collection that you have of information all over the world. I've gained an enormous respect for the rapidity with which you cover problems, for the depths with which you get into them, for the facets of the problems that you bring out and show that otherwise wouldn't occur, and for the ingenuity that you show in overcoming some of the obstacles to getting into that information itself.

I first was exposed to the business of cryptography during the war when they tried to teach me how to run a one-time PAD and it was quite an effort, I might add.

But today I want to talk about your Security Week - the importance of security and some of the dilemmas that face us when we talk about security in an American open society. I think your watchwords today, Honor, Peace, and Vigilance are extremely good guides for us in the Intelligence Community as a whole, and not just for this week and for this subject, because the problems dealing with security in an American society do require a great deal of vigilance of course. We are doing it in America for peace, of course. But it also requires a great amount of considerations of honor on our part as we do this.

We have this debate going on today as to whether it is compatible to have security and secrecy in the kind of society that we have. I think that my best answer to that is to look back to the early days of our country and a remark by our first President, General Washington, who referred one time to the importance of intelligence, but then he added the comment "that upon secrecy success often depends in enterprises of this kind". In other words, he was well aware that you cannot conduct successful intelligence operations unless there is a respect for the need for secrecy. It was really following that general guideline that we developed a whole apparatus for security and secrecy in the American Government. Most recently, of course, this was codified in the National Security Act of 1947 which required me, as the Director, to be responsible for the protection of intelligence sources and methods. We had various other legislation such as the Espionage Act and such as your Act, referring to communications intelligence, which indicates the necessity for us to keep these secrets in this delicate field. And we, of course, have a whole variety of regulations that we've developed both at the national level and at the departmental and agency level for the protection of our secrets, and the decision as to what these secrets really are. But all of these are now subject to question because there is a very strong opinion in the country today that times have changed; that an excess of secrecy in the past led us to mistakes, created problems and that our people have so matured and are so well educated today that it is essential that they be informed; that they consult on some of these major questions and, consequently, they must have the information shared with them so that they can make the wisest decisions for this great democracy as a whole rather than confining this to either the Executive, or the Legislative, or even the Judiciary.

Now, the question here then comes down to the degree to which this case can be made, and certainly it can be made to a considerable extent. There are legitimate things which perhaps were held secret in the past which can be released today. We have various things that we are releasing for historical purposes, that we say were kept very secret at the time and that we now are releasing. But, there are other things that perhaps can be released today that we would not have released in the past. Now we also have, however, the conflict that comes up in some peoples' minds between the demands of their moral judgment as to what should be released and the demands of the regulations and the rules.

Now some years ago it was considered very reprehensible to take unto ourselves the decision to break a rule for a greater good. There is a gentleman named <sup>Alan</sup> ~~Allen~~ <sup>May</sup> Nunmay up in Canada, who for very moral purposes, in the immediate postwar era, felt that it was essential that there be a balance of nuclear power between the Soviet Union and the United States, and he took it upon himself the decision to give them some of those secrets the United States had so that that balance could exist. He thought he was being a moral man; he thought he was doing some greater good. What he was doing was, in a prideful way, taking to himself the decision made not only by his immediate bureaucratic superiors but also by the Constitutional authorities of his country, the Legislature, the Executive and the Judiciary.

He was insisting upon his right to make a very fundamental national decision, and at that time even a world decision, rather than following the dictates that were laid down upon him by these various constituted authorities, but at the same time working within those strictures to get a change perhaps, and a relaxation of those rules. He went to jail, and properly so, because we do not have the right to insist that each one of us is sovereign. We do owe respect for our fellow citizens and for the Constitutional structure that holds us together, because without it we have a kind of anarchy, aside from the danger this can present to our whole society.

We also have situations in which people today have that same feeling of a moral imperative which causes them to open things up. These involve Constitutional and legal questions first. Our Constitution does provide a structure through which authority can be imposed upon our fellow citizens and procedures through which that can be judged fairly and openly. At the same time, we must admit that today some of the legislation affecting the problems of security is less than total, to put it mildly. We have seen the evidence in the past year or so with the Ellsberg case in California of the necessity that any exposure of our secrets, duly constituted secrets, be proven in court to contain an intent to harm the interests of the United States. And the argument is then put that the individual in question was far from wanting to hurt the interests of the United States; he was trying to help them by his judgment of what these interests were.

Now there are other aspects of the Constitution that of course affect this problem. Our country is quite different, obviously, from other countries which have intelligence work. We hope we're different than the Russians; we know we are. We're resolved in the legislation that set up CIA to be different from the German Gestapo, because the CIA is barred from activity within domestic affairs and is held to the area of foreign intelligence, and we're probably going to be reminded of this in some legislation of this fall, if there's any doubt which arose over the past year or two. But, also, we are different from even some of the countries that afforded us a model for the development of our intelligence service - the French and even the British. In the British situation, of course, if an intelligence question gets loose in the press, the government has the authority to issue what is called a "D notice", and the paper is barred from printing that under pain of action in the courts against them. You can imagine, the reaction in this country if we gave Mr. Jack Anderson a "D notice". This is part of our society. We deliberately set in the First Amendment to the Constitution a condition to the acceptance of the Constitution by our people, the concept of the freedom of the press and the prevention of any prior restraint on the right of an editor to publish what he wants. Its an essential part of our society. Though I don't think there's any merit to be made in complaining about that, rather we should look at it with pride. And, I might add, that many other countries look at it with perhaps some amazement but also some awe and envy.

Now, we are not entirely helpless in the courts, however. In the past couple of years there has been a very interesting case which, unfortunately, is centered around an ex-CIA employee who, just as you, when he came to CIA some 15 years ago

signed a secrecy agreement, and when he left CIA he was reminded of this secrecy agreement and told that the matters that he learned while he worked in CIA were to be held secret, and that if he wanted to publish anything he had to consult with CIA so that CIA could tell him that certain things were classified and could not be published, even though he had learned them during the course of his experience. Now this gentleman put out a book which was highly critical of some of the habits and even individuals in CIA, and was pretty amusing in parts--no problems. It didn't really cover any classified information, although in a technical sense, a couple of minor items might have been. But then he decided to go further, and he prepared an outline for another book and an article, and he shot these around and these came to our attention. We went to the courts and said that if a man worked for General Electric and signed a secrecy agreement on the kinds of equipment and formulas that he learned while he was in General Electric, and when he left General Electric he went to work for Westinghouse, he could be barred from telling Westinghouse everything he learned while he was in General Electric. This is normal procedure for employee relations, and the confidence that we give to employees when they come to work for us. We in CIA ask the courts to give us the same rights that they would give General Electric in a comparable situation. But he, of course, claimed that this was an unconstitutional prior restraint on his ability to publish what he wanted. The courts considered this; the courts upheld our position in the District Court and the Circuit Court down in Richmond. The case was appealed to the Supreme Court; the Supreme Court refused to review it, indicating that they didn't find anything very wrong with it. He was then put under an injunction that anything he wished to publish had to be submitted to CIA to determine what was classified. He then wrote his book. He sent his book around to us and in the 500-odd pages of his book we found a number of items that we thought were still classified. Some of them I might add were technically classified. We then informed him that we had found 339 items, or some such thing, and that those things would have to be withdrawn from his book. It amounted to about one-fifth of the book. He then contested this. We indicated when we sent him the first list, "we're prepared to negotiate on many of these things, because if you phrase them slightly differently or leave a few names out or leave a few places out there's no problem, but in the way in which you phrased it, it is classified". We then got together and we indicated that 114 of the items we really weren't going to argue much about because somebody had leaked them somewhere in the past and while they were technically classified, it was hard to argue about it. But we are, right now, in the midst of a law suit about the remaining 225 items, and the American Civil Liberties Union, in good conscience as patriotic Americans, feels that this is a violation of the First Amendment, this restraint on his ability to publish these secrets. We feel that we are only applying the same kinds of rules that apply when anyone is exposed to confidences and agrees to respect those confidences in the course of his employment. As I say, it is now in the courts and it undoubtedly will go to a full decision. It shows that we are not entirely helpless but upon the results of the case will depend a great deal of our ability to control the leakage from our service.

Now there are other ways in which intelligence leaks, and I hardly need to remind you all of this. You are well aware of it. Policy, and policy decisions, and

policy necessities can override the necessity for secrecy from time to time. Some of us are a little shocked once in awhile when we hear, <sup>in</sup> that the Secretariat has used our highly technical and highly classified information/a briefing, in a press briefing or in a Congressional briefing. I think that this is something that you and I really just have to live with and accept as a part of the structure of American Government. Because our secrets are not ours--they belong to the country, and the country, through its leaders, through its appropriate authorities has the problem of dealing with and retaining the confidence of our people. And, consequently, they have the problem everyday about how well to inform the people so that they can understand the problems that are facing them around the world, as against the need to protect the intelligence sources or the classifications and secrecies that are involved. Sometimes it is more important to inform a country than it is to keep the secret. So this is a part of life in an American democracy, and I think its part of the rules that we have to accept, under the limitations that we have to accept, on the ability to keep secrets in the American Government.

We can reduce this problem by limiting our disseminations so that its only at the highest levels that these deliberate decisions are made to reveal information; we can educate some of the higher levels as to the sensitivity of certain sources; we can indicate various kinds of classifications and compartmentations so that they are well aware that the secrecy of some things means a lot more than the secrecy of other things. I think we have to accept the fact that we are going to operate under an authority which has the right to reveal to the people of the United States, for good reason, some of the things that we gathered, analyzed, and produced under the most stringent security regulations.

But I think there is another level of consideration here that is worth thinking about when we talk about secrecy. How much secrecy do we need in our society? The political dilemma of secrecy I've discussed, but there are other aspects of it. Secrecy costs money! It costs a great deal of money to protect secrets; to do the security investigations; to put the safes together with the three combination locks; to have all the fences and all the other protections of cryptography, etc., that is involved. So, there is a problem on how much secrecy we can afford, in a sense. Also, secrecy reduces the degree to which some of our information can be used by the people who need to use it. That particular unit someplace that actually needs the information which is gathered by a very secret technique--how can that be gotten to them if its held to some high degree of compartmentation and they're not cleared for it? Do we expose them to possible danger just because we haven't gone through a security clearance on them. No! We have to figure out a way of avoiding that kind of situation. Of course, you're all aware of Gresham's Law in economics which says that bad money drives out good, and if we over-classify things too much, we develop in peoples' minds a contempt for the very classification rule--that if this is classified the whole system is nonsense because this really isn't secret at all--this item that I'm looking at, and one gets to be contemptuous of the system. The question of how much secrecy really comes down to the importance of deciding what actually needs to be kept secret, and to arrange things so that the things that don't really need it can be released. This is, in a way, the

theme of the President's Executive Order of a year ago March, in which he made the point that the basic interests of the people of the United States are to know things, and that its only for good justification that things can be classified and kept from them. It starts from the premise, that in our society things have to be open and that there must be justification in terms of national security for the classification and restriction of these. Now we have gone further than that and developed various compartmentations within these limits, but I think the philosophy we should have started with all along is that we should not have our secretary only own a SECRET or TOP SECRET stamp. We ought to make sure she owns a CONFIDENTIAL one, too. We need to have a situation where many of our administrative problems, perhaps, don't really need to be highly classified but can be handled on an administrative basis and protected from exposure of personnel records. For instance, under the Freedom of Information Act, your personnel record and my personnel record need not be made public because the Act says that personnel records can be respected and restricted, not as classified matters but as personnel matters in deference to your right of privacy. So, we do need to look at the classification and the secrecy from the point of view of what justification is there that I classify this particular document? Rather than, as sometimes occurs in the bureaucracy, what justification is there for me not classify this document? I think the stress should be placed on the first question rather than the second.

Now we need rules and categories and these categories can override individual documents, of course. You have the categories that apply to your communications intelligence which are well established--and I think this is merely a way of translating these thoughts I expressed here into practical rules, practical decisions which can be applied over the length and breadth of the world where your operations take place and can be translated from the most senior officials to the most junior officials in our Government. I think that these rules, these categories do require a periodic review by us. We in the United States Intelligence Board are currently taking a look at certain of these. We are going to look at others in the future with a view to moving toward classifying and keeping secret those things that need to be kept secret, but not classifying and keeping secret the things that don't need to be; or to keep secret on a highly-restricted basis the very delicate matters, but to try to keep on a much more relaxed basis, so that more people can use it--a number of things which can, without great danger, be exposed to a much larger group of our Government workers. Now the rules of intelligence and of secrecy won't do this alone. You know the importance of the individual judgment in the intelligence business, in your cryptography business--the individual putting his mind to the problem, trying to look around it, weigh all the factors. This is a normal intelligence process. Its also the kind of process that we need to use when we go to the problem of secrecy and of classification. I think this use of judgment, not the rigid application of the rules, but the use of your judgment and a spirit on your part of respect for the important things, and a determination to protect the important things, and at the same time a respect for our American democracy, and the need of the democracy to have things that don't need to be classified not classified.

We serve the people of the United States. We serve the people through the Executive, through the Congress, through the Judiciary, and even through the fourth estate - the Press. And, it is that people that we are really serving. We are not serving only

one part of this total American country of ours--but we have to translate this service into procedures, into reasonable approaches to handle the various dilemmas that come upon us as we are pulled between the different demands of different areas. I think that we have to in this area of secrecy. We have to respect the necessities of secrecy particularly in the intelligence business. Its obviously going to be a different business than the Fish and Wildlife Service or some of the other services. But, nonetheless, I think underneath it we have to remember that we are in the American intelligence service, and that we consequently have to have an American approach to the problems of secrecy. Its going to be more open. Its going to be more difficult for us who serve the people, but I think its also going to be much more rewarding.

Question and Answer Period following Mr. Colby's address, Security Week, 9 November 1973. Questions from the audience were not audible on tape.

Question #1:

Answer: That's a very interesting question.

In the CIA clandestine collections business, they have the problem of not spreading Mr. Jones' name around to the customers because Mr. Jones might not have a long and happy life thereafter. But at the same time they have recognized that the customer of the information really has to have some judgment of where it comes from. If you say that the Russians are going to start a war tomorrow it becomes of considerable importance whether this is picked up on the streets of Cairo or from a source from within the Politburo. This is quite a different evaluation problem. So they have worked out a procedure of what they call by-lines or source by-lines which is, I might add, a lot more specific than those reliable sources you keep reading about in the newspapers. It has gone away over the years from that old idea of classifying each source as an F6 or an A3 or whatever that was which tried to give you some mechanical guidance as its reliability.

Today the source is described: it's an Arab rug merchant on his way through Damascus which gives you a feel. It doesn't give you his name but it does give you a feel of how reliable you think it might be. In that case, I would not say it would be very reliable and you might not put the report out at all. I think in the Signals Intelligence area, SIGINT area, this sometimes can be important that it's known just how something was picked up and where. Sometimes it really doesn't matter because it's a technical accomplishment and once it's in the technical system why that's the main thing that's needed. But I think from time to time there do develop feelings of greater reliability on one source than another. This can be generalized so that you protect the specific identity but, nonetheless, respond to the quite legitimate need for some indication; something more than a mere statement that this is reliable; some description of the source but not an identification of the source. I think that this will not be as frequent a problem in your business as it will be in the normal espionage and similar collection, but it is something well worth looking into.

Question #2:

Answer: That unfortunately is to some extent true. In other words, if you are going to really prosecute a gentleman for consciously revealing a certain item of information, critical information, you're automatically going to get into an argument as to whether it was a critical item of information. And you're going to have to, in our society, open this up for judgment by the courts. There are procedures to give certain things to the judges themselves and not spread on the public record. But when you're talking about putting the man in jail you're not going to put him in jail on a star chamber proceeding. We decided that in 1776. So that consequently it is possible that people get off scott free from certain problems of this nature. There are ways around this if you can determine that the information on its face has already been released and you're not releasing anything additional, and at that point if you don't have to prove some of the greater detail in it you can stand on just the pure fact that this particular item of information was in his hands and was released. This is what we do for instance in some of these cases where, and there is one going on now, people providing material to a Soviet case officer for an espionage case against the United States. We have done that and we can handle that in some cases. But it does get a little tricky once in awhile and its just a cost of our form of judicial proceedings and I think that most of us will think its worth it.

Question #3:

Answer: Well, of course, we went through in 1918 the theory of open covenants openly arrived at, and I certainly don't need to mention in this audience the decision of Secretary Stimson that Department of State gentlemen do not read each others mail. We've gone the extreme on that business of openness. We're in a particular pendulum swing at the moment in that direction. I don't think its going over the edge, it really didn't go over the edge then. In various respects, various counter courses began to work and we actually did conduct a few negotiations without spreading them totally on the record. I think that the pervasive role of the press in the world today and the enormous rapidity of communication, not just in the technical sense but in the substantive sense of communication is such that we're all just going to have to live with it. We're going to have United Nations Security Council and General Assembly meetings where people conduct right on the floor the actual votes. They may do a little corridor arguing and log rolling, but a great deal more of our activity is going to be in the open in the future. I don't think thats going to hurt us as much as it might help us because it does put some constraints on it and I think that there are certain ways in which this process can help us. The current discussion for instance in Europe, the Council on European Security where the western European countries are putting a very strong effort on the business of greater communication across the frontiers. This can only help us in a greater appreciation of whats actually going on behind the Soviet zone and among the satellites. This kind of opening, if it does rub off, and it will to some extent in those areas and has. I think the whole Russian dissident effort is a reflection of this greater openness and is causing some greater openness on that side. I think that it will certainly make our lives a little embarrassing once in awhile, but at the same time I think that if we can open up a bit more, I think it will help us in the intelligence business to get a better appreciation of what the reality of the problem is in the other area.

Question #4:

Answer: Well, we've all had our problems with that and I think it is a problem that we have to worry about. I think its not a thing that we'll solve with locks and keys. I think that its a thing we'll solve with our own attitude toward each other; our feeling of community; our feeling of patriotism and dedication to our country and to the profession that we're in. The locks and keys, bars and gates will certainly help but there is more information in any one of your heads than is in half the safes in the building, as you well know. So consequently, the real critical thing is this feeling of ours as to whether we are a part of something important; that is reasonable in its restraints on our freedom of action. I think that we're not apt to get into too much trouble.

I think the Soviets, obviously, and some of the other people are trying to probe at us. They are well aware of the enormous amount of information and the high degree of sophistication that has marked our intelligence efforts in this country by now. Starting from a very small beginning some years ago, we have a very complicated apparatus which can do a great deal and this is a very tempting target for a number of countries. With the role of America in the world today it becomes critical to many countries not just the Soviet Union, but to many countries as to what our attitude, and what our thoughts, and what our information is. So they're certainly going to be interested in us.

Frankly, one of the more heartening developments in the past couple years, in my view, has been the amount of stress that the Soviets are putting on an organization called The Institute for the Study of the USA, which is an open institute for research into our habits and activities. Because we Americans know that it is both more important and harder to know what our policy on something is going to be in the future, this is a matter of assessment, trying to understand the comparative strength of the Congress, of the various Senators, of the Executive, of the public opinion. This is a very complicated subject and really stealing the war plan is kind of incidental to that. You could steal all the war plans in the Pentagon and you really wouldn't know whether we would do them or not. The really critical thing about this country is, what do we do? There are at least three gentlemen in this century who've made disastrous mistakes about this. One was named Wilhelm, and one was named Adolph, and one was named Joseph. Each of <sup>the</sup> three looked at this country, listened to the noise as we screamed at each other and debated with each other, and said the Americans will not or they cannot have an impact on the course of world affairs. They made rather disastrous mistakes. Though I think that the real thing is, if we can get some of our other countries to think in terms of understanding us and not so much spying on us, that we're all going to be a little safer. I hope they're getting the lesson. They have a little bureacratic momentum down in the KGB, too, that they keep running.