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The Citizen's Right To Be Left Alone

THE CITIZEN'S RIGHT TO BE KEPT SAFE AND FREE

By WILLIAM H. WEBSTER, *Director of Central Intelligence*

Delivered to the American Bar Association, Toronto, Ontario, Canada, August 9, 1988

THANK YOU very much Bob, President MacCrate, Prime Minister Robinson, other distinguished guests and fellow members of the American Bar Association. I am delighted to be with you. I can't resist saying that if some day — as I'm certain I will — I am called to account for my sins, I hope that Bob MacCrate is around to impanel the jury.

I particularly feel pleased to be here this morning and to follow in the wake of the award of the American Bar Association medal to my fellow St. Louisan, Bill McCalpin. It is richly deserved. I've known Bill for forty years as a friend and a colleague and, along with your distinguished past President John Shepherd, we worked together on many projects. I am proud for Bill, I'm proud for Saint Louis and I'm proud for the American Bar Association that Bill has been selected for this high honor.

Well, I am here in Canada speaking largely to Americans, and that, in a way, is a relief. I spoke to the Royal Canadian Mounted Police Annual Mess several years ago and discovered at the last minute that I was expected to engage in a bilingual exercise. I stumbled through a few formalities in French about being glad to be there, and then finally I said, "And now, I must return to my own language — unless you want my views on closing the window or putting the crayon on the table."

In a world of disarray, some very interesting things are happening, even as we visit together. The prospect of peace in the Persian Gulf and a cease-fire in the war between Iran and Iraq; the withdrawal of Russian troops from Afghanistan; the

Cambodian peace talks and the prospects that the Vietnamese may soon withdraw their troops from that country; the ongoing discussions in Angola and the promise of a cease-fire; and the constructive discussion of possible solutions for the conflict in the Western Sahara. All to the good.

In contrast to these developments, we see a faltering effort to provide a permanent solution to conflict in the Middle East; insurgencies in the Philippines; five nations arming the Spratly Islands off the coasts of Vietnam and China; the spread of chemical and biological warfare in the Middle East; and the emergence of China as one of the great munitions makers of the world, now specializing in missiles of great distance. And I guess I have to mention Latin America. Nicaragua, Panama, Honduras, Chile, El Salvador, and Bolivia. I need only mention the names for us to realize how much there is to do to create a safer and more peaceful world. We saw the U.S.-Soviet summit meeting in June, and we saw the recent meeting of the Soviet Central Committee plenum, when Gorbachev gave an amazing speech promoting the principles of glasnost and perestroika. And yet, we know that no essential goals of Soviet domination have changed — or, at least, the Soviets have made no public statements of such a change.

And we see across the world that three problems are emerging again, as they have always been there: espionage, terrorism, and drugs. And we have to ask ourselves what kind of tools we need — and what kind of tools we can be allowed to use — to deal with these threats. And, what reasonable limits

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should be placed on law enforcement and the Intelligence Community in their efforts to bring these worldwide problems under control?

Some fifteen years ago, while I was still serving on the 8th Circuit Court of Appeals, I had occasion to review a statute which made it unlawful to carry or attempt to carry a firearm aboard a commercial aircraft. In the opinion that I wrote, I discussed the evolution of the airport inspection or checkpoint system — a system that had been challenged not too long before as a gross intrusion into personal privacy. Subsequently, a rash of hijackings brought home the reality of the terrorist threat and the need to balance individual privacy interests with legitimate security interests. I opined then — and I believe today, with equal force — that if those checkpoints were removed, there would be a storm of protests from passengers who value the security and protection that they afford and consider such inspections to be a reasonable price for that security.

Some of you no doubt attended the morning session run by Dick Friedman, Chairman of the Standing Committee on Law and National Security. Nick Rostow gave some opening remarks about how to balance humanitarian concerns and respect for the rule of law with our national security objectives. This is a tough issue and one that is very much on my mind today. While I was still at the FBI, I often spoke of the balance that must be maintained between each citizen's right to be let alone, and the right to be kept safe and free. Bob MacCrate and I have also talked about this balance. And when Bob asked me to speak to you today, he suggested that I address this topic again from my vantage point at the CIA. And so, today I will try to do that — to discuss how the work of intelligence can provide greater safety without unreasonable sacrifice of individual liberty.

The CIA and other components of the Intelligence Community collect information on a host of issues that affect our national security. Two of the issues that most clearly touch on the relationship between safety and liberty — issues that therefore demand special safeguards — are the threats posed by hostile intelligence services worldwide, operating against this country, and the threats posed by international terrorists. Our activities in these and other areas are governed by Executive Order 12333, which outlines the duties and responsibilities of the CIA as well as the limitations upon intelligence activities undertaken by the Agency. The order reflects the requirements of the National Security Act of 1947, the CIA Act of 1949, and other laws, regulations, and directives, as well as intelligence policies.

In addition to following the Executive order, the CIA and other agencies within the Intelligence Community are required to develop and have approved by the Attorney General their own guidelines and procedures. The procedures at the CIA were developed to:

- encourage legitimate intelligence activities;
- provide legal protection to employees by providing authority for intelligence activities;
- and — I think this is of major importance — assure the American public and the intelligence oversight committees that all CIA activities involving U.S. persons are lawful and related to legitimate intelligence objectives. For instance, we file an annual report with the House and Senate intelligence oversight committees spelling out significant intelligence activities, and we follow up with briefings if necessary. Our activity

in this area is closely monitored by the oversight committees, which act as surrogates for the Congress as a whole and as surrogates for the American people.

The first of the issues that I mentioned, counterintelligence, is critical to our national security, and clearly a legitimate intelligence objective. In fact, an effective and comprehensive counterintelligence program has never been more important to our nation, because the threat against us has grown. The number of operations against us has certainly increased, and the number of intelligence services involved in such operations has also grown.

Over the past three years, we have discovered more penetrations of the U.S. defense and intelligence communities than at any time in our history. The costs of these compromises are estimated in the billions of dollars.

Two major espionage cases which affect our country have surfaced in Canada this summer. Stephen Ratkai was arrested in June for attempting to pass U.S. naval secrets to the Soviet Union. And during that same month, the revelations of a Soviet defector, Yuriy Smurov, led to the expulsion and barring of 17 Soviet officials who were trying to steal Canada's advanced commercial and military technology.

Although many countries engage in intelligence operations against the United States, the Soviet intelligence services, the KGB and GRU, represent by far the most significant intelligence threat in terms of size, ability, and intent to act against U.S. interests — both at home and abroad. And despite Soviet glasnost and perestroika, we have actually seen an increase this year in Soviet attempts to recruit U.S. sources.

Because we can protect ourselves best if we understand what our adversary wants, I think it's worth considering just what is being collected. The highest Soviet collection priority is information on U.S. strategic nuclear forces. Other high-priority subjects are key foreign-policy matters, congressional intentions, defense information, advanced dual-use technology — the kind of technology that is civilian in nature but can be adopted to military purposes — and, not surprisingly, U.S. intelligence sources and methods. The Soviets also target NATO intensively, partly as a means to obtain, through information that we share there, U.S. foreign-policy and military information.

And the methods employed by the Soviets to get the information they want are becoming more aggressive and more sophisticated. We expect to see greater Soviet efforts to recruit U.S. personnel abroad; increasing use of third countries for clandestine meetings with American agents — the better we get here, the more likely they are to meet outside this country; greater efforts to penetrate allied governments that might be privy to U.S. secrets; and greater emphasis on exploiting the intelligence collection capabilities of Warsaw Pact allies.

But the methods the U.S. Intelligence Community uses to counter this threat are also impressive. And the most impressive of those methods is the increased cooperation among the various agencies within the community. For example, the FBI and CIA are today working closely together in mounting both offensive and defensive measures against hostile intelligence services.

In recent years the FBI has made great strides in countering the intelligence activities of the Soviet and Bloc countries. The Bureau has improved the quality and sophistication of its intelligence systems and, as a result, has succeeded in disrupting hostile intelligence operations aimed at critical U.S. targets at home.

The FBI's main tactic has been to "spiderweb" known or suspected intelligence operatives. In spinning webs with physical and electronic surveillance — and, incidentally, all electronic surveillance must be court authorized under the Foreign Intelligence Surveillance Act — U.S. intelligence has been able to weave a barrier between hostile agents and our citizens. Those of you familiar with FISA will recall that there is a much higher threshold required to direct electronic surveillance against U.S. persons.

To provide the information that will allow enforcement agencies to protect our citizens, we have bolstered counterintelligence efforts throughout the community. For the CIA, such efforts include collecting information outside the United States on Americans who are or may be engaged in activities on behalf of a foreign power, and collecting information in circumstances where an American may be the target of a foreign power. Our own procedures dictate that we must use the least-intrusive collection technique feasible to obtain the intelligence required.

To make the best use of that intelligence and to improve the effectiveness of counterintelligence activities both within the CIA and in the Intelligence Community, I created a new Counterintelligence Center at the Agency. The center works to protect the Agency's foreign operations and the security of all Agency components against penetration by foreign security or intelligence services. This center was badly needed and, for historical reasons I don't have time to discuss, too many things were falling between chairs in the absence of this new and important development. The Counterintelligence Center not only provides analysis of hostile intelligence threats and past espionage cases, it also provides instruction for our people going abroad.

The CIA is authorized to collect information on yet another problem: the targets, the victims, and the hostages of international terrorist organizations. This is a very important role for intelligence. The CIA is also authorized to collect information on Americans who may be engaged in international terrorist activities.

During the past three and a half years, there have been 253 cases in which some sort of counterterrorist actions — efforts to prevent terrorism — were taken on the basis of intelligence information collected and disseminated by the Agency. We can't say in all of those cases that the information or measures taken were solely responsible for the preventions, but they clearly had a role and that is important to us.

In one such case, the Agency received a report that terrorists planned to assassinate a senior American diplomat in a Middle Eastern country when he arrived for a meeting. When the diplomat was informed of the report, he confirmed that he was to have such a meeting. At the last moment, he arranged for the meeting to be held elsewhere, thus escaping an attempt on his life.

On numerous occasions in recent years, the Agency has received reports of planned terrorist attacks on our embassies in several parts of the world, particularly the Latin American countries of Colombia, Peru, and El Salvador. In each case, the embassy, upon receiving such a report, increased its security. On several occasions, a source has subsequently informed us that this increased security persuaded the terrorist group to cancel its plans to attack.

But in spite of such successes, last year the property and citizens of over 84 nations were the victims or targets of

international terrorist attacks — attacks that resulted in nearly 3,000 casualties. Information collected for this year indicates that the citizens and property of almost 70 countries already have been the victims of international terrorism. These figures support a trend. Since 1981, we have noticed a steady increase in international terrorism worldwide. In 1981, we recorded close to 500 incidents, in 1985 almost 800 and, if early trends continue, we could register almost 900 acts of international terrorism by the end of this year. And I think that we should keep in mind that about half of these international terrorist incidents are directed against U.S. persons, U.S. property, or U.S. institutions around the world.

The CIA, cooperating with other intelligence and law enforcement organizations in accordance with the National Security Act of 1947, has collected valuable information about terrorist groups. Some of the most useful information has come from walk-ins — terrorists who wish to defect from their organizations. By protecting, and in some cases resettling, these individuals, we have been able to gain their cooperation. They have told us about their former colleagues, about who finances and protects their organization, the location of their headquarters, and the names of their leaders.

Such information is often vital in protecting both U.S. and allied interests overseas. We learned, for example, that the Palestinian terrorist, Abu Nidal, had an extensive international commercial network that dealt in the gray arms market. This network had key offices in Poland, East Germany, and several other countries. By using this information, the U.S. State Department delivered a series of diplomatic demarches to the governments of these countries expressing U.S. concern about the presence of these businesses. As a result, the companies were closed down.

We also keep track of the movements of wanted terrorism. If our government has an outstanding warrant for the arrest of such individuals, we are able to make this information available to judicial authorities so that they can locate and apprehend them. In some cases, the United States asks for extradition. In other cases, as in that of Fawaz Yunis, wanted for the June 1985 hijacking of a Jordanian airliner which carried U.S. citizens, our information enabled the FBI to arrest Yunis in the Mediterranean. We worked with the Trevi Group, the organization of the Ministers of Interior for the European free countries who are united in an effort to end sanctuary for terrorists. An important effort if we are going to succeed against terrorism.

We share information with foreign governments on names of potential terrorists, including aliases used and false documentation, that allows them to add these names to their watchlists. Such improved, broader control enabled one government to arrest a well-known supporter of several terrorist organizations. Information has also been used to deny entry and safe haven to known terrorists and their associates. I understand today that there was an important development in the Hammadi case — the terrorist arrested and now on trial in West Germany. And over the summer we were instrumental in giving positive identification of one of the principal terrorists who planted an underseat bomb in an airplane going from Tokyo to Honolulu a few years ago — an incident resulting in the death of a young Japanese boy.

I'd like to say just a brief word about what the FBI is doing in the United States because I think that it is a record that has

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gone largely unnoticed, and it shows that considerable credit is due to the men and women who are out there laboring to make it possible for us to be safe and free in this country. While this trend has been developing worldwide, the number of bombings and terrorist incidents in the United States has gone from about 100 a year when I took office to less than a dozen in the last two years. And there have been very few casualties. They have done this not just as police officers, because that's after the fact. They've done it by developing good intelligence on the workings of international and domestic terrorist groups in the United States and by developing criminal, prosecutable cases against them. And they've done it with strict adherence to Attorney General guidelines on terrorist investigations which permit this form of intelligence-gathering.

And I know that such investigations are always sensitive and apt to attract criticism when they do not go 100-percent as one would wish. In the past year there has been considerable speculation — and I think undue criticism — about one particular terrorist investigation, most because of its mischaracterization. It was said that this investigation was a widespread investigation of the critics of the Reagan Administration. It had nothing at all to do with the Reagan Administration. It was said that it involved the investigation of over 150 individuals and organizations. My understanding is that it involved about a half dozen organizations. It was said that it was massive. My understanding is that it involved five man years per year for two years, ten man years in all. Hardly massive. It has been charged that it involved highly sensitive and intrusive techniques. It did not involve electronic surveillance. It did not involve undercover operations. It did not involve searches. The investigators were criticized for taking down some license numbers and taking some photographs. This case did not produce an indictment and it was closed a few years ago. It is only now receiving scrutiny and criticism. And if there were flaws in it, and I'm sure there were, they will be brought to light. But I think that we have to take into account the security that good intelligence has produced for this country in asking ourselves whether or not we can afford the taking of a few license numbers and a few photographs in the interest of our national security and our personal safety.

I have been making the point that effective counterintelligence and counterterrorism programs are critical to our national security. And they are certainly critical to the physical security of our citizens. But I want to emphasize as well that how the CIA and other intelligence agencies carry out their responsibilities is of equal importance to our country. We are subject to specific laws and we operate under internal procedures approved by the Attorney General. In addition, my General Counsel's staff briefs employees — both at home and abroad — to ensure that those Agency employees who deal with issues that affect the constitutional rights of American citizens know what our laws and procedures are. My Office of General Counsel also works closely with the Office of Intelligence Policy and Review at the Department of Justice in dealing with those types of activities that may require Attorney General authorization. They work together to examine relevant issues and obtain the necessary approvals, consistent with applicable requirements of our law.

We want to catch spies and curb terrorism, but we will not circumvent our own laws to do so. We must maintain absolute fidelity to our laws and our rules — rules imposed to ensure our citizens that we are indeed accountable. I do not think the CIA, or the FBI, or any member of the Intelligence Community is exempt from this principle. In fact, I believe that it is the key to public acceptance of our vitally necessary work.

We must, in the end, have both safety and liberty. The balance between the right to be let alone and the right to be kept safe and free is central to our profession and to our heritage. And in our ability to strike that balance true, lies our future as a land of ordered liberty. Former Supreme Court Justice Robert Jackson must have had this balance in mind when he observed that the constitutional Bill of Rights of the United States was not a suicide pact. The protections it includes and affords to us must be rationally applied if we are to prevail against those who would threaten our national security.

I really believe that we have sufficient legislative restraints and that we should stop looking for legislative solutions to problems as they emerge, because such "solutions" can impede necessary work in the interest of national security. Rather, what is needed is a better understanding of the requirements of existing law and the discipline — the iron determination — to see that these laws are scrupulously observed.

And then there are people, the people who work for you in law enforcement and in the Intelligence Community. I am looking for a certain kind of person and I am getting them, with applications coming in at the rate of over 1,000 a month. People who are risk takers, but not risk seekers. People who are not particularly interested in fame or fortune, but see in our work an opportunity to pursue their highest aspirations for a safer and a better world. This blend of requirements and balancing was best expressed by an old friend — Sir William Stephenson. And I can think of no better place to recall his words, than in this, his homeland of Canada. In the introduction to the book, *A Man Called Intrepid*, which chronicled his remarkable intelligence accomplishments during the Second World War, Sir William wrote:

"Perhaps a day will dawn when tyrants can no longer threaten the liberty of any people. When the functions of all nations, however varied their ideologies, will be to enhance life, not to control it. If such a condition is possible, it is in a future too far distant to foresee. Until that safer, better day, the democracies will avoid disaster, and possibly total destruction, only by maintaining their defenses.

"Among the increasingly intricate arsenals across the world, intelligence is an essential weapon, perhaps the most important. But it is, being secret, the most dangerous. Safeguards to prevent its abuse must be devised, revised, and rigidly applied. But, as in all enterprise, the character and wisdom of those to whom it is entrusted will be decisive. In the integrity of that guardianship lies the hope of free people to endure and prevail."

I subscribe fully to this statement and I believe deeply that a nation dedicated to the rule of law can protect itself and its heritage in no other way.

Thank you.