ARTICLE APPEARED
ON PAGE 122

FOREIGN POLICY
FALL 1982

INTELLIGENCE: THE RIGHT RULES

by Stansfield Turner and George Thibault

The Israeli raid at Entebbe, the hostage rescue mission to Iran, and the rescue of Brigadier General James Dozier had one thing in common: No one in the public and few in the governments concerned knew anything about these actions beforehand. The need for secrecy in such military operations seems obvious. Less clear, but equally vital, is the importance of secrecy in other government activities such as intelligence operations during peacetime. This need has not changed significantly since 1777 when George Washington wrote: "The necessity of procuring good intelligence is apparent and need not be further urged—all that remains for me to add is that you keep the whole matter as secret as possible."

America's first president perhaps did not anticipate how difficult it would later become to reconcile the necessity for secrecy in intelligence activities with the constitutional provisions for open government and the guaranteed rights of Americans. The secret work of intelligence agencies inherently conflicts with the idea of openness; such secrecy can easily undermine individual rights in the name of protecting them. Consequently, every American administration has had to seek a balance between secrecy and openness.

From Washington's day until World War II, U.S. intelligence activities did not arouse significant concern because they were sufficiently limited. But in 1947, recalling the government's inability to bring together available intelligence that might have alerted the country to the impending attack on Pearl Harbor, President Truman centralized American intelligence activities. The president established the position of director of central intelligence (DCI) to coordinate the various foreign intelligence efforts spread across the Department of Defense, the Department of State, the Federal Bureau of Investigation (FBI), and elsewhere. The director would also head a new Central Intelligence Agency (CIA) through which all foreign intelligence data would flow.

The concentration of power in a single director and the creation of a new intelligence agency clearly increased the amount of secret government activity and thus the probability of conflicts between secrecy and open democracy. In the climate of concern for the adequacy of U.S. intelligence operations, the CIA opened mail to and from the Soviet Union, infiltrated domestic organizations suspected of threatening national security, and tested on unsuspecting Americans drugs that it thought might be used on its own agents. When these activities came to light in the mid-1970s, the executive and legislative branches of the U.S. government moved quickly to tighten controls on intelligence operations and to restore traditional guarantees of personal rights. The destructive criticism of all secret intelligence activity during this period demonstrated how far the national attitude had shifted toward a concern for individual rights and high standards of legality even at the cost of national security.

In February 1976 President Ford issued an executive order governing the conduct of intelligence activities. In particular, the order laid down rules severely limiting intrusions into the lives of Americans. In January 1978 President Carter revised the Ford executive order, making minor changes in existing domestic constraints and establishing new procedures requiring the CIA director to clear sensitive collection activities in advance with the National Security Council (NSC). Congress established a requirement to review certain intelligence operations and set up two permanent committees to oversee intelligence activities.

But four years after the Ford executive order, concern that intelligence agencies might abuse secrecy began to diminish. The country was shaking itself free of the inhibiting consequences of its debacle in Vietnam and was ready to acknowledge once again the need to

CONTINUED

ADMIRAL STANSFIELD TURNER *(ret.) was director of central intelligence (DCI) in the Carter administration.* CAPTAIN GEORGE THIBAULT, *U.S. Navy, was special assistant to the DCI in the Carter administration and is now chairman of the department of military strategy at the National War College.*

deal more effectively with a world often hostile to American interests. In the 1980 presidential campaign, Ronald Reagan charged that the Ford and Carter executive orders, undue criticism from the public and media, and excessive congressional oversight had hobbled intelligence capabilities. Once elected, President Reagan set out to correct these problems by loosening many of the controls on U.S. intelligence activities.

There are four types of controls and oversight:

- internal controls created and enforced within the intelligence agencies themselves;
- presidential controls such as the executive orders;
- controls that come from Congress in its role as overseer of intelligence; and
- controls that flow from public scrutiny of intelligence activities.

The internal controls that intelligence agencies impose on their own activities generally are easy to devise, involve only minimal risks to intelligence operations, and can be very effective. The control most widely used is the practice called compartmentation, which severely limits the number of people who know about a sensitive project to sometimes as few as a dozen. Compartmentation not only limits access to information, but also segregates the files relating to the project. No single document reveals every initiative an agency undertakes.

But protections such as compartmentation have their costs. By the time of the intelligence investigations in the mid-1970s, compartmentation within the CIA had become excessive and dangerous. The few individuals who had the most knowledge of sensitive programs had accumulated undue power. CIA directors learned about some operations only after they took place. Sometimes the lack of adequate coordination permitted conflicting or duplicative activities. There is no foolproof way to guard against these kinds of problems, but directors can help the situation by establishing an internal system of checks and controls.

Between 1977 and 1981, for instance, we adopted a corporate decision-making style in the CIA. Previously, the originating office forwarded important proposals to the director; the decision process included only those other offices with a direct interest in the proposal. To reduce the liabilities of extreme compartmentation, we began to involve a small, regular group of offices in most major decisions. We established specific levels of approval for various degrees of risk, encouraged the agency's inspector-general to probe widely, and sought to inculcate by example a tone of high ethical standards. Even with these steps to make internal procedures more open, the danger of leaks remained small because intelligence agencies in general are highly conscious of security. The most significant danger of such steps is rather that they may encourage undue caution in an organization that must take risks. A director has to counter this inclination toward excessive caution by encouraging subordinates to present bold and imaginative proposals when the results may justify taking high risks.

NSC Review

At the presidential level two major types of formal external controls have been exercised: constraints on the authority of intelligence agencies to intrude on the privacy of Americans, and a requirement that the DCI clear sensitive intelligence collection operations with the NSC and present the council with an annual review of those activities. Regular NSC review may dull the effectiveness of intelligence operations, especially those involving high risk but also high payoff. Since NSC members are not as familiar with intelligence operations as the director, sometimes they do not appreciate the potential benefits of high-risk operations, especially when the benefits may be realized only in the long run. Timidity and parochial interests may supplant sound judgment.

There is a compensating advantage in reviewing and clearing sensitive collection operations through the NSC: It strengthens the DCI's control in an area where decisions are not black or white and where there exist enormous pressures to take high risks. Deciding which risks are worth taking is perhaps the most difficult decision a director must make. The historical record is replete with schemes that might have endangered American lives, money, and prestige with little prospect of a commensurate re-

CONTINUED

turn. Yet in general, risk taking is essential in intelligence work and must be encouraged when the potential payoff is worth it.

All techniques for collecting intelligence become compromised to some degree over time. Only constant innovation will keep the art of collection ahead of the art of counterintelligence. But innovation means trying something that has never been tried before. A brilliant and original idea may at first seem unorthodox and untenable. The director, then, must separate the wheat from the chaff among the many proposals that cross his desk. At times it is useful for the director to solicit outside advice. Like the head of any bureaucracy, he feels pressure to support his subordinates, to demonstrate his confidence in them and to encourage them to exercise initiative. If the director does not support enough innovative proposals, subordinates will stop offering them and initiative will wane.

The requirement of an NSC review provides a useful exercise for both the director and his subordinates. Those presenting the new ideas must do their homework better than they might otherwise because a rejection from the NSC is more difficult to appeal than one from the director. The requirement also forces the director, who must be able to present the scheme persuasively to an outside review board, to think the proposal through rigorously. The line between acceptable and unacceptable risks is a fine one. To determine what risks are acceptable, the DCI must look beyond the short-term success or failure of an isolated intelligence operation to the long-term effect on U.S. foreign policy if the operation fails. An example of this distinction is the question of spying on allies. The United States had to balance the potential value of information it could gain by, for example, spying on the regime of Shah Mohammad Reza Pahlavi in Iran with the risk of damaging Iranian-American relations if the operation were exposed. In most cases, the United States deems such risks unacceptable. The filter of an NSC review helps the DCI make this kind of judgment.

The NSC review procedure used to work as follows: Each year the DCI would provide a list of the sensitive operations approved by the NSC in the past year and a second list of the next 10 most sensitive operations for which he had thought NSC approval unnecessary. If the NSC did not agree with the DCI's judgment on where he drew that line, it could instruct him to seek its approval more frequently in the future. This process also provided the DCI with a check on his subordinates' judgments of what to approve on their own and what to bring to him for approval. This is part of an important system of small checks insuring that as operations become more significant, approval and supervisory authority automatically move upward.

Interaction with the NSC can also insure that intelligence collection activities do not endanger ongoing foreign policy actions. It may be desirable, for example, to recruit an informer who can tell what the negotiators from another country will present at the next negotiating session. Yet if the informer is uncovered, the negotiations may be ruptured. The American negotiator, who participates in the NSC decision, can best judge whether the potential value of the information is worth the risks.

CIA directors learned about some operations only after they took place.

The new Reagan executive order drops the requirements both for clearing sensitive collection operations with the NSC and for conducting an annual NSC review. A new subordinate directive providing for these procedures does not require the director to submit all proposed sensitive operations to the NSC; he now has considerable discretion in deciding what to submit for review. This difference may well be simply a matter of style, insignificant in practice. But it is difficult to understand why the DCI's obligations should not be spelled out explicitly. What is worrisome is that behind these changes may lie the belief that a less rigorous process of clearance would unshackle the DCI and permit him to conduct better intelligence. If the Reagan administration believes this, it does not understand the benefits of the review process and is likely to neglect it over time with potentially serious consequences.

CONTINUED

A second type of presidential control sought to constrain intrusions into the lives of Americans. The Reagan executive order relaxes these constraints. The new order, for example, allows intelligence agencies other than the FBI to collect intelligence in the United States when significant foreign intelligence is involved; it permits physical surveillance of Americans abroad to collect significant information that cannot reasonably be obtained by other means; and it authorizes covert actions within the United States in support of foreign policy objectives as long as the actions are not intended to influence U.S. opinion. These changes are undoubtedly intended to take advantage of every opportunity for the CIA to gather useful foreign intelligence. Americans do become involved with foreigners in activities that have implications for intelligence, ranging from legal commercial relations to illegal narcotics smuggling and international terrorism. The CIA has always been authorized to inquire into such activities in an open manner—for example, by talking with travellers who have been abroad. But when Americans have preferred not to share their information, the CIA has not previously been authorized to collect that information covertly, except in very specific circumstances.

There is little evidence that spying on Americans in the United States would produce significant intelligence. And whatever intelligence is available the FBI can acquire. The FBI and the CIA already work together closely in counterintelligence work. The CIA watches foreign agents overseas; if an agent comes to the United States, the CIA hands the case over to the FBI. This concept of shared responsibility takes advantage of the best capabilities of the two agencies. The CIA is trained to operate overseas while the FBI is trained to operate in the United States where national and state laws apply. If the CIA begins to operate alongside the FBI in the United States, counterproductive competition would inevitably arise for dollars and territory; responsibility between the two agencies could be blurred; and resentment could build up over large and small bureaucratic issues. The FBI can expand its foreign intelligence collection in the United States if that seems necessary, rather than drawing the CIA into domestic work.

One other presidential control is the Intelligence Oversight Board (IOB). Instituted by the Ford executive order, the board is a three-person panel that reports directly to the president. Ford and Carter empowered it to review intelligence activities that "raise questions of legality or propriety." Anyone, including agency employees, could use this unique channel to report known or suspected wrongdoing. Reagan has considerably weakened the IOB, limiting it to advising the president on matters of legality but not matters of propriety. Yet the investigations of 1975-1976 questioned the propriety of some of the CIA's actions as much as their legality. Again, apparently an impression exists that less scrutiny will somehow result in better intelligence.

Congress's Job

Congress exercises the third major set of controls over intelligence. Since their establishment in 1976 and 1977, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence have reversed the tradition of perfunctory oversight by two or three congressional leaders who preferred not to know the ungentlemanly details of intelligence activities. Instead, the two committes have acted as aggressive and responsible overseers while at the same time providing valuable advice and guidance for the intelligence agencies.

Nonetheless, congressional oversight does present considerable dangers. To a greater extent than with executive branch oversight, the fear that information will leak may inhibit the agencies from taking risks. The danger of leaks is particularly high because the committees are larger than necessary; sensitive material cannot be restricted to only a few committee members. Moreover, secrecy goes against the grain of most politicians. And even with the best of intentions, it is seldom easy to keep classified information separated in one's mind from unclassified information. Consequently, although the committee members seem to realize the need for security and have a good record of preserving secrecy, the requirement of dis-

CONTINUED

closing information to Congress inhibits intelligence officers. In particular, the intelligence agencies fear leaks about highly controversial activities such as plans for covert action to influence political events in a foreign country.

The other danger of congressional oversight comes from the impulse of congressional committees to manage rather than just oversee. The distinction is easily blurred over such issues as whether the intelligence committees must always be informed of covert actions before they take place. It is not the job of Congress to dictate how the president should exercise his executive authorities, which include the use of covert action. It is, however, Congress's job to judge how well the president has used his authority in the past and, if necessary, to enact legislation that enlarges or limits that authority. This distinction is central to the constitutional balance of powers.

These dangers notwithstanding, congressional oversight strengthens intelligence capabilities. To a large degree, the widespread impression that congressional oversight has hobbled intelligence can be attributed to the 1980 battle over modifying the Hughes-Ryan amendment to the Foreign Assistance Act. This amendment, passed originally in 1974, required that the president report all covert actions to "the appropriate committees of Congress." Congress interpreted this to include the appropriations, armed services, intelligence, and foreign affairs committees in both the House and Senate. This interpretation allowed far too much disclosure, although sensitive covert actions constitute only a relatively small portion of the work of the intelligence community. The publicity surrounding the debate to repeal the amendment led the public to believe that all intelligence secrets were shared with the eight congressional committees and that as a result U.S. intelligence was crippled.

But the Hughes-Ryan amendment was modified in 1980. Now the president reports intelligence information to the Congress's two select intelligence committees. The change has not weakened congressional oversight since the select committees draw some of their membership from the other six committees that previously received intelligence information. Intelligence officials no longer have to respond to questions from other committees regarding how intelligence was gathered or whether covert actions are taking place. Such questions fall under the jurisdiction of the select committees. The members of these two committees understand intelligence matters better than do other congressmen; the former can cite this expertise to generate vital support among their colleagues when needed.

Perhaps the least recognized benefit of congressional oversight is that it can strengthen the control of the DCI. Directors have sometimes uncovered situations where their orders had been overlooked or ignored. While in the past some subordinates may have sought to hold back information from the DCI, today they know they may be called to testify before Congress where they would face the choice of disclosure or perjury. Few intelligence officials would care to explain why the director had to learn from a congressional hearing what he should have learned from his staff. There has been no evidence of deliberate withholding of information since the Ford executive order established the emphasis on checks and controls; still, inhibiting pressure from Congress in this area benefits everyone.

An impression exists that less scrutiny will somehow result in better intelligence.

Finally, all intelligence officials who testify before the congressional intelligence committees benefit from the exchange. Like any specialists, intelligence officers can become too narrow in their outlook. Past mistakes have frequently resulted from insularity and from an absorbing dedication to getting the job done. The members of the two intelligence committees are detached enough from the intelligence process to offer a valuable perspective.

On balance, congressional oversight is beneficial. The Ford and Carter executive orders acknowledged this by designating the DCI the intelligence community's spokesman to Congress. The Reagan executive order, however, includes no such designation. In addition, the

CONTINUED

CIA's congressional liaison office has been downgraded. If the Reagan administration places less emphasis on congressional oversight and if an attitude develops that congressional oversight hobbles intelligence, Congress could lose its enthusiasm for playing this vital role. Politicians receive little thanks for membership on a committee whose actions are largely secret. So far, members on both committees have been conscientious and interested in their work. It is important to maintain this high level of congressional involvement by assuring present and future committee members that the executive branch values their role.

The Safe Course

The fourth type of controls are those exercised by the public. They go to the heart of the conflict between secrecy and open democracy. These controls are certainly the most controversial and the least understood. The Reagan administration has eliminated the provision of previous executive orders making the DCI the intelligence community's spokesman to the media. It has also drastically curtailed the release of unclassified intelligence reports to the public. Such attempts to hide intelligence activities from the public or simply to ignore the public are undesirable. They deprive Americans of a valuable source of information on national issues without good reason and deprive the intelligence community of a valuable source of outside stimulus and dialogue.

Many of the intelligence community's analyses are, or can be, declassified. Releasing them to the public can contribute to a well-informed citizenry. Two arguments are often made against providing sanitized analyses to the public. One is that preparing information for the public involves a significant additional burden for analysts, detracting from their ability to do their primary job of providing classified intelligence to the executive branch. This argument is spurious. Intelligence officials can sanitize most reports of interest to the public with minimal deletions and editing. And distribution is handled by other agencies.

The other argument, though not compelling, is more reasonable: It is difficult to determine what should be released. On the one hand, if intelligence information supports an administration's policy, it will be criticized as slanted to that purpose. On the other hand, if information appears to undercut policy, the administration will not appreciate its release. Good policy should be able to withstand objective criticism. But sometimes difficult situations will arise when the analysis that supports the current policy cannot be declassified while the analysis that undercuts the policy can.

One answer is to take no risks and publish nothing. This approach, however, is clearly unacceptable. The Defense and State departments continually publish intelligence analyses and information. Even with the purest intentions, there is a danger that these departments will release only selective information favoring their policy objectives. A better answer is for the DCI to take the initiative by releasing whatever will be useful to the public. The director should not let himself be pressured into supporting administration policy or intimidated into withholding information when policy makers do not like his news. In 1977 the CIA published an intelligence estimate on the world energy situation. Even though the CIA had begun preparing the estimate well before the Carter administration took office, we were criticized for supporting the president's energy program. Since it was released, that estimate has provided a valuable reference point for the public. Similarly, in 1978 we published an appraisal of the Polish economy showing that Poland was a potential credit risk. This report enraged policy makers who at the time were then encouraging investment in Poland. Today some bankers wish they had read the report more carefully.

The greatest payoff from public release lies in the area of economic intelligence. The U.S. business community, facing intense competition from foreign producers, can greatly benefit from intelligence information on trends in research and production, pricing mechanisms, and other areas. There is little doubt that other nations use their intelligence capabilities to support their international businesses; it is shortsighted for the United States not to do the same.

The past six years have witnessed major ex-

CONTINUED

perimentation and change in the U.S. intelligence community. It has shifted away from an environment of maximum secrecy and begun to address the inherent problem of secrecy in a democracy. No change of such proportions comes easily to a large bureaucracy where traditions run deep and dialogue is constrained. It is no surprise, therefore, that some real damage to U.S. intelligence capabilities occurred during this transitional period.

Without a charter defining its mandate, the CIA cannot resist pressure from an administration to undertake potentially questionable activities.

Three significant causes of damage arose: a wave of public criticism, numerous leaks of security information, and some excessively detailed and restrictive procedures for conducting intelligence operations. Harsh public criticism followed the revelations of the Rockefeller Commission and of the investigative committees led by then Senator Frank Church (D.-Idaho) and then Representative Otis Pike (D.-New York). The criticism fed the media's post-Watergate appetite to uncover malfeasance in government. The impact of this criticism on the CIA has generally been portrayed as a blow to morale. In the long term, however, that effect was minor. The more serious damage was to diminish enthusiasm within the agency for taking risks. The vast majority of intelligence professionals was unaware of the reported transgressions when they were occurring. In response to public criticism, these officials began avoiding activities that might expose the agency to further censure. Officers in the field feared punishment if they accepted risks and failed, or if they undertook what might later be judged the wrong risks. Because of a conscientious desire to protect the CIA, intelligence officers often chose the safe course. The CIA as a whole retrenched its activities lest it do anything that would bring on more criticism.

Fortunately, by late 1978 the media's eagerness to criticize the CIA began to diminish. At the same time, the public attitude toward national defense and intelligence was becoming more supportive. For the moment the nightmare of the mid-1970s seems over. The new concern, however, is whether the Reagan administration, by loosening controls on intrusions into the lives of Americans, risks damaging the public confidence that the intelligence community has earned over the past few years.

Leaks of security information were the second cause of damage during the 1970s. These leaks have generated an impression that U.S. intelligence agencies cannot be trusted with sensitive information. Since Watergate and Vietnam, American society has virtually enshrined the so-called whistle blowers as heroes. Some of them may have done great service for their country. But others are simply self-serving individuals promoting their own special causes. Fortunately, while several leaks about actual espionage in the past six or seven years have involved serious breaches of security, very little information harmful to U.S. intelligence interests has been revealed. In short, the impression that intelligence agencies cannot keep secrets is highly exaggerated.

The problem of leaks has another dimension: the many books and pamphlets written by insiders in recent years. These authors include former CIA professionals who write about their past experiences and irresponsible individuals who deliberately disclose classified information. The writings of former professionals usually complain about perceived problems, past and present. The Supreme Court decision in the case of *Snepp* v. *United States* has put these people on notice that they must fulfill their contractual obligation to permit the CIA to review their manuscripts for legitimately classified information. Frank Snepp, the CIA's chief strategy analyst in Saigon from 1973 to 1975, published a book in 1978 entitled *Decent Interval* recounting the last years of U.S. involvement in the Vietnam war. The Court voted to deprive Snepp of the profits from his book about intelligence experiences not because he criticized the CIA but because he did not fulfill the contract he signed of his own volition to submit his manuscript for a security review prior to publication.

CONTINUED

The CIA has a responsibility to protect classified information; therefore it must insist on controlling the dissemination of security information acquired while individuals are in its employ. Others who cannot be held to a contractual obligation, either because they are beyond the reach of U.S. law enforcement agencies or because they never worked in the CIA, still pose a problem. The most notable example is Philip Agee, who has published two books exposing CIA agents and activities.

The third cause of damage was a set of detailed procedures created in recent years to implement the provisions of executive orders. In some cases these established tighter controls than the order required. Overseas operations to detect the flow of narcotics to the United States, for example, were curtailed if intelligence officers had to invade the privacy of a known American smuggler. The new Reagan executive order revises these procedures and creates a better balance between the DCI and the attorney general by having them jointly set the rules and procedures for intelligence agencies. Although the attorney general plays a key role in controlling and regulating intelligence, it is unwise to give him final authority over operating procedures. Since the attorney general's office is not a principal user of foreign intelligence, it has an institutional inclination to tighten controls and to curtail intelligence activity rather than to let the CIA take risks.

A New Charter

Thus the United States has made substantial progress in removing the obstacles inhibiting intelligence capabilities in recent years. Three areas, however, still require attention. First, the public must continue to recognize the importance of good intelligence. Of course, the intelligence community has to merit public support by avoiding the mistakes of the past and by providing the anticipatory and objective reporting that the nation needs. The intelligence agencies can further help the public appreciate good intelligence by providing it with a greater understanding of their unclassified activities.

Second, the United States should enforce legislation to curb people like Agee who publish the names of U.S. intelligence agents. The bill passed by Congress in June 1982 making it a crime to identify covert agents represents a major step in the right direction. The media reflexively oppose any limits on what can be written or said; but this represents a parochial and unrealistic viewpoint. The new legislation can protect U.S. intelligence officers without jeopardizing the fundamental freedom of the press.

Third, Congress can prevent the pendulum from swinging too far in the direction of letting the CIA spy on Americans and relaxing executive and congressional oversight. Congress can insure continuing awareness of the value of controls and accountability by keeping its two intelligence committees alert and active. These committees must maintain a relationship with the intelligence agencies that is supportive but at the same time adversarial. Each committee, for example, might probe into one area of intelligence activity each year. The uncertainty about the subject of the next probe would reinforce the idea of accountability.

Congress can also decide whether the new rules on intrusions into American lives reflect the national consensus on the balance between good intelligence and the right of privacy. Since the problems must be discussed publicly and the American people must have a voice in the decision, Congress is better suited to resolve this issue than the president. There are, of course, some considerations that cannot be discussed in public and some assessments that only those with a good understanding of the intelligence profession can make; these can be handled by the two congressional intelligence committees, whose members are well qualified to act as surrogates for the public.

The two committees should also work to codify the national consensus on intelligence into a basic charter for the intelligence community. The legal charter that was adopted in 1949 is now badly outdated; it does not describe the constitution or the operations of the intelligence community as it exists today. That is why U.S. intelligence activities are governed by executive orders that each administration can alter or discard. A congressional charter setting specific guidelines on how the govern-

CONTINUED

ment wants the CIA to operate should come first. Periodic changes in executive orders are inevitable. But a permanent charter can insulate the intelligence community from the seasonal vogues of domestic politics. Without a charter defining its mandate, the CIA cannot resist pressure from an administration to undertake potentially questionable activities.

During 1979-1980 the Senate Select Committee on Intelligence and the Carter administration worked assiduously to develop a charter satisfactory to both branches. There were numerous thorny issues such as whether to preclude the CIA's use of newsmen to collect intelligence. While we came close to agreeing on a reasonable charter, time ran out before we could resolve every difficult issue. A new attempt to devise a charter does risk opening another broad examination of intelligence. Yet the climate in the country and in Congress is quite different today. Prospects for a balanced judgment are considerably better than they were three years ago. And Congress could minimize the risks of reopening the charter issue by establishing in advance that the major issue to resolve is the degree of intrusion the public must accept. Instead of trying to construct a list of activities that the CIA would not be allowed to conduct, Congress should devise a set of positive guidelines on what the CIA should do and how it should act.

In taking on the difficult task of devising a new charter, Congress should understand the great danger the Reagan administration's new rules have created for U.S. intelligence capabilities. The United States cannot afford to ignore once again the inherent conflict between secrecy and democracy. A consistent and stable system of controls and oversight for intelligence is needed, for the sake of intelligence professionals who have been trying to do their jobs while never knowing exactly what they were authorized to do, and for the sake of the American people who discovered a few years ago that their blind trust in the intelligence community had been unwise. If the CIA ever again were to overstep its bounds and violate the rights of Americans and if another wave of intense public criticism were to follow, the agency could be mortally wounded.