

Remarks at International Society of Barristers

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Thank you, Fred.* I appreciate all that you said. Fred very carefully distanced himself from our own association, and I want to acknowledge it because it has meant a lot to me. We were in law school together. When I became a United States Attorney, I found that Fred was in the United States Attorney's Office, having served with distinction for about five years as a Special Agent of the FBI. He became my first assistant and, ultimately, although we didn't get to practice law together, when I went to the bench Fred joined my old firm as a partner. He's a very dear friend and one that I always look forward to seeing.

If I may, I'd like to introduce Bill Baker, who came with me from the FBI and now heads the Public Affairs Office of the Central Intelligence Agency. Bill, could you please stand up? I can't think of anything more challenging than trying to represent an agency that consistently says "no comment" to the press. But he does it.

I was really pleased to see that you had my good friend Pete Fay on your program and also Tony Kennedy, two of the real stars in the judicial system.**

It's fun to be back with you again. This membership has a reputation not only in the art of trial lawyering but also in the art of selecting a great site for an annual meeting. I hope you will someday invite me back again.

Those of you who have been following the events around the world know that Gorbachev is keeping us very, very busy. He somehow has mastered the art of public relations. As Larry Eagleburger said in his testimony yesterday, Gorbachev is able to control propaganda better than we are, and he's able to get his ideas out more quickly. It's still a challenge for President Bush—as it was for President Reagan—to deal with these constant initiatives which are captivating and hypnotizing a good part of central Europe. I saw the article in this morning's *New York Times* noting that Gorbachev is making new demands for agricultural reforms. These are important issues, and they emphasize the central role that he is playing now on the world screen. The words perestroika and glasnost are clearly words that have become popular as a result of Gorbachev and his activities. In fact, we have begun collecting stories about both perestroika and glasnost, and I will tell you only one of them.

* Frederick Mayer, member of the Society of Barristers Board of Governors.

** Peter T. Fay, Judge, United States Court of Appeals, Eleventh Circuit; Anthony M. Kennedy, Judge, United States Supreme Court.

According to this story, Gorbachev sent a representative out into the Urals to check on the progress of perestroika. The man went to a village and asked to see the mayor. He talked around the subject for a while, and then he said, "How is perestroika getting along?" And the mayor said, "We like perestroika; we like it very much." And the representative said, "Tell me, do you have any television sets here in the village?" And the mayor said, "Oh yes, we have television sets here. We have television sets, I believe, in every hut in the hamlet. In fact, in some huts there are two or three television sets." "Tell me about refrigerators." "Oh yes, we have plenty of refrigerators here in this village." The representative said, "By the way, do you know who I am?" And the mayor said, "Of course I know who you are. Who else but a CIA agent would come into a village with no electricity and ask questions like that?"

The last time I had the pleasure of talking to you was in Phoenix in 1982, when I was Director of the FBI. In that speech I discussed—from a law enforcement perspective—the balance that must be maintained between each citizen's right to be let alone and the right to be kept safe and free. When I spoke at the American Bar Association's annual meeting in Toronto last August, I addressed this topic from my vantage point at CIA. And today, in the context of recent events, I would like 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 operating against this country worldwide, and the threats posed by international terrorists. Our activities in these and other areas are governed by Executive Order 12333, which specifies 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 observing 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 Permanent Select Committee on Intelligence on any involvement with U.S. persons, 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, indeed, for the American people.

It may surprise you to know that last year we provided over 1,000 briefings to the Congress. I believe we have formed an effective partnership with Congress that has and will continue to contribute to our national security.

The first of the issues that I mentioned, counterintelligence, is critical to our national security and is clearly a legitimate intelligence objective. Earlier this month, I spoke to the Senate Select Committee on Intelligence about the counterintelligence and security issues we now face. An effective and comprehensive counterintelligence program has never been more important to our nation, because the threat against us—despite perestroika—has grown. The number of hostile operations against us and our allies has certainly increased, and the number of intelligence services involved in such operations has also grown.

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

Although many countries engage in intelligence operations against the United States, I think it is no surprise to you that the Soviet intelligence services—the KGB and the military service, the GRU—represent by far the most significant intelligence threats in terms of size, ability, and intent to act against U.S. interests both at home and abroad. And despite the economic and political changes Gorbachev is attempting to make, we have no evidence at all that the force of the Soviet intelligence effort has in any way abated. Just last week, the State Department ordered the expulsion of a Soviet diplomat on charges that he sought illegally to obtain documents showing how our government protects secrets in computer systems. It's a nice way of saying that he was caught spying. You probably read this morning that the Soviets ordered the removal of one of our defense attaches in Moscow. This act was plain retaliation; there was no basis at all for doing it.

Because we can protect ourselves best if we understand what our adversary wants, I think it's worth considering just what is being collected. This is the important thing for those on the collection side, because counterintelligence tells

us what our adversaries believe they need to know, and that tells us something about their strengths and their weaknesses. 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, U.S. intelligence sources and methods, and advanced dual-use technology—the kind of technology that is civilian in nature but can be adapted to military purposes. The Soviets also target NATO intensively, partly as a means to obtain U.S. foreign policy and military information, and I think also because NATO has historically been more vulnerable and easier to penetrate because of the multilateral activities taking place there.

And the methods employed by the Soviets to get the information they want are becoming more sophisticated. We expect to see greater Soviet efforts to recruit U.S. personnel abroad, and you've read about some of that already. We expect to see increasing use of third countries for clandestine meetings with American agents—with its successful counterintelligence work in the United States, the FBI has driven many of those meetings to Mexico and also to Vienna. We also expect to see greater efforts to penetrate allied governments that might be privy to U.S. secrets and greater emphasis on attempting to exploit the intelligence collection capabilities of the Warsaw Pact allies. Many of the cases that you've read about haven't involved the Soviets spying. They have been about Soviet Bloc intelligence services doing the work for the Soviets. That was certainly the case on the West Coast when efforts were being made to penetrate Hughes Aircraft.

Soviet efforts are formidable, but I want to take this opportunity to dispute allegations in a recently published book, also covered extensively in *TIME* magazine, that the communications unit of our embassy in Moscow had been subject to electronic eavesdropping by Soviet agents. The Soviets had considerable success in the Moscow embassy, but not there. There was an implication that somehow CIA had covered up this information from the State Department. Actually, an interagency group—which included representatives of the State Department, the National Security Agency, the FBI, and the CIA—conducted the investigation and found no evidence of hostile penetration of this very sensitive equipment. It was all taken apart and carefully analyzed—this is not to say that there may not be some microphone hidden somewhere in that room; they've certainly been successful in doing that in other places. But the equipment itself that transmits the communications shows no evidence at all of penetration. We are currently working with the State Department to protect all of our embassies from technical penetration.

The Soviet Union, of course, is by no means the only country trying to obtain our secrets. Intelligence and security services throughout the world have increased their efforts to penetrate our facilities. We have noted as well that

several African states, among others, are cooperating with Soviet, East European, Cuban, and Libyan services, and we are monitoring these activities closely.

I think I should emphasize, though, that 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. The arrest of former Army Master Sergeant Clyde Lee Conrad in West Germany last August demonstrated the strength of the Community pulling together. The CIA, the FBI, and the Department of Justice worked very closely with the Army during this long and extensive investigation of Conrad. He is now awaiting trial in Germany on charges of spying for the Soviets and the Hungarians.

We had similar cooperation in the case of Army Warrant Officer James W. Hall, who was just recently sentenced to 40 years in prison for providing information about military operations and technical collection activities to the Soviets and the East Germans.

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

The FBI's main strategy has been to "spiderweb" known or suspected intelligence operatives. And this is an important approach. It's not one of suspecting and following and watching American citizens who have access to secrets, but one of trying to make it difficult enough, if not impossible, for that rare traitor to make contact with a Soviet intelligence officer without our knowing about it. And so we focus on those who would target us. That's called "spiderwebbing." 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 the hostile agents and our citizens. Those of you who are familiar with FISA, as we call it, will recall that there's a much higher threshold required to direct electronic surveillance against U.S. persons. The "spiderweb" system is working and that is one of the reasons why so many of the "meets" are now taking place outside of the United States. This puts an extra burden on hostile intelligence services, and it also weakens the resolve of those who want to sell secrets, because they have to go through that extra risk and trouble.

To provide the information that will allow enforcement agencies to protect our citizens, we have bolstered counterintelligence efforts both at home and abroad. For the CIA, such efforts include collecting information outside the United

States on hostile intelligence activities directed against Americans. We adhere to the laws and regulations for operations outside the United States that involve U.S. citizens.

To improve the effectiveness of counterintelligence activities both within the CIA and the Intelligence Community, I created a new Counterintelligence Center last April. 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. The Counterintelligence Center not only provides analysis of hostile intelligence threats and past espionage cases, it also provides guidance for our people going abroad.

The CIA is authorized to collect information on another major concern—the activities of international terrorists.

Some 15 years ago, while I was sitting on the Eighth 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 at that time, remarkably enough, had been challenged as a gross intrusion into personal privacy. I think I even ruminated that if under those circumstances Americans should suddenly find that all checkpoints at airports had been taken away, there would probably be a cry of outrage. It's that balancing that we have to deal with in determining the minimum amount of intrusion that is appropriate to accomplish significant security gains. Subsequent to that opinion, a rash of hijackings brought home the reality of the terrorist threat and the need to balance individual privacy interests with legitimate security interests. The bombing of Pan Am Flight 103 last December, which killed 270 people, was a tragic reminder of that threat.

During the past four years, there have been nearly 300 cases in which some form of counterterrorist actions—efforts to prevent terrorism—were taken on the basis of intelligence information collected and disseminated by the Central Intelligence Agency. We can't say, of course, in all of those cases that the information or measures taken were the sole reason for the preventions, but they clearly had a role and this is important to us.

In one of these cases, 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 we told the diplomat about the report, he confirmed that he was to have such a meeting. At the last minute, he arranged for the meeting to be held elsewhere, a prudent measure that may have saved 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, including the Latin American countries of Colombia, Peru, and El Salvador. In each case, the embassy, upon receiving this kind of report, increased its security. On several occasions, we've had source information coming back to us that the increased security persuaded the terrorist group to cancel its plans to attack. I've observed that terrorists want to do these things the easy way. They will back off and wait for another occasion if they think the challenge has become too difficult. So, we want to keep them thinking that it is too difficult.

But in spite of the success we've had, in 1988 the property and citizens of some 70 nations were the victims or targets of international terrorist attacks—attacks that killed 658 people and wounded more than 1,100. There were 856 attacks in 1988 and 835 in 1987. And I think that we should keep in mind that about one of five terrorist attacks last year was aimed at United States citizens, United States property, or United States institutions around the world.

The CIA collects valuable information about terrorist groups and cooperates with other U.S. government agencies to use that information to check and minimize the capabilities of terrorist organizations. We learned, for example, that the Palestinian terrorist organization, 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. We used this information. The State Department delivered a series of diplomatic demarches to the governments of these countries expressing our concern about the presence of these businesses and, as a result, the companies were shut down and one of the means of financing terrorism was dried up.

It's our job to keep track of the movements of wanted terrorists when we have an outstanding warrant for the arrest of terrorist individuals. The Agency can make any information that we have available to judicial authorities so that they can locate and apprehend them. In some cases, the United States asks for extradition. Sometimes we're successful and sometimes we're not. There's still a political aspect to terrorist law enforcement that keeps some countries, for a variety of reasons, just a little reluctant to be full players in the system. But in a case such as Fawaz Yunis, who was wanted for the June 1985 hijacking of a Jordanian airliner which carried United States citizens, the information the Agency was able to supply enabled the FBI to arrest Yunis in the Mediterranean Ocean and bring him to trial.

We also share information with foreign governments on names of potential terrorists, including the aliases that they used. This is an important and evolving computer base that will be extremely helpful. Information has also been used to

deny entry and safe haven to known terrorists and their associates in various parts of the world. Finally, after years of effort in which I have participated on both the law enforcement and the intelligence side, countries are coming to the view that we have always held, as have the British, that denying sanctuary is one of the keys to reducing the threat of terrorism. It simply doesn't work to offer a "leave us alone and we'll leave you alone" exchange.

I have been trying to make the point that effective counterintelligence and counterterrorism programs are critical to our national security. And they are certainly critical to the safety of our citizens. But I'd like to emphasize as well that how the CIA and the 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 who deal with issues that affect the constitutional rights of American citizens know what our laws are and what our procedures are and that full compliance is expected. My Office of General Counsel also works closely with the Office of Intelligence Policy and Review at the Department of Justice in dealing with 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 we want to 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 that are imposed to assure 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 important 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 United States Constitution with its Bill of Rights 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—indeed the iron determination—to see that our laws are scrupulously followed.

I've been at the CIA for nearly two years now, and during that time, I've gotten to know many of our dedicated people, both here and overseas. These are people who are risk takers, but are not risk seekers. People who are not particularly interested in fame or fortune, but who see in our work an opportunity to pursue their highest aspirations for a safer and a better world.

When I consider their commitment and integrity, I often come back to the words of my old friend, Sir William Stephenson, who died earlier this year at the age of 93. 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."

It seems to me that a nation dedicated to the rule of law can protect itself and its heritage in no other way, and that is the way we are trying to serve you.