

The Uses (and Abuses) of Secret Power

Harry Howe Ransom

I begin, with apologies, by mentioning two of my own books: *Can American Democracy Survive Cold War?* (1963) and *The Intelligence Establishment* (1970). The titles say much about the development of a debate that promises to be with us for some time.

The first title/question posed the dilemma of an American democracy facing a perceived threat (perceived at least by the foreign policy elite) to national security. An assumed monolithic "world communism" provoked the creation of a vast arsenal of foreign policy instruments, including espionage and covert political operations overseas. Managing this mammoth security apparatus required highly centralized control. Indeed, at times it required deception, lying, and deep secrecy. At the same time, of course, democratic government required information and disclosure if the people's representatives, especially in Congress, were to play a meaningful role in government. The problem is that the pursuit of national security threatens what we are trying to protect, namely, American democracy.

American wars have always required compromises with democratic principles. If truth is the first casualty of war, perhaps the second is the legislature's role in policy-making. As long as substantial—even if manipulated—consensus prevails about the nature of the threat, and as long as the methods for preserving national security have general support, widespread secrecy is tolerated. But today perceptions of the threat have been sharply altered, the national security consensus is evaporating, and Americans find themselves debating the merits of a huge national defense system that includes secrecy and covert operations. The growing consensus is that the secret parts of the cold war apparatus need more rigorous supervision. Recent

events, including Watergate, have made Americans exceedingly suspicious that the invocation of "national security" is aimed at hiding narrow, partisan interests.

The cold war apparatus would soon be perceived as "The Intelligence Establishment." This establishment included the massive and secret intelligence bureaucracy that grew up after World War II. The Central Intelligence Agency, created by Congress in 1947, is one part of the federal intelligence bureaucracy that has come to include some half dozen major and a dozen minor intelligence units. The total cost exceeds \$6 billion annually, with an estimated 200,000 employees. The term "establishment" implies that these agencies wield great influence but are not accountable by normal democratic standards.

Within the bureaucracy, of course, there are elaborate procedures of accountability. The operating principles are reflected in statements by two important figures in the system, one a director of Central Intelligence and the other a senior senator responsible for "watchdogging" the intelligence system. Richard M. Helms told newspaper editors in 1971: "The nation must, to a degree, take it on faith that we, too, are honorable men devoted to her service." He went on to argue that necessary secrecy precluded proof of honor. John Stennis, chairman of the Senate Armed Services Subcommittee on Intelligence, put it another way: "You have to make up your mind that you are going to have an intelligence agency and protect it as such and shut your eyes and take what is coming."

These operating principles and corollary assumptions have dominated the operations of the intelligence system for over a quarter of a century. They might be called the "on faith" and "close your eyes" principles. Put differently: Since the ends justify the means, let us not question, or even know about, the means.

We now know that the cold war intelligence bureaucracies have been used on occasion in a manner resembling their use in a police state; weapons of protection against external enemies have been turned

HARRY HOWE RANSOM, professor of political science at Vanderbilt University, is currently Fellow of the Woodrow Wilson International Center for Scholars in Washington.

inward, placing the Bill of Rights in jeopardy. It is past time to examine the assumptions behind such unhappy consequences.

Assumption One: The nation needs a Central Intelligence Agency.

One of the "lessons" of World War II was that the nation was surprised at Pearl Harbor primarily because "knowable" information was not at the right place at the right time. Thus the need for a central intelligence unit. There was bitter controversy from the start about the nature, functions, and organization of the new unit. Some feared the creation of a peacetime operation that smacked of totalitarian methods. They sensed that centralized intelligence would give the Chief Executive a crucial upper hand over Congress and public opinion. Others, in the military and the Department of State, feared that intelligence was being transferred from their domain, with the result that their peculiar needs would be neglected. The dominant motive behind the creation of the CIA was, I believe, the feeling that the future military strength of the United States required that the President be constantly confronted with the power "realities" in the world. The idea of central intelligence was valid, holding the promise of producing objective, timely information. The scheme went off the track when it included undertaking operational assignments. The CIA became, particularly after 1949, a prime agency of the cold war. By 1950 and the Korean War America was again mobilized and its foreign policy increasingly militarized. The disparate functions of intelligence analysis, espionage, and clandestine political operations became dangerously intermixed. As Harry Truman described it (speaking informally in the 1961-62 period to Merle Miller): "...those fellows in the CIA don't just report on wars and the like, they go out and make their own, and there's nobody to keep track of what they're up to. They spend billions of dollars stirring up trouble so they'll *have* something to report on." A caricature, no doubt, but the problem was and is real. In sum, the first assumption is valid, but the bureaucratic momentum propelling the system must be slowed and pointed in another direction.

Assumption Two: The CIA can be used with surgically precise discretion and properly controlled.

Given the CIA's disparate functions (espionage and political action in addition to intelligence analysis), most of which are carried on in deep secrecy, this assumption must be challenged. While elaborate control procedures have evolved within the structure, secret intelligence systems have a life of their own beyond the purview of Congress and even, sometimes, of the President. The tightest possible security is applied by a universal "need to know" rule, and by a highly compartmentalized structure. Sometimes the "need to

know" rule is applied to keep responsible policy-makers pure.

Even information-gathering operations can have unintended and counterproductive results. One thinks of the U-2 shot down over Russia in May, 1960, or of the capture of the USS *Pueblo* by North Korea, or of straying reconnaissance aircraft over China. These illustrate the kinds of problems that can be caused by intelligence missions. Were presumed benefits worth the costs, especially the diplomatic costs, exacted in these instances?

Covert political operations, on the other hand, are inherently difficult to control. If the CIA ships an agent off to Brazil with a satchel of money for use in parliamentary elections, he is usually instructed not to report because of danger of disclosure. At some point in such operations controls become incompatible with the doctrines of deep cover.

The assumption that clandestine operations can be kept under democratic controls hits a logical barrier. Democracy demands disclosure. In addition, covert operations of this sort are indistinguishable from acts of war, and war is destructive of democratic values.

Assumption Three: America needs to fight fire with fire.

Since the Russians, spearheading a revolutionary doctrine, are aiming at world domination, and since they engage in all forms of covert political action, the United States must in self-defense also apply these secret weapons to maintain a power balance. That has been the argument for almost three decades. In the words of a former Secretary of State: "a desperate struggle is going on in the back alleys of world politics," and we must join the fray.

Beginning in 1948 agents of the United States Government began selective attempts to manipulate the internal politics of other nations. This was done on the assumption, generally valid, that America's principal adversary was attempting in various parts of the world to, in Lenin's phrase, "give history a push." The United States, first under Truman and then under all succeeding Presidents, determined to push the other way, aping, in the process, the devious methods of the adversary. American agents began to subsidize secretly foreign labor unions, newspapers, and particular wings of political parties. Soon they were involved in the widest range of covert activities and spending hundreds of millions of dollars each year in foreign areas. Governments fell, occasionally political leaders were murdered in the backlash, and the full range of dirty tricks—forged documents, "black" propaganda, bribery—were applied to containing communism.

True, this array of secret instruments, secretly applied, was often reactive to what the other side was doing. Sometimes we were simply fighting fire with fire. But covert operations escalated as each side reacted to the behavior—real or imagined—of the other. As in the arms race, were each side to stand

back and assess objectively the costs and benefits it would probably be discovered that neither has gained much additional security. Indeed, covert operations may have simply made problems worse and prevented accommodations that more truly serve security interests. One problem is that the nature of the threat is defined by the same unit of government that is to act against the threat. The opportunities for bureaucratic self-serving are endless. The risks of provoking an ultimate war are frightening.

Assumption Four: A super-secret elite committee can adequately supervise covert political operations.

Those who defend the secret system point to the existence of a "Forty Committee," which, in the President's name, supervises overseas CIA covert political operations. Mr. Ford stated in a September, 1974, press conference: "The Forty Committee...reviews every covert operation undertaken by our Government." According to Henry Kissinger, a control committee of this sort "has existed under various names with this basic composition ever since 1948."

The assumption is that a group of faceless men, operating in supersecrecy, can in effect determine the fate of a President Diem or Allende, an Iranian Shah or a Caribbean dictator, and do all this in an accountable and responsible manner within the American governmental scheme. If their secret ventures are "successful," only a very few will know about it; if they fail, there may be some public disclosure, but the full facts rarely emerge and officials are rarely called to account. The Congressional role in all of this is entirely *post facto*. Put another way, acts that may be just short of war, and that certainly constitute aggressive behavior, are commissioned by a group of four or five officials representing the huge security bureaucracies. The CIA is represented, the Pentagon doubly represented, by the Defense Under-Secretary and the Joint Chiefs of Staff Chairman, while the State Department and the President's National Security Advisor are combined in one person, Henry Kissinger.

Proposals for covert political operations may be generated from the Presidential office or from lower levels in the bureaucracy, such as CIA, State, or Pentagon. Proposals over the years have varied, from minor projects, such as financial aid to foreign labor unions, newspapers, or political party factions, to large-scale paramilitary operations, such as a secret war in Laos or Bay of Pigs.

Even granting the legitimacy of covert operations—a debatable concession—it is doubtful that a small group of the government's top security executives, preoccupied with managing vast bureaucratic empires, can adequately analyze proposals for covert operations and give sound judgments of approval or disapproval. Here, for example, are some of the basic factors that must be considered: costs in resources and manpower of a proposed covert operation, an estimate of chances

of success, an estimate of the probabilities of disclosure, a calculation of the damage that exposure would cause, and a net estimate of all of these factors. An additional problem is that most of the time the organization proposing the operation is also supplying the information on which calculations will be based.

The "Forty Committee" concept is the antithesis of accountable decision-making; it is a closed system, appropriate perhaps for wartime, but unacceptable as a permanent procedure if democratic values are to be nourished and sustained.

Assumption Five: Our domestic turmoils of the past decade were, at least in part, instigated from abroad, making it necessary to spy on large numbers of American citizens.

The story in this connection is still unfolding. Available information points to a finding that no significant evidence supported the fears of Presidents Johnson and Nixon that foreign, presumably Communist, sources were influencing the antiwar movement at home with the riots, bombings, and campus unrest associated with parts of that movement.

America's ideological adversaries no doubt took pleasure in America's turmoil resulting from what many of them viewed as "imperialist" excesses. Doubtless our adversaries in North Vietnam stood to gain from the political divisiveness in America caused by the war in Southeast Asia. Nonetheless, there was a failure in domestic intelligence about American public opinion if the leadership thought domestic unrest was caused by foreign stimulus or conspiracy. Indeed, the National Advisory Commission on Civil Disorders, created by President Johnson, concluded that there was no foreign conspiracy behind racial riots in the United States in the late 1960's.

What happened is that the leadership became increasingly blind to domestic political realities and to the basic irrationalities in the war policies it pursued.

Assumption Six: Congress can play a significant role in making national security policy, even though it is cut off from full access to the product of the intelligence community.

The President is the undisputed chief of government for the conduct of foreign relations, but in formulating policy his Constitutional authority is shared with Congress. Congressional authority can be exercised in a meaningful way only if Congress has access to the same information about foreign affairs available to the executive branch. Clearly this has not been the case.

In 1949 Congress unwisely gave to the Director of Central Intelligence the authority to decide what information from the intelligence system would be disclosed, even to Congressional committees. Logic demands that the relevant committees of Congress, such as appropriations, armed services, and foreign affairs, should have, as a matter of routine, full access to all intelligence reports, estimates, and special studies that

are available to the executive branch. Logic notwithstanding, Congressional efforts to achieve this have failed to date. Opposition by the Intelligence Establishment has been based upon a variety of arguments.

One problem is selectivity. The argument is that the volume of intelligence "paper" is far too great to be manageable on Capitol Hill. The counterargument is that the principle of selectivity invites manipulation of Congress by the Intelligence Establishment. A second argument involves security, which allegedly cannot be protected if information is supplied to Congress and its legislative staffs. Classified information would, it is said, be quickly leaked to the press if distributed, even in limited circles, to Congress. The counterargument is that the Congress has a record with regard to security information that is no better, and no worse, than that of the executive branch. A third argument has sometimes been advanced on the basis of executive privilege. The assumption is that intelligence reports sometimes constitute special, privileged advice to the President. The counterargument is that this does not apply to intelligence estimates and reports, which are supposed to be objective descriptions of the outside world containing facts rather than advice.

Without full access to intelligence information, the Congressional role in national security policy-making is a sham. Unless Congress has such access, it cannot assume the tasks assigned to it by the Constitution, and the people have great difficulty in holding their representatives accountable. Indeed, an uninformed Congress can be as much a danger to the Republic as a Congress manipulated by an informed (or uninformed) President. More important, the principles of responsibility and accountability will be meaningless if there is an informational imbalance between President and Congress.

Assumption Seven: Congressional and press exposés will destroy or gravely damage the Central Intelligence Agency.

As of this writing, a Presidential commission is examining charges of intelligence irregularities, and two major Congressional investigations are under way. Some say all this bodes ill for the intelligence system. The Director of Central Intelligence told a friendly House appropriations subcommittee on February 20, 1975, that press charges of improper conduct by the CIA "placed American intelligence in danger." He asserted that criticism of the CIA in the news media and elsewhere had damaged relations with allied foreign intelligence organizations, endangered the lives of secret agents of the United States abroad, and adversely affected the morale within the Agency. Essential to this argument is the assumption that all of the Agency's secret activities are essential to national security and that "mistakes" or "missteps" are few and infrequent. The current mood of "exaggerations and misrepresentations of CIA's activities," said the director, "can do irreparable harm to our national intel-

ligence apparatus and, if carried to the extreme, could blindfold our country as it looks ahead."

Such an analysis assumes that the system is internally self-correcting; that a vast bureaucracy can police itself and put its own house in order; and that the welfare or even the lives of secret agents of the United States may be more important than the rights of American citizens and the protection of the Constitutional structure. The assumption that the intelligence system is such a delicate mechanism that it cannot withstand the light of day should in itself raise suspicions. It may be that secret operations are inherently incompatible with democratic government. If we must choose, let us make the choice on facts supplied from truly objective sources. The Intelligence Establishment and its leaders have too long been the sole interpreters of the nature of the threat and of the costs and benefits of maintaining the intelligence status quo.

Assumption Eight: A perpetual war of cold war—need not corrupt democratic ideals.

In wartime Americans have acquiesced in temporary dictatorships "for the duration," expecting a return to peacetime normalities at war's end. In World War II the accepted slogan was "Trust in God and General Marshall." Congress became a rubber stamp; voluntary censorship was accepted by the press; doctrines of military secrecy were pervasive, and few complained. Even a Vice President of the United States (Truman) did not have access to the secret of the Manhattan atomic bomb project until Roosevelt's sudden death made him President.

Waging war requires a strategic approach, developed in secrecy, which in turn involves a degree of deception, which in turn requires centralized management and control, which in turn requires executive domination over the legislature, which in turn dilutes the democratic idea of consent of the governed, even in its modified representative sense.

During the Civil War Lincoln suspended the writ of *habeas corpus*. Later the Supreme Court declared his action void, but it had already done its work. The war with Spain over Cuba in 1898 did not last long enough to make deep inroads into individual liberties, but the war spirit brought strong pressures on dissenters. In World War I censorship of the press was accepted, and strong pressures were brought on German-Americans and other "dissidents." This was followed by a "Red scare" in which a vigorous Attorney General did violence to the Constitutional rights of thousands. In World War II grave injustices were imposed on a large number of Americans of Japanese descent. The denial of their basic rights, in the name of "national security," was ultimately endorsed by the Supreme Court. Other executive actions constituted the "temporary dictatorship" of World War II. As Franklin D. Roosevelt put it in 1942: "When the war is won, the powers under which I act automatically revert to the

people—to whom they belong.”

These examples suggest that wars are incompatible with democratic values; that individual liberties tend to get second place after security. The onset of the cold war, beginning in earnest in 1947 and persisting to this day, has severely strained democratic values. Abetted by the technology of information collection, storage, and retrieval, such restrictive efforts as loyalty oaths, security investigations, and statutes to control Communist Party activities, crime and civil disorder have all eroded individual liberties as the nation searched for security. The assumption, then, that national security can be pursued at no cost to the very values that national security programs are designed to protect is doubtful indeed.

The Intelligence Establishment that has grown and flourished over the past quarter century symbolizes the role of a strategic élite that has, beyond the normal pluralistic controls of democratic government, shaped the nation's destiny. Although some intelligence estimates over the years may have raised questions about specific tactics—such as the bombing of North Vietnam—the Intelligence Establishment never questioned basic cold war policy. That policy derived from what John C. Donovan has described as

...the élite mind-set (and it was set) with its obsessive fear of Communist expansion, its voracious hunger for foreign markets (but not until recently in the so-called Communist world), its limited perceptions of the social revolution in the Third World (combined with a blindness or indifference to social pathologies at home), and its predisposition to rely upon military technology in shaping a global order conceived in terms of lessons derived from experience with Hitler's aggression...(*The Cold Warrior*).

For nearly thirty years a war-system approach has dominated American foreign policy thinking and has influenced the decision-making structure. When the existing National Security Council and CIA structure were proposed in 1947, a wise military man (who happened to be Secretary of State at the time) sounded a note of alarm. Marshall objected to the National Security Council being so heavily weighted with military representatives, because, as he put it in a confidential memo to the President, the direction of policy, foreign and domestic, should be dominated by the nonmilitary branches of government. Marshall was especially apprehensive about the CIA. He feared that the powers of the proposed agency are almost unlimited and need clarification. Before enactment into law in 1947, the NSC structure was revised to include only the Secretary of Defense as a statutory NSC member, but the CIA powers in the statute remained vague. Dean Acheson, who succeeded Marshall as Secretary of State, was more pointedly skeptical about the CIA. He later recalled in his memoirs: “I had the

gravest forebodings about this organization [CIA] and warned the President that, as set up, neither he, the National Security Council, nor anyone else would be in a position to know what it was doing or to control it.”

George Marshall and Dean Acheson were not just making a pitch for a predominant role for the Department of State in national security policy. They were reminding the President of the critical and logical need to keep the ends of policy in a dominant position over the means of policy, and all this in the interest of responsibility and accountability. One must fault President Truman for not fully comprehending this distinction and for approving a war structure that has endured through the years. Truman was strong in confronting General MacArthur on the issue of civilian control, but he was weak in some of the more subtle aspects of the civilian-military intelligence balance. That weakness has had far-reaching consequences.

Intelligence leaders ask us to accept “on faith” that they are honorable men, serving only the public interest. We are told, in effect, to ask them no questions as they pursue their secret deeds. But the American Constitutional system stipulates a government of laws, not of men. And a system of executive-legislative-judicial checks and balances is the only way to mitigate the corrupting influences of power and to deter the special temptations of secret power.

Major reforms are long overdue. First, the name of the CIA should be changed to FIA—Foreign Intelligence Agency. Second, the Covert Operations Division of a revamped “FIA” should be abolished, or, if convincing arguments can be made for its necessity, it should be placed elsewhere in the government. Third, Congress should create a Joint Committee on Intelligence Activities that is permanent and well staffed. This committee should redraft the statutes and charter for the entire intelligence system. Fourth, the President's Foreign Intelligence Advisory Board, a panel of about ten distinguished private citizens, should be revitalized and made up of citizens who would be constantly alert to abuses and inefficiencies in the Intelligence Establishment.

Above all, we need to abandon the war system, reshape some of the basic assumptions, and undertake a new set of risks for the future. It is indeed a matter of examining new risks, realizing that in most major foreign and defense policy issues there are few no-risk options. The grim fact is that the present system entails the most terrifying kinds of risks, not only of destroying our civilization in nuclear holocaust but also of gradually eroding our democratic principles. We can do better than this. The way to start is by challenging some of the basic assumptions about the Intelligence Establishment, keeping in mind that knowledge is power, secret knowledge is secret power, and secret power is incompatible with accountability and responsibility, which are the linchpins of democracy.