

Controls on Intelligence

JIMMY CARTER'S executive order on the organization and control of the United States' foreign intelligence activities handsomely redeems his campaign pledge to take the intelligence community in hand. The abuses of the CIA in particular had come to symbolize for many Americans their government's systematic failure to put national security and individual rights in perspective. Intelligence reform was necessarily high on the agenda of a President promising national renewal. Gerald Ford, inheriting a mess, had started the cleanup. Mr. Carter, putting to advantage the country's two years of experience under the Ford executive order, has improved substantially on it.

Mr. Carter's new order advances the centralization of the intelligence community. This required heavy slogging in the bureaucratic trenches, but the results promise that the separate agencies, while remaining independent enough to offer their best judgment—including, if it comes to that, contradictory judgments—will produce an intelligence product more responsive to the President's declared needs. The President has also made more explicit and extensive the restrictions intended to protect the civil liberties and privacy of "United States persons," including corporations. In an especially interesting innovation, the Attorney General will now review the legality of intelligence activities and see that they are conducted by "the least intrusive means possible." The welcome tentatively accorded these measures by civil libertarians is a political fact of note in itself.

Mr. Ford had issued his executive order evidently hoping to preempt further congressional efforts (by a legislature controlled by the opposition and screaming for blood) to penetrate this traditional executive preserve. By contrast, Mr. Carter recognized that the conduct and control of intelligence, which is so

largely a procedural affair, could best be handled in a framework of executive-congressional consensus. He invited Congress to participate in drafting his executive order, and offered his cooperation in drafting intelligence charters. Charters, permanent laws laying down the missions and powers of the intelligence agencies, are necessary to ensure continuity from one President to the next. The Senate's drafts are due next week. They will be more specific and restrictive in some ways, and some arguments will ensue. But the points at issue do not seem momentous.

There's a basic bargain imbedded in these arrangements. The Congress grants that the President should conduct intelligence activities, including some unavoidably secret operations. In return the President grants that, in this area as in others, he's accountable to Congress. In precisely this spirit, for instance, the executive order dissolves the old fractious dispute over whether Congress could have access to intelligence information developed in the executive branch. The new order's answer is, simply, "yes."

Effective control of intelligence by the President and effective oversight by the Congress are not, of course, just a matter of good intentions. The fatal temptation is to let the attention wander: for the President to succumb to a doctrine of "plausible deniability" that allows his subordinates to act at their own discretion, and for the Congress to flee the burden of co-responsibility, winking at whatever goes by. We believe that the government has already learned its major lesson in this regard, but vigilance can never be safely relaxed. With that proviso, we are ready to suggest that an area of government policy and power that looked almost beyond repair only a few short years ago has in fact been brought back under the reach of the law. Completing this transition is a notable achievement for Mr. Carter and the Congress.