Changing Climate May Sty

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Two years ago, when David Atlee Phillips and like-minded defenders of the Central Intelligence Agency set out on the college lecture circuit, they were routinely confronted by hecklers and protesters denouncing them as "assassins."

The climate has changed. The investigations are over. The recriminations have subsided. The apologists have turned into advocates, urging, even demanding, a stronger hand for the CIA and the rest of the intelligence community despite the record of abuses.

"There's absolutely no question about it," says Phillips, the founder and past president of the Association of Former Intelligence Officers. "A lot of people are saying, 'Gee, the agency has won.' Well, I'm afraid we haven't won. But we have survived."

They may yet be able to claim victory. The CIA—and its congressional overseers, who were first organized in 1975 to cope with disclosures of illegal domestic spying and other misdeeds—stand today at a crucial juncture.

A comprehensive piece of legislation, the National Intelligence Reorganization and Reform Act of 1978 (S.2525), has been drafted and debated at Senate hearings for months now, but all sides dismiss it as nothing more than a talking paper, a starting point.

Sen. Frank Church (D-Idaho), who served as the chairman of the original Senate Intelligence Committee and its unprecedented investigations, thinks it is already too late.

"Reforms have been delayed to death," he said in an interview. "This has been the defense mechanism of the agency and it could easily have been foreseen . . . Memories are very short. I think the shrewd operators, the friends of the CIA, recognized that time was on their side, that they could hold out against legislative action."

Other senators, members of the present committee such as Walter D. Huddleston (D-Ky.) and Charles McC. Mathias (R-Md.), profess to be more optimistic, insisting that a new legislative charter for the intelligence community will indeed be passed, probably next year. They point out that the Carter administration is, after all, committed to that goal.

But there is increasing uncertainty as to just what kind of intelligence reforms could get through Congress these days and which of those the administration will wind up supporting. The tensions over Africa, the recriminations with the Soviet Union over spies here and there and other signs of what the Russians have called "a chilly war," could, officials agree, produce a stiffer line from the White House.

"We're at a critical period right now," acknowledges Senate Intelligence Committee Chairman Birch Bayh (D-Ind.). "There are significantly more questions being raised in the executive branch right now about the future of (congressional) oversight than there have been in the past. That's why I say we're at a very delicate stage right now."

Bayh indicated that he was speaking of administration concern over some recent news leaks about actual and proposed covert operations, which must now be reported to Congress, however vaguely.

"The whole matter—charters, oversight and everything—I think is going to rise or fall on the (congressional) security question," Bayh told a reporter. "If we cannot convince the president that we can handle this information securely, he's not going to give it to us for oversight and he's not going to continue to support charter legislation that forces the intelligence agencies to give it to us for oversight."

There is also a troubling catch to that proposition, Bayh said. Officials of every administration have been known to leak secret tidbits of information from time to time themselves, for various reasons. That is also happening these days, Bayh is convinced.

"Now what ax they're grinding and whether it's to release information so that when it hits the papers, they can say, 'Well, look, this is what happens when Congress gets it,' I don't know," Bayh said.

One of the chief targets of the U.S. intelligence establishment, in any case, is the law under which the president must notify Congress of the CIA's covert operations—which would be euphemistically renamed "special activities" under S. 2525. Repeal of the Hughes-Ryan Amendment, which Congress adopted in 1974, stands at or near the top of any CIA official's legislative "wish list."

Under Hughes-Ryan, covert actions in foreign countries can be under-

taken only if the president finds each such operation "important to the national security" and reports it "in a timely fashion to the appropriate committees of the Congress," currently four in each house. Past and present CIA officials regularly denounce the proviso as a "disaster" even though most of the leaks for which Hughes-Ryan is blamed probably would have occurred anyway.

Former CIA Director William E. Colby, for instance, believes the House Intelligence Committee headed by Otis Pike (D-N.Y.) was "mainly" responsible for the fact that "every new thing [covert action] that I briefed Congress about during 1975 leaked."

But the Pike committee, like the Church committee, would have gotten that information anyway, in the course of its congressionally mandated investigations, even if Hughes-Ryan had never been passed. Its successors, the permanent Senate and House Intelligence committees, will continue to get that information even if Hughes-Ryan is repealed. Only the three other committees in each house, Appropriations, Armed Services and Foreign or International Relations, will be cut off.

Still, repeal of Hughes-Ryan has become a goal for the intelligence community in the legislative battles that lie ahead.

"Four committees in each house is absurd," Colby declared. "The breadth of the reporting makes it much less of a secret, more of a topic of conversation. . ."

For the intelligence agencies, other goals—and potential signs of who wins, who loses—include passage of a law that would make it a felony for intelligence officers, past or present, to reveal a secret and of a statute that would give the CIA more, rather than less, freedom to undertake covert actions.

"There's been a failure on the part of the administration and Congress, in particular, to start off with first things first, which is to define the nature of the threat," asserts James J. Angleton, former CIA counterintelligence chief and now chairman of the Security and Intelligence Fund. "Once you define the threat, you can come up with rules and regulations to confine the threat. That way, you can get rid of all this adversary business [with Congress and the courts] brought in by the left wing."

At present, the rules governing U.S. intelligence agencies are embodied in an executive order President Carter issued in January, which contains various prohibitions and restrictions on covert operations, including a ban on assassinations. Critics such as the Center for National Security Studies have complained that it also leaves the door open for extensive surveillance without a warrant, including break-ins, directed against people in this country.

"The order contains the most explicit and far reaching claim of an inherent presidential right to intrude without a warrant into areas protected by the Fourth Amendment ever stated publicly by an American president," observes the center's director, Morton H. Halperin.

Designed as a temporary charter, the executive order was written in close consultation with the Senate Intelligence Committee, which then introduced the proposed National Intelligence Reorganization and Reform Act. It would put the American intelligence community under a new director of national intelligence and restrict a wide range of abuses such as burglaries, mail intercepts and drug experimentation. Slightly stronger than Carter's executive order and stitched together with a wide array of reporting requirements, it has also been assailed from all sides.

On the one hand, the American Civil Liberties Union regards the 263-page bill as "very close to being worse than nothing," reports ACLU legislative counsel Jerry Berman.

"The bill broadly authorizes covert operations, paramilitary operations and intrusive investigations of American citizens," he protested. "It takes away the 'inherent power' of the president to do those things, but then gives him the express power to do them, with all the flexibility he had before. As for the prohibitions in the bill, you could drive a truck through some of them. It says, for instance, no covert operations resulting in 'mass destruction of property.' What's 'mass'?"

The Security and Intelligence Fund sees it differently. Angleton clearly

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considers the bill the product of a left-wing cabal, an "altogether familiar company of wreckers" led by "arch-liberal politicians" such as Vice President Mondale.

S.2525, the fund says in its most recent situation report, is "so drastic in its language, so summary in its authority, that it will, if adopted in anything like its present form, leave the two principal intelligence agencies—the CIA and the FBI—all but impotent as far as coping successfully with subversion, espionage and terror is concerned."

"I don't think the president has shown any leadership in the matter," Angleton added. Instead, he said, Carter has left it to Mondale — whom the fund describes as Church's once "ardent lieutenant" on the Senate Intelligence Committee — and to David Aaron, Mondale's former Senate aide, who is now deputy White House assistant for national security.

In any event, congressional sources say that Aaron's boss at the White House, Zbigniew Brzezinski, has shown absolutely no interest in the subject. Indeed, by Brzezinski's reported standards, he ought to be opposed to major portions of both S. 2525 and the Carter executive order. According to a recent article in The New Yorker, Brzezinski has not only expressed concern about the restrictions placed on the CIA as a result of the disclosures of recent years, but he is also troubled by the number of reviews required for certain operations. And he is said to think that Carter ought to have "deniability" — that covert actions should be carried out in such a way that the president could disclaim them instead of being held accountable for them.

Not surprisingly, former CIA Director Richard M. Helms says he's heard various accounts of where the administration stands on the issue of intelligence "reforms" and isn't sure which account, if any, is correct.

"I must say I've had the second- or third-hand impression that the White House is more interested in controlling the (CIA) organization than it is in the legislation," Helms said.

Administration officials, however, say a close watch is being maintained by a special interagency working group that has been going over the bill, line by line, for the National Security Council at regular meetings in the F Street offices of the director of central intelligence. Its stragegy will be to argue against anything that departs from the structure of the executive order, to hold out for more flexibility and less restrictions on covert actions.

The Senate bill defines covert actions "in such a way that you'd have to rule out a lot of things done today," one source said. Under S. 2525, such operations would have to be "essential to the conduct of the foreign policy or the national defense" and not just "important to the national security," as present law requires.

Such restrictive readings, it must be noted, are not CIA's normal style and perhaps reflect only a strategic position of the moment. As one of the leading students of the agency, Harry Howe Ransom, says in his book. "The Intelligence Establishment," "Probably no other organization of the federal government has taken such liberties in interpreting its legally assigned functions as has the CIA."

The administration's professed reservations, however, are so extensive that its intelligence experts will probably produce a "counterdraft" to S. 2525 sometime this fall. It is also counting on the House to insist on a more conservative tack.

A preliminary test of sentiments in the House is expected this summer when a bill to control national security wiretaps and bugging comes up for a vote. Originally a slice of S. 2525, it narrowly escaped premature death last month in a House Judiciary subcommittee where liberals and conservatives alike were hoping to shoot it down, for completely opposite reasons.

Church says he senses little enthusiasm for S.2525 in Congress at the moment, much less for stronger controls.

"It may very well be that last year —the first year of the new administration—represented the last best chance for enacting into law the reforms my committee recommended (in 1976)," he said. "I thought during the campaign that a high priority was going to be attached to the 'cloak and dagger effort,' but it became clear that this was of secondary importance to the new administration."

Alluding to the strong intelligence-establishment flavor of the Senate hearings thus far on S.2525, Church added; "It is obvious by now that very little thought is any longer being given to the fact that these agencies were engaged in gross violations of American law . . . Now we are being treated to tendentious testimony that any limitations on the CIA with respect to covert activities in the future would be 'demeaning' (as Washington lawyer Clark Gifford, the leadoff witness, put it) to the agency—as the American people hadn' been demeaned enough."