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Don't Hobble Intelligence Gathering

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A news story in The Post on Jan. 20 noted that a panel sponsored by the Council on Foreign Relations was calling for relaxing rules governing covert action. An article by Dan Schorr followed on Feb. 4, in Outlook, under the headline: "Get Smart: Spies Posing as Reporters Is a Stupid Idea."

Why, then, would a panel described by the original story as blue-ribbon suggest such changes? The answer is simple. They may be necessary to avoid limiting the effectiveness of an increasingly valuable foreign policy tool.

The most important function of the clandestine services—mostly found in the CIA—is the collection of human intelligence. Such intelligence can complement other sources and on occasion be the sole source of information. This tends to be true in closed societies, where decision-making and information are limited to a few and where the targeted activity is not easily captured by reconnaissance or eavesdropping. Human intelligence can also shed light on intentions and capabilities. Such knowledge is likely to prove crucial in tracking the activities of terrorists and unconventional weapons programs.

A second task for the clandestine services is covert action, the carrying out of operations to influence events in another country in which it is deemed important to hide the hand of the U.S. government. The capability to undertake such tasks—be they to frustrate a terrorist action, intercept some technology or equipment that would help a

rogue state or group build a nuclear device, or assist a group trying to overthrow a hostile leadership—constitutes an important national security instrument.

Rules that work to discourage or even prohibit preemptive attacks on terrorists or support for individuals

Taking Exception

hoping to bring about a change of regime in a hostile country should be repealed. Executive orders first issued in 1976 by President Ford and reiterated by his successors, together with associated legislation, make it a crime to engage in or conspire to engage in political assassination. The effect is to inhibit efforts to work with non-Americans in trying to overthrow unfriendly and dangerous governments—often the best chance to avoid far more costly policies, including the use of military force.

A second area for possible reform involves the use of nonofficial "covers" for hiding and protecting those involved in clandestine activities. For years, the CIA has followed directives that prevent it from using journalists, members of the clergy and Peace Corps volunteers so as not to jeopardize their safety or complicate their ability to perform their functions.

The question is whether precluding the use of such covers is a luxury the United States can still afford. In the

post-Cold War world, the greatest threats are posed by terrorists, drug cartels, criminal organizations and rogue states. Learning about and dealing with these threats is often achieved best by clandestine means. Moreover, posting intelligence officers to embassies is impossible in the absence of diplomatic relations, and of little use when the target is someone other than a government official.

Some slack can be picked up by making greater use of businessmen and academics, but they may not be enough. The claim that individuals will be tainted or even endangered if the ban on using them as spies is lifted is dubious. Even with the ban, nothing the U.S. government can do or say can convince others that no American journalist or clergyman or Peace Corps volunteer is a spy, especially as other countries place no such limits on themselves.

Third, we need to conduct oversight of clandestine activities with a large degree of realism. New guidelines governing contacts with foreign nationals have just been issued to operations around the world. There is an obvious desire to avoid the embarrassment, or worse, of placing someone on the payroll who has committed crimes or human rights violations.

Our interests, however, sometimes require that we do just that. Clandestine operations, whether for collection of foreign intelligence, counterintelligence or covert action, will often require associating with individuals or

unsavory reputation. This is little different from the tradition in law enforcement of using criminals to catch criminals, and should be acceptable so long as the likely benefits outweigh the certain moral and potential political costs.

None of the above is meant as a call to ignore the instances in which the CIA has acted with questionable legality and judgment. Constant vigilance is needed to ensure that it is doing quality work consistent with policy priorities, that senior officials inside and outside the CIA are kept fully informed and that its actions are consistent with existing regulations and laws.

But in return, those involved in clandestine activities should know that risk-taking will be supported and that they will be politically protected so long as what they do is authorized and legal under U.S. law at the time. Such support is crucial; contrary to widespread impressions, one problem with the clandestine services has been a lack of initiative brought about by restrictive regulations, a fear of retrospective discipline and a lack of high-level support. This must be rectified if we are to have the human intelligence and policy tools we will need.

The writer is principal author of a study on the future of U.S. intelligence published this week by the Council on Foreign Relations. He worked in the National Security Council in the Bush administration.