

Controlling the Central Intelligence Agency

By Ernest Gellhorn

Agency

TEMPE, Arizona—A year has now passed since it was charged that the Central Intelligence Agency had spied on American citizens, maintained dossiers on their domestic activities, and engaged in numerous other illegal acts such as wiretaps, physical surveillances and break-ins.

In the meantime, these and other charges have in essence been documented by the report of the Commission on C.I.A. activities within the United States, headed by Vice President Rockefeller; hearings in the House and Senate; and the assassination report of the Senate Select Committee on Intelligence, headed by Senator Frank Church.

It is, therefore, time to ask whether things have really changed. Would the C.I.A. do these things again? Could the C.I.A. repeat these mistakes and misdeeds and sometime in the future again turn its focus inward on Americans within the United States?

By any standard, it seems clear that only limited progress has been made in establishing meaningful controls over the C.I.A.

No doubt the experience of the last year has been searing. Those now in charge of the C.I.A. are unlikely to allow it to be misused again. Still, very few steps have been taken to assure that the C.I.A. will not be abused again.

One is the order, first issued by the former Director of Central Intelligence, James R. Schlesinger, that personnel within the agency should report all questionable or illegal activities to the director personally. Another is the tightening of internal controls. All personnel are now instructed in the law's requirements, and procedures have been established for consulting the agency's legal counsel before the C.I.A. engages in activities that might conflict with its charter or other laws.

But these steps do little more than assure that the C.I.A. will not repeat past misdeeds in the current political climate. Public exposure has only a short-term effect. As times and events change, it is legal and administrative controls that can be expected to provide continuing protection that the C.I.A. will not again be used against American citizens or stray beyond its assigned task. And it is here that almost nothing has been done in the last year.

Further steps need to be taken that respond to the symptoms of the C.I.A.'s diseases. While it seems appropriate, as the Rockefeller Commission proposed, that the C.I.A. be directed not to open mail, infiltrate domestic political groups, or use illegal wiretaps, these recommendations are only hortatory and without sustaining effect.

The mail-interception program operated for over twenty years even though "everyone realized from the outset" that it was illegal. Similarly, the C.I.A.'s own memo to Henry A. Kissinger's investigation of political dissidents involved it in "an area not within the charter" of the agency. Specific acts that deserve strong deterrence are normally punished by criminal penalties, and the C.I.A. should be no exception.

The C.I.A.'s problems stem from three causes: the agency's charter is vague and unspecific and therefore can be readily manipulated; Presidents and their staffs have misused the agency for their own ends; and because of the sensitivity of the information with which it deals, the agency has been exempted from both internal bureaucratic checks and external executive and legislative controls.

Sensible steps can and should be taken immediately by the Ford Administration, and where necessary by Congress, which are responsive to each of these causes of misperformance by the C.I.A.

First, the charter should be rewritten. Its mandate was intentionally vague when written because the United States was without experience in operating a peacetime intelligence agency.

Now, almost three decades later, the do's and don'ts can and should be spelled out in the charter. The C.I.A.'s assignment should be limited to "foreign" intelligence, defined as information relating to the activities, intentions and capabilities of foreign governments and their leaders.

The authority to protect sources and methods of intelligence should be

transferred from the director of the agency, and this responsibility should be limited in scope. The use of otherwise unlawful investigative methods within the United States should be specifically denied the C.I.A.

And future efforts to rely upon a "national security" exception to justify questionable activities should be anticipated and precluded by specific statutory language.

Second, Presidential abuse of the agency can be avoided by taking note of the Rockefeller commission's conclusion that persons appointed director possess, among other qualities, "the independence to resist improper pressure, whether from the White House, within the Agency or elsewhere." This recommendation would seem to preclude the appointment of one of the President's political associates, and, in particular, George W. Bush, the director-designate, who so recently served as a national party chairman.

Equally important, a single and exclusive high-level channel through the National Security Council should be used for Presidential staff requests to the C.I.A. And a permanent record of such requests and C.I.A. actions in response should be maintained by the Council (subject to Congressional audit).

Third, Congress and the executive branch need to establish permanent and well-staffed oversight capabilities. No permanent controls exist today. A joint committee on intelligence such as that established for atomic energy seems an obvious need for Congress; this committee's staff and membership could develop sufficient expertise to limit agency activities.

The National Security Council, the President's advisory board on intelligence and the Justice Department should be assigned specific responsibilities for controlling the C.I.A.'s performance. Because of the secrecy that necessarily shrouds the C.I.A.'s activities, effective internal controls are probably even more important.

William E. Colby as Director reduced the staff of the C.I.A.'s inspector general from 14 to five and appointed a person without training or experience in that post. There is an urgent need to increase that staff, upgrade its personnel and widen its authority.

While some of these suggestions require Congressional approval, many do not. Most seem indisputable. One year of study and investigation is sufficient for the Administration and Congress to act. The time to investigate, study and recommend has passed for such basic, rudimentary controls. It is now time for the President to exercise leadership and act.

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