

# The Intelligence Business

*President Ford is about to add his own plan to a broad range of proposals for managing government intelligence operations, developed after a year-long inquiry into American intelligence activities. We offer today a representative sampling of such proposals dealing with one or another aspect of the overall problem of conducting secret intelligence activities in a democratic society. The first selection is from a Chicago Sun-Times editorial of Feb. 1 headed, "A plan to save democracy by dismembering the CIA." The second, by columnist Tom Braden, formerly an official of the CIA, assays the need for covert operations. In the third, CIA counsel Mitchell Rogovin addresses the constitutional implications of secrecy. In the fourth, Senate CIA investigator Frank Church responds to Rogovin. The fifth is a suggestion, his own, by Army Major F. Douglas Mehle, a Pentagon intelligence officer.*

## SUN-TIMES:

...The import of all the recent revelations about the CIA is that it has given Presidents the capability to disregard the Constitution and the laws of the land to carry out ill-conceived and evil schemes without check. As we have said previously, revelations in the last several years have spread a record of lawlessness before the public that adds up to an assault on the Constitution by public officials sworn to uphold it. The CIA, with its hidden budget of billions and its capacity for clandestine operations ranging from procuring call girls to waging secret wars, has played an important part in that assault under the unchecked direction of recent Presidents.

It is time, then, to dismember the agency and to start over again in the building of an intelligence-gathering capability suitable for a great power. That capability should be large and wide-ranging. It should be as above-board as possible but should allow some limited capacity for espionage—the secret gathering of information....

We suggest this plan:

1. All clandestine operations by any government agency overseas (and at home, of course) should be prohibited. If the United States is to have any sort of claim to moral leadership among nations, these kinds of activities must not be tolerated.

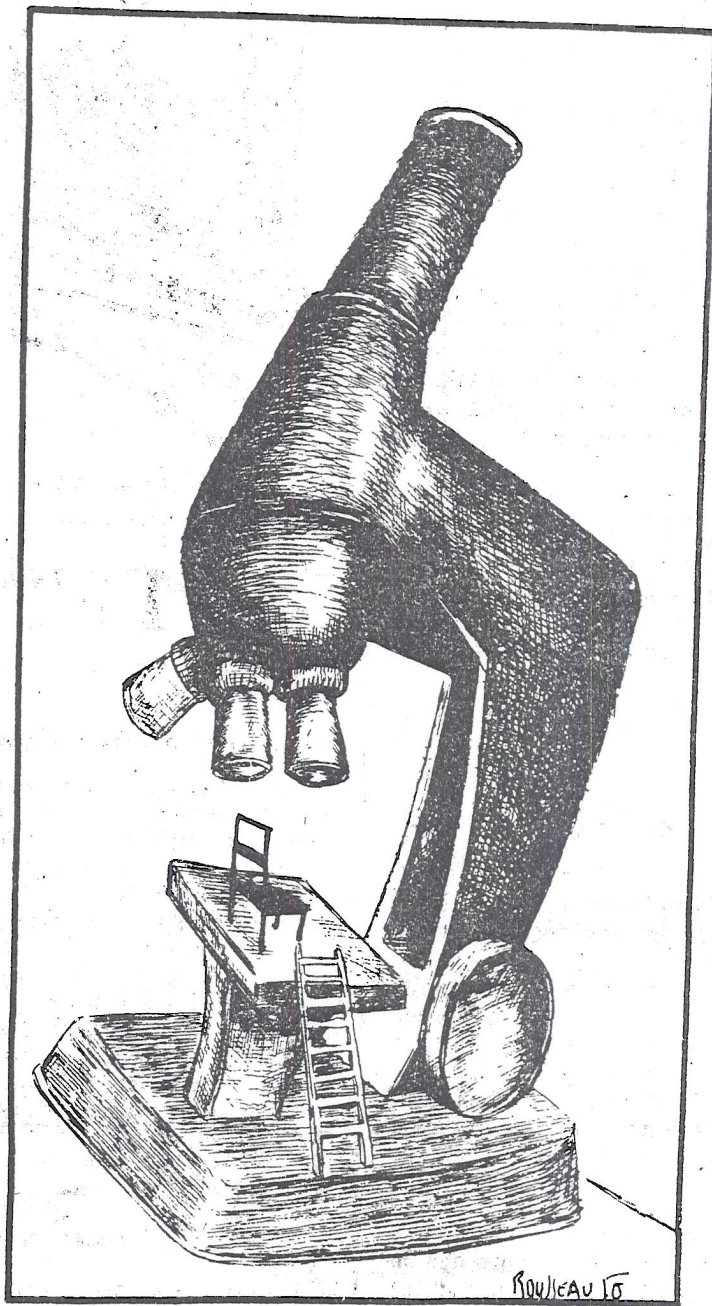
2. All intelligence-gathering operations—overt and covert—should be placed in the State Department (which now has a Bureau of Intelligence and Research) and the Defense Department (which has a huge Defense Intelligence Agency and operates the National Security Agency, which carries out electronic espionage).

Most intelligence collection today, even that done by the CIA, is conducted openly and above board. It could easily be done by experts transferred from the CIA with little change in techniques. Both departments could conduct espionage, if necessary. We are led to believe spying seldom provides good information and it should be severely limited. Spying should be controlled by the Secretaries of State or Defense with strict congressional monitoring.

3. The Central Intelligence Agency itself should be reduced to a small staff numbering in the tens or hundreds of workers who would only coordinate, correlate, evaluate and otherwise monitor the work done at State and Defense. They would also make certain that information was disseminated throughout the government quickly and fairly. They would work under a director of central intelligence, appointed by the President with the approval of the Senate, as at present....

4. Congress should amend the 1947 National Security Act to remove the blanket language that allows the President and the National Security Council to assign duties to the CIA other than the correlation, evaluation and dissemination functions.

Any National Security Council directives giving the CIA authority to go beyond the above should be declared null and void....



By Jean-Francois Rousseau for The Washington Post

## BRADEN:

Covert operations are serious business, and the question of whether this country ought to continue to conduct them is a serious question.

The country ought to know enough by now to decide the question for itself. The record has been spread over the front page for two years, and the failures, the successes and the temptations which the covert operators have afforded various Presidents should by now have been absorbed.

Moreover, there is some danger that if the question is not debated and decided in this election year, we shall end up with what we have now. And quite obviously, what we have now won't work.

As we look back upon the Bay of Pigs, the bungled attempts at murder, the ties to organized crime, the purchases of elections, the early uprisings behind the Iron Curtain; as we examine the vast bureaucracy which has been constructed, count the armies and airlines and newspapers and businesses, the fronts and foundations,

consider the cost to the nation's reputation and its citizens' pride, we are entitled to shudder. What in the world, we may ask, would we want to keep such an organization in being?

If we debate the question as we should, I think the answer will be obvious. We don't want to keep such an organization in business. We let it get out of hand. We didn't remind its proprietors that we owned it; that it operated in our name, and that what it did would eventually reflect upon us.

And yet I think a national debate would determine that the maintenance of a covert capacity is essential to our well being, perhaps even to our safety. There are times when we must act in secret because there is no other way in which we can serve ourselves.

Some critics have suggested that passing money to friendly politicians in other countries is an exception to their general indictment of covert operations. This seems to me fair but insufficient. For example, there were probably very real lessons to be learned by hauling that Russian submarine to the surface. The only way to do it was to do it covertly.

For another example, there are agents in place. There are still a few covert operators whose cover has not been blown and who are exercising an American influence in places where an American influence is needed.

Targets of opportunity and agents in place do not require a vast bureaucracy nor officials in every country who must justify their jobs by proposing new ventures.

The British, when they wielded power in the world, ran their covert operations, comparatively speaking, out of a hat. Why can't we do the same?

## ROGOVIN:

The intelligence committee has learned that the operation of an intelligence service within the Constitution is a responsibility to be shared with Congress. But it still remains for the parties to learn how to accommodate each other's legitimate needs.

Oversight is, in essence, the congressional power to ascertain constantly that the intelligence agencies are operating in accordance with the laws. Simply defined, congressional oversight means that "there shall be no surprises."

The watchdog function of Congress will be effective only if the oversight committee is privy to the CIA's secrets. The committee, however, will only become privy to such secrets if the agency is satisfied that the committee

can keep secrets. But the committee does not exist simply to act as a receptacle for secrets. It has a dual, and paradoxical, function: to disclose information the committee deems to be in the public interest.

Here is the rub: the contradiction between the committee's duty to receive secrets and retain the confidence of the intelligence community, and to report to Congress and the people on the community's secret work.

Our constitution suggests an answer: If the Congress is to overrule the President, this should be done by a vote of two thirds of both houses—the number required to override a veto. It must be recognized that the nation's secrets are not the private property of any committee, the Congress or the executive branch.

Procedures should be established for a member to appeal an executive branch decision that bars disclosure to an oversight committee and, if necessary, to the whole house of Congress concerned—in executive session.

Serious thought must be given to sanctions against those who are entrusted with secrets and who then leak them.

We must face the fact that as a nation we do have legitimate secrets. Unauthorized disclosure by either branch, which amounts to a de facto declassification, is an unacceptable alternative.

We need protection for those secrets worth keeping and a system for those entrusted with secrets to measure their worth.

## CHURCH:

If we are to preserve freedom and keep constitutional government alive in America, it cannot be left to a President and his agents alone to decide what must be kept secret. Congress, if it is to check the abuse of executive power, must retain its right of inquiry and independent judgment.

Some activities must be undertaken in secret. Congress needs new and secure procedures to assure that necessary clandestine activities are conducted within the framework of the law and the Constitution.

What is needed is a properly constituted oversight committee to carry out the congressional role. It would have the duty to assure that the laws concerning intelligence activities are observed. Its main tool would be annual authorizations for appropriations for the national intelligence community.

To function effectively, the committee must also have the right to

necessary information. It must be kept fully and currently informed on all matters pertaining to its jurisdiction. The committee should have the power to require prior notice concerning sensitive activities of the intelligence community, such as significant new covert action programs.

The burden of proof should be upon those who argue that a matter of national importance should be kept secret. In most cases, informal procedures between an oversight committee and the executive branch would serve to work out any problems concerning classified information. In most cases, an oversight committee can act on behalf of the Senate and should be entrusted by the Senate to decide questions of disclosure.

Only the very few cases of profound disagreement between the executive and the legislature require the establishment of a formal procedure involving the full Senate. In my view a responsible committee should and would bring such matters to the Senate for appropriate action. Such a procedure has been provided for in the oversight bill recommended by eight members of the Senate Select Committee.

We are now in the worst of all possible circumstances. On the one hand, Congress cannot now in secret matters exercise its constitutional responsibilities in an orderly way. On the other hand, it has no means to adequately protect valid national secrets or to root out unlawful or improper conduct. By establishing an oversight committee for intelligence activities, we can provide the right answers to the problems caused by secrecy which have troubled the country for the past decade.

## MEHLE:

How can misuse of the intelligence community by officials be prevented? What can be done to prevent any portion of the intelligence community from transgressing its intended bounds?

Consider these questions through the eyes of a government intelligence employee who notes an abuse. He can raise the question with his superior, but if his superior or another up the line refuses to heed the point, he has no other real alternative. He can go to the organization's Inspector General but basically this is an internal organization with only as much internal influence as agency heads allow. He can leak, but he then leaves himself vulnerable to security violation charges. He can resign in protest, but because of security classifications, few inside and probably no one outside the intelligence community will know.

Consider too the question of how to examine the intelligence community without jeopardizing national security or embarrassing foreign governments.

The Congress must rely on staff to investigate, and experience has shown that staff handling tends to cause leaks of sensitive information. Disclosure of a sensitive action by a legislative committee member is also possible.

The National Intelligence Investigation Center is a name for a unique new government agency that could solve these problems and monitor the entire intelligence community.

The NIIC would be jointly responsible to both the executive and legislative branches. To be composed of both civilian and military personnel, it would report only to a new board called the Joint Intelligence Steering Board, whose membership would include the President and two senior members from each house of Congress.

The NIIC would rely heavily on members within the intelligence community. This would negate any "blind obedience" excuse for personnel involved in questionable operations. Remember: The typical member of the community is a dedicated and patriotic American, and intelligence investigations done without inside help can be somewhat akin to groping in the dark.

A NIIC could not only restore the necessary degree of confidentiality to the intelligence community but also increase the openness of the community to the nation's leaders. It would impose an effective system of checks and balances on the whole community and allow effective management of it as well.