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The Intelligence Agencies: What Is To Be Done?

By Michael Raoul-Duval

DAYTON, Ohio—President Carter is now reviewing the activities and organization of the nation's intelligence community, including the C.I.A. and portions of the Defense and State Departments, the F.B.I. and other agencies.

Despite public attention over intelligence abuses, the problem for Mr. Carter is with the quality of the product.

There are five principles which should serve as a foundation for considering foreign intelligence issues.

- The United States must have a foreign intelligence capability superior to that of any other nation, and it must be able to deal with multiple and simultaneous events involving military, economic, social and political matters.
- We must have the capability to conduct necessary covert operations.
- Activities of the intelligence community must conform to an acceptable moral standard.
- Activities of the intelligence community must be legal and constitutional and never aimed at United States citizens.
- The President must conduct foreign intelligence activities, and the role of Congress must be limited to oversight. The role of the judiciary should be generally limited to cases and controversies involving individuals protected by the United States Constitution.

Besides the need for quality foreign intelligence there are other reasons for these principles. No matter how distasteful we may find covert operations they are absolutely necessary if we are to have a "third option." Conventionally there are two ways for any country to influence world events: by diplomatic or military action. However, there are an increasing number of situations in which diplomatic actions

cannot resolve the problem and military actions could risk nuclear confrontation. In these situations, the "third option" of covert action is essential.

Partially in overreaction to excesses and abuses by the intelligence community and former Presidents from the Korean War to the early 1970's, Congress is attempting to move beyond oversight and is reaching for operational control of our intelligence activities. If Congress is successful in this power grab—and indeed if current Congressional involvement is not pruned — our intelligence community will cease to function effectively.

Congress should oversee the activities of the intelligence community, but oversight and management functions should always be separated. Effective oversight requires the objectivity of judgment that comes from not having participated in the operational decisions leading to the activity being judged.

In addition, Congress cannot be trusted to keep secrets, and key covert and clandestine intelligence operations will fail if secrecy is not maintained. Under current law over six Congressional committees must be informed of all ongoing covert operations. Furthermore, under the rules of both the House and the Senate all members can get access to any information given any committee. There are no enforceable secrecy rules in Congress, and any member can reveal classified information with complete immunity from prosecution.

Thus an individual senator or representative can actually overrule a covert action decision made by the President with the concurrence of his Cabinet and a majority of the House and the Senate. This is irreconcilable with the constitutional principle of separation of powers, and the law which created this anomaly, section 662 of the Foreign Assistance Act,

should be repealed.

There are some decisions which must be made by an individual who retains ultimate responsibility and not by a committee. A wartime example—

which is just as valid as during modern peacetime when international tensions are high — can be found in Winston Churchill's 1940 decision not to alert the city of Coventry that the Germans were about to launch a massive air attack against it. Churchill decided not to risk tipping off the Germans that England had broken their codes. It is inconceivable to think that a deliberative body could cope with such a decision.

Congress should establish overall objectives for the intelligence community primarily through the appropriations process, but its major role should be limited to rigorous oversight by judicious examination of community's actions and judgments.

The converse of this is of equal importance. The President must effectively control the operations of the intelligence community, and he must be ultimately accountable for its performance. The surest way to reduce the quality of our intelligence and increase the likelihood of abuses is to diffuse responsibility and accountability within the executive branch, and between it and the Congress.

In February 1976, President Ford restructured the intelligence community by rejecting the concept of deniability and the confused and overlapping intelligence command structure that went with it. He established clear lines of defined authority in a new command and control structure where ultimate responsibility rested in the Oval Office. President Carter should build on this approach.

The President and Congress should also:

- Avoid statutory charters for the various intelligence agencies because

President Ford's 1976 executive order does have the force of law in preventing abuses, and legislative debate in this sensitive area will greatly assist our adversaries.

- Maintain the intelligence community's current organizational structure which has replaced deniability with accountability, closed the gap between responsibility and authority, centralized resource control and maintained competition among the agencies in the analysis of intelligence information.

- Avoid creating an intelligence "czar" because the intelligence agencies must be insulated — in fact and appearance — from domestic politics, and this will be very difficult if the leader of the community draws his institutional support from the White House. Further, the appropriations committees of Congress with support from the Pentagon will soon undercut the czar's control over resources, thus leaving him with paper power but no real authority.

The examination and reforms of the intelligence community which began in 1975 have demonstrated that it is possible to have quality foreign intelligence and effective covert operations while adhering to sound moral principles and without abridging the constitutional rights of U.S. citizens.

The key is firm control by the President over the activities of the intelligence community and effective oversight by the Congress. If these roles overlap and if the President does not provide the leadership to maintain public support for the intelligence community, America will grope blindly toward disaster.

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