

# **Intelligence and Ethics: The CIA's Covert Operations**

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This agency is conducted in a splendid way. As has been said, spying is spying. . . . You have to make up your mind that you are going to have an intelligence agency and protect it as such, and shut your eyes some and take what is coming.

John Stennis, November 1971<sup>1</sup>

It was naive to suppose in the first place that such an agency could be brought into being without becoming a Frankenstein. It is even more naive to suppose that it can go on in its present form without unhinging the government it was created to protect.

Norman Cousins, July 8, 1978<sup>2</sup>

The world is quite capable of going to hell without the help of the CIA.

Norman Birnbaum, January 1979<sup>3</sup>

The CIA recently suffered through a period of Congressional scrutiny and moral outrage from a public still reeling under the unsettling effects of Watergate. This attention was totally foreign to an agency accustomed to limited accountability and virtual independence in most of its activities. Many claim that the CIA has not been the same since, partly because of the crisis of confidence it has suffered worldwide, partly because of the all-time low in employee morale, and mostly, as critics from the right maintain, because it has been shackled by unreasonable limits imposed on it by a reform-minded administration. Critics from the left, while acknowledging the need for a national intelligence agency, believe that the potential for abuse still exists and that not enough has been done to insure that the "excesses" of the CIA's first thirty years do not occur again. In recent months this opinion has come from a shrinking minority, as such ethical considerations lose appeal during a period of heightened militarism and patriotism brought on by the crises in Iran and Afghanistan. A definite sentiment exists in Congress to simply "unhandcuff" the CIA, hoping that U.S. interests may be better protected.<sup>4</sup>

This paper will examine the CIA's role in the international power struggle by briefly outlining the formation and early history of the CIA, then by discussing the developments of the last twenty years that led to the crisis, and next by examining the early attempts at control and reform. Finally I will outline and assess the various policy options: from the cold warriors who want to return to the old Allen Dulles CIA to the humanists who believe that any covert activity is immoral and must be outlawed. After evaluating the trade-offs that inherently exist in such a complex issue, I will recommend the alternative that I believe to be in the best interest of the United States as a part of the world community.

### I. The Early History of the CIA

The need for an agency that would centralize intelligence gathering became obvious after the terrible tragedy of Pearl Harbor.<sup>5</sup> Intelligence at the time had some idea that an attack was possible, but there was no single voice that dictated a loud enough warning. This lack of a centralized apparatus proved to be disastrous; shortly afterward, William J. Donovan recommended that such an organization be formed. The Office of Coordinator of Intelligence was put into existence, which later was split into the Office of Strategic Services (OSS), under Donovan, and the Office of War Information. The pattern of combining special operations with information-gathering that was established in the OSS is still followed today. Truman disbanded the OSS on September 20, 1945, and formed the Bureau of Intelligence and Research. Another executive order set up the National Intelligence Authority and under it, the Central Intelligence Group. Two motivating factors led to the formation of the Central Intelligence Agency under the National Security Act of 1947:

1. the American rise to world power after WW II, the abandonment of our prewar isolationism, and all the responsibilities that this change entailed; and
2. the perceived Soviet threat to this new position of power.<sup>6</sup>

It appeared that the CIA was formed to serve two purposes:

1. to gather information about the capabilities and intentions of friendly and unfriendly nations (and to discern between the two); and
2. to evaluate it and present it in some useful form to policy-makers.<sup>7</sup>

Most of the CIA's early activities were centered on uncovering as much information about Russia as they could. Because the earlier concentrated intelligence efforts had been centered exclusively on Germany and Japan, the U.S. really had limited information on its new rival. In the late forties and early fifties, hundreds of men were employed and massive resources were used in an effort to amass as much information as possible. Illegal border crossings were used for everything from obtaining soil samples, to testing for radioactive fallout, to interviewing anyone who would talk. Soon

it became evident that simple intelligence gathering would not suffice and that an additional function was needed to fill the void between normal foreign policy actions and armed intervention. Questions were immediately raised as to the legitimacy of the new branch referred to as Special Operations, covert activities, or clandestine operations. President Truman, among others, saw these activities as deviating from the original intent of the 1947 Act. Fifteen years after the CIA's inception Truman said, "I never had any thought that when I set up the CIA that it would be injected into peacetime cloak and dagger operations."<sup>8</sup> Directors of Operations have always liberally used the fifth clause of the CIA section of the 1947 Act to justify its actions. The clause, which is similar in its ambiguity to the Commerce Clause of the Constitution, gave the CIA the right "to perform such other functions and duties related to intelligence activities affecting national security. . . ." This mandate, referred to as the "other functions" clause, was further legitimized by a National Security Council Order in 1948, shortly after the Communist coup in Czechoslovakia, which gave the CIA responsibility for "political, psychological, economic, and unconventional warfare operations."<sup>10</sup> In 1949 the CIA gained more power from the CIA Act, which exempted it from disclosing information about its employees and allowed it to spend taxpayers' money "without regard to the provision of law and regulations relating to the expenditures of government funds."<sup>11</sup> These laws gave the CIA unprecedented special status in carrying out bureaucratic activity. The CIA was something new and exciting, and was held in high public esteem in an era of intense Cold War.

A complete understanding of the expansion of the CIA in the early fifties must include an awareness of the interesting relationship that existed between the State Department and the CIA because of the Dulles brothers. John Foster Dulles reflected the American ethic in the Eisenhower administration. He spoke of the "containment" of Communism; but when it came to actual interference in the affairs of other nations, the State Department made it clear that we would not "adopt the evil tactics of subversion and secret manipulation practiced by the Communist enemy."<sup>12</sup> Meanwhile, John Foster's brother, Allen Welsh Dulles, Director of the CIA, was carrying out covert operations that did everything from fixing elections to leading military coups. This dualism of U.S. foreign policy, openly claiming our belief in self-determination and covertly creating havoc around the world, probably would have developed without the relationship of the Dulles brothers, but its magnitude was intensified because of the reduced frictions between the State Department and the CIA that would naturally arise with such conflicting policies.<sup>13</sup> The system of checks and balances was reduced and the CIA virtually had a free hand in all of its operations.

The CIA rapidly took advantage of its new extensive powers and started making its presence known around the world. In the first ten years, major covert operations were carried out in Bogota, Burma, Costa Rica, Korea,

Laos, Guatemala, Indonesia, Iran, China, and Taiwan. Many of these were seen as huge successes, especially coups such as the "banana revolt" in Guatemala—essentially a Bay of Pigs that worked.<sup>14</sup> Many of these cases have recently come under fire for causing death and destruction that by far outweigh any gains for the "free world." For example, in Indonesia the CIA-inspired coup that removed President Sukarno from power led to the death of at least 500,000 people and the imprisonment of hundreds of thousands more in concentration camps.<sup>15</sup> The recent crisis in Iran certainly casts doubt on the decision to put the Shah and his CIA-created secret police force into power in 1953.

The operations of the CIA in the early years reflected the national sentiments at the time. The cold war was at its peak with anticommunist feelings running high. With the present Watergate-aroused moralism and awareness of public opinion, it is difficult to comprehend the "national security *über alles*" mind-set that dictated the apathetic attitudes toward human rights in situations of "containing communism." Typical of this "ends justify the means" approach was the testimony of a Dulles CIA agent in the Church Committee investigations of 1975:

We never gave any thought to this line of reasoning [objections to violations of human rights], because we were just naturally pragmatists. The one thing we were concerned about was this: Will this course of action work; will we reach the objective that we desire to reach? As far as legality is concerned, morals or ethics, it was never raised by myself or anyone else. I think this suggests really that in government we are amoral.<sup>16</sup>

Though perhaps amoral, the CIA was perceived by the policy-makers as working in the nation's best interests, and so no objections were raised. This view of the CIA dictated the administration's dualistic policy as discussed earlier. For example, concerning Indonesia, Eisenhower maintained, "Our policy is one of careful neutrality and proper deportment all the way through so as not to be taking sides where it is none of our business." At that very moment dozens of CIA B-26's were flying from Manila to aid in the revolt.<sup>17</sup> The CIA was in its heyday.

## II. The Fall From Grace

The CIA was operating under the principle, "Do what you have to but don't get caught," realizing that despite national security priorities the public may not sympathize if some of the more extreme activities were revealed.

The integrity of the government had to be protected by cutting a line between the sponsors and the actors of covert activities. With the embarrassment of the U-2 plane over Russia in 1960, the public was no longer accepting all the denials. Therefore, the concept of "plausible denial" was developed to determine when the administration would be able to deceive

the American public. If it was felt the public would buy the line, the action would be carried out. Much work went into the formation of cover stories, but in the 1961 Bay of Pigs debacle the denial was implausible even to the most naive. The shabbily handled invasion and explanation were so comical (or tragic) that Castro commented, "Even Hollywood would not try and film such a story."<sup>18</sup>

This incident marked the beginning of the end of public confidence in the CIA. In general the Bay of Pigs was not viewed as immoral but as a failure because it was not successful. If we had used more air support it might have been another feather in the CIA's cap.

Token oversight was conducted by the executive branch and Congress through the Foreign Intelligence Advisory Board and the Intelligence Subcommittee of the Armed Services Committee. Little restraint was actually imposed, as is revealed by committee chairman John Stennis' comment in November 1971:

This agency [the CIA] is conducted in a splendid way. As has been said, spying is spying. . . . You have to make up your mind that you are going to have an intelligence agency and protect it as such, and shut your eyes some and take what is coming.<sup>19</sup>

Senator Stuart Symington complained, "I wish his [Stennis'] interest in the subject had developed to the point where he held just one meeting of the CIA subcommittee this year, just one meeting!"<sup>20</sup> Despite occasional leaks and minor problems, the CIA's covert operations were running in high gear, accounting for over half of the CIA's total budget.

The roof finally caved in on December 22, 1974, when the *New York Times* ran an article by Seymour Hersh revealing the CIA's "dirty tricks" that are now so well known: bribing politicians, undermining governments, spreading lies, conducting experiments with mind-altering drugs, building stocks of poison, contaminating food supplies, arming secret armies to revolt against national leaders, and above all, plotting to assassinate foreign leaders. Director William Colby confirmed most of the allegations in a report sent to Henry Kissinger. Top men resigned and the crisis that virtually paralyzed the CIA was underway. The House under Otis Pike, the Senate under Frank Church, and the Justice Department all conducted investigations that confirmed many of the public's worst suspicions. The Justice Department's 683-page report of "questionable activities" and the multivolume Congressional reports left the public screaming for the reform of an agency that had seemingly lost touch with reality and had adopted the methods and accepted the value system of the "enemy."<sup>21</sup>

Even more unsettling were the facts revealed by former CIA agents who had quit and were "telling it all." It was revealed that Richard Helms blatantly lied to the Senate about the CIA's involvement in Chile on February 7, 1973.<sup>22</sup> William Colby perjured himself before the Church committee in

1975 when he tried to deny U.S. involvement in Angola. Both of these men were in the unenviable position of having to choose between two "ethical imperatives," either honoring the oath of secrecy for the CIA or telling the truth under oath. It is a tough dilemma and both of the men opted for former, Colby saying,

I found myself in a position of conflict. I had sworn my oath to protect certain secrets. I didn't want to lie. I didn't want to mislead the Senate. I was simply trying to find my way through a very difficult situation.<sup>23</sup>

Judge Parker did not see it that way and convicted Colby of perjury, giving him the maximum \$2,000 fine and saying, "Public officials at every level, whatever their position, like any other person, must respect and honor the Constitution and the laws of the United States."<sup>24</sup>

It is easy to sympathize with these men's dilemma. They both believed they were acting in the nation's best interest and said they would do the same thing again if they had to. It is much harder to justify the action of Henry Kissinger before the same Church committee. John Stockwell, who at the time was Operations Director in Angola and was a member of the National Security Council, revealed that Kissinger presided over the meeting of the NSC that approved of a program to organize and supply mercenary armies and then subsequently went in front of Congress and denied any involvement in Angola.<sup>25</sup> The secrecy (and the deception that goes with it) of the CIA can be justified as being indispensable for the organization, but when it overflows into the policy-making arena, serious questions of the subversion of the whole democratic process can be raised.

This, then, brings the problem to the point where the American public no longer has any confidence in the CIA, and the CIA has been deemed incompetent and unable to serve our interests. The crisis of confidence and ineffectiveness of the CIA are merely symptoms of the problem which critics from the right say will be solved if the CIA is given back its old power to protect American interests. Many feel the CIA's problems contribute to America's apparent inability to deal with international crises, as in Iran and Afghanistan. Others insist there are inherent problems in covert operations that have been causing the incompetence and that trade-offs with human rights are too severe to justify covert operations even if they do work. The main questions are then: to what extent is the CIA compatible with the American system, or necessary to preserve it; and how can we have an effective intelligence agency, which is essential for survival in today's complex world, but yet does not trample human rights? In other words, are ethics and intelligence contradictory terms, and if they are which must we choose?

### III. Reform of the CIA — What is Needed?

Reform of any bureaucracy is difficult, but tackling the CIA has proven to be a task of monumental proportions as the inertia and resistance to

change, generally observable in government, is slowed even further by the "sacred cow" status of national security. Two aspects of the CIA are the targets of most reform discussions: the controversial covert political operations and the covert means of obtaining information. A third function, counter-intelligence, is usually regarded as immune to the reforms because of its universally recognized importance. Reform proposals have taken dozens of different approaches. I will examine four possibilities (actually, three alternatives and the status quo), bearing in mind both historical precedence and future implications in assessing their respective merits and liabilities.

*The "Minimal Decision:" Status Quo.* When Admiral Stansfield Turner recently took over the struggling CIA, it appeared he had the right intentions, but most of his efforts backfired. In order to restore public confidence, he cut back covert operations and fired 400 clandestine officials. Tad Szulc viewed this act as having a worse effect on employee morale than all the investigations and revelations.<sup>26</sup> Turner's next move was to attempt to take control of the whole intelligence apparatus, making the Defense Department the CIA's main antagonist for this period.

It became obvious to President Carter that action was needed to improve the accountability, integrity and effectiveness of the CIA. Accountability was provided for in the Hughes-Ryan amendment of 1974 with requirements for Senate briefings and Presidential approval of covert operations. With Colby and Kissinger proving that non-accountability through perjury was still possible, Carter established the Intelligence Oversight Board, comprised of former Governor of Pennsylvania William Scranton, former Senator of Tennessee Albert Gore, and Washington attorney Thomas L. Turner. They are responsible for reviewing intelligence activities and reporting any problems to the President.<sup>27</sup>

In addition, Carter issued Executive Order #12036 on January 24, 1978, showing a commitment to more openness in intelligence functions and more protection for individual rights. Its main points outlawed all covert operations in the United States (except with executive approval), outlawed assassinations, restricted CIA contracts with the academic world and non-government institutions, restricted the surveillance of "U.S. persons" to overseas (except with approval of the President and Attorney General), and put counter-intelligence under the direction of a new committee. The effectiveness of the CIA was to be bolstered by the National Intelligence Tasking Center, which centralized activities, and by the Policy Review Committee of the NSC, which "defines and establishes priorities for intelligence consumers." In addition, Stansfield Turner was given more power in preparing the CIA's budget and in other areas.<sup>28</sup>

Criticism flew from both sides, as is usually the case with minimal decisions such as this. Opinions of those who think nothing concrete came of

the order are summed up by the Director for the Center for National Security Studies:

It is a sad commentary that a Presidential directive instructing the intelligence agencies to respect the Constitution and to act in a lawful manner is hailed as reform. Given past conduct, enforcing the Constitution, would indeed be a reform, but it is not a reform which takes one very far, since the meaning of these phrases is not spelled out and they mean far different things when put into practice.<sup>29</sup>

A closer look at the executive order reveals that, while it reasserts constitutional, ethical behavior, it is also riddled with many loopholes that will allow continued abuses and basically ignores the issue of covert political activity. The attempts to reorganize the agency seem to have backfired as well.

Although the order concentrates on protecting the rights of Americans, substantial guarantees still do not exist. Electronic surveillance and physical searches are authorized under vague "national security" guidelines and the Attorney General is given excessive power in authorizing domestic covert actions. It should be obvious in the light of two recent convictions of Attorneys General that too much power should not be placed in one person's hands.<sup>30</sup>

The heaviest criticism came from persons in the academic community who claimed that academic institutions would still be used as a cover for intelligence. Morton Baratz, general secretary of the American Association of University Professors, warned, "The order will leave the door open to unacceptable intrusions by the intelligence agencies in colleges and universities throughout America."<sup>31</sup> Specifically, the status quo allows professors on sabbatical to be used for covert activities and allows other purchases of information "if the appropriate senior officials are informed." In addition, professors will be allowed to secretly work for the CIA if no remunerations are involved.<sup>32</sup>

Other concerns have been raised about the status quo's protection of the covert leadership and the maintenance of that powerful branch despite attempted reorganization. The main effect of the Stansfield Turner reductions of clandestine operations was to fill the highest executive positions of other branches with the fired personnel. The new leadership did not spend much time on limiting activities; instead it compartmentalized the more suspect activities so fewer people would be responsible. E. Drexel Godfrey laments:

Thus, a picture emerges of a highly compartmentalized bureaucracy whose direction has been largely controlled by officials with long experience in the seduction of other human beings and societies.<sup>33</sup>

The criticisms expressed are serious ones; they show a basic doubt in the government's ability to control wrongdoings and to protect the Constitutional rights of U.S. citizens. It also shows an unwillingness to accept decisions made by the Attorney General and the President regarding national

security as an end in itself while subverting constitutional rights in the process.<sup>34</sup>

Criticisms from the right were equally severe but in a different vein. With an "I told you so" attitude, they scoff at the critics from the left who complain of the intelligence failures in Iran and Nicaragua. The reformists are viewed as responsible for the problems by crippling the CIA with "foolish, inflexible, and unrealistic restrictions," and yet wanting an effective agency.<sup>35</sup>

Specific problems in the status quo are the extension of Constitutional rights to foreigners residing in the United States and excessive control by Congress and other oversight committees. The first is viewed as impeding effective counter-intelligence by giving potential KGB agents the same rights to warrants from the Attorney General that U.S. citizens possess. Accountability can be damaging by providing a source for possible leaks and by cutting down on the efficiency of the CIA through forcing continuous consultation when speedier action may be needed. Further disgust is expressed in the status quo's lack of censorship exerted over the breaking of the oath of secrecy and the revealing of classified information by loose-tongued agents who have blown covers and who, in at least one case (Richard Welch in Athens), may have led to the death of the exposed agent.<sup>36</sup> William Evans sees the CIA as being weakened further by existing laws.

The combined effect of these provisions is to make our already palsied intelligence agencies feebler still, and to make it extremely likely that any data obtained despite the restrictions would be leaked to the outside world through one or another of the hundreds of crevices.<sup>37</sup>

Attempts at reform seem to have fallen short of everyone's expectations. Stansfield Turner and President Carter both have exhibited interest in reorganizing the CIA to respectability, and some benefits can be observed, such as the CIA's apparent transition from a "military-intelligence mentality" to one that encompasses the economic, political, and sociological factors affecting this complex world. While intentions were good, the minimal decision in the form of Executive Order #12036 is unacceptable: reformists cry about loopholes, and hardliners fume over handcuffing restrictions. Something needs to be done: the United States' image is at a low ebb right now, and at this point the CIA has done nothing to alter that, and indeed, its activities may go a long way in explaining hostile, anti-U.S. feelings worldwide.

*Alternative Proposal #1.* In considering policy alternatives, will covert operations inherently end in abuse and lead to the undermining of effective intelligence, or are present problems due to structural and operational defects? A strong case can be made for the latter. William Colby blames past "excesses" on the CIA charter that gave the agency too much latitude in operations. He quipped, "If you had given the Fish and Wildlife Service that

kind of charter it would have got in trouble."<sup>38</sup> Other curable defects already raised are restrictive reporting requirements and damaging intelligence leaks.

Another surmountable problem associated with covert operations is its apparent responsibility for intelligence failures. One source of failure is the existence of vested interests; for example, in Iran the operationists' overriding interest in protecting listening posts on the Soviet border deluded them into believing that the Shah's opponents were "numerically insignificant and potentially impotent."<sup>39</sup> A second cause of failure lies in preconceived ideas, as with the CIA's tendency to view the Third World as weak and unable to affect world politics. This gross distortion of reality led to failures to predict the Yom Kippur War, the Arab oil embargo, and subsequent price hikes.<sup>40</sup>

To solve these problems and to strengthen covert operations, the following policy alternative is proposed.

1. Divorce overt and covert operations into two separate, independent branches.
2. Form a new, truly secret intelligence branch for covert operations. It will be composed of a few elite agents who have proven themselves in the clandestine service. They will live privately and be accountable to a small office that will report to the CIA Director. There will be no production requirements, no leaks, no bureaucracy, and no large system to service.<sup>41</sup>
3. CIA will continue to operate, but only in the overt collection of information to provide the President with updates on current issues.
4. Set up a commission comprised of Congressional leaders, businessmen, labor leaders, media personnel, and academicians, that will provide a public statement of long-term foreign policy goals and objectives. This will serve as a guideline for covert and overt operations.<sup>42</sup>
5. Outlaw all publishing of classified material by former CIA agents.

The rationale for this plan is summed up by Kenneth Adelman, "What the nation requires is national intelligence that is so tough, shrewd, and ruthless that no trend or fashion will ever again screen data or warp perception."<sup>43</sup>

Obvious trade-offs exist with humanitarian and democratic ideals, but given the present conservatism and recent loss of American prestige, this proposal is likely to be met with widespread approval from large segments of the population. As time drags on, memories of the CIA's abuses dim; a gradual loss of public conscience, a growing feeling of nationalism, and a need to reassert our power can be observed. The public is tired of being pushed around by countries such as Iran, and a stronger CIA should help. These attitudes are expressed by A. L. Jacobs, a former CIA clandestine officer with nineteen years experience:

We may be dedicated to the moral ideals of peace, self-determination, and human welfare—but in the attainment of those ideals there is the overriding ethic of all nation-states, namely survival.<sup>44</sup>

This policy alternative recognizes the need for intelligence and secrecy. It

would eliminate detailed oversight, and the new status of covert operations would assure professionalism. Agents would be protected by eliminating information leaks, a point being widely supported in Congress, where several bills to achieve that protection have been proposed. The policy commission would see that national priorities were set and followed. The outstanding point is the separation of overt and covert operations to assure that conflicting interests will not affect information and to enhance the integrity and effectiveness of both branches.

Opposition for this plan will come from those who think a secret intelligence branch will open the door for more abuses. Jacobs answers this argument saying that secrecy is an indispensable attribute, and is in itself a national ethic, "just as the secrecy of the ballot box and of grand jury proceedings are accepted precepts of our national morality."<sup>45</sup> To compare the vote, the very foundation of democratic society, with subversive "dirty tricks," and then justify both in the name of secrecy is absurd; serious questions about the desirability of secrecy can be raised.

The opposition to this plan can be crystalized into two arguments:

- a. given the current climate of worldwide political activism and nationalism, covert activities cannot be kept secret; and,
- b. even if secrecy could be assured, covert acts are not the way that our foreign policy should be carried out, or as Herbert Scoville puts it, "We cannot adopt the reprehensible tactics of those we are opposing."<sup>46</sup>

This second argument is a value judgment stating the humanitarian point of view and can be discarded if one puts higher priority on national security. But the first argument strikes at the heart of the proposal and, if proven valid, would seriously undermine the arguments for its adoption.

The American public has been protected from knowledge of CIA activities by the practice of "plausible denial" and the dualism of action policy; but the existence of this "hear no evil, see no evil" atmosphere does not mean the rest of the world has been equally ignorant. What was revealed to the American public in the CIA investigations was well-known to the countries involved. John Stockwell maintains, "The United States has been responsible for more acts of violence and terrorism for political reasons than have all of the other countries and liberation movements of the world put together."<sup>47</sup> The people of Chile knew where those \$13.4 million came from to subvert the Allende campaign.<sup>48</sup> Nicaraguan citizens knew who was still supporting their oppressive leader, Somoza. It was no secret to the Iranians who was responsible for the power of the Shah and Savak. For these reasons covert political activity cannot be acceptable; *international* secrecy is impossible in today's world. The end result, if such activities are continued, will be the further decay of American credibility and prestige abroad. Everyone wonders why America is hated so much, but, while some of it can be attributed to scapegoating, the scapegoat was not singled out at random. Tom Wicker agrees with this assessment of anti-U.S. feeling and

abhors a return to covert operations; "Indeed, with 'CIA' a knee-jerk phrase evoking anti-Americanism around the world with the CIA's real record of bloodshed, blunder, and ineptitude from Chile to Iran, a return to that kind of intervention makes little more sense than re-running the Bay of Pigs."<sup>44</sup>

Additional opposition would be voiced by the free-speech advocates who would abhor the censorship of former agents. Moralistic arguments against covert operations will be raised later; they center around the premise that national security is not an end in itself and that abuses of human rights cannot be allowed to continue under its guise.

*Alternative Proposal #2.* An alternative to unrestricted covert operations would be to revamp the status quo so as to protect human rights to a greater degree and provide for more openness and control. This proposal will attempt to maintain the balance between flexibility and accountability, while recognizing the need for national security and democratic control. Heavier weight will be placed on the latter to avoid the "minimal decision" status of the present system. This plan would contain the following points.

1. Outlaw all political covert activity except in cases where:
  - a) the President has determined a great need to protect our interests and "national security;"
  - b) this need is presented to selected committees of Congress and it is shown that overt operations will not suffice; and,
  - c) the authorization for any covert activity is approved in writing at several points before actual implementation, culminating with Presidential approval.
2. Covert activity involving the gathering of information will be confined to information that has immediate and direct relation to the violation of a law or is necessary for the administration of a law.<sup>50</sup>
3. The budget for the CIA's covert and overt operations will be made public.
4. All electronic surveillance and physical searches of U.S. citizens must be authorized by a court order.
5. Congress will be authorized to make public more information regarding the CIA that does not have "top secret" classification.

This proposal takes significant steps to assure that the democratic process will be preserved. Government activities are supposed to have the "consent of the governed," but in the past there could be no consent because the public did not know to what it was consenting. This goes along with the Jeffersonian ideal of informing the public. He once said:

I know no safe depository of the ultimate powers of the society but the people themselves and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.<sup>51</sup>

All the same arguments used against the restrictiveness of the status quo are applicable here, and to a greater degree. One additional objection could be raised: the jeopardizing of national security by making the CIA's budget

public. Critics maintain that too much valuable information would be given out to the Russian as well as the American public. In actuality, publishing the CIA's budget would no more jeopardize national security than does the public nature of the defense budget. In addition, covert spendings are "riddled with waste," and in an era of fiscal restraint it would be in the nation's interest to control this multibillion-dollar operation.<sup>52</sup>

An objective analysis would show that the only activities controlled by this plan are those that are not really essential to national security and that are not responsible for most of the abuses. It appears this proposal would achieve a desirable balance, given the present administration and CIA leadership, but there are no inherent protections when leadership changes. In setting guidelines for covert operations, the national security loopholes leave one inextricably tied to human judgment and values. Personally, I tend to cringe at the thought of what powers the CIA might be given were Ronald Reagan to be elected this next fall.

Another fact that prevents inherent controls over the CIA is the nature of the oversight process. There is an inevitable "Catch 22" involved—we are dependent on the integrity of the CIA. Who gives the information desired? Who decides how much information will be given? The same agency that is being monitored.<sup>53</sup> In view of the recent perjury of two CIA directors before the Senate this seems like a very thin guarantee of democratic control.

*Alternative Proposal #3.* What then is the solution to restoring the CIA's effectiveness and integrity? Perhaps the answer can be gained by returning to the original goals expressed in the 1947 NS Act: the collection and dissemination of information. When these goals became distorted, trouble was sure to arise. Norman Birnbaum mused, "Why should a problem of political technique, dealt with reasonably well by other nations, prove so difficult?"<sup>54</sup> The obvious answer lies in the vocal and principled opposition voiced in our open society when the government deviates from what is viewed as acceptable. In the Soviet Union the KGB can operate at will because there is no voiced opposition. In the United States this cannot happen; we must return to the democratic ideals upon which this country is based. The Soviet Union's viewing of the Third World as a playground for its covert operations does not mean that we can do the same. At times we seem to fulfill the prophecy of George Williams, the famous Harvard theologian who said, "Be cautious when choosing your enemy, for you will grow more like him."<sup>55</sup> We must break away from this pattern and recognize the realities of a new international political environment. The Third World is no longer taking its cues from the superpowers; blocs of nonaligned states are being formed and nationalistic feelings are running high. This is not the time for imperialistic interventions in the name of *our* national security. The integrity and effectiveness of the CIA and positive image of the United States can be revived only if this fact is recognized and if our priorities are revised.

Intelligence is needed more than ever in this interdependent world; we need to know the economic and political intentions and motives of every nation. This must be done through an understanding of their cultures, attitudes and feelings, not by intervention in their internal affairs.<sup>56</sup> This can be accomplished by the following proposal.

1. Abolish all covert operations, except those involving counter-intelligence, which must be purely defensive in nature.
2. Set up a commission, as in point #4 of the first alternative, to develop long-range goals for overt operations.
3. Strengthen overt intelligence gathering by making better use of foreign embassies and putting more emphasis on technological means of getting information.
4. Recruit foreign CIA agents who are more sympathetic toward and knowledgeable about the country to which they will be assigned.
5. Make the operating budget of the CIA public.

The benefits of the plan are obvious: the integrity of the agency will be restored with above-board operations, democratic control will be assured, and information gathering will become professional and accurate once again. National security will be protected by aggressive counter-intelligence that will monitor and report activities by the KGB and other hostile spies.

A careful analysis and assessment of the costs and risks associated with this proposal must be carried out before a final recommendation can be made. The arguments against the plan would fall under three points:

- a. overt intelligence gathering will not supply crucial information which can only be obtained by spies and controlled sources;
- b. we need covert activities for our survival and to further our interests abroad; and furthermore, since other countries carry out covert operations, our moralistic stand would put us at a disastrous disadvantage because the Russians would react to an announcement of the termination of CIA covert operations by stepping up their own operations all over the world;<sup>57</sup> and,
- c. we have a responsibility to protect our allies, and if covert support were to be discontinued they would suffer harms under Communist oppression that are far greater than any costs associated with covert operations.

The first point can be easily refuted. People who make this assertion point to the *highly compartmentalized nature of the Kremlin and other controlled societies* and maintain that any really valuable information can be obtained only through subversive means.<sup>58</sup> To the contrary, covert information sources rarely provide any new information; even when contacts are made, such as in the celebrated Penkovsky case of the early sixties, they usually serve to substantiate existing data. The questionable validity of the covert source renders it totally useless in time of crisis, as it must always be confirmed by some technical system anyway.<sup>59</sup> One can imagine the reaction in the U.N. if Adlai Stevenson had presented evidence supplied by a Castro defector as proof of Russian missiles, rather than photos from a U-2 plane. Conceivably it could be argued that covert information sources are useful for their support function, but this is also doubtful when the phenomenon

of "disinformation" is considered. Covert human sources are extremely difficult to come by since Russian spies are well-trained. When a contact is made one can never be sure if he is a bona fide defector or someone planted by the KGB. In the latter case, once a KGB agent is accepted as an informant, lies will be taken for real intelligence. Sometimes the effect can be disastrous as in the case of dissident Anatoly Shcharansky who was turned in by such a "contact."<sup>60</sup> Covert sources are even less significant when one considers that nonrecruited defectors, who make up a large percentage of all sources, can still be utilized by overt intelligence operations.

The latter two points involve national security questions and a view of the Soviet threat as being of utmost concern. These arguments were summed up very well by Sidney Hook:

Those who on a priori grounds condemn an action without regard for its consequences in preserving the structure of democratic freedom are guilty at the very least of blatant hypocrisy. . . . We must recognize the evil we do even when it is the lesser evil. But if it is truly the lesser evil, then those who condemn it or would have us do nothing at all are morally responsible for the greater evil that may ensue.<sup>61</sup>

Two implicit assumptions are made in this statement: that covert operations are in fact the lesser evil and that covert operations support the "structure of democratic freedom." Both of these assumptions can be refuted, thus destroying the justification for covert operations. If covert operations do uphold the "structure of democratic freedom," then it is merely a value judgment in determining the relative costs of letting a nation fall to communism and preventing such an incident. If communist expansion in the Third World is perceived as a threat to our national security, then anything to stop it could be justified. The fact is, the CIA's covert operations often subvert democratic ideals. In addition, John Stockwell maintains, "Very few of those [covert] operations have had anything to do with national security interests of the United States."<sup>62</sup> In many cases the CIA has supported or put into power regimes that are at least as repressive as the communist ones we are trying to subvert. Brazil, Iran, British Guiana, Indonesia, Guatemala, and Ecuador are all cases in point. Perhaps the best example is the tragedy of Vietnam, which would have been completely avoided had the CIA allowed the immensely popular Ho Chi Minh to take power. Instead, the CIA supported the anticommunist Diem, and the rest is history. It is almost absurd to consider the tremendous loss of human life as being anything but wasted, and would be so even if the United States and the CIA had been "victorious" over the expanding Communists.

#### **IV. Conclusion**

In arriving at a final policy recommendation, all of the trade-offs and risks of each alternative have to be carefully weighed. The communist threat is real and cannot be ignored. It is naive to assume that the Soviet Union

would follow our example and stop intervening in the activities of other sovereign nations. It is equally naive, though, to assume that the United States can continue to operate under the dualistic, hypocritical foreign policy which it has pursued for the last thirty years, and yet maintain any degree of international credibility. It has been shown that covert operations are unacceptable because: *a*) their intention of preserving democracy is far outweighed by the repressive regimes that we put into power; *b*) they intensify anti-U.S. feelings worldwide because covert operations do not remain secret in the nations concerned (just as Americans would be outraged if the Democratic Party received most of its campaign contributions from the KGB, or if CBS and NBC were supported by secret funds);<sup>63</sup> *c*) they subvert democratic ideals at home in that democratic consent is impossible because of the secret nature of covert operations (oversight and secrecy are inherently contradictory terms); and *d*) they force us to adopt the immoral tactics of the "enemy."

The Soviet threat will be controlled partially by the same phenomenon that has been a thorn in the side of the United States—the rise of nationalism in the Third World. When this does not hold true, the United States will still be able to intervene in international emergencies; but under the suggested policy it will act *overtly* from a position of moral leadership. In a case such as in Portugal recently, where a vocal, Soviet-led, minority was swaying an election, it was determined to be in our national interest to intervene and counterbalance the Soviet influence. If it truly was in Portugal's interest, and therefore also in ours, an overt act of aid would be justifiable. John Stockwell supports this view:

I submit that true influence over world affairs is never gained by covert operations. It is rather the force of the relationships among the countries that produces positive influence. We would be further ahead in the world if we had direct and open and honest relations with countries.<sup>64</sup>

The CIA would still operate to gather information essential to the carrying out of foreign policy, but no longer would we be shackled by cynicism, "plausible denial," and a contradictory dualism. We would be the moral leaders of the world, with the world as our judge.

## NOTES

1. Brian O'Connell, "Doing Away With Covert Activities," *America*, March 13, 1976, p. 205.
2. Norman Cousins, "What is an American to Think About the CIA?," *Saturday Review*, July 8, 1978, p. 40.
3. Norman Birnbaum, "Failure of Intelligence," *Nation*, January 20, 1979, p. 42.
4. Charles More, "CIA Charter Agreement is Expected," *Louisville Courier Journal*, January 15, 1980, p. 2.
5. Roberta Wohlstetter, "Cuba and Pearl Harbor: Hindsight and Foresight." *Foreign Affairs* 44 (October 1965): 695-696.

6. David Wise and Thomas B. Ross, *The Invisible Government* (New York: Random House, 1964), p. 4.
7. William J. Barnds, "Intelligence and Foreign Policy: Dilemmas of a Democracy," *Foreign Affairs* 47 (January 1969): 282.
8. Wise, *The Invisible Government*, p. 96.
9. O'Connell, "Covert Activities," p. 204.
10. Harry Rositzke, "America's Secret Operations: A perspective," *Foreign Affairs* 53 (January 1975): 340.
11. Wise, *The Invisible Government*, p. 96.
12. *Ibid.*, pp. 98-99.
13. *Ibid.*, p. 99.
14. Stockwell's comment would be chronologically accurate if he had called the Bay of Pigs a "Banana Revolt" that did not work. The comment was made in John Stockwell, "A CIA Trip—From Belief, to Doubt, to Despair," *The Center Magazine* (September-October 1979): 27.
15. Peter Singer, "Foreswearing Secrecy," *Nation* (May 5, 1979), p. 490.
16. E. Drexel Godfrey, Jr., "Ethics and Intelligence," *Foreign Affairs* 56 (April 1978): 628.
17. Wise, *The Invisible Government*, p. 137.
18. *Ibid.*, p. 62.
19. O'Connell, "Covert Activities," p. 205.
20. Wise, *The Invisible Government*, p. xi.
21. Frank Church, "Covert Action: Swamp of American Foreign Policy," *The Bulletin of the Atomic Scientists* (February 1976), p. 9.
22. Godfrey, "Ethics and Intelligence," p. 625.
23. Thomas Powers, "Inside the Department of Dirty Tricks," *Atlantic* (August 1979), p. 62.
24. *Ibid.*, p. 63.
25. Stockwell, "A CIA Trip," p. 26.
26. Tad Szulc, "Shaking Up the CIA," *New York Times Magazine*, July 29, 1979, p. 13.
27. *Ibid.*, p. 15.
28. David Binder, "Intelligence Service Reorganized with Tighter Rules on Surveillance," *New York Times*, January 23, 1978, p. 1.
29. George Lardner, "Congress Overlooks Oversight: Missing Intelligence Charters," *Nation* (September 2, 1978), p. 170.
30. "Intelligence Needs Reform, Reform Needs Intelligence," *New Republic* (February 11, 1978), p. 5.
31. R. J. Smith, "Clash in Congress Over the Honorable Schoolboy: Hearing on the National Intelligence Act," *Science* (September 1, 1978), p. 796.
32. *Ibid.*
33. Godfrey, "Ethics and Intelligence," p. 632.
34. "Carter vs. the Constitution: The Frank Snepp Case," *New Republic* (March 4, 1978), p. 13.
35. Binder, "Intelligence Service Reorganized," p. 1.
36. Singer, "Foreswearing Secrecy," p. 488.
37. William Evans, "A New and Better CIA," *National Review* (July 6, 1979), p. 863.
38. Stansfield Turner, William E. Colby, Mitchell Rogovin, Thomas I. Emerson, and Morton Halperin, "Freedom and the Intelligence Function: A Symposium," *The Center Magazine* (March 1979), p. 59.
39. Kenneth Adelman and Robert F. Ellsworth, "Foolish Intelligence," *Foreign Policy*, (Fall, 1979), p. 154.
40. *Ibid.*, p. 156.
41. Rositzke, "American Secret Operations," p. 346.
42. *Ibid.*, pp. 350-51.
43. Adelman, "Foolish Intelligence," p. 159.
44. A. L. Jacobs, Reply to Godfrey, "Ethics and Intelligence," *Foreign Affairs* 56 (July 1978): 868.
45. *Ibid.*, p. 869.

46. Herbert Scoville, Jr., "Is Espionage Necessary for Our Security?" *Foreign Affairs* 54 (April, 1976): 483.
47. Stockwell, "A CIA Trip," p. 58.
48. O'Connell, "Covert Activities," p. 204.
49. Tom Wicker, "It makes little sense to let CIA resume covert operations," *Louisville Courier Journal*, January 16, 1980, p. 11.
50. William E. Rogovin, in Turner, "Intelligence Symposium," p. 46.
51. Wise, *The Invisible Government*, p. 7.
52. Lardner, "Congress Overlooks Oversight," p. 169.
53. Morton Halperin's point pretty well establishes that oversight and secrecy are contradictory terms. If one takes an absolutist stand on preserving democratic control, this point alone would destroy the second proposal. This absolutism is fairly extreme, though in dealing with political realities this policy option is about the best that liberal reformists could hope for, and therefore, although it was cast aside fairly abruptly, it is not a "straw man" proposal. (Senate liberals, such as Birch Bayh, have been pushing for bills similar to this plan.) This option could be considered a minimal decision in that it does not entirely please either side of the issue, but it is one that would receive widespread support from the non-absolute reformists. Expounding the more extreme view was Morton Halperin, in Turner, "Intelligence Symposium," p. 58.
54. Birnbaum, "Failure of Intelligence," p. 42.
55. Church, "Covert Action," p. 10.
56. Turner, "Intelligence Symposium," p. 48.
57. O'Connell, "Covert Activities," p. 205.
58. Jacobs, in Godfrey, "Ethics and Intelligence," p. 814.
59. Epstein, "War Within the CIA," p. 37.
60. "Human Rights for Spies," *New Republic* (October 14, 1978), p. 9-10.
61. Scoville, "Is Espionage Necessary?" p. 485.
62. Stockwell, "A CIA Trip," p. 27.
63. O'Connell, "Covert Activities," p. 205.
64. Stockwell, "A CIA Trip," p. 28.