

William Colby's career as an American intelligence officer encompassed thirty years, beginning at the time of World War II and ending with his tenure as CIA Director from September 1973 until January 1976. Colby led the Central Intelligence Agency during the stormiest stretch in its history, when it was constantly in the media and under intense congressional investigation. In the excerpt from his 1978 memoir that follows, Colby reviews what was right and what was wrong with American intelligence, and what had been done and what still needed to be done to keep it in line with our constitutional system.

### **William Colby on Constitutional Intelligence**

*(Honorable Men: My Life in the CIA, by William Colby and Peter Forbath, Simon and Schuster, 1978, pages 454-459.)*

American intelligence had come a long way since my World War II OSS days in France and Norway. Its scholarship, its technology, and its new generation of professionally trained and experienced operations officers produce fantastic information and assessments of our world. And these enable our leaders to make foreign policy and defense decisions on the basis of knowledge rather than in the haze of ignorance and suspicion in which they operated in so many situations in the past. America's scientific and technological genius applied to intelligence, the integrity of its academic discipline, which has become the intellectual heart of the process, and the courage and resourcefulness of the officers who trained and built an operational service during my lifetime to match and better older foreign organizations—all were a credit to the nation they served with such dedication and skill. I had been lucky to be a part of their efforts, and I was especially honored to have been named to lead them...

But I realize that my view of American intelligence and of its leading element, the CIA, is much different from that of the ordinary citizen, and even from that of the well-informed minority. Their harsh opinion, in part, is of course the result of those questionable activities that have come to light and have cast a shadow of meanness, cynicism and amorality over the intelligence profession. Drug experiments on unsuspecting Americans, prying into the lives and mail of American citizens, concern only about "flap potential" instead of legality and discussing with Mafia hoods how poison could be administered to Fidel Castro—none of this could be condoned with the argument that the use of abhorrent means is justified by the end of protecting the nation. The nation has a far better image of itself, strong enough to reject such behavior and survive without it. Equally unsavory recent revelations about the FBI, tarnishing the reputation of that once universally admired institution, have had the effect of rubbing off on CIA and compounding the image problem. While we in intelligence knew such activity to be exceptional and were often as much surprised by it as was the public, we have to admit that this activity was both bad and a natural outgrowth of the clandestine ethos, which held that if an activity could remain secret it could be justified by its role in the Cold War contest. Even my own action of issuing directives against such behavior was done without disclosing the history that had led to the directives; in effect, I was trying to "distance" CIA from its own past, but thereby only added to the impression of the institution protecting itself through secrecy.

But the public's image of intelligence was formed and exaggerated by more than CIA's own missteps and misdeeds. Intelligence's tradition of total secrecy had served to conceal its virtues as well as, or better than, its vices, a fact no longer compensated for by President Kennedy's sympathetic remark that, "Your triumphs are unheralded, your failures trumpeted." And two events overturned America's tolerance and even encouragement of intelligence's secrecy: Vietnam and Watergate. Public confidence in government generally was shaken, producing among some a total turn-off and among most an end to the patriotic acceptance and support for what the leadership and the experts asserted they did in the public interest. A new revisionist history arose to question the premises and the wisdom of policies and activities that had once had the fullest public support, from the Cold War to America's economic and commercial role in the less-developed world. The revisionism had its impact on intelligence, in greater questioning from the Congress and opinion leaders of the projects and procedures of intelligence, and in a sustained public appetite to see the initials CIA in the headlines.

To meet this new challenge, and indeed to enable American intelligence to survive in this new world, only a bare start on a new approach has been made. My own 1973 directives prescribed that certain obvious abuses no longer be permitted. President Ford issued, in 1976, Executive Order 11905, which for the first time publicly described our intelligence community and the restrictions on it. Together these solved part of the problem of the past, when intelligence practitioners had no clear-cut guide as to what was permissible and what was beyond the nation's conscience, so their judgment in some cases plainly was warped by rationalizations in support of what seemed to be a contribution to the security of the nation or the greater efficiency of the intelligence machinery. But these small steps toward a set of rules for intelligence have to be filled out in the way that the American people traditionally express their consensus on how their affairs are to be conducted: through an Act of Congress defining the roles and rules for American intelligence.

Such an act need not go into the precise details required for internal CIA directives. But it should state the broad principles and prohibitions under which American intelligence must operate. The division between CIA's *foreign* intelligence mission and the FBI's internal-security activities; the use of NSA's and other agencies' capabilities for electronic surveillance and message intercept against *foreign* nations and *their agents* and not against Americans (unless authorized by judicial warrant); clear prohibitions against involvement with assassination, torture, or weapons barred in treaties to which the United States is signatory; and the obvious but previously muted truth that American intelligence is bound by American law—all this should be plainly stated, and then would be reinforced with the other laws going beyond Executive Branch directives, that such activities would bring legal penalties to those undertaking them. In the course of the hearings and debates leading up to such an Act of Congress, a number of other principles could be debated and the line carefully could be drawn between what is too great a limit on future flexibility and what is too little reflective of American ideals. One example, for instance, for such debate is whether no covert political action should be undertaken "to subvert democratic governments" (as the Church committee concluded, producing an almost impossible definitional task...) or whether a simpler—and lesser—restriction such as a bar against

assistance to “military” attempts against “civilian” governments would be a better over-all restriction on future United States options...

Many intelligence activities are better criticized on the basis of specific circumstances than on broad principles, however, and statutory bars are not the way to deal with them. Procedures rather than prescriptions can separate activities that might be required and fully justified in the nation’s interest in some cases, from those that should be rejected in the specific circumstances of the moment. The Executive Branch has long had means to permit intelligence decisions to be reviewed by senior officials, for example, the National Security Council committees established by every President since Eisenhower, the Office of Management and Budget review of requests for appropriations, and the outside panel of wise citizens on the President’s Foreign Advisory Board. But the weakness of Executive Branch procedures was shown in Chile’s Track II, when the President, under whose authority these review bodies were established, directed that they be bypassed.

Congress, which for years had exercised its review functions in only the most perfunctory manner, roused itself in 1974 to insist that any activities of CIA abroad, other than intelligence gathering, be reported to the “appropriate committees” of the Congress as a first step toward assuming its full constitutional role of reviewing and approving or disapproving of the actions of the Executive. The 1975 year of investigation was a convulsive attempt, after the fact, to perform this function for the twenty-five years during which it had been neglected. But its outcome, nonetheless, was to establish a proper procedure in the Senate (and finally in 1977 in the House) by which continuing review could be accomplished by special committees that could know the secrets but be small enough to keep them from exposure. In 1776 the Committee on Secret Correspondence stated that “fatal experience has shown, that there are too many members of Congress to keep a secret,” and today’s 535 are no less leakage prone than the 50-odd then. So, Congressional review today must be accomplished by a small, representative body of the Congress and not by exposure of the secrets to all. These committees, with the clear responsibility for reviewing intelligence activities, can replace previous Congressional “oversight” with the kind of Congressional consultation and responsibility in American decisions about intelligence operations called for by the Constitution, bringing perhaps a new meaning to the initials CIA—Constitutional Intelligence for America.

Behind the two elected authorities over intelligence, the Executive Branch and Congress, stands the ultimate source of its power, the people. And any improved structure for American intelligence must recognize that the American people are no longer content to provide blind support for the secret work of intelligence, whatever may have been the traditions of the past...