

CHAIRMAN'S FOREWORD

The Honorable Daniel Patrick Moynihan United States Senator from New York

It is a half century since the foreign intelligence system of the United States was established by the National Security Act of 1947. It is 80 years since the Espionage Act of 1917 established the present legal regime dealing with subversive activities within the United States itself. This has been a time of war and rumors of war without cease, global ideological conflict, and, with the onset of the atomic age, the possibility, at times even the prospect, that the human race might destroy itself in one climactic armageddonic convulsion.

This age is in large measure past. Major conflict is no longer a prospect; ours is the only nation capable of waging a global war, and we have no such design. The ideological conflicts that arose in 19th century Europe are now largely spent; the totalitarian challenge is no more. (Totalitarian regimes persist, but make no ideological claim on the future.) Atomic peril has begun to recede, although the matter of stable controls in Russia is by no means resolved, and proto-nuclear powers proliferate. On the other hand, credible international regimes have begun to address matters such as chemical warfare. The world, if not at peace, nor likely to be, is even so not in imminent peril.

In this setting, it is reasonable and responsible to consider just how appropriate the security arrangements of that earlier age are to the one we have now entered. It is to be insisted that we *are* at the outset of a new era, for this fact is anything but plain. Wars used to end with homecoming parades and demobilization. Nothing so unambiguous happened after the Cold War, and so it requires an effort to think anew.

The 103rd Congress enacted legislation directing such an inquiry. Over the course of 80 years, notably in the later period, a vast system of secrecy developed within the American Government. So much that it has been termed a culture of secrecy. The system grew so vast, however, that it began to appear unavailing. Secrecy has been defined as "the compulsory withholding of information, reinforced by the prospect of sanctions for disclosure."¹ Almost everything was declared secret; not everything *remained* secret, and there were no sanctions for disclosure. In the course of 1996, the Select Committee on Intelligence of the United States Senate carried out a detailed inquiry into the decision by the President not to object to the shipment of arms to Bosnia by way of Croatia. A notable aspect of this decision was that it was never put in writing. The Deputy Secretary of State explained this to the Committee in these terms:

Another reason that diplomatic transactions and internal deliberations do not end up on paper is because of the extreme sensitivity of the subject matter. What goes down on paper is more likely to come out in public, in inappropriate and harmful ways, harmful to the national interest.²

This, of course, is a privilege of the privileged within the system. For the grunts the rule is stamp, stamp, stamp. On the occasion, June 29, 1993, that the Subcommittee on International Organizations of the Senate Committee on Foreign Relations reported out the legislation creating the present Commission, Senator John F. Kerry of Massachusetts made this comment concerning classified documents that the Select Committee on POW/MIA Affairs had reviewed:

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I do not think more than a hundred, or a couple of hundred, pages of the thousands of documents we looked at had any current classification importance, and more often than not they were documents that remained classified or were classified to hide negative political information, not secrets.³

It was just such anomalies that led to the Commission on Protecting and Reducing Government Secrecy (P.L. 103-236). This is to say, the judgment that unless secrecy is reduced, it cannot be protected.

In the course of the past 80 years, there has been only one other statutory inquiry into this subject. This was the Commission on Government Security, established in 1955 by the 84th Congress, known as the Wright Commission for its Chairman, Loyd Wright, past President of the American Bar Association. This was a distinguished bipartisan body, which included in its membership Senators John C. Stennis of Mississippi and Norris Cotton of New Hampshire, along with Representatives William M. McCulloch of Ohio and Francis E. Walter of Pennsylvania. President Dwight D. Eisenhower named as one his appointees James P. McGranery, Attorney General under Harry S Truman.

The Commission report, issued 40 years ago, is a document of careful balance and great detail. In proposing the Commission along with Senator Stennis, Senator Hubert H. Humphrey had asked, among other things, "What price are we willing to pay for security?" The Commission was especially attentive to this matter.

From 1917 forward, with only a slight lull in the 1920s, the issue of loyalty on the part of government servants had been one of acute concern. In 1931, the Civil Service Commission was provided with funds for fingerprinting Federal employees. In 1941, President Roosevelt ordered that this be done universally under FBI direction. That same year, the Attorney General, as the Commission stated, "advised the FBI that membership in the Communist Party, the German-American Bund, or in any of seven other organizations would constitute questionable loyalty within the intent of Congress." In 1944, the Civil Service Commission established a full-time Loyalty Rating Board to consider derogatory information. After World War II, just as after World War I, there was an extensive "Red Scare" which evoked an equal reaction by those who saw liberty threatened.

The Wright Commission was sensitive to all this and was sensible about it. It observed:

The report which follows concludes the first complete and detailed study of the subject matter ever undertaken in the history of the Nation.

In the firm knowledge that Americans are loyal and devoted to their country, the Commission has striven at every point to emphasize the protection and safeguarding of their rights and liberties equally with the need of protecting our national security from the disloyal few, even though it recognizes that the disloyal are dangerous and the Communist threat is both real and formidable.⁴

There are passages that deserve a place in the history of civil liberties:

And at the very basis of the Commission's thinking lies the separation of the loyalty problem from that of suitability and security. All loyalty cases are security

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cases, but the converse is not true. A man who talks too freely when in his cups, or a pervert [*sic*] who is vulnerable to blackmail, may both be security risks although both may be loyal Americans. The Commission recommends that as far as possible such cases be considered on a basis of suitability to safeguard the individual from an unjust stigma of disloyalty.⁵

This particular language reflects the social prejudices of that time, and would be unacceptable today. The more, then, might we admire the Commission's view that sexuality had nothing to do with loyalty, and that any such association would be an "unjust stigma."

The Commission was equally concerned with classification as a *cost*. Free inquiry, like free markets, is the most efficient way to get good results:

The report of the Commission stresses the dangers to national security that arise out of overclassification of information which retards scientific and technological progress, and thus tend to deprive the country of the lead time that results from the free exchange of ideas and information.⁶

The Commission set forth a great many proposals on topics ranging from Atomic Energy to Passport Security, but its legislative proposals were concise:

NEW LEGISLATION—Two new substantive laws are recommended.

The first would penalize unlawful disclosures of classified information with knowledge of their classified character by persons outside as well as within the Government. In the past, only disclosures by Government employees have been punishable.

The second recommended legislation would make admissible in a court of law evidence of subversion obtained by wiretapping by authorized Government investigative agencies. Wiretapping would be permissible only by specific authorization of the Attorney General, and only in investigations of particular crimes affecting the security of the Nation.⁷

The Commission was operating within the paradigm of a nation seriously threatened by aggression from abroad and subversion from within. A considerable national security system had been put in place. It had become routine for government decisions to be classified. This, in turn, required that secrecy be protected. The Commission proposed to expand protection in ways which in retrospect are out of character with the report itself. Its first recommendation amounted to prior restraint of the press, in the sense that journalists and publishers would be subject to punishment for disclosing anything the Government had chosen to classify. The wiretapping proposal was more restrained, but it did constitute a further invasion of privacy. With time, there would be more wiretapping, but the First Amendment immunities of the press were left untouched.

In retrospect, the importance of the Wright Commission was not what it proposed, but that its proposals were never seriously considered. It had become clear to the nation, as David Wise and Thomas B. Ross would later write, "that even in a time of Cold War, the United States Government must rest, in the words of the Declaration of Independence, on 'the consent of the

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governed.' And there can be no meaningful consent where those who are governed do not know to what they are consenting."⁸

Indeed it could be fairly said that the temperament of the Commission *did* prevail. This was not an angry or accusatory group; rather the opposite. It proposed to expand the regime of national security as a regulatory mode. But it did so tentatively, and without conviction; certainly without any sense of urgency. There was even a touch of apprehension: had we already gone far enough, or even too far? Thus, the opening statement of the Summary of Recommendations:

The Commission's recommendations, if put into effect, would enhance the protection afforded national security while substantially increasing the protection of the individual.⁹

A national security system was in place, and would thereafter be on the defensive more than otherwise. It became easy to argue that the *Government* was hiding something. Conspiracy theories emerged to explain misfortune or predict disaster. There is nothing novel in the appearance of conspiratorial fantasies, but it could be argued that it is something new for large portions of the American public to believe that agencies designed to protect them are, in fact, endangering them.

The Commission on Government Security was created at the height of the Cold War and of the near century-long crisis of the West that began in 1914. The present Commission was created after this era had, at long last, ended. The end, in the form of the collapse of the Soviet alliances in Eastern Europe and Asia, and the implosion and dissolution of the Soviet Union itself, came suddenly and, it could be said, without official notice. The Commission has no desire and no need to engage in any assessment of what went wrong with our estimates. (If indeed anything went wrong. What can there have been "wrong" in connection with the utter collapse of the Soviet Union!) Our concern is: What now?

Before turning to our own recommendations, it is appropriate to acknowledge the substantial work of the Commission on the Roles and Capabilities of the United States Intelligence Community, also established by the 103rd Congress (P.L. 103-359). The Commission was originally chaired by the Honorable Les Aspin, former Secretary of Defense, with the Honorable Warren B. Rudman as Vice Chairman. Following Secretary Aspin's death, former Secretary of Defense Harold Brown took his place and led the Commission to an incisive and hugely rewarding set of proposals for a now hugely complex system.

This was not the first inquiry into the *organization* of intelligence. To the contrary, these had proliferated in recent years as the public administration aspects of intelligence became more visible and, accordingly, open to the range of analysis now characteristic of contemporary public administration theory. Begin with the law of emulation. Organizations in conflict become like one another. Bureaucracies are inherently conflictual, competing for resources and position. (On preparing to leave his position as Director of the Central Intelligence Agency, the distinguished scientist and public servant John M. Deutch told the Senate Select Committee on Intelligence that the Director "has very little power" to influence what the dozen or so other intelligence agencies do.¹⁰) In an appendix to its report, the Aspin-Brown Commission produced an organization chart showing the relationship of some 21 departments, agencies, offices, or boards to the President.¹¹

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The Commission also listed recent administrative enquiries concerning this maze and the overall structure of the Intelligence Community:

The *Vice President's National Performance Review's* report on the Intelligence Community, published in September 1993, had as its lead recommendation the enhancement of Intelligence Community integration. “. . . if it is to be a responsible player in government, the Community must find ways to share resources, be more efficient and effective, and reduce overhead. . .” “The goal is not to build big central bureaucracies. Rather, it is to create common frameworks in which the elements of the Intelligence Community can pursue their departmental and national intelligence roles.” The Review also recommended that the Community develop integrated personnel and training systems, and the establishment of a common set of personnel standards and practices, one set of security policies and standards, community-wide language proficiency standards, a vigorous program of interagency rotational assignments, a consolidated training structure with the sharing of programs and facilities and the construction of a community-wide skills bank. *The Intelligence Community did not implement any of the NPR's recommendations.* [Italics added.]

The *Joint Security Commission* issued a report in February 1994 recommending common standards for adjudications and a joint investigative service to standardize background investigations and thus take advantage of economics of scale, improvements in information systems security, a radical new classification system and a special permanent committee to replace the numerous existing fora that independently develop security policies. The classification recommendation was enacted in a Presidential Executive Order in April 1995, *some* aspects of personnel security were addressed by an Executive Order in July 1995 and a permanent Controlled Access Program Oversight Committee was established in August 1995. [Italics added.]¹²

The *Intelligence Community Revolution Task Force* (June 1995) strongly recommended the adoption of common management procedures and processes throughout the Community to facilitate movement of personnel and to cut infrastructure costs by creating a single personnel system, improving performance evaluations, consolidating recruitment and training, and creating common standards of security. *The Community leadership is still reviewing these recommendations.* [Italics added.]

The *Intelligence Community Task Force on Personnel Reform* (July 1995 — also known as the Jehn study) identified four principal problem areas: a largely dysfunctional system of performance appraisal and management; a lack of systematic career planning and professional development across the Community; the variety and complexity of the various personnel systems; and the inadequate promotion of a sense of community among the agencies. This report was briefed to DCI Deutch in August 1995 and *the Community is reviewing its recommendations.* [Italics added.]¹³

Note the language: “be more efficient and effective, and reduce overhead,” “take advantage of economics of scale,” “facilitate movement of personnel and to cut infrastructure costs,” “largely

dysfunctional system of performance appraisal and management.” The 92 lines of the National Security Act establishing a “central intelligence agency” have bred a vast bureaucratic system, a source of constant worry, as are most such organizations. Note, also, the expense. The Commission produced a chart entitled: “Since 1980, Intelligence Spending has Grown Significantly More than Defense Spending.” By mid-decade, Defense spending had risen 40 percent, but Intelligence 120 percent!¹⁴ Both spending curves have since declined, but Intelligence remains well above Cold War levels. This spending has come very much at the expense of the Department of State.

Our Commission has not been indifferent to organization theory. Our hearings began with an exposition of the writings of Max Weber, who first set forth, over eight decades ago, that secrecy was a normal mode by which bureaucracies conduct their business. These “bureaus” appeared everywhere in 19th century Europe, and were clearly a different mode of governance. Different from princely courts, or for that matter, parliaments. Rulemaking was the distinctive mode of bureaucracy. We came to call it regulation.

If the present report is to serve any large purpose, it is to introduce the public to the thought that *secrecy is a mode of regulation*. In truth, it is the ultimate mode, for the citizen does not even know that he or she is being regulated. Normal regulation concerns how citizens must behave, and so regulations are widely promulgated. Secrecy, by contrast, concerns what citizens may know; and the citizen is not told what may not be known.

With the arrival of the New Deal agencies in the 1930s, it became clear that *public* regulation needed to be made more accessible to the public. In 1935, for example, the *Federal Register* began publication. Thereafter, all public regulations were published and accessible. In 1946, the Administrative Procedure Act established procedures by which the citizen can question and even litigate regulation. In 1966, the Freedom of Information Act, technically an amendment to the original 1946 Act, provided citizens yet more access to government files.

The Administrative Procedure Act brought some order and accountability to the flood of government regulations that at times bids fare to overwhelm us. (It will be recalled that at the outset of his administration, President Jimmy Carter instructed his cabinet members that their departments were not to promulgate any regulation they had not personally read. One by one the cabinet officers came to the White House to confess that the task had proven impossible.)

Even so, “overregulation” is a continuing theme in American public life, as in most modern administrative states. *Secrecy would be such an issue, save that secrecy is secret*. Make no mistake, however. It is a parallel regulatory regime with a far greater potential for damage if it malfunctions.

This can take the form of espionage when, unknown to us, information presumed to be secret becomes known to adversaries. Given the danger of espionage, a secrecy system can become so constrictive that information is effectively withheld from those who need it. There seems to be no doubt, for example, that the Soviet Union deteriorated not least because the responsible actors rarely really knew what was going on. (If they had, very likely *we* would have!) Indeed, the study of economics provides the first principles here. Free markets provide the most information to economic players. As information becomes less free, markets become ever more imperfect, decisions less informed and, accordingly, less efficient.

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We are not going to put an end to secrecy. It is at times legitimate and necessary. But it is possible to conceive that secrecy, a culture of secrecy, need not remain the only norm in American Government as regards national security. It is possible to conceive that a competing culture of openness might develop which could assert and demonstrate greater efficiency.

There is no way to make certain that this will happen. Yet, the competitive spirit *can* be put to work here. An example, on a subject that still troubles our foreign relations, is the abortive Bay of Pigs invasion of Cuba in April, 1961. Planned and carried out in secret, the object was to arouse a popular revolt against the regime of Fidel Castro, which had become unmistakably Communist in its orientation. No such uprising occurred, and the events were set in motion that arguably led to the Cuban Missile Crisis of 1962, the closest the United States and the Soviet Union came to a nuclear exchange during the Cold War.

It need not have happened. In the spring of 1960, Lloyd A. Free of the Institute for International Social Research at Princeton (no friend of the new regime, but a social scientist, withal) had carried out an extensive public opinion survey in Cuba. Polling techniques now common to American politics were already quite developed by scholars such as Free and his associate Hadley Cantril; in this case the technique was the "Self-Anchoring Striving Scale." One thousand Cubans were asked to rank their well-being at that time, five years previously, and five years hence. Cubans reported they were hugely optimistic about the future, and mostly dreaded the return of the previous dictator Fulgencio Batista. They would learn better, as peoples the world over would do as the earlier excitements of revolution gave way to Leninist terror and intimidation. *But they had not learned yet.* Free's report ended on an unambiguous note: Cubans "are unlikely to shift their present overwhelming allegiance to Fidel Castro."¹⁵ Cantril later recalled:

This study on Cuba showed unequivocally not only that the great majority of Cubans supported Castro, but that any hope of stimulating action against him or exploiting a powerful opposition in connection with the United States invasion of 1961 was completely chimerical, no matter what Cuban exiles said or felt about the situation, and that the fiasco and its aftermath, in which the United States became involved, was predictable.¹⁶

These data were public, and were dutifully provided to United States Government agencies. (The Cuban Embassy sent for ten copies.) It is difficult not to think that the information in the public opinion survey might have had greater impact had it been classified. In a culture of secrecy, that which is not secret is easily disregarded or dismissed.

A culture of openness will never develop within government until the present culture of secrecy is restrained by statute. Let law determine behavior, as it did in the case of the Administrative Procedure Act. A statute defining and limiting secrecy will not put an end to overclassification and needless classification, but it will help. At present, apart from atomic energy matters, there is almost no statutory basis for this regulatory regime; it has flourished of its own and without restraint.

The Commission, accordingly, judges that the first priority is to give a firm statutory base to the secrecy system. Classification should proceed according to law. Classifiers should know that they are acting lawfully and properly. We need to balance the possibility of harm to national security against the public's right to know what the Government is doing, or not doing. We should

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establish by statute that secrecy is the realm of national security and foreign policy. It is not a badge of office or a status symbol.

This latter point is to be stressed. To return to an earlier point, organizations emulate one another, especially if they are competitive. The technical term is "isomorphic": being of identical or similar form. After 80 years, half the buildings in Washington have an intelligence bureau tucked away somewhere. Too much. Wasteful and absurd in an information age that gives you most anything you want from open sources.

Accordingly, we propose a statute establishing a general classification regime and creating a national declassification center:

Sec. 1 Information shall be classified only if there is a demonstrable need to protect the information in the interests of national security, with the goal of ensuring that classification is kept to an absolute minimum consistent with these interests.

Sec. 2 The President shall, as needed, establish procedures and structures for classification of information. Procedures and structures shall be established and resources allocated for declassification as a parallel program to classification. Details of these programs and any revisions to them shall be published in the Federal Register and subject to notice and comment procedures.

Sec. 3 In establishing the standards and categories to apply in determining whether information should be or remain classified, such standards and categories shall include consideration of the benefit from public disclosure of the information and weigh it against the need for initial or continued protection under the classification system. If there is significant doubt whether information requires protection, it shall not be classified.

Sec. 4 Information shall remain classified for no longer than ten years, unless the agency specifically recertifies that the particular information requires continued protection based on current risk assessments. All information shall be declassified after 30 years, unless it is shown that demonstrable harm to an individual or to ongoing government activities will result from release. Systematic declassification schedules shall be established. Agencies shall submit annual reports on their classification and declassification programs to the Congress.

Sec. 5 This statute shall not be construed as authority to withhold information from the Congress.

Sec. 6 There shall be established a National Declassification Center to coordinate, implement, and oversee the declassification policies and practices of the Federal Government. The Center shall report annually to the Congress and the President on its activities and on the status of declassification practices by all Federal agencies that use, hold, or create classified information.

This is our core recommendation. But the statute, if enacted, will succeed only if there are enough persons in government, in and *out* of government, who believe in it. The declassification

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center will succeed only if individual agencies are willing to cede some control over their horde of hoary testaments. This will not come readily. The culture of secrecy in place in the Federal Government will moderate only if there comes about a counterculture of openness; a climate which simply assumes that secrecy is not the starting place. (As in the "Born Classified" material of the Department of Energy.) One which asks what the purpose is of the organization, and how that purpose is best served in the radically new environment of an information age, in which almost any information is open and accessible.

In one direction we can reach out and touch the time when the leaders of the Soviet Union thought that the explosion at the nuclear reactor in Chernobyl could be kept secret from the rest of the world. In the other direction we can see a time—already upon us—when fourteen-year-old hackers in Australia or Newfoundland can make their way into the most sensitive areas of national security or international finance. The central concern of government in the future will not be information, but *analysis*. We need government agencies staffed with argumentative people who can live with ambiguity and look upon secrecy as a sign of insecurity.

Or worse. Secrecy can be a source of dangerous ignorance. The great discovery of Western science, somewhere in the 17th century, was the principle of openness. A scientist who judged he had discovered something, published it. Often to great controversy, leading to rejection, acceptance, modification, whatever. Which is to say, to knowledge. In this setting science advanced, as nowhere else and never before.

Clearly, there are scientific discoveries that can be kept secret, for a period at least, especially where weapons systems are involved. But these often verge on the technological, and whilst frequently spectacular, they do not stay secret long. Someone else gets onto the idea.

By contrast, secrecy in the *political* realm is always ambiguous. Some things should never be made secret. Some things should be made secret, but then released as soon as the immediate need has passed. Some things should be made secret and remain that way. The problem is that organizations within a culture of secrecy will opt for classifying as much as possible, and for as long as possible.

Observe the aftermath of Executive Order 12958, the most recent in a long series of such orders, issued by President William J. Clinton in 1995. Under the Order there are at present twenty officials, including the President himself, with the power to classify as Top Secret "information, the unauthorized disclosure of which could be expected to cause exceptionally grave damage to the national security." This authority to classify Top Secret information has been delegated under that Order to 1,336 "original classifiers." However, some two million government officials, in addition to one million industrial contractors, have "derivative classification" authority. According to the Information Security Oversight Office, in 1995 there were 21,871 "original" Top Secret designations and 374,244 "derivative" designations. Many of these "derivative" designations involve "sources and methods," one of the subjects concerning intelligence mentioned in the National Security Act of 1947. A report about troop movements might reveal that we have satellite photography in the region; such like matters. But consider: can there really have been some 400,000 secrets created in 1995, the disclosure of any one of which would cause "exceptionally grave damage to the national security"?

What can happen is that the failure of information to be accessible throughout the Government, much less to the public, can cause damage in its own right. An organization with a secret will hold

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onto it unless there is some exchange for releasing it. The Government becomes a market. Sometimes the exchange is quite palpable: I will exchange my secret for your secret. Sometimes less tangible: the willingness to bring along secrets can provide access for other purposes. But whatever the coinage, there are considerable transaction costs, as economists use this term. These are sluggish markets and highly imperfect ones; true prices are rarely known and impossible to determine.

As was to be predicted, power in a culture of secrecy frequently derives from withholding secrets. This was most evident in the poisonous period following World War II when the United States Army Security Agency's VENONA project began breaking the code of Soviet messages recounting espionage activities.¹⁷ Beginning in 1948, this information was passed to the Federal Bureau of Investigation where, having been further analyzed, it was in the main kept in the Director's vault. The Central Intelligence Agency was not informed about VENONA until 1952. Soviet cables indicated that the Office of Strategic Services (OSS) in World War II had been thoroughly infiltrated with Communists. As the CIA was widely regarded as the successor to the OSS, the Army and the FBI apparently were simply not willing to entrust it with their secrets.

Nor was President Truman himself informed of VENONA. In their recently published 450-page official history, *VENONA: Soviet Espionage and the American Response, 1939-1957*, Robert Louis Benson and Michael Warner write of the charges of espionage and treason in that era:

Truman's repeated denunciations of the charges against [Alger] Hiss, [Harry Dexter] White, and others—all of whom appear under covernames in decrypted messages translated before he left office in January 1953—suggest that Truman either was never briefed on the Venona program or did not grasp its significance. Although it seems odd that Truman might not have been told, no definitive evidence has emerged to show he was. In any event, Truman always insisted that Republicans had trumped up the loyalty issue and that wartime espionage had been insignificant and well contained by American authorities.¹⁸

President Truman was almost willfully obtuse as regards American Communism. In part this was a kind of regionalism in an era before television and airlines produced a much more homogeneous polity. There were no Communists in Kansas City politics. Communists were in New York City, and these places were far apart. (It may be noted that the "machine" Democratic politicians of New York were fairly shrewd on this subject, and made their views known in Washington.) Appendix A to our report, *Secrecy: A Brief Account of the American Experience*, relates the ethnic component that has typically accompanied periods of heightened concern about security and secrecy. In the First World War the object of greatest concern was the loyalty of German-Americans. Citizens of Indiana and Wisconsin (as, for example, Congressman Victor L. Berger of Milwaukee) found themselves under suspicion. In the Second World War Japanese-Americans joined German-Americans. In the Cold War the typical suspects, and indeed the typical spies, were of Central European ancestry, with an overlay of graduates of elite American universities. No person active in New York City politics of the 1930s could have failed to know Communists, or know of them. But in Kansas City and Washington, D.C., it was quite possible to see the "Communist conspiracy" as a Chamber of Commerce plot.

To this cultural distance, if it may be called that, add the singular difficulty posed by the personality of the then-Director of the Federal Bureau of Investigation, J. Edgar Hoover. By the mid-1940s, Hoover saw Communists everywhere. Possibly this reflected a mild paranoia; he gave that

impression in person. But more likely it may be called the "Pearl Harbor Syndrome." No one would ever be able to say that *his* bureaucracy did not give the Commander-in-Chief timely warning.

In point of fact, Hoover was on to some important things. Thus, on May 29, 1946, he sent George E. Allen, a confidant of the President and head of the Reconstruction Finance Corporation, a four-page letter—PERSONAL AND CONFIDENTIAL BY SPECIAL MESSENGER—George from Edgar. (The first two pages of the letter are reproduced below.) The Director reported that a reliable source had revealed "an enormous Soviet espionage ring in Washington." Of some fourteen names listed, Alger Hiss was there, as was Nathan Gregory Silvermaster. But these names were well down the list. The name at the top was "Undersecretary of State Dean Acheson." The third name was "Former Assistant Secretary of War John J. McCloy." Further on was "Bureau of the Budget—Paul H. Appleby." To have known any of these men is to know that Hoover's suggestion was, well, clinical. Further, that it automatically discredited the other accusations, which happened to be on target. (Withal, neither Hiss nor Silvermaster was at that time in a sensitive government post.)

Benson and Warner continue:

The tacit decision to keep the translated messages secret carried a political and social price for the country. Debates over the extent of Soviet espionage in the United States were polarized in the dearth of reliable information then in the public domain. Anti-Communists suspected that some spies—perhaps including a few who were known to the US Government—remained at large. Those who criticized the government's loyalty campaign as an over-reaction, on the other hand, wondered if some defendants were being scapegoated; they seemed to sense that the public was not being told the whole truth about the investigations of such suspects as Julius Rosenberg and Judith Coplon. Given the dangerous international situation and what was known by the government at that time, however, continued secrecy was not illogical. With the Korean war raging and the prospect of war with the Soviet Union a real possibility, military and intelligence leaders almost certainly believed that any cryptologic edge that America gained over the Soviets was too valuable to concede—even if it was already known to Moscow.¹⁹

For the Soviets *had* learned: an American cipher clerk, William Weisband, passed the information on to them in 1948, although he was not discovered until 1950. (Nor prosecuted. "Never reveal sources and methods.") By 1949, the Soviet spy Kim Philby had joined the British mission in Washington as an intelligence liaison officer. Philby received summaries of VENONA translations. The Soviets quickly changed codes.

Time was short, but what if, say, early in 1949 Washington, busy testing new weapons, had told the American public to expect that the Soviets would get their own bomb, and sooner rather than later—that they had gotten hold of many of our plans. (Their first device was almost an exact copy of ours.) Suppose further that the U.S. Government had told the public that even without our secrets, the Soviet scientists were plenty good enough to figure it out in time.

Of course, we did no such thing. In 1956, Edward A. Shils captured the aftermath in his fine, small study, *The Torment of Secrecy: The Background and Consequences of American*

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OFFICE OF THE DIRECTOR



Federal Bureau of Investigation
United States Department of Justice
Washington 25, D. C.

May 29, 1946

PERSONAL AND CONFIDENTIAL
BY SPECIAL MESSENGER

Honorable George F. Allen
Director
Reconstruction Finance Corporation
Washington, D. C.

Dear George:

I thought the President and you would be interested in the following information with respect to certain high Government officials operating an alleged espionage network in Washington, D. C., on behalf of the Soviet Government.

Information has been furnished to this Bureau through a source believed to be reliable that there is an enormous Soviet espionage ring in Washington operating with the view of obtaining all information possible with reference to atomic energy, its specific use as an instrument of war, and the commercial aspects of the energy in peacetime, and that a number of high Government officials whose identities will be set out hereinafter are involved. It has been alleged that the following departments and agencies of the United States Government handle the problem and current development of atomic energy and among these departments and agencies, the United States secret of atomic energy is held in trust. The names of the individuals in each department or agency who control such matters have been furnished as follows:

State Department - Under Secretary of State Dean Acheson
Assistant to the Under Secretary of State Herbert Marks
Former Assistant Secretary of War John J. McCloy

War Department - Assistant Secretary of War Howard C. Petersen

Commerce Department - Secretary of Commerce Henry A. Wallace

Bureau of the Budget - Paul H. Appleby
George Schwartzwalder

Bureau of Standards - Dr. Edward T. Condon

United Nations Organization - Alger Hiss
Abe Poller
Paul Appleby (who is being considered for transfer from the Bureau of the Budget to the United Nations Organization)

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Honorable George E. Allen

Office of War Mobilization and Reconversion - James R. Newman

Advisors to the Congressional Committee
on Atomic Energy - James R. Newman
Dr. Edward L. Condon

The individual who furnished this information has reported that all of the above individuals mentioned are noted for their pro-Soviet leanings, mentioning specifically Alger Hiss of the United Nations Organization, Paul Appleby and George Schwartzwalder of the Bureau of the Budget, Dr. Condon of the Bureau of Standards, and John A. McCloy of the State Department.

The informant has stated that the McMahon Committee headed by Senator Erien McMahon of Connecticut is charged with formulating the policy concerning atomic energy and serving as advisors to the Committee are Dr. Condon of the Bureau of Standards, who, the informant states, is nothing more or less than an espionage agent in disguise, and James R. Newman, an employee of the Office of War Mobilization and Reconversion who is known to the informant to be a personal friend of Nathan Gregory Silvermaster, who, you may recall, is one of the principal individuals known to have operated as an agent of the Soviet Government in U. S. Government offices for a considerable time until December, 1944. It is known that Silvermaster obtained information through his associates in a Russian espionage network and such information was turned over to the Soviet Government. The informant has indicated that Newman is also a friend of the news commentator Raymond Gran Swine and columnist Kerouac Childs. Newman is also reported to be the so-called ringleader of this particular Soviet espionage network and through his employment with the Office of War Mobilization and Reconversion, he had access to material flowing from the White House. The informant stated that through Dr. Edward Condon at the Bureau of Standards, Newman has access to technical data concerning atomic energy. The informant further stated that Secretary of Commerce Henry A. Wallace knows of the background of Dr. Condon but condones his further employment in this highly strategic and important position.

James Newman allegedly obtains from the War Department through the cooperation of Assistant Secretary of War Peterson highly technical information on the atomic bomb itself and all matters relating generally to atomic energy. According to the informant, Newman has a direct line to Assistant Secretary Peterson's office.

With reference to the State Department, it was reported that Newman is in personal and daily contact with Dean Acheson, Herbert Marks, and on some occasions with John J. McCloy, and therefore, any knowledge of atomic energy and international relations with reference to it are immediately known to him.

Chairman's Foreword

Security Policy. “The American visage began to cloud over,” Shils wrote. “Secrets were to become our chief reliance just when it was becoming more and more evident that the Soviet Union had long maintained an active apparatus for espionage in the United States. For a country which had never previously thought of itself as an object of systematic espionage by foreign powers, it was unsettling.”

The larger society, Shils continued, was “facing an unprecedented threat to its continuance.” In these circumstances, “The phantasies of apocalyptic visionaries now claimed the respectability of being a reasonable interpretation of the real situation.”²⁰ A culture of secrecy took hold within American Government, while a hugely divisive debate raged in the Congress and the press.

That was then, and it was a long time back. The public today is not the least concerned about the infiltration of the Government by ideological enemies of the United States. To the contrary, the Government itself is increasingly the object of the “phantasies of apocalyptic visionaries.” It is time to change.

A culture of openness can, and ought to, evolve within the Federal Government. The historical appendix to this report observes the salience of ethnicity at times of perceived national danger, a disposition which appears to remain with us. It is not too soon to note the growing suspicion of Muslim citizens, given our adversarial relations with several Islamic nations. Religious doctrine can be an equally powerful source of arousal. If the age of totalitarianism is behind us, “the clashes of civilizations” is seemingly just now resuming. And, as glum experience has taught us, there are ever those who can be corrupted for nothing more than money.

The more, then, to keep our system open as much as possible, with our purposes plain and accessible, so long as we continue to understand what the 20th century has surely taught, which is that open societies have enemies, too. Indeed, they are the greatest threat to closed societies and, accordingly, the first object of their enmity.

Finally, there is the interest of history. The secrecy system has systematically denied American historians access to the records of American history. Of late we find ourselves relying on archives of the former Soviet Union in Moscow to resolve questions of what was going on in Washington at mid-century. This is absurd. (And, if you are a secrecy buff, hazardous; suppose some commissar, sensing the end was nigh, placed forged KGB documents in the files implicating people he didn't like on both sides of the Iron Curtain? Or suppose some disgruntled American slipped misinformation to the KGB, knowing it would one day reveal the (fictitious but damning) treachery of a one-time colleague who had risen above him!)

And it is unnecessary. Whatever else comes of our Commission's work, we will have the great satisfaction in knowing that it encouraged the National Security Agency at long last to release the extraordinary account of Soviet espionage revealed by the VENONA project and the legendary men and women who broke the code and made the connections. We hope this will provide an example for other agencies. It has brought great credit on the agencies involved, and on the individuals who carried out the often impossible tasks. Impossible, that is, until the likes of Meredith Knox Gardner of the Army Security Agency and Robert J. Lamphere of the FBI came along. This is a history of intellectual dedication that Americans have a right to know about. And to celebrate.

Chairman's Foreword

It is time also to assert certain American fundamentals, foremost of which is the right to know what government is doing, and the corresponding ability to judge its performance.

It remains to express profound gratitude to our Vice Chairman, the Honorable Larry Combest, for his large perspective and singular attention to detail. This bipartisan effort could never have succeeded without his commitment and openness.

¹Edward A. Shils, *The Torment of Secrecy*, with an introduction by Daniel Patrick Moynihan (Glencoe: The Free Press, 1956; reprint, Chicago: Ivan R. Dee, Inc., 1996), 26.

²Senate Select Committee on Intelligence, *U.S. Actions Regarding Iranian and Other Arms Transfers to the Bosnian Army, 1994-1995*, 103rd Cong., 1st sess., 7 November 1996, 27.

³Senate Committee on Foreign Relations, *Mark-up of Fiscal Year 1994 Foreign Relations Authorization Act: Hearing Before the Subcommittee on Terrorism, Narcotics and International Operations*, 103rd Cong., 1st sess., 1993, 32.

⁴Commission on Government Security, *Report of the Commission on Government Security* (Washington, D.C.: Government Printing Office, 1957), xvi.

⁵*Ibid.*, xvii.

⁶*Ibid.*, xx.

⁷*Ibid.*, xxiii.

⁸David Wise and Thomas B. Ross, *The Invisible Government* (New York: Random House, 1964), 6.

⁹*Report of the Commission on Government Security*, xvii.

¹⁰R. Jeffrey Smith, "Having Lifted CIA's Veil, Deutch Sums Up: I Told You So," *Washington Post*, 26 December 1996, A25.

¹¹Commission on the Roles and Capabilities of the United States Intelligence Community, *Preparing for the 21st Century: An Appraisal of U.S. Intelligence* (Washington, D.C.: Government Printing Office, 1996), B-8.

¹²In fact, the Joint Security Commission's recommendation to restructure the three-tier classification system was *not* adopted in the new Executive Order. Chapter II of this report discusses the reasons this recommendation was not implemented, and why, in the views of this Commission, the proposed change would not have addressed the core problems of the present system.

¹³*Preparing for the 21st Century*, 101.

¹⁴*Ibid.*, 131.

¹⁵Lloyd A. Free, "Attitudes of the Cuban People Toward the Castro Regime," Institute for International Social Research (Princeton: July 1960), 26.

¹⁶Hadley Cantril, *The Human Dimension: Experiences in Policy Research* (New Brunswick: Rutgers University Press, 1967), 5.

¹⁷The VENONA project began in 1943, although the first message was not broken until December 20, 1946.

¹⁸Robert Louis Benson and Michael Warner, eds., *VENONA: Soviet Espionage and the American Response, 1939-1957* (Washington, D.C.: National Security Agency, Central Intelligence Agency, 1996), xxiv.

¹⁹*Ibid.*, xxix.

²⁰Shils, *Torment*, 70-71.