

CHAPTER 9

OVERSIGHT OF COVERT ACTION

This chapter covers Congress's awareness of, and involvement in, the third of the Agency's functional areas: what has come to be called "covert action." Generally speaking, covert actions are activities that the CIA might undertake in other countries to accomplish a US foreign policy objective without the hand of the US government becoming known or apparent to the outside world. Thus, it is something different from "collection": it is doing something in another country beyond merely gathering information. The Agency might use the same people for both kinds of activity, but functionally, the Agency and the Congress have treated these roles differently.

As noted earlier in this study, covert action was not a role that Congress specifically contemplated for the Agency when it was created. But it came along soon thereafter and, judging from the resources Congress made available for it in the early years of the Agency's existence (see chapter 6), was wholeheartedly embraced by the Agency's overseers on Capitol Hill. That history will not be repeated here; instead this chapter will focus on what happened afterwards.

Like the two previous chapters, this chapter will identify the issues and concerns that have motivated Congress to engage with the Agency over this particular function, apart from the necessity to appropriate resources for it each year. To illustrate these issues and concerns, only covert actions that have been previously disclosed to the public will be cited. Lest readers think they are being shortchanged, however, these include the operations that, from an historical perspective, have been the largest and arguably the most significant of those undertaken during the period covered by the study.

Congressional Awareness and Involvement from 1948 until the Bay of Pigs

Documentation bearing upon Congress's awareness of covert action during the early period of CIA's existence is extremely sparse, both at the Agency itself and, judging from Barrett's book, in the records of the legislators involved in the Agency's affairs. As noted in chapter 6, several of the leaders

of the CIA subcommittees were briefed in 1948 in advance of the Agency's initial foray into covert action: support for the noncommunist parties vying for electoral office in Italy.¹ From 1948 until the spring of 1961, when the Bay of Pigs operation was in the offing, no documentary evidence has thus far been found that establishes beyond doubt that the CIA subcommittees were formally briefed on specific operations, either in advance or after the fact.

Yet, from what is known about the way the system operated during these early years, one can reasonably assume this happened informally with some regularity. Certainly the CIA subcommittees were aware of the kinds of things the Agency was doing around the world, and it is probable that DCIs advised at least their leaders of specific operations, especially if they had attracted public attention.

It is instructive to note that during this early period Congress identified covert action in its own budget documents under the rubric "Cold War activities." Clearly, covert action was viewed as part of the nation's Cold War arsenal to do battle against the forces of communism. Congress was fully aware that the Soviet Union, as a matter of doctrine and practice, was aggressively trying to establish and promote communist regimes around the globe using overt as well as covert means. The United States needed a means of countering these efforts—beyond diplomacy but short of military action—and the CIA, given its clandestine mode of operating abroad, seemed to Congress to be the natural candidate for such a mission. Indeed, as Barrett later found, senior members repeatedly implored early DCIs to do more of it.²

Many of the covert actions in the early period were efforts to get the US message across in places it was not being heard. Often the aim was simply to tout US foreign policy or the virtues of democratic societies; at other times it was to criticize communist regimes or organizations in order to create internal problems for them or stir international sentiment against them. Getting articles or political commentary placed in the news media of particular countries was a staple of the effort, as was assisting with the publication abroad of books, periodicals, and brochures favorable to the US point of view. The Agency was also behind the broadcasts into denied areas carried out by Radio Free Europe and Radio Liberty. In fact, Barrett, citing an interview with Walter Pforzheimer, leaves no doubt that the CIA subcommittees received accounts of such programs.³

¹ Barrett, *CIA and Congress*, 29–31.

² *Ibid.*, 96–99

³ *Ibid.*, 99–103

In various places, the Agency would also see opportunities to keep communists from coming to power or ways to undermine them where they already held power. This might take the form of providing money or other assistance to noncommunists in democratic countries who were vying for power or trying to cling to power against communist opponents. Or it might entail helping dissidents in communist countries resist or stir up problems for the regime in power. It might also involve struggles for the control of international organizations aimed at keeping communists on the sidelines. The CIA subcommittees also knew the Agency was involved in this kind of thing.⁴

They were also aware that the Agency undertook covert action of various kinds in support of US military deployments overseas, notably in Korea in the early 1950s.⁵

On occasion, though, during the Eisenhower administration, the Agency was directed to undertake something qualitatively different: a clandestine effort to overthrow—by force or by inciting popular resistance against—a communist government or a government (even one that had been popularly elected) that was perceived as falling to the communists. Obviously such operations raised more serious political and ethical issues and usually required different, more substantial forms of assistance. They might require significant outlays of cash, the provision of military equipment; the training of paramilitary forces, or acts of sabotage and physical violence, perhaps even leading to the death of a foreign leader. The extent to which the CIA subcommittees perceived the Agency was being directed to undertake this kind of operation is less clear.

Several such operations were mounted during the Eisenhower administration: in Iran in 1953, in Guatemala in 1954, and in Indonesia in 1957. But there is no documentary evidence showing that any of the CIA subcommittees were consulted about these operations, either before or after they occurred. Given the circumstances surrounding them, however, one might reasonably conclude that at least the leaders of the Agency's subcommittees were told about them after-the-fact.

The operation in Iran, codenamed TPAJAX, was prompted largely by British concerns conveyed to President Eisenhower soon after he took office in 1953, that Iran soon might fall into communist hands.⁶ Two years earlier in 1951, the Iranian government, led by its 69-year-old nationalist prime minister, Mohammed Mossadegh, had nationalized the Anglo-Iranian Oil Company,

⁴ Ibid.

⁵ Ibid.

⁶ For a detailed account of the background and conduct of the operation, see Kinzer, *All the Shah's Men*.

which was supplying 90 percent of Europe's petroleum. The British government, a majority shareholder in the company, was infuriated and began looking at ways, including military action, to topple the Mossadegh government. Mossadegh got wind of the plotting, however, and closed the British embassy and expelled British citizens from the country. Without a base of operations in Iran, the British turned to President Truman. Although worried about Iran falling into Soviet hands, Truman vetoed the idea of military action against Iran and was unsympathetic to the idea of a coup. CIA had never overthrown a government, he reportedly told the British, and he did not want to establish such a precedent here.⁷ Truman had met Mossadegh when he visited Washington in 1951—Mossadegh had been named *Time* magazine's Man of the Year that year—and was not unsympathetic to the nationalist movement he led in Iran.

When the Eisenhower came to office, however, the British found a more sympathetic ear. By this point, there was growing dissatisfaction with Mossadegh inside Iran among those who wished to return control of the country to the monarch. Moreover, his relationship with the Soviet Union seemed to be growing closer, and the communist Tudeh party had gained strength and had largely aligned itself with Mossadegh. DCI Dulles and others warned Eisenhower in the spring of 1953 that the Iranian government was in danger of collapse, potentially giving the Soviets an opportunity to seize control. On the basis of these concerns, Eisenhower approved, with apparent reluctance, a covert effort to overthrow Mossadegh.

This came about a few months later, in August 1953, after further US diplomatic efforts to compromise the oil issue with the British government had failed. The operation was orchestrated largely by a single CIA officer sent to the scene—Kermit Roosevelt, grandson of Theodore Roosevelt. After securing the approval of the Shah of Iran, Mohammed Reza Pahlavi, for the coup—the Shah also agreed to sign a decree dismissing Mossadegh that was to provide it legitimacy—Roosevelt set about to create a situation in which the coup could occur. Using a network of contacts left behind by British intelligence and the Agency's own assets, he mounted an intensive propaganda campaign against Mossadegh, spurring demonstrations and protests across the country. When the time came to oust the prime minister, however, the effort faltered. Mossadegh had gotten wind of the coup and had the Iranian military officer who was to deliver the decree dismissing him arrested. The Shah fled the country, fearing for his safety, and Mossadegh thought he had put an end to the coup.

Roosevelt tried again a few days later, however, first organizing violent "fake" demonstrations against the monarchy, which were in fact, joined by

⁷ *Ibid.*, 3, 209.

members of the Tudeh party; then organizing “backlash” demonstrations in support of the Shah. As these played out, the Iranian military units, police, and rural tribesmen under Roosevelt’s control were able to overcome the limited military forces that Mossadegh could muster. Mossadegh was arrested, and the Shah returned to Teheran to take control.

The *New York Times* portrayed the coup as an effort by Iranians loyal to the Shah to return him to power. The role of the CIA was not mentioned.⁸ In another article published the same day, however, the *Times* reported that the Soviet newspaper, *Pravda*, had charged that American agents operating inside Iran had engineered the coup.⁹ This might well have prompted the Agency’s overseers in Congress to follow up with DCI Dulles, but there is no evidence that they did. In all likelihood, the charge, coming as it did from the Soviets, was not seen as credible. There were no follow-up stories that immediately appeared in the American press, nor were there any formal congressional inquiries.

Still, the upper reaches of the US security establishment were aware of what CIA had managed to pull off—Roosevelt himself had briefed them upon his return. One of them, perhaps Dulles himself, might well have confided the story to members of his choosing. Moreover, as time passed, the US role in the Iranian coup became something of an open secret in Washington. Eisenhower himself noted with satisfaction what had taken place in Iran in his 1954 State of the Union address, referring to it as one of several “heartening political victories [of his administration]...won by the forces of stability and freedom.”

In any event, the perceived success of the operation in Iran undoubtedly contributed to the administration’s decision later in the year to begin planning a similar kind of operation in Guatemala. The popularly elected president of the country, Jacobo Arbenz, had expropriated the property of several large US corporations and had allowed the communist party to gain a substantial foothold within the country. An NIE published in April 1954 had, in fact, warned that “communists now effectively control the political life of Guatemala.” When CIA learned in May that Arbenz had obtained Soviet-made military equipment from Czechoslovakia, it proved too much for Eisenhower, who directed CIA to mount an operation to overthrow him.¹⁰

To carry out the coup, the Agency trained a small group of Guatemalan exiles in Honduras, under the leadership of former Guatemalan army colonel, Carlos Castillo Armas, and provided them with several aircraft, flown by CIA

⁸ *New York Times* “Royalists Oust Mossadegh; Army Seizes Helm.”

⁹ *New York Times* “Moscow Says US Aided Shah’s Coup”

¹⁰ Barrett, *CIA and Congress*, 160.

pilots. When the operation began in June 1954, the small exile force entered Guatemala and set up camp near the border. The CIA-provided aircraft carried out limited bombing runs and “buzzed” a number of Guatemalan towns and cities. At the same time, the Agency began an elaborate deception operation with the support of other US entities in Guatemala, using what appeared to be radio broadcasts between rebel forces to make it seem that a large invasion force was moving toward the capital. On 27 June 1954, the chief of the Guatemalan armed forces, COL Carlos Enrique Diaz, met with US Ambassador John Peurifoy to plead that it be stopped. In return for the ambassador’s assurance that it would be, Diaz agreed to lead a coup against Arbenz. Upon learning this later the same day, Arbenz himself stepped aside, and in the ensuing deliberations, the Guatemalan army agreed to accept Armas as the country’s new president.

The news accounts of the coup did not mention the Agency’s role, although it was later alluded to in a column written by James Reston of the *New York Times*.¹¹ Even without confirmation in the press, however, it is likely that many in Congress suspected CIA’s involvement and that its subcommittees were told. Although he did not have a specific recollection, CIA Legislative Counsel Pforzheimer said years later he was “sure the committees were informed [of the Guatemalan operation]” and there would have been “no holding back on details.”¹²

DCI Dulles had earlier informed key members that Arbenz had purchased Soviet-made military equipment from Czechoslovakia. This had led to resolutions being passed overwhelmingly in each House condemning the action and urging action by the administration to deal with it. In private channels, the pressure coming from key legislators to do something about Arbenz was even stronger.¹³

Thus, when the coup actually occurred, it would have been natural for the Agency to tell its subcommittees what had happened, but no documentary evidence of such briefings exists. Barrett writes, however, that he finds it “thoroughly implausible” that the subcommittees did not know something about what was happening there, given the congressional interest in Guatemala at the time.¹⁴

In 1957, perceiving that Indonesian President Achmed Sukarno’s policy of “nonalignment” was, in fact, moving the country toward communism, the Eisenhower administration authorized the Agency to provide arms and other

¹¹ *Ibid.*, 165–67.

¹² *Ibid.*, 168.

¹³ *Ibid.*

¹⁴ *Ibid.*, 162.

assistance in response to a request from a group of Indonesian dissidents—anticommunists, principally former Army colonels, located on the island of Sumatra—who were in open rebellion against the Sukarno government. When the group proclaimed its independence in February 1958, however, the central government responded with a blockade of the rebel-controlled area and later with military force. The Agency continued to provide assistance during this period to counter the government’s offensive, but by April 1958 the dissidents on Sumatra were no longer a viable political or military force.

Another group of dissidents on the island of Sulawesi, however, continued to receive Agency support. This group controlled its own airfield, from which CIA-supplied aircraft carried out bombing and strafing runs against the government forces that had massed against the dissidents. It was during one of these runs, on 17 May 1958, that government forces shot down an aircraft piloted by an American, Allen L. Pope. Pope survived the crash and later contended that he was merely a private citizen, an American “soldier of fortune,” but among his effects discovered in the crash was evidence linking him to the CIA. An Indonesian military tribunal convicted Pope and sentenced him to death, but the sentence was never carried out. He was released to the United States in 1962. In the aftermath of the shootdown, assistance to the dissidents was halted, as the Eisenhower administration changed course and began providing substantially greater levels of foreign aid to the Sukarno government.¹⁵

Although there is no documentary evidence that the CIA briefed its subcommittees on these operations, Barrett writes that Dulles “almost certainly” told the heads of the CIA subcommittees about it.¹⁶ Several weeks before Pope’s aircraft was shot down, Eisenhower had stated publicly that the United States was staying neutral in the Indonesian rebellion.¹⁷ After the shootdown, it was apparent to the Congress (and the rest of the world) this was not the case. If this were not enough, once the Indonesian government publicly charged Pope with working for the CIA—at a press conference it displayed the document identifying him as an employee of an Agency proprietary—in all likelihood, the leaders of the CIA subcommittees would have been advised.

In April 1959, Dulles appeared in closed session before the SFRC to discuss the escape of the Dalai Lama from Tibet a few weeks earlier. In the course of his testimony, not only did Dulles describe the Agency’s role in the escape but with some specificity also made reference to the assistance the Agency had been covertly providing the local Tibetan resistance since the Chinese had occupied the country in 1957.¹⁸ While it was unusual if not

¹⁵ See Conboy and Morrison, *Feet to the Fire*.

¹⁶ Barrett, *CIA and Congress*, 315.

¹⁷ Prados, *Presidents’ Secret Wars*, 143.

unprecedented for a DCI to provide this kind of information to a “non-CIA committee,” there was overwhelming sympathy in Congress at the time for the plight of the Tibetans, and, no doubt, Dulles—so often forced to bear the brunt of criticism from the SFRC—for once was able to relish its praise.

The Bay of Pigs: 1961

As noted earlier, records show that Congress was briefed in advance of the Bay of Pigs operation, the first documented instance of prior notice since the Agency embarked on its covert action mission in 1948.

Planning for the operation had begun in the Eisenhower administration. By the beginning of 1960, the last year of the Eisenhower presidency, it had become clear that Fidel Castro was a committed communist, and Eisenhower feared that he might infect the rest of Latin America. To deal with this perceived threat, the president directed the Agency to come up with a covert plan for getting rid of Castro, which he approved in March 1960. It authorized the Agency to attempt to unify and strengthen the opposition to Castro outside of Cuba, to build a guerrilla organization within the country, to mount a propaganda campaign against Castro, and to train a paramilitary force outside of Cuba to lead an invasion.

In August 1960, after a diplomatic effort failed to get the Organization of American States to intervene in Cuba, the covert action plan took on greater urgency. By the late fall, however, the Agency had achieved mixed results. It had recruited a paramilitary force of Cuban exiles—including Cuban pilots for the aircraft that were to support the ground operation—and trained them in Guatemala, but efforts to build a credible guerrilla force within Cuba itself had produced relatively little.

As Barrett notes, many in Congress at the time were urging Eisenhower to do something about Castro.¹⁹ While there is no documentation to suggest that the administration saw fit to bring Congress into its plans in the fall of 1960, it is possible that it did so if only to answer this mounting concern. Dulles, at this point, was also still embarrassed by his failure to bring congressional leaders into the U-2 program and wanted to avoid repeating this mistake in the future.²⁰

By the first of the year, the HAC subcommittee knew or suspected that something was afoot with respect to Cuba. At a meeting of the subcommittee

¹⁸ Barrett, *CIA and Congress*, 346–51. Also see Knaus, *Orphans of the Cold War: America and the Tibetan Struggle for Survival*.

¹⁹ Barrett, *CIA and Congress*, 425–37.

²⁰ CIA draft study, Vol. I, 83.

on 6 January 1961, Dulles was asked whether the Agency was training Cuban exiles for an invasion. "He gave a fairly detailed picture of CIA action with respect to Cuba," Legislative Counsel John Warner later recalled, "mentioning the two-pronged program of propaganda...and the paramilitary effort, and indicating the number of Cubans being trained and the supply efforts and the bases."²¹ Four days later, the rest of Congress learned, courtesy of an article in the *New York Times*, that the United States (CIA was not specifically mentioned) was training anti-Castro guerrillas in Guatemala.

President Kennedy had been briefed on the Agency's plans weeks before he took office and had not raised objection to them. Once he was in office, planning for the invasion continued.

On 10 March 1961, Dulles provided a detailed briefing to the CIA subcommittee of the HASC on the Agency's operational activities against Castro: its efforts to mount a propaganda campaign, organize the Cuban resistance parties, and train a paramilitary force to invade the island. He said the paramilitary force numbered about a thousand Cubans and had its own "air force."²² Although several members wondered how an army of 1,000 exiles could be expected to defeat a Cuban army of 200,000, Dulles replied that he expected the exiles to "light the fuse" that would spark a general uprising on the island.²³

Agency records do not reflect that the Agency's other subcommittees were briefed in advance, but Legislative Counsel Warner later told Professor Barrett that the leaders of the CIA subcommittees in the Senate would also have been told.²⁴ Barrett also writes that Senator Fulbright, the chairman of the SFRC, was brought into the operation by the president. Hearing rumors of the administration's intentions, Fulbright had written Kennedy a personal letter attempting to persuade him not to let the operation go forward. Reacting to the letter, Kennedy invited Fulbright to a meeting at the State Department in early April 1961, where he was allowed to express his misgivings personally.²⁵

The operation itself began on 15 April 1961, with airstrikes against Cuban airfields. Two days later, the "Cuban brigade" established a beachhead at the Bay of Pigs. It did not go smoothly. Without air cover, which the administration declined to provide because it still sought to protect the fact that the United States was involved in the operation, the exiles remained pinned down on the beach. They had sparked no uprising inside the country. Two days after

²¹ *Ibid.*, 84.

²² Barrett, *CIA and Congress*, 441–42.

²³ *Ibid.*, 443.

²⁴ *Ibid.*, 445.

²⁵ *Ibid.*, 447–48.

the landing, the fighting was over. Castro's forces killed 114 of the exiles and took 1,189 prisoners.

In the weeks that followed, the CIA subcommittees of the HAC and HASC held closed hearings on the fiasco. For the most part, their tenor was favorable to the Agency. Taking their cue from Dulles's testimony, members blamed the administration and/or the Pentagon for failing to provide air cover and faulted the administration for not taking stronger action.²⁶ The SFRC also held closed hearings the first week in May, and these were more contentious. Fulbright complained that the committee should have been forewarned of the invasion; others questioned whether CIA should be charged with undertaking operations of this kind at all. One senator told Dulles that CIA "should go back to its responsibility of being an intelligence agency and gathering information throughout the world."²⁷

Apart from these hearings, Congress did no independent investigation of the Bay of Pigs. This was left to a blue ribbon commission appointed by the president and to an internal CIA inquiry conducted by the inspector general.

The Ramparts Affair: 1967

Ramparts magazine, a Catholic leftwing publication published a series of articles in February 1967 disclosing that the Agency since the early 1950s had been covertly funding certain international student groups, notably the US National Student Association (USNSA), in an effort to counter the spread and influence of communist youth groups and front organizations around the world. The program had been instituted, in fact, at the suggestion of a former USNSA activist who had gone to work at the Agency in 1949; it entailed the passage of funds through private US foundations principally to pay the travel expenses of USNSA members to international conferences, annual meetings of foreign student organizations, and the like, as well as to provide college scholarships to students from Third World countries to US educational institutions. In his memoir, DCI Helms said the Eisenhower White House had approved the program and that it was briefed to "appropriate senators" before its inception. It was subsequently approved by Presidents Kennedy and Johnson.²⁸

Forewarned of the *Ramparts* articles, DCI Helms, in order to head off an adverse reaction in Congress, led Agency efforts to brief the CIA subcommittees before the articles were published. According to Agency records, Helms

²⁶ CIA draft study, Vol. I, 86.

²⁷ *Ibid.*, 87.

²⁸ Helms, *A Look Over My Shoulder*, 348.

appeared before all four subcommittees to assure them that the program's sole purpose had been to counter the influence of international communist youth groups around the world. CIA, he said, had simply given money to the US groups involved; it had not told them how to spend it.²⁹ While this money might have been channeled through other government agencies, Helms noted, someone in the federal government needed to do it, and CIA, given its unique capabilities and authorities, was best positioned to carry it out.

Although the CIA subcommittees had not previously been advised of the program (Helms said "appropriate senators" had been briefed when the program began in the early 1950s), they generally refrained from criticizing the Agency or attacking Helms publicly after the articles began appearing.

The reaction elsewhere was less benign. *Ramparts*, itself portrayed the program as a "case study in the corruption of youthful idealism" and a threat to academic freedom. Eight Democratic congressmen wrote to President Johnson that the program "represents an unconscionable extension of power by an agency of government over institutions outside its jurisdiction."³⁰

President Johnson was sufficiently concerned that he announced two days after the first article appeared that he was appointing a three-person committee— Under Secretary of State Nicholas deB. Katzenbach (chair), HEW Secretary John W. Gardner and Helms himself—to look into the relationship between the Agency and private American organizations operating abroad. In June 1967, the committee recommended, and Johnson approved, a prohibition on covert financial assistance to any US educational institution or private voluntary organization, saying that henceforth such financial assistance in support of overseas activities should be done openly by a "public-private mechanism" when considered essential to the national interest. All such funding activities by the CIA were to be terminated by the end of the year.³¹ Before that deadline, the CIA subcommittees of the SASC and HASC had Helms testify in December 1967 with respect to how the Agency planned to implement the recommendations approved by the president.³²

The "Secret War" in Laos: 1962–71

During the 1960s, the Agency regularly briefed the CIA subcommittees on covert operations as part of the ongoing war effort in Southeast Asia. The sub-

²⁹ CIA draft study, Vol. II, 27; Hathaway and Smith, *Richard Helms*, 170.

³⁰ Quoted in Glass and Grant, "NSA Officers Describe Aid Given by CIA," *Washington Post*, 15 February 1967.

³¹ CIA draft study, Vol. II, 30.

³² *Ibid.*, 31–32.

committees worried, as did Agency managers, about the demands these operations were placing on the Agency's overall resources. In 1968, for example, despite the Johnson administration's insistence that the Agency fund an expansion of its program to improve social, medical, and economic conditions in the South Vietnamese countryside, the leaders of the SAC and HAC subcommittees cut off Agency funds, leaving continued funding a matter for the Pentagon to decide.³³

In Laos, however, US military forces were not involved. In 1962, the Agency began supplying and directing Laotian government troops and irregular forces that were resisting the advances of the Pathet Lao, the Laotian communist party. By the mid-1960s, this irregular force had grown to approximately 40,000 Laotian tribesmen.

From the very beginning, the Agency sought to bring Congress into these activities. Its subcommittees were briefed, and their approval obtained to finance the paramilitary program. In addition, Agency records reflect that the SFRC was briefed—in all, more than 50 senators received information about the Laotian program over the course of its existence. The Agency also went so far as to arrange several visits to Laos for one supportive senator, Stuart Symington, and in 1967 permitted the head of its Laotian operations to brief the entire SASC on the status of the program.³⁴

By 1970, however, as public support for the Vietnam War waned, congressional backing for the Agency's paramilitary program in Laos also diminished. At this point, the tide had turned against the Laotian government forces, and Pathet Lao and North Vietnamese troops controlled much of the country. To bolster the government forces, the Agency introduced into the country paid Thai troops that it had trained, supplied, and directed. The additional costs of introducing these troops worried the leaders of the SAC and HAC subcommittees, not only because of the impact on the Agency's overall budget, but because they provided ammunition to the antiwar members of Congress, who were charging that the Nixon administration was financing the war in South Vietnam through the CIA to avoid public and congressional scrutiny.³⁵

In early 1971, South Vietnamese forces invaded Laos for the first time, precipitating renewed congressional interest in the ongoing CIA role there. At the end of February, DCI Helms appeared before the SFRC to provide a status report. Later in the year, Congress approved an amendment establishing a budgetary ceiling for US expenditures in Laos. CIA was not mentioned per se,

³³ Hathaway and Smith, *Richard Helms*, 175–76.

³⁴ *Ibid.*, 177.

³⁵ *Ibid.*, 178.

but in August, 1971, the SFRC published a sanitized staff report that acknowledged in so many words the Agency's long involvement in the country.³⁶ It was at this point that Senator Symington, who had been briefed on the Laotian program for many years, publicly disclosed the program, solemnly labeling it "a secret war."

John Stennis, who now chaired the SASC, reacted to Symington's comment by characterizing the Agency's performance in Laos as "splendid," but he provided ammunition to the Agency's critics when he added, "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."³⁷

Once the Agency's long involvement in Laos had been publicly disclosed, however, the prevailing sentiment on the CIA subcommittees was that it was now time for the Agency to disengage, leading DCI Helms to recommend to the Nixon administration that its involvement be brought to an orderly end.³⁸ After the 1973 peace agreements were signed, the CIA terminated its operations in Laos.

Chile and the Hughes-Ryan Amendment: 1973–74

In the spring of 1970, the Nixon administration, concerned that Salvador Allende, an avowed Marxist and founder of the Chilean Socialist Party, could well be elected president in the country's upcoming elections, directed the Agency to undertake a covert propaganda campaign against Allende, principally to convey the message that a vote for Allende would be bad for Chilean democracy. There is no indication in Agency records that anyone in Congress was briefed on the operation, but DCI Helms later recalled that soon after the decision was made to undertake the program, he was summoned to the office of SFRC Chairman Fulbright, who appeared to know (and disapprove) of it. "Dick, if I catch you trying to upset the Chilean election," Fulbright reportedly warned Helms, "I will get up on the Senate floor and blow the operation."³⁹

Unaware of the administration's covert initiative, certain US companies with business interests in Chile—International Telephone and Telegraph (ITT) among them—had the same concern and approached Helms a few weeks later to help them channel funds to anti-Allende forces with Chile. Ultimately, CIA

³⁶ *Ibid.*, 179.

³⁷ CIA draft study, Vol. II, 37.

³⁸ Hathaway and Smith, *Richard Helms*, 180.

³⁹ Helms, *A Look Over My Shoulder*, 399.

representatives provided advice to ITT on making contacts within Chile but left it to the company to arrange for any donations on its own.

When the election occurred on 4 September 1970, Allende won a small plurality, and under Chilean law, the Chilean National Congress would choose between the top two vote-getters when it reconvened on 24 October. When this had happened in the past, the legislature had chosen the candidate who had garnered the most votes in the popular election.

At this point Nixon directed the Agency to intensify its covert efforts to keep Allende from being chosen. In one series of actions that came to be known as Track I, additional funds were authorized for anti-Allende propaganda and political support to his principal challenger. Agency representatives also actively sought to persuade influential groups and individuals, both within and outside Chile, to oppose or undermine Allende's election. These included some of the US companies that had earlier been concerned with Allende's election, but at this juncture none was interested in active intervention. In a separate action that came to be known as Track II, which came about as a result of a personal meeting between Nixon and Helms, the Agency was directed to arrange a military coup before Allende could be chosen president. Again, there is no indication in Agency records that it advised any of its congressional subcommittees of either Track I or Track II. Helms also confirms this in his memoir.⁴⁰

Ultimately the Agency's efforts failed. Although CIA did establish contact with, and provide assistance to, certain Chilean military officers prepared to undertake a coup, it never materialized because of the lack of support from the incumbent Chilean president as well as the Chilean military. Two days before the Chilean legislature was to vote, a group of the coup plotters (without the Agency's direct support) unsuccessfully attempted to abduct the Chilean chief of staff, BG Rene Schneider—regarded as the most formidable obstacle to their plans—mortally wounding him in the process. As a result, whatever impetus remained for a coup quickly evaporated.⁴¹

Twice in early 1973, Helms appeared before “non-CIA committees” where the issue of the Agency's involvement in the 1970 Chilean elections was posed. The first came in February before the SFRC, which was considering Helms's nomination as US ambassador to Iran. In closed session, in response to questions from Senator Symington, Helms denied that the Agency had tried to “overthrow the government of Chile” or “passed money to the opponents of Allende.”⁴² A few weeks later, at an open hearing of an SFRC subcommittee

⁴⁰ Ibid. 405.

⁴¹ For a detailed description of the Chilean operation, see the Church Committee hearings on covert action (vol. 7); also, Helms, *A Look Over my Shoulder*, 393–408.

⁴² Hathaway and Smith, *Richard Helms*, 100.

investigating the role of multinational corporations in Latin America, Helms denied having contacts with the Chilean military during his tenure as DCI.⁴³ He later maintained he had not intended to mislead these committees, noting, in particular, that Symington had previously been briefed on the Track I activities in Chile (though not Track II). In other words, as Helms wrote, the senator “knew the answers” to the questions he was asking.⁴⁴ Helms went on to assert that since these committees had no authority over the Agency’s affairs, he was not obliged to divulge highly classified information in contravention of an order he received from the president.⁴⁵

In September 1973, Allende was overthrown and committed suicide during a military coup. Allegations soon appeared in the US press that CIA had been involved. At the urging of the principal source of these allegations, Congressman Michael Harrington (D-MA), a subcommittee of the House Foreign Affairs Committee held a closed hearing to obtain the response of new DCI William Colby to the allegations, but Colby demurred, asserting that such testimony could only be provided to the CIA subcommittees.

This testimony did not come about until April 1974, when Colby appeared in closed session before the CIA subcommittee of the HASC, which had been recently renamed the Special Subcommittee on Intelligence, chaired by Lucien Nedzi (D-MI). Colby denied that the Agency had been involved in the 1973 coup that had led to Allende’s death but revealed the Agency’s earlier activities in 1970 which had been part of Track I. With regard to Track II, however, he chose to reveal CIA’s effort to mount a military coup only to Nedzi.⁴⁶

What had occurred under Track I, however, would prove controversial enough. Citing House rules entitling him to read hearing transcripts, Congressman Harrington was allowed by Nedzi to read Colby’s classified testimony. In turn, Harrington went to the press with the substance of what Colby had said, asserting that CIA had admitted having tried to “destabilize” the Allende candidacy in 1970. In other words, the Agency had covertly intervened in the electoral process of another democratic country.

Coming as it did in the final stages of the Watergate scandal, this disclosure provoked a firestorm of criticism. In Congress, a number of bills were introduced to drastically curtail, or eliminate altogether, covert action in the future. As noted in chapter 1, a more modest proposal, offered by Senator Harold Hughes (D-IA) as an amendment to the Foreign Assistance Act, called for a significant change to the congressional oversight arrangements where covert

⁴³ Helms, *A Look Over My Shoulder*, 415.

⁴⁴ *Ibid.*, 414.

⁴⁵ *Ibid.*, 415.

⁴⁶ Ford, *William E. Colby*, 70; CIA draft study, Vol. II, 46.

action was concerned. This proposal, which became known as the Hughes-Ryan Amendment, was signed into law in December 1974. From that point on, the president would have to personally approve such operations by signing a written “finding” that the operation was important to the national security and provide “timely notice” of such operations to the “appropriate committees” of the Congress. This was interpreted to include not only the armed services and appropriations committees but also the foreign affairs committees on each side.

Angola: 1975–76

The first repercussion of the Hughes-Ryan Amendment came less than a year later, when members of the SFRC raised concerns about a covert action program on which they had been given “timely notice”—Angola.⁴⁷ In May 1975, Portugal announced it would grant independence to its colony of Angola on 11 November 1975. During the interim period, three political groups struggled for power. All were tribally based and nationalistic, but the strongest one (the MPLA) was avowedly communist while the other two (the FNLA and UNITA) were not. Not surprisingly, Angola became the next battleground in the Cold War. The USSR and Cuba supported the MPLA; the United States supported the FNLA and UNITA. Other countries were involved, notably South Africa, which was heavily engaged in funneling military supplies and other assistance to UNITA.

When the Soviet Union began increasing its support to the MPLA, the Ford administration countered by authorizing an increase in US support for the two noncommunist groups. This entailed a “finding” being signed by the president in July 1975 pursuant to the Hughes-Ryan Amendment, enacted six months before, as well as briefings of the six congressional committees entitled to receive “timely notice.”

One of the SFRC senators briefed on the operation, Dick Clark (D-IA), traveled to Africa in August 1975. In the course of his travels, he learned of the South African support for UNITA and became concerned that the United States had aligned itself with the apartheid government there. A month after Clark’s return, several press stories revealed the South African involvement with UNITA (and indirectly with the United States), forcing Colby to deny publicly that the United States was directly providing weapons to the Angolan groups or that Americans were involved in the fighting taking place.

In November, however, Colby acknowledged during a closed session of the SFRC that the United States was providing arms to the noncommunist forces

⁴⁷ Gates, *From the Shadows*, 65–69; Prados, *Presidents’ Secret Wars*, 338–47.

in Angola and, in some cases, was doing so through other governments. Testimony from this session leaked the following day to the *New York Times*, causing Senator Clark, among others, to wonder if the Agency was more directly involved than he had been led to believe, especially with the apartheid government in Pretoria. In December 1975, after his SFRC subcommittee had held yet another session with Colby to explore the Agency's role, Clark introduced an amendment prohibiting the expenditure of CIA funds in Angola—except for intelligence gathering—and the use of any DoD funds to continue the operation. The amendment passed the Senate and House within a matter of weeks and President Ford signed it into law on 9 February 1976, the first time that Congress had ever ended a covert action by denying the funds for it.

The Church Committee and Alleged Assassination Plots: 1975

As noted earlier, the Church Committee was originally established to look into allegations of domestic abuses by the Agency. But within weeks of its creation, an off-the-record remark that President Ford had made to journalists and publishers became public and caused it to shift its original focus. "President Ford has reportedly warned associates," CBS News reported on 28 February 1975, "that if the current investigations go too far they could uncover several assassinations of foreign officials involving the CIA."

Assassination plots had been mentioned several times in the "Family Jewels," to which the committee already had access, but the uproar that ensued once these charges became public dictated they be addressed as a matter of priority. In the spring and summer of 1975, the committee held 60 days of closed hearings involving 75 witnesses.⁴⁸ Of perhaps greater long-term significance for the Agency, the committee made assassination the first issue to examine when it held its first public hearing on 16 September 1975. By this point, Senator Church had already compared the Agency to a "rogue elephant rampaging out of control," and by making the Agency's efforts to develop exotic weapons to carry out political assassinations the first issue put before the public, the committee appeared intent on making the charge stick. Indeed, the sight of members passing among themselves an electronic pistol designed by the Agency to deliver poison darts created a lasting impression in the minds of the public. Colby attempted to make clear the pistol had never been used, but his message was lost in the blinding flash of press photography that accompanied the pistol's display.

⁴⁸ Smist, *Congress Oversees*, 69.



Senator Goldwater examines CIA dart gun as Senator Charles “Mac” Mathias (R-MD) looks on.

(© Bettman/Corbis)

The committee’s investigation of the assassinations issue lasted six months. In December 1975, the committee issued an “interim report” containing its findings. Even though the Ford administration objected to the release of the report on security grounds, the committee—after presenting the issue to a secret session of the full Senate and noting an “absence of disapproval”—went ahead with its publication.⁴⁹ It was the first time in the history of executive-legislative relations that a committee of the Congress, with the putative support of its parent body, asserted the right to release a report a president contended was classified.

The committee found that US officials had initiated plots to assassinate Fidel Castro in Cuba and Patrice Lumumba in the Congo. The efforts against Castro had gone on for some time and involved bizarre techniques (putting an exploding seashell where he went snorkeling, recruiting a mistress to put poison into his drinks) as well as questionable means of implementing them (use of the Mafia). But none of these plans came to fruition. Lumumba had been overthrown in a coup in September 1960, involving people with whom the Agency had been working, who later handed him over to a group that murdered him on 17 January 1961. The committee found no evidence directly linking CIA with the coup or the subsequent murder, however. The report also found that US officials had encouraged, or were privy to, coup plots that had

⁴⁹ Church Committee, *Alleged Assassination Plots*; Smist, *Congress Oversees*, 52.

resulted in the deaths of certain foreign officials—Rafael Trujillo in the Dominican Republic, BG Rene Schneider in Chile, and Ngo Dinh Diem in South Vietnam—but the committee found no evidence the Agency had been directly involved in any of these deaths.⁵⁰

On the issue of presidential responsibility, although the committee found no “paper trail” indicating Presidents Eisenhower or Kennedy had specifically authorized the assassination of any foreign official, it found that CIA understood itself to be acting in response to the wishes of “the highest levels of the US government.”⁵¹

In addition to its findings with respect to plots involving particular foreign officials, the report found that the CIA had instituted a project in the early 1960s to create a standby capability to incapacitate, eliminate the effectiveness of, and, if necessary, perform assassinations of foreign officials.⁵² The project involved researching various techniques for accomplishing these objectives (the poison dart gun, for example) but according to the committee, none of the devices or techniques was actually ever used. By the time the committee issued its report, the Ford administration had already promulgated an executive order prohibiting the assassination of foreign officials or the planning of such activities. The committee, for its part, recommended that these prohibitions be made a matter of federal criminal law.

Other Covert Action Investigated by the Church Committee: 1975–76

Initially, the Church Committee asked the Agency to provide data on “all its covert action activities.”⁵³ In June 1975, however, the committee scaled back its request to data on five specific programs, including the Agency’s prior activities in Chile, as well as an overview of all covert action programs since World War II.⁵⁴

In the end, the committee produced six staff reports on covert action programs, only one of which (on Chile) was made public. It was here that the Agency’s activities pursuant to Track II—the fruitless effort to mount a military coup to prevent Allende from coming to power—were made public and developed in considerable detail for the first time. But the committee was unable to conclude, despite exhaustive efforts to prove otherwise, that the Agency had been involved in the overthrow and murder of Allende three years later.

⁵⁰ CIA draft study, Vol. II, 77.

⁵¹ *Ibid.*

⁵² *Ibid.*, 78.

⁵³ Ford, *William E. Colby*, 147.

⁵⁴ CIA draft study, Vol. II, 58.

In its final report of April 1976, however, the Church Committee gave the world (and the rest of Congress) a glimpse of covert action it had never had before. Between 1961 and 1975, the committee reported, the Agency had conducted more than 900 “major” projects and “several thousand” smaller ones, three-quarters of which had never been reviewed outside the Agency. Instead of being an extraordinary tool to use when vital US interests were at stake, the committee found, covert action had become part of the routine with its own bureaucratic momentum. Not only had such programs often failed to achieve their objectives, they had at times been self-defeating. Providing assistance to foreign parties, leaders, the press, and labor unions, the committee explained, often created a dependence upon the Agency that kept the recipients from doing more for themselves. The committee also believed intelligence analysis had been skewed to have it appear to policymakers that the Agency’s covert action programs were succeeding.⁵⁵

Looking at the cumulative effect of covert action, the committee questioned whether the gains for the United States outweighed the costs, especially the damage done to its reputation around the world. But it did not recommend doing away with it. Rather, the committee concluded that covert action should be employed only in exceptional cases where vital security interests of the United States were at stake.⁵⁶

Covert Action and the Pike Committee: 1975–76

Covert action played a more limited role in the Pike Committee’s inquiry. The committee initially told the Agency it wanted information on covert actions generally over the previous 10 years and planned to look specifically at three recent ones: assistance to certain political parties in the Italian elections of 1972, assistance to the Kurds in northern Iraq from 1972 to 1975, and ongoing activities in Angola (see above).⁵⁷

At first, the committee insisted on discussing these programs in open hearings, but when it met resistance from the Agency, it agreed to have its staff delve into them instead. At its public hearings on covert action, the committee confined itself to examining the public policy issues such programs raised and to looking at the process within the executive branch for approving them.⁵⁸

⁵⁵ *Ibid.*, 88.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*, 138.

⁵⁸ *Ibid.*, 138–40.

In its final report, the committee concluded, “All evidence in hand suggests that the CIA, far from being out of control, has been utterly responsive to the instructions of the President and the Assistant to the President for National Security Affairs.”⁵⁹ While Agency officials welcomed this conclusion—which appeared intended to offset Senator Church’s earlier characterization—they objected to the committee including within its final report, its findings with respect to the three covert action programs it had looked into. The committee refused to take the references to the programs out of its final report, however, and ultimately they were made public as part of the material that was leaked to journalist Daniel Schorr.

Overall, based on its inquiry, the committee concluded that covert actions “were irregularly approved, sloppily implemented, and, at times, forced on a reluctant CIA by the president and his national security advisors.”⁶⁰ But, apart from assassination attempts, it did not recommend abolishing them altogether. It did recommend that DCIs notify the committees in Congress responsible for the CIA of all covert actions within 48 hours of their implementation.⁶¹

The Select Committees and How “Findings” Were Handled: 1976–80

After the two select committees were created in the mid-1970s, they were naturally considered “appropriate committees” to receive “timely notice” of covert actions under the Hughes-Ryan Amendment, thus increasing the number of committees entitled to receive such notice to eight. From the Agency’s standpoint, this was patently unworkable. Almost immediately, therefore, Agency officials began urging the select committees to repeal Hughes-Ryan and make themselves—their parent bodies had now given them exclusive jurisdiction over the Agency—the sole committees to receive notice of covert actions.

Until this issue could be resolved, however, there were practical questions that had to be answered, which, until the select committees were created, the Agency had not tried to sort out with the other committees involved. Instead, the notifications made under Hughes-Ryan had been largely ad hoc, both in terms of what was notified and how it was done.

How notice would be provided was the first issue DCI Turner addressed with the new committees, first with the SSCI and later with the HPSCI, and the issue was resolved with little controversy. The DCI would advise the com-

⁵⁹ *Ibid.*, 141.

⁶⁰ *Ibid.*, 140.

⁶¹ *Ibid.*

mittees as soon as possible after a presidential finding had been signed. Subsequently he would brief the program to the full committee with representatives of the State Department and/or DoD present to answer questions. The committees would then be free to express their concerns to the DCI or the president with respect to the program but would not have a veto over it. In other words, the administration was free to move ahead regardless of the concerns expressed. Both committees emphasized, however, the importance of being notified *before* implementation of the program—or as SSCI Chairman Inouye put it, “before irrevocable actions are taken”—otherwise, their concerns may have little practical effect.⁶²

What was to be notified to the committees proved a more difficult problem. As the Church Committee’s report had suggested, in years past the Agency had conducted hundreds of covert actions, most of which did not rise to the level of presidential approval or congressional consideration. Yet, under Hughes-Ryan, all covert actions were made subject to a presidential finding and reporting to Congress. Resolution of this issue did not occur until late 1978, however, after the two committees had come to appreciate the situation the law had created. As DDCI Frank Carlucci bluntly told the HPSCI in September, “As a practical matter, the CIA covert action capability was moribund as a consequence of Hughes-Ryan.”⁶³

To resolve this dilemma, both committees agreed to the concept of “general,” omnibus findings signed by the president to authorize routine, ongoing, low-risk activities undertaken for such broad, noncontroversial purposes as counterterrorism assistance to other governments or propaganda and political action activities to thwart the spread of communism.⁶⁴ These kinds of findings would be accompanied by “Perspectives” that would set forth in detail the kinds of activities being authorized. Other kinds of covert action—involving high-risk, large-resource commitments or the possibility of harm to the participants or embarrassment to the United States—would be the subject of “specific” findings.

Although many on the select committees agreed with the Agency that the list of committees receiving notice under Hughes-Ryan needed to be pared down, this was a delicate proposition for the committees, still in their infancy, to take on. In 1980, however, an opportunity presented itself. While the SSCI’s effort to enact “charters” legislation for the Intelligence Community had come to naught (see chapter 3), one part of the proposed bill, establishing the obligations of intelligence agencies toward the two oversight committees,

⁶² *Ibid.*, 206, 244–45.

⁶³ *Ibid.*, 250

⁶⁴ *Ibid.*, 211, 249–51.

was still under discussion with the Carter administration. In return for the administration's agreement to support the oversight provisions, the SSCI inserted into the new oversight bill essentially the same obligations created by the Hughes-Ryan Amendment: the requirement for the president to approve and give "timely notice" of covert actions to the Congress. But here the obligation to provide "timely notice" ran only to the two intelligence committees. Thus, while the new legislation did not repeal Hughes-Ryan per se (this was done eight years later without fanfare), it was regarded as "superseding" Hughes-Ryan because it was subsequent legislation.

Interestingly, none of the six committees that had been getting "timely notice" of covert actions publicly objected to the change. In part, this may have been because they recognized the existing system did not allow for meaningful oversight. According to a former staff director of the SFRC, briefings under Hughes-Ryan were oral and often cursory. They were limited to the chairman, the ranking member, and one or two staff members, all of whom were prohibited from saying anything to the others. In other words, there was no opportunity for follow-up. "We were 'established eunuchs,'" he later recalled.⁶⁵

Initial Oversight Efforts of the Committees: 1977–79

In their early years both committees undertook inquiries of covert action programs (beyond what occurred in the course of the notification process itself). In May 1977, the SSCI announced that it would investigate allegations appearing in the Australian press that the Agency had secretly intervened in the early 1970s to undermine and bring about the dismissal of its leftist-leaning government headed by Labor Party leader, Gough Whitlam. Although the committee's report of its inquiry was never made public, it was the first time that an oversight committee had indicated its intent to explore the propriety of the Agency's operational activities in a friendly country.⁶⁶

In early 1978, the HPSCI reviewed the Agency's use of foreign journalists, not only to assess the continued value of this practice but also to consider problems that it posed, the "blowback" of propaganda to the United States, for example. Although no report came out of the inquiry, the committee held several hearings on the subject, and committee staff was given extensive access to Agency records. The committee ultimately "accepted . . . that the CIA needed foreign media assets to counter the Soviet Union's massive program in this area."⁶⁷

⁶⁵ Smist, *Congress Oversees*, 119.

⁶⁶ CIA draft study, Vol. II, 207–10.

⁶⁷ *Ibid.*, 254–59.

In late 1978, as a result of allegations made in *In Search of Enemies: CIA Story* by former CIA employee John Stockwell, the SSCI opened an investigation of the Angola covert action program that had been terminated two years before. As a result of this investigation, the committee drafted a highly critical report asserting that the Agency had been responsible for “misinforming and misleading the Congress.” The adversarial tone of the report so upset DCI Turner that he wrote SSCI Chairman Birch Bayh (D-IN) to complain there had been a breakdown in the oversight relationship.⁶⁸

The Iranian Rescue Operations: 1979–80

On 4 November 1979, a group of Iranian “students” overran the US embassy in Tehran and captured 66 American hostages. Unbeknownst to the Iranians at the time, six Americans working at the embassy had managed to avoid capture and took refuge in the residences of the Canadian ambassador and deputy chief of mission.

The Pentagon immediately began planning an operation to rescue the 66 hostages; President Carter gave DCI Turner the mission of rescuing the six being sheltered by the Canadians. CIA was, in fact, heavily involved in both operations.

To extricate the six being sheltered by the Canadians, the Agency sent a team to Tehran, disguised as a Hollywood film crew. The team brought disguises and passports for the embassy employees in hiding. On 28 January 1980, after satisfying Iranian immigration authorities, the six flew out of Tehran for Zurich.⁶⁹ The operation to rescue the rest of the hostages took place in April 1980. It was to use helicopters to ferry a commando force into Tehran to storm the embassy and rescue the hostages. Because of the distances involved, the helicopters would have to be refueled before they made the flight to Tehran. The plan was to have refueling aircraft land in a remote part of the Iranian desert and wait for the helicopters to arrive. CIA sent operatives into Iran several months before the rescue to scout the embassy and purchase trucks to transport the rescue force during the operation. The Agency also secretly landed a light plane on the desert refueling site to take soil samples to ensure the landing area would support the refueling aircraft.⁷⁰

Unfortunately, the operation had to be aborted when three of the helicopters had mechanical problems, leaving insufficient capability to transport the res-

⁶⁸ CIA draft study, Vol. II, 207.

⁶⁹ Turner, *Burn Before Reading*, 173–76; Mendez, *Master of Disguise*, 267–305.

⁷⁰ Turner, *Burn Before Reading*, 177–79

cue force. As the aircraft involved were preparing to leave the landing area, one of the helicopters collided with one of the refueling aircraft, resulting in the deaths of seven Americans.

At the time these operations occurred, Hughes-Ryan was still the law, and the DCI was required to provide “timely notice” of all covert actions; both operations qualified as such—neither was undertaken for intelligence-gathering purposes. Because of the risks involved if either operation were disclosed, the Carter administration decided not to brief any congressional committee until after they were over. “In both instances,” DCI Turner later wrote, “I informed the intelligence committees as soon as I could afterward. They were not happy, but were understanding.”⁷¹

In fact, most committee members indicated afterwards that they understood why they had not been told, but not SSCI Chairman Bayh. He saw it as a sign that the administration did not trust the committee and suggested that in the future, a smaller group might be told, “so at least somebody in the oversight mechanism” would know. Bayh went on to note, “If oversight is to function better, you first need it to function [at all].”⁷²

Later the same year, when the Intelligence Oversight Act of 1980 passed the Senate, it gave the president the option of providing “timely notice” to a “gang of eight”—the majority and minority leaders in each chamber and the leaders of the two intelligence committees—rather than the full committees, when it was “essential . . . to meet extraordinary circumstances affecting vital interests of the United States.” Although the “gang of eight” provision could not be justified publicly by pointing to the Iranian rescue operations—the CIA role was still secret—those operations clearly formed the backdrop for its consideration and adoption.

Afghanistan: 1979–87

In December 1979, only a few weeks after the US embassy in Tehran was overrun, Soviet troops intervened in Afghanistan. The Marxist leader of the country, Hafizullah Amin, was killed in a shootout with the invading forces and replaced by another communist leader, Babrak Karmal, who “invited” the Soviets in, in force, to stabilize the country. By the end of the month, 8,000–10,000 Soviet troops were inside the country.

The Carter administration and other governments around the world immediately denounced the intervention, and United States took various diplomatic

⁷¹ *Ibid.*, 179.

⁷² Smist, *Congress Oversees*, 121.

steps to “punish” the Soviets for their adventurism. The administration also turned to covert action. Tribal resistance forces, collectively known as the mujahedin, already existed in Afghanistan, and Carter signed a finding in January 1980 authorizing the CIA to equip them with weapons. To keep US involvement secret, the operation would acquire Soviet weapons through countries like China and Egypt and transport them to the resistance forces through Pakistan. Both intelligence committees supported the program.⁷³

In 1981 the new Reagan administration, with the backing of the committees, began to increase the funding of the Afghan program significantly and to provide the mujahedin with more sophisticated weapons and other forms of assistance. By 1984, the funding had reached \$60 million a year, an amount the Saudi government matched.⁷⁴

Even at that, one flamboyant congressman, Charles Wilson (D-TX), was not satisfied. After several trips to Pakistan to assess the progress of the war, he concluded that the Afghan program was vastly underfunded. What the mujahedin really needed, he believed, was a high-tech, rapid-fire antiaircraft gun known as the Oerlikon to use against Soviet helicopters and other aircraft.

Although Wilson was not a member of the HPSCI, he was a member of the defense subcommittee of the HAC that had jurisdiction over CIA funding. While the intelligence committees had already approved the amount the administration requested for the program—and technically the appropriators could not appropriate more than had been authorized—Wilson managed to have the HAC subcommittee add \$40 million for the program—most of which would go for the Oerlikon guns. Because this additional money had to come from somewhere in the DoD budget, the Pentagon initially objected to the subcommittee’s action. Wilson threatened DoD with additional cuts, and it backed off.

This still left a problem with the intelligence committees, however, which had to go back and authorize the additional funds. Although CIA, like DoD, initially argued that the Oerlikon guns were in no way what the mujahedin needed—among other things, they were too difficult to transport and maintain in the Afghan environment—in the end, the Agency went along as well. After all, it was nonetheless funding they had not counted upon.⁷⁵

DCI Casey thought the time was right for a quantum leap to extend the program’s objectives and resources even further. In the fall of 1984, after consulting with the committees, he told the Saudis the United States would raise its

⁷³ For detailed accounts, see Lundberg, *Politics of a Covert Action: The US, the Mujahideen, and the Stinger Missile*; Bearden and Risen, *The Main Enemy*; and Crile, *Charlie Wilson’s War*.

⁷⁴ Gates, *From the Shadows*, 251.

⁷⁵ CIA draft study, Vol. III, 42; Gates, *From the Shadows*, 319–21; Woodward, *Veil*, 316–18.

contribution to \$250 million in 1985, increasing it several times over in a single year. From here on, the aim would be to push the Soviets out of Afghanistan.⁷⁶

Although both committees supported these initiatives, members of the SSCI became concerned in the summer of 1984 that arms being furnished under the program were being siphoned off along the way and never reaching the mujahedin. To ascertain whether this was occurring, a staff member made a trip to Pakistan in the summer of 1984 to trace and examine the supply line. Agency officers strenuously objected to such an examination, believing it could harm the program, but in the end the staffer was permitted to conduct his inquiry.⁷⁷

In 1985, the administration began exploring with the committees the idea of providing the mujahedin a more effective antiaircraft capability, namely, US Stinger ground-to-air missiles, which at that point were far from being integrated with US forces. Initially, the Agency objected to providing the Stinger because, among other reasons, it would no longer be possible to “plausibly deny” US involvement and might prompt retaliatory action by the Soviets. In March 1986, however, President Reagan, on Casey’s recommendation, approved providing Stingers to the mujahedin, pursuant to the original program finding signed by President Carter. Although both committees had considered the Stinger issue throughout the preceding year, Casey chose to brief only the leaders and staff directors of the two committees, two days after Reagan’s decision. According to CIA records, neither committee held follow-up hearings, their leaders apparently agreeing with the president’s action.⁷⁸

Both committees continued to receive briefings on the Stinger issue over the next two years. While concern arose for the number of Stingers reportedly lost, it was also clear the missiles were having a decided impact on the war, prompting the committees to approve the provision to the mujahedin of other advanced weaponry (as well as thousands of mules to transport it across the rugged Afghan terrain).⁷⁹ Even after the Soviets announced in April 1988 their intention to withdraw from Afghanistan, the committees insisted that US support continue so long as the Soviets were supplying aid to the Afghan government.⁸⁰

⁷⁶ Gates, *From the Shadows*, 321, 349.

⁷⁷ CIA draft study, Vol. III, 42.

⁷⁸ *Ibid.*, 110–11.

⁷⁹ Gates, *From the Shadows*, 349.

⁸⁰ CIA draft study, Vol. III, 186.

Angola and South Africa: 1985–88

As described earlier in this chapter, in 1976 Congress had enacted the Clark Amendment prohibiting covert assistance to the two noncommunist parties in Angola, UNITA and MFLN. By 1985, after 10 years of fighting, UNITA had emerged as the principal resistance force, but it had been barely kept alive, principally by the efforts of the government of South Africa. Meanwhile Soviet and Cuban assistance to the MPLA-controlled Angolan government had steadily increased. In the summer of 1985, yet another infusion of men and material was provided the MPLA, which prompted the South African government to increase its support for UNITA. Concerned with these developments, Congress repealed the Clark Amendment on 8 August 1985, allowing covert US assistance to UNITA for the first time in 10 years.

In November, President Reagan signed a new finding on Angola, which, because of objections from Secretary of State Shultz, was initially limited to nonlethal assistance to UNITA. Even so, at the insistence of the White House, it was briefed to the congressional leadership—the “gang of eight”—rather than the full committees.⁸¹

Casey kept working for a finding that authorized lethal aid to UNITA. To garner congressional support, he had the leader of UNITA, Jonas Savimbi, come to the US in early 1986 to make his case before the intelligence committees and the congressional leadership.⁸² After the visit, congressional leaders implored Secretary Shultz to drop his opposition to lethal aid, and Reagan issued a new finding in March, allowing for such aid. This time briefings were provided to the full committees.⁸³

The chairman of the HPSCI at the time, Lee Hamilton (D-IN), strongly opposed the new finding, which he believed represented a major escalation of US activity in Angola without the benefit of adequate public or congressional debate. In a letter to the *Washington Post* on 20 March 1986, Hamilton asserted that covert action should be seen as a means of supporting a policy that was open and understood by the public, not as a means of changing that policy in secret. To prevent this from happening, he introduced an amendment, reported by the committee, barring all assistance to UNITA unless and until Congress had publicly debated and approved such assistance. When the amendment came to a vote on the House floor in September, however, it was defeated, 229–186, largely in response to concerns that the vote would hand the Soviets a victory in Angola.

⁸¹ *Ibid.*, 112.

⁸² *Ibid.*, 113.

⁸³ *Ibid.*

The committees, in fact, approved a covert program for Angola that began in 1986 and significantly expanded it over the next two years. It included lethal as well as nonlethal assistance for UNITA. In 1987, the assistance appeared to pay dividends as UNITA won an important victory over the Angolan government in the largest battle of the long war. Despite this success, the new HPSCI chairman, Louis Stokes (D-OH), became concerned that because of the Angola program, the United States was becoming increasingly tied to the apartheid regime in South Africa. Although Agency officers attempted to assure him that their interaction was limited and appropriate, Stokes proposed an amendment to the intelligence authorization bill in April 1988, barring all military and intelligence relationships with South Africa. The amendment itself did not pass (broader legislation was pending in the parent body), but the HPSCI did “zero out” the funding of all liaison activities for FY 1989 as a demonstration of its concern. Although this action did not survive conference with the Senate, it did cause concern among Agency officials.⁸⁴

Central America: 1979–86

In July 1979, the Somoza family that had ruled Nicaragua for 35 years was thrown out of office by a political group commonly known as the Sandinistas. The new government pledged to hold free elections, end oppression, and introduce other trappings of democracy, but its actions—shutting down hostile newspapers, pressuring opposition parties, and expropriating private property—belied these promises. While the Carter administration initially responded with emergency food aid and economic assistance, it also issued a covert action finding in the fall of 1979 to help moderate elements in Nicaragua resist attempts by Marxist groups to consolidate power in the country.⁸⁵ The following year, as the Sandinistas appeared to be consolidating their own control, funding for the program was doubled.⁸⁶

Even though the oversight committees were briefed on the 1979 finding, their requests for subsequent briefings on the activities being taken pursuant to the finding were initially turned down because of what they were told was a “presidential embargo.” This prompted a furious letter from HPSCI Chairman Boland to DCI Turner, saying the embargo raised “serious concerns for the entire oversight process.”⁸⁷ Turner, in turn, had the White House lift the embargo.

⁸⁴ CIA draft study, Vol. III, 190–91.

⁸⁵ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 27.

⁸⁶ CIA draft study, Vol. II, 260.

⁸⁷ *Ibid.*

US concerns about what was happening in Nicaragua were also mirrored in the country itself where a new rebel movement—collectively known as the *contras*—was taking shape to oppose the Sandinista regime.

Another troublesome situation was brewing in nearby El Salvador. In October 1979, a new government headed by Jose Napoleon Duarte was installed following a military coup. While the United States saw the need to encourage Duarte to promote and implement democratic reforms, it also became increasingly concerned that Cuba (and indirectly the Soviet Union) was supporting and training guerrilla elements to subvert his regime. In November 1979, President Carter issued a covert action finding authorizing training and other resources for moderate elements in El Salvador resisting these guerilla elements.⁸⁸

When Reagan took office in January 1981, the situation in both countries had grown more critical. Concerned with Nicaragua's internal repression, its ties to the Soviet bloc, and its support for the guerrilla elements in El Salvador, President Carter suspended US aid to Nicaragua a few weeks before leaving office. Reagan continued this policy, saying assistance would be resumed only when democratic government was established and Nicaragua had ceased its support of the Salvadoran rebels. Within two months of taking office, Reagan also signed a new covert action finding designed to assist the Duarte government in El Salvador with the detection and interdiction of arms and other material destined for the guerilla forces in the countryside.⁸⁹ In December 1981, yet another finding was issued, this one authorizing the provision of paramilitary training to Nicaraguan exile groups opposed to the Sandinista regime.⁹⁰

Both intelligence committees were briefed on these findings. The issue that raised the greatest concern in the HPSCI was that these activities would inevitably lead to the insertion of US military force in the region. With regard to the assistance for the Nicaraguan exile groups (the *contras*), the HPSCI also expressed concern with their limited size, disparate objectives, and lack of a unified command structure. Assuring them he understood their concerns, Casey promised to provide a status report every two months.⁹¹

In 1982, according to Agency records, Casey made what appears to have been his most convincing presentation to date to both committees that Cuba and Nicaragua were training, financing and arming the insurgents in El Salvador.⁹² Soon afterwards, in fact, the HPSCI issued a public report stating

⁸⁸ CIA draft study, Vol. III, 46.

⁸⁹ *Ibid.*, 44.

⁹⁰ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 32.

⁹¹ CIA draft study, Vol. III, 44, 51.

⁹² *Ibid.*, 47.

that the aid being provided the rebels in El Salvador constituted “a clear picture of active promotion for ‘revolution without frontiers’ throughout Central America.”⁹³

Both committees continued to fret that they were not getting the full story of the Agency’s activities in Central America. For example, in response to press reports in July 1982 that CIA had meddled in the Salvadoran elections, both committees asked the Agency to explain exactly what had been done.

Prompted by press reports, Congress as a whole became increasingly wary about the direction events in Central America were going in the fall of 1982. While the Reagan administration asserted it was not trying to overthrow the Sandinista government in Nicaragua but only to keep it from exporting revolution to El Salvador, the contras themselves seemed clearly bent on overthrowing the Sandinistas, not simply interdicting weapons and supplies for the El Salvadoran guerillas.⁹⁴

In December 1982, a member of the HASC, Thomas Harkin (D-IA), offered an amendment to the FY 1983 Defense Appropriation Bill prohibiting US support for the contras. This prompted HPSCI Chairman Boland to offer a substitute amendment that prohibited support for the contras “for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.” Boland’s substitute passed the House by a vote of 411 to 0 and was later adopted by the Senate conferees on the bill. Because it allowed assistance to the contras to continue, Reagan signed the “Boland Amendment” into law.⁹⁵

No sooner had the legislation been signed, however, than questions began arising whether the administration in general, and the CIA in particular, was complying with it. Two members of the SSCI, Vice Chairman Daniel Moynihan (D-NY) and Patrick Leahy (D-VT), made separate visits to Central America in early 1983 to review the Agency’s operations. Both came back concerned that the Agency was not complying with the new law. In a letter to Casey, Moynihan said it was clear to him that the 3,000–4,000 contras that the Agency was supporting along the Nicaraguan border were intent on overthrowing the Sandinista regime. “We have labored six years to restore the intelligence community to a measure of good spirits and self-confidence,” he wrote, “all of which is dissipating in another half-ass jungle war.”⁹⁶

⁹³ Ibid.

⁹⁴ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 32.

⁹⁵ Ibid., 33.

⁹⁶ CIA draft study, Vol. III, 53.

Notwithstanding the growing chorus of doubt both in Congress and in the press, the administration continued to assert that it was complying with the Boland Amendment: it was not trying to overthrow the government of Nicaragua. Addressing a joint session of Congress on 27 April 1983, Reagan said,

*Our interest is to ensure that [the Nicaraguan government] does not infect its neighbors through the export of subversion and violence. Our purpose . . . is to prevent the flow of arms to El Salvador, Honduras, Guatemala, and Costa Rica.*⁹⁷

Both intelligence committees reacted to the speech, albeit in different ways. The HPSCI approved legislation cutting off covert assistance for “support of military and paramilitary activities in Nicaragua,” but approved \$80 million for Central American governments to interdict the flow of arms to rebel groups operating in their respective countries. Despite the administration’s efforts, it passed the House on 28 July 1983 by a vote of 228 to 195.⁹⁸ The SSCI, with a Republican majority and more inclined to support the administration, wanted a clearer statement of the program’s objectives before it would vote for more covert assistance—that is, it wanted a new finding. Reagan issued one on 19 September 1983, after he had discussed it with SSCI Chairman Goldwater and other key senators on the committee.

Under the new finding, the administration agreed that Agency personnel would not be involved in paramilitary activities themselves; rather they would channel assistance to third-country nationals. The primary objective remained the interdiction of Nicaraguan and Cuban support for regional insurgencies, but the overthrow of the Sandinista regime was not mentioned and a new objective—bringing the Sandinistas into meaningful negotiations and treaties with neighboring countries—was added. On the basis of this new finding and the assurances Casey provided, the SSCI voted to continue the covert action program in Nicaragua. Later, in conference on the FY 1984 Intelligence Authorization Bill, the two committees reached a compromise: a cap of \$24 million was placed on contra funding and the Agency was prohibited from using its Contingency Reserve Fund to make up any shortfall during the coming year. In other words, if the program required more money, the administration would have to return to Congress to obtain it.⁹⁹

In the early part of 1984, recognizing that its prospects for obtaining future funding from the Congress were uncertain, the administration directed the Agency to intensify its paramilitary operations against the Sandinista regime

⁹⁷ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 33.

⁹⁸ *Ibid.*, 34.

⁹⁹ *Ibid.*, 35.

in order to bring the situation in Nicaragua to a head.¹⁰⁰ New, more violent attacks were instigated, including the placing of mines in Nicaraguan harbors in an effort to limit or halt shipping into those ports. At the same time, because of these intensified efforts, it was clear the \$24 million congressional cap would be reached in a matter of months.

On 6 April 1984, just as the Senate was taking up the administration's request to increase the funding for the Nicaraguan program, the *Wall Street Journal* published an article claiming the CIA was behind the mining of certain Nicaraguan harbors. SSCI Chairman Goldwater, who was caught by surprise by the allegation, fired off a blistering letter to Casey saying he was "pissed off" at Casey's failure to keep him informed. "This is no way to run a railroad," Goldwater concluded.¹⁰¹

Four days after the article appeared, the Senate voted 84–12 to condemn the mining, and Goldwater took the floor to denounce the Agency for its failure to keep the committee "fully and currently informed" of its activities, as the law required. Casey initially took issue with Goldwater, pointing out not only that he had mentioned the mining on two occasions during committee hearings but also that he had briefed a member of the committee separately. This did not, however, satisfy the committee, most of whose members saw the mining as a virtual act of war, and as such, something that required far greater highlighting or emphasis to the committee.

To make matters worse, Casey reportedly asked SSCI Vice Chairman Moynihan "what the problem was" with Goldwater: why he was making such a fuss? Moynihan reacted two days later on a Sunday morning talk show by dramatically resigning his committee post, claiming the Agency had undertaken a disinformation campaign to discredit Goldwater.¹⁰² This prompted Casey to offer a formal apology to the committee, conceding that, under the circumstances, notification had been inadequate. While Moynihan agreed to return to the committee, Goldwater's anger still simmered. In late May, he sent Casey a copy of the 1980 oversight legislation, underlining himself the obligation of intelligence agencies to keep the committees fully and currently informed. "I can't emphasize too strongly the necessity of your complying with this law," Goldwater wrote. "Incomplete briefings or even a hint of dishonest briefings can cause you a lot of trouble."¹⁰³

As a result of the harbor mining episode, Casey and the SSCI agreed to new oversight arrangements (see chapter 2). The more immediate effect, however,

¹⁰⁰ Ibid., 36.

¹⁰¹ CIA draft study, Vol. III, 60–61.

¹⁰² Woodward, *Veil*, 332–34.

¹⁰³ CIA draft study, Vol. III, 63.

was to diminish the likelihood that the administration would get additional funding for the contra program. Indeed, in August 1984, the House approved another amendment offered by HPSCI Chairman Boland (which became known as “Boland II”) to an omnibus appropriation bill. It prohibited the use of funds by CIA, DoD, “or any other agency or entity engaged in intelligence activities . . . for the purpose or which would have the effect” of supporting the contras, directly or indirectly. The Senate agreed to the amendment and President Reagan signed it into law on 12 October 1984.¹⁰⁴

Three days later, the *New York Times* ran an article accusing CIA of producing an “assassination manual” for the contras. At issue were two manuals used by the contras: one providing instruction on various forms of sabotage; the other, calling for a popular uprising against the Sandinistas and the “neutralization” of certain Nicaraguan officials. Both intelligence committees demanded to know what CIA’s role had been in the production of these manuals. The HPSCI went further and opened a formal investigation. Casey acknowledged Agency personnel had been involved in the production of the manuals, but disputed the allegation that they were intended to provoke violence or that the reference to “neutralization” should be read as “assassination.”¹⁰⁵ In the end, the HPSCI concluded that there had been no intent by the Agency to violate the assassination prohibition in Executive Order 12333 but that its efforts to oversee the production of the manual were lax and insensitive to the issues involved. The manuals were “stupid,” the committee wrote, “not evil.”¹⁰⁶

With US funding for the contras having run out in May 1984—and officially shut off by Boland II in October—the Reagan administration returned to Congress in April 1985 seeking to reestablish the program, including the provision of lethal assistance if the Sandinistas refused to participate in negotiating a peace settlement. While the SSCI was amenable, the HPSCI was not. The full House voted down the proposal on 23 April.

After the vote, Reagan imposed new economic sanctions against Nicaragua and vowed that he would return to Congress “again and again” to obtain funding for the contras. In fact, within two months’ time, attitudes in Congress began to shift. Sandinista leader Daniel Ortega had traveled to Moscow and throughout Europe seeking military aid and had thereby stirred members’ fears of a formidable communist presence in the Americas. On 12 June 1985, the House passed a bill providing \$27 million in humanitarian aid for the contras. The Senate concurred, and the president signed the measure into law on 16 September. The new law prohibited CIA from playing any role in provid-

¹⁰⁴ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 41.

¹⁰⁵ CIA draft study, Vol. III, 68.

¹⁰⁶ *Ibid.*

ing the humanitarian assistance being authorized—a new office in the State Department would handle the aid program—and barred all paramilitary assistance to the contras. It did, however, allow CIA to carry out a political action program in support of “democratic forces” in Nicaragua and to share intelligence on the Sandinistas with the contra leadership. The FY 1986 Intelligence Authorization Bill, enacted a few weeks later, took a further step and authorized CIA to provide communications equipment to the contras. To ensure CIA was hewing to these new laws, both committees announced they would require biweekly updates on the Agency’s contra operations.¹⁰⁷

As the committees’ oversight intensified (including staff visits by both committees to CIA installations in the affected countries), it became apparent to them that the contras were getting substantial military support from somewhere. As far as Congress was concerned, the US government had been barred from providing paramilitary assistance, yet the contras were showing themselves to be a viable fighting force. Both committees repeatedly asked in 1985 and 1986 whether the United States was behind the lethal assistance the contras were obviously getting. Administration officials continued to deny that it was.¹⁰⁸

The visits made by the oversight committees to Central America during this period do seem to have had the effect of increasing the sentiment on both committees in favor of support for the contras. It became increasingly clear to them, according to CIA records, that the Sandinistas were being heavily influenced by Cuba and the Soviet Union and intent on establishing a Marxist-Leninist government in the country. By early 1986, CIA counted 12 of the 15 members of the SSCI as favorable to establishing a CIA-run lethal assistance program for the contras.¹⁰⁹

Taking advantage of what it perceived to be the changing sentiment in Congress, in February 1986 the Reagan administration requested \$100 million in “covert” aid for the contras, including \$70 million in lethal aid. The war was not going well for the contras, and the administration argued that humanitarian aid was not enough. It was time for the United States to provide military support to stop the Sandinistas from consolidating their control over the country. Rather than signing a new covert action finding and requesting the funding through the annual appropriation process, however, Reagan put it in the form of a direct and open request to the Congress for a \$100 million “aid package.”

¹⁰⁷ Ibid, 117–18.

¹⁰⁸ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 131.

¹⁰⁹ CIA draft study, Vol. III, 119.

The House initially rejected the request, but after a Senate vote in favor of it on 27 March 1986, the House reversed itself and approved the \$100 million “aid package” on 25 June 1986. Because of the time required to iron out differences with the Senate bill and pass the compromise bill back through both Houses, however, the “aid package” did not become law until 25 October.

In the meantime, even as the Agency was endeavoring to explain to the oversight committees how it planned to monitor and account for the funds it expected to receive, on 5 October 1986 the Sandinistas shot down a cargo aircraft in southern Nicaragua carrying ammunition to the contras. Three of its crew were killed, but one, Eugene Hasenfus, survived and was captured. Identification cards were found on all four, identifying them as employees of Southern Air Transport. Hasenfus himself was identified as a former CIA employee and told the Sandinistas he believed himself to be working for the Agency.¹¹⁰ While the Agency denied any involvement with Hasenfus or the contra supply flight, the incident prompted inquiries by the Congress as well as several federal agencies. Who were these people involved in supplying the contras? How were they being financed? What did the US government know about them? Had it been behind their activities? If so, this would clearly have violated the laws on the books. On 19 October 1986, the House Judiciary Committee sent a letter to Attorney General Edwin Meese, asking that he appoint an independent counsel to investigate the roles of the National Security Council, the NSC staff, and DCI Casey in the contra supply effort.

Several weeks later, on 3 November 1986, what appeared at first to be an unrelated event supplanted the Hasenfus story on the front page of the country’s newspapers. A Lebanese newspaper, *Al-Shiraa*, reported that in order to win the release of hostages in the Middle East, the United States had been selling arms to Iran. National Security Advisor Robert McFarlane, it said, had traveled to Tehran to arrange for these sales. The report created an immediate uproar. If true, the administration would appear to have violated not only the US laws pertaining to arms sales but also its own policy for dealing with terrorists and regimes that sponsor terrorism.

On 12 November 1986, President Reagan called the congressional leadership together, including the leaders of the two intelligence committees, to brief them on Iranian arms sales. The following night, in an address to the American people, he declared:

The charge . . . that the United States has shipped weapons to Iran as ransom payment for the release of American hostages . . . [is]

¹¹⁰ Ibid., 121.

*utterly false. . . . We did not trade weapons or anything else for hostages.*¹¹¹

On 21 November, Casey appeared before both intelligence committees to describe the Agency's role in the arms sales. He admitted the Agency had provided support to the sales but said they had been handled out of the White House, whose goals, at least, he believed to have been laudable.¹¹² Although members of both committees expressed irritation at not having been provided "timely notice" of CIA's support to the arms sales, Casey argued that the president had to be able to conduct foreign policy in the manner he saw fit.

The following day, Justice Department officials responsible for investigating the NSC staff's involvement in the arms sales, discovered a memorandum that confirmed that proceeds generated from the sales of arms to Iran had been used to purchase supplies for the contras in order to help them "bridge the gap" created by the delays in getting the contra aid package through Congress.¹¹³ On 25 November 1986, Attorney General Meese publicly acknowledged what became known as "the diversion." The president fired those members of the NSC staff chiefly responsible for the operation (LTC Oliver North and RADM John Poindexter).

Both intelligence committees expanded their investigations to encompass the diversion. Casey was invited back to testify, but on 15 December, the day before such testimony was to occur, he had a "cerebral seizure" in his office and was hospitalized, never to return to the job. Both committees proceeded with their inquiries, but it was clear by this point—given the predominant role played by the White House—that they lacked the jurisdiction to conduct a comprehensive probe. Accordingly, both houses created ad hoc select committees that included the leaders of their respective intelligence committees to carry out the investigation (see chapter 1 for a more detailed description). The SSCI issued a "preliminary report" in February 1987, summarizing the results of its investigation to date, while the HPSCI chose not to do so in view of the broader, follow-on investigation.

The Investigation of CIA's Involvement in the Iran-contra Affair: 1987

Within weeks of being established, the two select committees decided to merge their investigations. Ultimately, their staffs reviewed 300,000 documents and interviewed 500 witnesses. They held 40 days of joint public hear-

¹¹¹ *Ibid.*, 131.

¹¹² *Ibid.*, 132.

¹¹³ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 310.

ings over the spring and summer of 1987, as well as several days of closed hearings. In November, the committees issued a joint public report that totaled 690 pages.¹¹⁴

What the investigation found was that the staff of the NSC had, in effect, carried out two “covert actions” without the knowledge of the Congress. The first began in the summer of 1984 and involved soliciting support for the contras from third countries and private donors during the period when such support could not be obtained from Congress. The other began in the summer of 1985 and involved sales of arms to Iran in order to obtain the release of American hostages being held by Middle Eastern terrorists. Over time, the two operations merged. Not only did the NSC staff use some of the same private individuals in both operations, but in early 1986 it came to realize the arms sales to Iran could be used to generate excess funds that could be given the contras to supplement what was being provided by the third-party donors.

As far as CIA’s involvement was concerned, the investigation produced evidence that DCI Casey had known about both operations. The principal NSC staff member involved in the operations, Oliver North, testified that Casey also had known of the “diversion” of money from the arms sales to the contras. By that point, however, Casey had died, and while the investigation confirmed that CIA officers had raised the possibility of a diversion with the DCI in the fall of 1986, it failed to produce documentary evidence to substantiate North’s claim.

Other CIA officers had become aware of the NSC staff’s efforts to solicit support for the contras from third parties as well as their subsequent efforts to procure and deliver weapons to the contras. A few Agency officers in Central America, in fact, were later shown to have facilitated these efforts, which raises the issue of why a presidential finding was not in place. The more confounding problem created for the Agency officers witting of the NSC staff’s activities, however, involved their dealings with Congress. They were, in fact, the same officers who interacted with the two intelligence committees on CIA’s operations in Central America during the period at issue (see the preceding section). On the one hand, they realized the NSC staff’s operation was intended to circumvent congressional restrictions and knew the White House was intent on keeping it secret. On the other hand, they were regularly briefing the committees on the Agency’s operations in the region and accompanying them on trips there. As one of them later observed, it was like being trapped in a “giant nutcracker.”

¹¹⁴ For a detailed account of the events summarized in this subsection, see *Report of the Congressional Committees Investigating the Iran-Contra Affair*.

To deal with the situation, the investigation found, the CIA officers involved adopted a strategy of learning as little as possible about what the NSC staff was doing. But this purposeful avoidance went only so far. At times, in appearances before the intelligence committees and other congressional committees, certain officers responded to direct questions with statements that a court later found to have been false or misleading. The Agency's involvement with the arms sales to Iran was more substantial. Not only was there greater awareness among Agency officials, the Agency was directly involved in supporting the sales.

In August 1985, President Reagan approved an Israeli government request to sell US-made TOW antitank missiles to Iran, and as a result, one of the American hostages was released. North asked a CIA official to monitor what was happening in Iran during the intervening period in an effort to ascertain how its government may be responding.

In November 1985, a second shipment (HAWK antiaircraft missiles) was ready and North sought CIA's help in arranging transport from Israel to Tehran, which it did, using an aircraft owned by one of its proprietaries. When DDCI John McMahon learned of the flight after the fact, he insisted that the Agency's role in the operation and the operation itself be authorized in a presidential finding. President Reagan did this by signing a finding on 5 December 1985 that retroactively approved the sale of the HAWKS and the support the Agency had rendered. At the same time, fearing that if the intelligence committees were told they would object and that the finding would likely be leaked, jeopardizing the release of additional hostages, Reagan specifically directed that the committees not be notified.

Since the arms sales to Iran were expected to continue, the Agency sought a new finding that authorized it to provide operational and logistical support for such sales in the future. The president signed this finding on 17 January 1986. It, too, specifically directed the DCI to refrain from notifying the intelligence committees until the president directed him to do so. (Although Attorney General Meese later testified he interpreted this to mean that Congress would be given notice once the hostages were released, this was not spelled out in the finding *per se*.) An NSC memorandum that accompanied the finding also called for a change in CIA's role in the sales. No longer would arms be sold to Iran out of Israeli stocks (and then replenished), but rather CIA would purchase the arms out of DoD stocks and transfer them directly to Iran, using the NSC's private operatives to broker the sale.

New sales of arms and spare parts followed in February and May 1986—each generating profits that were sent to the contras—but no more American hostages were released. Increasingly dissatisfied with the results the sales

were producing, North, with CIA's assistance, arranged for National Security Advisor McFarlane to fly to Tehran in May 1986 to meet with Iranian officials in an effort to break the deadlock. No results were immediately forthcoming but a second hostage was set free on 29 July, leading Reagan to approve the sale of additional spare parts. But, again, nothing happened as a result. In September, its frustration increasing, the NSC staff, using the private brokers who had been involved in the sales and with the assistance of CIA officers, began searching for new intermediaries within Iran. Before they could be found, however, the arms sales were disclosed in the Lebanese newspaper. While CIA made an additional shipment of arms after the disclosure, for all practical purposes, the operation had come to an end.

According to the final report of the investigation, North never told the CIA officers involved in the arms sales that he was using the surpluses the sales generated to support the contras. However, in the fall of 1986, two of those involved in the arms sales learned that one of the private individuals working for North suspected it. This information was reported to DCI Casey who took it up with Admiral Poindexter, North's boss. This would seem to suggest, in fact, that Casey had not had prior knowledge of the diversion, but the investigation was never able to reach this conclusion.

As described in chapter 2, the Iran-contra affair had profound, long-term consequences for the oversight arrangements then in place. The revelations that seemed to come in an endless stream, each more stunning than the last, shattered the trust that had taken so much time and effort to build. The committees had been repeatedly misled and deceived, and at least some in the Agency had been a party to it. While the Agency could point to the fact that it had been acting pursuant to directions from the White House, the committees had expected the Agency not to stand idly by when its political bosses did things that clearly violated and undermined its relationship with the committees. They were wrong. The Agency's commitment to the oversight process had taken a backseat to the demands of the administration. While the committees had no doubt where Casey's loyalties lay, they had expected that the "system" would hold together to overcome the predilections of a particular DCI. It obviously had not, and for the committees this realization was unsettling.

In the aftermath of Iran-contra, not only did the committees seek to change the existing oversight arrangements for covert action (see chapter 2), they began to subject such programs to greater oversight. In the fall of 1987, SSCI Chairman Boren announced the committee would institute quarterly reviews of all covert action programs on the books. The Agency's administration of the \$100 million aid package for the contras that Congress had approved shortly before Iran-contra broke received especially close scrutiny from both

committees. They also became increasingly skeptical of new proposals and cut off funding for certain of them.¹¹⁵

To improve the lines of communication with the committees, new DCI Webster and his deputy, Robert Gates, instituted monthly meetings with the leaders of the intelligence committees in the fall of 1987 to provide regular opportunities not only to apprise them of sensitive operational matters but for the committee leaders to express any misgivings they may have about the Agency. While both committees welcomed the initiative, CIA records reflect that HPSCI Chairman Stokes cautioned that the monthly meetings could not be seen as a substitute for notice to the full committees when that was required.¹¹⁶

Noriega and the SSCI: 1988–89

In February 1988, Panamanian strongman, Manuel Noriega, was indicted in a federal court in Florida on drug trafficking charges. In March, a coup attempt against him failed. In April, President Reagan signed a covert action finding authorizing the Agency to provide certain assistance to Panamanian exiles who planned to challenge Noriega in the presidential elections the following year. In May, a second finding was signed authorizing a political action campaign inside Panama that included propaganda and nonlethal support to the opposition forces. The objective was to get Noriega to step down voluntarily and leave Panama. After Noriega adamantly rejected the idea when it was proposed by State Department officials, however, Reagan signed a third finding, this one authorizing CIA to undertake activities to bring about the removal of Noriega from power, including working with disaffected members of the Panamanian Defense Forces (PDF) to bring about his removal by force if necessary. While the finding specifically directed that the Agency not assist in any effort to assassinate Noriega, it recognized that the operation could produce such an outcome.

Although the SSCI had supported the two previous findings, it balked at the third one and, by a vote of 13 to 1, authorized its chairman, David Boren, to send a letter to the president asking that it be withdrawn. Although the administration believed the committee was overreacting, it sent a letter to the committees saying that if it learned that groups the Agency was working with planned to assassinate Noriega, it would inform the Panamanian leader.¹¹⁷ The administration also increased the amount of nonlethal aid being furnished under the May 1988 finding.¹¹⁸

¹¹⁵ CIA draft study, Vol. III, 184.

¹¹⁶ *Ibid.*, 143.

¹¹⁷ Webster interview, 21 August 2002, 42.

In May 1989, the Panamanian presidential election took place, and despite widespread reports of fraud and voting irregularities, the opposition party claimed victory. But Noriega remained in control and refused the public demands of President George H.W. Bush and other world leaders to step aside, leading Bush to publicly encourage the PDF to organize a coup.¹¹⁹

Noriega's refusal to step down after the election also led the Bush administration to look more closely at identifying elements of the PDF it could work with to remove Noriega from power. Advised by Webster of the Reagan administration's earlier commitment to the SSCI to inform Noriega if it became aware of assassination attempts against him, Bush wrote a letter to the committee saying that, whatever the earlier understandings might have been, they no longer pertained. According to Webster, the SSCI immediately backed off, saying that in any event it had never been its intention to obligate the administration to notify Noriega.¹²⁰

Webster also took the occasion to ask the Office of Legal Counsel at the Department of Justice to provide a legal opinion on the kinds of activities that would violate the ban on assassination contained in E.O. 12333 and those that would not.¹²¹ Although neither intelligence committee gave its unqualified endorsement to the Justice opinion when it was presented to them in the late summer of 1989, it did represent the first authoritative legal interpretation of the assassination ban to that point.

In early October 1989, a group of PDF officers (who had specifically rejected help from CIA) attempted a coup against Noriega.¹²² He managed to call for help, however, and was able to escape in the fighting that ensued. In a rage, he ordered the immediate execution of the PDF officers involved.

The ensuing barrage of congressional criticism faulting the administration for its failure to support the coup plotters, prompted National Security Advisor Brent Scowcroft, appearing on a Sunday morning talk show, to point to the SSCI's opposition as a key factor in stopping the administration "from doing what they're now saying we should have done." Appearing separately on the same program, Boren countered that the committee had given the administration "all the money and authority" it had sought for Panama. Scowcroft categorically denied this and shot back that not only the committee's concerns about assassination but also its funding cuts to the covert action program for working with the PDF had hampered the administration's

¹¹⁸ CIA draft study, Vol. III, 199.

¹¹⁹ *New York Times*, "Bush Urges Effort to Press Noriega to Quit as Leader."

¹²⁰ Webster interview, 42.

¹²¹ *Ibid.*

¹²² *Ibid.*

efforts in Panama.¹²³ Reportedly, the personal intervention of Bush himself was required to restore calm.¹²⁴

Iranian Arms Shipments to Bosnia: 1996

In April 1996, the *Los Angeles Times* published an article alleging that in 1994 the Clinton administration had given a “green light” to the government of Croatia to allow Iranian arms destined for Bosnian Muslims fighting in the former Yugoslavia to transit its country. At the time, a UN arms embargo was in effect forbidding shipments of arms to the former Yugoslavia, an embargo the United States had pledged to uphold. The press account also speculated the US government was engaged in a covert action, not reported to the congressional oversight committees, to facilitate the flow of arms from Iran to the Muslims in Bosnia.

Both intelligence committees began investigations at the request of their respective leaderships. Ultimately, the committees found that the US ambassador to Croatia, when asked by Croatian government officials whether the United States would object to the transit of Iranian arms through the country, had responded that he had “no instructions” from Washington on the matter. This response, in turn, led the Croatian government to believe that the United States had no objection, and the flow of Iranian arms through its country expanded significantly.

DCI James Woolsey later contended that CIA had not been advised of the ambassador’s response or of any change in the US position of support for the embargo. Indeed, as the Agency began to see signs of the expanded arms flow its own officers raised concerns that the United States might be covertly facilitating the flow of such arms, contrary to the UN embargo.

Beyond this, the committees reached somewhat differing conclusions. The HPSCI found that the US government had had no role in facilitating the arms flow, and thus no covert action had taken place. While the failure of the US ambassador to object to the transshipments had encouraged Croatia to allow them, HPSCI saw his conduct as “traditional diplomatic activity” rather than as covert action. The SSCI, on the other hand, was unable to reach agreement on whether a covert action had occurred but specifically rejected the notion that the ambassador’s response to the Croatians constituted “traditional diplomatic activity.” Both committees lauded the CIA officers for having raised their concerns to higher levels in the US government.¹²⁵

¹²³ *New York Times* “Bush Aide and Senator Clash Over Failed Coup in Panama.”

¹²⁴ Smist, *Congress Oversees*, 276.

The Gingrich “Add” for Covert Action in Iran: 1995

As an “ex officio” member of the HPSCI, House Speaker Newt Gingrich took an inordinate interest in intelligence activities, occasionally using his position to chide the Clinton administration for its failure to make greater use of covert action to achieve US foreign policy objectives.

In October 1995, for example, Gingrich wrote the first of several articles calling for a covert action program to topple the government of Iran. Not surprisingly, these articles had prompted vehement protests from Tehran. Apparently undaunted, Gingrich, over the initial objection of the Clinton administration, managed to insert \$18 million into the classified portion of the annual intelligence authorization for a covert action program designed to “change the behavior” of the Iranian regime rather than to topple it. Word of the provision leaked to the press a few weeks later, before Clinton had even signed the legislation, prompting the Iranian parliament to denounce the United States and establish a \$20 million fund to counter the covert action.¹²⁶

Support for the INC and the Iraq Liberation Act of 1998

In the spring of 1991, in the wake of the Persian Gulf War, President Bush approved a covert action finding to encourage and support dissidents both inside and outside Iraq who wished to remove Saddam Hussein from power.¹²⁷

Pursuant to this authorization, CIA began working with Ahmed Chalabi, a leading figure in the Iraqi opposition who lived outside Iraq, to create an organization—the Iraqi National Congress, or INC—to coordinate the activities of the opposition. In 1992, the INC established an office in Kurdish-controlled northern Iraq as well as media outlets to spread its message. While the Agency kept the two intelligence committees apprised of these activities, Chalabi, on his own initiative, began making periodic visits to Washington to lobby Congress to provide support for the INC.

In 1994, the INC helped broker a cease-fire between two warring Kurdish groups in northern Iraq. When the cease-fire began breaking down the following year, the INC, with US involvement, obtained the agreement of the parties to a new understanding that contemplated, among other things, the insertion of

¹²⁵ House Permanent Select Committee on Intelligence, *Investigation into the Iranian Arms Shipments to Bosnia*; Senate Select Committee on Intelligence, *US Actions Regarding Iranian Arms Shipments to the Bosnian Army*.

¹²⁶ *New York Times*, “US Plan to Change Iran Leaders Is an Open Secret Before It Begins.”

¹²⁷ For a detailed discussion of the program, see Senate Select Committee on Intelligence, *The Use by the Intelligence Community of Information Provided by the Iraqi National Congress*. 5–35.

an INC peace-keeping force between the two groups. The INC force contemplated by the agreement required US funding, however, to be viable.

As the issue of funding the INC force was being sorted out in Washington, the Agency in early February 1995 learned for the first time of an INC plan, to be carried out within several weeks' time with the help of Shi'a elements inside Iraq, to capture Saddam Hussein and overthrow his regime. In meetings Chalabi arranged in early March with Iranian officials to gain their support for the plan, he intimated that the United States would provide military support to the operation, a claim presumably made more credible by the presence of a CIA officer at the meeting site (although not at the meeting itself). When Chalabi's assertions to the Iranians was reported back to Washington, however, it created a furor in the Clinton White House, which had been unaware of the INC's plan. Chalabi was informed that under no circumstances would the United States provide military support for any such operation. Chalabi believed the plan was now too far along to cancel it, however, and opted to proceed without US assistance. The operation ended in disaster. Saddam Hussein was not captured, neither the Iraqi army nor the Iraqi people rose up against him, and the INC's forces were decimated.

While the Agency reduced its support for the INC after this, Chalabi himself continued to make visits to Washington to plead for US support. The fighting between the Kurdish parties continued in northern Iraq, he noted, and the US had never provided funding needed for an INC peace-keeping force.

In August 1996, Saddam Hussein sent military forces into northern Iraq to destroy what they could find of the INC. A hundred INC members were captured and executed; the rest were forced to evacuate the country. In December, with it becoming increasingly evident the INC's ability to be a unifying force for the Iraqi opposition had faded, the Clinton administration determined that the CIA should terminate its funding of the organization. In February 1997, the Agency broke off its relationship with Chalabi and the INC entirely.

Undeterred, Chalabi continued to lobby his contacts in Congress, many of whom openly expressed sympathy with his plight. In 1998, with the support of House Speaker Gingrich, Republican lawmakers proposed what became the Iraq Liberation Act of 1998, a public bill to provide assistance to the Iraqi exile groups then opposing the regime of Saddam Hussein. While the INC was not specifically mentioned, the president was authorized to provide up to \$97 million in aid to Iraqi democratic opposition organizations designated by the president. (Ultimately, seven such organizations, including the INC, were designated.) For the first time in a public document, the law provided that the US policy toward Iraq required "regime change." Although the Clinton administration initially resisted the proposal, the president signed the law,

pledging to work through the United Nations and with “opposition groups from all sectors of the Iraqi community” to bring about a popularly supported government. The State Department, rather than the CIA, was given responsibility for administering the funds.¹²⁸

In the months that followed, however, a dispute broke out in the Senate over implementing the new law. At first, Republicans complained the administration was taking too long to designate the opposition groups to receive the funding.¹²⁹ Once such groups had been designated, SSCI Chairman Richard Shelby demanded that more of the money go to opposition groups headquartered outside Iraq, rather than to those inside the country, and threatened to block any further expenditures that were not consistent with his views.¹³⁰

Covert Action in the Joint Report on 9/11: 2002

As part of their joint inquiry into the performance of intelligence agencies with respect to the terrorist attacks of 9/11, the committees explored the use of covert action by the Clinton and Bush administrations against Usama bin Ladin and al-Qa’ida both before and after the attacks.¹³¹

Although the heavily redacted report was generally critical of the size and aggressiveness of the Intelligence Community’s operational activities against al-Qa’ida before 9/11, covert action was not singled out for particular criticism, at least in the part of the joint report that was made public. Nor did the committees question in the public part of their report the adequacy of the notice provided them during this period. While suggesting that most had been “gang of eight” notifications, there had not, apparently, been an absence of notice.¹³²

In the report of the 9/11 Commission, released 17 months after the congressional report, the efforts of the Agency to capture or kill bin Ladin prior to and after the 9/11 attacks—redacted in the congressional report—were described in detail.¹³³ While the commission’s narrative confirms that appropriate findings and memorandums of notification were prepared to authorize the activities being contemplated at the time, there is no indication in its report that

¹²⁸ Presidential Signing Statement, *The Iraq Liberation Act*, The White House, 31 October 1998.

¹²⁹ *New York Times*, “Defining Goal in Iraq.”

¹³⁰ *Los Angeles Times*, “US Dispute Holds Up Covert Iraq Operation.”

¹³¹ Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence, *Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001*, 279–303.

¹³² *Ibid.*, 290.

¹³³ *Final Report of the Commission on Terrorist Attacks upon the United States*, 111–15, 126–34, 137–43, 210–14.

either intelligence committee ever intervened to raise questions about the objectives of the operations or how they would be carried out.

AUTHOR'S COMMENTARY

Why Congress Paid Little Attention At First

Covert action, by definition, involves interference in the internal affairs of other countries. Given our own notions of sovereignty, one would expect that Congress would take a strong interest in overseeing such activities. Indeed, in recent times, it has. Yet, until the Bay of Pigs, the Agency's overseers appeared to exhibit little curiosity with respect to this aspect of its operations. What might account for this?

While covert action has always been cloaked in secrecy, in the beginning it probably did not seem all that controversial. It was, after all, intended to combat the spread of communism around the world. The Soviets were doing these sorts of things to us; we should be doing the same things to them. Although the lack of documentary confirmation is frustrating, one can reasonably assume the CIA subcommittees understood the kinds of things the Agency was doing. From 1948 until 1953, they funded exponential increases in them, something they would not have done without knowing—at least in general terms—what the increases were going for.

Another factor contributing to the committees' lack of curiosity may have been that they were used to dealing with the defense budget. The annual appropriation for CIA's "Cold War activities" must have seemed a bargain after dealing with defense expenditures. In addition, these activities were, by their very nature, hard to get a handle on. In any given year, the Agency might be engaged in hundreds of them, many quite small: broadcasts to denied areas, media placements, money for international conferences, money for noncommunists vying in elections, money for dissident groups in communist countries to stir up trouble. It was a menu that CIA could choose from as opportunities presented themselves, all part of a grand plan to weaken communism around the world. The CIA subcommittees undoubtedly regarded these "Cold War activities," taken as a whole, as a key weapon in the country's arsenal but looking at them individually was not something they were either equipped to do or interested in doing.

Even when President Eisenhower began directing the Agency to do things that from a policy standpoint were qualitatively different (and more questionable)—overthrowing popularly elected governments thought to be sliding into

communism, for example—it is not clear that the significance of this change registered with the Agency’s subcommittees. They probably learned of the operations that occurred in Iran, Guatemala, and Indonesia after the fact, but even so, there is no indication they ever questioned the premises of these operations. In part, this may have been because they were perceived as successes. It may also have been due in part to the perception that many in Congress held of the Agency at the time. As one congressman who served on the HASC subcommittee later recalled:

*When you think back to the old days [the Eisenhower years], it was a different world and a different perception of us and our role in the world. The political zeitgeist at the time was that CIA was wonderful. In politics, anybody who wanted to make trouble for the CIA was seen as a screwball and not to be countenanced.*¹³⁴

It was not until 1961 that a covert action resulted in significant worldwide embarrassment for the United States, and it was only then that CIA’s overseers in Congress began asking the kinds of fundamental questions that were to echo down the rest of the Agency’s history: Why were we trying to do this? Why did we ever think it would work?

Like other aspects of early oversight, the lack of a professional staff capable of independently probing and assessing what the Agency was being directed to do also hampered the CIA subcommittees. The handful of members who learned of the Agency’s covert operations had to rely on what the DCI told them, and since few records were made of these conversations, it is, unfortunately, impossible to know either what they were told or how they reacted.

The Issues Covert Action Raises for Congress

So, historically, what have been the issues Congress cares about? Since the two intelligence committees arrived on the scene and hands-on oversight of covert action was instituted, the issues have fallen into two broad categories: policy issues and issues of implementation.

Under the category of policy issues, the usual question is why the United States needs to do it at all. How is the operation in question consistent with US foreign policy? How does it square with our notions of sovereignty . . . our notions of free and fair elections . . . our sense of propriety and proportion? What do we expect to gain from it? What can we expect to lose if it is disclosed to the rest of the world? Why do we need to do it in secret?

¹³⁴ Quoted in Smist, *Congress Oversees*, 5.

The committees also want to understand how the Agency plans to carry out the operation in question. What activities does it entail? Does it stand a reasonable chance of success? Are people likely to get hurt or killed as a result? How much will it cost? Are the individuals and groups we are working with reliable and credible partners? What are *they* really trying to achieve? Can they deliver what they promise? If third countries are involved, do we want to align ourselves with them? If US citizens are being used, are they witting of the Agency's purpose?

Generally speaking, the policy issues are for a representative of the incumbent administration (typically, a State Department official) to explain to the committees, while implementation issues are for an Agency representative to explain. Over the years, members are more apt to focus on policy issues, leaving it to the staff to follow up on implementation issues. Although, as the SSCI's reaction to the proposed Noriega finding illustrates, implementation issues sometimes take center stage.

In considering covert action proposals, the oversight committees tend to come at them with a different frame of reference. The executive branch is chiefly concerned with achieving the objectives of the president, whatever they might be. Because of this, it is sometimes tempted to downplay the risk and accentuate the gain. The oversight committees will also want to see the president succeed but not if, in their view, what the president proposes to do carries substantial risks for the country. Members will also have to take into account what the sentiment in their parent body, or in the public, would be if the operation were disclosed. Would they understand and support what the administration is trying to do?

Contrasted with the Agency's other functions—collection and analysis—covert action raises issues that most members can readily sink their teeth into. They do not have to master volumes of technical data to get the picture; they do not have to know enough to challenge the Agency's analytical experts or question its clandestine tradecraft. Whether the United States should undertake a covert action abroad usually boils down to political judgments, and members of Congress, political animals all, see such judgments as things they can understand and contribute to. Covert action involves high-stakes global politics, and as such, it has engaged members of the oversight committees to a far greater degree than any other aspect of their oversight responsibilities.

The committees' involvement in a given program will depend heavily upon their initial reaction to it. If members are satisfied with what they hear from administration witnesses, not only will they acquiesce in the implementation of the operation, they are apt to devote less attention to it down the road. If they are not satisfied, they may recommend to the president that the program

be modified to accommodate their concerns or be dropped altogether. If the president fails to take the committee's concerns into account, rest assured, it will review the program more frequently and more carefully as it plays out over time. It may also eliminate funding for the program if it carries over into the next budget cycle (and cannot be funded out of the Contingency Reserve Fund). Needless to say, the Agency appreciates these dynamics and attempts to shape the covert action proposals it develops for an administration in a way that avoid the potential concerns of members. Depending upon what a particular administration wants done, however, this may or may not be possible.

“Overt” Covert Action

The executive branch initiates almost all covert action programs and classifies them to protect the fact of their existence, their funding levels, and the activities undertaken pursuant to them. However, from time to time, as the narrative indicates, the existence of a covert action program, its funding level, and even the activities envisioned for the program will be openly debated on the floor of Congress, and the world is thereby treated to the spectacle of an “overt” covert action.

When this has happened, it has been for one of several reasons. First, the program or policy issues may have already received so much public attention that an administration decides to offer its proposal in public. President Reagan did this in 1986 with respect to his request for assistance to the contras. The money, had it been appropriated, would have gone into the Agency's covert action appropriation and the Agency would have disbursed it. A covert action program can also “go public” when a member decides to offer legislation to do something about one: either to initiate a program that a member thinks is needed (funding the Iraqi opposition in 1998, for example) or to augment, restrict, or end a program a member has heard about. More often than not, these proposals have come from members who are not on one of the oversight committees. Sometimes, members of the oversight committees—who have lost in committee—decide to take their proposal to the floor. Sometimes, the oversight committees themselves will decide to take a covert action to the floor when they know several members of their parent body are planning to offer amendments. By doing so, they may be maneuvering to preempt such amendments and better control the floor debate.

While purists are naturally horrified when this happens, there may be no practical alternative. If members insist on discussing a covert action on the floor, there is not much that can be done to stop them. The “speech and debate” clause of the Constitution protects them with respect to what they might say on the floor, and while they can be encouraged to work through their

respective intelligence committee, no one can force them to do so. Besides, the committee may not agree with what the member proposes. How else are they to exercise their prerogative as legislators except by raising questions on the floor or offering amendments to a bill they are concerned about? Each chamber does have procedures for going into closed session to consider classified matters, but secret sessions have never been used to debate public legislation.

In short, having open debates on covert action proposals seems unavoidable under our constitutional system. This is not to say they should be encouraged. Obviously, the target of the operation is put on notice and may take retaliatory action of some kind. Moreover, there is a certain “unseemliness” about debating whether the United States should interfere in the internal affairs of another country in the hallowed halls of the Congress, even if that country is universally despised.

The good news is that the congressional system discourages individual members from freelancing where covert action is concerned. Virtually every amendment to limit, restrict, or end a covert action program has failed without the support of the intelligence committee involved. For members to make a persuasive case for such amendments in the face of intelligence committee objection is difficult, simply because the intelligence committee controls the pertinent information. Accordingly, when it comes to covert action, most members rely on the recommendations of their respective intelligence committee. Proposals to initiate covert actions or augment existing ones have fared somewhat better, especially if the intelligence committee concerned does not object to them. But such initiatives have often prompted negative reactions around the world and have historically never been well received or implemented by the executive branch. All of this, if appreciated by members, would tend to discourage them from striking out on their own, although there will always be some who want to make a public splash regardless of their chances for achieving legislative success.

Covert Action Since the End of the Cold War

From 1948 until the end of the Cold War, covert actions were undertaken primarily to thwart the spread of communism. During the 1980s, they began to be used for other purposes—countering threats to the United States posed by terrorism, drug trafficking, and the proliferation of weapons of mass destruction. When the Cold War ended, these targets came to dominate the covert action agenda. Covert action remained a tool that could be used against the few communist regimes and “rogue states” that remained on the world stage, but the focus of such operations increasingly became groups or individuals,

not governments. Rather than containing the spread of a threatening ideology, the objective became preventing harm to the United States.

This shift in objective had significant implications for congressional oversight. Not only were covert actions fewer in number, they were less controversial from a policy standpoint. Between 1991 and 2004, few became public, and those that did raised comparatively minor issues (the Iranian arms shipments to Bosnia, for example). Gone for the most part were the old staples of the program: election support to noncommunist political parties, efforts to unseat governments thought to be coming under communist sway, media placements and the like. Replacing them were programs to help other governments counter the same threats that were of concern to the United States.

The oversight committees readily understood the need for these programs and in general supported them. When more direct US action was contemplated against terrorists or drug-traffickers, the committees supported that as well. Operations of this sort, however, often involve highly sensitive sources and methods and, not infrequently, put lives at risk. So while the goals may not have been controversial, the means of accomplishing them remained highly sensitive, occasioning a proportionally greater use of the limited notice options retained by the executive branch than had been the practice during the Cold War.

The Impact of the Select Committees' Oversight of Covert Action

Where covert action is concerned, the two intelligence committees have, since their inception, provided the only significant check and balance outside the executive branch. The appropriations committees occasionally weigh in on the funding levels for these programs, but the intelligence committees are where the policy issues are weighed and adjudicated.

It is true that the statutory arrangements governing this aspect of congressional oversight pay considerable deference to the president's constitutional responsibilities. The law gives Congress a say in such activities, but it cannot veto them. If especially sensitive operations are contemplated, the president has the options of delaying notice for a short while or of limiting notice to the "gang of eight" rather than the (now 36) members of the two committees. Last but not least, Congress appropriates money each year for a special fund—the Contingency Reserve Fund—which it allows the president to use to carry out covert actions during the year without having to come back to Congress for approval. This can become especially important if a president needs to act quickly.

It would be a mistake to conclude, however, that the committees' role is insignificant. If the committees do not support a particular operation or have concerns about aspects of it, an administration would have to think twice about proceeding with it as planned. If it is disclosed or ends in disaster, the administration will want to have had Congress on board. If it is going to last more than a year, the committees' support will be needed for continued funding. The committees are also likely to be better indicators of how the public would react if the program were disclosed than the administration's in-house pundits.

Obviously, the committees can be wrong. They can see problems that are not there and overreact to what is being proposed. But, at the end of the day, after their concerns have been thrashed out and they still remain opposed, most administrations will back off rather than push ahead. It has not happened very often since the committees were created, but it has happened often enough that the concerns of the committees have to be reckoned with.

