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## What's Needed To Enact It

# The CIA Charter

*Washington.*

**D**ESPITE considerable efforts, it has proved impossible to enact comprehensive intelligence charters in the 96th Congress.

Though many believed that this Congress represented the last chance to pass charter legislation, it is now almost certain that one more effort will be made in the next Congress. If the lessons of the past few months are learned, I believe that a charter can be passed which would provide protection for the civil liberties of

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Americans and also provide the framework in which the intelligence agencies can function.

The first and most important lesson that can be drawn from the way in which the most recent charter was developed—and failed to pass—is that many more people, both inside and outside of the executive branch, must be brought into the process. A bill drafted by the intelligence agencies, even if endorsed by the Senate Intelligence Committee, will not simply sail through the Congress.

The unanticipated fight over the use of clergy, journalists and academics illustrates the point. The draft charter, as introduced, had a very narrow ban on the use of cover (i.e., CIA agents pretending to be a member of the clergy, a professor, or a journalist) but no restrictions on the operational use of actual members of those groups for intelligence purposes. The issue had not been on the list of outstanding disagreements between the administration and the Congress. Yet it proved to be a main stumbling block. Many journalists and news gathering organizations joined with professors and most of the nation's churches in demanding an absolute ban on the use of journalists, clergy and academics. No one who heard the testimony on behalf of missionaries who believe their lives would be put in danger by any charter without an absolute prohibition can continue to believe that a charter can avoid dealing with this issue.

A solution acceptable to all will

not be easy to reach. CIA Director Stansfield Turner has made it clear that he wants the right to use all these groups at least in extraordinary circumstances, and to use academics on a regular basis; President Carter is said to be firm in his opposition to a total ban. Discussions over the next months may reveal the outlines of a solution. The groups concerned will be heard on this issue and it is better that they be heard sooner rather than later.

Another issue illustrating the need for broader consultation is the standard for surveillance by those engaged in counterintelligence activity. Since almost all the misdeeds of the past had been rubber-stamped with a "counterintelligence" justification, the need to separate real counterintelligence activities from those which are pretexts or overreactions is more than rhetorical. Evidently, senior administration officials devoted very little attention to this issue.

It seems to have come as a surprise to the drafters of the proposed charter when groups such as the American Civil Liberties Union focused much of their criticism on the standards which would have permitted surveillance of any American believed to be engaged in "clandestine intelligence activity" without defining that phrase in a way which would have prevented past abuses from recurring.

The recent debate demonstrates that there is great public concern over the terms of the charter. It demonstrates also, in my view, that a serious discussion of the details of the standards affecting Americans—drawing in the House Intelligence Committee and outside groups (such as journalists, clergy and scholars) whose interests are affected—can resolve these and other issues. We would then have a bill which could be enacted and which will insure the protection of rights while permitting the intelligence agencies to operate effectively. Unless the bill does both, it should not and will not be passed.

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