

*A basic tension*

## **Openness and Secrecy**

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The American system of government is rooted in openness. Article I of the Constitution provides that "Each House shall keep a Journal of its proceedings, and from time to time publish the same" and that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published" by the government. When combined with First Amendment guarantees of a free press, these provisions created the basis for open government. The Founding Fathers believed that openness was vital because the Colonies' disputes with the government of King George III taught them that participation of the governed could succeed only if the governed were well informed.

Throughout their history, Americans have relied on free elections, Congressional hearings and investigations, speeches and appearances by executive branch officials, and an inquiring press to make good on the Founding Fathers' promise of open government. Until the start of World War II, Congress and the executive branch openly debated most foreign affairs issues, and the press reported the results. Information about the small standing army was readily available both to Americans and to foreign representatives.

This system worked well until World War II brought the need to keep military plans and the capabilities of weapon systems from enemy eyes. Although Article I of the Constitution permitted Congress to withhold such records "as may in their Judgment require Secrecy," little of this occurred until the war started.

As the war progressed and our national security was threatened, breakthroughs in jet-engine technology, radar, sonar, rocketry, and atomic weapons required special protection. Openness in operations of the legislative and executive branches, previously the guarantors of the Founding Fathers' promise, was sharply curtailed.

Elaborate systems were devised to ensure secrecy, not only for spectacular achievements like reading German and Japanese wartime codes, but also for daily activities of the foreign affairs, intelligence, and military components of government. With the advent of the Cold War, conflict between the old tradition of openness and the new requirement for secrecy became a significant issue.

This conflict continues. According to the President's Information Security Oversight Office, in 1981, at the height of the Cold War, US Government officials were making more than 10 million classification decisions annually, thereby creating an enormous stock of classified documents.

The Reagan administration sharpened the conflict by relaxing regulations requiring periodic review of classified documents for declassification. By 1985 classification decisions had reached an annual rate of 15 million, endangering the open government envisioned by the Founding Fathers.

But, with the end of the Cold War and the decline in direct threats to national security, the need for secrecy has been reduced. Many previously classified national security documents are being released and many newly created documents issued in unclassified form. By 1992 classification decisions had fallen to 6 million.

### **The Special Case of Intelligence**

Intelligence documents, however, are a special case. Intelligence budgets are even exempt from the Constitutional provision requiring public accounting by government agencies. Although the intelligence agencies, like the rest of the government, are starting to

question excessive secrecy, reduced threats to national security have not translated quickly into reduced protection of intelligence from public disclosure.

New standards have to be established on what to release and what to protect. New ways of thinking have to evolve to challenge the intelligence agencies' culture of secrecy. Because intelligence documents are often highly sensitive, however, care has to be taken before releasing them to the public.

During the special circumstances of World War II and the Cold War, the American people were willing to support a permanent, organized, secret intelligence effort and to delegate oversight of its performance to a limited number of members of the executive and legislative branches. Whether the public will continue to support a large intelligence effort in the more benign climate of the 1990s is by no means certain. Because the case can be made only by providing the public with information needed to judge intelligence performance, openness is a necessity. The alternative is to watch intelligence budgets shrink and return to the situation prevailing before World War II, when the intelligence effort was limited, sporadic, and largely unimportant.

## Historical Review

To understand the problems associated with reducing secrecy in intelligence, it is first necessary to understand how the current system evolved. Collecting wartime intelligence was a key concern of the Founding Fathers. The Second Continental Congress set up a Committee of Secret Correspondence to oversee espionage operations and appointed Benjamin Franklin and John Jay, among others, as members. Protecting intelligence secrets got off to a bad start, however, when the Committee had to fire Thomas Paine, briefly the Committee's secretary, for leaking classified information. After the Revolutionary War, the intelligence effort lay dormant until World War II, though there were isolated bursts of activity during the Civil War, World War I, and other emergencies.

The National Security Act of 1947 and executive orders issued by administrations since then have codified experiences from World War II and the Cold War and have established a foundation in law and regulation for today's system for controlling intelligence secrets. Many of the basic concepts are drawn

from the successful Anglo-American effort during World War II to prevent Germany and Japan from learning that the Allies were reading their codes. The guiding principle of this effort was to limit and control distribution of information. The lesson of concealment was evident in President Truman's 1952 decision to establish the National Security Agency but to keep secret its mission of collecting intelligence from foreign electronic signals.

The advent of high-altitude reconnaissance aircraft in 1956 and of orbiting reconnaissance satellites in 1960 created new kinds of intelligence requiring new systems of protection. These took the form of special clearances for those permitted to receive the information and special handling procedures for distributing it. Later, the National Reconnaissance Office was established to manage satellite programs, but the government did not acknowledge its existence until 1992. All these events combined to create an inward-looking culture of secrecy that is hard to change.

## Current Needs for Protection

The new standards for secrecy evolving in intelligence agencies reflect the changing circumstances of the 1990s, for intelligence has to respond to the customers it serves and the new foreign policy environment. Today's foreign policy environment is less threatening to our national survival, but it also is less predictable and more complex than in the recent past. Issues are becoming transnational in scope, and coalitions rather than unilateral actors are forming to deal with them. The former Soviet Union, an intelligence target that once accounted for more than half of all intelligence spending, has been replaced by the new targets of nationalism and ethnic violence, proliferation of advanced weapons, narcotics and terrorist activities, economic security, the environment, and regional issues.

New customers for intelligence are displacing old ones as regulatory, law enforcement, and economic agencies compete with traditional customers in the White House, the Department of State, and the Department of Defense. Links to policy and military customers are becoming closer and the demand for

actionable intelligence greater, putting pressure on the Cold War principle that intelligence should be closely held, highly classified, and protected from public disclosure during regulatory or law enforcement actions.

Accordingly, to determine what needs safeguarding today, the concept of protecting intelligence sources and methods embedded in the National Security Act of 1947 has to be adjusted to fit the new policy environment and customer base. Among the sources of intelligence, at least three merit protection: clandestine agents who provide the US with needed information, technical collection systems that gather information from space or from sensors, and foreign governments, which volunteer information in confidence.

Similarly, key methods have to be protected. Among them are techniques that clandestine agents use to collect information, capabilities of technical collection systems, location and details of intelligence installations abroad, cooperative relationships with foreign intelligence services, and special analytical methodology.

The task before intelligence agencies now is to build higher fences around fewer secrets, limiting protection only to sources and methods that merit it, while disclosing as much as possible of everything else. To accomplish this, careful consideration of the gains and losses from disclosure has to replace the habit of automatic classification. The bias has to favor disclosure, and classification decisions have to be clearly justified. Only in this way will intelligence agencies be able to serve customers of the 1990s who need unclassified information for use in demarches to foreign governments, in regulatory and law enforcement actions, and in support of military forces subordinated to international organizations. And only in this way can the intelligence agencies help to reduce the conflict between open government and the requirements for secrecy.

### **Secrets and the 1990s**

Although a good start has been made in reducing secrecy in intelligence agencies, a number of problems remain. One is assembling the large

numbers of people needed to declassify old documents at a time when personnel budgets are shrinking. Another is finding ways to present current documents directly to the public and the press rather than indirectly under the imprimatur of other government organizations, as has usually been the case in the past.

Imaginative thinking also has to be applied to the question of deciding what old information to make available. For example, environmental scientists want daily satellite imagery of the former Soviet Union going back to 1961 because it contributes to an understanding of land use, soil mechanics, snowmelt, and climate change. Cold War historians want information on major events of the last 45 years. Intelligence archives contain information whose value to the public such experts can determine. But, even with their help, culling tens of millions of documents with limited resources is difficult.

Maintaining permanent intelligence organizations in a democratic society is still experimental. The outcome depends in part on rolling back the culture of secrecy and revealing as much information as is consistent with protecting sources and methods. Intelligence activity, formerly a requirement of the Cold War, is now an issue of new national policy. Like other such issues, it will be decided by an informed public acting through elected representatives.

One sign that progress is being made is the decision of the last two Congresses to cut intelligence budgets less than defense budgets. Another sign is that many foreign intelligence services have turned to Washington for advice on how to open their organizations to greater public scrutiny. Ideas that were first expressed in our Constitution are inspiring them to begin accounting publicly for some of their activities and funds. Although the process of reducing secrecy in American intelligence is painful and progress is slow, the goal of making government more open is worth the effort.