

CHAPTER 10

OVERSIGHT OF SECURITY AND PERSONNEL MATTERS

This chapter looks at the extent to which the Agency's overseers in Congress have become involved in security and personnel matters over the period covered by the study. At first blush, readers may think such matters "beneath the noise level" of lawmakers. At times, however, they have come to the forefront of the Agency's relationship with Congress. Indeed, the Agency's overseers have always been concerned by the prospect (not to mention, the reality) of a penetration of the Agency by a hostile intelligence service. They have also been concerned about Agency employees thought to be security risks or who had committed serious security violations. On occasion, Congress has also become involved in personnel matters that had nothing to do with security: the competence of a particular employee, whether employees whose performance fell short had been adequately held accountable for their failure, or whether the treatment accorded a particular employee or group of employees had been fair and equitable.

This chapter describes the episodes that have generated the greatest controversy. It does not cover inquiries made with regard to persons whose positions are subject to appointment by the president and confirmation by the Senate, which are discussed in the next chapter.

The Confrontations with Senator Joseph R. McCarthy: 1950–54

On 20 February 1950, Joseph R. McCarthy (R-WI) took the Senate floor and dramatically charged that 81 people, all but one working for the State Department, were communists or communist sympathizers. The one who did not work at the State Department, whom he did not identify by name, worked for the CIA, he said. The Agency immediately sought and was given the employee's name. After an expedited internal investigation, DCI Hillenkoetter wrote McCarthy and told him in no uncertain terms that the charges could not be sustained. In return for the Agency's promise not to make its letter public, McCarthy agreed not to cite the case again in the future.¹

¹ CIA draft study, Vol. I, 40-41; Barrett, *CIA and Congress*, 64–66.

A few weeks later, however, McCarthy rose from his chair on the Senate floor to make a new charge: the CIA had a “notorious homosexual” on its payroll.² Although the man (a State Department employee assigned to the CIA) made no effort to conceal his sexual orientation, at the time homosexuals were widely regarded as being vulnerable to blackmail and, therefore, security risks. When other members of Congress also expressed concern, Hillenkoetter, after discussing the matter with the President Truman, allowed the employee in question to resign.³

Hoping to prevent additional confrontations, Agency liaison Pforzheimer elicited a commitment from McCarthy in late May 1950 that he would not publicly levy charges about communists in the CIA without at least informing the Agency privately before he did so.⁴ In fact, while McCarthy continued his assault on other agencies, he did not engage with the Agency again for three years.

In the meantime, however, DCI Smith found himself embroiled in controversies with other congressional committees created largely as a result of McCarthy’s anticommunist crusade. Although it was not made public at the time, the man who had served as British liaison with the Agency for two years, Harold “Kim” Philby, was recalled to London in May 1951, after his housemate in Washington defected to the Soviet Union. Assuming Philby himself was a spy (as he later was shown to be), the compromise of the Agency’s information was potentially devastating. Agency records do not reflect whether Smith informed the CIA subcommittees of Philby’s suspected treachery, but testifying publicly in September 1952 in a libel suit involving McCarthy and a fellow senator, Smith stated that he believed, although he did not know, that “there were communists in my own organization.” He added that he suspected “communists had infiltrated practically every security organization of the government.”⁵ These statements earned Smith an invitation from the House Un-American Activities Committee (HUAC) a few weeks later to explain himself. While he admitted the Agency had a few suspected communists within it, he said none were Americans “within the scope or interest of this committee.”⁶

In July 1953, McCarthy’s focus again returned to the Agency. A few weeks earlier, members of his staff had traveled to Europe. In the course of their travels they had asked to interview Agency officers, who declined to meet with

² See Barrett, *CIA and Congress*, 61–81, for a detailed description of this episode.

³ *Ibid.*, 7.

⁴ CIA draft study, Vol. I, 41.

⁵ Barrett, *CIA and Congress*, 129.

⁶ *Ibid.*, 132.

them. Miffed, they began to request, upon their return to Washington, CIA records on a wide variety of subjects. The Agency declined these requests as well. On 9 July, McCarthy demanded to question William P. Bundy, assistant to the DDI at the time, about his relationship with Alger Hiss. Hiss, a State Department official, was suspected of working for the Soviet Union and had earlier been convicted of perjury in a federal court. Bundy was a friend and former law partner of Hiss's brother.⁷

The Agency tried to duck the confrontation, first by issuing an internal memorandum reminding employees that only the DCI was authorized to testify before Congress⁸ and then by rushing Bundy to an unplanned vacation in New England and having Pforzheimer tell McCarthy that Bundy was on annual leave. Learning from another source that Bundy had, in fact, reported to work on the morning of 9 July, McCarthy accused Pforzheimer of "a bare-faced lie" and subpoenaed him to testify the following day regarding Bundy's whereabouts. DCI Dulles ordered Pforzheimer to ignore the subpoena and, asking for assistance from the White House, had Vice President Nixon call McCarthy urging him to drop the Bundy matter.⁹

McCarthy initially appeared ready to do so, meeting with Dulles on 14 July to work out the terms of their future relationship. Within 48 hours, however, angered by criticism in the press and by fellow senators, McCarthy took the offensive again, charging publicly that Bundy had contributed \$400 to an Alger Hiss defense fund and had once been active in a communist front organization.¹⁰ This in turn led Dulles to respond that these things were known when Bundy was granted a security clearance and did not prove disloyalty. McCarthy, outraged, demanded to see Bundy's file. Dulles refused. On 3 August, McCarthy expressed shock that Dulles would continue to protect the associate of a "convicted traitor" and vowed to investigate the Bundy case during the next session of Congress.

McCarthy never carried out his threat. By this point, his power was on the wane. Three senators on his committee resigned in July when his staff made sensational charges regarding the involvement of US clergy in communist groups. President Eisenhower also expressed his displeasure, and senators from both sides of the aisle began to openly question allowing McCarthy to continue his investigations.

In June 1954, during the televised Army-McCarthy hearings that were exploring McCarthy's charges that communists had infiltrated the US Army,

⁷ *Ibid.*, 177–96.

⁸ Knapp, *The First Thirty Years*, 155.

⁹ CIA draft study, Vol. I, 43.

¹⁰ *Ibid.*, 44.

the senator attacked the Agency again, saying that there was now new evidence showing that communists who had been members of OSS now “blanketed” the Agency.¹¹ Dulles immediately issued a press statement denying the charges. Although McCarthy later turned over to the Hoover Commission what he said was the “evidence” to support his charges, by this point he lacked the credibility to be taken seriously. In December, the Senate officially censured his conduct, effectively ending his challenge to the CIA.¹²

The Agency’s overseers in the Senate left the Agency to deal with McCarthy largely on its own. Indeed, sentiment among them was split. Some expressed sympathy for his objectives, if not his methods. Initially at least, the political furor created by his charges was simply too powerful for them to intervene on the Agency’s behalf, asserting what would have been essentially a jurisdictional issue.

The Paisley Matter: 1978

On 1 October 1978, the body of a retired CIA officer, John A. Paisley, was found floating in the Chesapeake Bay with a weighted diver’s belt around his waist and a gunshot wound to the back of the head. Paisley had been heavily involved in Soviet operations during his Agency career. Given the bizarre circumstances surrounding his death and amid speculation in the press, the SSCI opened an inquiry in an attempt to determine whether Paisley’s death resulted from his activities as an employee of the Agency. After two years and three public statements regarding the case, the committee ultimately reported it had “found no information to support the allegations that Mr. Paisley’s death was connected in some way to involvement in foreign intelligence or counterintelligence matters.”¹³

Max Hugel and the SSCI’s Investigation of DCI Casey’s Prior Business Dealings: 1981

When William Casey became DCI in January 1981, he brought with him a brash, hard-driving New Yorker, Max Hugel, with whom he had worked during the Reagan election campaign. Hugel had no experience in intelligence but had impressed Casey during the campaign, and Casey believed he would inject life and imagination into the Agency’s operations. In May 1981, after a

¹¹ Barrett, *CIA and Congress*, 194.

¹² *Ibid.*, 196; CIA draft study, Vol. I, 46.

¹³ Smist, *Congress Oversees*, 114.

short time as the deputy director for administration, Hugel was named deputy director for operations, putting him in charge of the Agency's clandestine activities. The appointment drew immediate criticism from a number of retired Agency veterans. It was also apparent that SSCI Chairman Goldwater, while not part of the early public criticism, was nonetheless cool toward Hugel's appointment.¹⁴

In July 1981, after allegations surfaced that he had passed insider information concerning his company seven years earlier in order to improve its stock position, Hugel decided to resign from the Agency. In covering the story the *New York Times* also disclosed for the first time that a federal judge in New Orleans had ruled two months earlier that Casey had knowingly misled investors in a company he had helped to found in 1968.

Three days after this article appeared, the SSCI voted to open a formal investigation regarding the judge's ruling against Casey, as well as the circumstances of Hugel's resignation. Goldwater initially told reporters that until he knew more he saw no reason for Casey to resign, but later at a appearance in the Senate press gallery, he answered a reporter's question as follows:

*That he appointed an inexperienced man to be, in effect, the nation's top spy was bad enough. I must say that as a person with long involvement in intelligence matters that it was a very bad mistake and I might even say dangerous because he is the man in charge of clandestine activities. This in itself constitutes the worst thing Casey has done. . . . The damage done by Mr. Hugel's appointment to the morale of the CIA, in my opinion, is a sufficient [reason] for either Mr. Casey to decide to retire or for the President to ask him to retire.*¹⁵

Although Casey subsequently apologized to the SSCI for Hugel's appointment,¹⁶ he did not resign, and the SSCI proceeded with an extensive investigation of his prior business dealings. The investigation lasted from July until October, but the committee did not release a report of its investigation until December, six months after the allegation surfaced.¹⁷ It found that in failing to disclose various investments, debts, liabilities, board memberships, and work done for foreign governments, Casey had been "at a minimum inattentive to detail" in complying with financial disclosure requirements during his confirmation process. But, while the committee said this pattern of omission sug-

¹⁴ Woodward, *Veil*, 132, 148.

¹⁵ *Ibid.*, 130.

¹⁶ CIA draft study, Vol. III, 7.

¹⁷ Senate Select Committee on Intelligence, *Report on Casey Inquiry*.

gested an “insufficient appreciation of the obligation to provide complete and accurate information to the oversight committees,” a majority concluded that “no basis has been found for concluding that Mr. Casey is unfit to hold office as director of central intelligence.”¹⁸

Casey’s Emphasis on Counterintelligence and Security Issues: 1981–84

DCI Casey saw an expanded counterintelligence and security effort as key to his effort to rebuild US intelligence. For the first time, a DCI provided the Agency’s congressional overseers with detailed information on hostile intelligence threats, not only to obtain their support for funding activities needed to counter such threats but also to attune them to the growing and pervasive nature of the threats, both in the United States and abroad.

These briefings led both committees to examine what the Intelligence Community and, in particular, the Agency were doing to counter such threats. While both committees were generally supportive of the initiatives Casey had taken within the Agency (an interagency center within CIA to assess US technology transfers to other countries, for example) the SSCI proposed creating an interagency deception analysis unit to analyze efforts by hostile intelligence services to deceive US intelligence-gatherers. Casey argued that such a unit was not needed inasmuch as the Agency was already doing such analysis. While some of its members took issue with Casey’s assessment, the SSCI as a whole did not pursue the idea.¹⁹

Casey was also troubled by leaks of classified intelligence information and in 1983 attempted to get both intelligence committees to enact new criminal legislation to deal with the problem. The SSCI did hold hearings on this subject during the summer, however, it did not produce a consensus for legislation. Casey tried again a year later with both committees, but neither considered the political climate favorable for such an effort.²⁰

The “Year of the Spy” and Its Aftermath: 1985–87

In the space of a year’s time, six different espionage cases exploded onto the front pages of the country’s newspapers, leading editorial writers to dub 1985 the “year of the spy.” One case involved a spy ring within the Navy that had passed high-level cryptographic materials to the Soviets; another, an NSA

¹⁸ *Ibid.*, 1–2, 38.

¹⁹ CIA draft study, Vol. III, 30–31.

²⁰ *Ibid.*, 32–33.

communications specialist who had sold signals intelligence information to the Soviets; and a third, a Navy intelligence analyst who had passed classified documents to the Israeli government. The other three cases involved CIA employees.

The first involved an operations support assistant in Ghana, Sharon Scranage, who was convicted of passing classified information identifying certain CIA officers to Ghanaian intelligence officials. The second case involved a translator and foreign media analyst, Larry Wu-tai Chin, who had passed information regarding CIA intelligence assessments to the Chinese government. The most serious, however, involved a former DO case officer, Edward Lee Howard.

Howard, 33, had worked for the Agency from 1981 until 1983 and had been given access to information concerning the Agency's operations in Moscow because he had been slated to go there. In September 1984, after leaving the Agency, Howard mentioned to two of his former Agency coworkers that he had recently spent several hours outside a Soviet Embassy wondering whether he should go in and offer to work with them. (Four days earlier, the investigation later disclosed, Howard had actually met with Soviet intelligence officers in Austria.) His former colleagues reported his unsettling comment to Agency security officers, but the Agency decided to handle it internally rather than report it to the FBI. Howard at that point had left the Agency and was living in New Mexico.

A year later, KGB defector Vitaly S. Yurchenko gave his debriefers sufficient information that the Agency was able to identify Howard as a likely Soviet spy. Howard was put under round-the-clock FBI surveillance in New Mexico. Eluding the surveillance using methods he had learned as a case officer, Howard fled to Finland and later turned up in the Soviet Union. The damage to Agency operations was thought to be significant.

Both intelligence committees announced they would open inquiries into the Howard case, focusing upon the handling of former employees generally, once they leave the Agency; the actions the Agency took in response to Howard's comment to his colleagues; and the failure to bring the FBI into the case when Howard's comment was reported.²¹

Surfacing in the middle of the other spy cases that came to light that year, the Howard case prompted some in Congress to call for a national commission to evaluate the nation's security posture. Neither intelligence committee supported the proposal, believing they could do a better job of it themselves. Both held extensive hearings—the SSCI alone held 16 hearings on counterin-

²¹ *New York Times*, "Officials Say CIA Did Not Tell FBI of Spy Case Moves."

telligence and security issues during 1985–86—and both produced extensive reports of their inquiries that were published over the objection of DCI Casey, who considered them to be a “roadmap” of US counterintelligence capabilities.²²

While the committees were in the midst of these investigations, Casey renewed his crusade to stop leaks of intelligence information. In a letter to President Reagan in November 1985, he described leaks as “a cancer which mortally threatened presidential authority to conduct national security policy, the national security process, and US intelligence capabilities.”²³ In May 1986, Casey went public with his concerns, noting that because of leaks,

*every method we have of obtaining intelligence: our agents, our relationships with other intelligence services, our photographic, our electronic, our communications capabilities have all been damaged. Every one of them has been damaged by disclosure of sensitive information.*²⁴

At least partly to blame, Casey believed, was the Congress. In September 1986, he instructed the Office of Legislative Liaison to be more circumspect about what was briefed to the committees and to limit such briefings to the chairman and ranking members whenever possible. As far as briefing other committees was concerned, the Agency needed to begin turning them down. “The resource cost [alone] has become enormous,” Casey wrote, “and the number of leaks, outrageous.”²⁵ If the risk of disclosure was thought to be too great in a particular case, Casey advised NSC adviser Robert McFarlane at the time, “We will simply decline the [congressional] request.”²⁶

The Agency continued to quarrel with the intelligence committees over leaks even after Casey had passed from the scene. In March 1987, after a member of the HPSCI revealed the existence of the then-secret National Reconnaissance Office as well as the KEYHOLE satellite program in a speech on the House floor, Acting DCI Robert Gates met with HPSCI Chairman Louis Stokes to discuss what could be done about leaks from the committee. According to CIA records, Gates identified four cases where he believed it was clear that leaks had come from the oversight committees. Stokes responded that it was his view CIA had been “setting the committees up” by leaking information to the press itself and then blaming the committees. Gates

²² Senate Select Committee on Intelligence, *Meeting the Espionage Challenge*; House Permanent Select Committee on Intelligence, *US Counterintelligence and Security Concerns—1986*.

²³ CIA draft study, Vol. III, 93.

²⁴ *Ibid.*, 97.

²⁵ *Ibid.*

²⁶ *Ibid.*

did not accept Stokes's assertion but committed to fostering a more responsive attitude within the Agency toward the oversight committees.²⁷

While Gates—and later DCI Webster—continued to underscore their concerns to both committees with respect to leaks coming from the legislative branch, the publication of *Veil* in late 1987 effectively put an end to their complaints. Not only did Bob Woodward's book reveal the details of numerous covert action programs and compartmented collection operations, it had obviously been prepared with Casey's cooperation and participation. Incensed, both committees threatened to investigate but ultimately deferred to an internal CIA investigation commissioned by DCI Webster. That investigation confirmed Casey not only met with and spoke to Woodward on numerous occasions but had authorized Agency officers to provide him background briefings.²⁸

Concerns over Embassy Security: 1985–88

In 1985, as the “year of the spy” was unfolding, the Agency told both oversight committees that there was strong evidence the Soviets had embedded a complex electronic surveillance system within the new American embassy under construction in Moscow. Work on the building was halted until a decision could be reached on how to proceed, and at the initiative of the SSCI, Congress approved a supplemental appropriation to improve security countermeasures at US diplomatic establishments worldwide.

Embassy security continued to concern both committees in the years that followed. In 1987, the SSCI issued a lengthy report on the Moscow embassy, recommending that it be torn down completely and rebuilt. The committee also recommended that the DCI certify the security conditions at all US diplomatic establishments.

The Agency produced its own study of the new Moscow embassy building, recommending that everything above the fourth floor be demolished and that no classified activities or discussions be held on the floors that remained. DCI Webster also responded to the SSCI's recommendation by creating a Security Evaluation Office to analyze the security vulnerabilities of US missions abroad.²⁹

²⁷ Ibid., 176.

²⁸ Ibid., 179.

²⁹ Ibid., 178–79.

Providing Authority to Redress Past Injustices: 1988

During the late 1960s and early 1970s, a number of employees were asked to leave the Agency after then-counterintelligence chief, James J. Angleton, had raised questions about their loyalty. In the early 1980s, several of these employees asked DCI Casey to reconsider their cases. At the end of an extensive internal process lasting several years, Casey decided that certain of the individuals involved had, in fact, been unfairly treated, but he lacked the legal authority to provide them monetary compensation.

In 1988, more than a year after Casey's death, DCI Webster broached the matter with both intelligence committees, which agreed to have their respective staffs review the files on each case. Ultimately, the committees agreed with the assessment of the two DCIs and provided a special, one-time authority in the annual intelligence authorization bill for the Agency to pay monetary compensation, as it saw fit, out of its appropriated funds to redress the recognized injustices of the past.³⁰

The HPSCI's Inquiry into Sex Discrimination: 1994

In 1994, the Agency found itself a defendant in two widely publicized lawsuits alleging sexual discrimination. One was a class action suit brought by 100 women in the Directorate of Operations; the other, an individual lawsuit over the Agency's promotion practices.

Taking note of these complaints, the HPSCI held open hearings in September 1994 to explore the Agency's personnel policies and practices with respect to the hiring and promotion of women and other minorities. While conceding that "minorities are still underrepresented in the Agency's workforce, and the advancement of women and minorities is still limited," DCI Woolsey said he was intent on breaking down any existing barriers. "The ability to understand a complex, diverse world," he stated, "a world which is far from being all white male—is central to our mission."³¹

The Congressional Reaction to the Aldrich Ames case: 1994

On the morning of 21 February 1994, the FBI arrested a long-time DO employee and his wife on charges of espionage. The affidavit accompanying the arrest warrant alleged that Aldrich H. Ames had begun spying for the

³⁰ §501, Intelligence Authorization Act for FY 1989, PL 100-453, 29 September 1988.

³¹ Weiner, "CIA Is Working to Overcome Sex and Race Bias."

Soviet Union in April 1985 and that his activities had continued until the day of his arrest. The damage Ames caused was unclear at the time, but Justice Department officials confirmed that a number of CIA and FBI Soviet sources had been imprisoned or executed as a result of his betrayal. The reaction in Congress was immediate and powerful. Some members called for aid to Russia be curtailed or ended. Others called for the expulsion of suspected Russian intelligence officers from the United States. Still others introduced a flurry of bills to beef up US security programs.³²

Both intelligence committees received initial briefings and announced their intent to investigate. The leaders of the SSCI also wrote to the CIA inspector general, Frederick P. Hitz, asking that he investigate within the CIA. Initially, though, the requirements of the criminal process restrained both the committees and Hitz. Justice Department prosecutors insisted that the criminal investigation run its course before separate investigations—which had the potential for creating problems for the prosecution—could begin.

Over the ensuing months, however, details of the case began to emerge in the press, raising questions about why the Agency had not identified Ames as a traitor any earlier. He had lived well beyond the means afforded by his Agency salary but apparently had never attracted attention. He had been a mediocre employee with a history of problems with alcohol but continued to have access to the Agency's most sensitive information. He had passed all of his security evaluations, including two polygraph examinations. Members of the oversight committees openly began to wonder how this could have happened and what DCI Woolsey planned to do with respect to those who had allowed it to happen. Woolsey responded that he would wait until the IG had completed his investigation—until all the facts were in—before he made any decisions. This did not satisfy his congressional critics. One HPSCI member reacted to the DCI's statement by saying, "If the director's intention is to restore confidence within Congress, I'm still waiting." SSCI Chairman DeConcini added,

Woolsey is trying to hunker down and divert all the attention he can. Perhaps it helps morale and increases his following inside the agency, but it doesn't get to the problem.

Unable to undertake their own investigations immediately, both committees turned to finding legislative remedies to improve the ability of the government to identify potential spies and investigate them. While the Agency supported some of the measures the committees proposed—making the death penalty

³² For a detailed description of the interaction that occurred with Congress as a result of the Ames case, see Kennedy School of Government, "James Woolsey and the CIA: The Aldrich Ames Spy Case." Unless otherwise noted, the quotations in this section are taken from this case study.

available in espionage cases, requiring financial disclosure by federal employees, amending the Foreign Intelligence Surveillance Act (FISA) to include physical searches—others were not. In particular, the proposal requiring the Agency to report to the FBI any employee reasonably believed to have compromised classified information produced violent objection from Woolsey, who believed it would force the Agency to reveal its operational activities to the FBI. Woolsey also objected to the proposal of SSCI Vice Chairman John Warner (R-VA) to create a presidential commission on intelligence needs in the post–Cold War era, in part to restore the public’s confidence in the Agency after the Ames case. Both proposals were ultimately enacted over Woolsey’s objection and signed into law by President Clinton.

On 28 April 1994, Ames pled guilty to espionage and was sentenced to life in prison without parole. This freed the committees as well as CIA Inspector General Hitz to pursue their independent investigative efforts. While both committees received briefings from the Agency on the Ames case, they decided against initiating independent probes until they had seen what the Hitz investigation produced.

Meanwhile, Woolsey announced at a speech on 18 July a “comprehensive overhaul” of the Agency’s counterintelligence and security policies and practices and promised to make changes “in the culture of the CIA itself.” But this was “too little, too late,” the *New York Times* reported, as far as “senior members” of the intelligence committees were concerned. They were still waiting “for heads to roll.”³³

The IG report was not officially transmitted to Woolsey until late September 1994, although Hitz had earlier provided a draft to the DCI and both intelligence committees. While the broad outline of the case had been in the public domain for several months, the IG report added vivid details that brought home the extent of the damage Ames had caused: 10 Soviet assets, executed; two dozen CIA officers, exposed; and roughly 50 operations, compromised. But Hitz also reported on how bad the Agency had been in tolerating his misconduct and detecting his treachery. Ames had had repeated security violations, including leaving classified material on a subway train. The evidence of his drinking problem included a report that a colleague found him passed out in a gutter in Rome. Even after a fellow employee reported in 1989 that Ames had “unexplained affluence,” it took several years for the Agency to link the acquisition of such wealth to his spying activities.

³³ Weiner, “Agency Chief Pledges to Overhaul ‘Fraternity’ Atmosphere at C.I.A.,” *New York Times*, 19 July 1994.

In the classified version of his report, which was made available to the two intelligence committees, Hitz named 23 present and former Agency officials who, in his judgment, should be held accountable, including former DCIs Casey, Webster, and Gates. All either had had supervisory responsibility for Ames or had been responsible for the “mole hunt” that had failed to identify Ames for nine years.

To assess Hitz’s recommendations, Woolsey convened a group of top CIA officials over the weekend of 24 September 1994 and asked what they thought should be done with respect to each of the 23 individuals named in the report. A few days later, without prior consultation either with the committees or with the White House, Woolsey announced his decisions before the HPSCI. Of the 23 people Hitz identified, Woolsey said he would discipline 11. All 11 would receive reprimands of some kind and four would receive “serious reprimands.” But of the four identified for such reprimands, three had already retired and the fourth was due to retire two days later. The remaining seven (three of whom had retired) would receive milder reprimands that would stay in their personnel files for a year’s time. In announcing his decisions, Woolsey said he recognized that

some have clamored for heads to roll . . . regardless of the particular merits of each case. That is not my way. And, in my judgment, that’s not the American way, and it’s not the CIA’s way.

Woolsey went on to explain that he had acted “like a judge.” He had taken into account the achievements of the employees involved. He had also taken into account how personally and how directly each was responsible for the failures that occurred.

Reacting to the announcement, SSCI Vice Chairman Warner noted that Woolsey was not a judge but a manager and that his disciplinary actions fell well short of what a manager should impose. DeConcini agreed:

You don’t lose your job [if you fall short] and you don’t get demoted. There’s a huge problem here that you’re not going to get at by leaving some of these people in place.

Several weeks after Woolsey announced his disciplinary actions, two senior DO officials presented to one of the four officers who had received a “serious” reprimand—the one who was about to retire—a plaque in recognition of his service to the DO. Seeing their action as a challenge to his authority, Woolsey immediately ordered the demotion of the two officials involved, who resigned rather than accept demotion. While the Agency workforce was reportedly shocked by this turn of events, the chairmen of both intelligence committees supported Woolsey’s decision. HPSCI Chairman Dan Glickman told the

Washington Post that the action by the two officials was either “an unconscionable act of stupidity or a direct challenge to the Director.”³⁴

As far as the committees were concerned, the severity of the DCI’s disciplinary actions in October stood in stark contrast to his actions a few weeks earlier. In its public report on the Ames case, the SSCI unanimously condemned Woolsey for his handling of the disciplinary issues involved.

*In response to what was arguably the greatest managerial breakdown in the CIA’s history, the disciplinary actions taken by the Director do not, in the collective experience and judgment of the Committee, constitute adequate “management accountability.” All Committee members believe the Director’s disciplinary actions in this case are seriously inadequate and disproportionate to the magnitude of the problems identified in the Inspector General’s report.*³⁵

The Mishandling of Classified Information by Former DCI Deutch: 2000

John Deutch resigned as DCI on 14 December 1996. Within a few days of his resignation, CIA security personnel went to his residence to retrieve a government-owned computer, configured only for unclassified work, which had been loaned to him during his tenure as DCI. On the hard drive and various storage media at the residence, the security personnel found a substantial number of highly classified documents, including draft memorandums for the president and others involving compartmented covert action programs. This discovery was reported to Agency managers, who directed that a security investigation be initiated.

The investigation that took place during the first half of 1997 confirmed the presence of voluminous classified information on other unclassified computers used by Deutch (17,000 pages of material were ultimately recovered). It could not be determined, however, whether the classified material on the computers or storage media had actually been compromised. CIA management took no action at the end of the security investigation, however, inasmuch as Deutch was no longer an Agency employee. He did, however, retain an Agency security clearance.

In February 1998, one of the security officers involved in the investigation complained to the Agency’s Office of the Inspector General (OIG) that the investigation of Deutch had been frustrated by certain of Deutch’s staff who

³⁴ Pincus, “2 CIA Officers Choose Retirement over Demotion.”

³⁵ Senate Select Committee on Intelligence, *An Assessment of the Aldrich H. Ames Espionage Case and its Implications for US Intelligence*.

had remained at the Agency while the investigation was under way. There was also a significant disparity in the treatment accorded Deutch and that accorded another senior Agency official who had also been found to have kept classified information on his home computer.

In March 1998, after the OIG had opened a formal investigation of the allegations, a “crimes report” was submitted to the Department of Justice, raising the possibility of appointing a special prosecutor to investigate the case. In May, the Department advised that a special prosecutor was not required, allowing the OIG to proceed with its own investigation. In early June, DCI Tenet verbally notified the leaders of the congressional intelligence committees of the OIG investigation of Deutch. OIG completed a draft of its investigative report in early 1999 and gave a copy to the Department of Justice. In April, Attorney General Janet Reno declined prosecution but suggested a review of Deutch’s suitability to retain a security clearance.

In August 1999, copies of the finished OIG report were sent to the two intelligence committees. The report was critical not only of Deutch’s behavior but that of Agency management, including DCI Tenet, for failing to ensure the security issue had been handled properly in 1997.³⁶ Neither committee, however, reacted to the report until February 2000, after the substance of it had been leaked to the *New York Times*. In the public uproar that followed, the attorney general announced she was reopening the issue of possible criminal prosecution, and both committees announced they would hold hearings on the matter. The SSCI, in fact, held three hearings, requiring testimony not only from Tenet but Deutch and his former staff as well. Calling Deutch’s behavior “reckless and beyond explanation,” SSCI Vice Chairman Richard Bryan (D-AR) also faulted the Agency for having taken too long to inform the oversight committees of the pending investigation.³⁷

The Department of Justice never resolved the issue of whether to prosecute Deutch criminally for his behavior. In the waning days of his administration, President Clinton pardoned the former DCI, removing the threat of criminal prosecution.

HPSCI Action on Proposed Compensation Reform: 2003–04

In 2003, DCI Tenet proposed a pay-for-performance (PFP) compensation reform program that would tie the pay of CIA employees more directly to their job performance. While the program was intended to provide financial

³⁶ Office of Inspector General, *Improper Handling of Classified Information by John M. Deutch*.

³⁷ Press Release of Senator Richard Bryan, 22 February 2000.

incentives for those taking on the most challenging work of the Agency and for those who took time off from their duties to acquire critical skills, it also left greater discretion in the hands of immediate supervisors in determining employees' pay.

Both intelligence committees were briefed on the proposed program, and of the two, HPSCI was the more skeptical. A number of Agency employees had informally made their concerns with the program known to the HPSCI; as a result it was prepared to go along only with a pilot program to test the concept advanced by management. In addition to assessing the effect of PFP on personnel costs, the pilot program also called for a survey of CIA employees to gather data regarding their attitudes toward the program.

A year later, after the pilot program had been implemented, the HPSCI held several contentious hearings, during which Agency managers were challenged both with respect to the veracity of their testimony on the costs of the program and the objectivity of the employee survey. Its members' concerns apparently unmet, the committee in its action on the FY 2005 Intelligence Authorization Bill blocked the expenditure of any funds to implement the PFP program agency-wide until certain (generally onerous) conditions had been met.³⁸

In the face of the committee's hostility (it was doubtful that conditions the committee imposed could ever be satisfied) and the fact that the Agency managers who had proposed the program were leaving, Tenet's successor, Porter Goss, chose not to pursue it further. Tenet later wrote,

I'm convinced that the [PFP] plan could have produced an invaluable boost to morale . . . unfortunately, until the day I retired, Congress refused me the authority to implement it . . . a terrible mistake.³⁹

AUTHOR'S COMMENTARY

The Threat and Reality of Espionage

Throughout the Agency's history, its overseers in Congress have been concerned by the prospect of a "mole" in its midst. It has always been recognized that one well-placed spy could do enormous damage to the Agency's operations. Fortunately, relatively few spies have been uncovered over the years,

³⁸ House Permanent Select Committee on Intelligence, *Report to Intelligence Authorization Act for Fiscal Year 2005*, 27–30.

³⁹ Tenet, *At the Center of the Storm*, 25.

although some—Aldrich Ames and Edward Lee Howard—have been particularly devastating.

Predictably, whenever a spy has been identified, the intelligence committees have wanted to know not only what happened, but how it was allowed to happen. They have wanted to know why the mole was not detected sooner. They have asked to know the extent of the damage and what the Agency is doing to mitigate its effects. And they have wanted to know what the Agency is doing to prevent it from happening again.

Depending upon the circumstances, however, even a serious case may not prompt an independent investigation by one of the committees. The case of Harold J. Nicholson, a 47-year-old case officer employed by the Agency for 16 years, is a case in point. Nicholson admitted that he had given the Russians classified information over a two-year period in return for \$300,000. He pled guilty to one charge of espionage in June 1996 and was sentenced to 23 years in prison. While the damage he did was judged to be substantial, there did not appear to be significant shortcomings either in the way the Agency had handled him over his career or in the investigation that led to his arrest. Neither committee saw fit to pursue the case on its own.

In addition to spies at the Agency, the possibility of a mole on the staff of one of the oversight committees has always been a concern for both the committees and the Agency. None has ever been uncovered, but there have been a few cases when the aberrant behavior on the part of a committee staffer has raised suitability issues that led to a dismissal. When this has happened, the Agency typically has been apprised of the circumstances. Committee staff members have also been disciplined, albeit infrequently, for security violations.

Security violations by Agency employees may also raise concern with the committees if they are serious and/or involve senior personnel. The Agency typically notifies the committees, in fact, of such cases.

Personnel Matters

Not infrequently, the oversight committees have received complaints from Agency employees (including former assets and defectors), who believe they have been treated unfairly. Although the staffs will usually hear out such complaints and make a preliminary effort to assess their credibility and seriousness, few are formally investigated, and fewer still are brought to the attention of members. Quite often, the Agency will simply be asked to provide a response to the complaint the committee has received and that will end the matter.

On occasion, however, when a committee has received multiple complaints involving the same issue (the resettlement of defectors), complaints that may

indicate a systemic problem (the treatment of minorities), or complaints involving a senior official, it may choose to hold formal hearings or conduct a staff inquiry into such complaints. On occasion this would result in a formal report or recommendations, but most often the issues were addressed by the Agency explaining its actions or policies or by having the committees scrutinize them.