

# **Spies, Civil Liberties, and the Senate: The 1975 Church Committee**

Doctorate of Philosophy

**Department of History**

Dafydd Townley

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# Abstract

This research examines the relationship between US public opinion and national security policy. The focus of this study is the role that public opinion played during the Year of Intelligence, the sixteen-month investigation by Congress into alleged domestic abuses by the US intelligence community. The period, between January 1975 and April 1976, saw the innermost secrets of various US intelligence agencies laid bare before the world as a result of televised public hearings and investigative journalism.

The research analyses what both President Gerald R. Ford and Congress defined as public opinion, and how they used such information to shape their strategic decisions concerning national security. The study investigates the ways in which Congress responded to public opinion during the creation of the Church Committee, and how great an influence public opinion had on the objectives and methods of the Church Committee investigation. The research also assesses whether the Church Committee fulfilled its obligations the Senate and the American public and considers the criticism that some contemporaries and academics have levelled at the committee's chairman, Senator Frank Church of Idaho.

Using extensive archival evidence supported by oral history interviews, the research identifies that public opinion played an important role during the Year of Intelligence and, as a consequence, national security policy. The significance of the role is clearly illustrated by the research's contrast of the failure of the Ford administration to achieve any of its strategic objectives, and the success of Congress in gaining substantial reform to congressional oversight of the intelligence community. However, the results of this study illustrate that public opinion does not dominate national security policy; it is more accurate to say that national security policy and public opinion interact in a reciprocal relationship.

## Declaration of Ownership

I confirm that this is my own work and the use of all material from other sources has been properly and fully acknowledged.

Dafydd Townley

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# Abbreviations and Acronyms

<b>ACLU</b>	American Civil Liberties Union
<b>CIA</b>	Central Intelligence Agency
<b>COINTEPRO</b>	Counter Intelligence Programme
<b>DIA</b>	Defence Intelligence Agency
<b>FBI</b>	Federal Bureau of Investigation
<b>FISA</b>	Foreign Intelligence Surveillance Act
<b>ICG</b>	Intelligence Coordinating Group
<b>IRS</b>	Internal Revenue Service
<b>NSA</b>	National Security Agency
<b>PFIAB</b>	President's Foreign Intelligence Advisory Board
<b>SCC</b>	Special Coordinating Committee
<b>SSCI</b>	Senate Select Committee on Intelligence

# Introduction

## The National Security Debate

The public debate of the supremacy of national security over civil liberties of the private citizen has been an enduring one. In the United States, such a debate has an increased significance because of the central role the Bill of Rights plays in the nation's Constitution. The Bill of Rights, ratified in 1791, was created specifically to limit government interference in the life of American citizens. It established in law the personal rights that had been withheld from the US citizens when it was ruled as a British colony until 1776. Despite the defining role of the Bill of Rights in American political and private life, the national security debate has caused a schism in the US political arena that has at times withstood the partisan divide. On the one hand are those who regard the primacy of the civil liberties of the citizen as unquestionable. During the height of the Cold War some liberal politicians, such as Eugene McCarthy, believed that the right to privacy was 'threatened by such proposals as those to permit the extension of wire-tapping.'<sup>1</sup> More recently the American Civil Liberties Union (ACLU) has stated that 'heightened national security concerns are still being used to justify all kinds of violations of our rights.'<sup>2</sup> Conversely there are those who believe that the security of the national state should take precedence. Jurist Richard Posner argued that civil libertarians' treatment of civil liberties as sacrosanct was 'a profoundly mistaken approach to the question of balancing liberty and security.'<sup>3</sup> Former chair of the Senate Select Committee on Intelligence (SSCI) Senator Dianne Feinstein (D-CAL) when questioned about the intelligence community's collection of telephone data said simply 'it's called protecting America.'<sup>4</sup>

The continuous nature of the debate highlights the difficulties that successive presidential administrations, Congress, and the intelligence agencies have in maintaining national security while respecting the constitutional rights of the individual citizen. It is often an impossible task. Presidents have been accused of being weak when not flexing their executive muscle and conversely have been labelled as acting in an imperial manner with regards to their autonomous management of the intelligence community. Charges of mismanagement have also been laid at the door of Congress in

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<sup>1</sup> Eugene J. McCarthy, 'The Liberal: What He Is and Isn't' in *New York Times Sunday Magazine*, 01 September 1963.

<sup>2</sup> Rachel Goodman, 'There Is No "Suspected Terrorist Activity" Exception to the Constitution', *American Civil Liberties Union*, 22 April 2015, online at <https://www.aclu.org/blog/speak-freely/there-no-suspected-terrorist-activity-exception-constitution> (last accessed 20 April 2018)

<sup>3</sup> Richard A. Posner, 'Security Versus Civil Liberties', *Atlantic Magazine*, December, 2001, <https://www.theatlantic.com/magazine/archive/2001/12/security-versus-civil-liberties/302363/> (accessed 18 April 2018)

<sup>4</sup> Dianne Feinstein, Senate Intelligence Committee Press Conference, 6 June 2013, transcript online at <https://www.washingtonpost.com/news/post-politics/wp/2013/06/06/transcript-dianne-feinstein-saxby-chambliss-explain-defend-nsa-phone-records-program/>

its attempt to provide oversight of the activities of the intelligence community: it has either failed completely through a lackadaisical approach or has hindered the intelligence agencies' work through its zealous attempts to instil reform in oversight and restrain executive power. The agencies themselves, which have proliferated since the end of the Second World War, have been accused of simultaneously acting as 'rogue elephants' and as executors of presidential orders.

The primacy of an individual's civil liberties or the country's defence has been a divisive and controversial issue in the United States since the birth of the nation. The national security debate, as it has become known, reared its head before the ratification of the Constitution in 1797. The Founding Fathers of the United States debated at length how extensive the power of the federal government should be. James Madison changed his position in the debate on several occasions illustrating the difficulty of acquiring the correct balance. Madison stood against the growth of the federal government of the presidency of John Adams but increased the power of the executive branch for security reasons while he held the office of president. Madison's changing stance on the strength and power of the executive and federal government is reflective of US public opinion throughout history.<sup>5</sup>

It is an issue that continues to be problematic to the legislators and electorate in the twenty-first century. In particular, the governance and operation of the post-Second World War intelligence community in the United States has illustrated the quandaries that many presidents, members of Congress and voters have faced. As the intelligence community has been an extension of the executive branch, it has been subject to the checks and balances system designed by the framers of the Constitution. The intelligence community's members have often decided to protect US national security at the expense of its citizens' civil liberties. The checks and balances system in the form of congressional oversight was put in place to ensure that such breaches of a citizen's constitutional rights were only for genuine national security concerns. False claims of risks to national security have allowed the intelligence community to conduct illegal and unconstitutional operations on United States' citizens. Such operations have often been politically or personally motivated, and with no intention to apply the due process of law. On the vast majority of occasions, these operations have encroached on First and Fourth Amendment rights as laid down in the Bill of Rights. Chief among these encroachments has been the unwarranted, unlawful and unconstitutional surveillance of

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<sup>5</sup> Ritika Singh and Benjamin Wittes, 'The Founding Fathers Vacillated on Government Snooping, Too', *New Republic*, 23 October 2013, <https://newrepublic.com/article/115307/privacy-vs-national-security-american-debate-james-madison> (accessed 18 April 2018)

citizens in the name of national security. Furthermore, it has been established that on numerous occasions the executive branch has been the instigator of such operations.

Recent occurrences of unwarranted surveillance included those exposed by former National Security Agency (NSA) contractor Edward Snowden in the summer of 2013. Details of the NSA's mass surveillance programmes of US citizens were leaked initially through the *Guardian* newspaper in the United Kingdom and *The Washington Post* in the United States. The exposés highlighted the ambiguity of the laws that governed intelligence collation through electronic surveillance. The nation's exasperation with the lack of congressional oversight of the intelligence community was heightened further by the release of the US Senate's CIA Torture Report in December 2014. The heavily redacted report revealed that the Central Intelligence Agency had participated in torture programmes on suspected terrorists in the post-9/11 Global War on Terror. The motivation for these programmes came from the public and Congress in reaction to the attacks on the World Trade Center on 11 September 2001. Such instances revealed that maintaining the balance between national security and civil liberties is still a problem contended by policymakers in the modern era.<sup>6</sup>

There has been no greater illustration of the complications involved and the obstacles faced in achieving the balance of rights and security than the revelations, findings and internal politics of three enquiries of 1975 into the intelligence community's actions, a period commonly referred to as the Year of Intelligence. Chief among these enquiries was the Church Committee, a Senate Select Committee named after its chairman Senator Frank Church of Idaho. The Church Committee investigated claims of illegal domestic surveillance and operations against the Central Intelligence Agency (CIA), the Federal Bureau of Investigation (FBI), and the National Security Agency (NSA). It found such claims were warranted and published its findings in a final report in April 1976. In addition, the Pike Committee, the House investigation named after its chairman, Representative Otis Pike (D-NY) investigated the financial effectiveness of the intelligence community. Finally, the Rockefeller Commission, the Presidential Commission ordered by President Gerald R. Ford, was led by Vice President Nelson Rockefeller. The Commission examined the CIA's domestic activity and presented Ford with its reports and findings in June 1975. The triumvirate of investigations were varied in length, had different origins and areas of investigation, and varied in their recommendations. Despite these differences, all three enquiries highlighted the issues in applying the checks and balances of government to national security. In addition, all three enquiries' accumulated findings, reports and criticisms led to reforms that would have significant

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<sup>6</sup> United States Senate, Senate Select Committee on Intelligence, *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, Executive Summary* (Washington D.C., 2014), 1-6.

consequences. For some observers, such as former Secretary of State Henry Kissinger, the origins of the failure to prevent the 9/11 terror attacks lay in the reforms applied to the intelligence community as a result of the 1975 enquiries.

The national security debate led historian Tim Weiner to note that the twentieth century was one of 'constant conflict over the conduct of secret intelligence in an open democracy.' Such a conflict was the manifestation of 'the tug-of war between national security and civil liberties, the struggle to be safe and free.'<sup>7</sup> The three enquiries of 1975 illustrate such a conflict, in particular the investigations, findings, internal politics and legacy of the Church Committee. The Church Committee has been described as 'one of the most significant enquiries conducted by the United States Senate.'<sup>8</sup> The committee's lifetime was fifteen months long, consisted of public hearings as well as closed sessions, and produced a 3200-page final report that amounted to two books and seven volumes of hearings, testimony and recommendations. By comparison, the Watergate Committee under the chairmanship of Senator Sam Ervin (D-NC) lasted fourteen months from May 1973 to June 1974 and produced a 1,250 pages long final report. It is wrong to suggest that the Church Committee was the 'Son of Watergate' as it became known simply because it was greater in size. In spite of this, it is correct to state that both committees addressed the executive branch's manipulation of its constitutional powers: the Watergate Committee addressed the executive prerogative, while the Church Committee investigated the executive's control of the intelligence community.

The reoccurring conflict between national security and civil liberties in the United States has raised questions of the American public's approval of national security policy that was at the expense of civil liberties. This research will examine the under-explored relationship between US national security policy and public opinion. It will use the 1975 enquiries into the intelligence community's abuses as a collective case study to answer five main research questions:

1. To what extent was public opinion influential in President Gerald R. Ford's national security decision-making during the Year of Intelligence?
2. In what way was Congress responding to public opinion in its creation of the Church Committee?
3. What role did public opinion play in the objectives and methods of the Church Committee investigation?
4. Did the Church Committee fulfil its obligations to the Senate and the American public?
5. Does public opinion, in the long-term, affect US national security policy?

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<sup>7</sup> Tim Weiner. *Enemies: A History of the FBI* (London, 2012), xv.

<sup>8</sup> Loch K. Johnson, *A Season of Inquiry: the Senate Intelligence Investigation* (Lexington, 1985), 252.

Completion of this research will illustrate the importance of public opinion to both Congress and the executive branch in its decision making concerning national security policy. Furthermore, this study will make an original contribution to the scholarship that engages with national security policy during the Cold War, and also with the influence of US public opinion on policy makers.

### **The Church Committee's Contribution to Academia**

The significance of the Church Committee is not restricted to just the intelligence community's relationship with Congress. The committee has made a significant impact in the field of academia. The revelations and evidence provided by the Church Committee have enabled the growth of Intelligence and Security Studies as an academic field of study. Academics and students of intelligence studies and the histories of institutions and federal agencies such as the CIA and NSA will always be hindered by the classification of official documents. As a result, the intelligence studies' student will often struggle to apply a purely Rankean methodology because of the scarcity of primary sources. It is not always possible for the historian that deals with intelligence agencies and classified information, to abide by Ranke and quote directly from primary sources. The redaction of documents, the classification of information, the reluctance of witnesses to provide oral history, have hindered the intelligence academic from letting the facts speak for themselves. The historian who studies the world of intelligence often has difficulty gaining the information he or she needs. Often the institution that is being studied releases documentation that puts it in a good light. For these reasons, scholars of intelligence-related subjects have been described as 'a child with a borrowed compass.'<sup>9</sup>

Prior to the Church Committee investigation, the writings of observers and commentators were restricted not only by the classification of documents, but also by the consensus that national security concerns outweighed the necessity of transparency in such a process. Nonetheless, information on the intelligence agencies was – and still is - often revealed from a variety of sources. Congressional enquiries, such as the Church Committee, illustrate the objectives, methods and results of certain operations and the decision-making behind them. The hearings of such enquiries are not always held entirely in the open: the intelligence agencies cite national security concerns about publicising activities and *modus operandi* to potential adversaries. Even so, the final report of the Church Committee contained interdepartmental memos, reports, and directives of the FBI, CIA and NSA, as well as transcripts of interviews with former agents and directors of the agencies. All of

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<sup>9</sup> Rhodri Jeffreys-Jones, 'The Historiography of the FBI', in: Loch K. Johnson (ed.), *Handbook of Intelligence Studies* (London, 2007), 49.

these documents and attachments were vital to the growth of intelligence studies in the post-Church Committee era.

Until the Church Committee's final report became available in 1975, the most prominent author of academic material on the intelligence community was Harry Howe Ransom. Ransom recognised that classification of information was a major hindrance to early intelligence scholars.<sup>10</sup> To circumvent such difficulties, Ransom's monographs and publications on the intelligence community dealt predominantly with the theoretical elements of national security and secrecy within a democratic society. Ransom's concerns with the methodology of intelligence gathering and its secrecy were central to his writings. Speculative and often accurate descriptions of CIA methods of intelligence-gathering and analysis were coupled with questions of the viability of such activities within a transparent democracy. Ransom believed in the necessity of intelligence to the United States and its position in global politics, citing it as essential to 'closing the gap between the distorted image and reality.' Intelligence was essential to 'provide foreknowledge, to supply national policy makers and operators with sound evaluations of the present and future status, capabilities and intentions of foreign powers.'<sup>11</sup> This, Ransom said, ensured that intelligence agencies like the CIA 'assume a role of first importance to defence and democracy.'<sup>12</sup>

The most common debate among political scientists prior to the Church Committee was the feasibility and constitutional implications of congressional oversight of the intelligence community, in particular the CIA. Ransom questioned whether the cloak of secrecy draped over the intelligence community meant Congress provided less than adequate oversight. In identifying that Congress was only able to provide limited oversight because of the necessary secrecy that surrounded the agency's operations, Ransom asked if the secrecy was an 'inevitable impact of the Cold War upon our government system?'<sup>13</sup> He understood the need for secrecy in terms of the operational effectiveness of strategic intelligence but identified the problems this created for American constitutional democracy. The CIA was an issue for democracy at several levels: the potential invisible governance that could damage the democratic principles of the United States; the potentially self-harming foreign policy tool for the executive and legislative branches; and for scholars, the difficulty in obtaining 'verifiable information for objective analysis.'<sup>14</sup>

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<sup>10</sup> Harry Howe Ransom, 'A Half Century of Spy Watching', in: Loch K. Johnson (ed.), *Intelligence: Critical Concepts in Military, Strategic and Security Studies* (London, 2011), 303.

<sup>11</sup> Harry Howe Ransom, *Central Intelligence and National Security* (Cambridge MA, 1958), 8.

<sup>12</sup> Harry Howe Ransom, *Can American Democracy Survive Cold War?* (New York, 1963), 134-136.

<sup>13</sup> Ransom, *Central Intelligence*, 145.

<sup>14</sup> Ransom, *American Democracy*, 166.

Ransom raised further constitutional issues in the argument against congressional oversight, highlighting how oversight challenged the separation of powers as defined in the Constitution. The intelligence community and the agencies within it operate under the orders of the president as part of his role as Commander-in-Chief. As such, congressional interference into the everyday operations of the agencies could be interpreted as impinging on the constitutional authority of the president. Despite this, the Senate had introduced over two hundred resolutions in the twenty-year period 1947 to 1967 calling for more effective oversight of the intelligence community. Each resolution had been voted down or rejected, causing Ransom to state that Congress had by statute given up 'some of its normal and traditional controls over agencies of the executive branch.'<sup>15</sup> Nonetheless, Ransom maintained that oversight was essential but impossible with 'any government function whose scope and operations are mostly invisible.'<sup>16</sup>

The possibility of the potentially dangerous situation of the politicisation of intelligence added further to Ransom's call for congressional oversight. The collection of intelligence and the counsel it offered to presidents had to be objective and detached from the policy makers. Ransom argued that such detachment needed to not be far enough so that it operated independently and introduced its own policy. The role of the intelligence agency was to advise the policy maker of the effectiveness of the policymaker's proposals, not suggest its own. Ransom cited the Bay of Pigs invasion of 1961 as an example of where the CIA had failed to provide objective advice. Instead of highlighting the dangers of the operation to policymakers, the agency had produced evidence that overwhelmingly supported an outcome desired by the Kennedy administration. The invasion was a 'mistake and failure because those favouring the invasion project insisted on information favouring its feasibility.'<sup>17</sup> The growth of the intelligence agency and its influence could be kept in check by 'an alert press, and by vigilance on the part of Congress, the public, and the scholar.'<sup>18</sup>

While Ransom was identifying some of the issues raised by the Church Committee almost twenty years before it was debated in the enquiry, the Church Committee brought the subject of intelligence into the public gaze. Ransom's questions about the necessity of oversight, the politicisation of intelligence, and the constitutional implications of congressional interference, were suddenly discussed in the printed press, on television, and in scholarly circles. As a result, in the post-Church Committee world the scholarship on intelligence agencies multiplied exponentially. The information available as a result of both the Church Committee and Pike Committee investigations

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<sup>15</sup> Harry Howe Ransom, *The Intelligence Establishment* (Cambridge, Mass., 1970), 160.

<sup>16</sup> Ransom, *American Democracy*, 168.

<sup>17</sup> Ransom, *Half Century*, 306.

<sup>18</sup> Ransom, *Intelligence Establishment*, 254.

led to more accurate analysis of intelligence issues by scholars and commentators. It is because of the plethora of information revealed by the Church Committee that it has gained importance.

Leading intelligence scholar Michael Warner described the committee's investigations as a 'watershed for scholars of the US intelligence community.' Furthermore, Warner said the committee's final report 'laid the foundation for public knowledge of American intelligence.'<sup>19</sup> In the United States, political scientists used such data to develop theories and frameworks for the study of international relations. Historians and journalists that did not have this data, especially those in other English-speaking nations such as Canada, Australia and the United Kingdom, adopted a different approach to intelligence studies. The focus of such scholars was primarily on how the intelligence scandals – or *flaps* – illustrated the conundrums for policy makers domestically. While some focus was on the intelligence agencies, the main concern was not with foreign intelligence operations, and therefore was not attractive to political scientists.<sup>20</sup> The importance of the Church Committee as a source of vital documentation and information to scholars of the US intelligence community cannot be exaggerated. It allowed a multi-disciplinary field to grow from one of theory to one of enquiry. The field of intelligence studies was political, historical, and constitutional in nature because of the approach undertaken by the Church Committee.

The rise in scholarship of security and intelligence led to greater recognition by academia in general. There still remained two major barriers to the academic study of intelligence, as identified by Amy Zegart. The first was that it could not be easily fitted under one school. The study of intelligence and national security contained elements of historical analysis, political science, law and constitutionalism, and social science. Political scientists approached intelligence studies from a theoretical perspective in the hope of finding a one theory-fits-all solution. International relations scholars looked at external factors affected by intelligence and tended to ignore domestic effects; historians looked for causation and continuity. Secondly, said Zegart, governments had adopted a practice of classifying an increasing amount of government information, especially surrounding intelligence agencies and national security policy. This had made it difficult for intelligence scholars to obtain primary source information, but the culture of secrecy within the organisations makes it difficult for outsiders to obtain information. Put simply, stated Zegart, 'classified information is hard to get and unclassified information is not much better.'<sup>21</sup>

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<sup>19</sup> Michael Warner, 'Searching Where the Light Shines? An American View of Methods for the Study of Intelligence' in: Loch K. Johnson (ed.), *Strategic Intelligence: Understanding the Hidden Side of Government* Vol. 1 (Westport, 2007), 116.

<sup>20</sup> Stuart Farson & Mark Pythian, 'Towards the Comparative Study of National Security Commissions of Inquiry' in: Stuart Farson & Mark Pythian (eds) *Commissions of Inquiry and National Security* (Santa Barbara, 2011), 1.

<sup>21</sup> Amy B. Zegart, 'Cloaks, Daggers, and Ivory Towers: Why Academics Don't Study US Intelligence', in: Johnson (ed.), *Strategic Intelligence*, 23-28.

Nonetheless, the declassification of millions of intelligence agency documents by the US government since the Church Committee has far outweighed that of other nations. The United Kingdom, for example, had an extremely complex Freedom of Information (FOI) process that often resulted in severe delays for documents. This delay also happened in the United States, but there is a reciprocal relationship between declassification and academic research. As Michael Warner states, 'declassification has allowed historical scholarship of intelligence to make real strides, and scholarship has sometimes assisted declassification.'<sup>22</sup> In spite of the hindrances of classification to scholars, the growing field of academic research into the intelligence community of the United States has been thorough and effective.

### **The Historiography**

Former Church Committee staff member Loch Johnson has become one of the leaders in the field of intelligence studies. Johnson's part-memoir part-study, *A Season of Inquiry*, gave an inside view of the committee, the obstacles it encountered, and the *modus operandi* of a senatorial investigative committee. Of importance to this study is the illustration of the internal debates of the committee, and the committee's self-identified role in protection of civil liberties. Johnson showed that the committee sought to neither dismantle nor discredit the agencies but to ensure that the methods of collection were legal. In the initial meeting with the Ford administration on 5 March 1975, Church assured Ford that the enquiry would not be a wrecking crew. 'There will be no dismantling and no exposing of agents to danger. No sources will be compromised.'<sup>23</sup>

Johnson's position as an assistant to Frank Church during the committee's investigation gave him a unique insight into the workings of the committee. The attempt by Church to create a bipartisan enquiry was portrayed by Johnson as a continuous theme, and largely a successful one. It was the support of the final report by three of the five Republicans that Johnson used to support this theory; only Vice Chairman Senator John Tower (R-TX) and the ever-objecting Senator Barry Goldwater (R-AZ) refused to do so. Without the compromises that Church made to both the Republicans on the committee and those in the White House, it would not have achieved as much as it did. Johnson listed those achievements as a public enlightenment of the intelligence services, and an informative lesson to the intelligence community on how it should perform. The Committee had adhered to the mandate it had been given by Senate Resolution 21 and had performed its duties in a

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<sup>22</sup> Warner, 'Searching Where the Light Shines', in Johnson (ed.), *Strategic Intelligence*, 119.

<sup>23</sup> Johnson, *Season of Inquiry*, 30.

necessary nonpartisan manner.<sup>24</sup> In doing so, the committee had ‘done nothing less than usher in a significant new era of executive-legislative relations for intelligence policy.’<sup>25</sup>

Johnson had a continuous theme running throughout his impressive scholarship – the accountability of the executive branch’s management of the intelligence community. Johnson has unceasingly asserted that congressional oversight of the intelligence community is essential. Effective oversight, Johnson correctly reasoned, was not only necessary to ensure the various agencies efficiently collate and disseminate intelligence but also to ensure that its operations were bound by the law. The Church Committee, Johnson argued, had ‘demonstrated in 1975 that accountability was vital to maintaining the integrity of the intelligence services.’<sup>26</sup> Oversight enabled the intelligence community to perform to the best of its ability within the confines of law, and to perform its duty with a minimised likelihood of flaps or crises.

The unbroken concern with accountability in Johnson’s scholarship was the foundation of his judgement that congressional oversight had been on the whole largely disappointing. Johnson had criticised congressional oversight of the intelligence community prior to the establishment of the Church Committee. Johnson defined the period between 1947 and 1975 as an ‘Era of Trust’ and labelled congressional oversight of the intelligence community as both unenthusiastic and ineffective. It was an era where ‘intelligence agencies were considered a separate government whose sensitive operations would have to be sheltered from the normal checks and balances of the US Constitution.’<sup>27</sup> This was succeeded by an ‘Era of Uneasy Partnership’, an age where the security agencies, the executive, and Congress seemingly worked together. This period came to an end in 1986 with the Iran-Contra Affair and led to an ‘Era of Distrust.’ It renewed both the public and congressional concern that the intelligence agencies were uncontrollable. This followed an ‘Era of Partisan Advocacy’ that lasted from 1991 and ended with the terrorist attacks of September 11th, 2001. The oversight committees were subject to the acrimonious partisan politics that riddled the Clinton administration. Unsurprisingly and quite accurately Johnson labelled the post-9/11 period as ‘The Era of Ambivalence.’ Despite castigating the various agencies for the attacks of 9/11, the intelligence committees in both the Senate and House ‘fell into an oversight stupor.’<sup>28</sup> At the time of writing Johnson has yet to define the post-Snowden era.

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<sup>24</sup> United States Senate, Senate Resolution 21, ‘To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities’, 94<sup>th</sup> Congress, 27 January 1975.

<sup>25</sup> Johnson, *Season of Inquiry*, 253.

<sup>26</sup> Loch K. Johnson, *The Threat on the Horizon* (Oxford, 2011), 78.

<sup>27</sup> Loch K. Johnson, ‘A Theory of Strategic Intelligence’ in Peter Gill, Stephen Martin & Mark Pythian (eds), *Intelligence Theory: Key Questions and Debates* (London, 2009), 50.

<sup>28</sup> Loch K. Johnson, *National Security Intelligence* (Cambridge, 2012), 158.

Criticism of the failure of congressional oversight by official enquiries often proved to be counter-effective, according to Johnson. The condemnation of the performance of fellow legislators and politicians would not be well received. Even if legitimate, the censure of the very people whose assistance was essential to enacting effective reform of oversight procedure has often been thought ill-advised. Nonetheless, Johnson asserted that such enquiries were able to criticise congressional operations freely. In addition, he emphasized that the possibility of enquiries' recommendations being snubbed by lawmakers was 'an insufficient reason for abandoning one of the most vital pieces of intelligence reform.'<sup>29</sup>

Just as importantly, Johnson placed the Church Committee in its historical context, recognising it as part of a wider struggle for supremacy between Congress and the executive branch. The debate over the release of the committee's Interim Report on the involvement of the CIA in plotting the assassination of foreign leaders was one such illustration. The committee had refused to withdraw names of key figures in the assassination report at the request of the executive branch. Such a request had been seen by the committee as an attempt to censor the report and the inclusion was debated in a closed session of the Senate. Senator Walter Mondale (D-MN), who would be a part of the Carter administration as Vice President just eighteen months later, stood before the Senate and argued for the inclusion of the names and the publication of the report. If the committee obliged the executive's request 'it would give the executive branch power they never had before, power binding not only upon the executive, but upon Congress itself.'<sup>30</sup>

Johnson's memoir is the only such study where the Church Committee has been the sole subject and as such set the narrative for debate on the subject. Understandably though, considering his involvement in the committee's enquiry into the agency, it was mostly focused on the CIA investigations and less so on the domestic intelligence enquiry. Despite the significance of the Church Committee, scholarship on the enquiry had generally been a part of the broader theme of congressional oversight. Chief among these works was Frank J. Smist Jr.'s 1994 study of the meaning, application and investigations into congressional oversight. Smist's in-depth research looked at the entire congressional oversight experience of the post-war intelligence community of the United States. Drawing on interviews with members of Congress, committee members and staff, Smist published one of the most significant survey approaches to the pre-9/11 intelligence community. Smist identified the Church Committee as 'the most sweeping congressional investigation of intelligence since the creation of the modern intelligence system in 1947.'<sup>31</sup>

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<sup>29</sup> Johnson, *Threat on the Horizon*, 78.

<sup>30</sup> Johnson, *Season of Inquiry*, 133.

<sup>31</sup> Frank J. Smist Jr., *Congress Oversees the United States Intelligence Community 1947-1994* (Knoxville, 1994), 35.

In his extensive study, Smist illustrated the committee's significance through a detailed examination of its relationships with the Senate, House, executive branch and press. While the relationships with the Senate and House were important, they were not as significant as that with the executive branch. Smist labelled the relationship between the committee and the Ford administration as 'adversarial.' It was testimony to Church's ability as a chairman that the committee managed to force the White House to acquiesce to its demands. The committee's progress, as Smist observed, was heavily influenced by the White House's release of documentation and witnesses. This not only slowed down the speed of the investigation, but also meant the agenda of the investigation was dictated by the executive branch.<sup>32</sup>

Nevertheless, one of the successes of the Church Committee, according to Smist, was the change in attitude of the executive branch. The committee managed to assert its right to exercise oversight over the intelligence community, a tool of the executive branch. Smist called it 'a fundamental change in the way the executive branch perceived and dealt with the Senate regarding intelligence.' Not only was the Senate exerting its authority over the executive branch through the committee, but in doing so it was also breaking from its past of preferred ignorance by recognising its responsibility towards oversight.<sup>33</sup>

Despite labelling the Church Committee as an 'unprecedented and significant investigation', Smist noted that the committee failed to fully use the press to educate the public and other members of the Senate about intelligence matters. Despite the sensitive nature of the information that could be publicised, the committee and press focused on the sensational headlines. Using staff members' testimony, Smist suggested that the reluctance of the committee to involve the press was to blame. Unlike the Watergate Committee hearings, so many of the Church Committee hearings were held behind closed doors limiting the information made available to the American public. Smist claimed that the publication of the Interim Report was counterproductive. The report, which detailed American involvement in assassination plots, had *too much* information. The wealth of data within the report was too much to have been digested by the press and public. Public hearings or continuous leaks of information would have been a more effective way of informing the public on the report's contents, Smist argued, as the press interest in the committee would have been gradual and continuous.<sup>34</sup>

In evaluating the effectiveness of the committee, Smist identified 'a new political environment' that was established by the enquiry. The environment was one where Congress, the

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<sup>32</sup> Smist, *Congress Oversees*, 55-60.

<sup>33</sup> Smist, *Congress Oversees*, 64-65.

<sup>34</sup> Smist, *Congress Oversees*, 65-68.

executive branch and the intelligence community understood the necessity of effective oversight of the intelligence agencies. Moreover, wrote Smist, 'the committee established principles and standards that were to guide future Senate oversight of intelligence.' The Church Committee's enquiry, Smist suggests, was a major factor in Gerald R. Ford's issuance of Executive Order 11905 and the guidelines for the FBI insisted by Attorney General Edward H. Levi.<sup>35</sup>

The committee's mandate had been to investigate the alleged abuses and suggest a reformative framework. Smist rightly acknowledges that this was achieved. Furthermore, Smist argues, the committee raised the public's awareness of the intelligence community and its work. Smist ascribed the success of the committee to two factors: firstly, the determination and hard work of Senator Church, the committee members and staff; and secondly, the committee's combination of 'the investigative and oversight models.' The merger of these two models allowed the committee to investigate the abuses efficiently and propose effective reforms to remedy the situation. By investigating the various abuses of power and trust that the agencies had been given, the committee 'served as the representative of the American people as well as the Senate.'<sup>36</sup>

In her 1996 study of the Year of Intelligence, Kathryn Olmsted wrote that the Church Committee was not as effective as Smist and Johnson argued. Olmsted claimed that 'the secret agencies clearly emerged as the winners of their long battle with the investigators.'<sup>37</sup> At the crux of the failure was a lack of enthusiasm from the press, public and Congress to challenge the rising power and activities of the intelligence agencies. Although the *Era of Trust* had ended, nobody really wanted to know what was happening in the shadow world of intelligence. The change in political climate, according to Olmsted, was the greatest problem the legacy of the intelligence enquiries faced. This climate change was inspired by a press who failed to unite and consistently challenge the 'secret government', a Congress who did not want to criticise itself, and a public who had simply tired of the United States' reputation being dragged through the mud in public, for all of the world to see.

Rather than using the advantage gained from the media's involvement in the investigation into the Watergate scandal, the press was concerned that continued attacks on the excesses of the executive and its agencies, and the failures of Congress to hold the executive to account would lead to retribution on the freedom of the press. A need to appear responsible and respectable had reined in the investigative zeal of the Watergate era. There was a general concern, said Olmsted, that

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<sup>35</sup> Smist, *Congress Oversees*, 81.

<sup>36</sup> Smist, *Congress Oversees*, 80.

<sup>37</sup> Kathryn S. Olmsted, *Challenging the Secret Government: the Post-Watergate Investigations of the CIA and FBI* (Chapel Hill, 1996), 169.

‘those who criticised Cold War institutions risked losing their status among their elite friends and sources.’<sup>38</sup> Instead, the press became unofficially self-regulatory and censored attacks on the executive and Congress even if it was in their interest to publish stories of malpractice. As a consequence of such restraint by both the televised and printed press, fervour calling for reform of the intelligence community and congressional oversight was subdued. The investigative journalism that had developed through challenging the establishment during the Vietnam War and Watergate became deferential. Criticism of the press’s promotion of anti-Americanism by both politicians and public had led some editors and publishers to believe that self-reform was necessary. Such reform was better done on the media’s own terms rather than that of the federal government.

Olmsted also accused Congress of being responsible for the lack of interest in oversight reform both during and after the Year of Intelligence. There was continuity evident in the actions of Congress, especially the House of Representatives, said Olmsted, which illustrated the reluctance of Congress to challenge the executive’s constitutional authority and presidential claims of national security. The analysis of House voting records on intelligence related issues before, during and after the enquiries shows that Congress was reluctant to take on the responsibility of oversight. Olmsted did not make clear in her assessment of the Church Committee that the final report contained proposals for a framework for the intelligence community, the executive and congress to work within. The failure of Congress to accept Church’s proposed reformative framework to enable an effective intelligence community to work within the Constitution is supportive of Olmsted’s theory. This research, however, will challenge Olmsted’s conclusion that the Ford administration’s handling of the Year of Intelligence was ‘skilful’ and that ‘little came of the calls for reform.’<sup>39</sup> Olmsted’s view has been recently shared by Luca Trenta who suggested that the Ford White House used all of the ‘trappings of executive power’ to stall and limit the Church Committee investigation.<sup>40</sup>

The failure of Congress to adopt the Church Committee’s proposals and recommendations was down to two reasons, claimed Olmsted. Firstly, influential lobbying groups within Congress were opposed to reform, and secondly, they were reluctant to further challenge the executive branch. Olmsted agreed with Johnson that prior to 1975 there was oversight, but that it was neither zealous nor motivated. Even the liberal members of Congress had adopted the attitude that the intelligence agencies knew best. The faith and trust in the intelligence community supported the liberal consensus of ‘enlightened internationalism’ that believed in zealous anticommunism, and as such

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<sup>38</sup> Olmsted, *Challenging the Secret Government*, 184.

<sup>39</sup> Kathryn S Olmsted, ‘Reclaiming Executive Power: The Ford Administration’s Response to the Intelligence Investigations’, *Presidential Studies Quarterly*, 26 (1996), 725-737.

<sup>40</sup> Luca Trenta, ‘An Act of Sanity and National Humiliation: The Ford administration, congressional inquiries and the ban on assassination’, *Journal of Intelligence History*, 17 (2018), 121-140.

allowed the intelligence agencies extensive freedom to fight communism. Furthermore, the inquiries questioned the executive prerogative over foreign policy which many members felt was a step too far. Throughout both Watergate and the Year of Intelligence, Congress had held back from attempting to wrestle this power from the executive branch. Olmsted's thesis is powerful but has weaknesses, particularly when the influence of the enquiries is focused only on legislation and congressional oversight reform.

In spite of Olmsted's claims that the Church Committee failed to have a long-term legacy, some scholars have argued that the Church Committee and its investigations influenced institutional reform within the intelligence community. And regardless of the dearth of monographic studies of the Church Committee, the evidence from the committee's final report has been used to support a number of institutional studies. Most notably, the information has managed to enhance scholarship on intelligence agencies such as the FBI and CIA. Since the Church Committee, both of these intelligence agencies have become the subject of historical and journalistic approaches to catalogue their history. The documents and revelations of the activities undertaken by agents and politicians involved in Cold War intelligence released as part of the Church Committee's final report allowed the flood gates to open. Suddenly, it was open house for former agents and directors to hold interviews, write autobiographies, and disclose secrets. The leaks that the executive branch and intelligence agencies were so concerned about during the enquiries that never materialised were outweighed by the information former employees of the FBI and CIA were willing to reveal. Such disclosures were not unheard of before the Church Committee but usually more discreet.

As a consequence of the willingness of former employees to talk to scholars and journalists, a historical and analytical approach to the various organisations within the intelligence community began to grow. Such scholarship allowed the Church Committee revelations to be seen as a watershed moment for the FBI. Director J. Edgar Hoover had run the bureau from its days as the Bureau of Investigation in 1924, through to his death in 1972. In that period the bureau had been federalised by Franklin Roosevelt in 1935 and had been central to the United States' domestic activities against communism during the Cold War. In essence, the Church Committee investigated the entirety of Hoover's directorship, a period in which Hoover had become one of the most powerful men in the United States. The findings of the committee had 'ushered in an unprecedented crisis of confidence' which threatened the future role of the bureau in the intelligence community. The 'G-man mystique' had been destroyed by revelations of illegal, unwarranted break-ins and the bureau's systematic attempts to stifle political dissent.<sup>41</sup>

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<sup>41</sup> Athan Theoharis, *The FBI and American Democracy: A Brief Critical History* (St Lawrence, 2004), 139-140.

Ronald Kessler, who wrote for the *Washington Post* during the Church Committee enquiry, pointed to the change in congressional oversight procedures as a result of the committee's findings. Kessler argued that further restriction or reform was avoided because of the bureau's repentance and contrition during the hearings. The bureau was able to survive the inquiry because it was completely honest with the committee during its hearings. Kessler quoted James B. Adams, assistant to the director and the bureau's point man to the congressional enquiries: 'we could live with what happened in the last fifty years. What we couldn't tolerate would be lying about it or obstructing a congressional inquiry. We could be bringing the mistakes of the past into the present.'<sup>42</sup>

In Hoover, the bureau had found the perfect scapegoat for all of its misdeeds over the previous forty-eight years of his directorship. Curt Gentry argued that the bureau's attempt to apologise for the actions it had taken during Hoover's directorship fell upon deaf ears, especially among former agents who defended their former director. Gentry argued that former agents 'had a vested interest in preserving, untarnished, the reputation of the late, great, incorruptible J. Edgar Hoover.' Such opinion of Hoover was not restricted to the bureau's former members, and the Church Committee proceedings failed to stop the inauguration of the J. Edgar Hoover building as the bureau's headquarters in September 1975.<sup>43</sup>

Some scholars of the FBI believed that the Church Committee did not go far enough in its investigations of the FBI, especially those concerning its operations aimed at undermining and discrediting the civil rights movement. Of particular concern to historian David Garrow was the Church Committee's failure to 'account for the why of it', in particular, why did the bureau spend six years of its time and effort on Martin Luther King Jr. and the Southern Christian Leadership Conference?<sup>44</sup> Ward Churchill and Jim Vander Wall went further and questioned the entire motive of the investigation into the bureau. The suggestion was made that the Church Committee was part of some 'illusory congressional muscle-flexing' whose aim was to 'instil in the public a perception that Congress had finally gotten tough.' The committee's desired effect was that 'citizens had no further reason to worry over what the bureau was doing.' Such acceptance of the bureau's willingness to reform allowed Congress to pass legislation legalising the methods undertaken by the bureau during Hoover's directorship. Furthermore, Ward and Vander Wall suggested that such legislation was important to maintain the political *status quo* that Congress was prepared to perform a charade as great as that of the Church Committee.<sup>45</sup>

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<sup>42</sup> Ronald Kessler, *The Bureau: The Secret History of the FBI* (New York, 2002), 211.

<sup>43</sup> Curt Gentry, *J Edgar Hoover: The Man and the Secrets* (New York, 1991), 750-751.

<sup>44</sup> David Garrow, *The FBI and Martin Luther King Jr* (New York, 1981), 9-10.

<sup>45</sup> Ward Churchill and Jim Vander Wall, *The COINTELPRO Papers: Documents from the FBI's Secret Wars Against Dissent in the United States* (Boston, 1990), 4-5.

As Ward and Vander Wall suggested, the Church Committee did allow the bureau to draw a line under the period of Hoover's directorship. The death of Hoover was aligned to the end of the corrupt practices of the bureau and enabled supporters to suggest that illegal activities and ambiguous operations were a thing of its past. In doing so, it avoided the legislative reform that liberals were urging for in the Senate and House. The 'liberal-conservative impasse' and the foreign policy issues such as the Iranian hostage crisis meant that no FBI charter was agreed upon. Instead Attorney General Edward Levi issued guidelines relating to the bureau's domestic security operations. The guidelines, and the 'climate of suspicion' aroused by the congressional enquiries, sparked internal reform that challenged the bureau. The hiring of under-represented minority groups such as African American, Hispanic and notably women, changed not just the bureau's personnel but also its focus. The target of many of its domestic operations became organised crime and white-collar criminals as it embraced 'innovative methods that relied on the latest technology.'<sup>46</sup>

The weakness of the Church Committee's challenge to the intelligence community has been contested over the years. This has been done especially by conservative journalists and politicians who supported the resistance of the agencies against the reforms urged by a liberal-led Congress. Writing in a post-9/11 atmosphere calling for a stronger intelligence community, Bill Gertz saw the Church Committee as the start of a longer reform-demanding narrative urged by dominant liberal administrations. Citing the 1975 enquiries of the intelligence community as 'the beginning of a political war waged by congressional liberals' he stated that reforms enforced upon the FBI and CIA hampered them with 'greater restrictions, bureaucratic oversight, and politically correct directives.'<sup>47</sup> The real legacy of the Church Committee, wrote Gertz, was the positioning of a new set of individuals in charge of the intelligence community. It was a group of individuals who saw their main responsibility to rein in the 'militaristic and hard-line views within the US government.' In essence, Gertz said, the liberals managed to pacify the United States government through its control of the intelligence agency.<sup>48</sup> Senator Barry Goldwater, a dissenting Republican member of the Church Committee who would later chair the Senate Select Committee for Intelligence (SSCI), supported Gertz's claims in his memoirs. Goldwater was convinced that the CIA's effectiveness to operate had been damaged 'by an absurd shackling of the CIA' as he had predicted in his minority report of the Church Committee.<sup>49</sup>

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<sup>46</sup> Theoharis, *The FBI and American Democracy*, 146-148.

<sup>47</sup> Bill Gertz, *Breakdown: How America's Intelligence Failure's Led to September 11* (Washington DC, 2002), 91.

<sup>48</sup> Gertz, *Breakdown*, 109.

<sup>49</sup> Barry Goldwater and Jack Casserly, *Goldwater* (New York, 1988), 372.

Rhodri Jeffreys-Jones identified the Church Committee as one of a number of causes of a demoralised FBI. The death of Hoover, the Watergate scandal, and CIA scandals all contributed to nation's loss of confidence towards the bureau. Such a crisis was symptomatic, said Jeffreys-Jones, of a crisis in American democracy. For so long the bureau had been seen as the protector of American democracy. The FBI was not just a defender of American democracy, but an integral part of it. The organisation's difficulties were seen as a reflection of those facing American democracy. Jeffreys-Jones' observations correctly insinuate that the Church Committee was dealing with a wider subject than just that of institutional malpractice of the intelligence community.<sup>50</sup> In his study of the FBI's ideological warfare during the Cold War, Frank Sorrentino showed how the bureau successfully gained political support through its ideology over a prolonged length of time and protected itself from other ideologies that were a danger to it. By achieving this over a sustained period, its ideology was accepted by society as the norm. Furthermore, an attack on the bureau was seen as an attack on society itself.<sup>51</sup> As a result of this, the Church Committee's work was seen as investigation of post-war liberal society.

Jeffreys-Jones highlights this further in his work on the CIA. The legislative branch's disillusionment with the executive's policy over Vietnam had led the intelligence community to become the focus of political discourse. The agency had become a tool with which Congress attacked the presidency which in turn led to the relationship between democracy and intelligence to be publicly questioned. Such questioning manifested itself in the form of congressional enquiries that were created to counter a presidential commission thought to be a potential whitewash. Jeffreys-Jones argued in similar vein to that of Kessler on the FBI that the agency was able to survive the public enquiries. 'In the process of being debunked, they actually helped the agency. The CIA emerged from its trial with a refurbished reputation.'<sup>52</sup>

There is some debate about whether any real substantial reform within the CIA was caused by the Church Committee. Former director of the CIA, Robert Gates, argued that any reform that did take place within the agency was initiated by the agency's then-director William Colby. Gates described Colby as 'someone from the inside prepared to make changes in order that the CIA do its job better.'<sup>53</sup> Colby had already created a schism within the agency when he publicly admitted to the CIA's malpractices commonly known as the 'Family jewels.' The majority of the long-term agents considered him a traitor not just to the agency but also to the nation, while the newer younger

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<sup>50</sup> Rhodri Jeffreys-Jones, *The FBI: A History* (New Haven, 2007), 187-190.

<sup>51</sup> Frank M. Sorrentino, *Ideological Warfare: The FBI's path to power* (New York, 1985) 107.

<sup>52</sup> Rhodri Jeffreys-Jones, *The CIA and American Democracy* (New Haven, 1998), 214-215.

<sup>53</sup> Robert M. Gates, *From the Shadows* (New York, 1996), 62.

agents considered him a necessary reformer.<sup>54</sup> Colby explained that during the period of the enquiries, he understood the need for additional accountability to Congress and welcomed such oversight, describing it as ‘correct in our Constitutional democracy.’<sup>55</sup> While such an admission from Colby certainly accounts for the possibility of institutional reform it does not belittle the influence that the Church Committee had on the CIA.

While the Church Committee has been utilised in the historical study of the intelligence institutions it has also been included in the constitutional and moral debate of national security impinging on civil liberties. It has been used as a point of reference for studies focused solely on the Cold War activities of the presidency, and as part of a wider and longer study of the historical repetition of civil liberty infringements in the United States. Russell Miller pointed to the committee’s loyalty towards the constitutional separation of powers. Such an application of law was important to the Church Committee’s ‘commitment to the Founding Fathers’ vision of limited government.’ The Church Committee believed that such a limited government based on the checks and balances system was essential to ensuring national security while preserving the public’s civil liberties.<sup>56</sup> The limitation of government was essential to restricting the overreach of the executive branch and balancing the separation of powers. Miller stated that the Church Committee could only see such limitations and the removal of ambiguous interpretations of the constitution being applied through law.

The American Civil Liberties Union (ACLU) director, Anthony D. Romero, identified the passing of the Foreign Intelligence Surveillance Act (FISA) as part of the Church Committee’s contribution to protecting civil liberties. The act came just two years after the committee and owes a considerable amount to the recommendations and findings highlighted in the committee’s final report. FISA was, in part, a response to the warrantless wiretapping undertaken by the FBI and NSA revealed by the Church Committee. Romero called it legislation that ensured ‘Americans wouldn’t need to worry about their own government spying on them.’<sup>57</sup> Jeffrey Brand called FISA ‘the result of two centuries of the federal government’s overreach into, and attempt to control, the lives of ordinary Americans.’ Brand illustrated his point further by placing the misdeeds of the intelligence community in a long narrative of suppression that began with the Alien and Sedition Acts of 1798. Each situation identified by Brand highlighted the nation’s difficulty in finding the correct balance between security and liberty. Brand’s placement of the Church Committee’s findings in such a

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<sup>54</sup> Randall B. Woods, *Shadow Warrior: William Egan Colby and the CIA* (New York, 2013), 6.

<sup>55</sup> William Colby with Peter Forbath, *Honourable Men* (New York, 1978), 380.

<sup>56</sup> Russell A. Miller, ‘Introduction’, in Russell A Miller (ed.), *US National Security, Intelligence and Democracy: From the Church Committee to the War on Terror* (Abingdon, 2008), 1-2.

<sup>57</sup> Anthony D. Romero, *In Defense of Our America: The Fight for Civil Liberties in the Age of Terror* (New York, 2008), 147.

timeline demonstrates the longevity of the national security debate and the significance of its findings.<sup>58</sup>

ACLU president Susan Herman interpreted the Church Committee's findings as an indicator that the United States had been in a state of emergency for over forty years. As a result of this undeclared emergency, legislation had been passed granting emergency powers to the executive. Herman saw the Church Committee and FISA, in particular, as attempting to take the United States out of a 'perpetual state of emergency into a carefully considered rule of law.' Furthermore, Herman laments that the prescient warnings of the committee were not internalised to avoid repeating the same mistakes.<sup>59</sup> It is the permanent state of emergency that existed throughout the majority of the Cold War that allowed the intelligence agencies to push beyond their legislative and constitutional boundaries. The 'vested institutional interests' motivated the various agencies to argue that that there was a real threat to national security. As a consequence of such urgings they were granted additional authority to nullify the threats without the consideration of citizens' liberties.<sup>60</sup>

David Adler argued that the challenge that the Church Committee attempted to face was not just a restriction of presidential power, nor a realignment of the balance of power. Adler suggested that the Church Committee addressed problems to assist in the prevention of the corruption of power. Such a challenge was naturally foremost in the mind of Congress in the post-Watergate environment and it was a challenge that Church personally was eager to match. Adler likened the committee's concerns about the corruptibility of power to those of the Framers of the Constitution, and in an era where executive prerogative was a byword for near-autonomous governance by the president such worries and concerns were well-founded. Citing Madison in *Federalist 51*, Adler rightly highlighted that while democratic government ruled over men, it needed to have control over itself to avoid tyranny. In addition, Adler stated the framers saw such control as being only possible through the separation of powers and the checks and balances system. Church and his committee members saw themselves as instrumental in maintaining such democratic self-governance. The committee insisted that maintaining accountability of the governance of the intelligence community could only be achieved through the effective oversight by Congress.<sup>61</sup>

Adler's position is supported by the writing of the former Church Committee' chief counsel Frederick Schwartz Jr. Schwartz warned that the greatest lesson of the Church Committee was that of the temptation to ignore the restraints of law and the Constitution, especially during periods of

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<sup>58</sup> Jeffrey S. Brand, 'Eavesdropping on Our Founding Fathers: How a Return to the Republic's Core Democratic Values Can Help Us Resolve the Surveillance Crisis', *Harvard National Security Journal*, 6, (2015), 1-57

<sup>59</sup> Susan Herman, *Taking Liberties: The War on Terror and the Erosion of American Democracy* (Oxford, 2011), 216-217.

<sup>60</sup> Samuel Walker, *Presidents and Civil Liberties from Wilson to Obama* (New York, 2012), 505.

<sup>61</sup> David Adler, 'Bush, the Unitary Executive and the Constitution', in Miller (ed.), *US National Security*, 110-112.

emergency. Such lack of restraint had led to the ‘phenomenon of “mission creep”’ as illustrated by the FBI’s COINTELPRO operations. While the COINTELPRO was originally directed at what were considered reasonable targets, the lack of oversight of the intelligence community had meant the operations were easily switched to illegitimate ones. The FBI was not the sole offender, said Schwartz, and the other agencies had been shown to have ‘too often trampled on American values, the Constitution, and the law.’<sup>62</sup> All of the intelligence community’s indiscretions could have been avoided if the Constitution and law had been adhered to. ‘The Church Committee’s fundamental point was to remind Americans of the premises of the US Constitution,’ wrote Schwartz.<sup>63</sup>

Schwartz further argued that the Church Committee highlighted that the temptation of power is enhanced by the secrecy surrounding the intelligence community. It was the failure of congressional oversight, said Schwartz, which allowed such temptation to be too much for some senior officials. It was not an endemic institutional culture that prevailed among the intelligence agencies but the actions and weaknesses of senior officials that allowed such illegal, immoral and unconstitutional activities to take place. Had congressional oversight been effective and responsible then such temptation would have been avoided. The Church Committee’s own actions and handling of restricted and classified information during its investigations is testimony to the fact that Congress could be trusted not to reveal the nation’s secrets. Effective oversight of classified information would have led to the executive branch not making improper policies. Instead, ‘a small coterie of executive branch decision makers acted on the assumption that improper actions would be forever shrouded in secrecy.’<sup>64</sup> Robert Gates supports Schwartz’s thesis of the necessity of congressional oversight to impede the potentially tyrannical actions of the executive branch. Gates, an eyewitness to the formulation of policy within the White House, stated that ‘some awfully crazy schemes might well have been approved had everyone present not known and expected hard questions, debate, and criticism from the Hill.’<sup>65</sup>

Schwartz argued that such concerns over secrecy and the lack of openness in American political life was a repetitive issue. Those in favour of either secrecy or openness could cite historical references from numerous points in American history. In particular, the founding years of the American nation were littered with numerous instances of government secrecy and conversely a stronger transparent democracy. Schwartz identified the presidency of Thomas Jefferson as the era when ‘We the People’ became associated with all Americans, not just the rich and powerful elite and

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<sup>62</sup> Frederick A. O. Schwartz Jr., *Democracy in the Dark: The Seduction of Government Secrecy* (New York, 2015) 180-181.

<sup>63</sup> Frederick A. O. Schwartz Jr., ‘The Church Committee, Then and Now’ in Miller (ed.), *US National Security*, 29-31

<sup>64</sup> *Ibid.* 23.

<sup>65</sup> Gates, *From the Shadows*, 559.

established a move towards participatory democracy. This open culture, where there were government secrets but not secret government operations, lasted until the mid-twentieth century. The increase in secrecy within the US democracy was due to a perfect storm of increased presidential power, the growth of bureaucracies within the federal government, and the rise of the military-industrial complex. This triumvirate supported a perpetuation of an era of fear that was fed by the Cold War and continues to this day to be nurtured by the Global War on Terror. The Church Committee highlighted the abuses that were executed by those in power and can instruct present-day Americans who 'are now engaged in a vigorous debate about the benefits and harms of secrecy and openness.'<sup>66</sup>

### **Research Summary**

Scholarship on the Church Committee has been diverse in its approaches. Johnson and Olmsted's extensive research underlined the significance of the Year of Intelligence. In addition, the work of Smist placed it in the wider context of congressional oversight of the intelligence community. The Church Committee enquiry into the various US intelligence agencies has contributed to the institutional studies of the FBI and CIA, for example, by scholars such as Jeffreys-Jones, Theoharis and Kessler. Despite such various approaches in the scholarship, there has been no research into the relationship between public opinion and policymakers during the Year of Intelligence. This study examines the correlation between public opinion and national security policy using the Year of Intelligence as a case study. As a consequence of the original approach to the subject, this research offers a significant contribution to the scholarship of the Church Committee, and the relationship between public opinion and national security policy.

The research identifies that the Church Committee and its enquiry illustrated the significant role that public opinion played in the formation and delivery of national security policy. Public opinion and national security policy interact to form boundaries within which policymakers must operate to be successful. For national security policy to be successful and long-term, public opinion is an integral component in the delivery and consideration of national security policy. This is especially true when rival branches of government propose conflicting legislation, or when there is a belligerent relationship between Congress and the executive branch.

The Church Committee would not have existed without the influence of public opinion. The wishes of the American public were not the only stimulus in establishing the congressional investigations. Congress, as a body, wanted to continue the check on presidential overreach. It was

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<sup>66</sup> Schwartz, *Democracy in the Dark*, 16-17.

spurred by the personal motivations of Senators, such as Majority Leader Mike Mansfield, who had urged for an intelligence review for decades, and those of Senator Howard Baker, who had felt that the CIA had not been totally honest during the Senate's Watergate enquiry. Furthermore, it was motivated by the influx of freshmen Senators and Representatives that would go on to be dubbed the Watergate Babies. These members of Congress, elected on promises to clean up national politics, threatened to destroy the CIA if it failed to cooperate with the enquiries. 'They were out for blood,' said CIA Director, William Colby.<sup>67</sup> Without the American public's demands for an enquiry, however, the calls for an investigation into the intelligence community would have fallen on deaf ears.

During the Year of Intelligence, the Ford administration failed to implement reform of intelligence community oversight because it failed to measure public opinion in the United States accurately. The inability of the executive branch to understand the complexities and demands of the American public led to the unpopularity and short-term nature of its proposed reform legislation. In contrast to the Ford administration, the Church Committee understood and recognised the demands of the American public. The Senate enquiry was influenced throughout its entire lifetime by the fluctuations of public opinion. It was established by Congress because of the nation's dismissal of the Rockefeller Commission as a thinly-veiled partisan white wash, determined to protect executive power and the intelligence community from extensive reform. Driven by the editorials of the East Coast press, the Senate created a committee that was designed to represent the political and geographic differences of the nation and to conduct a balanced, non-partisan, thorough investigation, and recommend legislative reform. The Church Committee was able to fulfil its remit because its chairman recognised the necessity for a lack of partisanship and the need for moral and ethical dimensions in political leadership, and for political compromise when dealing with the national security debate.

To guarantee the support of the majority of the nation, Church led without recourse to partisanship, and managed a thorough enquiry that informed and educated the public whilst maintaining national security. The public hearings of the committee were vital tools in persuading the American public that reform was necessary to maintain and protect the American democratic system. Church chose subjects for the public hearings to both illustrate the nefarious deeds of the United States intelligence community, and because the American public demanded it. The Church Committee published an interim report on the involvement of the CIA in assassination plots of

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<sup>67</sup> Loch K. Johnson, 'A Conversation with Former DCI William E. Colby: Spymaster during the "Year of Intelligence Wars"', *Intelligence and National Security*, 22 (2007), 250-269.

foreign leaders because the Rockefeller Commission failed to, and because Church felt it was right to do so.

The effect of public opinion from the Year of Intelligence stretched beyond the Church Committee and the methods and revelations of its investigation. There is a clear connection between the Church Committee's enquiry and recommendations, and the creation of the permanent Senate Select Committee on Intelligence. In addition, the enactment of the Foreign Intelligence Surveillance Act (FISA) of 1978 was a result of the Senate enquiry. The committee's call for legislative restrictions on the intelligence community in order to protect the civil liberties of the American public provided the momentum for the Act.

Contemporary criticism of the Church Committee was motivated by partisan concerns. Republican-led censure attempted to associate the enquiry with leaks of classified information and the death of the CIA station chief in Greece. But such condemnation was an effort to provide support for the executive branch's reforms at the expense of the committee's recommendations. The reproach of the committee was not exclusively that of the political right: left-wing liberals failed to understand that Church's compromise was necessary for the success it achieved and suspected him of kowtowing to executive demands. When Church announced his candidacy for the Democratic Party's presidential nomination in 1976, he was incorrectly accused of generating the publicity of the enquiry to launch his bid for the White House.

### **Key Primary Sources and Methodology**

Central to all of this research is the multi-volume final report of the Church Committee, released in 1976.<sup>68</sup> As with all scholarship involving the intelligence community investigation of the Church Committee does have its hindrances. Executive Order 12958 restricts the release of the closed hearings of the Church Committee on the grounds that it contains classified national security information and information about living persons. Furthermore, as it was an investigative committee such information is classified and restricted for fifty years. Therefore, written records of what happened in the closed hearings of the Church Committee will be open to scholars in 2026 at the earliest. In addition, the papers accumulated by Senator Church as chair of the committee are also subject to such classification.<sup>69</sup> The public hearings of the Church Committee published as part of the committee's final report are openly available as part of the final report. Further published

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<sup>68</sup> United States Senate, Select Committee to Study Governmental Operations with Respect to Intelligence Activities, *Final Report together with additional, supplemental, and separate views*, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., S. Rep. 94-755, (Washington D.C., 1976)

<sup>69</sup> William J. Clinton: 'Executive Order 12958 -Classified National Security Information', 17 April 1975.

government documentation used in this study are the hearings of the Pike investigation, and the hearings surrounding the debates within the Senate's subcommittees on the establishment of a permanent Senate Select Committee on Intelligence.<sup>70</sup> The floor debates published in the *Congressional Record* are integral to this study, as they reflect the atmosphere of the entire United States Congress.<sup>71</sup>

Whilst problematic, Executive Order 12958 does not remove the entire catalogue of archival-based information available to this study. The interdepartmental briefings and memoranda of the White House have proved invaluable. These records, predominantly held at the Gerald R. Ford Presidential Library in Ann Arbor, Michigan, have cast light on the motivations and machinations within the Ford White House. The National Security Advisor Conversation Memoranda have been particularly informative of the thought processes within the White House.<sup>72</sup> This is especially so during the early part of the Year of Intelligence as it attempted to stifle any prospect of congressional investigations into the intelligence community. The discussions illustrate the motives and objectives of the Ford administration. The David Belin files were crucial in identifying the discussions surrounding public opinion of the Rockefeller Commission's investigation. In addition, the Ford election campaign files, consisting mostly of David Green papers and the Helen Collins files, were instrumental in helping to assess Ford's own attitude towards public opinion. The James E. Connor files were of immense importance when dealing with the Intelligence Coordinating Group and Executive Order 11905. For the entire study, the files of White House Press Secretary, Ron Nessen, gave a vital insight into the Ford administration's handling of the press, and its public relations strategy.<sup>73</sup>

In addition to research undertaken at the Gerald R. Ford Presidential library, further archival visits were made to both the Jimmy Carter Presidential Library in Atlanta, Georgia, and the Library of Congress in Washington, DC. The collections at the Jimmy Carter Presidential Library primarily supported the research required for the final chapter. The National Security Council Institution File

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<sup>70</sup> For Pike's hearings see: United States House of Representatives, Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.1, *Hearings on Intelligence Costs and Fiscal Procedures*, 94<sup>th</sup> Cong., 1<sup>st</sup> sess., (Washington D.C., 1976); United States House of Representatives, Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.2, *Hearings on the Performance of the Intelligence Community*, 94<sup>th</sup> Cong., 1<sup>st</sup> sess., (Washington D.C., 1976); United States House of Representatives, Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.2, *Committee Proceedings II*, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., (Washington D.C., 1976). For other committee debates see: United States Senate, Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976); United States Senate, Committee on Rules and Administration, *Hearings on S Res. 400 To Establish a Standing Committee of the Senate on Intelligence Activities*, March 31, April 1, 2, 5, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976).

<sup>71</sup> United States Congress, *Congressional Record*, Volumes 119-124.

<sup>72</sup> Memoranda of Conversations - Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, Gerald R. Ford Presidential Library [Hereafter referred to as GRFPL]

<sup>73</sup> David W. Belin Papers, David Green Files, Helen Collins files, James E. Connor Files, Ron Nessen Files, all GRFPL.

was just one collection that illustrated the role of the Carter White House in the development of the Foreign Intelligence Surveillance Act of 1978. The Carter administration's assessment and use of public opinion are revealed through numerous documents within the library's collections such as those of Stuart Eizenstat and Jim Purks' subject files.<sup>74</sup>

Further illustrations of public opinion are found in the Library of Congress. The letters of viewers of political talk shows on television, such as *Face the Nation* and *Meet the Press*, indicate the public's reaction to appearances on these shows by Frank Church and other key figures. Found in the Lawrence E. Spivak papers, these have never been used before as a measurement of public opinion during the Year of Intelligence and represent an innovative and unique avenue of research. Furthermore, the George Lardner papers contain some of the press's unpublished notes on the enquiries into the intelligence community. Lardner covered intelligence and national security for the *Washington Post* from before the first days of the crisis in 1975 to beyond the enactment of the Foreign Intelligence Surveillance Act in 1978. His personal notes on interviews with key members, unpublished and draft articles are a remarkable source of information on the period.<sup>75</sup>

The press played a considerable role in assessing the mood of the nation and what influenced the policymakers in Washington, DC. Press coverage was extensive and in considerable depth across the entire nation throughout the Year of Intelligence. For this research the majority of the focus is placed on the editorials of the East Coast press, especially those of the *New York Times* and *Washington Post*. The lack of national newspapers in the United States magnified the importance of the *New York Times* and the *Washington Post* to scholars of US public opinion. Despite its liberal leanings, the *New York Times* was respected and read by the capital's politicians of all political persuasions. The *Washington Post* was also read by every member of Congress and its editorials and opinion pieces had significant influence on the Capitol's legislators. Despite the focus on these two East Coast publications, these are not the only press sources used. The *Washington Star* was a major critic of both the Ford administration and the Church Committee, and its editorials and opinion pieces undoubtedly found their way onto the breakfast tables and office desks of members of Congress. In addition, reference is made throughout the study to the *Chicago Tribune* and *Los Angeles Times* to either support or refute claims that the East Coast press represented national public opinion.

The political elite of the era were not swayed just by the East Coast press. Constituent mail was an important factor in influencing how a Senator would stand on certain issues. For this

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<sup>74</sup> National Security Council Institution Files; Staff Offices Domestic Policy Staff Stuart Eizenstat Subject File; Press Office-Media Liaison Office, Jim Purks' Subject Files; all Jimmy Carter Presidential Library [Hereafter referred to JCPL].

<sup>75</sup> Lawrence E. Spivak Papers; George Lardner Jr. Papers; both Library of Congress.

research the constituent and personal mail of Senator Frank Church has been used to demonstrate that Church was both aware of public opinion and responded to it. The letters written to Church were not only from his fellow Idahoans, but from a nationwide constituency of Americans expressing their views on the Year of Intelligence. As chairman of the Church Committee, connections and influences can be identified between that of the committee's direction and programme and American public opinion. Located at Albertson's Library at Boise State University, the collection is managed by the Frank Church Institute. Numerous files within the collection were used to identify public support and opposition to the enquiry, while the 1976 Presidential Campaign collection aided in refuting criticism against Church.<sup>76</sup>

This research features two previously unused sources of information on the Year of Intelligence. Firstly, oral histories were obtained from individuals who worked for Senator Church and knew his personality and character well. These interviews, conducted during the autumn of 2016, include former staff members of the Church Committee including investigators and legal counsel, and employees who had worked for Senator Church as part of his senatorial office staff. These senatorial staff members, including two former chiefs of staff, give an insight into Church's moral compass, his political philosophy, and his style of management. Several members of those interviewed were also involved in Church's campaign for the Democratic Party's presidential nomination in 1976.

There is a danger, when interviewing those that were closely involved in the life of Frank Church, of the interviews becoming hagiographical. There was a possibility of Church being represented, by many of those interviewed, as being morally incorruptible. Despite efforts, it was impossible to find any salacious gossip that would irreparably damage Church's political standing, and in part, this is because of the efforts of Bethine, Church's wife. Bethine came from a family with a long political background. Her father, Chase Clark, had been mayor of Idaho Falls and a single-term Governor of Idaho. Bethine understood how important her husband's image was in order to maintain a political career, especially that of a Democrat in conservative Idaho. In a similar manner to that of John F. Kennedy, Church's public image has been maintained by his wife after his death. The interviews rightly portrayed Frank Church as a dedicated servant to the American public. He had served in the army and, for the majority of his adult life, had represented Idaho in the Senate.

In private, there is some contradiction of the studious, almost reserved individual, that has often been portrayed as his public persona. As Senator, Church kept to the script that his wife and his advisors wrote. During the interviews, stories were told of a man who, at the end of the day

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<sup>76</sup> Frank Church Papers [Hereafter referred to as FCP], Boise State University Special Collections.

campaigning on the road, liked a scotch and a singalong with his closest friends. Bethine, however, was careful to ensure, in the Mormon-dominated southern part of the state, that Church would not be in possession of any alcohol or ever pictured with a glass in his hand.<sup>77</sup>

In addition to the danger of idol worship, is the possibility that individuals over-exaggerate their own roles within significant events, when interviewed. Furthermore, with events that have been discussed in the public sphere at such length, such as the Church Committee, public memory often replaces that of the individual. People start to remember events as they have been reported, rather than how they remember them. Where events have been communicated in the interviews, confirmation had been sought from alternative sources to confirm that events did happen as the interviewee described.

The second source is a collection of interviews conducted by the Senate Historical Office. The interviews were conducted by Senate historian Kate Scott between July 2013 and March 2015 and published in 2016. Those interviewed include committee member Vice President Walter Mondale, chief counsel Frederick Schwartz, staff director William Miller, leading legal counsels such as Frederick Baron, committee members' designees such as Loch Johnson, and investigators such as Peter Fenn, John Elliff, and Britt Snider. Scott kindly donated a copy of the published interviews to the author in September 2016. To date, these interviews have not been utilised as part of a study into the Church Committee and contribute to the work's originality.<sup>78</sup>

## **Defining Public Opinion**

Public opinion in the United States has been expressed through many voices. There has been no singular, definitive source of public opinion available to policymakers; instead, public opinion in the United States has manifested in different forms. In its simplest form, it has taken the shape of constituents' testimonies and letters to the offices of elected officials; it has also been published and read, such as that expressed through the editorial columns and opinion pieces of the press; it has also be delegated, as articulated by the nation's democratically elected representatives; public opinion has also been scientifically measured through public opinion polls and surveys; finally, it has been expressed through the actions of interest groups and lobbyists.

Some policymakers have placed greater faith in some sources of public opinion than others. President Gerald R. Ford, for example, recognised the significance of the press but expressed concern over the use of public opinion polls and surveys as a guide to national security policy. Many

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<sup>77</sup> Interview with author, Larry LaRocco, Boise, Idaho, 14 September 2016.

<sup>78</sup> US Senate Historical Office, *Oral History Interviews*, (Washington D.C., 2015) [hereafter referred to as *Oral History Interviews*.]

politicians' primary source of public opinion is from interest groups, and Ford was no different.<sup>79</sup> Ford placed greater confidence in the opinions of interest groups such as the intelligence community, State Department, and took note of the public's views during his presidential visits. Senator Frank Church listened to the demands of Congress, gave serious consideration to the press and used the nationwide correspondence to his Senate office as measures of public opinion.

For the purposes of this research, public opinion will be considered to be the actions of Congress as illustrated in House and Senate debates and consequential legislation; public opinion polls conducted by Gallup and other polling companies; and the reports of the press, notably *The New York Times* and the *Washington Post* on the eastern coast, the *Los Angeles' Times* on the west coast. In addition, the press and correspondence of constituency members of Frank Church's home state of Idaho will be considered to be influential public opinion during the Church Committee's lifespan. Such correspondence will illustrate the public perception known by Senator Church as they 'satisfy the precondition of public opinion in that they are views of some consequence.'<sup>80</sup> At the core of the research is the public's perception of the non-military intelligence community, a tool of the executive branch. Therefore, the actions of the presidency will not be considered a contributory aspect of public opinion for this research.

The role of public opinion in the national security debate is essential to understanding the cultural changes towards surveillance, privacy and national security in the United States. Prior to the Church Committee enquiry, Congress had not enforced effective oversight of the various non-military intelligence agencies, nor did it wish to do so. Congress and the four subcommittees that exercised oversight of the intelligence community believed that honourable men led the nation's intelligence agencies. These honourable men would abide by the Constitution and the law and ensure that while national security is maintained, civil liberties would be respected. Former Church Committee staffer Loch Johnson suggested that congressional inactivity towards oversight of the intelligence community was a reflection of the public's inattention towards such matters. It would take a major scandal 'to stir the public toward demands for reform.'<sup>81</sup> It was the Cold War anti-communist consensus that prevailed in the United States, prior to 1975, that allowed such a misplacement of public trust. Such scandal revealed itself through the investigative journalism of the early 1970s and the subsequent Church Committee.

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<sup>79</sup> Carroll J. Glynn et al., *Public Opinion*, (Boulder, CO, 2004), 31.

<sup>80</sup> Taeku Lee 'The Sovereign Status of Survey Data' in: Jeff Manza, Fay Lomax Cook and Benjamin I Page (eds.), *Navigating Public Opinion: Polls, Policy, and the Future of American Democracy* (Oxford, 2002), 305.

<sup>81</sup> Johnson, *Season of Inquiry*, 9.

Johnson's reasoning was persuasive, but it raised further questions regarding the stance of US public opinion on the national security debate. The biggest questions surrounded the definition and measurement of the public's political opinion. By illustrating the public's influence over Congress Johnson maintained that congressional activity was the true indication of public opinion. This claim was supportive of the liberal democrat theory that democratic governments acted as the representatives of the public. This, in turn, suggested that public opinion played an important role in policy making, which has supported James Fishkin's statement that public opinion was 'the giant who rules America.'<sup>82</sup> This conclusion has become the subject of much debate. Realists such as Hans Morgenthau and Walter Lippmann have argued that ordinary citizens did not have the informed opinion that liberal democrats idealised and, as such, were considered by policy-makers as without influence on their decisions.<sup>83</sup>

A third philosophy that has developed over the last twenty-five years was that public opinion only influenced legislators and policy makers by establishing boundaries to a range of choices. In effect, public opinion shaped and constrained national security policy.<sup>84</sup> Michael Towle's work stated that presidents paid attention to public opinion because of strategic demands. Towle developed John Kingdon's 'congratulation-rationalisation effect' to argue that American presidential administrations' attitudes towards the American public were dependent on what the American public thought of them. If the public had favourable opinion of the President, then the President was more likely to act as the people wanted.<sup>85</sup> Douglas Foyle contended that the influence of public opinion on policymaking hinged on the policymaker's normative and practical beliefs; that is to say, their desirability of public input and the necessity of public support for their policy decisions.<sup>86</sup>

Nonetheless, Congress has often been cited as a demonstration of public opinion due to its origins through public vote. As elected officials Congress's *raison d'être* is to represent public opinion. Therefore, through a logical process, the actions that Congress takes should be seen as those of the general public, just as Johnson inferred.<sup>87</sup> George Gallup argued that such an assumption was erroneous, especially as the committee system utilized by Congress 'further militates against a legislative arm of government sensitive and responsive to public opinion.'<sup>88</sup> The presidency in the

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<sup>82</sup> James S. Fishkin, *The Voice of the People: Public Opinion and Democracy* (New Haven, 1995)

<sup>83</sup> Walter Lippman, *Public Opinion* (New York, 1997)

<sup>84</sup> Bruce M. Russett, *Controlling the Sword: The Democratic Governance of National Security* (Cambridge, MA, 1990)

<sup>85</sup> Michael A. Towle, *Out of Touch: The Presidency and Public Opinion* (College Station, TX, 2004)

<sup>86</sup> Douglas C. Foyle, 'Public Opinion and Foreign Policy: Elite Beliefs as a Mediating Variable', *International Studies Quarterly*, 41 (1997), 141-169

<sup>87</sup> Philip Powlick, 'The Sources of Public Opinion for American Foreign Policy Officials', *International Studies Quarterly*, 39 (1995), 427-451.

<sup>88</sup> George Gallup, *The Intelligent Interpretation and Use of Public Opinion Surveys*, unpublished transcript, 1967, (George Gallup Papers, Box 7, Book File: The Intelligent Interpretation and Use of Public Opinion Surveys, Library of Congress)

modern era is the only elected position in the United States that all citizens vote for; this is in contrast to the congressional elections where voters only vote in their districts and states. Although historically there have been five exceptions to the rule, whoever wins the popular vote in the presidential election will be elected president.<sup>89</sup> The elected president, therefore, takes office and represents the will of the American people with a mandate established by the election, and is 'enshrined as the embodiment of the national interest.'<sup>90</sup> Presidential public approval predictably declines rapidly after an initial honeymoon period, which suggests that presidents do not continue to act the way that the public wishes them as approval declines.<sup>91</sup> In addition, when the president's own party controls Congress, there are 'strong incentives' for him to represent his party rather than the people, as congressional dominance offers the greatest possibility of enacting policy that aligns with party ideology.<sup>92</sup> Furthermore, presidents in their second term of office do not have the restraint of potential re-election to their policies. In the modern era - 1932 onwards - no president has governed without intending to run for a second term in office, which suggests that every president has governed his first term with a view to be re-elected.<sup>93</sup>

When questioning the president as the representative of 'the people,' what must also be considered are situations and circumstance where Congress and the incumbent president often work against each other, in an attempt to gain the legislative upper hand. This is especially the case where presidents were faced with a Congress dominated by the opposing party. Such situations result in a consensual government made of compromised legislation, or a hostile government where Congress and president aggressively campaign against each other. Examples of the former would be that of Dwight D. Eisenhower who worked with a Democrat Senate for much of his administration led by Lyndon Johnson, as well as a Democrat-controlled House. Conversely, the Republican majority in the Senate led by Bob Dole combined with the Republican controlled House led by Newt Gingrich to oppose almost every policy of the Bill Clinton administration from 1995 onwards. It was difficult to determine whether Congress or the President acts on behalf of the public in such situations, especially as both Congress and President would make such claims. This doubt was enhanced when public opinion polls expressed extreme disappointment with the elected officials' performance, through polls such as Presidents' Job Approval Rating.

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<sup>89</sup> The five presidents to lose the popular debate were John Quincy Adams in 1824, Rutherford Hayes in 1826, Benjamin Harrison in 1888, George W. Bush in 2000, and Donald J. Trump in 2016.

<sup>90</sup> Russett, *Controlling the Sword*, 9.

<sup>91</sup> James P. Pfiffner, *The Modern Presidency* (Belmont, CA, 2008), 49-54.

<sup>92</sup> Jeffrey E. Cohen, *Presidential Leadership In Public Opinion: Causes and Consequences* (New York, 2015), 109.

<sup>93</sup> Although Lyndon Johnson declared he was not seeking re-election it was not until Eugene McCarthy and Robert F. Kennedy did challenge him for the nomination in 1968 that he decided to not run. Therefore, his first term should be seen as if he had every intention to run for re-election.

Realistic and measurable alternative sources of public opinion for policy makers were scarce during the crisis of 1975. As a result, both the executive and legislative branches viewed the press as the most significant source of public opinion. In particular, the East Coast publications of the *New York Times* and the *Washington Post* were the most available and respected, and therefore the most influential. Both branches of government reacted to newspaper articles and editorials and attempted to affect public opinion through press conferences and television appearances. The printed press expressed its readers' wishes through its editorials and columns, but also moulded the opinion of the electorate through its own 'exclusive' stories. It was in the interest of the *New York Times* to extend the life its own published stories and give them importance within the public sphere. As such it was acting in the interests of the paper and cannot be said to reporting public opinion. Bernard Cohen's contention that members of the press can either be well-informed members of the public or are relaying the opinion of other members of the public is also valid. Consequently, the term 'public' applied to the masses that constituted the printed press' readership, and the elites that owned such publications and dictated the storylines.<sup>94</sup> Some doubts have been raised by scholars about whether the press was a reliable source of public opinion because of the elites' control of the juxtaposed political and media environments.<sup>95</sup>

In addition to the press, the main indicator of public opinion was the growing study of public opinion polls. To the twenty-first century scholar, polls have become synonymous with public opinion and have caused a conceptual shift. Polls have become exceedingly important to politicians of the modern day as they provide more detailed information than without them.<sup>96</sup> Polls were not as significant to policy decision-making during the Year of Intelligence because it was a growing science. Despite the information provided by polls and surveys, scholars have questioned whether opinion polls can be classified as true representations of the public's desire. Such doubts were raised by the possibility that questions in polls could have been designed to provide a specific range of results and targeted at a specific audience. The results of such polls fail to epitomize a complete viewpoint of the electorate; instead polls provide an aggregate measure of American public opinion. Poll questions can be manipulated to provide a one-sided result. Concerns over polls are highlighted when poorly worded survey questions designed to support policy hides long-term preferences of the respondents and caused a change in measured public opinion. Nevertheless, surveys could measure collective

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<sup>94</sup> Bernard Cohen, *The Public's Impact on Foreign Policy* (Boston, 1973); James S. Fishkin, *The Voice of the People: Public Opinion and Democracy*, (New Haven, 1995)

<sup>95</sup> David Domke et al. 'Going Public as Political Strategy: The Bush Administration, an Echoing Press, and Passage of the Patriot Act', *Political Communication*, 23 (2006), 291-312

<sup>96</sup> John G. Geer, *From Tea Leaves to Opinion Polls: A Theory of Democratic Leadership* (New York, 1996)

public opinion accurately if they were used with care, and as long as random measurement errors or fluctuations were taken into consideration.<sup>97</sup>

Further doubts are raised when polls were designed to ask specific questions to validate a policy option that is being considered. By doing so it provides established public backing for a policy before it is proposed and guarantees popular support.<sup>98</sup> This gives a false impression that the policy maker is not influenced by public acceptance of the proposed policy but is acting on the public's behalf. Nonetheless, political elites are not always capable of moulding public opinion to their will because public opinion is embedded deep within the psyche and manifests in different forms.<sup>99</sup> Furthermore, it is as erroneous to think that public opinion is thoroughly controlled by the elites as it is to suggest that 'the people' always get their own way; instead it can be safely thought that public opinion and policy-making interact with one sometime influencing the other, with 'policymaking shaped in anticipation of public reaction and framed as to make that reaction most favourable.'<sup>100</sup> Nonetheless, political elites have become effective at controlling the juxtaposed political and media environments. This effectiveness is further enhanced during times of national crisis. Such management of the press by political elites allows opinion poll results that are seen by the executive branch as positive to get extensive media coverage. This coverage allows the reinforcement of the positivity of the results and creates a socio-political consensus that such results are a genuine opinion of the public.<sup>101</sup>

Taking such observations into account there can be said to be no singular, continuously reliable source of public opinion. Richard Sobel has identified that 'the public is stratified, and differing publics express their views through various forums.' Sobel recognises that these forums include 'elections, group participation, party activities, direct communications with representatives, and opinion polls.'<sup>102</sup> It is right then to say that Congress, the President, the press and public opinion polls can all represent some part of the public's political opinion. As a collective the American public holds 'a number of real, stable, and sensible opinions about public policy' that are subject to change and development over time.<sup>103</sup> These changes and developments are caused by circumstance and information from a variety of sources.

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<sup>97</sup> Benjamin I. Page & Robert Y. Shapiro, *The Rational Public: Fifty Years of Trends in Americans' Policy Preferences*, (Chicago, 1992), 27.

<sup>98</sup> Oscar H. Gandy, Jr., 'Public Opinion Surveys and the Formation of Privacy Policy', *Journal of Social Issues*, 59 (2003), 283-299

<sup>99</sup> Lee, *The Sovereign Status of Survey Data*,

<sup>100</sup> Russett, *Controlling the Sword*, 99-109.

<sup>101</sup> David Domke, Erica S. Graham, Kevin Coe, Sue Lockett John, and Ted Coopman, 'Going Public as Political Strategy: The Bush Administration, an Echoing Press, and Passage of the Patriot Act', *Political Communication*, 23 (2006), 291-312

<sup>102</sup> Richard Sobel, *The Impact of Public Opinion on US Foreign Policy Since Vietnam* (Oxford, 2001) 10.

<sup>103</sup> Powlick, 'The Sources of Public Opinion for American Foreign Policy Officials',

Despite the demands of public opinion in 1975, it is important to note that none of the enquiries suggested that any of the agencies of the intelligence community ought to be disbanded. On the contrary, the Church Committee was 'convinced that the United States requires an intelligence system which will provide policymakers with accurate intelligence and analysis.'<sup>104</sup> This view was supported by the Rockefeller Commission which reported that 'without sound intelligence, national policy decisions and actions cannot effectively respond to actual conditions and reflect the best national interest or adequately protect our national security.'<sup>105</sup> All three enquiries - those of the Church Committee, the Pike Committee, and the Rockefeller Commission – were solely interested in finding a way to balance the national security debate by protecting the nation through a transparent accountable intelligence community with effective congressional oversight. All three committees believed that such a balance was possible and necessary for the liberties and freedoms of its citizens. Most importantly, so did the citizenry. It was this demand that remained the paramount concern for the American public throughout the Year of Intelligence. This study will examine whether such a balance was achievable or whether, paradoxically, United States citizens needed to relinquish some of their liberties to feel free.

This study will investigate the effect of public opinion during the Year of Intelligence. Chapter one will consist of examining the failure of the Ford administration to establish its proposed reforms of intelligence oversight in response to the *New York Times*' article written by Seymour Hersh. Crucial to this chapter is identifying the differing roles of the Rockefeller Commission and the Intelligence Coordinating Group. The Rockefeller Commission was established to stifle public outrage against the Ford administration, whilst the Intelligence Coordinating Group was created to build support for the executive branch. This chapter will identify how the Ford administration measured public opinion and what influence it had on the executive branch when it formulated its strategy to deal with the threat to its control of the intelligence community. The chapter will also highlight why the House enquiry was unable to gain the prolonged support of the electorate and press that the Church Committee did.

Chapters two to four will focus on the operation of the Church Committee. Chapter two will identify the sources and impact of public opinion on the Senate's creation of the Church Committee. The rejection of the Rockefeller Commission in its entirety - its membership, enquiry, and recommendations – combined with the post-Watergate distrust of the executive branch, gave

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<sup>104</sup> United States Senate, Select Committee to Study Governmental Operations with Respect to Intelligence Activities, *Final Report together with additional, supplemental, and separate views*, (S.Rpt. 94-755) 'Book 1: Foreign and Military Intelligence', [Hereafter referred to as *Church Report, Book 1*, ] (Washington D.C., 1976)

<sup>105</sup> Commission on CIA Activities within the United States, *Report to the President*, (Washington, 1975), p.271. [Afterwards cited as the *Rockefeller Report*], 6.

stimulus to the Senate to act. The influential role that the American public had on the Senate is illustrated through the panel's remit and the selection of its members. The demands of the public instigated a shift in power within Congress from the traditional overseers of the intelligence community, illustrative of the significant effect of public opinion on national security policy.

Chapter three will reveal how public opinion placed boundaries within which the Church Committee could operate. It will demonstrate that the public hearings, the investigation and interim report on the assassinations, were all driven by public opinion. The issues that the Church Committee investigated were driven both by the public's demand for knowledge of the nefarious nature of the intelligence community activities, and the committee's assessment of what issues would persuade the public to support its calls for reform. The committee's embrace of the public's demands contributed significantly to the direction of the enquiry. In turn, this led to a favourable response from the press and support for the committee's proposed reforms of congressional intelligence oversight.

The fourth chapter will look at the criticism of the Church Committee's enquiry. It will question whether the Church Committee was a balanced, thorough investigation. The research identifies that Senator Church's use of publicity throughout the investigation led to inaccurate but damaging claims of self-interest on Church's part. This chapter will illustrate that criticism of the Senate's enquiry was, for the most part, led by partisan interests. Furthermore, this study refutes the claims that Church used the enquiry as a springboard for the presidency despite such accusations continuing into the twenty-first century. Critics in both 1976 and the modern day manipulated Church's bid for the presidency in order to cast aspersions on the Church Committee's enquiry, recommendations, and legislative legacy. In the case of 1976, these allegations were part of a campaign to promote the necessity of alternative legislation. Modern day criticism was aimed at easing the restrictions on the executive branch caused by the legislative legacy of public opinion during the Year of Intelligence.

The final chapter engages with the legacy of public opinion during the sixteen-month Year of Intelligence. The connections between the Church Committee, public opinion, the enactment of the Foreign Intelligence Surveillance Act of 1978, and the establishment of the permanent Senate Select Committee on Intelligence are illustrated clearly in this final section. The final report of the Church Committee, written over three months, lies at the very core of the long-lasting reforms of the intelligence community. The legislative and structural changes to the oversight of the United States intelligence community were inspired and shaped by the recommendations made in the final report. As a consequence, this study will show that none of these reforms - or the enquiry - would have been possible without the momentum supplied by public opinion during the period.

## Chapter One

# The Ford Administration and Public Opinion in the Year of Intelligence

### 1.1 The Hersh Article

On December 22, 1974, the *New York Times* ran a front-page story that created a constitutional crisis in the United States. The article, written by Pulitzer Prize winning journalist Seymour Hersh, alleged that the Central Intelligence Agency (CIA) had spied on American citizens during the previous decade. It revealed that the CIA had illegally collected information and undertaken surveillance that was unconstitutional and against its founding charter. It also claimed that the agency had kept 'intelligence files on at least ten thousand US citizens' despite the National Security Act of 1947 prohibiting the CIA from conducting domestic police operations. Although the main focus of Hersh's piece was the operations that had occurred during the recent Nixon administration's tenure - such as investigating alleged foreign influence among the various anti-Vietnam War movements – the journalist claimed that the CIA had been running such operations since the 1950s. The agency's internal report on the collation of malpractices and misdemeanours would, in its lifetime, become labelled by the press as the Family Jewels.<sup>1</sup>

Hersh's article charged that the agency had not solely conducted the clandestine operations during the 1960s, but that operations also prohibited by law had occurred during the 1950s. The targets for the earlier operations were said to have not been 'dissident American forces' but 'suspected foreign intelligence agents operating in the United States.' Quoting numerous sources, Hersh claimed that this was part of a series of domestic operations that were carried out in secret. It was only after CIA Director William Colby had reviewed the agency's domestic operations in early 1973 that the operations came to the knowledge of then-Director James Schlesinger. Schlesinger, who became Secretary for Defence in August 1973, issued an order to cease all domestic operations. Hersh suggested that Schlesinger's order was ineffective because he had not been a career agency man. Schlesinger had not spent a considerable time within the agency as had previous directors and, as a result, was seen as an outsider who was intent on interfering with agency practices. It fell to his successor, Colby, to ensure that the domestic operations stopped. This was only possible, Hersh wrote, because Colby's status as a former high-ranking official in the clandestine service guaranteed he had 'the respect and power' necessary.<sup>2</sup>

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<sup>1</sup> Seymour Hersh, 'Huge CIA Operation Reported in US Against Antiwar Forces, Other Dissidents in Nixon Years', *New York Times*, 22 December 1974.

<sup>2</sup> *Ibid.*

These revelations prompted both the executive branch and Congress to launch investigations into the intelligence community's alleged misconduct. In January 1975, in response to the claims made by Seymour Hersh in the *New York Times*, President Gerald Ford established a presidential Commission through Executive Order 11828. The Commission would come to be known as the Rockefeller Commission after its chairman Vice President Nelson Rockefeller. The executive order instructed the Rockefeller Commission's work to concentrate exclusively on Hersh's allegations. The Senate reacted to the Rockefeller Commission by passing Senate Resolution 21, which created an eleven-man select committee to 'conduct an investigation of Government intelligence activities, including the extent to which any illegal or improper activities were engaged in.'<sup>3</sup> During its sixteen-month enquiry the committee, known as the Church Committee after its chairman Senator Frank Church (D-ID), investigated the post-war activities of the entire intelligence community of the United States. In addition to both of these enquiries, the House also created a committee under the initial leadership of Representative Lucien Nedzi (D-MI), and later that of Representative Otis Pike (D-NY). To avoid duplicating the work of its Senate counterpart, the House panel focussed on the effectiveness and financial value of the intelligence community's performance.

The enquiries conducted by the Senate and the House served as the first congressional review of the entire United States intelligence community. Consequently, the nation became embroiled in a sixteen-month drama, a period that has been labelled the Year of Intelligence. The investigations made public the various intelligence agencies' successes and failures since the end of the Second World War. The intensive television coverage, front-page newspaper headlines, and public hearings, turned the investigation into a *cause celebre*. Moreover, the affair precipitated a constitutional crisis that raised numerous questions about executive control of the intelligence community, congressional neglect in failing to undertake effective intelligence oversight, and the sacrifice of citizens' civil liberties for the sake of national security.

The investigations uncovered a staggering catalogue of infringements upon the civil liberties of American citizens in the post-war period. The Family Jewels encompassed a litany of illegal and unconstitutional activities undertaken by the CIA since its creation in 1947 that included attempted assassination plots on foreign leaders that involved the mafia; various illegal electronic surveillance programmes including Project Mockingbird that targeted Washington-based reporters; and numerous other cases of the agency acting beyond its founding charter.<sup>4</sup> With its public reputation in

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<sup>3</sup> United States' Senate Resolution 21, 'To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities', 94<sup>th</sup> Congress, 27 January 1975.

<sup>4</sup> Memorandum, Howard J Osborn to executive Secretary, CIA Management Committee, 'Family Jewels', 16 May 1973, (online Central Intelligence Agency Library <https://www.cia.gov/library/readingroom/collection/family-jewels>)

tatters, former CIA Director Robert M Gates called 1975 ‘the worst year in CIA history.’<sup>5</sup> The enquiries also made public nefarious activities of the Federal Bureau of Investigation (FBI) conducted under the leadership of its former Director, J. Edgar Hoover. The bureau’s clandestine operations, designed to undermine and negate political dissenters such as the anti-Vietnam War movement, the civil rights movement, and individuals such as Martin Luther King Jr, were revealed to a shocked public by the Church Committee’s public hearings.

The congressional and public criticism of the intelligence community was linked to an attack on the politics and policies of the White House incumbent. The intelligence community had been placed under the authority of the executive branch by the nation’s Founding Fathers. As part of the separation of powers, the President of the United States was to ‘manage the business of intelligence in such a manner as prudence may suggest.’<sup>6</sup> In 1975, Congress became hostile towards the CIA ‘consistent with its progressive disillusionment with the performance of the executive branch of government over Vietnam.’<sup>7</sup> By logical extension, the 1975 enquiries into the activities of the intelligence community were a congressional challenge to presidential power. This affront on the overreach of the executive branch had been ignited by the escalation of United States involvement in the Vietnam War, continued through Watergate, and came to a crescendo during the Year of Intelligence. By charging the CIA and other intelligence agencies of acting unconstitutionally and without sufficient congressional oversight, the enquiries potentially became weapons to weaken the executive. Consequently, the Ford administration was forced to devise a strategy to deal with such a danger.

This chapter will focus on the actions of the Ford administration during the Year of Intelligence. In particular, it will examine the role that public opinion played in the strategy adopted by President Ford and his advisers to combat the threat the Hersh revelations posed to executive power. It will illustrate that public opinion played a significant role in the Year of Intelligence and that the executive branch was unsuccessful in its strategy because it almost entirely ignored public opinion. This failure forced the White House to change its objectives not once, but twice during the intelligence crisis. This chapter will argue that the executive branch’s failure to achieve fully any of its objectives during the crisis was due to its negligent attitude and poor understanding of public opinion. When the administration did take the wishes of the American public into consideration it had only minor success because of its limited and partisan source of public opinion. These failures led not just to the creation of the congressional enquiries into the intelligence abuses, but public support

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<sup>5</sup> Gates, *From the Shadows*, 60.

<sup>6</sup> John Jay, ‘Federalist No.64’, in Lawrence Goldman (ed.), *The Federalist Papers*, (Oxford, 2008), 315-320.

<sup>7</sup> Rhodri Jeffreys-Jones, *The CIA and American Democracy*, (New Haven, 1998), 9.

for the investigations' proposed reforms. It was the failure of the Ford administration to take public opinion into account that gave Congress the initiative and led to the creation of the permanent Senate Select Committee on Intelligence and a restriction in executive power.

## 1.2 National Dissatisfaction

During the Year of Intelligence, the newly-elected Ninety-Fourth Congress was determined to continue the work of the Watergate Committee. The election of the Congress had occurred only three months after the resignation of President Richard M. Nixon. As a result of such a political atmosphere, some of the new members saw it as their responsibility to curtail the overreach of the executive branch. Ford, himself a Representative for twenty-five years, described some of the members as 'far out ones' and was certainly aware of the difficulties that a congressional enquiry could pose the relatively new administration.<sup>8</sup> The Ninety-Third Congress had already taken action by passing the Hughes-Ryan Act in December 1974, an amendment to the Foreign Assistance Act of 1961. This restricted the use and finance of covert operations and required the president to report operational details to Congress. In addition, Hughes-Ryan also called for the number of committees overseeing the intelligence community to increase from four to six. The Act had effectively given Congress greater control over the intelligence community and greater influence over some national security issues in which the executive was hitherto dominant. Spurred on by its success during Watergate, Congress was disinclined to ease back in its challenge to presidential power. The executive branch's intelligence agencies seemed a natural target for Congress's ire.<sup>9</sup>

The Ford administration required a strategy that had the public's support to deal with the threat to its power. Ford had to convince both the public and Congress that he was acting as a conduit of the electorate. Public support for Ford's actions would stifle any congressional interference in intelligence and give credibility to Ford's own proposals to deal with the intelligence community. Consequently, the Year of Intelligence developed into a battle between the executive and legislative branches for the American public's endorsement of their respective intelligence community reforms. The American public's confidence in its government was particularly low in early 1975. At the start of the Year of Intelligence Congress's approval rating stood at a mere 32%, a drop of 3% on the figure for August 1974.<sup>10</sup> The nation's distrust of the government had been instigated by

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<sup>8</sup> Memorandum of Conversation, 9.18am -10.18am 7 Jan. 1975, (Box 8, Memoranda of Conversations - Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, [GRFPL])

<sup>9</sup> Olmsted, *Challenging the Secret Government*, 46-7.

<sup>10</sup> Data from <http://www.gallup.com/poll/28456/congress-approval-rating-matches-historical-low.aspx>

the executive branch's role in the Vietnam War and further fuelled by Watergate. Such feelings had not gone unnoticed by the political establishment. During the planning for the 1976 celebrations the Bicentennial Commission noted that American society was showing a 'disillusionment of a majority of people and a distrust of their political leaders.' The Commission continued by stating that such distrust was caused by 'the trauma of American society and government.'<sup>11</sup> Ford spoke of the mood of the nation at the commencement of his Presidency, in particular the 'tension and bitterness that existed throughout the United States.'<sup>12</sup> Successfully defending executive authority with the public's support proved difficult for Ford under such testing circumstances. Such complications were heightened by the Ford administration's lack of effective political management for most of the Year of Intelligence. For the first nine months of the crisis the administration acted in a reactionary way to the public disclosures of the intelligence community's misdemeanours.

Ford was adamant that further control would not be relinquished to Congress through the congressional enquiries. The potential congressional investigations were perceived by the Ford White House as a continuation of the attack on executive authority that had been conducted over the previous decade. Ford's initial objective was to quash any call for congressional enquiries into the Hersh allegations by playing down the issue. In order to avoid escalating the accusations made by Hersh, Ford was advised not to hold an extraordinary press conference but to take questions in 'the normal press conference manner.' In addition, there was a necessity to ensure that the public remained confident in the CIA. This would be achieved by assuring the public that any disciplinary action had been taken within the CIA, and to assure the public that Ford had control of current CIA activities.<sup>13</sup> His concern about ensuring the functionality of the agency was highlighted when he told Richard Helms that 'the CIA is essential to the country. It has to exist and to perform its functions.' Not only did he consider the agencies essential to the security of the nation, but he was aware of the power and mood of the Ninety Fourth Congress, telling Helms that 'I plan no witch hunt, but in this environment I don't know if I can control it.'<sup>14</sup>

In an interview with Walter Cronkite on CBS television, the President appealed to the nation's pride in being a world leader. Ford said that the CIA's ability to conduct covert operations was an essential tool of American foreign policy. An ineffective CIA, Ford said, would be 'like tying a

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<sup>11</sup> 'A Bicentennial Commission on American Government', August 26 1975, (Box 4, "Bicentennial (2)", James M. Cannon Files, GRFPL)

<sup>12</sup> Thomas M DeFrank, *Write It When I'm Gone: Remarkable Off-The-Record Conversations with Gerald R. Ford* (New York,, 2007), 101.

<sup>13</sup> Memorandum, Henry Kissinger to Donald Rumsfeld, 'Public Handling of New York Times Allegations of CIA Domestic Activities', 23 December 1974 (<https://www.cia.gov/library/readingroom/document/loc-hak-424-4-3-3>)

<sup>14</sup> Memorandum of Conversation: Allegations of CIA Domestic Activities 12.37pm – 1.00pm, 4 January 1975, (Box 8, Memoranda of Conversations - Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977)

President's hand behind his back in the planning and execution of foreign policy.' It was impossible, Ford argued, to 'compete in this very real world if you are just going to tie the United States with one hand behind its back and everybody else has got two good hands to carry out their operations.'<sup>15</sup> The public concerns reflected those he shared in private with his National Security Adviser and Secretary of State, Henry Kissinger. Both Ford and Kissinger agreed that the enquiries could potentially damage both the Presidency and the agency. Kissinger suggested that the furore and subsequent intrigue in the press and potential congressional enquiries could lead to a CIA that 'does only reporting and not operations.'<sup>16</sup>

The President and Kissinger also shared the same concern that CIA Director William Colby could be a potential weak link. Kissinger had supported the appointment of Colby as Director of Central Intelligence because he felt him to be 'a political nonentity who could be controlled' and 'someone who would carry out orders even when they went against his principles.'<sup>17</sup> However Colby believed 'the new political atmosphere... demanded full attribution and public accountability' and saw his role as pivotal in 'bringing intelligence out of the shadows.'<sup>18</sup> Consequently, Kissinger thought Colby was 'a disgrace' and that once the investigation was over he should be replaced by 'someone of towering integrity.'<sup>19</sup> With such uncertainty surrounding the intelligence community, Ford needed to ensure that the CIA avoided censure by Congress, and that the executive branch retained its vice-like grip on the various intelligence agencies.

### 1.3 Creating the Rockefeller Commission

Ford saw the Rockefeller Commission as the solution to his troubles. After deliberating on the Hersh story during the Christmas period, Ford issued Executive Order 11828 on January 4, 1975 and created the presidential commission. The order stated that the Commission's function was to 'ascertain and evaluate any facts relating to activities conducted within the United States by the Central Intelligence Agency.' The enquiry was to decide whether the agency had acted beyond its statutory limits set by the National Security Act of 1947. Furthermore, it was to decide whether the agency had enough statutory regulations to ensure that it did not exceed its authority.<sup>20</sup> While the executive order stated the very public objectives of the Commission, Ford had further reasons to call

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<sup>15</sup> Transcript of interview with Walter Cronkite, 21 April 1975, found in *Dept of State Bulletin*, 12 May 1975, Vol. LXXII, No 1872

<sup>16</sup> Memorandum of Conversation, 9.40am -12.20am 4 January 1975, (Box 8, Memoranda of Conversations - Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

<sup>17</sup> Randall B. Woods, *Shadow Warrior: William Egan Colby and the CIA* (New York, 2013), 362.

<sup>18</sup> Colby and Forbath, *Honourable Men*, 376.

<sup>19</sup> Memorandum of Conversation 9.40am – 12.20pm, 4 January 1975

<sup>20</sup> Gerald R. Ford: 'Executive Order 11828 - Establishing a Commission on CIA Activities Within the United States,' 4 January 1975.

the enquiry: to ensure the executive control of the intelligence community, to protect the agency from the potential disclosures.

Throughout the Year of Intelligence, the Commission's findings and recommendations remained central to the Ford administration's strategy to deal with the threat to the executive's control of the intelligence community. The Commission, however, was a PR disaster from start to finish and tested Ford's promise to follow his 'instincts of openness and candour with full confidence that honesty is always the best policy in the end.'<sup>21</sup> The President's claims of administrative transparency were damaged by a lack of a unity. The executive branch had Ford at its centre, but vying for influence were factions that consisted of Ford's former congressional staff, his Vice-Presidential staff, remnants of Nixon's White House staff, and those appointed by Ford after he had become President. Ron Nessen, Ford's second Press Secretary, said that the White House 'had all these different factions and there were a lot of rivalries.'<sup>22</sup> Such competition hindered the White House from adopting a single tactic to combat the congressional enquiries. The Ford administration failed to convince the American public that it was acting on its behalf because it was unable to formulate an organised strategy until September 1975. Ford hoped that establishing the Rockefeller Commission would be seen as assertive and acting in the public interest and enough to stop Congress initiating an enquiry of its own. Instead, Ford and the Rockefeller Commission were seen as condoning the CIA's alleged illegal activities and conspiring to cover up any other further misdemeanours.

Criticism of the Commission from Congress and the press began as soon as the members were announced and continued until the Commission's recommendations were implemented in February 1976. Ford appointed Rockefeller not just because of his expected loyalty to both the administration and the CIA but because he had 'the knowledge, the prestige, and the background to do the job.'<sup>23</sup> Former Attorney General Nick Katzenbach supported the Commission because it would 'conduct hearings on a less partisan basis' than a congressional enquiry, but their doubts were raised about the political make-up of the Commission.<sup>24</sup> These concerns were voiced from the beginning from both the press and politicians. White House Chief of Staff Donald Rumsfeld drily called the panel 'a little Republican and Right', but the Commission's critics were not so diplomatic. Senator

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<sup>21</sup> Gerald R. Ford: 'Remarks on Taking the Oath of Office,' 9 August 1974. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=4409>

<sup>22</sup> Ron Nessen Interviewed by Richard Norton Smith, Oral History Interview, January 28, 2009, Gerald R. Ford Oral History Project.

<sup>23</sup> Memorandum of Conversation, 'Allegations of CIA Domestic Activities', 5.25pm – 7.05pm 4 January 1975 (Box 8, Memoranda of Conversations - Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

<sup>24</sup> Seymour Hersh, 'Ford Names Rockefeller to Head Inquiry into CIA', *New York Times*, 6 January 1975.

Richard Schweiker (R-PA) doubted whether a panel 'dominated by those orientated to government and the military-intelligence establishment' could be truly objective and independent.<sup>25</sup> Charging that Rockefeller's appointment as chair 'left something to be desired', Senator William Proxmire (D-WI) questioned whether the panel was capable of 'vigorous, adversary, critical analysis of CIA activities.'<sup>26</sup> The American public mirrored such disappointment with Ford's appointment of Rockefeller as chair. In a Harris survey in February 1975, only thirty-five per cent of those questioned agreed that Ford had taken the right action. In addition, forty-three per cent thought that it would be a whitewash, with one plant manager from Springfield, Massachusetts, quoted as saying, 'I wouldn't be surprised if they tried to cover all this up just like Watergate.'<sup>27</sup>

Congresswoman Bella Abzug (D-NY) accurately asserted that the panel was a 'conservative collection of bankers, corporate official and a former chief of staff [who] have never shown any concern for civil liberties.'<sup>28</sup> The eight-man Commission consisted of Erwin Griswold, a seventy-year old former Dean of Harvard Law School; sixty five year old investment banker C Douglas Dillon; seventy five year old former chairman of the Joint Chiefs of Staff Lyman L Lemnitzer; sixty year old John T Connor, director of the Chase Manhattan Bank; sixty year old former president of the University of Virginia Edgar F. Shannon; fifty two year old Lane Kirkland, secretary-treasurer of the American Federation of Labor and Congress of Industrial Organisations; sixty three year old former governor of California Ronald Reagan; and sixty six year old Commission chairman Vice President Nelson Rockefeller. It was a not a panel filled with youthful vigour aimed at protecting citizens' rights.

The press recognised the conservative ideology of the Commission members and raised doubts of its independence from the Ford administration. The *Washington Post* brought into question the objectivity of the panel members, citing Rockefeller's membership of the President's Foreign Intelligence Advisory Board (PFIAB), former solicitor General Erwin Griswold's arguing of the government's case against the publishing of the Pentagon Papers, and Edgar Shannon's connection to former CIA director James Schlesinger.<sup>29</sup> Columnist Joseph Kraft called it 'wrong in age, experience and political bias' and suggested that Ford had 'missed a precious opportunity' to reassure the nation.<sup>30</sup> The *New York Times* labelled it a 'heavily interconnected group' with its Chairman at the centre and the CIA as a mutual interest of some. Kirkland was a board member of the Rockefeller

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<sup>25</sup> Carroll Kirkpatrick, 'White House Defends CIA Probe Panel', *Washington Post*, 6 January 1975.

<sup>26</sup> Harold M. Schmeck Jr., 'Leaders in Congress Say Own Hearings Will Go On', *New York Times*, 6 January 1975; Seymour Hersh, 'CIA Told to Curb Activities Abroad', *New York Times*, 7 January 1975.

<sup>27</sup> Louis Harris, 'CIA Commission: Another Cover-Up?', 13 February 1975, (Box 48, President Ford Committee – Research Office Gallup, GRFPL)

<sup>28</sup> Seymour Hersh, 'CIA Told to Curb Activities Abroad', *New York Times*, 7 January 1975.

<sup>29</sup> George C Wilson, 'Vice President to Head Study of CIA Spying', *Washington Post*, 6 January 1975.

<sup>30</sup> Joseph Kraft, 'A Sad Commission', *Washington Post*, 7 January 1975.

Foundation and a member of the National Commission on Critical Choices for Americans, a think tank created by Rockefeller in 1973. In addition, Connor was a director of the Chase Manhattan Bank which was an enterprise of the Rockefeller family. Lemnitzer, in his role as Joint Chief of Staff, would have had CIA briefings on a daily basis, while Dillon, chairman of the Rockefeller Foundation, had previously been part of a Cabinet-level group that reviewed the CIA's activities.<sup>31</sup> Such connections flew in the face of Ford's Press Secretary Ron Nessen's statement that the panel had been chosen because they were 'respected citizens who had no former connection with the CIA.'<sup>32</sup>



**Figure 1: William Colby testifies to the Rockefeller Commission.  
(Courtesy of the Gerald R. Ford Presidential Library)**

*New York Times* columnist Tom Wicker wrote that it looked 'suspiciously like a goat set to guard a cabbage patch' and questioned whether the Commission would 'really dig into the agency's operations and history.' In addition, he said that there had been no talk by Rockefeller of protecting the rights of Americans, instead 'the problem seems to be to convince them there is no problem.'<sup>33</sup> Further questions were asked about the Commission's mission in a *New York Times* editorial. Ford had tasked the Commission to question whether the CIA had 'exceeded its statutory authority.'<sup>34</sup>

<sup>31</sup> Anthony Ripley, 'Views and Background of Ford Commission Investigating the CIA', *New York Times*, 14 January 1975.

<sup>32</sup> Seymour Hersh, 'Ford Names Rockefeller to Head Inquiry into CIA', *New York Times*, 6 January 1975.

<sup>33</sup> Tom Wicker, 'A Blue Ribbon Goat', *New York Times*, 7 January 1975.

<sup>34</sup> Gerald R. Ford: "Statement Announcing Establishment of a Commission on CIA Activities Within the United States," January 4, 1975. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*.

<http://www.presidency.ucsb.edu/ws/?pid=4838>

According to the *New York Times* such an investigation was beyond the legal scope for what it termed an *ad hoc* commission. Instead, the newspaper said that the Commission should judge whether the statutory safeguards in place were strong enough.<sup>35</sup> Nevertheless members of Congress raised doubts whether the Commission could ‘accomplish much in its ninety-day life.’<sup>36</sup>

Public interest in the enquiry was piqued by sensational press reports surrounding the Commission’s investigation. Newspaper coverage intensified as the Commission interviewed former CIA directors Richard Helms and James Schlesinger. In January 1975 alone, the *New York Times* ran sixteen front-page reports that covered the allegations, enquiry and the CIA, while the *Washington Post* had twelve intelligence-based front-page stories. And the interest was not restricted to the east coast – the *Los Angeles Times* had over thirty reports and editorials that covered issues associated with the Year of Intelligence. Such public interest flew in the face of the Ford administration’s efforts to perform a damage limitation exercise. The majority of the Commission’s hearings were held in executive session to avoid leaking of information to the press. Such security caused the press to query the sincerity of the enquiry and endorsed public fears of an executive whitewash.

Further difficulties in gaining the public’s support were caused by divisions within the Ford administration. The lack of a unified strategy during the Year of Intelligence was underlined by the difference in approach to transparency between CIA Director Colby and Ford’s inner circle. Colby felt that the time had come for the agency to work with the investigations in a new age of accountability and congressional oversight. His belief that ‘salvation lay in cooperation’ caused him to become an issue to the Ford administration, and to cause a schism in the agency between those who agreed with him and those who felt that secrecy was the watchword.<sup>37</sup> Colby was essentially an agency man through and through and willing to do what was right for the agency to be more effective. His readiness to reveal what the agency had done since the Second World War was seen by the Ford administration as damaging to the administration. Colby’s eagerness to comply with the enquiry’s demands had the potential to destroy the CIA and portray the United States as ‘the laughing stock around the world.’<sup>38</sup> Rockefeller took him aside after his second appearance before the Commission asking him, ‘Bill, do you really have to present all this material to us?’ Colby interpreted this as the administration’s disapproval of his reluctance to draw the ‘cloak of secrecy around the agency in the name of national security.’<sup>39</sup> While interest for the Commission, as expressed through the press,

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<sup>35</sup> ‘Investigating the CIA’, *New York Times*, 7 January 1975.

<sup>36</sup> Carroll Kirkpatrick, ‘White House Defends CIA Probe Panel’, *Washington Post*, 6 January 1975.

<sup>37</sup> Daniel Schorr, *Clearing the Air* (Boston, 1977), 151.

<sup>38</sup> Memorandum of Conversation: Allegations of CIA Domestic Activities 5.25pm -705pm, 4 January 1975.

<sup>39</sup> Colby and Forbath, *Honourable Men*, 400.

seemed to be evident, what little amount there was of the public's backing for the Commission threatened to desert when the subject of assassinations developed.

#### 1.4 The Rockefeller Commission at Work

At a White House luncheon for editors of the *New York Times* on January 16, Ford was asked whether the Rockefeller Commission was credible. Ford answered that the panel members were chosen because he needed people who would stick to the remit to avoid damaging the interest of the nation and sully the legacy of every post-war president. When asked what could be discovered, Ford answered 'like assassinations!' The editors agreed to keep the president's confidence, but *CBS* journalist Daniel Schorr investigated the matter further.<sup>40</sup> On February 28, Schorr appeared on the *CBS Evening News* and revealed that the CIA was linked to the assassinations of several foreign leaders. When Schorr's report was broadcast, the Rockefeller Commission became a poisoned chalice for the administration. Assassination of political figures was a sensitive and emotive subject in the United States. The idea that the United States government had become involved in assassinations was repugnant to the general public. Tom Wicker stated that public confirmation of US involvement in assassination of foreign leaders would 'shock the American people, stain the reputations of numerous past presidents, and raise difficult problems of international relations.'<sup>41</sup>

Ford was placed in a quandary. He had been informed by CIA Director William Colby of the assassination plots in January, what the press called an 'oral addendum' to the Family Jewels report.<sup>42</sup> Ford was aware of the various presidential administrations that were implicated, including the Kennedy administration's attempts to assassinate Fidel Castro. If Ford ordered the Commission to investigate the assassination accusations and it revealed the Kennedy link then he would have been accused of leading a partisan witch-hunt. 'If I start leaking it Kennedy will look a martyr,' Ford told Secretary of State and National Security Adviser Henry Kissinger.<sup>43</sup> To do nothing would have only damaged the relationship between the executive and the American public even further. Instead, Ford ordered the Commission to investigate the domestic implications of any assassination plots without committing itself to including its findings in its final report.

The Commission prefaced the report with the acknowledgement that a strong intelligence community to support foreign policy was essential. Furthermore, it stated that 'the great majority of the CIA's domestic activities comply with its statutory authority' but that it had 'engaged in some

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<sup>40</sup> Daniel Schorr, *Clearing the Air* (Boston, Mass., 1977) 143-146.

<sup>41</sup> Tom Wicker, 'Big Brother At Hand', *New York Times*, 2 March 1975.

<sup>42</sup> 'Colby Oral Fill-In to Ford on Assassination Reported', *New York Times*, 5 March 1975.

<sup>43</sup> Memorandum of Conversation, 2.00pm 5 June 1975, (Box 12, Memoranda of Conversations - Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

activities that should be criticized and not be allowed to happen again.<sup>44</sup> The activities which the report claimed were unlawful and unconstitutional were in part caused by the ambiguous nature of the 1947 National Security Act. Nonetheless, the agency had not rested on its laurels since recognising its errors and had acted accordingly to terminate its unlawful programmes compiling the report that became known as the 'Family Jewels.' The agency's programme at the centre of Hersh's headline and the cause of the inquiry was Operation Chaos. It had been initiated at the request of Lyndon Johnson who had become increasingly frustrated with the anti-Vietnam War movement and protests. In part, it was because of the failure of the FBI's counterintelligence programme that had begun in 1965 whose objective was to neutralise the movement. In addition, it also came to happen because Johnson completely misunderstood the nature of the protestors. The generation gap was never more evident than during the Vietnam War. Johnson only saw communist-driven subversion instead of young Americans exercising their basic right of protesting against their government.<sup>45</sup>

At the heart of the matter was the agency's collation of files on over 300,000 US citizens and organizations as part of its investigation into foreign influence on domestic dissident activities. Operation CHAOS lasted from October 1967 to 1974 spanning both the Johnson and Nixon administrations. The information had been collected through infiltration of groups by its members or specially recruited individuals. As part of the process of information gathering, domestic intelligence was inadvertently gathered, said the report. In October 1967, the agency's initial surveillance report stated that there were no foreign connections to the dissident groups. The White House, unhappy with such observations, demanded further studies. Persistent requests from the White House for detailed information on possible foreign intelligence links led the agency to increase the number of agents and recruits. As demand increased so did the temptation for senior agency officials to 'stretch and, on some occasions, to exceed its legislative restrictions.'<sup>46</sup> The Johnson administration were provided with further reports in December 1967 and September 1968, while the Nixon White House had reports delivered in February and June 1969, and repeatedly from 1969 onwards.

The CIA gathered a variety of intelligence through infiltration of the groups by paid informants, domestic intelligence disseminated from the FBI, and electronic telecommunications acquired through the intelligence gathering of 'another agency of the government.'<sup>47</sup> As a result, the CIA built up a computerised index of over three hundred thousand Americans – every citizen mentioned in any of the intelligence reports was entered into the records. In addition, intelligence

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<sup>44</sup> *Rockefeller Report*, 10.

<sup>45</sup> Rhodri Jeffreys-Jones, *The FBI* (New Haven, 2007), 173.

<sup>46</sup> *Rockefeller Report*, 132.

<sup>47</sup> *Rockefeller Report*, 142-144. Although the other 'agency of the government' is not named, it is likely to be the National Security Agency and its Project Minaret as discovered by the Church Committee.

was gathered and collated on groups and organisations in any way affiliated with domestic dissent. Groups such as Students for a Democratic Society (SDS), American Indian Movement (AIM), the Black Panther Party (BPP) and the Women's Liberation Movement were all part of an index that consisted of almost one thousand organisations.

The compartmentalised nature of the agency and the extreme secrecy surrounding Operation CHAOS meant minimal disclosure. Only Director Richard Helms and those working on individual projects were aware of the nature of their intelligence operation. To add to the secrecy and reduction in the possibility of leaks, the information was disseminated to a very small number. But as the number of projects grew during the Nixon administration so did the number of agents working on the Operation and consequently there was an evolution of dissent towards working on domestic intelligence activities by concerned agents. Helms wrote in an internal memo to agency staff that CHAOS was a 'legitimate counterintelligence function of the agency' and that it would continue in December 1972.<sup>48</sup>

The Commission found that the agency had operated beyond its statutory regulations with regards to certain aspects of Operation CHAOS. While it believed that the agency had to collect information on domestic dissidents to evaluate foreign influences it argued that the amount gathered was found to have 'exceeded what was reasonably required to make such an assessment and was thus improper.'<sup>49</sup> It believed that the agency's compartmentalisation and the Operation's independent standing within the agency had allowed it act to without rebuke from senior officers. In a thinly veiled attack on the lack of congressional oversight it stated that 'the absence of any review of these activities prevented timely correction of such missteps as did occur.'<sup>50</sup>

Operation CHAOS was not the agency's only domestic activity to be unearthed by the Commission. The Commission also investigated a Mail Intercept Program that was run in conjunction with the Postmaster General's office and the FBI. This programme was an interception of mail between the United States and communist countries as part of the Cold War struggle against Communism. The Commission pointed out that the CIA was aware that such an operation was illegal but considered the opportunity to gather this intelligence too valuable to be missed. The operation was run from four locations – New York, San Francisco, New Orleans and Hawaii. Information was gathered from the envelopes or 'covers' of over two million letters that were processed by the New York office. A total of 8700 items were opened and had their contents analysed. Once again, a watch list provided by the CIA and FBI determined as to whose mail was opened.

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<sup>48</sup> Richard Helms, CIA Memo, 5 December 1972, found in the *Rockefeller Report*, 147.

<sup>49</sup> *Rockefeller Report*, 149.

<sup>50</sup> *Rockefeller Report*, 25.

Despite running for over two decades between 1952 and 1973, 'no evidence could be found that any briefing of any President occurred.'<sup>51</sup> Ultimately, the Commission found that 'while in operation, the CIA's domestic mail opening programmes were unlawful.'<sup>52</sup> Not only had the agency acted unlawfully, it had acted unconstitutionally. The Fourth Amendment protected against unreasonable searches, while the vast scope of the New York operation raised doubts that the First Amendment rights of American citizens had been affected. Furthermore, the actions that it had taken in conjunction with the FBI had meant that it had participated in domestic policing, strictly against its statutory regulations in the 1947 National Security Act. However, its mail cover operation was deemed lawful when operating within postal guidelines as it concerned national security.

Such an excuse could not be given for the agency's testing of mind-altering drugs on US citizens. This revelation has been judged to be the Commission's 'most explosive revelation.'<sup>53</sup> As early as the late 1940s the Science and Technology Directorate of the agency had reacted to reports of Soviet testing of mind-control drugs and had begun its own operations. In 1953, its attention turned to the use of LSD and army trainees were unsuspectingly given LSD as part of an agency experiment. Initially the tests were in strictly supervised conditions with a doctor in attendance, but in 1955, tests were taken on subjects placed in 'normal social situations.'<sup>54</sup> One subject, an army employee, was unknowingly administered the drug in 1953 and developed serious side effects. While in New York getting psychiatric treatment under the supervision of the agency, he died as a result of jumping from a tenth-floor window. Nonetheless, it was not until 1963 that the agency's Inspector General raised questions over the validity of testing on unsuspecting subjects. Testing was continued by the agency until 1967 but only on voluntary subjects.

Further agency indiscretions highlighted by the Commission included various activities undertaken at the request of the White House. Most notable amongst these were the provisioning of covert equipment to the organiser of the Watergate break-in, Howard Hunt, and the creation of a psychological profile of activist and analyst Daniel Ellsberg, both of which were done for the Nixon administration. The equipment given to Howard Hunt was used in the Watergate break in, although the Commission was satisfied that the Agency had no part in the break in. The agency was merely following the instructions of the White House, ignorant that they were abetting illegal activities. The creation of the profile on Ellsberg, who had published the Pentagon Papers criticising the US involvement in the Vietnam conflict, had involved breaking into the office of Ellsberg's psychiatrist.

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<sup>51</sup> *Rockefeller Report*, 111.

<sup>52</sup> *Rockefeller Report*, 115.

<sup>53</sup> Olmsted, *Challenging the Secret Government*, 84.

<sup>54</sup> *Rockefeller Report*, 227.

Such activity was 'highly improper' and 'not one connected to the CIA's proper area of responsibility.'<sup>55</sup> However, the Commission absolved the agency of some of the blame, stating that it was done at the insistence of the White House in the name of national security.

The Commission's recommendations were markedly supportive of both the White House and the agency. Ultimately, said the Commission, the CIA had overstepped its statutory limitations because of ambiguities that 'deprived the agency of a means of resisting pressures to engage in activities which now appear to us improper.'<sup>56</sup> An amendment to the 1947 National Security Act would clearly define the role of the agency as dealing solely with foreign intelligence. By doing so, it would erase any temptation that the executive branch may have in asking it to act on domestic matters. Furthermore, it would embolden the agency into declining requests from the White House to act on improper matters.

Internal structural reform within the agency was recommended by the Commission, in particular that the DCI should be a person of 'stature, independence and integrity' from outside the CIA.<sup>57</sup> Although it did recommend the creation of a Joint Intelligence Committee to provide congressional oversight, it also suggested that CIA oversight could be maintained through an expansion of the PFIAB. Intelligence oversight by this body, created by President Eisenhower in January 1956, would maintain presidential authority over the CIA without further reference to Congress. The newly reformed PFIAB would be a professional full-time panel. Its promoted role would essentially undermine Congress's call for increased accountability. Indeed, Congress was criticised for not fulfilling its role as overseer of the intelligence community. In a surprise move the Commission did suggest that Congress should consider revealing some part of the agency's budget, which had previously been secret. In doing so, the Commission was placing the demand for secrecy surrounding the CIA at the feet of Congress.

### **1.5 Public Reaction to the Rockefeller Commission**

Support for the Commission dissipated when the report was published as it failed to disclose the findings it had made on the assassination plots. Instead of reassuring the public that the panel had done a thorough job, it reinforced the public's suspicions of an executive branch whitewash. Suspicions of a presidential cover-up were first raised because the Commission had deleted the chapter involving the assassination plots, and secondly because Ford refused to release the report to the public until he had reviewed it. The advice from the Commission's Public Affairs Director Peter R.

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<sup>55</sup> *Rockefeller Report*, 185.

<sup>56</sup> *Rockefeller Report*, 12.

<sup>57</sup> *Rockefeller Report*, 18.

Clapper was to publish the partial findings on the assassinations. Failure to do so would 'be viewed as a cover-up and cast doubt upon the remainder of the report.'<sup>58</sup> Clapper had earlier warned David Belin, the Commission's Counsel, that 'considerable public distrust' surrounded the objectivity of the Commission. 'Like it or not' he wrote 'we are engaged largely in a public relations job.'<sup>59</sup> The Commission prepared two drafts of a section on the assassination claims, but neither was included in the final report. As Clapper predicted, this became a public relations disaster for the Ford administration. On CBS morning news programme Frank Church suggested that the Rockefeller Commission could 'either deal with the (assassination) issues or duck it' and that the omission of any assassination investigation in the final report meant 'they decided to duck it.'<sup>60</sup> Despite Ford's release of the censored version of the report on June 10, public interest in the alleged assassination plots increased. Colby observed that the assassination plots had meant that 'there was no stopping the press or Congress now.'<sup>61</sup> Ford publicly hoped that the congressional committees would use 'utmost prudence in how they handle the material' gathered by the Commission in its own investigations.<sup>62</sup>

Criticism of the Commission's report was divided. Ford was happy with the enquiry, but he worried 'that Congress seemed determined to take over the act.'<sup>63</sup> The *New York Times* gave extensive coverage to the report's findings, calling it a 'trenchant, factual and plain-spoken document.'<sup>64</sup> Even Tom Wicker stated that the Commission did not content itself with 'merely confirming charges already made' but 'went beyond them to disclose other misdeeds.'<sup>65</sup> *The New York Times'* judgement condoned the White House investigation and justified its own extensive coverage of the intelligence scandal that started back in December.<sup>66</sup> The Commission failed to satisfy the public's demands or instil a newfound confidence in the CIA. The *Washington Star* stated that it presented 'nothing in the way of substantial new revelations' and that it appeared 'to walk the fine line that he [Ford] obviously wanted: to conduct an investigation that appears satisfactory but not one that would impair the CIA.'<sup>67</sup> Furthermore, it claimed that 'the report's job was to facilitate judgement', and that it failed to convince the public that the Commission's 'own norms of judgement

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<sup>58</sup> Peter Clapper to David Belin, Public Affairs Consideration in Deleting Assassinations Findings, 29 May 1975, (National Security Archive, George Washington University)

<sup>59</sup> Peter Clapper to David Belin, Public Affairs Consideration in Report, 2 May 1975, (Box 23, David W. Belin Papers, GRFPL)

<sup>60</sup> Frank Church, *CBS Morning News*, 5 June 1975, reported in Fred Barnes & Orr Kelly, 'Ford Gets Report on CIA', *Washington Star*, June 6 1975.

<sup>61</sup> Colby and Forbath, *Honourable Men*, 410.

<sup>62</sup> Gerald R. Ford, 'The President's News Conference', 9 June 1975. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=4979>

<sup>63</sup> Gerald R. Ford, *A Time to Heal: the autobiography of Gerald R. Ford* (New York, 1979), 265.

<sup>64</sup> 'Operation Chaos', *New York Times*, 11 June 1975.

<sup>65</sup> Tom Wicker, 'The Rocky Report: Better Than Expected', *New York Times*, 13 June 1975.

<sup>66</sup> Olmsted, *Challenging the Secret Government*, 84.

<sup>67</sup> James R. Dickenson, 'CIA Panel Treads Fine Line Between Revelation and Sympathy', *Washington Star*, 11 June 1975.

were sound.’ It was equally damning of the CIA, stating that ‘it was never going to be cleaned. The more we learn about it, the more despicable it appears.’<sup>68</sup> The *New York Times* suggested that the Commission ‘sought to minimise the sinister nature of what happened and to stress the failure of the system.’<sup>69</sup> Even Commission staff members, such as Peter Clapper, called it ‘a hurry, hurry job.’<sup>70</sup> The *Washington Post* was also divided on its opinion of the Commission: columnist Joseph Kraft stated that the report ‘only proves the need for more serious enquiry’; while an editorial ran that ‘the report is a clear summons to professionalism in intelligence and respect for Americans’ rights.’<sup>71</sup>

Congress found fault with the report even though Senator Hugh Scott (R-PA) stated that ‘it does not pull punches.’ Senate Majority Leader Mike Mansfield, a long-time critic of the CIA and a keen supporter of the Church Committee, thought that the final report did not go far enough.<sup>72</sup> Representative Joe L Evins (D-TN) said the failure to publish the findings on the assassinations meant that there were still concerns over a cover-up. ‘Many feel that this is the most important part of the report and investigation and should have been released to the American people,’ he said on the floor of the House.<sup>73</sup> Edward E Roybal (D-CA) suggested that Operation CHAOS was ‘but a small part of the CIA’s illegal domestic intelligence surveillance operation’ and that if Congress adopted the Commission’s suggestion for oversight then it had to ensure that it not be ‘brainwashed by the mentality that currently pervades information-gathering agencies.’<sup>74</sup> In the Senate, it was suggested that the CIA was to blame and that Congress had to exert its authority. ‘Unless Congress acts to establish accountability, no amount of fact finding is worth a damn,’ said Senator Lowell Weicker (R-CT), adding that the US intelligence community had ‘treated our citizenry more like an audience than as participants in the Government.’<sup>75</sup>

The perceived disingenuous effort by the Commission did not assuage any fears that the American public had over the intelligence community. Such perceptions were accurate: as early as January, the expectation was that there would be two reports, described by Kissinger as ‘a highly classified one which is a careful analysis of the domestic activities, and a public one which is more general.’<sup>76</sup> A Commission that was sincere in its efforts could have been used to heal the wounds that had contributed towards the divide between the electorate and the executive. But the Ford

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<sup>68</sup> Garry Will, ‘Abolish the CIA: It’s The Only Cleansing’, *Washington Star*, 13 June 1975.

<sup>69</sup> ‘A Call To Adjustments’, *New York Times*, 15 June 1975.

<sup>70</sup> Austin Scott, ‘Report on CIA Called A Rush Job’, *Washington Post*, 20 July 1975.

<sup>71</sup> Joseph Kraft, ‘Our Intelligence Apparatus,’ *Washington Post*, 10 June 1965; ‘The Rockefeller Report and the CIA’, *Washington Post*, 11 June 1975.

<sup>72</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 18523.

<sup>73</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 19128.

<sup>74</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 19095.

<sup>75</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 18282.

<sup>76</sup> Memorandum of Conversation, ‘Allegations of CIA Domestic Activities’, 5.25pm – 7.05pm 4 January 1975.

administration's mismanagement of the Commission led to the Commission being counterproductive in terms of affecting public opinion. The disappointment expressed in the press and Congress was a reflection of the nation's opinion of the Commission's final report; the whole investigation and the administration had failed to act as the public wished. The *Washington Post* said simply that Ford had given 'the wrong mandate to the wrong commission' and that it left a need for a 'more serious enquiry.'<sup>77</sup>

## 1.6 Thwarting Congress

The Rockefeller Commission failed to stop the creation of congressional enquiries. The partisan make-up of the panel suggested to both political commentators and the general public that it was part of an executive branch cover-up. The failure by Ford to include the assassination data in the final report undermined the entire report and raised further suspicions of a whitewash. Finally, the recommendations of the Commission were dismissed as increasing in size the cloak of secrecy which the executive branch could work within. The prospect of the damage that the congressional enquiries could do to the executive's control of the intelligence community meant that Ford had to adapt his approach. The administration adopted a two-pronged attack: firstly, the White House aimed to control the flow of classified information made available to both the House and Senate enquiries so as to stymie their effectiveness. And secondly, the recommendations of the Rockefeller Commission would be encapsulated within an executive order to negate any congressional attempts at reform.

In an effort to gain public support, the Ford administration and the intelligence agencies publicised concerns of potential leaks from within the congressional committees. The claims would not only enable them to restrict supply of classified information to the investigators, but also portray the executive branch as the solely reliable keeper of sensitive information relating to national security. The White House could have cited executive privilege on classified documents, therefore, making them unavailable to the congressional committees. However, to do so would give further credence to the public's perception that there was something to hide. The initial tactic was that those due to testify before the congressional enquiries such as Colby were to insist on doing so in to the poor security arrangements of the congressional enquiries. The same could be said of any information held within the documents supplied to the congressional committees. But, as Kissinger pointed out to Colby and Acting Attorney General Laurence Silberman, the risk of secrets being revealed was that it could have damaged American foreign policy, either as portraying the US as 'too

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<sup>77</sup> Joseph Kraft, 'Our Intelligence Apparatus', *Washington Post*, 10 June 1965.

dangerous to cooperate with', or too incompetent to ally to. Silberman's solution was initially to give 'less sensitive information' to the enquiries 'so if it leaks we aren't hurt that much.'<sup>78</sup>



**Figure 2: Gerald R. Ford and Henry Kissinger greet Sen. Frank Church and Sen. John Tower at the White House. (Courtesy of the Gerald R. Ford Library)**

Any leaks from the congressional enquiries would have enabled Ford to use executive privilege and deny the release of future documents, but withholding the documentation had the potential to damage the reputation of the administration. Internal National Security Council memos had recognised that the Rockefeller Commission was being branded a white wash by the press. The White House was fearful of refusing to provide classified information to the Church Committee; such reluctance could have been interpreted as part of an executive branch cover-up.<sup>79</sup> Unfortunately for the Ford administration, the internal security within the Senate's enquiry was outstanding. Salvation for the White House's hopes of congressional mismanagement of classified information came in the actions of the House enquiry, better known as the Pike Committee. The failure of the Pike Committee to portray itself to the American public as a facilitator of national security significantly contributed to

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<sup>78</sup> Memorandum of Conversation, 'Investigation of Allegations of CIA Domestic Activities' 10.36am -11.33am 20 February 1975, (Box 9, Memoranda of Conversations - Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

<sup>79</sup> Les Janka to General Scowcroft, Public Affairs Handling of Rockefeller Commission Report on CIA, 27 May 1975, (Box 1, Outside the System Chronological File 5/27/75 Folder, NSA Advisor Outside the System Chronological File, GRFPL)

the Ford administration's strategy. It was the public's apathy and disdain towards the House committee that rendered its enquiry, findings and recommendations ineffectual.

The House committee failed to entirely win over the public throughout its existence. The lack of support from American citizens was because the public image of the inquiry lurched from being one of apparent indifference to one of uncompromising zealotry. The Pike Committee had originally been commonly known under a different name – the Nedzi Committee after its chairman Lucien Nedzi, the Democrat Representative for Michigan's 14<sup>th</sup> District. The House investigation had been established on February 19, 1975, to investigate 'the collection, analysis, use, and cost of intelligence information and allegations of improper activities of intelligence agencies in the United States and abroad.'<sup>80</sup> However several parties brought Nedzi's chairmanship into question, in particular that of his seemingly reluctant attitude to actually do anything. On May 2 the American Civil Liberties Union (ACLU) urged Nedzi to hasten the staff appointments to the committee or to resign from his post. ACLU executive director Aryeh Neier stated in a letter to House Speaker Carl Albert (D-OK) that he doubted the capability of 'the House of Representatives to oversee and investigate the Central Intelligence Agency.'<sup>81</sup> Nedzi's response was to appoint Searle Field as staff director on May 13 albeit three months after the committee's formation. The delay had not been caused by the slow pace of the chairman, but by his attempt to gain a consensus among the committee for the appointment. By gathering consensual support for the hiring of staff members Nedzi was hoping to 'eliminate any taint that the committee might become partisan or affected by predilections on the subject.'<sup>82</sup>

The public's demand for a balanced thorough investigation appeared to be ignored by the House investigation. This was underlined by a damaging accusation from the *New York Times* on June 4. The article revealed that Nedzi had been informed of illegal CIA activities a year earlier when chair of the House Armed Services Committee's Special Subcommittee on Intelligence. The article claimed that Nedzi's failure to inform the House or call for an investigation would 'impair his ability to conduct a thorough and objective investigation of the CIA'.<sup>83</sup> When the other Democrat committee members confronted Nedzi about this they demanded his resignation. When Nedzi refused to resign the members turned to House Speaker Carl Albert to depose him. When Albert also refused to cede to the dissenting members Nedzi compromised by creating a subcommittee that would focus solely on the CIA. Nedzi's appointments to the subcommittee, however, came under question and soon the healed rift reopened. At the heart of the matter lay the differences in the way that Nedzi and his

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<sup>80</sup> United States House of Representatives, House Resolution 138, 94<sup>th</sup> Congress, 'Resolution establishing a Select Committee on Intelligence', 4 February 1975.

<sup>81</sup> 'ACLU Charges Intelligence Enquiry By the House Lags', *New York Times*, May 3, 1975.

<sup>82</sup> Lucien Nedzi, Interview, 9 February 1983, quoted in Smist, *Congress Oversees*, 151.

<sup>83</sup> Nicholas M. Horrock, 'Nedzi Is Said To Have Kept House In Dark on CIA Violations', *New York Times*, 5 June 1975.

colleagues saw as the way to go forward. Nedzi favoured increased congressional oversight and accountability, but he felt that advertising the failures of the intelligence community was counterproductive. Nedzi offered to quit the House investigation, stating in the House debate over his proposed resignation that to remain as chairman would be as ‘an accomplice to a charade.’ Nedzi felt that to display the intelligence agencies’ failures to the world were damaging to the US’s international standing. He accused his committee members who favoured a reveal-all method as leading a demonstration of ‘national self-flagellation.’<sup>84</sup>

Nedzi’s resignation was refused, although the House stated its intention to have a chairman who had the confidence of the entire House. Some members felt that by doing so they showed the support of a friend and respected member; others agreed that not all of the intelligence community’s secrets should be ‘spread upon the public print for enemies, as well as friends to be read.’<sup>85</sup> Other members simply felt that those objecting to Nedzi’s chairmanship were disturbing House procedures in an unruly fashion. The House voted 290 to 64 to reject Nedzi’s resignation and by doing so hamstrung the investigation. The members of the committee were determined to prove that such an investigation was necessary and fought against an effort to disband the committee. Instead a compromise was made in the form of a larger reconstituted committee under a new chairmanship. On the 17 July, the House voted to disband the Nedzi Committee and created a new committee under House Resolution 591 to ‘conduct an inquiry into the organisation, operations, and oversight of the intelligence community of the United State Government.’<sup>86</sup>

## 1.7 The Failure of the House Investigation

Chosen to be chairman of the newly-established House enquiry was moderate Democrat, Representative Otis Pike of New York. Pike’s appointment as chairman was greeted with general approval by the press that was looking for the new chairman to take the initiative in the House enquiry. He had served his country in the Second World War as a pilot and was a supporter of the Vietnam War. He had been a member of the Armed Services Committee and had been recently appointed to the Ways and Means Committee. The *New York Times* called him one of the wittiest members of Congress and praised his investigative skills citing his House subcommittee investigation into the seizure of the US intelligence ship *Pueblo* by North Korea in 1969.<sup>87</sup> Likewise, the *Washington Post* labelled him ‘an independent-minded legislator who has won respect for previous

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<sup>84</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 19054.

<sup>85</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 19058.

<sup>86</sup> United States House of Representatives, House Resolution 591, 94<sup>th</sup> Congress, ‘Resolution establishing a Select Committee on Intelligence’, 17 July 1975.

<sup>87</sup> Richard L. Madden, ‘Investigator with Wit’, *New York Times*, 17 July 1975.

investigations he has conducted.<sup>88</sup> In stark contrast to the reverence paid by Nedzi to the institutions that he was investigating, Pike was combative, aggressive and focused on efficiency. What meagre success the committee had in investigating the intelligence community was down to Pike's management ability, but the committee's failure to gain public support was due to his dogmatic, uncompromising style.

Pike's committee had increased in size from the ten members of Nedzi's committee to thirteen members comprising nine Democrats and four Republican representatives. Removed from the committee's membership were Nedzi and intelligence critic Michael Harrington, as well as California Democrat Don Edwards who requested to be allowed to leave. Seven of the ten original Nedzi Committee members survived the cull to continue under Pike. To avoid concerns by the press and the public that the enquiry was to be a whitewash Speaker Albert and Majority Leader Thomas 'Tip' O'Neill (D-MA) purposefully chose Democrats who were mostly ideologically liberal. Les Aspin (D-WI) was one such member described by the *New York Times* as a 'frequent critic of Defence Department spending and procurement policies.'<sup>89</sup> The committee members were questioned over their commitment to the investigation, with one Nedzi Committee investigator stating that the members 'were not of good quality and did not give the committee enough time.'<sup>90</sup>

Within two weeks of taking control of the committee Pike had retained Searle Field as staff director, appointed Aaron Donner as general counsel, and scheduled the first committee hearings to be held on July 31. The committee's staff members were initially unified and bipartisan in nature, but fractures soon appeared, and according to one staff member: 'we Republicans viewed it [the Pike Committee] as a damage-limiting operation. We worked with the White House to coordinate strategy.'<sup>91</sup> Behind closed doors, the Ford administration recognised the support it had received from Republican committee member, Representative Robert McClory (R-IL). McClory's continuous attempts to stall the committee's investigation led to the executive gaining more time to formulate a plan on how to handle the release of classified information.<sup>92</sup> The staff of the committee's dedication to the task set before them though has since been criticised by some of its opponents. Colby's special counsel, Mitchell Rogovin, suggested that they were 'immature and incompetent' and unhelpful towards Pike.<sup>93</sup>

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<sup>88</sup> 'The House Inquiry into the CIA', *The Washington Post*, 20 July 1975.

<sup>89</sup> John M. Crewdson, 'A New Spy Panel Is Voted By House', *New York Times*, 18 July 1975.

<sup>90</sup> Confidential Interview in Smist, *Congress Oversees*, 144.

<sup>91</sup> Confidential Interview in Smist, *Congress Oversees*, 168.

<sup>92</sup> Memorandum of Conversation, National Security Conversation, 'Energy, Arms Embargo on Turkey, Sinai Agreement, and Handling of Intelligence Material in Congress, 24 September 1975, (Box 8, NSC Press and Congressional Liaison Files, GRFPL)

<sup>93</sup> Mitchell Rogovin, Interview 28 January 1983, in Smist, *Congress Oversees*, 154.

Despite a committee of questionable quality and a team of staff that were partisan and unhelpful, Pike managed to keep the committee remarkably focused on the task in hand. Rather than be distracted by the Family Jewels issues, Pike maintained the attention of the committee on the value of the intelligence community. Specifically, Pike asked, how effective were the various agencies? Were they value for money? Were they doing as they were supposed? The committee's members agreed that the major function was to ensure the United States had 'a more efficient and a better intelligence community.'<sup>94</sup> As Smist rightly observes, of the three enquiries of the Year of Intelligence they were the only ones to decide their own agenda.<sup>95</sup> Both the Rockefeller Commission and the Church Committee were drawn to the high-profile issues that appeared in Hersh's expose. Not so with the Pike Committee, which continuously emphasized their belief of acting on behalf of the public. Ranking minority member McClory stated that it was essential the intelligence community received 'public support and public confidence.'<sup>96</sup>

The theme of acting in the public interest was prevalent throughout the Pike Committee. Pike's insistence that the majority of hearings were done in open session is testimony to this. This is in sharp contrast to that of the Rockefeller Commission. Disclosure, revelation and accountability were the watchwords of the committee. Committee member Ronald Dellums (D-CA) told Colby in a public hearing that the intelligence community were 'accountable to the American people in a free and open society.' Colby reluctantly agreed.<sup>97</sup> Pike was particularly aggressive in his questioning of executive branch and intelligence community leaders. He justified this by saying that 'all we are trying to do is tell the public.'<sup>98</sup> Pike stated while arguing with Assistant Attorney General Rex Lee that the same transparency in government had to apply to the executive branch: 'the public has a right to know that the executive branch freely discusses within itself what happens in congressional executive sessions.'<sup>99</sup> Pike's insistence on transparency was commendable but such an outlook led to difficulties for the committee with both the executive branch and the intelligence community.

The House enquiry into the intelligence community had a tempestuous relationship with the Ford administration. In an effort to assess the community's efficiency, the Pike Committee had investigated some of the intelligence community's failures. The Yom Kippur War between Egypt and

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<sup>94</sup> House Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.1, *Intelligence Costs and Fiscal Procedures*, Hearings, 94<sup>th</sup> Cong., 1<sup>st</sup> sess., July 31, August 1, 4, 5, 6, 7, 8, 1975, 2.

<sup>95</sup> Smist, *Congress Oversees*, 154.

<sup>96</sup> House Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.1, *Intelligence Costs and Fiscal Procedures*, 3.

<sup>97</sup> House Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.1, *Intelligence Costs and Fiscal Procedures*, 170.

<sup>98</sup> House Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.2, *The Performance of the Intelligence Community*, 94<sup>th</sup> Cong., 1<sup>st</sup> sess., September 11, 12, 18, 25, 30, October 7, 30,31, 1975, 632.

<sup>99</sup> House Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.2, *The Performance of the Intelligence Community*, 665.

Israel in 1973 was one of six instances examined by the committee. The complete inadequacy of the CIA was clear for the committee to see in the agency's own post-mortem of events. Under the leadership of Otis Pike, the committee had adopted a transparency that was alarming to the intelligence community. The public hearings held as early as July were a contrast to what had been almost exclusively executive sessions of the Church Committee. The chairman's decision to ally accountability and openness was never more evident than when the committee decided to publish the six-page summary of the post-mortem.

Initially, the CIA and the White House wanted to classify five paragraphs of the report. The CIA argued that such inclusion would disclose the agency's sources and methods, although the committee felt that the classification was the CIA's attempt to not make the agency look incompetent. The five paragraphs were negotiated with CIA counsel Mitchell Rogovin to fourteen words, but the committee refused to concede to the agency's demands to delete 'and greater communications security' from the report. Pike believed it revealed the true extent of the agency's inefficiency, while Rogovin expressed that such inclusion would disclose the sources and methods of collecting US foreign intelligence. Despite the demands of the executive branch the committee published the report including the four words. The debate went from executive session to the public forum. Assistant Attorney General Rex Lee told the committee that not only would it receive no more classified information, there would also be no further testimony involving classified information from White House or agency officials. Furthermore, the committee was instructed to return all secret documents until Pike agreed to withhold classified information unless authorised by the White House. Pike appeared on *Face the Nation* suggesting that the Supreme Court would agree that 'the public has a more overriding interest to know than the executive has an overriding interest to keep secret.'<sup>100</sup> This attempt to justify the committee's position over the declassification was also a thinly-veiled attempt to gain the public's support in the dispute.

The White House retaliated at a question and answer session in San Francisco. Ford stated that there had been 'no reluctance on our part to give to that committee all of the requested intelligence information.' The issue, Ford said, was 'how they have to use it for the legislative purpose for which the committee was established.'<sup>101</sup> The committee's decision to publicise the classified information was unnecessary for it to function, Ford argued. The disclosure of the four words supported the administration's assertions that it was the more competent protector of

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<sup>100</sup> Otis Pike, *Face the Nation*, CBS Television Network, 28 September 1975, Washington.

<sup>101</sup> Gerald R. Ford: "Remarks and a Question-and-Answer Session at a Luncheon Meeting of the World Affairs Council in San Francisco" 22 September 1975. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=5273>

national security. The doubts surrounding the committee's internal security escalated when the Pike Committee challenged Kissinger's management and protection of State Department employees. After being refused access to a critical memo written by State Department officer Thomas Boyatt, the Pike Committee was informed that junior officials would not be allowed to testify before the investigation. In private, Kissinger believed Boyatt to be 'a notorious leaker' and was worried that such officials could use an appearance before the committee to promote themselves at the expense of their seniors.<sup>102</sup> This 'would wreck the Foreign Service,' Kissinger said. 'It is like McCarthy going against people who can't defend themselves.'<sup>103</sup> Kissinger wrote to Pike and stated that his refusal to provide the Boyatt memo was because it would be 'destructive of the decision-making process' of the State Department.<sup>104</sup>

In an effort to turn public opinion against the Pike Committee, Kissinger was determined that the allusion of McCarthyism would be permanently associated with the committee. Kissinger looked to his career-long contacts and supporters in the press to assist him. The Pike Committee's criticism of withholding classified documents allowed Kissinger to publicly attack the congressional enquiries for the first time. The *New York Times* columnist and Kissinger ally James Reston suggested that Pike's demands violated 'the principle of responsibility', ignored the separation of powers, and threatened to make the government's orderly conduct 'even worse than it now is.'<sup>105</sup> The *Washington Post* called Kissinger's analogy to the witch hunts of the 1950s 'a relevant one' and agreed that public accountability would 'expose sub-policy-level officers to public attack for advice they had offered confidentially.'<sup>106</sup> A *New York Times*' editorial stated that the committee's demands were 'contrary to the national interest.'<sup>107</sup> The committee, initially lauded by the press as working on behalf of the public, was damned as being out of touch and overly zealous. It left Pike, in the words of Ford, 'grasping at straws.'<sup>108</sup> The public reputation of the House committee had been shredded by Kissinger's press contacts and crisis management. The Church Committee's reputation was also damaged by the attacks, although not as badly as that of the Pike Committee. The Pike Committee had given the Ford administration the tools it required to justify executive privilege.

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<sup>102</sup> 'Meeting with President', 13 October 1975, (Box 11, Meeting with President 10/13/75 Folder, Michael Raoul-Duval Papers, GRFPL)

<sup>103</sup>Memorandum of Conversation, 2.14 – 5.05pm 13 October 1975, (Box 16, Memoranda of Conversations – Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

<sup>104</sup> Letter, Henry A. Kissinger to Otis G. Pike, 14 October 1975, (Box 18, Robert Anderson Papers, GRFPL)

<sup>105</sup> James Reston, 'Chairman Pike's Pique', *New York Times*, 1 October 1975.

<sup>106</sup> 'Mr Pike's Committee', *Washington Post*, 6 October 1975, 10.

<sup>107</sup> 'Neo-McCarthyism?', *New York Times*, 19 October 1975, 294.

<sup>108</sup> Memorandum of Conversation, 9.30am 21 November 1975, (Box16, Memoranda of Conversations – Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

When Kissinger appeared before the committee on October 31, he did so on his own terms and fully prepared. The lack of interrogative ability among the committee members meant that Kissinger easily kept them at arm's reach. The event, caught on television, belittled the committee and supported the executive's reasoning that the enquiry was not in the public interest. Kissinger offered to give an amalgamated version of the Boyatt Memorandum and the committee reluctantly agreed. The beating in front of the cameras and the offer of a compromise by Kissinger led to the committee voting against Pike's request for a subpoena on the original Boyatt Memorandum. The committee did later subpoena Kissinger for documents relating to his role as National Security Advisor, a role which he had been removed from by Ford at the end of October. In response the White House simply said that there had been no replacement appointed and invited the committee members to view the documents at the White House rather than giving them into the committee's care. The committee's authority was being publicly eroded. In the press, the committee was said to have ignored the 'ways in which responsible standing committees can and do gain access 'to classified material, and that it had invaded 'the legitimate powers of the office of the Presidency.'<sup>109</sup>

The committee was ridiculed and weakened further by the embarrassing series of events surrounding the publication of its report. It started with an internal dispute over the revelation of classified information. The question was whether the agreement with the White House to not reveal classified information without the White House's authorisation stretched as far as the final report. Pike suggested it did not and was willing to go against the Ford administration. McClory argued that the revelations were unnecessary to 'make the kind of positive and constructive recommendations for improving the intelligence community.'<sup>110</sup> It was not a partisan argument either – Democrat committee member Dale Milford of Texas stated that the report did not 'accurately reflect the testimony that has been received either in open session or executive session', and went so far as to say that it was 'not a product of this committee.'<sup>111</sup> The final vote to include the classified information in the report was 8-4 in favour, and finally on January 23, thirteen months after the Hersh article appeared in the *New York Times*, the committee voted 9-4 to publicise the report.

Sections of the report had leaked to the press before it had been finalised. The committee and Pike in particular were mindful of the need to finish before the deadline and an extension was needed to allow minority members to write their report which Pike sought at the Rules Committee. The Rules Committee, mindful of the bad press that the leaks had been getting gave Pike their

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<sup>109</sup> 'Mr Pike Goes Too Far', *Washington Post*, 19 November 1975, 14.

<sup>110</sup> House Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.2, *Committee Proceedings II*, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., January 20, 21, 23, 26, 27, 28, February 3, 4, 5, 10, 1976, 2045.

<sup>111</sup> House Select Committee on Intelligence, *US Intelligence Activities and Activities*, pt.2, *Committee Proceedings II*, 2047.

consent on the condition the report was authorised by the President first. Pike took the case to the floor of the House. He explained to members that it was a matter not of exerting authority over the executive branch but establishing Congress as an equal in government. Pike explained to the House that by supporting such a condition to the extension request, the House was allowing the executive branch to keep secret whatever it did not want to be made public. Those arguing against the unapproved publication included committee member McClory. While some members argued that it was a security risk, McClory was stating that the House would be renegeing on an agreement with the White House. The condition was upheld by a vote of 246 to 124.

In the meantime, Ford and his administration debated the possibility of taking Pike and his committee to court to stop the publication. However, Attorney General Edward Levi advised against suggesting that the courts would see it as a political issue and therefore not justifiable. The concern was that the public would misunderstand the ruling and believe it was in favour of the committee. Furthermore, it was favourable to the executive that 'the Pike Committee go out of existence as soon as possible' and a court case would merely prolong the issue.<sup>112</sup> The White House need not have worried: rather than allow the Ford administration to censor the report, the Pike Committee decided not to publish their report. After the vote, Ford stated that the American public shared his views, telling reporters that 'the vote shows that House members recognise that the American people want a strong and effective foreign intelligence capability.'<sup>113</sup>

Despite the committee's decision not to publish the report, it did not stay secret for long. CBS journalist Daniel Schorr had managed to get a copy through his contacts on the committee and felt that Congress had been 'manipulated into deciding to suppress information.'<sup>114</sup> Schorr felt it his duty to get the report published and sought help from CBS who advised him to look for a book deal. Instead through various contacts the *Village Voice* offered to publish it. On February 11, 1976, the day after the Pike Committee's final public session, the Pike Report finally became public through a twenty-four-page spread in the *Voice*. The White House and Congress were furious with the leak and investigated immediately. Schorr was unearthed as the provider of the report and was castigated by the press and by the House Ethics Committee. Press reaction to Schorr was surprisingly harsh. The *New York Times* stated that 'the counterproductive and rash of leaked reports and premature

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<sup>112</sup> Attorney General Memorandum to the President, Advisability of Suit to prevent publication of the House Select Committee Report, 26 January 1976, (Box C34, Presidential Handwriting File, GRFPL)

<sup>113</sup> Gerald R. Ford: "Statement Following House of Representatives Vote on the Release of the Report of the Select Committee on Intelligence" 29 January 1976. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=5911>

<sup>114</sup> Schorr, *Clearing the Air*, 195.

disclosures' had created 'doubts about the capacity of Congress to discharge its vital supervisory mission.'<sup>115</sup>

By focusing on the leak rather than the report the press had turned the public's attention away from the Pike investigation. The focus had drifted from the dangers of hidden power within the report to the attempt at transparency within the federal government that had been interpreted by the press and the executive branch as harmful to the nation. The executive branch leapt on the opportunity that had presented itself and suggested that national security was in danger. Ford offered to help Congress find Schorr's source by putting the FBI at the Speaker's disposal to emphasize the perilous situation. Schorr's publication of the report had vilified the Rockefeller Commission and increased public support of the White House.

### 1.8 The Intelligence Coordinating Group

The Ford administration did take a proactive approach during the Year of Intelligence when it attempted to encapsulate the Rockefeller Commission recommendations in a policy that would be supported by the American public. This strategy manifested itself in the operations of the Intelligence Coordinating Group (ICG). George Gallup commented that Ford's attempts to gain public support for the Rockefeller Commission were due to his ignorance of public opinion; sixty-four per cent of the American public believed the nation would be better off if he 'followed the views of the public more closely.'<sup>116</sup> A lack of a coordinated response prior to September hindered Ford's attempts to gain public support. Ford had been urged to adopt several strategies at the start of the enquiry: Brent Scowcroft had suggested that 'an informal coordination' between himself, Colby and Buchen would be sufficient and that Scowcroft and Buchen would recommend a more formal organised effort if necessary.<sup>117</sup> Kissinger recommended an *ad hoc* committee under the chairmanship of Colby which he believed would be an 'adequate mechanism' for dealing with the requests from the investigating committees.<sup>118</sup> There was no singular coordinated response and Dick Cheney remarked as late as March that the executive branch had 'no clear guidelines, no coherent policy developed for responding to congressional requests generated by this investigation of the intelligence community.'<sup>119</sup> The draft plan for the ICG reasoned that such a strategy was essential because there

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<sup>115</sup> 'How to Reform CIA', *New York Times*, 30 January 1976.

<sup>116</sup> George Gallup, 'Gallup Poll Surveys', 21 October 1975, (Box 2 Foster Chanock Files, GRFPL)

<sup>117</sup> Brent Scowcroft to the President, 'Recommendation of Admiral Anderson Concerning the White House Role in the Intelligence Investigations', 14 February 1975, (Box 4, Robert C. McFarlane Files, GRFPL)

<sup>118</sup> Henry A. Kissinger to the President, Meeting with the Secretary of Defence, 28 March 1975, (Box 4, Robert C. McFarlane Files, GRFPL)

<sup>119</sup> Richard Cheney, 'Investigation of the Intelligence Community' Handwritten Note, Undated, (Box 6, Intelligence – Congressional Investigations (1) Folder, Richard Cheney Files, GRFPL)

was 'very little control over the intelligence investigation within the administration' which was 'affecting the pace of activity.'<sup>120</sup>

Ford created the Philip Buchan-led group to unite the fractured administration behind a single strategy 'coordinating our response to matters dealing with the intelligence community.'<sup>121</sup> The ICG met on a daily basis as a countervailing measure to the congressional enquiries in effort to win the public's support. In addition, it was to realise the recommendations of the Rockefeller Commission as a coherent policy that would meet public approval. Between September and December of 1975, the group met with Ford on a twice-weekly basis. Its focused efforts allowed Ford to concentrate more on other issues that Ford had to deal with, such as the energy and inflation crises that plagued the economy and were of great concern to the nation. Disagreements between various offices were commonplace during the three-month long discussions, even between such parties as the President's Foreign Intelligence Advisory Board (PFIAB) and the President himself. Ford was adamant that the PFIAB was only to have an oversight function and no management responsibilities.<sup>122</sup>

It was essential that the ICG maintained Ford's position of apparent cooperation with the enquiries while protecting the operations of the intelligence communities. The group recognised it as a 'fragile balance' and spoke of the threats that the committee's open hearings would have on Ford's position.<sup>123</sup> The group's efforts manifested itself in an executive order that was ready at the end of December. However, the order was held back until February 19, 1976, undermining the Church Committee's final report which was published just two months later. Executive Order 11905 aimed to instil reform of the intelligence community, thus making the Church Committee's report redundant.

Whilst the Rockefeller Commission's recommendations were markedly supportive of both the White House and the agency, Executive Order 11905 was ultimately protective of the executive branch's constitutional power. It was an act of both defiance to Congress's attempt to usurp the executive's authority over the intelligence community, and an effort to undermine the Church Committee's own as yet unreleased investigation and recommendations. It was not entirely dismissive of some of the publicised issues that had been raised in the previous fifteen months, but neither was it wholly supportive of intelligence community reform. Its clauses were built on the

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<sup>120</sup> Mike Duval to Jack March, 'Draft Plan for Intelligence Coordinating Group' Memo, 23 October 1975, (Box 57, Intelligence Coordinating Group – Draft Plan Folder, James E Connor Files, GRFPL)

<sup>121</sup> Gerald R Ford, White House Memo, 19 September 1975, (Box 57, Intelligence Coordinating Group - General Folder, James E Connor Files, GRFPL)

<sup>122</sup> 'Detailed Agenda', Undated, (Box 57, Intelligence Coordinating Group – Meeting with President 10/13/75 Folder, James E Connor Files, GRFPL)

<sup>123</sup> Meeting With the President, 13 October 1975, (Box 57, Intelligence Coordinating Group – Meeting with President 10/13/75 Folder, James E Connor Files, GRFPL)

Rockefeller Commission's recommendations but shaped by the Church Committee's investigation. As a result, it was defensive in nature of the perceived attacks on its authority and consequently failed spectacularly to take into account the wishes of the public or Congress.

There were significant areas of difference between the executive order and the Rockefeller Commission recommendations. The Rockefeller inquiry had stated that the CIA had overstepped its statutory limitations because of ambiguities that 'deprived the agency of a means of resisting pressures to engage in activities which now appear to us improper.'<sup>124</sup> A solution the Commission suggested was an amendment to the 1947 National Security Act that would clearly define the role of the agency as dealing solely with foreign intelligence. By doing so, it was to erase any temptation that the executive branch may have had in asking it to act on domestic matters. Furthermore, it would embolden the agency into declining requests from the White House to act on improper or legally dubious matters. The executive order, however, ignored the Commission's suggestion to reform the Act and underlined the ambiguity, stating that the agency was to carry out 'special activities ... as may be directed by the President or the National Security Council.'<sup>125</sup> The executive order made no reference to Congress or its assumed constitutional responsibilities towards oversight. Instead, it recommended a three-man body in the executive branch that would oversee any instances of impropriety. The members were to be appointed by the President and 'be qualified on the basis of ability, knowledge, diversity of background and experience.'<sup>126</sup> Revealingly the members of the new Intelligence Oversight Board would not be restricted from also serving on the PFIAB. In effect it was suggesting that the fox should be guarding the henhouse.

Ford's attempt to turn the Rockefeller Commission's recommendations into policy failed to gain public support. The ICG had fulfilled its brief and had produced an executive order that was similar to the Rockefeller Commission's recommendations whilst bridging the divide between factions within the administration. The reaction to the executive order was one of disappointment and disaffection because the administration had misread national demands for structural reform within the CIA as hollow. Instead Ford's proposed reforms were seen as self-serving and protective of presidential control of the intelligence community. The *New York Times* columnist Anthony Lewis labelled it as 'a blueprint for more secrecy, greater executive power and less congressional oversight' and that 'thorough analysis would require a lawyer's brief.'<sup>127</sup> In an editorial, the *Washington Post* called it a 'modernisation of a law that went on the books 25 years ago.' In addition, the *Washington*

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<sup>124</sup> *Rockefeller Report*, 12.

<sup>125</sup> Executive order 11905, 18 February 1976, Sec 4, (b), (4)

<sup>126</sup> Executive order 11905, 18 February 1976, Sec 6, (a), (1)

<sup>127</sup> Anthony Lewis, 'In Sheep's Clothing', *New York Times*, 19 February 1976.

Post highlighted that the legislation missed any clause on allowing junior officers to reveal 'information concerning illegal or unauthorised activities.'<sup>128</sup> Representative Richard Ottinger (R-NY) bluntly called it 'fundamentally deficient.'<sup>129</sup> The ICG had failed to protect the intelligence community from intrusive congressional oversight, as within a week the senate had voted to investigate the creation of a permanent intelligence committee.

## 1.9 Ford and Public Opinion

Division within the executive branch caused Ford's misreading of the public's desire for wholesale intelligence reform. The lack of unity and leadership culminated in the failure of Ford and his advisers to understand fully the complex fluctuations of public opinion. The contradictions of the Ford administration are highlighted no better than in the President's own views on public opinion. Ford distrusted the accuracy of opinion polls, which proved problematic. The decision to pardon Richard Nixon caused his Ford's Presidential Job Approval rating to plummet and underlined the need to consult various sources of opinion before making policy decisions. Despite stating that his customary policy was to 'get all the facts and to consider the opinions of my countrymen and to take counsel with my most valued friends,' Ford did no such thing. Instead, he made the decision without referring to public opinion and with the counsel of just five advisers. Despite being told by legislative assistant Bob Hartman that his popularity will suffer 'because the public won't understand,' Ford decided in favour of the pardon.<sup>130</sup> He trusted his own judgement of the American public, declaring as he announced Nixon's pardon that 'I cannot rely upon public opinion polls to tell me what is right.'<sup>131</sup> Ford was happy for it to be known that his policy decisions were based on what he thought was 'best for the country and not based on opinion polls.'<sup>132</sup> Even on a subject as precarious as Vietnam Ford was more inclined to ignore opinion polls and act in the way he believed was 'in our national interest.'<sup>133</sup>

Ford's advisers, however, did consult opinion polls, although they were not used for policymaking decision processes. Staff, such as Bob Hartmann, reassured Ford that 'public opinion polls should not affect your thinking.' Instead, said Hartmann, polls were 'relevant to the public's perceptions of your actions and of your overall leadership.'<sup>134</sup> Foster Chanock, assistant to both

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<sup>128</sup> 'The President's Secrecy Legislation', *Washington Post*, 23 February 1976.

<sup>129</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121 4126

<sup>130</sup> Ford, *A Time to Heal*, 162.

<sup>131</sup> Gerald R. Ford: "Remarks on Signing a Proclamation Granting Pardon to Richard Nixon," 8 September 1974. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=4695>

<sup>132</sup> Ron Nessen, White House News Conference, 26 December 1974, (transcript found in Box 4, Ron Nessen Files, GRFPL)

<sup>133</sup> Memorandum of Conversation, 12.42pm – 1,20pm 27 January 1975, (Box 8, Memoranda of Conversations – Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

<sup>134</sup> Robert Hartmann to Gerald Ford, 'Tax Cut Bill', 28 March 1975, (Box C17 Presidential Handwriting File, GRFPL)

White House Chiefs of Staff Donald Rumsfeld and Richard Cheney, believed that the polls indicated that the office of the presidency had suffered from ‘a loss of faith and respect.’ Chanock wrote to Cheney stating that ‘like jilted lovers, the American public seem reticent to give their whole-hearted support to the President’ and called for ‘a major Presidential statement’ to rectify the situation.<sup>135</sup> For many analysts the best example of such a measurement was the Presidential Job Approval Ratings as supplied regularly by Gallup.<sup>136</sup> Even the Republican National Committee offered polling as one of its political services, calling it ‘one of the newest services of the Research Division.’ Furthermore, it spoke not of policy surveys but ‘the reliance of campaigns on poll and survey data.’<sup>137</sup>

It was during the 1976 nomination and the presidential campaigns that Ford’s team used polls extensively. Among analysts in 1975, it was believed that ‘the candidate who stands highest in national opinion has the best chance of winning both the state primaries and the presidential nomination.’<sup>138</sup> The campaign prioritised making Ford appeal to a wider audience than just the Republican core voters. Regularly taken surveys were analysed to ensure that Ford ticked all the necessary boxes. But it failed at the national level for two major reasons – poor sampling and the increasing power of television. The administration had issues with incorrect sampling during the polls that caused a misinterpretation of public opinion. The data’s interpretation was fine, it was just the data source was poor and illustrated the problems of using a singular source of opinion.<sup>139</sup> Secondly, despite being warned of television’s potential influence on his campaign, Ford decided to debate Democratic Party candidate Jimmy Carter live on air. Bob Mead had suggested that ‘the President should not have to debate another candidate.’<sup>140</sup> It was portentous advice as Ford famously declared in the second debate that ‘there is no Soviet domination of Eastern Europe and there never will be under a Ford administration.’<sup>141</sup> Despite being offered an opportunity to correct himself, Ford remained loyal to what he said.

Throughout the Year of Intelligence, Ford ignored the few polls that assessed attitudes towards the investigations, looking elsewhere for indicators of what might be perceived as public opinion. Despite an initially favourable response from the press, Ford disliked its seeming

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<sup>135</sup> Foster Chanock to Dick Cheney, ‘The Status of the Presidency’, 25 November 1975, (Box 2, Foster Chanock Files, GRFPL)

<sup>136</sup> James A Stimson, ‘Public Support for American Presidents: A Cyclical Model’, *Public Opinion Quarterly*, 40 (1976), 1-21.

<sup>137</sup> Republican National Committee, *Catalogue of Political Services*, (Box 29, Republican National Committee – Catalog of Political Services Folder, John Marsh Files, GRFPL)

<sup>138</sup> James R. Beniger, ‘Winning the Presidential Nomination: National Polls and State Primary Elections 1936-1972’, *Public Opinion Quarterly*, 40 (1976), 22-38.

<sup>139</sup> ‘Initial Reaction to Sindlinger Visit’, Dave Gergen to Mike Duval, 20 September 1976. (Box 8, Opinion Polls Folder, David Green Files, GRFPL)

<sup>140</sup> ‘The Role of Radio and Television in Political Campaign’, Bob Mead to Dick Cheney and Donald Rumsfeld, 19 June 1975, (Box 3, Helen Collins Files, GRFPL)

<sup>141</sup> Second Debate Transcript, 6 October 1976, found at Commission on Presidential Debates, online at <http://www.debates.org/index.php?page=october-6-1976-debate-transcript> (accessed 20 January 2017)

inability to empathise with the president, causing Ford to call the many political journalists as ‘Monday morning quarterbacks’ – only able to give the solution to any problem with hindsight. He felt put under a great deal of pressure from the press. ‘Unfair public pressure tactics,’ such as those used by editorials in the press, ‘are the wrong way to convince me,’ he said in May 1975.<sup>142</sup> Ford called the media’s commentary during his first month ‘the kind of press coverage that every politician wants but almost never gets.’<sup>143</sup> He was depicted as a character that Ford, the press and the nation wished for - the Ordinary Joe profile that the papers gave him.

The public image of Ford was damaged by his poor rhetorical ability. The dull rather than inarticulate speeches meant that he failed to win the press and public over with dynamism in the way that his predecessors had. The hiring of professional comedy writer Robert Orben as speechwriter was met with derision by the White House press corps.<sup>144</sup> The lack of sophistication either in his speech or his lifestyle was not a creation to reinforce falsely the image of President Jerry, but a true representation of a down-to-earth guy swept along by the tide of events. However, the failure to dazzle the public and press with his oratory or celebrity status meant that media unfairly portrayed him as being unintelligent and obsessed with sports. *Saturday Night Live*, enjoying its first season on *NBC* television in October 1975, broadcast a number of sketches involving Chevy Chase cast as the president. Such was the viewers’ accepted consensus of Ford’s ineptitude that Chase did not need to bother dressing up to depict Ford as fumbling and accident-prone. Nessen’s appearance on the show and Ford’s recording of the now iconic announcement of ‘Live from New York, it’s Saturday Night!’ were attempts to portray the administration as being in on the joke. Ford later wrote that the teeth marks on his pipe stems were testimony to how angry he really was with the depiction.<sup>145</sup>

As an alternative to the press and opinion polls, Ford was influenced by two contrasting areas – the political elite and the man in the street. Despite the media’s representation of Ford as clumsy, he was a politician to the core and understood clearly how Washington worked. Furthermore, he was suspicious of those from outside the Beltway’s political community.<sup>146</sup> He was re-elected to the House of Representatives twelve times between 1948 and 1972 and was a part of the political establishment. Ford was comfortable with speaking to all of his cabinet, although he later revealed that he felt that he and Schlesinger failed to click. ‘He was the one that I was not

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<sup>142</sup> National Security Council Meeting, 15 May 1975, (National Security Advisor’s NSC Meeting File, GRFPL)

<sup>143</sup> Gerald R. Ford, *A Time to Heal*, 178.

<sup>144</sup> White House Press Conference, 21 January 1976, (transcript found in Box 16, Ron Nessen Files, GRFPL)

<sup>145</sup> Gerald R. Ford, *Humour and the Presidency*, (New York, 1987), 48-49.

<sup>146</sup> Iwan Morgan, *Reagan: American Icon* (London, 2016), 116.

comfortable with,' he said, adding 'he was a talented guy, but we just didn't fit.'<sup>147</sup> Ford's cabinet contained a plethora of significant contributors to subsequent administrations, including Dick Cheney, Donald Rumsfeld, Alan Greenspan and Brent Scowcroft, and Ford was happy to take their advice over that of opinion polls and the press.

During his Presidency, Ford looked to the advice of Secretary of State and National Security Adviser Henry Kissinger more than any other. Kissinger had numerous daily meetings with Ford advising him on foreign policy and how to combat the threat of the congressional enquiries. The public saw Kissinger's involvement in the Ford administration as a continuation of the Nixon regime. Kissinger was the consummate politician ensuring his own survival, telling Ford, 'I must mention Schlesinger... He is so devious. He rarely tells you or us the real or full truth.' Sensing the opportunity to influence Ford further Kissinger made Schlesinger's faults a personal attack on Ford: 'your problem is executive authority. He should be supportive.'<sup>148</sup> It reinforced Ford's own opinions of Schlesinger and assured his removal from the cabinet in October 1975. Kissinger constantly reassured Ford over his decision to pardon Nixon, informing Ford that the public increasingly welcomed it, advising Ford that he was 'acting decisively and doing what is right whether it is popular or not.'<sup>149</sup> Gallup polls appeared to support Kissinger's judgement, putting the decline in Ford's Presidential Job Approval Rating down to the economy and the 'increasing ineffectiveness of summitry abroad to positively affect the chief executive's standing at home.'<sup>150</sup> Even after Kissinger had been removed from the position of National Security Adviser as part of the Halloween Massacre, he still retained his influence in the Ford cabinet. The reliance on Kissinger as the main source of advice caused a problem for Ford because Kissinger's objectives were not those of the public. Kissinger was determined to ensure that executive authority and privilege were kept intact despite the congressional enquiries.

Despite his comfort around the political elite, Ford saw himself as an ordinary person in an extraordinary office. In an interview with the *Washington Post*, he intimated that the President 'has to have the backing, faith and trust of the American people.' He continued by saying that 'a President ought to be a part of the American people. In that way, they feel a part of him.'<sup>151</sup> Ford saw the relationship between the people and the President as crucial to the way the President – and as a consequence he himself - acted. During the Year of Intelligence, Ford turned to a source of public opinion that became increasingly important to him, not the press or the polls, but the man in the

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<sup>147</sup> Thomas M DeFrank, *Write It When I'm Gone*, 103.

<sup>148</sup> Memorandum of Conversation, 3.00pm 2 October 1975, (Box 16, Memoranda of Conversations – Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

<sup>149</sup> Memorandum of Conversation, 5 June 1975, (Box 12, Memoranda of Conversations – Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

<sup>150</sup> Memorandum, Fred Slight to Jerry Jones, 26 August 1975, (Box 2, Foster Chanock Files, GRFPL)

<sup>151</sup> Jack Anderson, "Mr Ford – A Part of the People", *Washington Post*, 3 August 1975

street, the mass public.<sup>152</sup> Ford used the public appearances not only to gauge the nation's mood, but as a tool to influence public opinion towards his administration's policies.

The president's staff members were not supportive of his travels around the country. It was neither where he spent his time away from Washington nor the frequency of his visits that was the issue to his advisers. The problem identified by the White House's public opinion experts was that his visits were seen as preaching to the choir using partisan rhetoric. The domestic visits failed to have the glamour of foreign travels; in addition, foreign visits saw Ford representing the nation rather than him. Instead, he was advised to talk 'to the country as president ... rather than to the narrow partisan audiences.'<sup>153</sup> The concern for his administration was the style of leadership that he was portraying to a wider audience. It was a lesson he failed to learn as in 1976 he was informed that 'when the President travels in the United States, the fact that he is playing a quasi-partisan role all the time is quite obvious to the public.' It was argued further that Ford's domestic travel had 'little of the drama that surrounds foreign travel,' and, therefore, unlikely to provide any benefits. Ford's trips to meet the man in the street were only likely to reinforce opinions of his partisan bias.<sup>154</sup>

The problem faced by Ford was exacerbated by his lack of experience of running a national campaign as either President or Vice President. This inexperience meant that he had not grasped that he needed to speak to a larger audience than the one he had as a congressman. It was not misunderstanding the message he was receiving from the public that caused Ford to misread the public's desire, it was the demographic make-up of the audience that was wrong. He was preaching a Republican sermon to a Republic congregation. Ford had created a political echo chamber where the feedback he was receiving was merely reinforcing his own position. He needed to widen the political demographic of his audience. To deliver his message successfully and therefore influence the political opinion of a bipartisan audience Ford was encouraged to be 'projected as himself, and not projected to be what he isn't.'<sup>155</sup>

Ford's inability to achieve his private objectives was further compounded by the lack of commissioned polls or surveys on the issues that surrounded the Year of Intelligence. The administration's performance from a position of strength as the incumbent President during the presidential election of 1976 suggests that either the analysts were not good enough at their job, or

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<sup>152</sup> Philip Powlick, 'The Sources of Public Opinion for American Foreign Policy Officials', *International Studies Quarterly*, 39 (1995), 427-51.

<sup>153</sup> 'Momentum', Memorandum, Robert Teeter to Bo Calloway, 11 December 1975. (Box B2, President Ford Committee Records, GRFPL)

<sup>154</sup> 'The Politics of Presidential Travel', Dave Gergen to Dick Cheney, 21 June 1976. (Box 42, Presidential Handwriting File, GRFPL)

<sup>155</sup> 'The Role of Radio and Television in Political Campaign', Bob Mead to Dick Cheney and Donald Rumsfeld, 19 June 1975, (Box 3, Helen Collins Files, GRFPL)

that public opinion did not affect the strategy undertaken by the Ford team. The plethora of polls within the Ford administration and the use of poll analyst Robert Teeter illustrated that public opinion through polling contributed to the formulation of an election strategy. Furthermore, Senator Bob Dole informed the press that Ford's schedule during the election was 'based, at least in large part, on polling information, indications where we can either strengthen ourselves or otherwise.'<sup>156</sup> What it does support is the conclusion that the analysis was poor either through incompetence or incomplete data sets. The number of different pollsters that contributed to the campaign analysis—Harris, Gallup, Teeter, Darden, for example – all muddied the waters of a complex data set. As the administration had identified poor sampling as an issue it is likely to be the latter reason. As a consequence, the use of public opinion polls as a factor on the strategy of the Ford administration is unlikely to have changed the administration's fortunes, despite any attempts to do so.

### 1.10 Ford's Failure

Due to a combination of poor political management and ignorance of what the public desired, the Ford administration failed to wholly protect the CIA or its sole control of the intelligence community. A fractured executive branch failed to collate and use a variety of sources of public opinion, and as a result of this failure it misunderstood the complexities and fluctuations of public opinion. Ford and his advisers were unable to comprehend that the American public wanted intelligence reform and effective congressional oversight. Instead, the executive branch mistakenly interpreted the public's horror at the revelations of the enquiries as support for the executive's initiatives. Ford and his advisers were unable to formulate a strategy that would appeal to those outside his own party because of the echo chamber that Ford repeatedly listened to on his travels. It was not until the ICG's formation that the Ford administration managed to formulate a plan that it believed would simultaneously protect its executive authority whilst representing the American public's wishes.

The administration missed the opportunity to wholly convince the American public that it was working on their behalf. Consequently, the public were never fully behind the executive branch during the sixteen months of the Year of Intelligence. Less than half of the American public believed that American politics had improved 'after the scandals and problems during the last few years.'<sup>157</sup> Ford's stubborn refusal to accept anything other than the Rockefeller Commission's recommendations for reform illustrated the minimal influence that public opinion had on the

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<sup>156</sup> White House Press Conference, 1 October 1976, (transcript in Box 24, Robert Dole Folder, Robert T. Hartmann Files, GRFPL)

<sup>157</sup> Gallup Organisation, *The American Voter: Cynic or Disillusionist?* 23 March 1976, (Box 2 Foster Chanock Files, GRFPL)

executive branch during the sixteen-month-long crisis. The realist school of thought that public opinion has minor influence on policy *formation* is borne out when examining the Ford administration's strategy. But such actions by the executive branch led to public rejection and disappointment in Executive Order 11905. The failure to 'pander' to public opinion and the lack of response to public opinion jeopardised the success of the entire strategy of the executive.<sup>158</sup>

However, contrary to realist theory, public opinion did have an effect on the *presentation* and *implementation* of Ford's policy. Ford presented his suggested reforms to the intelligence community as driven by the public in an effort to convince the public to support his policy goals. In doing so, the White House feigned responsiveness to public opinion. In addition, the White House worked to great lengths to suggest the recommendations of Congress were driven by institutional and personal self-interests and would endanger the nation by hamstringing the intelligence community. The attempt to manipulate the opportunities available, such as accusing the Pike Committee of neo-McCarthyism, had limited success. The political echo chamber that Ford placed himself in, and the inability of the administration to gain a variety of sources of public opinion, meant that the executive misperceived public opinion as being closer to its own position. As a result, the gap between them was too wide to bridge.

Furthermore, Ford would not have created the ICG without the influence of public opinion: it was formed to produce an executive order that would gain enough public support to negate the influence of the congressional enquiries. However, the failure to wholly convince the press and public proved to be the ICG's undoing. The public support for the executive branch and its efforts to instil the Rockefeller Commission's recommendations as accepted policy was at best temporary. At its worst, the administration's failure to comprehend the changing nature of public expectation led to a continuance of the atmosphere of distrust between the President and the nation. Far more damaging to the long-term interests of the executive branch was the Senate enquiry and the public support it managed to gain during its investigation.

It would be remiss to judge Ford's entire presidency through his performance during the intelligence crisis. The Year of Intelligence was a significant long-lasting issue during his administration and contributes towards any assessment of Ford's presidency. Certain aspects of his management style during the flap were reflected throughout his time as president, notably his administration's tendency to be reactive rather than proactive to crises. Partly, this is because Ford dealt with a cascade of major issues during his presidency. Foreign and domestic issues dogged him

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<sup>158</sup> Lawrence R Jacobs and Robert Y Shapiro, *Politicians Don't Pander: Political Manipulation and the Loss of Democratic Responsiveness* (Chicago, 2000)

throughout his administration, even though it lasted only 895 days, the shortest in US history for any president who did not die in office.

It was during Ford's presidency that the conflict in Vietnam concluded. By the beginning of 1975, North Vietnamese forces had pushed the near-defeated South Vietnamese army into defensive positions. By April, Saigon was under siege. Ford addressed Congress in an effort to request funding to help evacuate the remaining US advisers, and Vietnamese allies whose lives would be under threat if they remained. Kissinger believed that the South Vietnamese would hold out with the right financial support from the United States.<sup>159</sup> Congress balked at the request. In Washington, on April 28, Ford supervised the evacuation of Americans and many Vietnamese as Saigon fell to North Vietnamese forces. In total, 120,000 refugees were evacuated from South Vietnam in 1975. Ford described how he felt 'deep satisfaction and relief' that 6,500 had been successfully evacuated by helicopter from the roof of the US embassy in the final days of the operation. The *New York Times* called the evacuation 'one of the few shreds of glory that the United States was able to retrieve from the closing days - or years - of the Vietnam War.'<sup>160</sup>

Leading international relations scholars have also hailed Ford's handling of the *Mayaguez* affair as being successful. The *Mayaguez*, an American-registered freight ship, had been seized by a Cambodian gunboat on May 12, 1975. Ford urged a quick response, but the subsequent rescue, two days later, cost the lives of forty-two US marines and failed to gain the release of the sailors. When the *Mayaguez* crew were released by the Cambodian government, Ford's handling of the response was praised by the press and public, at least initially. Further investigation by the press questioned whether the deaths of forty-two Marines to rescue forty sailors was worthwhile. Ford had seen the larger picture, however, and realised that he would have faced a greater crisis had the sailors been taken to the Cambodian mainland.<sup>161</sup>

Ford's presidency was also plagued by domestic political concerns. Ford inherited an economy from his predecessor's administration that was in crisis. Inflation, at the time of his inauguration, had been at an annual rate of over twelve per cent. In the twelve months leading up to August 1974, prices had increased by over twenty per cent, and the US had a trade deficit of over \$1 billion. Productivity within the US had been in decline for over ten years. Ford identified the causes of the problems as Lyndon Johnson's 'attempt to provide guns and butter simultaneously in the mid-sixties,' and Nixon's adoption of wage and price controls in August 1971. While Ford understood the

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<sup>159</sup> Henry Kissinger, Memorandum, Meeting with Senators Church and Pearson, 4 March 1975, (Box 9, Memoranda of Conversations – Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

<sup>160</sup> 'We Have No Choice, *New York Times*, 5 May 1975

<sup>161</sup> Richard E. Neustadt and Ernest R. May, *Thinking in Time: The Use of History for Decision Makers* (New York, 1986) 58-66.

political reasons for Nixon's actions, he recognised that the consequences were disastrous economically. If that was not enough, the oil crisis caused by the 1973 Yom Kippur War caused the price of oil to quadruple. Ford believed that because the US economy had been mismanaged for a long time that 'it couldn't be cured without pain.'<sup>162</sup>

Ford, with the advice of chief economic advisor Alan Greenspan, decided that focus needed to be on inflation, not unemployment. His policies to stifle inflation, a result of the Inflation Summit of September 1974, met with some success. His attempt to get Americans to join his 'Whip Inflation Now' campaign, a call to save, conserve energy, and share with those less fortunate than themselves, was met with opposition. When supporters were asked to wear buttons emblazoned with 'Whip it Now' or 'WIN', it became an object of ridicule. Inflation did fall but at a cost of unemployment rising from five per cent to nine per cent. Ford's successor, Jimmy Carter, discarded the restrictive measures on government spending. The Carter administration adopted a series of policies that caused inflation to rise again. The long-term financial policy failures of the Carter administration often overshadow the short-term successes of Ford. Whether Ford would have managed to continue his success is mere speculation.<sup>163</sup>

It is important to remember, when judging Ford on his lack of vision or long-term objectives, that he had neither a transition period nor an election campaign of campaign policies to kick-start his presidency. In August 1974, as Ford biographer John Robert Greene identified, there were no calls for Ford to have a vision. The public demand was for Ford to help the nation heal from the wounds caused by Watergate.<sup>164</sup> Ford's pardon of Richard Nixon washed away the honeymoon period that he had enjoyed from the press. Ford was castigated by the press, the *New York Times* called the pardon 'a profoundly unwise, divisive and unjust act.'<sup>165</sup> Ford, however, was right. The nation had become preoccupied by the Watergate scandal after Nixon's resignation. Ford had decided to pardon Nixon primarily because of the 'state of the country's health at home and around the world.'<sup>166</sup> Ford's decision, despite initial criticism, came to be seen as the right one. Bob Woodward, in 1998, stated that Ford had got things 'absolutely right – the pardon was necessary for the nation.'<sup>167</sup> Such an assessment was underlined at the John F. Kennedy Library and Museum in 2001, when Ford was awarded the Profile in Courage Award.

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<sup>162</sup> Gerald R. Ford, *Time to Heal*, 151.

<sup>163</sup> Herbert Stein, *Presidential Economic: The Making of Economic Policy from Roosevelt to Clinton* (Washington D.C., 1994) 212-216.

<sup>164</sup> John Robert Green, *The Presidency of Gerald R. Ford* (Lawrence, 1995) 191-193.

<sup>165</sup> 'The Failure of Mr. Ford', *New York Times*, 9 September 1974

<sup>166</sup> Gerald R. Ford, *Time to Heal*, 160.

<sup>167</sup> Bob Woodward quoted in Barry Werth, *31 Days: Gerald Ford, the Nixon Pardon, and a Government in Crisis* (New York, 2006)

Ford's inability to manage the Year of Intelligence successfully does not reflect his entire presidency. Furthermore, the antipathy between the legislative and executive branches, in the aftermath of Watergate, meant that it was unlikely that he could have avoided a congressional investigation into the intelligence community. The American public, and its elected representatives in Congress, simply distrusted the office of the president, no matter who occupied the role. Ford's priority was to give the nation 'a time to heal' by instilling a period of tranquillity. The Year of Intelligence was one of many events that disturbed the tranquillity that Ford wanted to provide. Ford did succeed in restoring some of the prestige to the office and, as a result, his presidency should generally be seen as one of success and repair, and not failure.

# Chapter Two

## The Formation of the Church Committee

### 2.1 The Public and the Church Committee

Ford's refusal to consult a wide range of sources of public opinion hindered the executive branch's chances of achieving its main objective, namely, that of nullifying any congressional enquiry into alleged intelligence abuses. The lack of public support for any of the executive branch's initiatives to enshrine the Rockefeller Commission's recommendations into law through Executive Order 11905 had a catastrophic effect on the White House's control of the intelligence community. Under the leadership of Philip Buchan, the Intelligence Coordinating Group (ICG) was unable to protect the executive from the 'series of Hobson's choices' it feared would materialise in the spring of 1976. The ICG's failure to preserve the 'capabilities of the intelligence community under acceptable oversight arrangements,' handed the initiative to Congress's own proposed reforms of congressional intelligence oversight.<sup>1</sup> The vanguard for reform came in the shape of the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence, more popularly known as the Church Committee, after its chairman Senator Frank Church (D-ID).

The Church Committee was, and still remains, one of the United States Senate's most significant investigations in the nation's history. The committee's investigation of the scandalous misdemeanours of the United States intelligence community became the nation's political focus during its sixteen-month lifespan. The eleven-man panel's inquiry identified major flaws of the American political system surrounding the transparency of decision-making in a democratic nation. It questioned the efficacy of both the separation of powers and the checks and balances system of government, and the roles played by both the legislative and executive branches within it. The committee's diverse legacy included structural reform of the system of oversight of the United States intelligence community, legislation that protected the civil liberties of American citizens, and a citizenry that regarded the nation's intelligence agencies with considerable distrust. Its investigation impinged upon the 1976 presidential election and influenced American foreign policy for the next twenty-five years through the enactment of the Foreign Intelligence Surveillance Act (FISA) in 1978. Furthermore, the Church Committee-inspired legislation and reforms led to similar systems of oversight and reformatory legislation being adopted by other nations such as Canada and Australia.<sup>2</sup>

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<sup>1</sup> Memorandum for the President, 'The Intelligence Community', 18 September 1975, (Box 57, James E. Connor Files, GRFPL)

<sup>2</sup> Hans Born & Loch K. Johnson 'Balancing Operational Efficiency and Democratic Legitimacy' in: Hans Born, Loch K. Johnson, Ian Leigh (eds.), *Who's Watching the Spies?* (Washington D.C., 2005), 227.

Further testimony of its importance lies within the legacy of the other major concurrent investigations during the Year of Intelligence. The Rockefeller Commission, viewed by contemporary commentators as an attempt by the executive branch to whitewash the accusations made by the *New York Times*' Seymour Hersh in December 1974, established very little change. The executive branch used the Rockefeller Commission's recommendations as the foundation for Executive Order 11905, which was issued in February 1976. This attempt to establish minimal reform of congressional oversight of the intelligence community was superseded by those made by the Church Committee. Furthermore, the Pike Committee - the House of Representatives' inquiry into the Hersh allegations - failed to have its own final report confirmed by the House because Rep Otis Pike (D-NY) refused to have the report authorised by the White House before publication. The White House's portrayal of the Pike Committee as both a threat to national security and the conduit of neo-McCarthyism ensured that it lost what public support it had gained. Pike's appointment as chair of the House inquiry was initially hailed by the press: his ability not to allow national security issues to 'cloud his perception of excesses in the executive branch' was seen by the *New York Times* as a positive characteristic when he was appointed.<sup>3</sup> However Pike's aggressive investigation led to the same paper insisting that executive branch officials have 'some protection from congressional scrutiny' just three months later.<sup>4</sup> The Church Committee's ability to conduct a thorough report, to gain senatorial support for its findings and recommendations, and to gain a legacy that included legislative and institutional reform, places it as the most important of the investigations into the intelligence community during the year of intelligence.

Central to the success, reception, and legacy of the Church Committee was public opinion. It was essential that the Church Committee gained the approval of the American public during the Year of Intelligence. The Ford Administration made strenuous efforts to persuade the American public to support the White House's own recommendations for intelligence reform. In response to the Ford Administration's drive to win public backing, the Church Committee conducted its own campaign to portray its investigation as representing the public's wishes. Unfortunately, for both the White House and the Church Committee, public opinion fluctuated markedly during the Year of Intelligence producing a complex and often contradictory message. This message was at times misinterpreted or ignored in the belief that it was wrong. Consequently, public opinion shaped the policies and recommendations of both the Church Committee and the Ford Administration both directly and indirectly; essentially, it provided a framework and boundary within which both the Congress and

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<sup>3</sup> 'Congressional Dilemma', *New York Times*, 19 July 1975.

<sup>4</sup> John Herbers, 'McCarthy's Poisonous Legacy Is Still Felt', *New York Times*, 26 October 1975.

White House could operate. The Year of Intelligence is an exemplary illustration of how public opinion and policymaking interacted with varying degrees of dominance, with policymakers often predicting the public's response before making decisions.<sup>5</sup> At times, the strategies of both the Church Committee and the White House were moulded by the wishes of the public; where public opinion failed to affect directly the decision-making process, it had significant influence on the delivery of policies.

This chapter will focus on the creation of the Church Committee. In particular, it will examine the relationship between the Senate and public opinion. It will establish that public opinion, as expressed through the east coast press, letters to congressional offices, and the broadcast media, played a significant role in the establishment of the Church Committee. This chapter will show that the Senate enquiry into the intelligence community was an indication of the power and influence of public opinion on national security policy. Critics of the CIA and proponents of an investigation into the intelligence community had significant hurdles to overcome to be successful. Opposition to congressional enquiry came in the shape of Republican senators loyal to Gerald Ford. Dissent was also seen from chairmen of congressional committees foreseeing a loss of individual influence should intelligence oversight be removed from their own committees' authority. Further disagreements came from other members of Congress who felt that a public investigation would be damaging to the national security. These obstacles were overcome by the momentum created by public opinion, which was harnessed by those eager to ensure that the various intelligence agencies worked efficiently and within the law.

For many policymakers during the Year of Intelligence public opinion was, for the most part, voiced by the press. There was a separation of the powers of influence in the press during the Year of Intelligence: the printed media, in particular that of the *New York Times* and the *Washington Post*, had a significant effect on both the Ford administration and the congressional investigations into the intelligence community. It was the lack of a national newspaper, and the geographic locality of the *New York Times* and *Washington Post* to both the legislative and executive branches, that gave these two East Coast newspapers significant influence during the Year of Intelligence. For both the White House and the Congress, the *New York Times* and the *Washington Post* were seen as realistic representations of the voice of the nation. It was the printed press that urged the creation of the investigations during the Year of Intelligence, and through its editorials that criticised, cajoled and encouraged, it steered the lines of enquiry. However, a failure by the Church Committee to generate

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<sup>5</sup> Russett, *Controlling the Sword*, 109.

continuous positive coverage of its enquiries and findings resulted in the dwindling of the committee's public reputation.<sup>6</sup>

Conversely, the television media with their national audiences, and with current affairs programmes such as *NBC's Meet the Press* and *CBS's Face the Nation*, became a tool for both the legislative and executive branches to influence the public. Television became an increasingly important apparatus in the efforts of both the Church Committee and the Ford Administration to shape public opinion and generate support. The majority of this persuasion was done through press conferences, presidential question and answer sessions, television appearances, and the use of friendly journalists to conduct informative interviews, or to write scathing columns. The office of the presidency, over the decade prior to the Church Committee, had become more adept at media management. Presidents, such as Lyndon Johnson and Richard Nixon, had adapted presidential occasions to be more media friendly. Events, such as the State of the Union address were moved to gain greater television exposure.<sup>7</sup> In addition to the executive branch, the Church Committee utilised the inquiry's public hearings to gain public support to outmanoeuvre the White House. While promising to avoid becoming the television spectacle that had befallen the Watergate Committee, Church, his fellow panellists, and staff members all understood the power of television coverage of the committee's investigation.

Public opinion and public approval shaped not only the Church Committee's strategic decisions, but also the makeup and objectives of the committee's inquiry. The Senate understood that its own recommendations to 'restore public confidence' in the United States intelligence community would potentially be at odds with that of the Ford Administration.<sup>8</sup> As a result of such a possible competition between the two branches of government, the Senate required public approval to win over any reforms to the intelligence community or legislation that the Church Committee proposed. The influence and effect of public opinion and the desire for the electorate's approval is illustrated within different components of the establishment of the Church Committee: the debate surrounding the formation of the Church Committee in the Senate; the composition of the committee's members and staff; and the objectives of the Church Committee's investigations. In addition, these facets of the Church Committee not only illustrate the leverage of public opinion on policy-making decisions but also its limitations in being able to convince policymakers to release themselves completely from ideological and partisan beliefs.

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<sup>6</sup> Smist, *Congress Oversees*, 68.

<sup>7</sup> Schorr, *Clearing the Air*, 294-295.

<sup>8</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

## 2.2 The Failure of Congressional Intelligence Oversight

When Secretary of State and National Security Advisor Henry Kissinger was told of Senator Frank Church's (D-ID) involvement in the congressional enquiries into the intelligence community he stated, 'we are in trouble.'<sup>9</sup> President Gerald Ford's administration correctly viewed the Church Committee and its inquiry as a threat to the executive's control of the nation's intelligence agencies, such as the CIA. The Church Committee undoubtedly owed its existence to the pervading atmosphere of suspicion of executive power that remained after the investigations of Senator Sam Ervin's Watergate Committee. Be that as it may, the Senate did not create the Church Committee to pursue a zealous crusade against the executive branch as an extension of the Watergate investigation. Congress did recognise, during the debate over the establishment of the Church Committee, that any investigation could cause a conflict with the executive branch. Senator Alan Cranston (D-CA) warned that 'a confrontation with the White House and the bureaucracy is inevitable as the investigation proceeds.'<sup>10</sup> The Senate was more concerned with the reassertion of its 'constitutional rights and responsibilities in the conduct of our government's foreign policy.'<sup>11</sup>

In spite of this potential conflict with the executive branch, Congress saw the Church Committee as a necessary part of its constitutional duties in providing a countervailing force to the presidency. The basis for such an opinion lay in Congress's belief that it was acting not just in the public interest, but with the backing of the electorate. In particular, the Senate saw the sudden increase of intelligence-related editorials that swamped the nation's press as verified tangible support for its attempt to realign the balance of the separation of powers within the United States' political system.<sup>12</sup> Inspired in part by the increasingly zealous and demanding nature of the editorials in the press, Cranston urged that 'individuals and agencies involved in wrongdoing or questionable practices must be identified. Or else the American people will be ill served by another cover-up.'<sup>13</sup>

Congressman Michael Harrington (D-MA), an erstwhile critic of the secrecy involved in governmental operations associated with the intelligence community, wrote in the *Washington Post* that 'the expectations of the American people have been awakened, and they are demanding more openness, and greater accountability, from their representatives.'<sup>14</sup> Even defenders of the CIA, such as the *Washington Post*'s Franklin Lindsay, argued that it was 'important that the public understand

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<sup>9</sup> Memorandum of Conversation, 20 February 1975, (Box 9, National Security Advisor's Memoranda of Conversation, GRFPL)

<sup>10</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1419.

<sup>11</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 54.

<sup>12</sup> Jeffreys-Jones, *The CIA & American Democracy*, 199.

<sup>13</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1419.

<sup>14</sup> Michael Harrington, 'Leashing Intelligence Agencies', *Washington Post*, 13 January 1975.

the very broad range of CIA's functions and the nature of its accomplishments.<sup>15</sup> Seymour Hersh, whose scoop had initiated the intelligence scandal just a month previously, argued that 'logic would seem to dictate a single, agreed-upon investigating committee' should conduct the inquiry on behalf of the people.<sup>16</sup> The press coverage was recognised in Congress, causing Senator John Pastore (D-RI) to note that the newspapers were 'replete with a dissertation' of the various charges railed at the intelligence community.<sup>17</sup> The Senate, understandably, believed that the American public was demanding that it acted to investigate the Hersh allegations.

In addition to the press's urgings, however, there were additional motives for forming the committee other than Congress's belief that it acted on behalf of the public. Personal agendas of the organisers and members of the inquiry, in addition to outside influences, had a major effect on the direction and reputation of the investigation. Individuals such as the Senate Majority Leader Mike Mansfield who had pushed for effective congressional oversight of intelligence as early as 1953, individual and collective members of the press, as well as executive branch officials, all contributed to how the Church Committee's inquiry would be directed.<sup>18</sup> Notwithstanding this, the objectives of the committee remained constant to the mandate given to it by Senate Resolution 21 - 'to conduct an investigation and study of governmental operations with respect to intelligence activities and of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government.'<sup>19</sup>

The creation of the Church Committee was also made possible by the apparent rejection by the American public of the efforts of Ford to address the Hersh article's claims. In particular, the Rockefeller Commission and its membership were given a scathing review by the press on the East Coast. The *New York Times* stated that the correct body to investigate the Hersh claims was Congress. It rightly identified the Commission as an attempt to delay or circumscribe a congressional investigation.<sup>20</sup> In the *Washington Post*, columnist Joseph Kraft wrote that Ford's inability to include any congressional figures in the Rockefeller Commission forced Congress to act. Furthermore, he claimed that Ford was 'out of touch with the full range of national opinion.' Consequently, he said, 'that virtually guarantees that whatever the commission does, the Congress will upstage and redo in a blaze of publicity.'<sup>21</sup> Even the *Los Angeles Times* claimed that the Commission needed to be

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<sup>15</sup> Franklin Lindsay, 'The Dangers of Damaging the CIA', *Washington Post*, 27 January.

<sup>16</sup> Seymour Hersh, 'Some Basic Questions for CIA's Questioners', *New York Times*, 5 January 1975.

<sup>17</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

<sup>18</sup> Smist, *Congress Overseas*, 6.

<sup>19</sup> United States' Senate Resolution 21, 'To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities', 94<sup>th</sup> Congress, 27 January 1975. Sec. 1.

<sup>20</sup> 'Investigating the C.I.A.', *New York Times*, 7 January 1975.

<sup>21</sup> Joseph Kraft, 'A Sad Commission', *Washington Post*, 7 January 1975.

replaced by a congressional inquiry that focussed on 'both national security and the need to guard the civil liberties' of the United States.<sup>22</sup>

The press's vociferous judgement of the Rockefeller Commission led Congress to assume that it would be they who would be representing the opinion of the American public. The Congress had to judge national American public opinion through the press for two reasons: firstly, it had given the impetus that it required during the Watergate investigations of the previous two years. It was the press that had continued to enquire into the break-in of the Democratic National Party's headquarters as Congress did very little. The *Washington Post's* Carl Bernstein and Bob Woodward's reports of the connection between White House officials and the burglary had 'kept the pot boiling' during the autumn of 1972.<sup>23</sup> Whilst the rest of the nation was distracted by the 1972 presidential election, Woodward and Bernstein had doggedly followed the story and had informed the nation of the Nixon White House's connections to the Watergate burglary, its cover-up, and subsequent obstruction of justice. There were similarities between the press's coverage of the intelligence scandal that the legislative branch could not disregard. During the month of January alone, the *New York Times* produced seventeen front-page stories related to the Hersh allegations, whilst the *Washington Post* printed twelve. The extensive coverage was too great to be ignored.

Secondly, Congress had every reason to view the press as representing the public's voice because there were very little other indicators as to the public's opinion other than the press. The public opinion polls during this time rarely encountered the subject of the intelligence enquiry directly. No polls specifically named either of the two congressional enquiries apart from a singular Harris poll in January 1976 when both of the investigations had finished. Instead, Congress could have looked to the Gallup presidential job approval rating of Gerald Ford as to an indicator of his handling of the affair. Ford had taken office in August 1974, promising the United States that 'our long national nightmare is over.'<sup>24</sup> His initial approval rating of seventy-one per cent reflected the nation's confidence in his ability to act as president. However, his pardoning of his predecessor Richard Nixon in September 1974 saw his approval-rating fall to fifty per cent. More importantly, 28 per cent of those surveyed at the end of September 1974 disapproved of his performance. By the time of the Hersh allegations Ford's approval rating had plummeted to what would be a presidential career-equalling low of 37 per cent, and a disapproval rating of 39 per cent. Ford's relationship with the American public was deteriorating after an initial acceptance. For any analyst, Ford appeared not

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<sup>22</sup> 'The Spies in Our Midst', *Los Angeles Times*, 20 January 1975.

<sup>23</sup> Michael Genovese and Iwan W. Morgan (eds), *Watergate Remembered: The Legacy for American Politics* (New York: 2012), 17.

<sup>24</sup> Gerald R. Ford: "Remarks on Taking the Oath of Office," 9 August 1974.

to have the backing of the nation in his efforts to deal with the developing intelligence flap.<sup>25</sup> Furthermore, Ford had not been elected either as president or as vice president. Despite the congressional approval of his appointment as vice president, his appearance to some was as Nixon's 'hand-picked successor.'<sup>26</sup>

Congress's own approval ratings were just as disastrous as that of the President. Whilst Gallup's approval rating for congress sprang up to forty-seven per cent in August 1974, by the end of February 1975, it had dropped markedly to just thirty-two per cent with a disapproval rating of half of the respondents at fifty per cent.<sup>27</sup> The Ford administration recognised that it was dealing with an electorate that was 'more alienated and more cynical than at any point in modern time.'<sup>28</sup> Congress also recognised such disenchantment with the nation's government. Nonetheless, they saw their involvement in the intelligence enquiries as an opportunity to rebuild public faith in the government. Senator John Pastore identified an inquiry into the agencies of the intelligence community as a chance to 'cleanse whatever abuses there have been in the past' and to 'recite, once and for all, the proper parameters within which they can function.' Such a task was 'to serve America.'<sup>29</sup> Senator Lowell Weicker (R-CT) argued that Congress needed to establish accountability. Otherwise 'no amount of fact finding is worth a damn.' He saw the congressional enquiries as an opportunity to protect the nation from an intelligence community that had 'taken the Congress for granted' and 'treated its citizenry more like an audience than as participants in the Government.'<sup>30</sup> Representative Clement Zablocki (D-WI) called on Congress to 'reassert the constitutional rights and responsibilities' of the legislative branch.<sup>31</sup> Congress, as the elected representatives of the American public, believed itself to be performing its duties on behalf of the members' constituents.

The basis for Congress's assertion that it was acting on behalf of the public lay in the separation of powers of the United States government. Since the War of Independence, the United States intelligence agencies had been under the control of the Commander-in-Chief, the President. As part of the checks and balances system of governmental power the president was 'to manage the business of intelligence in such a manner as prudence may suggest.'<sup>32</sup> It was a point of fact that was

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<sup>25</sup> Presidential job approval rating taken from 'Gerald Ford Retrospective', <http://www.gallup.com/poll/23995/gerald-ford-retrospective.aspx> (accessed April 15, 2017)

<sup>26</sup> Gladys Engel Lang and Kurt Lang, 'Polling on Watergate: The Battle for Public Opinion', *The Public Opinion Quarterly*, 44 (1980), 530-547

<sup>27</sup> Congressional approval rating taken from raw data available from [http://www.gallup.com/file/poll/145235/Congress\\_Approval\\_Dec\\_15\\_2010.pdf](http://www.gallup.com/file/poll/145235/Congress_Approval_Dec_15_2010.pdf) (accessed April 15, 2017)

<sup>28</sup> Robert Teeter Memorandum, 'Analysis of Early Research', 12 November 1975, (Box 63, Folder 11/12/1975 to Dick Cheney – Analysis of Early Research and Strategy Recommendations', Robert Teeter papers [GRFPL])

<sup>29</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 840-841.

<sup>30</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 18282.

<sup>31</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 54.

<sup>32</sup> John Jay, *Federalist 64*, in Goldman (ed.), *The Federalist Papers*.

reiterated by William Casey, head of the US intelligence community when he appeared before the US Senate: 'I claim that my first predecessor as Director of Central Intelligence was ... George Washington.'<sup>33</sup> Intelligence activity prior to World War II was mostly restricted to wartime military intelligence and seen as unnecessary during peacetime. As a consequence congressional oversight of such authority as part of the checks and balances system of government was minimal and thought unnecessary. From 1908, domestic intelligence in the United States was conducted by the Bureau of Investigation. In 1935, the bureau came under the control of the Department of Justice and became the Federal Bureau of Investigation (FBI) and continued to remain the number one domestic intelligence service under the leadership of Director J. Edgar Hoover until his death in 1972.

The bureau appeared to be under the authority of Congress but many of its operations were shielded behind the impermeable cloak of 'national security'. To question such actions would in effect had led to investigations under the premise that the accusers were influenced by communist agents. The establishment of the Central Intelligence Agency as part of the 1947 National Security Act changed the landscape of congressional oversight. The agency was formed 'to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security.'<sup>34</sup> The fear of Congress creating a secret police force similar to that of Nazi Germany's Gestapo meant that restrictions were placed on the agency. The agency was to have 'no police, subpoena, law-enforcement powers, or internal-security functions.'<sup>35</sup> Nonetheless, the Act did contain the ambiguous clause that it was 'to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally.'<sup>36</sup> Congressional oversight was therefore essential in the checks and balance process concerning the intelligence community. This was highlighted further with the extension of the FBI's jurisdiction as part of the post-war fight against communism. As a consequence of the bureau's federalisation and increased authority, the presidency controlled domestic and foreign intelligence.

But criticism of intelligence agencies such as the CIA and FBI during the Cold War period prior to 1975 was restricted by the consensual acceptance that the agencies were protecting national security. The notion that the nation was under constant threat during the Cold War protected the national security state that had been initially established during the Second World

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<sup>33</sup> Christopher Andrew, *For the President's Eyes Only: Secret Intelligence and the American Presidency from Washington to Bush*, (New York, 1995), 1.

<sup>34</sup> National Security Act 1947, 102 (d) (1)

<sup>35</sup> National Security Act 1947, 102 (d) (3)

<sup>36</sup> National Security Act 1947, 102 (d) (4)

War by J. Edgar Hoover's FBI.<sup>37</sup> The bureau successfully gained political support of its ideology over a long period of time and protected itself from other ideologies that were a danger to it. The FBI's adopted ideology of anticommunism and defender of the nation against subversive communist elements under Hoover was accepted by society and its post-Second World War consensus against communism.<sup>38</sup> By achieving this over an extensive timeframe, the bureau's ideology had been accepted by society both as the norm and as part of society. Furthermore, an attack on the intelligence community was seen as also an attack on American society and way of life. The fear of being portrayed as anti-American saw the political left support the various agencies' activities and champion anticommunism. The establishment of the American Committee for Cultural Freedoms in 1951, supported by leading liberals such as Eleanor Roosevelt, Sidney Hook and Arthur Schlesinger Jr., 'rejected the idea that communists should enjoy the same basic rights as all Americans.'<sup>39</sup>

Between 1947 and 1975, the House and the Senate were ineffective overseers of the intelligence community. This dereliction of duty was caused by the Cold War anti-communist consensus. Despite the CIA being under the authority of four different sub committees within Congress, there was very little actual oversight. The committees met only occasionally and were often nothing more than a tool to silence the opponents of clandestine intelligence activity within a democratic state. Representative Michael Harrington, a critic of the quality of congressional oversight during these years, said simply that the committees 'didn't know or didn't want to know what was going on.' Furthermore, the collusion between the committees and the intelligence community had provided a 'fictional cover of congressional approval.'<sup>40</sup> Former White House counsel, Clark Clifford, who had been part of the Truman administration when the CIA was created, said that 'for nearly 30 years the CIA has wheeled and dealt without supervision. Nobody ever really interfered with them in Congress, the White House or the National Security Council. They just free-wheeled their way on and on.'<sup>41</sup> However, Watergate changed the political landscape immensely, resulting in the legislative branch becoming imbued with a newfound confidence in critiquing the efforts of the executive branch. By January 1974, the Congress had recognised that its oversight of the intelligence community had been of questionable efficiency. Furthermore, some members such as Rep Edward Koch (D-NY) suggested that it was Congress's duty to ask 'how the

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<sup>37</sup> Douglas M. Charles, *J Edgar Hoover and the Anti-Interventionists: FBI Political Surveillance and the Rise of the Domestic Security State 1939-1945* (Columbus, 2007), 11-12.

<sup>38</sup> Frank M. Sorrentino, *Ideological Warfare: The FBI's path to power* (New York, 1985), 107.

<sup>39</sup> William O Walker III, *National Security and Core Values in American History*, (Cambridge, 2009), 134-135.

<sup>40</sup> Mary Russell, 'New House Panel on CIA is sought', *Washington Post*, 8 January 1975, 2.

<sup>41</sup> Robert S. Boyd, 'CIA cofounder says he helped create monster' *St Louis Globe-Democrat*, 24 July 1975, (clipping found in Clark M Clifford Papers, Box 59, 1975, December 5, Senate Select Committee to study governmental operations with respect to intelligence activities, background material, Folder 1, Library of Congress)

government's enormous police powers ought to be used, and what kind of investigations, by what agencies, are necessary and legitimate.'<sup>42</sup>

In a post-Watergate Washington where everyone was open to question, the intelligence community became subject to congressional disapproval. It was a criticism not just inspired by the scandal that had ended the Nixon administration but also by the public's changing attitude towards the intelligence community. Senator Walter 'Dee' Huddleston (D-KY) noted that the various intelligence agencies had been looked at as 'guardians of the Nation and protectors of law-abiding citizens.' In addition, he also said that 'like so many of this country's institutions in recent years they have fallen in esteem. The intelligence community has lost its glitter. The FBI hero of the 1930 has been replaced in the public eye by a much more dubious character.'<sup>43</sup> Such a fall from the public's favour allowed Congress to begin to restrain and reprimand both the intelligence community and the executive. Such censure manifested itself initially in the Hughes-Ryan Act of 1974.

The Hughes-Ryan Amendment was both an attempt to reign in the power of the executive branch, and to establish greater oversight of the United States intelligence community. Congress passed the amendment to the Foreign Assistance Act of 1961 in December 1974. This amendment placed restrictions on the use and finance of covert operations and required the president to report 'in a timely fashion, a description and scope of each operation to the appropriate committees of Congress.'<sup>44</sup> In addition, the amendment also called for the number of committees overseeing the intelligence community to increase from four to six. Such were the restrictions placed on the executive branch that the *Washington Post* called this 'a straitjacket with deeply disturbing consequence for this nation's security.'<sup>45</sup> The legislation had effectively given Congress greater control over the intelligence community, and with it greater influence over foreign policy which had been traditionally solely under the direction of the executive. Furthermore, the Act destroyed the executive branch's ability to claim plausible deniability for any covert action undertaken by an intelligence agency. The president's explicit approval of the operations reported to Congress ensured that the executive branch was to be held accountable for the intelligence community's actions.<sup>46</sup>

Congress believed that it held the right to act on the public's behalf to ensure a balance between national security and a transparent democratic process. In a further rejection of the executive's Rockefeller Commission, Congress claimed it alone should decide how that balance

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<sup>42</sup> *Congressional Record*. 1974. 93<sup>rd</sup> Cong., 2<sup>nd</sup> sess., vol. 120, 506.

<sup>43</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

<sup>44</sup> Foreign Assistance Act 1974, 662 (a)

<sup>45</sup> Rowland Evans & Robert Novak 'Congressional Straitjacket for the CIA', *Washington Post*, 22 January 1975, 22.

<sup>46</sup> Loch K. Johnson, *National Security Intelligence*, (Cambridge, 2012), 81-82.

should be made in the public's interest. Republican Senator Howard Baker (R-TN) recognised the difficulty of maintaining a satisfactory equilibrium 'between the requirements of democracy for public knowledge, and the requirement of security and national defence.' But in a show of bipartisan congressional unity Baker claimed that 'when there is a doubt, the people's branch, the Congress, must be privy to those requirements and the information that is necessary to make its balancing judgements.'<sup>47</sup> Such feelings were not exclusive to the Senate – in the House Representative Parren Mitchell (D-MD) tied Congress's role as overseers of the intelligence community with protection of 'the civil rights and civil liberties of those we represent.' In addition, he argued that it was the entire Congress's duty and responsibility 'to educate the public as to the dreadful danger to our form of government which occurs when civil liberties are eroded or trammelled by any agency of government.'<sup>48</sup> With this expansive definition and assumption of the role of the American public's representative, the Senate debated the best way to act.

### 2.3 Ensuring a Balanced Enquiry

The Senate had concerns over the creation of an investigative body to examine the intelligence community. The issues concerned three interconnected themes: firstly, some members believed that there was already provision within the Senate to investigate the claims without the creation of a new body; secondly, the danger to national security of a public inquiry into the methods and operations of the nation's intelligence services; and, finally, the possibility of one of the members of the investigating body using the committee's high profile and publicity as a springboard to further their career. For eight days during January 1975, the Senate debated whether to instigate the first public hearings into the United States intelligence community in its history.<sup>49</sup> Members of the Senate were worried at the prospect of any Senate investigation into the United States intelligence community becoming a public spectacle in the same mould as Senator Sam Ervin's Watergate Committee. Ervin's Watergate Committee had been broadcast into the homes of the American public during its investigation into the break-in of the Democratic Party's National Committee's headquarters. The televised public hearings had created sensational headlines in the press and, as the revelations of the involvement of President Richard Nixon's White House in the cover-up emerged, had become must-watch television. The coverage had begun in a dull and drab manner but soon turned into a *cause célèbre* once Nixon's Special Counsel John Dean took centre

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<sup>47</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 962.

<sup>48</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1920.

<sup>49</sup> Smist, *Congress Oversees*, 27-28.

stage. But it was the influence of public opinion that overrode the worries and anxieties of the Senate.

The concern of potential publicity engulfing a congressional enquiry was not behind Senator John Stennis's (D-MI) opposition to voting on the establishment of an investigatory committee. On January 20 the Democratic Caucus had agreed to create an investigatory panel of seven to eleven members that would spend nine months examining all aspects of foreign and domestic intelligence operations. Stennis, as chairman of the Senate's Armed Services Committee, was one of six committee chairmen who had dominated the issue of congressional oversight. Whilst Stennis did not oppose the creation of the committee, he felt that the panel members should come from the six committees that already conducted oversight of the intelligence community; namely, that of the Armed Services, Appropriations, and Foreign Relations Committees. The Democrats refused to be swayed by Stennis' passionate argument to halt 'the destruction of the CIA.' As a consequence of such dispassion from the Caucus, it agreed by forty votes to seven to vote on the creation of the committee. For many Democratic senators the significance of the result was not lost: they had witnessed, in their words, 'John Stennis go to the mat for the first time and get trounced.' For some onlookers it was 'the end of an era.'<sup>50</sup> More importantly, Stennis had lost control of congressional oversight of the intelligence community to a panel that he could not dominate as he did with the Armed Services Committee.

The Democratic Caucus onlookers were correct in their assessment of the import of Stennis being overruled. It was the end of an era; an era dominated by congressional subcommittees who shied away from asking the difficult questions required. Congress had failed to challenge the role of the intelligence community prior to the vote to create a select committee, as it should do as part of the separation of powers. As a result both the Senate and House had entered, what Loch Johnson has termed, an Era of Trust. From the creation of the CIA in 1947, Congress had deemed it 'politically safer to look the other way' as far as intelligence was concerned.<sup>51</sup> The rejection by the Democratic Caucus of the continuance of congressional collusion with the various agencies of the intelligence community was the first step out into a time that would see Congress take on the role that the public expected it to perform. When Senator Pastore introduced Senate Resolution 21 (S. Res 21) on January 21, 1975 and rose in its defence some six days later, he reiterated that it was to ensure 'that the confidence of the people will be reaffirmed and strengthened' in the intelligence community.<sup>52</sup>

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<sup>50</sup> Seymour Hersh, 'Democrats Vote Wide CIA Study By Panel', *New York Times*, 21 January 1975.

<sup>51</sup> Johnson, *Season of Inquiry*, 8.

<sup>52</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

The resolution was to 'establish a Select Committee of the Senate to conduct an investigation and study with respect to intelligence activities carried out by or on behalf of the federal government.'<sup>53</sup>

S. Res 21 gained bipartisan support throughout the debate. Although Senator John Tower (R-TX) admitted to wanting the inquiry to remain within the control of the Senate Armed Services Committee, he relegated such doubts initially because Pastore had 'set the right tone for the conduct' of the investigative committee.<sup>54</sup> In reality Tower's concern had little to do with those of the nation, but of self-interest: Tower was a member of the Senate Armed Services Committee, a committee he would later go on to chair. Such sentiment echoed the conservative and protective viewpoint that fellow committee member Stennis displayed in the Democratic Caucus. Tower's change of attitude because of his inclusion as a member of the proposed select committee is a plausible one, especially as before his comment it was recognised by Pastore that Minority leader Senator Hugh Scott (R-PA) had 'stated today his selection of members of the select committee.'<sup>55</sup>

In addition to Tower's feigned worries about the necessity of the proposed committee, it was the finer points of what was to become the Church Committee that were debated by a number of senators on both sides of the floor. Unsurprisingly, Stennis wanted to ensure that there could be no disclosure of information that could be potentially damaging to the United States, and as such suggested an amendment that would restrict the publicity surrounding the committee's inquiry. His attempt to ensure that there would be no leaks by staff members was seen by some members of the Senate, such as Pastore, as an attempt to deny press conferences. Pastore believed that Stennis was, in effect, trying to keep the issue behind closed doors and argued that 'everything needs to be told to the press that needs to be told to the public.' For Pastore at least, the press would be the method of communication between the inquiry and the American public as it carried out its duties on behalf of the American people. Senator Howard Baker (R-TN), who saw the inquiry as an opportunity to finish his work on the Watergate Committee, questioned whether a proposed amendment by Stennis was a poorly-concealed effort at stopping the disclosure of operational failures and scandals. Baker argued that any federal agency that had appeared to be 'improper or beyond its jurisdiction' should not be limited by Stennis's proposed amendment.<sup>56</sup> Stennis's attempts both to prolong the debate and add restrictions to its inquiry were nothing more than a last-gasp effort to maintain control of congressional oversight of the intelligence community within the six established congressional committees.

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<sup>53</sup> United States' Senate Resolution 21, 'To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities', 94<sup>th</sup> Congress, 27 January 1975. Sec. 1

<sup>54</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1419.

<sup>55</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1416.

<sup>56</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1420-1421.

The Senate had other concerns surrounding a potential inquiry, most of which centred on the issue of publicity. Senator Milton Young (R-ND) voiced concerns about the size of the potential eleven-man committee. Young argued that the inquiry could only be efficient and ‘without great injury to the agencies’ by a small committee and small staff. The prospect of any inquiry raised the issue of potential leaks by the staff and committee members, and Young argued that such leaks would not only harm the United States’ capability to collect intelligence, but also provide valuable information to its opponents such as the Soviet Union. Young argued that no public enquiry could be conducted ‘without endangering our sources of information, the lives of those involved in this type of intelligence operations, and the very effectiveness of an intelligence-gathering operation.’ Stennis agreed with Young’s assessment of the situation, warning that ‘exposures can be a matter of life and death abroad.’<sup>57</sup> Mansfield had assured the Senate when S. Res 21 was introduced that ‘there will be no television spectacles in any way, shape, or form’ and that the inquiry would be ‘neither witch hunt nor whitewash.’<sup>58</sup> At the start of the debate, Pastore made it clear that he felt that the United States intelligence community – both civilian and military – were essential to the security and survival of the United States. Furthermore, he argued, the inquiry he proposed was to remedy any abuses that may have happened and ensure that they would not happen again in the future.<sup>59</sup> Stennis was not convinced by Pastore’s reassurances, suggesting that there was ‘a great deal of sentiment, even understanding sentiment that would question the necessity for the CIA, or the propriety of having it.’<sup>60</sup>

Stennis was right to be concerned about the CIA being a target of criticism and potential reform, and of his own ability to maintain control of intelligence oversight within congress. The *Washington Post* stated that if the intention of the inquiry was to restore public confidence in the agencies then it would fail if ‘the public is not told as much as possible about them.’ It demanded ‘as much information as is consistent with a reasonable regard for national security.’<sup>61</sup> Furthermore, it claimed that such an inquiry was necessary because of ‘serious questions in the public mind’ of the ability of Congress to perform effective oversight. Worryingly for protectors and supporters of the intelligence community, it did threateningly suggest that ‘some of the intelligence machinery and some of the practices had outlived their usefulness.’<sup>62</sup> Stennis could take some support from the *Los Angeles Times*, which urged caution when it came to the baring of classified information and the

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<sup>57</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1421-1422.

<sup>58</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 842.

<sup>59</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

<sup>60</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1422.

<sup>61</sup> ‘The Senate Select Committee on Intelligence’, *Washington Post*, 29 January 1975.

<sup>62</sup> ‘Intelligence Agencies and the Constitution’, *Washington Post*, 14 January 1975.

practices of the nation's intelligence agencies. It noted that 'national security has become a term of scorn' and that covert activities were 'objects of automatic suspicion.' However, it also warned that the motives behind those leaking the information would confuse the general public as to its reliability.<sup>63</sup> The worry for Stennis was the influence of the press over the guidelines and regulations of any prospective committee.

The issue surrounding the potential publicity generated by the select committee was not confined to the potential security risks of exposed intelligence methods. The Senate and its members were adamant that the inquiry and any public hearings would not become a television and media circus in the same way that the Watergate Committee had done so over the previous two years. Furthermore, statements were made about members' fears of the publicity being used to further the careers of ambitious senators. Senator Barry Goldwater (R-AZ) had earlier stated that the committee should not have 'anyone running for president on this committee, or any other office.'<sup>64</sup> The races for the 1976 presidential nomination for both the Democratic and Republican parties were completely wide open. Gerald Ford was entirely aware that he held the unenviable position of being the only chief executive who had not been elected as either president or vice president. Most Republicans viewed him as a moderate and, as a result, he faced stiff competition from the conservative wing of the party who supported the potential nomination of former California governor, Ronald Reagan. The Democratic Party's nomination lacked a clear and decisive leader in the polls. At the time of the debate to establish the select committee there were numerous contenders for a possible run at the White House in 1976. Gallup polls in March 1975 on a future Democratic presidential nominee displayed a field of thirteen candidates. At the head of this group was George Wallace with a twenty-two per cent approval rating followed by Hubert Humphrey on sixteen per cent. Eventual nominee, Jimmy Carter, had a meagre one per cent approval rating at the time.<sup>65</sup>

After a two-hour debate the Senate passed S. Res 21 by 82 votes to 4; even Stennis voted in favour of creating the committee. By creating the select panel Baker stated it showed 'not only Congress but the people of this country make sure that the intelligence community and, of course, to some extent the law enforcement community, is under somebody's control.'<sup>66</sup> The Senate had given the committee the task of investigating whether the intelligence community had undertaken

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<sup>63</sup> Joseph Kraft, 'We Shouldn't Believe Only Bad About CIA, FBI', *Los Angeles Times*, 24 January 1975.

<sup>64</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 841,

<sup>65</sup> Gallup Poll, 30 March 1975.

<sup>66</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1426.

any operations that were 'illegal, improper, or unethical.'<sup>67</sup> Importantly the Senate had created more than just an investigative committee. By giving it the power to 'recommend the enactment of any new legislation or the amendment of any existing statute' the Senate had created a committee with considerable authority and a wide scope of powers.<sup>68</sup> It was to publicly examine and assess the methods and processes of the intelligence community of the United States for the first time in American history.

At the forefront of the Senate's intentions was the desire to represent the wishes of the nation's citizenry. It recognised the attempt by the executive branch to nullify any congressional enquiry by its creation of the Rockefeller Commission, but just as importantly it realised that the presidential commission did not have the support of the American public. The Senate saw the press as voicing the concerns and wishes of the electorate, and as a consequence its coverage of the dissention railed against the White House spurred the legislative branch into action. And if the press expressed the desire of the nation, the newly established Senate Select Committee to Study Governmental Operations With Respect To Intelligence Activities saw itself as carrying out the nation's wishes. What the committee required was a membership that understood the undertaking it had been entrusted for it to be able to achieve its objectives entirely.

## 2.4 Selecting the Committee

The Senate's desire that the newly created select committee should represent the entire nation was a theme that was extended into the selection of the committee's members. The members, empowered by S. Res 21, would set their own code of conduct and attempt to direct the investigation where they wanted. It was essential, therefore, to select a panel that not only had the understanding of the task set before them, but the experience and ability to undertake such a huge task. Senate Majority leader Mike Mansfield wanted younger and enthusiastic members on committees because 'they were closer to the people than those of us here for years. They are more aware of the needs of the people.'<sup>69</sup>

Mansfield understood how the establishment of the select committee was a dramatic change in the Senate's attitude to congressional oversight. Since the CIA's creation in 1947, there had been over two hundred attempted resolutions to instil an effective and strong system of

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<sup>67</sup> United States' Senate Resolution 21, 'To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities', 94<sup>th</sup> Congress, 27 January 1975. Sec. 1

<sup>68</sup> United States' Senate Resolution 21, 'To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities', 94<sup>th</sup> Congress, 27 January 1975. Sec. 4

<sup>69</sup> United States Senate, Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976), 2.

intelligence oversight. Mansfield himself had first asked for such a system as early as 1953 when he unsuccessfully introduced a proposal to create a joint Senate and House oversight committee.<sup>70</sup> The select panel offered Mansfield an opportunity to ensure that a thorough review of the intelligence community would take place. Unlike 1953, the desire to have such a review was mirrored by the public's demands. Furthermore, because the investigative panel was to be a select committee, the majority and minority leaders of the senate chose the panel members. This was in stark contrast to standing committees where the party caucuses choose the members. Mansfield, a proponent for oversight and reform, could use his position as majority leader to put like-minded individuals on the panel.

Significantly, the Senate Majority Leader declined the opportunity to fill the committee with reformative liberals. Mansfield believed the membership of the committee had considerable political significance. 'No more important responsibility to the people of the Nation can be assumed by Senators than membership on this committee,' he said on the Senate floor. He stated further that the committee's inquiry would enable the senate 'to foreclose any demeaning of the basic premises of a free society.'<sup>71</sup> Huddleston had called for the panel to be filled with a geographically diverse and bipartisan membership. It was essential, he said, because the final report of the select committee would have to be 'widely accepted by many elements of the American people.'<sup>72</sup> Mansfield shared the same objective as Huddleston. The committee staff director, William Miller, said that Mansfield wanted a 'spread of youth and age,' while Charles Ferris, a former Mansfield assistant said that Mansfield disapproved of the idea of the senate having a ranking system because 'the notion that were giants in the Senate assumed there were pygmies.'<sup>73</sup>

Membership of the select committee was both a prize and a poisoned chalice. Frank Smist argued that to be chosen for the Church Committee was much sought after for three reasons: firstly, that such a nationally-recognised committee would give its members fame and the attention of the press. The members' careers could be propelled into higher office if the inquiry gained enough coverage from the print and televised media. Secondly, such an inquiry was ground-breaking with respect to its subject matter. The Church Committee was to be the first major review of the intelligence community, and to be involved in it was likely to bring prestige and recognition. Thirdly, information obtained in the committee's hearings and reports, particularly those held in executive session, could be used to benefit other interests. Access to privileged information was both

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<sup>70</sup> Smist, *Congress Oversees*, 6.

<sup>71</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1434.

<sup>72</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

<sup>73</sup> William Miller and Charles Ferris quoted in Smist, *Congress Oversees*, 29-30.

attractive and potentially hugely rewarding. Finally, as the Church Committee was a select committee, being chosen to sit on the panel was an indication of the respect that the Senate leadership held for the member.<sup>74</sup>

The broad range of panel members in the final selection met Senator Huddleston's call for a diverse representation of Senators.<sup>75</sup> Those chosen for the Select Committee were a variety of ages, experience and ideology, and had differing views on the sanctity of the intelligence community. As a result, the committee members were a replication of the multifarious political and cultural beliefs of Congress and, on a wider scale, of the nation. At the head of the committee was 51-year-old Democratic Senator for Idaho, Frank Church. Church was in his fourth term - and what would eventually be his final one - as the senatorial representative of a largely Republican state. He had an Americans for Democratic Action (ADA) rating in 1974 of 83.<sup>76</sup> This rating placed him firmly as a liberal on the political spectrum. He was an idealist who, according to his son, 'ran the risk of being labelled naive.'<sup>77</sup> This perception of Church was further enhanced by his support of conservation issues, and his early opposition to American involvement in the Vietnam War. However, his opposition to gun control was due to his political pragmatism of a Democrat in a western Republican state.

Church was undeniably politically ambitious; his greatest aspiration was to chair the Foreign Relations Committee as his political idol, and fellow Idahoan Senator William Borah, had done before him. Church seemed a natural choice to chair the intelligence committee: he had extensive experience both within the Senate and in leading committees: he had been a member of the Senate Special Committee on Aging since 1959 and chaired it since 1971, during which time he championed the rights of the elderly in a successful effort to reform Social Security adjustments. In addition, he had led the Senate Subcommittee on Multinational Corporations investigation from May 1972. Initially the Subcommittee investigated the influence of multinational corporations of the foreign policy of the United States. Its revelation of corrupt practices including bribery involving corporations such as Lockheed, Arabian-American Oil Company (Aramco), culminated in the resignation of Japanese Prime Minister Kakuei Tanaka in 1976. Furthermore, he had also co-chaired the Special Committee on National Emergencies and Delegated Emergency Powers between 1972

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<sup>74</sup> Smist, *Congress Oversees*, 34.

<sup>75</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

<sup>76</sup> The Americans for Democratic Action compile ADA Ratings annually. Using 20 votes that the ADA considers the most important, it measures the political liberalism of each serving politician. For more information see Americans for Democratic Action website (<http://www.adaction.org/pages/publications/voting-records.php>)

<sup>77</sup> F. Forrester Church, *Father and Son: A Personal Biography of Senator Frank Church of Idaho by His Son* (Boston, MA, 1985), 105.

and 1974. This committee identified the growth of the national security state through presidential power authorised by the existence of four declared states of emergency that were still in effect.<sup>78</sup>



**Figure 3: Committee Chairman Senator Frank Church (D-ID).**  
(Courtesy of Boise State University, Albertsons Library Special Collections and Archives)

Despite all of Church's experience, he was not Senate Majority Leader Mike Mansfield's first choice. Philip Hart, the Democratic Senator for California, had been Mansfield's preferred option to lead the committee's inquiry. Hart was considered to be one of the most conscientious and ethical members of the Senate, and well respected on both sides of the floor. Mansfield's wish to place Hart as chair was thwarted by Hart being diagnosed with cancer just prior to the establishment of the committee. If Church was a pragmatic liberal in a frontier state, then Hart, a staunch defender of American citizens' civil liberties, represented idealistic west coast liberals. Judiciary Committee member Hart would act as a moral compass to the investigation throughout the committee's inquiry. However, notwithstanding the large Democratic majority of sixty-one seats to thirty-eight Republican members in the Senate, the Church Committee did not represent the proportion of

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<sup>78</sup> For more on Frank Church's committee experience see LeRoy Ashby and Rod Granger, *Fighting the Odds: the life of Senator Frank Church*, (Carlton, Oregon, 1994). For Church's work on the Aging Committee, 352-354, the National Emergency Committee, 412-416, and the Multinational Subcommittee, 416-445.

political differences within the Senate itself. Standing committee members were apportioned to each party dependent on their seats, with the final ratios negotiated by party leaders. Senators were assigned membership of committees through the Republican Party's Committee for Committees and the Democrat's Steering and Outreach Committee after each election.<sup>79</sup> As a select committee, the Church Committee membership was chosen by a different method: the majority leader chose six members and the chairman, while the minority leader chose five and the vice-chairman.

The four remaining Democratic members of the Church Committee, other than Church and Philip Hart, did represent the geographical and ideological differences of the Senate, as well as the variance in senatorial experience. Walter Mondale, the Senator from Minnesota, was considered to be one of the rising talents of the Democratic Party. He had experience as a lawyer, and had been the attorney general in Minnesota before entering the Senate. His voting record during his two terms as senator placed him firmly on the left wing of the Democratic Party with an ADA rating of 100.<sup>80</sup> The Kentucky senator Walter Huddleston had spoken out in favour of the committee during both the debates on the senate floor, and in the Democratic caucus meetings. A member of the Senate's Appropriations Committee, Huddleston had urged the committee to be established to restore faith in a governmental agency that 'must hold the public's confidence.'<sup>81</sup> However, his ADA rating of just 55 portrayed him as a moderate liberal. The two unknown quantities within the Democratic membership were the new members of Congress, Robert Morgan from North Carolina, and Gary Hart from Colorado. Morgan was expected to act as a moderate within the committee, but Hart was a different matter altogether. He had been appointed to the Armed Services Committee, but his brief political career had been potentially confusing to those trying to predict his future actions. Prior to entering the Senate, thirty-eight-year-old Hart had led George McGovern's campaign for the 1972 Democratic Party nomination but had attempted to portray himself as a much more conservative figure than McGovern to placate his normally-conservative constituents.<sup>82</sup>

The Church Committee's Republican Party's members also represented the diverse nature of the Senate and the Republican Party in general. The Texan conservative vice-chair John Tower headed the minority. With fourteen years in the Senate, Tower was an experienced politician and a member of the Armed Services Committee. His position on the Armed Services Committee rightly indicated him to be a supporter of the intelligence community, and he urged that the committee

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<sup>79</sup> Judy Schneider, *Committee Assignment in the U.S. Senate: Democratic and Republican Party Procedures*, Congressional Research Service, November 3, 2006, (found at <https://www.senate.gov/CRSpubs/1771db8e-8d9a-4bfd-9148-46df9d10815d.pdf>)

<sup>80</sup> Johnson, *Season of Inquiry*, 18-22

<sup>81</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

<sup>82</sup> Johnson, *Season of Inquiry*, 23.

‘conduct many of our deliberations in private’ so that information of greater depth could be obtained from the various testimonies.<sup>83</sup> However, right from the start, Tower showed himself to be ‘very supportive’ of Church’s leadership and throughout the entire inquiry maintained a sense of a bipartisan investigation.<sup>84</sup> When the committee’s final report was released in April 1976, Tower wrote a dissenting minority report. The issue was not the necessity of the investigation, nor was it the recommended imposition of congressional oversight of the intelligence community; instead, Tower called the final report an ‘over-reaction’ and observed that the proposed reforms would ‘limit the effectiveness of the Nation’s intelligence community.’<sup>85</sup>

Former Republican presidential candidate Barry Goldwater supported Tower’s defence of the intelligence community. The senator from Arizona declared himself an ardent supporter of the intelligence community during the senate debates. ‘The intelligence community has served the Nation loyally and ably’ he said, adding that any reformations should be made ‘after the most careful consideration.’ He urged the committee to ‘use a very sharp scalpel - not a meat ax’ to perform such reforms.<sup>86</sup> However, the Republican protection of the various intelligence agencies was not a position shared by all of the GOP committee members, especially Howard Baker. Baker, the moderate Tennessee senator, had sat on the Watergate Committee and had not been satisfied with the intelligence community’s role in the previous year’s scandal. Furthermore, Baker had also co-sponsored bills that called for a complete reorganisation of congressional oversight of the intelligence community. The committee was important, he said, to determine whether the various intelligence agencies were ‘complying with the requirements of the law.’<sup>87</sup>

Moderates Charles Mathias and Richard Schweiker completed the Republican membership. Their party considered both Matthias and Schweiker moderates, and their ADA ratings of 90 and 85 seemed to confirm this. Maryland senator Mathias had worked with Church before as co-chair on the National Emergencies Committee. Mathias had often sided with Church on contentious issues during the Nixon administration, and had been the first Republican senator to openly oppose the Vietnam War.<sup>88</sup> Pennsylvanian Schweiker, just like Mathias, had recommended the introduction of legislation to reform congressional intelligence oversight. He recognised the necessity of an ‘effective intelligence organisation’ but similarly that such organisations needed to be ‘subject to the rule of law.’

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<sup>83</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1415.

<sup>84</sup> Frank Church quoted in Smist, *Congress Oversees*, 36.

<sup>85</sup> *Church Report*, ‘Book 1: Foreign and Military Intelligence’, p.572.

<sup>86</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1429-1430.

<sup>87</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1426.

<sup>88</sup> Ashby and Gramer, *Fighting the Odds*, 412-413.

The members of the Church Committee represented not just the difference in party allegiances that was evident in the senate, but the ideological variations that existed within those parties. This diversification was an attempt by the senate leadership to reproduce the political differences within the electorate. It was also an effort to move away from the traditional bodies that oversaw the intelligence community. If the members were also to depict the change in the public's attitude towards congressional oversight, then they succeeded there too. Despite the membership of the four major standing committees that conducted oversight - Armed Forces, Appropriations, Foreign Relations and Judiciary - none of the Church Committee were the senior members or chairs of their respective committees: Philip Hart was third in seniority on the Judiciary Committee, Huddleston and Schweiker were junior members of the Appropriations Committee, Church was third and Baker his junior on the Foreign Relations Committee. Despite Tower and Goldwater's membership Gary Hart was one of the new members of the Armed Forces Committee. The only member of the panel to be a member of two of the oversight committees was Mathias, and his desire to see effective congressional oversight negated any influence exerted by his membership of the Appropriations and Judiciary committees. None of those considered the most experienced in intelligence oversight – such as John Stennis - were included in the select committee. It seemed as though the Senate had listened to the public, after all.<sup>89</sup>

## 2.5 The Chairman's Challenge

The conduct and structure of the committee's staff, as well as the committee members, was affected by public opinion and the necessity of gaining public support. The issue of potential partisanship within the Church Committee affected not just its senatorial committee members, but also its staff members. The limited lifespan of nine months made the committee's inquiry extremely challenging. The extensive time period that was due to be investigated meant that the committee members were wholly reliant on the committee staff members that were appointed to the committee. The efficiency and bipartisanship of the staff members was crucial to the committee's objectivity and reputation. At its height, the staff members numbered one hundred and thirty-five, mostly lawyers, of which a total of fifty-three were hired as investigators.<sup>90</sup>

Frank Church's Senate staff member, Garry Wenske, recalled that the desire to both sit on the committee extended to wanting to work as one of its staff members. 'Everyone wanted to be on it,' he said. 'I was just out of law school, but it was too late to be considered.'<sup>91</sup> Wenske's summary is

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<sup>89</sup> Smist, *Congress Oversees*, 31-32.

<sup>90</sup> Johnson, *Season of Inquiry*, 25.

<sup>91</sup> Interview with the author, Garry Wenske, Boise, Idaho 15 September 2017.

supported by the plethora of application receipts within the Frank Church Collection at Boise State University's archives. Church was inundated with potential staff members as soon as the committee had been established. Mike Mansfield forwarded on applications he had received prior to the vote on the Senate floor.<sup>92</sup> Almost every Senator and Representative had somebody they recommended to work on the committee's staff, and Church had every application recognised and replied to. The aspiration to work on the committee was due to a combination of an interest in the subject and also Church's reputation as a great supervisor. 'He had an excellent reputation as a straight-shooter,' said Mike Wetherell. 'He insisted on your quality work.'<sup>93</sup>

At the head of the team of investigators and administrators chosen to work on the committee were chief counsel Frederick 'Fritz' Schwartz and staff director Bill Miller. They represented the different approaches the committee would take to the inquiry - Miller adopted a cerebral approach to foreign policy issues during his examination of foreign intelligence operations, while Schwartz performed more as an investigator whilst heading the domestic intelligence investigation. Their differing tactics were diametrically opposed but ultimately proved complimentary and rewarding. Schwartz, a partner at New York law firm Cravath, Swain, and Moore, 'knew nothing about intelligence' but did understand 'how to handle big amounts of information and how to make an argument and use facts to make arguments.'<sup>94</sup> Miller on the other hand, was a man of the Beltway. He had worked both as an aide to Senator Cooper and had been staff director on the Emergency and Delegated Powers Committee that Church and Matthias had co-chaired. As Miller had also helped draft the senate resolution that created the committee with Senator Mansfield, his posting as staff director was inevitable.

The staff members were situated in room S-308 in the Dirksen building on Capitol Hill, and in the early days the place was a 'state of anarchy' as the former auditorium was adjusted to match the needs of its inhabitants. The interior was transformed into a partitioned office that consisted of a labyrinth of newly formed corridors and workspaces. At the centre were the staff director and chief counsel, with their respective investigators and administration staff stretching towards the walls that surrounded them. On a dais at one end of the room were various researchers and locked filing cabinets. To emphasise the importance of security within the enquiry, there was an armed guard at the door day and night.<sup>95</sup> The layout allowed Schwartz and Miller to have 'full awareness of the committee's work.' Miller stated that 'we just had partitions but no privacy' and that in order to

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<sup>92</sup> Letter, Mike Mansfield to Frank Church, 29 January 1975, (Series 2.6 The Church Committee, Box 1, Folder 1, FCP, Boise State University Special Collections)

<sup>93</sup> Interview with the author, Mike Wetherell, Boise, Idaho, 15 September 2017.

<sup>94</sup> Interview, Frederick A.O. 'Fritz' Schwartz, 28 October 2014, in: *Oral History Interviews*,

<sup>95</sup> Johnson, *Season of Inquiry*, 23.

have a private talk ‘you had to either get a room or walk outside in the park.’ Unsurprisingly, for an investigation that dealt with a great deal of classified information ‘there were a lot of walks in the park.’<sup>96</sup>

The recruitment of the Church Committee staff began immediately after the establishment of the committee. The urgency was because of the concern that the contemporaneous investigations led by Vice President Rockefeller and Representative Nedzi might hire them first. In addition to the plethora of recommendations from congressional colleagues, the Church Committee’s staff members were recommended by various law school deans. They had to be ‘hardy types and not comfortable with huge salaries because we couldn’t pay very much’ said Miller. The investigation’s process required different thought processes amongst its staff members – those that knew how to acquire information; those that could analyse it; and those that could turn the analysis into policy.<sup>97</sup> The resulting group was a ‘band of happy brothers and sisters,’ added Peter Fenn.<sup>98</sup> The open plan nature of the Church Committee office had a transformative effect on the office culture of the committee staff. Initially, there was an atmosphere of ‘distrust and whispering’ between the workers, but the close proximity of the co-workers soon changed things to a culture where ‘everybody was pretty blunt and honest with each other.’<sup>99</sup>

The partisan attitudes that could so easily have destroyed the committee’s efficacy and reputation did not disappear entirely. As the committee began its investigations the majority of staff members approached the work from a nonpartisan point of view. As a result, for the most part there was a ‘remarkable degree of shared sense of mission’ among both the Democratic and Republican staffers.<sup>100</sup> During the investigations conducted by the committee Republican and Democratic staffers accompanied each other to maintain a bipartisan spirit and to create an element of trust between the staff. However, according to Senator Baker’s aide Howard Liebengood the committee was ‘nonpartisan in staff relations and in the thrust of the leadership.’ Liebengood, who had also worked on the Watergate Committee, said the Church Committee did not suffer from the lack of communication between the two groups of staff as the Watergate Committee did. ‘Republicans and Democrats worked hand in hand on projects together’ he noted.<sup>101</sup> Such cooperation was a result of the lesson set by the conduct and actions of the senatorial members of the committee. The committee staff members were ‘receiving good nonpartisan signals from their patrons’ said Church

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<sup>96</sup> Interview, William Miller, 16 May 2014, in: *Oral History Interviews*.

<sup>97</sup> *Ibid.*

<sup>98</sup> Interview with the author, Peter Fenn, Washington D.C., 11 October 2016.

<sup>99</sup> Interview, Peter Fenn, 2 October 2014, in: *Oral History Interviews*.

<sup>100</sup> Interview, Frederick D. Baron, 28 May 2015, in: *Oral History Interviews*.

<sup>101</sup> Howard Liebengood quoted in Smist, *Congress Oversees*, 41.

Committee counsel Frederick Baron. The Republican aides often stopped the investigation taking a potential partisan route by challenging the Democrats. Particularly effective at keeping the investigation on an even keel was Howard Baker's designee, Mike Madigan, who according to Baron, 'made a tremendous contribution for the greater good.'<sup>102</sup>

In an atmosphere that staff member Mark Gitenstein called intense and one that 'could become partisan', Church's management style was essential to maintaining a balanced and bipartisan approach to the inquiry.<sup>103</sup> Church had gained a reputation for not only attracting the best staff but of also intellectually and professionally developing them into outstanding aides. Former Idaho district representative Larry LaRocco described Church's approach to man-management as hands-off delegation. 'He was a dream to work for. He wasn't a tyrant. He never lost his temper'.<sup>104</sup> But appointment to Church's staff was on merit. In particular, Church's senatorial staff members were not made up of sons and daughters of political allies, but of those best suitable for the job. 'He didn't really like to hire kids of political families,' Mike Wetherell said. 'If he had to fire them, it caused him problems.'<sup>105</sup> Although Church tended to be rather formal with his staff, as his biographers noted, he always treated them with 'respect, consideration, and graciousness.'<sup>106</sup> The Church Committee staff members were no different in their ability, nor were they treated any differently. Church's reluctance to use an authoritative method of management allowed the Church Committee staff to support fully the drive for a bipartisan effort. That is not to say that Church did not influence the work of the committee or its staff, on the contrary.

The appointment of Miller and Schwartz to head the enquiry as the two key members of staff is the best illustration of Frank Church's influence on the committee's staff. Miller's capacity to comprehend government and political institutions and Schwartz's inclination to investigate and accumulate factual data reflected facets of Church's own personality. Church recognised the potential for a clash because of the differing approaches and turned the committee into a dual-headed investigation. He himself later remarked that in order to 'do the job that was given us, it was necessary that we avoid internal fighting.'<sup>107</sup> By doing so, Church had indirectly imposed himself onto the everyday activities of the staff. Schwartz himself maintains that even his title during the inquiry – chief counsel, rather than majority counsel – supported the claims of bipartisanship. 'The staff really felt like a team', he said. 'We really did not feel in any way partisan.'<sup>108</sup>

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<sup>102</sup> Interview, Frederick Baron, 28 May 2015, in: *Oral History Interviews*.

<sup>103</sup> Interview, Mark Gitenstein, 20 August 2014, in: *Oral History Interviews*.

<sup>104</sup> Interview with author, Larry LaRocco, Boise, Idaho, 14 September 2016.

<sup>105</sup> Interview with author, Mike Wetherell, Boise, Idaho, 15 September 2016.

<sup>106</sup> Ashby and Gramer, *Fighting the Odds*, 361.

<sup>107</sup> Frank Church quoted in Smist, *Congress Overseas*, 37.

<sup>108</sup> Interview, Frederick A.O. 'Fritz' Schwartz, 29 October 2014, in: *Oral History Interviews*.

## 2.6 Expectations of the Committee

The remit of the Church Committee, as established by Senate Resolution 21, had broad parameters. However, the influence of the American public's desire to conduct a full and frank enquiry of the allegations directed at the US intelligence community was evident in the assignment set by the Senate. In addition to public opinion, the task and objectives of Church and his fellow panellists were affected by the personal objectives of the committee's members, staff, and opponents. Despite the successful efforts of Church to ensure a bipartisan inquiry, personally motivated ambitions and external political forces influenced the conduct of the committee's probe into the intelligence community. As a result of the various forces impinging on the committee, it is remarkable that they managed to achieve what they did.

The public's demand for a full investigation of Hersh's allegations of CIA misdemeanours was voiced in all the major newspapers. Senate Resolution 21 suggested that the Senate listened to such calls. The *Los Angeles Times* clearly set the agenda for the committee, stating it needed to investigate the CIA and FBI, then 'set new and clear limits' on the powers of the nation's intelligence agencies, and finally 'devise a new system of oversight and control to enforce those limits.' It argued that while the task was easily defined, the committee had a wider issue to look at, specifically 'the danger of uncontrolled government surveillance of American citizens.'<sup>109</sup> The *Washington Post* put the public's concerns at the forefront of the Church Committee's objectives. It too placed the investigation into a larger frame than just the Hersh accusations. 'It is to Congress that most citizens will look for insurance against future abuses of secret state power, and that the nation's intelligence requirements are being properly and efficiently served,' an editorial ran.<sup>110</sup>

The official task set before the Church Committee within Senate Resolution 21 had a significant number of detailed subclauses. The accusations of CIA domestic surveillance activity were dealt with in subsection 1, and the counterintelligence activities of the FBI were identified in subsection 2. The scope of the investigation was illustrated by the other thirteen subsections within the resolution: other areas of the committee's inquiry included the relationship between the various intelligence agencies; the performance of the incumbent and previous heads of the US intelligence community, the Director of Central Intelligence; the oversight role played by the executive branch; the transparency and legality of regulations imposed by the executive branch on the intelligence

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<sup>109</sup> 'The Spying Frenzy', *Los Angeles Times*, 28 January 1975.

<sup>110</sup> 'The Senate Select Committee on Intelligence', *Washington Post*, 29 January 1975.

community; the efficacy of congressional oversight of the various intelligence agencies; the adequacy of current legislation concerning surveillance and domestic counterintelligence; the economic value of expenditure on intelligence gathering; and the necessity of intelligence activities within the United States and abroad. Congress was determined that its first review of the intelligence community would be thorough and detailed enough to satisfy the American public's demands.<sup>111</sup>

Church understood and recognised the calls for reform of the intelligence community. He regularly and consistently announced the objectives for the committee's investigation, as he understood them. However, the greatest influence on Church was not the clamour of the American public as expressed by the newspapers, nor the fears and concerns of his own Idahoan constituents; instead, Church was motivated by his political idealism of a transparent and accountable democratic process, and a personal morality to do the right thing. Immediately after the vote to establish the committee, Church explained that the inquiry was to 'safeguard the legitimate interests of the country', identify the abuses that had occurred, and to prevent the United States from slipping 'into the practices of a police state.'<sup>112</sup> He had spoken just eighteen months earlier of the necessity of 'restoring a climate of health and honesty' within the United States democratic system as a requirement of the nation's 'security and well-being.' The theme of national security had been used as a mitigating force to allow those in power 'to manipulate and circumvent the processes of American democracy.'<sup>113</sup> The Church Committee's investigation offered its chairman a chance to cast light on such occurrences in an attempt to cleanse national politics. He told one constituent that he saw the committee's inquiry as an opportunity to reduce severely or eliminate the CIA's covert operations, and as a consequence the insurgencies and revolutions it supported, as well as the 'sabotage and undeclared wars which have been a scandal for years.'<sup>114</sup> The only conceivable way Church could achieve his objective was to educate the American public on government activities that were shrouded in unnecessary secrecy. An educated public would support the committee's investigation and reforms, he believed. It was a view that was shared by members of the Church Committee. Mary DeOreo, who worked in the Church Committee's research centre, suggested that

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<sup>111</sup> United States' Senate Resolution 21, 'To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities', 94<sup>th</sup> Congress, 27 January 1975. Subsections 1-14.

<sup>112</sup> Spencer Rich, 'Senate Creates Panel to Probe CIA and FBI', *Washington Post*, 28 January 1975.

<sup>113</sup> Frank Church, 'Beyond Vietnam', speech before the World Affairs Council of Wilmington, 6 June 1973, (Transcript found in Series 8.1 Speeches, Box 21, Folder 18, [FCP])

<sup>114</sup> Letter, Frank Church to Pastor George C Brown Jr., 4 February 1975, (Found in Series 2.6 The Church Committee, Box 1, Folder 1, [FCP])

the entire purpose of the public hearings was to educate the public. 'If you're not educating the public,' she said, 'then you haven't conducted a very thoughtful or thorough hearing.'<sup>115</sup>

Church's wish to educate the public has been interpreted by some historians as being something of a paternalistic moral crusade. But, as Kathryn Olmsted argues so coherently, that would wrongfully suggest that it was an insincere desire. Church's record of standing up against both executive overreach and secrecy within the American democratic system had been consistent throughout his senatorial career. In particular, Church's opposition to American involvement in Vietnam had been because of his disapproval of what he saw as unnecessary intervention abroad by the US.<sup>116</sup> In response, he jointly proposed the Cooper-Church amendments, which restricted the use of US combat troops in Laos and Thailand in 1970 as part of the Foreign Military Sales Act of 1971, with Republican Senator John Cooper of Kentucky. He managed to further restrict executive unilateral action towards Vietnam through the Case-Church amendment of 1973. This amendment proposed that the executive branch needed congressional authorisation for US troop activity in South East Asia. Initially failing to get passed in the Senate in 1972, the bill was resuscitated thanks to the developing Watergate scandal, and the increasingly destructive and ineffective bombing of Cambodia. The bill was passed by both the House and the Senate and effectively ended the US military involvement in Vietnam.<sup>117</sup>

Church called Nixon's management of American involvement in Vietnam 'an unconstitutional exercise in presidential power.'<sup>118</sup> For Church, nothing illustrated the danger to American political life better than the Vietnam War and Watergate. Such events, he said, had showed that the American public had had 'enough of high government officials taking the law into their own hands because they believed some policy was the "right" policy.' And neither Vietnam nor Watergate would have been possible without the 'moral and political perversion' caused by the deception of the American people.<sup>119</sup> The revelation of US intelligence agencies conducting illegal and unconstitutional activities was just as great a threat to the American political system as Vietnam and Watergate. Church aimed to ensure that the agencies that operated 'on the fulcrum of that uneasy balance between individual liberty and collective order' answered to the 'charges far more crucial to the preservation of our freedom than the customary complaints about malfeasance in

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<sup>115</sup> Interview, Mary DeOreo, 24 July 2013, in: *Oral History Interviews*.

<sup>116</sup> Olmsted, *Challenging the Secret Government*, 52-54.

<sup>117</sup> Further details on Church's efforts to get the amendments passed can be seen in Ashby and Gramer, *Fighting the Odds*, 299-305, 308-340, 381-383 and 402-407.

<sup>118</sup> *Congressional Record*. 1973. 93<sup>rd</sup> Cong., 1<sup>st</sup> sess., vol. 119, 22310.

<sup>119</sup> Frank Church, 'Beyond Vietnam', speech before the World Affairs Council of Wilmington, 6 June 1973 (Transcript found in Series 8.1 Speeches, Box 21, Folder 18, [FCP])

some ordinary bureaucracy.<sup>120</sup> Church Committee staff member, Peter Fenn, said that for Church it was 'extremely important that the American government knew what its government was doing. The transparency issue was extremely important.'<sup>121</sup>

To achieve both Church's personal motivations and objectives for the committee's investigation and the task set for the panel by the Senate, Church understood the necessity for public support for the inquiry. If Church and his fellow panellists found any supporting evidence for the Hersh allegations as printed in the *New York Times*, then, in all likelihood, the committee would be recommending reforms that would be contentious to some members of the Senate, and also to some members of the public. The committee required two essential characteristics to gain an endorsement of any potential reforms from the public: firstly, that it represented all of Congress through being bipartisan and free of ideologically driven motives. Secondly, that it was a balanced investigation that made its conclusions from the evidence made available through the enquiry. Church and his fellow panel members had not been appointed to destroy the various intelligence agencies, but to ensure they acted efficiently and effectively within the boundaries of the law. Mansfield had clearly stated that the committee was to 'elucidate for the Senate the relevance of the intelligence community as it now operates to the Nation's contemporary needs.'<sup>122</sup>

Church's intention to conduct a fair and unbiased inquiry was illustrated just a month after the Senate had established the committee. In a speech that was later entered into the *Congressional Record* by Mike Mansfield, Church again spoke of the objectives of the committee's investigation. It would be, he stated, 'a judicious and responsible attempt to uncover the truth.' It was not the committee's intention to 'undermine or dismantle the CIA' or to damage the foreign relations of the United States through embarrassing revelations. Church did not want to destroy the CIA or any of the intelligence agencies. He had publicly stated not just his support for the United States intelligence community, but also his understanding of the necessity of an intelligence community. As a former military intelligence officer he understood that 'without an efficient day-to-day intelligence operation, our government could not possibly conduct an informed foreign policy.'<sup>123</sup> He reassured Idahoans that his intention was to conduct an unbiased and bipartisan inquiry, promising to 'point the finger of guilt and responsibility at Democrats as well as Republicans, wherever the truth may lead.'<sup>124</sup> On the *CBS Morning News* television programme, he argued that the public expected the

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<sup>120</sup> Frank Church, 'Neither A Vendetta Nor A Whitewash', speech before the National Press Club, 27 February 1975 (Transcript found in Series 2.6 The Church Committee, Box 1, Folder 1, [FCP])

<sup>121</sup> Interview with the author, Peter Fenn, Washington D.C., 11 October 2017.

<sup>122</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1434.

<sup>123</sup> Frank Church, 'Neither A Vendetta Nor A Whitewash', speech before the National Press Club, 27 February 1975 (Transcript found in Series 2.6 The Church Committee, Box 1, Folder 1, [FCP])

<sup>124</sup> Letter, Frank Church to RR Phillips, 2 July 1975, (Series 2.6 The Church Committee, Box 1, Folder 2, [FCP])

committee to be responsible in its actions. In its attempts to obtain former President Nixon's papers on the Huston Plan, the committee had been told by the White House that there was nothing of any consequence in them. Church argued that it was not the White House's job to judge the value of the content, and that for the committee to allow that to happen would be irresponsible. 'How would the public feel about that kind of an attitude? I'm trying to get to the bottom of the investigation,' he stated.<sup>125</sup> Church's attempts to conduct a bipartisan enquiry were helped by what fellow panellist Walter Mondale called a 'bipartisan feeling' that was evident in the Senate at the time.<sup>126</sup>

Church's desire for publicity and the revelation to the American public of the *modus operandi* of the various intelligence agencies was problematic. Firstly, Mike Mansfield had promised the Senate that the investigation would not be a televised, scandalous affair in the mould of Watergate.<sup>127</sup> Church understood more than most that the rise of television in the home in the United States had made it a valuable ally in Congress winning public support during the Watergate hearings. However, he had made a public promise of stopping the inquiry from becoming a 'legislative carnival, an investigative sideshow or a television extravaganza.'<sup>128</sup> In addition, he had reassured his Idaho constituents, concerned at the prospect of the publication of the intelligence community's secrets, that the committee would 'proceed cautiously and fairly to arrive at the facts, ever mindful of the need to assure that national security information is protected.'<sup>129</sup> But he had intimated that the committee's inquiry would mean 'as much information as possible will be furnished' through public hearings 'whenever we can, and closed hearings whenever we must.'<sup>130</sup> The support of the public would only come as a result of sustained media coverage. As Church Committee counsel Mike Madigan put it succinctly, 'unless you get it in the newspaper with an article that says how terrible this is, you don't get public opinion.'<sup>131</sup> The danger that Church and the other panellists faced was that such media coverage would be interpreted as intentional sensationalism at the expense of national security.

## 2.7 The People's Committee

The establishment of the Church Committee, and the objectives that were set for the panel's enquiry, was influenced both directly and indirectly by public opinion. The public's demands for an

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<sup>125</sup> Frank Church, *CBS Morning News*, 13 August 1975 (Transcript found in Series 10.6 Special Files, Box 1, Folder 21, [FCP])

<sup>126</sup> Interview, Walter Mondale, 19 December 2014, in: *Oral History Interviews*.

<sup>127</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 842.

<sup>128</sup> Frank Church, 'Neither A Vendetta Nor A Whitewash', speech before the National Press Club, 27 February 1975, (Transcript found in Series 2.6 The Church Committee, Box 1, Folder 1, [FCP])

<sup>129</sup> Letter, Frank Church to FR Hill, 11 February 1975, (Series 2.6 The Church Committee, Box 1, Folder 1, [FCP])

<sup>130</sup> Frank Church, 'Neither A Vendetta Nor A Whitewash', speech before the National Press Club, 27 February 1975, (Transcript found in Series 2.6 The Church Committee, Box 1, Folder 1, [FCP])

<sup>131</sup> Interview, Michael J. Madigan, 22 October 2014, in: *Oral History Interviews*.

enquiry were set by the press's intensive coverage and discussion of Seymour Hersh's article in the *New York Times*. The subsequent editorials and column inches devoted to the topic in the printed press, covered not just the impingement on American citizen's civil liberties, but also engaged with the wider implications of the intelligence community's activities: the ever-expanding over-reach of executive power, the failure of congressional oversight that highlighted the imperfections of the checks and balances system of government, and the dangers of secrecy within a democratic system. While the press recognised that there may be 'some specific illegalities' that could not be discussed in a public enquiry, any enquiry had to include what the public *ought* to know. Such demands for the public to be informed, Seymour Hersh said, had rarely been exacted upon the executive branch before in relation to the CIA.<sup>132</sup>

It was the need to both satiate the general public's demands and the requirement of public support in the future that shaped not just the committee's remit, but also how the membership of the panel would be completed. Congress could not 'shed its responsibilities for moving against the violations of the law,' argued the *New York Times*. It was a statement that the Senate very much was in agreement with. Senator Pastore argued that the Select Committee should be established to 'find out the abuses of the past, and also of the present.'<sup>133</sup> Congress recognised that as an institution – the People's branch – it had failed to fulfil its constitutional duties with regards to intelligence oversight. As a result, it had been negligent in checking the growth of executive power. The Senate saw the enquiry as a tool to 'restore constitutional government in the United States' and to restore the public's confidence in the intelligence community.<sup>134</sup>

Membership of the Church Committee was indirectly affected by public demands for a balanced enquiry that addressed the issues raised by the Hersh article. Whilst the *Washington Post* argued that 'clearly some of the intelligence machinery and some of the practices have outlived their purpose,' there was no call for a wholesale dismantling of the intelligence community.<sup>135</sup> Despite *Washington Post* columnist Walter Pincus stating that the 'future looks grim' for the 'legitimate functions of the intelligence community', Congress never had any desire to destroy what it saw as an essential part of American foreign policy decision making.<sup>136</sup> Despite Senator Cranston arguing on the Senate floor that the intelligence community had the power 'to subvert the Constitution and threaten freedom,' the understanding was that the various intelligence agencies needed reining in. Senator John Stennis, in an effort to build greater protection for the CIA, stated that such an

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<sup>132</sup> Seymour Hersh, 'Some Basic Questions for CIA's Questioners', *New York Times*, 5 January 1975.

<sup>133</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

<sup>134</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1418.

<sup>135</sup> 'Intelligence Agencies and the Constitution', *Washington Post*, 14 January 1975.

<sup>136</sup> Walter Pincus, 'Spies and Presidents', *Washington Post*, 26 January 1975.

understanding of the agencies' necessity was 'not shared by all the people' and 'not understood, either by all the people.'<sup>137</sup> As a result, both Senate Majority leader Mike Mansfield and Minority Leader Hugh Scott selected a membership that would not only identify the issues that concerned the nation so much, but also gain national bipartisan support for any reformatory measures. After the committee had been created Mansfield again tied the committee to acting on behalf of the public. 'The Senate must be satisfied that the intelligence community is doing the people's business, to the end that the nation may with assurance be so advised.'<sup>138</sup>

Nevertheless, there was also a limit to the direct influence of public opinion concerning the formation of the committee. The American public's demands for an enquiry that would, as Mansfield put it, 'probe fully and to assess completely, to understand thoroughly and to evaluate judiciously' allowed personal objectives to affect the course of the enquiry.<sup>139</sup> There can be little doubt that Mansfield's long-term desire to have an effective, searching review of the intelligence community influenced both the establishment of the committee and the Senate resolution that founded it. Nor is it unlikely that the personalities and characteristics of the panel members that constituted the Church Committee failed to impinge on the nature of the investigation. Personal motivations varied from members who wished to drive the committee into being an expansive probe that aimed to publicise its findings, to those that preferred to conduct the majority of its interviews in executive session, so it could elicit more 'penetrating and in-depth information.'<sup>140</sup>

But the committee members had been chosen because of their varying ideologies, ages, experiences and constitutional geographies to represent the entire nation. Their personal motives and objectives for the Church Committee were meant to mirror those of the population of the United States. For this reason, the need to foster public support and interest in the committee's work had indirectly affected the selection of the Church Committee members. The Church Committee's task was not just to investigate the misdemeanours of the intelligence community but also to 'recommend the enactment of any new legislation or the amendment of any existing statute.'<sup>141</sup> If the public failed to believe that the committee was working on its behalf, or if the panel did not succeed in gaining the support of the public, then its suggested reforms could end up being discarded and ignored.<sup>142</sup>

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<sup>137</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1418-1422.

<sup>138</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1434.

<sup>139</sup> *Ibid*.

<sup>140</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1419.

<sup>141</sup> United States' Senate Resolution 21, 'To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities', 94<sup>th</sup> Congress, 27 January 1975. Sec. 4.

<sup>142</sup> As happened to the Nedzi/Pike Committee, the House of Representatives' investigation into Hersh's allegations, originally under the chairmanship of Rep. Lucien Nedzi (D-MI) and then Rep. Otis Pike (D-NY).

Public opinion played a significant role in the creation of the Church Committee as well as various other facets of the committee's investigation and membership. The committee's objectives for its nine-month investigation, the panel membership, its staffers, were all impacted upon by public opinion, either directly through the press's vociferous demands for a judicious, balanced investigation, or indirectly by the prospect of requiring public support for its efforts at a later date. The public was both a driving force and an expected audience for the committee, enabling public opinion to play such a major role in the creation and early life of the Church Committee. This would not be the end of public opinion's influence during the Year of Intelligence – it remained a considerable force throughout the period and had a large bearing on how the Church Committee conducted its investigation of the intelligence community.

# Chapter Three

## The Church Committee at Work

### 3.1 Public Opinion and the Church Committee Enquiry

Public opinion played an influential role in the formation of the Senate's investigation into the intelligence community in 1975. The Year of Intelligence was instigated by the demands of the American public for accountability. It had forced the White House to act and to create the Rockefeller Commission to investigate the scandalous claims of Seymour Hersh in the *New York Times*. And it was public opinion that significantly contributed to Congress examining the effectiveness of congressional oversight of the American intelligence community. The anger caused by the claims that the CIA had engaged in covert domestic intelligence operations became too much for Congress to ignore. Such demands by the citizenry provided opportunities for legislators, such as Senate Majority Leader Mike Mansfield and Senator Frank Church, to further their own agendas during the Year of Intelligence. However, the wishes of the American people were not constrained to just the Church Committee's formation, membership and objectives; public opinion also played a significantly influential role in what the Church Committee investigated and how it revealed its findings to the public.

Despite the Senate setting out the objectives of the enquiry, the Church Committee was given its direction throughout its entire investigation by the demands of the press. For many of those within Congress and the White House, the press was perceived as the voice of the nation and a true indicator of public opinion. In particular, the *New York Times* and *Washington Post* were seen by those in the Capitol as an accurate reflection of the national mood. Throughout the Year of Intelligence, the White House believed that national public opinion was more than just that represented by the editorials of these East Coast publications. The executive branch's speculation that the public dissatisfaction was exclusive to the Atlantic coast and received 'not nearly as much play or concern out in the country' spectacularly backfired on the Ford administration.<sup>1</sup> Significantly, it was the Rockefeller Commission's inability to satisfy the demand for a thorough and balanced investigation of the activities undertaken by the numerous intelligence agencies that contributed to the creation of the Church Committee. The failure of the Ford Administration to act on the demands of public opinion meant that the nation turned to Congress to conduct a balanced and thorough enquiry. Philip Buchen, counsel to the president, stated that the legislative branch was determined

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<sup>1</sup> GOP Leadership Meeting Memorandum, 24 September 1975. (Box 9, folder "Congressional Leadership Meetings with the President - 9/24/75: Republican" John Marsh Files, GRFPL)

to conduct its own investigation regardless of the reception of the executive branch enquiry and 'simply disregarded the fact that there was a Rockefeller commission.'<sup>2</sup> Congress was determined to conduct its own review, but the obvious inadequacies of the Rockefeller Commission gave momentum to the creation of a congressional enquiry. And the failure of the Rockefeller Commission to gain public approval for the nature of its investigation, as well as its composition, meant that public opinion was a significant influence on the areas that the Church Committee investigated. Consequently, it was public opinion that became the biggest influence on the Church Committee during the Year of Intelligence.

This chapter will examine the effect that public opinion had on the investigation of the Church Committee. It will identify the demands and expectations of the American public and establish how such public opinion influenced the day to day operations of the committee. In particular, it will illustrate how the requirements of the US electorate for accountability and information, as voiced through the press, defined the parameters of the enquiry. This is particularly evident in the issues that the committee investigated throughout its sixteen-month lifetime. In addition, it will closely look at how the committee's efforts were received by the press, and, as a consequence, whether the efforts of Senator Church and his colleagues managed to satisfy the public's demands. Furthermore, it will indicate that the necessity of public approval was just as important a factor in moulding the strategy of the enquiry.

Public demand for detailed information of the nefarious activities of the CIA and FBI shaped the committee's methods of investigation, and how it relayed its findings to the American public. What shocked the American public most of all, and increased their thirst for detail, was that the targets of the covert operations were not foreign communists in distant countries threatening the national security of the United States. Instead, it was American nationals in the United States that were the victims of the unconstitutional and illegal practices.<sup>3</sup> Prior to the enquiry, little had been known of the methodology and machinations of the American intelligence community. The desire for information on what constituted the secret operations of agencies such as the CIA and FBI was driven by a combination of an entire nation's inquisitiveness, and a national disbelief of the nature of the targeted individuals, organisations and movements. The American public wanted to peel back the multitudinous layers of the onion that was the intelligence community, and the Church Committee was to be the tool with which to do it. For some supporters of the intelligence community, such as Senator Alan Cranston (D-CA), the time for national security to 'stand in the way

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<sup>2</sup> Interview, Philip Buchen, 6 June 1983, in Smist, *Congress Oversees*, 27.

<sup>3</sup> Jeffreys-Jones, *The CIA And American Democracy*, 198.

of the American people's full understanding of the problem' had passed. For too long such an excuse had stood in the way of 'publicly assigning responsibility for past actions.'<sup>4</sup>

The Senate called for a panel that would conduct an inquiry and would act with 'discretion, with restraint, and with a high sense of national responsibility.' The American public demanded the enquiry hold public hearings that shattered the prospect of it not being 'a Roman circus or a television spectacular.'<sup>5</sup> Furthermore, the dwindling press coverage that precipitated the public hearings meant that public support was diminishing whilst the enquiry was initially held behind closed doors in executive sessions. Consequently, to avoid any accusations of a whitewash and to maintain and invigorate public interest in the enquiry, investigatory transparency became a necessity for the Church Committee. The continued interest and support of the public were integral to the enquiry achieving its objective of reform of congressional intelligence oversight. Such demand for public hearings allowed members of the panel such as Senators Church, Mondale and Baker to point the committee's enquiry in the direction they wished it to go. In this way, public opinion became not just a substantial influence on the Church Committee, but also a tool to support personal motives and objectives.

The support of the American public became vital towards the end of the investigations of the Church Committee as its reputation and enquiry came under heavy criticism in both the papers and in Congress. The Ford White House correctly saw the Church Committee as a threat to the executive control of the intelligence community. As a result, the executive branch launched an intense public relations offensive in an effort to turn public support away from the congressional enquiry. As public interest waned in the committee and its investigation, the enquiry became the target of severe condemnation. The committee was portrayed – because of its findings, public hearings, and purported release of classified information – as a threat to national security and having damaged the international standing of the United States. In part, this was due to Ford's public relations campaign. Further damage was caused by the failure of the House enquiry, the Pike Committee. The mistakes made by the Pike enquiry became associated with the Church Committee because the public failed to make a distinction between the House and Senate.<sup>6</sup> Members of the committee were described as 'eager to make cheap headlines' on the issues of intelligence and national security.<sup>7</sup> Furthermore, the press began to blame the congressional enquiries as the source of the leaks of classified information and the cause of an unworkable partnership between the

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<sup>4</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1419.

<sup>5</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1434.

<sup>6</sup> Interview with the author, Peter Fenn, Washington D.C., 11 October 2016.

<sup>7</sup> Joseph Kraft, 'White House Mishandling of Foreign Intelligence', *Washington Post*, 9 January 1976.

legislative and executive branches. Such enmity between the Congress and the president meant that congressional oversight of the intelligence community was virtually impossible.<sup>8</sup> As a consequence, the committee attempted to sway public opinion in an effort to create some protection from being demonised by an increasingly partisan press. Although this was only partly successful, it did manage to ensure that the investigation had a long-term legacy, although the fierce contemporary criticism has led its historical reputation to be slightly tarnished.

Public opinion and public approval played equally important roles in the Church Committee's investigation. Chairman Frank Church and his fellow panellists were directed in their investigation by public opinion and actively sought public approval for its work. The input from the press affected the path that the investigation would take during the enquiry, especially which of the alleged misdemeanours the panel would examine. Church allowed the committee to be influenced by the press because he thought that 'they were smart and that they were giving him a fair shake.'<sup>9</sup> However, the boundaries established by the press and public opinion allowed the Church Committee a limited amount of autonomy. Church understood that the panel needed to appear to act on behalf of the American public; consequently, the committee's various investigations, both domestic and foreign, attempted to frame their own fields of concern within those dictated by the public.

### **3.2 The Assassinations Investigation**

The Senate's desire to act as a conduit for American public opinion, through the Church Committee's investigation, came at a cost to the efficiency of the investigation. Satiating the public's demand for an investigation was extended to the areas which the public wanted examining. Nowhere was this more evident than the subject of assassinations. The allegations that the Central Intelligence Agency was involved in the attempted assassination of foreign leaders had placed the populace in a spin. A nation that had recently suffered from the assassinations of John and Robert Kennedy, and Dr Martin Luther King Jr, refused to ignore the press's revelations that its government had condoned such actions. Demand for a thorough investigation of these allegations became prevalent in the press. As a result, there was 'a public appetite for the assassination story.'<sup>10</sup> The subject quickly became a political hot potato that was passed back and forth between the executive and legislative branches' enquiries. The reluctance of the executive branch to publish the Rockefeller Commission's findings on the assassination plots forced the Church Committee to investigate. The resulting investigation has been judged by historians to be 'one of the most valuable and important

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<sup>8</sup> 'The Basis of CIA Oversight', *Washington Post*, 30 January 1976.

<sup>9</sup> Interview with the author, Larry LaRocco, Boise, Idaho, 14 September 2016.

<sup>10</sup> Clifton Daniel, 'The Assassination Plot Rumours', *The New York Times*, 5 June 1975.

pieces of work' produced by the Church Committee.<sup>11</sup> Its investigation raised questions around what actions undertaken by the intelligence community were felt to be acceptable by the American people. Ultimately, the Rockefeller Commission judged the CIA's involvement in the assassination plots as having 'no place in America's arsenal' and rejected it as an 'instrument of American policy.'<sup>12</sup>

President Ford and his advisers had only partly listened to the demands of the American public to investigate the alleged assassination plots. The Rockefeller Commission, whose enquiry had first identified the possibility that the CIA had been involved in such operations, had a narrow remit. It had been restricted to investigate only the CIA's 'activities conducted within the United States.'<sup>13</sup> Despite extending the length of the Commission's enquiry from three months to six months specifically to investigate the claims of assassination plots, the Commission failed to declare its findings. It caused a number of leading Democrats to question Ford's decision. Senator Henry 'Scoop' Jackson (D-WA) told reporters that Ford had 'taken a powder on it, he ducked it,' he told reporters. Former Kennedy administration aide Adam Walinsky said that the president had seen an opportunity 'to save the CIA and score some political points.'<sup>14</sup> The press was not entirely convinced: the *Washington Post* argued in an editorial that to publish an 'uncompleted study' of the assassination plots was 'reasonable.' It was right, it said, that such matters fell to the Church Committee and demanded that the committee 'run down the allegations as far as possible.'<sup>15</sup>

The *Washington Post's* judgement was welcomed by President Ford and his advisers. Ford had known that it would be politically dangerous to publish any of the findings of the Rockefeller Commission concerning assassination plots. The Commission had found convincing links between the attempted assassinations and the Kennedy and Johnson administrations. The President had been tempted to release the information in an effort to tarnish Kennedy's reputation; however, he was aware that it was 'so clumsy it makes the CIA look bad.' National Security Adviser Henry Kissinger had advised Ford to withhold the information which would increase the public calls for a transparent investigation into the assassination efforts. Church would then be forced to investigate, whether he wanted to or not. 'If Church wants to, let him,' said Ford. 'The Kennedys will get him.'<sup>16</sup> Ford decided to sidestep the issue and authorised the results of the Rockefeller Commission's enquiry to be

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<sup>11</sup> Smist, *Congress Oversees*, 71

<sup>12</sup> United States Congress, Senate. Select Committee to Study Governmental Operations with respect to Intelligence Activities, *Interim Report*, 94<sup>th</sup> Cong., 1<sup>st</sup> sess., S. Rep 94-465, (Washington D.C., 1975), [Hereafter referred to as *Assassination Report*], 281.

<sup>13</sup> *Rockefeller Report*, 271.

<sup>14</sup> Christopher Lydon, 'Democrats Accuse President of Avoiding Major Questions in CIA Investigation', *New York Times*, 11 June 1975.

<sup>15</sup> 'The Rockefeller Report on the CIA', *The Washington Post*, 11 June 1975.

<sup>16</sup> Memorandum of Conversation, 5 June 1975, (Box 12, Memoranda of Conversations – Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

passed over to the Church Committee. By doing nothing, he was placing Church in a quandary – to release the details of Democratic icon John F. Kennedy’s involvement in a conspiracy to murder foreign leaders or to suppress the information.

Congressional Democrats welcomed the opportunity to investigate the assassination plots. Representative Morris Udall (D-AZ) claimed that it was a chance to ‘hold the hearings, get some facts out, and make some legislative changes.’ In an effort to show that the Church Committee was responding to public opinion, Church stated that the Rockefeller Commission’s decision not to print its findings meant that ‘the buck will stop with the Senate committee.’<sup>17</sup> Furthermore, the attempts by Rockefeller Commission panellists Vice President Nelson Rockefeller and C. Douglas Dillon to minimize the CIA’s wrongdoings were slated by Church. ‘I don’t regard murder plots as a minor matter,’ he mentioned to the press, ‘and the CIA has been implicated in this sort of activity.’<sup>18</sup> It was a deliberate attempt by Church to indicate to the public that the committee was responding to the demands of public opinion. Church Committee Staffer Loch Johnson likened the committee to flypaper because it seemed to ‘snare every half relevant topic buzzing in the air, for fear of being accused of an incomplete inquiry.’<sup>19</sup>

Regardless of Johnson’s judgement of the committee’s eagerness to investigate the assassination plots, there were reasons other than public opinion that caused the Church Committee to take up the enquiry. Primary among these reasons was the members’ own curiosity in the subject. Church’s interest was combined with the belief that there was a moral obligation to investigate the claims, telling reporters that ‘no agency of the government can have a licence to murder, and the President can’t be a “Godfather”.’<sup>20</sup> Furthermore, as the press coverage of the assassination plots continued, the prospect of the Warren Commission’s findings on the assassination of John F. Kennedy being re-examined grew at a considerable pace.<sup>21</sup> Suggestions were made in the press that the CIA’s involvement in the killing of foreign leaders meant they may have been involved in the death of the former president, and there were even theories that the FBI were part of the murder of Martin Luther King Jr.<sup>22</sup> Senators Gary Hart (D-CO) and Howard Baker (R-TN) showed particular enthusiasm towards investigating the extent of CIA involvement in the death of President Kennedy.

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<sup>17</sup> Christopher Lydon, ‘Democrats Accuse President of Avoiding Major Questions in CIA Investigation’, *New York Times*, 11 June 1975.

<sup>18</sup> John M. Crewdson, ‘Senator Reports CIA Death Plots’, *New York Times*, 5 June 1975.

<sup>19</sup> Johnson, *Season of Inquiry*, 32.

<sup>20</sup> Spencer Rich, ‘Killings Denied By Colby’, *Washington Post*, 17 March 1975.

<sup>21</sup> The Warren Commission, officially known as the Presidential Commission on the Assassination of President Kennedy was a seven-man panel that was tasked to investigate the death of John F Kennedy. Popularly named after its chairman, Chief Justice Earl Warren, the panel found that Kennedy was killed by Lee Harvey Oswald who acted alone. For the entire Warren Commission report see <https://www.archives.gov/research/jfk/warren-commission-report>

<sup>22</sup> Olmsted, *Challenging the Secret Government*, 99-100.

For many of the panellists, the greatest motivation to investigate the assassination plots was that of personal experience: the assassinations of the previous twelve years – both Kennedy brothers and Martin Luther King Jr. to name but a few - had been a ‘searing experience’ for the committee members and had been ‘part of their lives.’<sup>23</sup>

Church Committee staff director Bill Miller correctly identified the paradoxical threat of complying with the demand of public interest in the assassination plots. In particular, the investigation into the subject posed a considerable risk to the enquiry’s public support, as well as its efficiency and reputation. The Church Committee members’ enthusiasm to delve deeper into the assassination data meant that it risked being diverted from its task to investigate the wider issues in the remit. Miller called Baker ‘obsessed’ with the suggestion that President Kennedy had been killed by a Cuban assassin.<sup>24</sup> In addition, the Church Committee’s limited life span of nine months was a significant hindrance to the committee. The committee did not receive the information unearthed by the Rockefeller Commission until mid-June, 1975 which only allowed four months for the committee to hold its hearings and investigate the assassination data. Church Committee counsel, Mike Madigan, suggested that it was a deliberate ploy of the Ford administration to ‘put little crumbs over here’ so the committee would ‘follow those crumbs because they didn’t want you looking at other stuff.’<sup>25</sup> This was a view shared by Church Committee staffer, Greg Treverton, who had joked that the only successful CIA assassination had been ‘the Church Committee itself.’<sup>26</sup> In addition to the time consuming nature of the assassination investigation, committing the enquiry to examining the assassination data would risk associating the entire committee investigation with sensationalism and a possible threat to national security and being vilified for doing so. Furthermore, the nature of the investigation would have to be mostly held behind closed doors in executive session. What the nation called for was a complete public hearing, but such a thing would be impossible due to the classified nature of the information being discussed. This had the potential to lead to loss of public interest and support in the enquiry and allegations of a whitewash. Despite all of the panellists’ understanding of these possible pitfalls, the committee decided to investigate the assassination plots.<sup>27</sup>

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<sup>23</sup> Interview, William Miller, 10 June 2014, in: *Oral History Interviews*.

<sup>24</sup> *Ibid.*

<sup>25</sup> Interview, Mike J. Madigan, 22 October 2014, in: *Oral History Interviews*.

<sup>26</sup> Johnson, *Season of Inquiry*, 54.

<sup>27</sup> Interview, William Miller, 16 May 2014, in: *Oral History Interviews*.

### 3.3 The Foreign Intelligence Hearings

Public interest and the intensity of the press coverage of the suspected assassination plots forced the Church Committee to investigate the alleged involvement of the CIA in the attempts to kill foreign leaders. The decision to investigate covert activities with a particular focus on possible assassination plots was taken on May 9, 1975. But it did not entirely hinge on whether the Rockefeller Commission had conducted a transparent and thorough enquiry. Church had previously publicly stated the committee's intention to cover the topic, and the deliberate slow flow of classified information on domestic operations from the White House meant that the initial investigation would have to focus on the foreign intelligence gathering.<sup>28</sup>

The major problem for the Church Committee in investigating the allegations of CIA assassination plots was the lack of material evidence. Karl 'Rick' Inderfurth, Gary Hart's designee on the Church Committee, explained that the investigators 'dealt with the euphemisms. No one ever said go out and kill someone.' Instead, the enquiry was focused on whether there had been any concrete authorisation of the various planning of the killings, or whether it was done through inference. For Inderfurth, this tackled 'the whole question of plausible deniability.'<sup>29</sup> Plausible deniability was a means to protect the president from both the knowledge and, as a consequence, the responsibility of potentially illegal and unpopular acts undertaken by the various intelligence agencies. Such insulation was provided by a body of senior officials, usually from the armed forces, intelligence community and State Department, who gave authorisation for covert intelligence activities. The body had gone under a variety of names since its creation by President Eisenhower as the 5412 Group in 1955, the 303 Committee under President Johnson, and was known from 1970 to the Year of Intelligence as the 40 Committee.<sup>30</sup> It was claimed that 'both of the latter designations were also taken from the number of classified directives.'<sup>31</sup>

Whilst public opinion had pressured the committee to investigate the assassination plots, it did have limits to its influence. Even though the public and press demanded a constant stream of information, Church refused to hold public hearings on the assassination investigation. Howard Baker had been particularly keen to have the hearings made public, rather than in executive session. And on the very first day of the committee's public hearings, Baker had urged Church to hold public hearings into the assassination plots. Failure to do so, he said, would bring into question the entire enquiry's reputation. It was the weight of the American public's attention that demanded open

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<sup>28</sup> Johnson, *Season of Inquiry*, 54-56.

<sup>29</sup> Interview, Karl Inderfurth, 6 March 2014, in: *Oral History Interviews*.

<sup>30</sup> Olmsted, *Challenging the Secret Government*, 86.

<sup>31</sup> David Wise, 'The Select Committee Called "40"', *New York Times*, 19 January 1975.

hearings, he said. 'If we do not have a public forum from which they [the public] can gain the information they require to make their judgement,' he argued, 'no judgement we make for them will be adequate.'<sup>32</sup>

Baker saw both an opportunity to enthral the nation and take centre stage in a similar way to how he had done while serving on the Senate's Watergate Committee, and to continue his crusade against the CIA. Fritz Schwartz said that Baker's ability 'to frame a question' would have meant that the Senator would have 'starred again if we had the assassination hearings in public' just as he had done with the Watergate Committee. In addition, Schwartz suggested that Republican members were further motivated to hold public hearings because of the possible political capital that could be made for their party. The attempts by the Kennedy administration to assassinate Fidel Castro were becoming well known, but there was a real hope among the Republican members that further connections could be made that would embarrass the Democratic Party.<sup>33</sup> Public hearings into the assassinations would have given a considerable amount of publicity not just to Baker but also to Church and the other members of the committee. Nonetheless, Church convinced the committee that the assassination hearings needed to be kept out of the public eye, and that the sensitive details could be conveyed in a better way to the public, through the committee's report.<sup>34</sup> Loch Johnson's recollection of the discussions over the possibility of public hearings differed to that of Schwartz, suggesting that 'no one in either party showed any support for the idea.'<sup>35</sup>

There were no public hearings that dealt directly with the subject of assassinations. Instead, the committee publicly discussed and disclosed issues that had arisen from the assassination investigation. At the Church Committee's first public hearings, held on September 16, 1975, Church first dealt with the secret nature of the assassinations enquiry and the committee's lack of public revelations. The executive sessions held behind closed doors were necessary, he said, 'because of the serious damage that protracted public hearings on such a subject could do to the United States and its relations with foreign leaders.'<sup>36</sup> Nonetheless, the committee then opened its public hearings to examine the CIA's unauthorised storage of toxic agents. In its questioning of CIA Director William Colby, the Committee identified that the large amount of shellfish toxin retained by the CIA made it clear that the agency was not interested in 'purely defensive uses as it claimed.' The eleven grams of

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<sup>32</sup> *United States Congress, Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Hearings before the Senate Select Committee to Study Governmental Operations with respect to Intelligence Activities, September 16, 17, 18, 1975, 94<sup>th</sup> Cong., 1<sup>st</sup> sess., (Washington D.C., 1976), 'Volume 1: Unauthorised Storage of Toxic Agents.'*, [Hereafter referred to as *Church Hearings, Vol.1*], 22.

<sup>33</sup> Interview, Fritz Schwartz, 29 October 2014, in: *Oral History Interviews*.

<sup>34</sup> Frederick A.O. Schwartz, *Democracy in the Dark: The Seduction of Government Secrecy*, (New York, 2015), 180.

<sup>35</sup> Johnson, *Season of Inquiry*, 65.

<sup>36</sup> *Church Hearings, Vol. 1*, 1.

poison kept by the CIA, despite a presidential order to destroy it all in 1970, was confirmed by Colby to be part of a joint Army-CIA operation that had the potential to kill fourteen thousand people. Church asked whether, despite Colby's claim it was intended to be used as an ingredient of a suicide pill, its use was ever intended to be offensive. Colby calmly replied, 'no question about it.'<sup>37</sup> Church's coverage of the poison and toxic agent storage caused enough press interest to fend off demands for hearings on assassinations, and to ignite public interest in the committee's work.

The initial reaction by the press to the poison storage hearings was supportive of the committee. Church's description of the CIA's storage of the toxic agents as a 'looseness of command and control within the CIA' was described by the *New York Times* as 'mild.' The paper went further and called the CIA's decision to ignore the presidential order to dispose of all poisons as 'wilful sabotage of the nation's proclaimed policy.' However, it was fully supportive of Church's decision to use the subject to open the committee's hearings, and of public hearings in general. 'The public should know where and how its appointed guardians have both failed and endangered it,' one editorial wrote. Furthermore, it demanded that the CIA had a purpose and usefulness to the nation 'only as long as it subordinates itself to the public will, as expressed by elected government.'<sup>38</sup> The *Washington Post* described the hearings as having a 'pulverising impact' on the viewer, and that the 'sensational disclosures' were being 'carried from the congressional hearing rooms to every corner of the world.' In particular, it highlighted the front-page pictures of the CIA's poison dart gun as particularly effective in supporting the committee's cause, and that Colby's policy of near total confession towards the committee had 'boomeranged badly.'<sup>39</sup>

Discussions of assassinations again came into the public domain during the committee's two days of public hearings in December 1975 into the CIA's covert action. As Bill Miller had rightly pointed out some five months previously, assassinations were just a small part of the intelligence community's covert activities.<sup>40</sup> Although there had been a great deal of publicity and assumption surrounding the Kennedy administration's efforts to remove Fidel Castro from power in Cuba, there was also a considerable amount of interest shown in US intervention in Chilean politics. Just three weeks earlier, the committee had published its Interim Report that dealt exclusively with the assassination plots first unearthed by the Rockefeller Commission. In the Interim report the committee had identified that the CIA, at the inference of President Richard Nixon, had supported a Chilean plot to kidnap the head of the army, General Rene Schneider. The 1970 Chilean presidential

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<sup>37</sup> *Church Hearings, Vol. 1*, 16-17.

<sup>38</sup> 'Senate Anti-Toxin', *New York Times*, 17 September 1975, 44.

<sup>39</sup> Rowland Evans and Robert Novak, 'Rebuilding the CIA', *Washington Post*, 25 September 1975.

<sup>40</sup> Memorandum from William G. Miller to Frank Church, 22 July 1975, as quoted in Johnson, *Season of Inquiry*, 55.

election had been won by Marxist candidate Salvador Allende with a plurality of the vote but not an overall majority. As a consequence, the Chilean Congress had a constitutional duty to select the next president from the leading election candidates. Nixon had told then Director of the CIA Richard Helms that an Allende presidency 'would be unacceptable to the United States.' As a result, the CIA encouraged a Chilean coup to prevent Allende getting the presidency. Schneider, an ardent constitutionalist, refused to support any plot, and his removal became 'a necessary ingredient' in the coup plot. On October 22, 1970, Schneider was mortally wounded in a kidnap attempt, shot with submachine guns passed onto the plotters by the CIA. While the Church Committee could find no evidence that the CIA had plotted to kill Schneider, the enquiry did find that certain White House and CIA officials knew he would be kidnapped and should have been aware that his murder was a distinct possibility.<sup>41</sup>

All of the details of the US involvement in Chilean politics were referenced in public hearings on covert activities. Curiously, although Church had opposed the public forum on assassinations demanded by Baker during the Toxic Agents hearings in September, he championed the hearings into American covert activity. Church argued that it was because 'the American people must know and be able to judge what was undertaken by their government in Chile.' While Senators John Tower (R-TX) and Barry Goldwater (R-AZ) argued that such hearings should be held in executive session, Church argued that it was the Ford administration's refusal to speak publicly about the topic that caused the committee to go public. The American public had 'a legitimate right' to an explanation of why its government had involved itself in the overthrow of a democratically-elected government.<sup>42</sup> Questions must be raised though as to whether Church was attempting to gain some form of retribution. In his role on the Senate Foreign Relations Committee's investigation into the Chile coup, Church had been informed that the Nixon administration had taken no part in the downfall of Allende. As much as vilifying the CIA and the executive branch, public hearings into covert activity around Chile illustrated that his suspicions had been right.<sup>43</sup>

### **3.4 The Interim Report**

The Church Committee's investigation into assassinations could have taken an entirely different route to the one it did. Yet again, public opinion was the most significant factor, not just by

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<sup>41</sup> *Assassination Report*, 225-227

<sup>42</sup> *United States Congress, Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Hearings before the Senate Select Committee to Study Governmental Operations with respect to Intelligence Activities, December 4, 5, 1975, 94<sup>th</sup> Cong., 1<sup>st</sup> sess., (Washington D.C., 1976), 'Vol. 7: Covert Action.'*, 1-3.

<sup>43</sup> For more on Church and the Senate Foreign Relations Committee investigation into the Chile coup see Ashby and Gramer, *Fighting the Odds*, Chapter 15 'Fighting the National Security State and Big Business: 1972-1974.'

directing the course that the committee took, but in allowing it to investigate the topic in the first place. The relationship with the Soviet Union during 1975 was in the midst of what was termed *détente*. A foreign policy masterminded by Henry Kissinger during both the Nixon and Ford administrations, it signalled a relaxation of the Cold War anxieties between the United States and the Soviet Union. *Détente* generated a domestic political atmosphere that questioned the primacy of national security. For many Americans, there was no longer a 'monolithic enemy in Communism' that constantly threatened the United States.<sup>44</sup> The transformation of the relationship between East and West had hardened the public's attitudes towards national government institutions. As a result, the committee's enquiry into assassinations was recognised by the *Washington Post* as being able to exemplify 'a free nation's capacity to confront its own inequities, to take them to heart, and to adjust national policy as a result.'<sup>45</sup>

The Church Committee understood the context of the era which it had been investigating. In its Interim Report that focused solely on the assassination plots, it stated that it appreciated 'the importance of evaluating the assassination plots in the historical context in which they occurred.' It was an era, it said, 'of crisis proportions.'<sup>46</sup> This allowed an understanding of why the decisions were taken to involve the United States in such plots, but it did not justify them. Throughout the enquiry, the hearings, and the final report, the Church Committee understood, according to Karl Inderfurth, 'it was a different world than where we were in the in the mid-1970s,' but attempted to have a 'certain degree of empathy for understanding where they were coming from and why these actions were taken.'<sup>47</sup> Inserting the prologue and commenting on the historical context of the assassination plots into the interim report on assassinations had been done at the insistence of committee member Barry Goldwater. As part of his effort to protect the CIA, it was important, for Goldwater, to remind the American public of the 'existence of the KGB.'<sup>48</sup>

Nonetheless, even with the period of *détente*, it was not a foregone conclusion that the Interim Report would be released. President Ford was furious with the Church Committee for contemplating to release a report on the assassination plots. He had believed that the information he passed onto the Church Committee from the Rockefeller Commission would be discussed in executive session and kept classified. In a meeting with his senior advisers, Ford urged them to find a way to stop the publication of the report. He argued that he had said to Church 'to handle the

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<sup>44</sup> *Assassination Report*, 256.

<sup>45</sup> 'The Assassination Report', *Washington Post*, 21 November 1975.

<sup>46</sup> *Assassination Report*, 256.

<sup>47</sup> Interview, Karl Inderfurth, 6 March 2014, *Oral History Interviews*.

<sup>48</sup> Letter, Frank Church to Barry Goldwater, 11 September 1975, (Series 10.6 Special Files, Box 1, Folder 22 'CIA-FBI Investigation (2), FCP)

assassination documents as we had – and we released none of them.’ Partly in fear of the damage the report would do, Ford stated that he did not want to be a part of the report’s publication. ‘If they want to do that, it is their responsibility.’<sup>49</sup> However, such a statement appeared to renege on an agreement that the Ford administration had made with the Church Committee. Rod Hills, Chairman of the US Securities and Exchange Commission during Ford’s presidency, stated that as far as the assassinations were concerned, the White House was willing ‘to take responsibility jointly with the committee for the information they released.’<sup>50</sup>

Regardless of such an agreement, Ford wrote to Church on October 31, 1975, urging him to withhold publication of the report, citing the damage it would do to national security. In response, Church wrote back on behalf of the committee giving the reasons why they would continue with the publication. ‘The national interest is better served by letting the American people know the true and complete story,’ he said. In a democratic nation, he argued, ‘the people must be told of the mistakes of their government so that they may have the opportunity to correct them.’ Any concerns that the White House had would be outweighed by ‘enabling the American people to fully understand what was done secretly in their name.’<sup>51</sup> Church accused the executive branch of denying the public what it demanded and placed the committee’s work as being driven by public opinion; he stated that Ford wanted to ‘suppress the committee’s report on assassination and keep it concealed from the American people.’<sup>52</sup>

Church was acutely aware of the delicate position he was in. Both Tower and Goldwater argued that the report should not be published. Goldwater stated that the report was ‘tentative in nature’, that the numerous quotes posed ‘security and diplomatic problems’, and that conclusions were based on only a few case studies. Furthermore, he argued that the report did not serve the national interest, nor did it enhance the legislative process.<sup>53</sup> Church, seeking the support of the panel, threatened to resign if the committee bent to the White House’s demands. After receiving the backing of the Democrats on the panel, Church compromised with the committee’s Republican members who wanted the Senate’s approval to publish the report. The committee presented the report in a rare secret session of the Senate on November 20, 1975. Church stood on the Senate floor and said that despite working behind closed doors, the committee’s objective was always to

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<sup>49</sup> Memorandum of Conversation, 13 October 1975, (Box 16, Memoranda of Conversations – Ford Administration, National Security Adviser Memoranda of Conversation, 1973-1977, GRFPL)

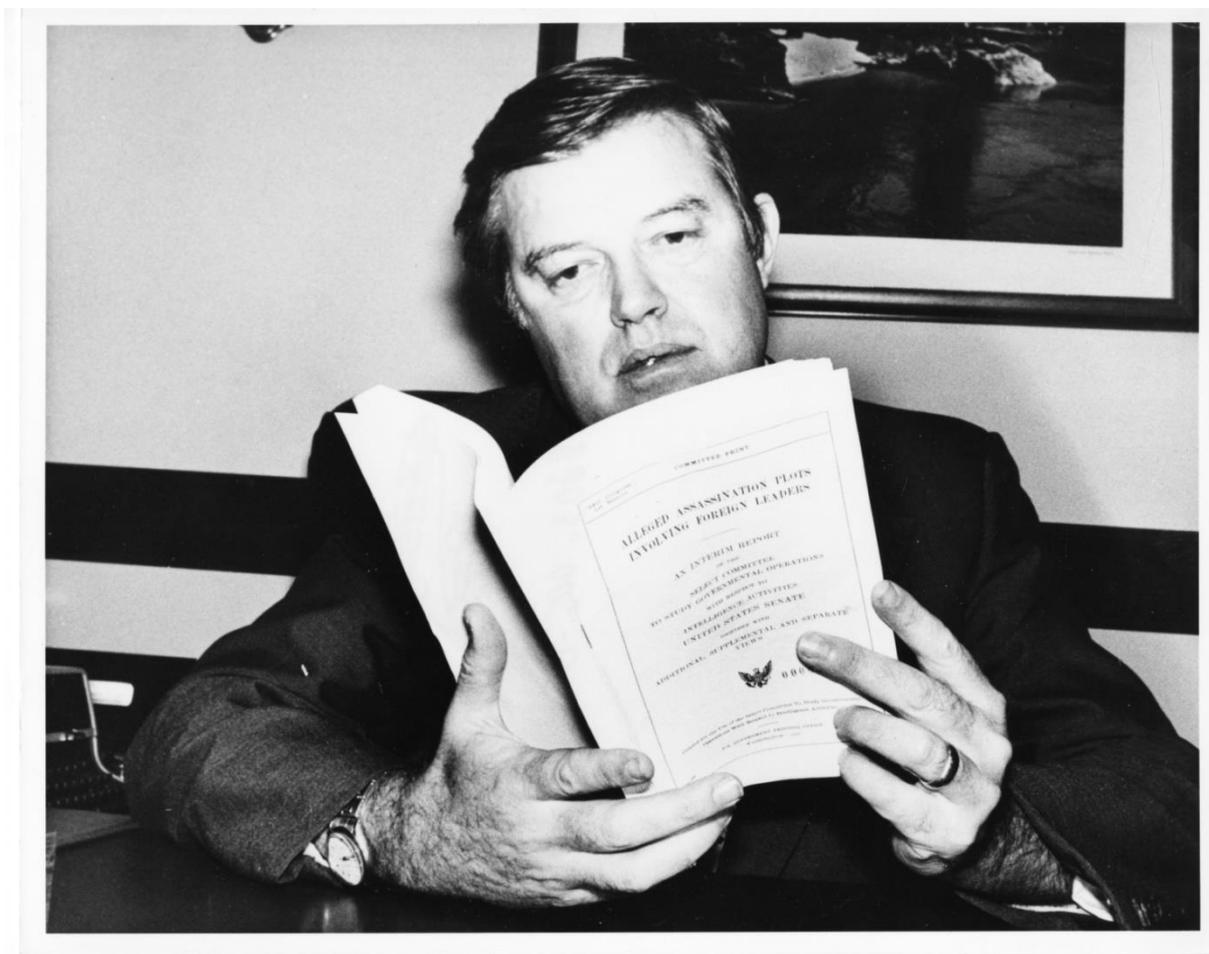
<sup>50</sup> Interview, Rod Hills, 6 October 1975 (George Lardner Jr. Papers, Box 36, US House of Representatives-Select Committee on Intelligence/ General Articles Folder, Library of Congress)

<sup>51</sup> Frank Church to Gerald Ford, 4 November 1975, (Box C31, folder Presidential Handwriting 11/14/75 (2), Presidential Handwriting File, GRFPL)

<sup>52</sup> Nicholas M Horrock, ‘Ford Acts to Bar Death Plot Data’, *New York Times*, 2 November 1975.

<sup>53</sup> *Assassination Report*, 342.

‘write a full and factual report to present to the American people.’ He argued that revealing the assassination plots could only benefit the US democratic system because the American people will have confidence that ‘in the future, their government will resist the perverse beckoning of assassination intrigue.’<sup>54</sup> Mondale believed that if the Senate were to cede to the White House’s wishes of censoring the classified data in the report, it would be disastrous for both Congress and the nation as a whole. ‘It will mean that whenever the executive branch wants to bottle something up they will... stamp it “top secret” and send it to you classified.’ The result, he claimed, would give the executive branch ‘power they never had before, power so binding not only upon the executive, but upon Congress itself. It will destroy Congress’ power and responsibility of informing the public.’<sup>55</sup>



**Figure 4: Frank Church reading the committee's Interim Report.**  
(Courtesy of Boise State University, Albertsons Library Special Collections and Archives)

With most of the Senate not having the time or opportunity to have read the report they had only received that same morning, many were reluctant to vote on the issue. Tower, who had

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<sup>54</sup> Frank Church and Loch Johnson, ‘A Presentation Report to the Senate in Closed Session’, 17 November 1975, (Series 10.6 Special Files, Box 1, Folder 22 ‘CIA-FBI Investigation (2), FCP)

<sup>55</sup> Johnson, *Season of Inquiry*, 133.

earlier asked 'at what point must the people's right to know, be subordinated to the people's right to be secure?' was dejected, and his opposition to the report became evident. 'Since the Senate has not voted, I want to now publicly disassociate myself from public release of this report,' he said.<sup>56</sup> Despite it being customary to support a committee's findings, the Senate refused to either endorse or condemn the report. Church, who was intent on releasing the report unless it was censured by the Senate, was free to publish it on the committee's own authority. As the debate on the Senate floor concluded without a vote, the committee's staff members dispensed copies of the Interim Report to the gathering press. For those who worked on the report it gave an opportunity not only to expose the nefarious nature of the CIA's activities, but also to dispel 'a great deal of the misperceptions, the allegations, the suspicions' that the US government acted as 'Murder Incorporated.'<sup>57</sup>

In general, the standard of the work undertaken by the committee was praised by most of the press and seemed to satiate the public demand for information about the assassination plots. The *Washington Post* called the report 'so rich in detail and so provocative in terms of the need for reform.' It stated that the report's particular strength was in avoiding 'unjustified conclusions' and accepting the difficulty of 'pinning down deliberations, motivations and events of an essentially elusive character.' Furthermore, the information was of such depth that other investigations would have trouble coming to a more reasoned conclusion.<sup>58</sup> Such a critique was accurate: the report was remarkably bipartisan, although it only found evidence of presidential directives towards assassinations with the Eisenhower administration's orders to remove Patrice Lumumba, the Prime Minister of the Democratic Republic of Congo. The *Washington Star* wrote in an editorial that the report was a 'scalding self-indictment by Congress,' observing that the assassination plots were a result of Congress rising to 'the prevailing level of judgement and morality' required. With regards to the secrets of the intelligence community, it argued that the findings required 'Congress to know more and do more.' In the case of the assassination plots, 'exposure came too long after the fact' because of congressional inactivity.<sup>59</sup> Nonetheless, it did suggest that the CIA's methods of assassination through various gadgets, and their inability to achieve any actual success, likened it to 'an organisation with the intentions of a cobra and the capabilities of the Keystone Kops.'<sup>60</sup>

The issue of presidential authorisation of the CIA's assassination plots proved to be problematic to Church. The report's investigation into the Kennedy administration's knowledge and

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<sup>56</sup> Johnson, *Season of Inquiry*, 133-135.

<sup>57</sup> Interview, Karl Inderfurth, 6 March 2014, in: *Oral History Interviews*

<sup>58</sup> 'The Assassination Report', *Washington Post*, 21 November 1975.

<sup>59</sup> 'The Assassination Business', *Washington Star*, 22 November 1975.

<sup>60</sup> 'Verbon A Guidry Jr, 'Keystone Kops', *Washington Star*, 21 November 1975.

involvement in the attempts to assassinate Cuban leader Fidel Castro tested Church's party loyalty. The committee identified that the genesis of the assassination plots against Castro started during the Eisenhower administration. The CIA's inspector general's 1967 investigation into the plots distinguished the efforts of the Eisenhower administration from those of the Kennedy administration. The Church Committee's own investigation doubted such a conclusion. The committee felt that there was 'considerable evidence' that the scheme was one singular continuous effort, and that it may have laid dormant for the period immediately following the failed Bay of Pigs invasion in April 1961. By making such a conclusion, the committee were implying that CIA operations during the Kennedy administration were part of a campaign authorised by Kennedy's predecessor, and, therefore, exonerating Kennedy from blame.<sup>61</sup>

The investigation supported this judgement by finding similarities between the CIA's attempts to remove Castro during the Eisenhower administration, and those during the Kennedy presidency. The CIA's involvement of underworld figures in their efforts was troublesome for both Church and the US public. From September 1960, the agency used a former FBI agent, Robert Maheu, as an intermediary to contact Las Vegas gangster, John Rosselli. Maheu asked Rosselli to use his contacts to recruit Cuban exiles in Florida to dispose of Castro. Rosselli agreed, said Maheu, because 'he felt he had an obligation to his government.'<sup>62</sup> Rosselli then introduced Maheu to Sam Giancana, a Chicago gangster, and Santos Trafficante, a leader of the Cuban mafia. Giancana's part of the plot, was to recruit someone in Cuba who could assassinate Castro. Sometime after Kennedy's inauguration, the Agency decided that the method of assassination would be through poison pills. The initial attempt was a failure, as was the second attempt in 1962. By 1963, the Agency had turned to alternative methods, having rejected the suggestions of explosive seashells and gifting Castro a poisoned diving suit.<sup>63</sup>

Chief among the alternative methods was AM/LASH, the CIA cryptonym for a Cuban official who was highly placed within the Castro regime. The agency furnished AM/LASH with weapons, such as rifles and grenades, and assassination devices such as a poison pen device. Doubts at the Kennedy innocence in the plots were illustrated by the testimony of CIA director, Richard Helms. Helms had informed AM/LASH that under the direction of Attorney General, Robert Kennedy, the US government was entirely behind any attempted coup to replace Castro.<sup>64</sup> Witnesses informed the Church Committee that Eisenhower would, in all likelihood, have been informed in 'a

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<sup>61</sup> *Assassinations Report*, 83.

<sup>62</sup> *Assassinations Report*, 76.

<sup>63</sup> *Assassinations Report*, 75-86.

<sup>64</sup> *Assassinations Report*, 86-89.

“circumlocutious” or “oblique” way of the plots in 1960. The committee also discovered that Robert Kennedy was aware, in May 1961, of the CIA’s involvement of the Mafia to remove Castro. However, testimony from former CIA and Kennedy administration officials failed to illustrate whether either of the Kennedys knew about assassination plots. Helms claimed he received no such specific order but felt that such an order had been implied. Church questioned the then-Secretary of Defense, Robert McNamara, and asked whether the lack of such a clear order made the CIA a rogue elephant out of control. McNamara stated that he knew of ‘no major action taken by CIA during the time I was in the government that was not properly authorised by senior officials.’ He concluded by saying that he found it ‘inconceivable that the assassination attempts were carried on during the Kennedy administration without the senior members knowing it.’<sup>65</sup>

The same ambiguous conclusion was made by the committee about the Kennedy administration’s responsibility for the death of South Vietnamese President Ngo Dinh Diem in November 1963. The investigation concluded that the US government ‘offered encouragement for the coup, but neither desired nor was involved in the assassinations.’<sup>66</sup> Henry Cabot Lodge, the US Ambassador to Vietnam, informed the White House that he was unable to stop any coup. Lodge’s statement, concluded the Church Committee, illustrated US officials exaggerated notions that they could control the actions of coup leaders. ‘Events demonstrated that the United States had no such power,’ said the interim report.<sup>67</sup>

The report’s judgement on the Kennedy administration was questioned by erstwhile Church detractors, Rowland Evans and Robert Novak, in the *Washington Post*. The comparison between the committee’s conclusion on the culpability of the Eisenhower and Kennedy administrations raised ‘the first serious doubts’ of the Committee’s objectivity. The committee’s apparent attempt to single out Eisenhower for fault had ‘triggered a backlash against the committee’ by former Eisenhower officials. The unusual treatment of Eisenhower, wrote Evans and Novak, raised ‘a suspicion over the objectivity of Chairman Frank Church of Idaho, an obvious Democratic presidential hopeful.’ The report’s castigation of Eisenhower allowed Church to be ‘accused of more solicitous treatment for a Democratic President.’<sup>68</sup>

While Kennedy was not castigated for his probable role in the plots to assassinate Castro, both of the Kennedy and Eisenhower administrations were criticised for their involvement in plotting, with political dissidents, to assassinate the Dominican Republic leader Rafael Trujillo. Both

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<sup>65</sup> Robert McNamara testimony to Church Committee 11 July 1975, quoted in *Assassinations Report*, 158.

<sup>66</sup> *Assassinations Report*, 217.

<sup>67</sup> *Assassinations Report*, 256-257.

<sup>68</sup> Rowland Evans and Robert Novak, ‘Questioning the Assassination Report’, *Washington Post*, 3 December 1975.

administrations 'sought the overthrow of Trujillo and approved or condoned actions to obtain that end.' Furthermore, Kennedy had cabled the State Department official in the Dominican Republic that the United States would recognise and support the dissidents planning the imminent assassination of Trujillo if they established a provisional government.<sup>69</sup>

Despite Evans and Novak's criticism, the *New York Times* said that the Church Committee had 'done a great service in getting this remarkable report published.'<sup>70</sup> It also criticised Ford for attempting to censure the report. It was 'particularly disconcerting,' it said, that the executive branch was spending greater energy on preventing the publication than reassuring such mistakes by the intelligence community would not happen again. Further criticism of the executive branch came in its scathing condemnation of the intelligence community. It argued that US foreign policy and domestic security were endangered by 'behind the scenes plotting by a politicised, out-of-control intelligence apparatus.'<sup>71</sup> By investigating and publishing its findings into the assassination allegations, the Church Committee had gone further than the Rockefeller Commission; further in terms of its investigation, and further with reference to satisfying the public demands for in depth information that it craved. The press judgements of the report compared favourably with those of the Rockefeller Commission. The committee's actions seemed to have placed itself as the public's representative during the intelligence crisis and had performed satisfactorily according to the editorials of the nation's press.

### **3.5 The No Such Agency**

Debate over the necessity of public hearings was not confined to the assassination plots. Indeed, the committee's investigations and hearings into the activities of the National Security Agency (NSA) illustrated the zenith of the influence of public opinion upon the Church Committee and its chairman. Frank Church had been reluctant to hold public hearings on the assassination investigation. Church's opposition to public hearings disappeared as he recognised the potential danger of the technological ability of the NSA to American citizens of the future. The committee was unanimous in identifying the agency as being one of the topics it should investigate. Nonetheless, the debate over whether to make public its findings on the NSA's hitherto unknown methods of data collection caused a schism within the committee on party lines and made its way into the public forum. Church managed to get his own way through a combination of flexing his muscle as the committee's chairman, and because of the partisan make-up of the committee members.

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<sup>69</sup> Assassinations Report, 262.

<sup>70</sup> Anthony Lewis, 'Not A Nut Or A Bolt', *New York Times*, 24 November 1975.

<sup>71</sup> '...and More Than Murder', *New York Times*, 22 November 1975.

For supporters of the intelligence services – notably, although not exclusively, vice chair John Tower and committee member Barry Goldwater – the prospect of public hearings into the National Security Agency was a step too far. There was no dissent over the necessity of investigating the NSA’s activity of the previous twenty years; it was the method of informing the public about what had occurred that was the core issue. What concerned the committee members so much was that Church was prepared to illustrate how the NSA had used US telecommunication corporations to collect information on US citizens. The operation was known by the codename SHAMROCK, had been a collaboration between the NSA and several companies that enabled the NSA to read every international telegram that crossed the US border. Companies such as ITT Communications, Western Union Telegraph Company, and RCA Communications had originally agreed to share such information at the end of World War II. The practice continued until NSA director Lew Allen terminated the programme in May 1975.<sup>72</sup> Church argued that the serious and legal questions that were raised by SHAMROCK meant that the public should be informed of the agency’s activities.

In addition to the NSA’s collection of data from the telecommunications companies, the agency worked alongside the FBI and CIA in the maintenance of a watch list. The list, first compiled under the instruction of Attorney General Robert Kennedy in 1962, consisted of US citizens that were initially suspected of being involved in either organised crime or had dealings with communist Cuba. These targets had then been widened under presidents Johnson and Nixon to include protestors and political dissenters. By the time the CIA, FBI and Secret Service had requested coverage of individuals the list had expanded exponentially. NSA’s contribution to the watch list came under the auspices of an operation called MINARET. The watch list included radicals, ordinary citizens involved in public protest, and celebrities who supported such movements such as Jane Fonda, Martin Luther King Jr., Eldridge Cleaver of the Black Panther Party, and Yippie leader Abbie Hoffman.<sup>73</sup> It was this operation that the Rockefeller Commission had referred to as being a contributing factor behind the CIA’s Operation CHAOS, the anonymous ‘another agency of the government’ that had supplied the agency with the international communications activity of US citizens.<sup>74</sup>

Those in favour of public hearings were Church, Mondale, Huddleston, Schweiker and Matthias. During the committee’s deliberations on whether to hold the hearings Matthias stated eloquently that ‘the committee has an educational responsibility’, a perspective that Church had

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<sup>72</sup> Britt Snider, *Recollections from the Church Committee’s Investigation of the NSA*, Central Intelligence Agency Record Search Tool (CREST) 14 April 2007, <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/winter99-00/art4.html> (accessed January 17, 2016)

<sup>73</sup> James Bamford, *The Puzzle Palace: A Report on America’s Most Secret Agency*, (New York, 1982), 316-21.

<sup>74</sup> *Rockefeller Report*, 142.

fully agreed with throughout the entire enquiry. Senator Robert Morgan (D-NC) argued that he did not believe it was the committee's responsibility 'to reveal all wrongdoings.' However, Tower believed that Church was bending too much to the demands of the press and public opinion. 'Sometimes it takes more guts to have a closed hearing,' he said.<sup>75</sup> The debate threatened to split the committee apart at the seams, and the committee rejected Church's proposal of having hearings only on the NSA watch list. Eventually, on October 28, the committee agreed reluctantly to Church's persistence. There was an enforced caveat – the public hearing was to be on MINARET only. Church reluctantly agreed, especially as the Ford administration had been forcefully attempting to persuade the committee not to hold any hearings at all on the NSA.

The existence of the NSA was a relatively well-kept secret. Obtaining information on the agency was a difficult task with investigators hitting many dead ends.<sup>76</sup> Committee staff member, Peter Fenn, had been assigned to the NSA investigation, and was one of several staffers who had changed the agency's acronymic description to No Such Agency.<sup>77</sup> Mentions in the press prior to the committee hearings were far and few between, but during the week leading up to the hearings, information slowly filtered both from the executive branch and the committee of the NSA. After the agency's director, General Lew Allen, had given his testimony to the committee, reports on the agency appeared in the press, such as a page long biographical piece on Allen.<sup>78</sup> The main talking point was the conflict between the executive branch and the Church Committee over the public nature of the hearings. Described by the *Washington Post's* George Lardner as the 'most secretive of all government agencies', the public hearings concerning the NSA become a thorny issue between President Ford and Senator Church. Ford had requested that the public hearings were dropped altogether prior to them being held, but despite postponing them at the committee's request, the chairman of the inquiry refused to budge. Church made the relationship with the executive branch more toxic by ignoring the Ford Administration's pleas through Attorney General Edward Levi that such hearings should be dropped on national security grounds.<sup>79</sup> The entire episode was indicative of the pressures that Church described as 'mounting on a broadening front' against the committee's public hearings. In an effort to portray the Ford administration as preferring to keep the American public ignorant of events, Church described the executive branch as 'more and more opposed to public hearings on anything.'<sup>80</sup>

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<sup>75</sup> Johnson, *Season of Inquiry*, 94-95.

<sup>76</sup> Snider, *Recollections*.

<sup>77</sup> Interview with Author, Peter Fenn, Washington D.C., 11 October 2016.

<sup>78</sup> David Binder, 'Security Chief Who Shuns Publicity', *New York Times*, 30 October 1975.

<sup>79</sup> George Lardner Jr., 'President, Levi, Pressure Church Committee on NSA', *Washington Post*, 9 October 1975.

<sup>80</sup> Nicholas M. Horrock, 'White House Pushes Effort to keep Intelligence Inquiry Secret', *New York Times*, 29 October 1975.

The disagreement within the committee over the validity of the public nature of the hearings continued during the public hearings. On the first day of the hearings Church defended his position in an opening statement that justified not just his decision, but of the public's right to know the illegal activities enacted by the intelligence community against the nation's citizens. Church recognised the potential damage that could happen should the committee mishandle the hearings. He had written to a concerned resident of New Jersey to reassure him that the decision to televise the hearings was because of the committee's strong belief in the right of the American public to know of government actions – both good and bad – which might affect them.<sup>81</sup> However, he argued that no committee before 'had been better prepared, instructed and authorised to make an informed and judicious decision as to what... may be examined in the public forum.' He recognised the role the committee played as public representatives; he added further that the committee would be derelict in its duties if it was to 'exempt NSA from public accountability.' Tower argued differently, stating that that an open inquiry into the NSA served 'no legitimate legislative purpose.' The public hearing risked exposing information that would 'adversely affect intelligence activities.' Furthermore, Tower argued, he was opposed to a procedure that created 'an unnecessary risk of irreparable injury to the public's right to be secure; even if offered under the umbrella of the acknowledged assumption of a citizen's right to know.'<sup>82</sup> In Tower's statement lay the crux of the matter: Church, a dedicated constitutionalist and a fierce proponent of transparent accountability within the government, stood ideologically opposite to Tower and Goldwater, the King's Men, loyal to their party leader in the White House.<sup>83</sup> Church's greatest concern and motivation was that the NSA's sophisticated and efficient methods of data and intelligence collection, and the secret hidden nature of the agency, could lead it to be used against American citizens.<sup>84</sup> Fenn stated that Church 'saw the incredible potential of an agency such as the NSA to impede the daily lives and freedoms of American citizens.' As a result, he believed that the American public should be aware of the potential threats it faced to every citizen's liberties.<sup>85</sup>

The press reacted by raising several issues associated with the NSA's activities and with Church's refusal to bow to executive and Republican pressure. *Washington Post* columnist Walter

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<sup>81</sup> Letter, Frank Church to Henry S Haines, 2 October 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>82</sup> *United States Congress, Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Hearings before the Senate Select Committee to Study Governmental Operations with respect to Intelligence Activities, October 29, November 6, 1975, 94<sup>th</sup> Cong., 1<sup>st</sup> sess.,* (Washington D.C., 1976), 'Vol. 5: The NSA and Fourth Amendment Rights.' [Hereafter referred to as *Church Hearings, Vol. 5*], 1-4.

<sup>83</sup> Goldwater and Casserly, *Goldwater*, 361-363; John G Tower, *Consequences: A Personal and Political Memoir* (Boston MA, 1991), 133-7.

<sup>84</sup> Norman Kempster, 'NSA Monitored 1,650 on Watch List', *Washington Star*, 29 October 1975.

<sup>85</sup> Interview with the author, Peter Fenn, Washington D.C., 11 October 2016.

Pincus stated that the government's growing financial commitment to the intelligence community made it right that Congress investigated the dangers associated with domestic intelligence. Even if the subject of surveillance had changed, Pincus argued that 'if the US intelligence agencies undertake their new target operations with the efficiency applied in the past, they inevitably will be gathering information on Americans.'<sup>86</sup> Garry Wills of the *Washington Star* said that the latest revelations of the Church Committee had been met by a desensitized American public. It was difficult, Wills said, after the numerous cases of the intelligence community's malfeasance 'to summon up the appropriate shock.' What seemed to irk Wills the most was that the routine lawbreaking had been done with 'huge amounts of our tax money.' As a result, he said, 'we have subsidized criminals to whole careers of crime.'<sup>87</sup>

In response to the hearings into the NSA, the *New York Times* argued that the committee's revelations of the United States' intelligence community's activities were too complex for the ordinary person to fathom fully. Trying to understand the intricacies and consequences of the various disclosures of the FBI and CIA, confounded even further by that of the NSA, meant that 'they could be likened to reading the Federal Budget or contemplating the number of stars in the solar system.'<sup>88</sup> Church's belief that public support could only be gained by publicly exposing the intelligence community's illegal and unconstitutional discretions was alienating his intended target audience. As a consequence, the committee was in danger of becoming an ineffectual expose of the US intelligence network that risked failing to reform congressional intelligence oversight.

### 3.6 Keeping the Press Interested

Despite the revelatory nature of the public hearings on the National Security Agency, the expected press and public fervour failed to materialise. The often technical and jargon-filled testimony was unsuccessful in engaging the public in the same way that the Watergate Committee had. The negative results did not deter the Church Committee members from holding further hearings. The necessity for the Church Committee to gain public support for reform was still evident, and in addition to the public hearings into the NSA, can also be seen in the strategy adopted for the investigation of domestic intelligence operations. The committee's domestic task force, under the leadership of political scientist and FBI academic John Elliff, focused on the domestic intelligence gathering activities of the FBI, CIA and the Internal Revenue Service (IRS) stretching back almost forty years. The enquiry was built on the public demand for knowledge which extended

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<sup>86</sup> Walter Pincus, 'Intelligence Priorities', *Washington Post*, 5 November 1975.

<sup>87</sup> Garry Wills, 'It's Getting Harder to tell the Cops From the Robbers', *Washington Star*, 29 October 1975.

<sup>88</sup> Nicholas M. Horrock, 'Public Disclosures of Lost Privacy', *New York Times*, 2 November 1975.

beyond that of the CIA's assassination plots to actions that may have interfered with their everyday lives. The domestic investigation revealed acts that were 'enabled by an assumption of perpetual secrecy, non-existent oversight, and vague, fuzzy, mandates.'<sup>89</sup> In a similar vein to the foreign intelligence investigation, public hearings were integral to the approach taken by the committee to gain popular support. The revelations of the committee's enquiry were just as shocking to the nation as those of the assassination plots and caused the press to call for institutional reform of the intelligence community. However, the publicity garnered by the televised public hearings meant that the committee's entire enquiry would be subject to criticism from the executive branch, intelligence community supporters, and eventually the press.

The purpose of the hearings, according to the committee's chief counsel, Fritz Schwartz, was 'to persuade people' of the necessity of intelligence oversight reform.<sup>90</sup> Since the committee had been established in January 1975, there had been little information passed to the press. At the beginning the committee interviewed what came to be termed as the 'wise men' of the intelligence world, members of former presidential administrations that would give them an indication of the areas that they should be investigating. Individuals that were interviewed included Burke Marshall, former Assistant US Attorney General during the Kennedy administration, and Clark Clifford, who had been a member of every Democratic Party administration since World War II. In addition to giving the committee the specific topics that needed to be looked at, the 'wise men' gave the investigation a sharper focus – that of using the issues that were raised by the former executive branch members as case studies. The committee would then be able to use the individual enquiries as illustrations of the lack of congressional oversight. The objective of the committee's entire investigation, according to one staff member, 'was to alter the balance between the branches on executive oversight of the intelligence agencies and highest-level policymaking in the White House.'<sup>91</sup>

Church and the committee members were conscious of the necessity to keep the public interested in the committee's work. To maintain the attention of the press, daily updates were given by committee members on the progress that was being made during the depositions. In addition, committee members - Church and Mondale in particular - pushed the agenda and subject matter of their investigation into their public appearances and speeches. Despite the committee agreeing to withhold any information, Church and Mondale were guilty of revealing too much of the assassination investigation to the public before the interim report was published. This caused uproar

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<sup>89</sup> Frederick A. O. Schwartz Jr, 'The Church Committee, then and now' in: Miller (ed.) *US National Security*.

<sup>90</sup> Interview, Frederick A.O. 'Fritz' Schwartz, 28 October 2014, in: *Oral History Interviews*.

<sup>91</sup> Interview, Frederick D. Baron, 28 May 2015, in: *Oral History Interviews*.

among the other committee members and led to an informal censure of the two Democratic senators, and an agreement to continue the well-maintained discipline.<sup>92</sup>

Earlier in the enquiry, Church had caused a furore among the panel members when he suggested to the press that the CIA had acted like 'a rogue elephant on a rampage.'<sup>93</sup> Schweiker appeared on *Face the Nation* to express his emphatic disagreement with Church's observation saying, 'I don't think we can point to any conclusive evidence that exonerates the presidents either.'<sup>94</sup> Church Committee counsel Frederick D. Baron believed that Church was right in his assessment at the time, and was attempting to dramatize 'an important issue for public attention.' Unfortunately for Church, critics of the committee used it to portray Church as lambasting the agency in its entirety, or of attempting to protect the Kennedy administration, neither of which he was doing,<sup>95</sup> Chief Counsel, Fritz Schwartz, thought that Church had made a mistake 'in being that far out front with the theory,' despite the committee sharing such an opinion so early in the investigation.<sup>96</sup>

The press was just as keen initially to keep the Church Committee and its domestic investigation in the headlines. Just as the foreign intelligence investigation had been spurred on by Seymour Hersh's articles in the *New York Times*, the domestic front was spurred on by a number of exclusives by the *Washington Post's* Ronald Kessler. The first of Kessler's articles appeared on the front page on January 19, 1975, almost a month after Hersh's initial article citing the CIA's transgressions that launched the year of intelligence. Citing the bureau's former assistant directors Cathal Loach and Louis Nichols, Kessler revealed that information on members of Congress had been kept on file during the directorship of J. Edgar Hoover. Most of the information was of a derogatory nature, designed to be used for personal leverage by Hoover himself. Senator Ted Kennedy stated that if such claims were true then 'the American people deserve a full explanation of allegations of data collection on their elected representatives.'<sup>97</sup> Kessler's next article appeared just over a week later. This time Kessler focused on the findings of the Watergate Committee, notably that President Johnson had obtained political information on Senator Robert Kennedy and Dr Martin Luther King's conversations and interactions with members of Congress during the 1964 Democratic National Convention in Atlantic City. It had not been revealed during the Watergate Committee's hearings because, according to a committee source, the 1964 election was not considered to come within the

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<sup>92</sup> Johnson, *Season of Inquiry*, 93-96.

<sup>93</sup> John M. Crewdson, 'Church Doubts Plot Links to Presidents', *New York Times*, 19 July 1975.

<sup>94</sup> Johnson, *Season of Inquiry*, 57.

<sup>95</sup> Interview, Frederick D. Baron, 28 May 2015, in: *Oral History Interviews*.

<sup>96</sup> Interview, Frederick A.O. 'Fritz' Schwartz, 28 October 2014, in: *Oral History Interviews*.

<sup>97</sup> Ronald Kessler, 'FBI Had Files On Congress, Ex-Aides Say', *Washington Post*, 19 January 1975.

committee's mandate, as ordered by the Senate.<sup>98</sup> Fellow journalist Jack Anderson picked up on these events in his column, stating that 'the government excesses have come perilously close to police state methods', and called for an end to the government surveillance on 'citizens who have committed no crimes and are guilty of no more than exercising their constitutional guarantees of free speech, assembly and petition.'<sup>99</sup>

However, there was a lack of a continuous stream of headlines during the 'wise man' and deposition period in the early stages of the Church Committee's domestic intelligence investigation. Between January and June, the press's focus had been on the Rockefeller Commission's investigation. The majority of the early work of the Church Committee was held in executive session as it established its rules and negotiated with the executive branch for access to documentation. To the press, such a period appeared to be one of lethargy and inaction. Consequently, the committee's enquiry and subject matter slowly moved from the front pages to those on the inside and disappeared from the editorials and opinion pieces. Not only was the prominence of the Church Committee disappearing in the press, but also the frequency on which it was reported. During May 1975 the *New York Times* had just one front page story on the entire subject – a denial by Kissinger on any involvement in the CIA's domestic operations- while the *Washington Post* had just three. Staff members testified to the pressure that the committee was placed under by the press who questioned just what the committee was doing.<sup>100</sup>

Despite the meticulous efforts of the Church Committee's press liaison, Spencer Davis, to ensure all the staff and committee members were fully prepared for each press conference, media interest in the enquiry tapered off during the summer of 1975.<sup>101</sup> 'We did our best to reach out to them,' said Loch Johnson. 'Church held a number of press conferences, but the media is hard to satisfy because they want a story a day and are unwilling to wait until the end of the period.'<sup>102</sup> The period in question, during which the committee assembled the wise men's advice, and took depositions in executive sessions, took almost the entire eight months between the end of January and September 1975. The committee members and staff were aware of the risks of such a long delay from establishing the committee to its first public hearing, as Johnson observed. 'There are limits to how long you can carry on these things without losing support, and we were concerned interest in the public and on Capitol Hill in intelligence reform was beginning to dissipate.'<sup>103</sup>

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<sup>98</sup> Ronald Kessler, 'FBI Taped King at 1964 Convention', *Washington Post*, 26 January 1975.

<sup>99</sup> Jack Anderson, 'The Government as Snooper', *Washington Post*, 26 January 1975.

<sup>100</sup> Interview with the author, Loch Johnson, Athens, Georgia, 20 September 2016.

<sup>101</sup> Interview, Mark Gitenstein, 20 August 2014, in: *Oral History Interviews*.

<sup>102</sup> Interview, Loch Johnson, 28 August 2014, in: *Oral History Interviews*.

<sup>103</sup> Interview with the author, Loch Johnson, Athens, Georgia, 20 September 2016.

Delays to the public hearings because of the wise man period led to a lack of press coverage, which in turn caused the press judging the committee's investigation to be ineffective. Seymour Hersh, who had been the initial spark for both the executive and legislative branches' investigations into the intelligence community, reported in November 1975 that the investigation had achieved very little. Hersh wrote that the CIA's 'public avowals of diminished prestige and operational ability' because of the congressional enquiries were wide of the mark. Furthermore, the agency officials claimed that the intelligence agency would 'suffer no serious loss of authority and no erosion of its ability' due to the congressional enquiry. Hersh quoted agency officials as being surprised at the Church Committee's inability 'to generate public support for its enquiry' with one senior agency aide quipping that 'Frank Church was the first TV show to close this fall.'<sup>104</sup>

But the show had not closed; instead it was suffering from an enforced delay. Such a deferral of public revelation was entirely necessary: before the hearings could take place, the investigation needed to gather and examine a considerable mass of information. To ensure public support for its proposed reforms, the enquiry had to be thorough and professional in its enquiry. The issue for the Church Committee was gaining access to the necessary documentation from the FBI and White House. Just as with the foreign intelligence investigation, the speed with which the Domestic Task Force was able to examine the FBI memorandum was dictated by the FBI. Unlike the foreign intelligence investigation, which received a substantial amount of their papers from the Rockefeller Commission, the domestic investigation's evidence came directly from the FBI. At first the speed was tremendously slow, and the documentation was heavily censored with numerous redactions of individuals' names.<sup>105</sup>

In the autumn, Attorney General Edward Levi and FBI Director Clarence Kelley met the committee members to discuss the slow delivery of documentation to the committee's Domestic Task Force. Prior to the meeting, committee member Senator Robert Morgan had asked for the file that the FBI had kept on him. Morgan produced the file at the meeting and illustrated the overzealous nature of the bureau's censorship of files. In the memo, a report from an FBI agent who had regularly attended the conferences of the states' attorney general, the report read 'Attorney General blank of North Carolina.' Morgan called such censorship 'stupidity', while the entire event severely embarrassed both Levi and Kelley. 'After that meeting with the members the documents flowed', said Domestic Intelligence Task Force leader John Elliff. 'We could mount some fairly good hearings using the material [and] we could begin writing these voluminous staff reports and

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<sup>104</sup> Seymour Hersh, 'CIA's Work Unimpeded by Inquiries and Reports, Officials of Agency Assert', *New York Times*, 10 November 1975.

<sup>105</sup> Interview, Mary DeOreo, 24 July 2013, in: *Oral History Interviews*.

compiling the documents for publication.<sup>106</sup> In addition to the embarrassment of senior bureau staff, the investigators had also built up a relationship of trust with the bureau. This confidence had been reinforced by the committee's responsible handling of the assassination data. This display of trustworthiness meant that the bureau had some assurance that their confidential data would not be published in the press.<sup>107</sup> The delay to being able to hold the public hearings meant that the committee avoided some of the criticism it had received for its earlier hearings into foreign intelligence. Some critics in the press had suggested that the hearings had been 'exasperating, tedious and inadequate.' Furthermore, it was suggested that the heavy censorship of evidence meant that 'questions that beg to be answered go unasked.'<sup>108</sup> Church, Mondale and the Domestic Task Force were adamant that the domestic hearings would not receive the same searing criticism as the foreign intelligence hearings.

The Church Committee purposefully chose the topics of their public hearings into the intelligence community's domestic abuses to incite public interest. The press revelations of the FBI's misdemeanours under the leadership of J. Edgar Hoover, defined the parameters within which the committee could work. As a result of public opinion, the Church Committee COINTELPRO and the continued surveillance and action against Martin Luther King Jr. Originally Church had wanted the FBI hearings to be spread over just three days. This was so that the public would not be overwhelmed by the technical details of the FBI and become disinterested. However, Mondale, who had been assigned the lead of the domestic investigation, had become a champion of the Domestic Task Force, and managed to increase the number of days set aside in December for public hearings on the FBI to five.<sup>109</sup> The hearings would see a whole day given to the enquiry's accumulated warts and all history of the bureau, followed by public testimony of former bureau informants. The final public hearings on the bureau, and indeed the whole enquiry, would be three days of questioning of former and current bureau officials and Attorney Generals. The hearings would turn out to be the most revealing and shocking of all of the committee's hearings. Its expose of domestic abuses by the intelligence community would, in the words of Olmsted, be 'one of its most significant contributions to public knowledge' and reveal 'the most persuasive evidence of presidential responsibility for intelligence agency abuses.'<sup>110</sup>

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<sup>106</sup> Interview, John Elliff, 21 February 2014, in: *Oral History Interviews*.

<sup>107</sup> Johnson, *Season of Inquiry*, 125.

<sup>108</sup> George Lardner Jr., 'Spy Probers Dig, But Not Deeply' *Washington Post*, 19 October 1975.

<sup>109</sup> Johnson, *Season of Inquiry*, 125.

<sup>110</sup> Olmsted, *Challenging the Secret Government*, 99.

### 3.7 The Domestic Revelations

By the time of the first of the FBI hearings in November 1975, the committee had already dealt with some domestic issues, notably the Huston Plan, and the involvement of the Inland Revenue Service (IRS) in domestic intelligence collection. The Huston Plan had been part of the initial public hearings in September but lacked the explosive revelations that the FBI hearings would have. The plan, named after White House advisor Tom Huston, was framed in an internal White House report that had been co-ordinated by Huston in 1970, during the Nixon administration. The plan, a coordinated attack on domestic left-wing radicals, was done at Nixon's insistence in June 1970. It involved an organised surveillance of protest groups, at times conducted illegally through break-ins and unwarranted surveillance, mail opening, and electronic eavesdropping. Nixon charged the intelligence community to get 'better information' on the domestic dissenters and determine whether they were under the influence of foreign governments or agencies. He authorised the plan, but FBI Director Hoover wanted explicit orders to break the law. When Nixon refused to do so, the plan was dropped, at least as an effort directed and coordinated through the White House. The FBI, the NSA and the CIA had all been conducting such operations for decades and continued to do so after the plan was dropped.<sup>111</sup>

The majority of the information that had been discovered about the Huston Plan had been done through the Watergate Committee, as Church noted in the introduction to the day's hearings.<sup>112</sup> Despite the lack of novelty about the information, what the hearings did do was to bring into the public domain the debate about the primacy of an individual's constitutional rights over the national security. In his testimony Huston explained how those planning the scheme went from a 'sincere intention' to one that was justified by a 'distorted view of inherent executive power.' There was a clear danger associated with ignoring the laws protecting citizens' rights in favour of national security, Huston added. He confirmed what he had said in executive session that there would be those 'susceptible to political considerations as opposed to national security considerations, or would construe political considerations to be national security considerations.'<sup>113</sup>

Such revelations by Huston failed to cause the public outcry that Church had sought despite getting onto the front pages of the press. In fact, Church's handling and questioning of Huston had been criticised by the press. The *Washington Post* had said that his treatment of Huston had been

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<sup>111</sup> Rhodri Jeffreys-Jones, *We Know All About You: The Story of Surveillance in Britain and America*, (Oxford, 2017) 132.

<sup>112</sup> *United States Congress, Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Hearings before the Senate Select Committee to Study Governmental Operations with respect to Intelligence Activities, September 23, 24, 25, 1975, 94<sup>th</sup> Cong., 1<sup>st</sup> sess.*, (Washington D.C., 1976), 'Vol. 2: The Huston Plan.', [Hereafter referred to as *Church Hearings, Vol.2*], 1.

<sup>113</sup> *Church Hearings, Vol.2*, 44-45.

with 'velvet gloves' and 'incurably polite' in manner.<sup>114</sup> Nor did the hearings into the use of the Internal Revenue Service as a political weapon gain the column inches and televised reports the committee needed. The investigation into the IRS's activities in early October illustrated how it had been coerced by other intelligence agencies into disclosing information about certain citizens and organisations. Through the Special Service Staff (SSS), a team assigned to investigate political activists, a 'concentrated tax enforcement programme' was launched against a list of offenders. A staggering 8,000 individuals and 3,000 organisations were subjected to such an inquisition until the SSS was disbanded in 1973. Church summarised the treatment of targets as varied as the American Civil Liberties Union, the Conservative Book Club, and the University of North Carolina as being 'punished by the IRS for their political views.'<sup>115</sup> The failure to gain a greater public platform was reflected in the committee members' own interest in the case. 'The senators obviously were bored with the IRS; abuses by the CIA and FBI sounded more intriguing,' wrote Johnson.<sup>116</sup> Even Church had begun to lose interest in the domestic part of the investigation – 'he was much more interested in the foreign stuff than he was in the domestic stuff,' said Domestic Intelligence Task Force staff member Mark Gitenstein.<sup>117</sup> But there was interest among the committee members in the domestic enquiry, although that concern was mostly centred on the FBI's COINTELPRO and the efforts that the bureau had made against Martin Luther King Jr.<sup>118</sup> For example, the chairman's loss of interest in the domestic investigation allowed 'the rising star of Walter Mondale' to be 'visibly seen because that was his topic and he worked hard to prepare.'<sup>119</sup> Where the Huston Plan and IRS hearings had failed to galvanise public interest, those on the FBI gained considerable public exposure and generated a great deal of concern over the bureau's domestic intelligence operations.

Frank Church was present at the opening of the FBI hearings, despite his reported decline in interest as the investigation dealt with domestic issues. Church opened the hearings into the bureau's surveillance programmes, declaring that 'the very nature of our democracy demands that these activities undergo periodic public scrutiny.'<sup>120</sup> Once again, Church presented the committee's work as a necessary public service, educating the public as driven by public demand. Even Tower

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<sup>114</sup> Mary McGrory, 'Testify as "Victim"? He Could Do Worse', *Washington Star*, 26 September 1975.

<sup>115</sup> *United States Congress, Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Hearings before the Senate Select Committee to Study Governmental Operations with respect to Intelligence Activities, October 2, 1975, 94<sup>th</sup> Cong., 1<sup>st</sup> sess.,* (Washington D.C., 1976), 'Vol. 3: The Internal Revenue Service.', 1-3.

<sup>116</sup> Johnson, *Season of Inquiry*, 90.

<sup>117</sup> Interview, Mark Gitenstein, 20 August 2014, in: *Oral History Interviews*

<sup>118</sup> Interview, Karl Inderfurth, 6 March 2014, in: *Oral History Interviews*

<sup>119</sup> Interview, Loch Johnson, 28 August 2014, in: *Oral History Interviews*

<sup>120</sup> *United States Congress, Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Hearings before the Senate Select Committee to Study Governmental Operations with respect to Intelligence Activities, October 29, November 18, 19, December 2, 3, 9, 10, 11, 1975, 94<sup>th</sup> Cong., 1<sup>st</sup> sess.,* (Washington D.C., 1976), 'Vol. 6: The FBI.', [Hereafter referred to as *Church Hearings, Vol.6*], 1.

stated that the committee's task was not to place the bureau on trial but to 'illuminate the policies and practices of our domestic intelligence agencies.' Tower also indicated that holding the public hearings into the FBI's activities would establish a 'complete record and an informed public' and as a result 'assist the committee in its difficult task of evaluating the important intelligence work done by the FBI.'<sup>121</sup> For a number of years, rumours and unsubstantiated stories had been spread of purported misdemeanours and illegalities conducted by the FBI. The five days of public hearings swept aside any doubt that the FBI had been operating both beyond its remit, and beyond the law. In addition, the hearings revealed that the victims of the unwarranted and illegal surveillance stretched from leading political activists, such as Martin Luther King Jr., to those that took part and organised anti-Vietnam War protests. The activities of the bureau were described by the committee in its final report as 'a betrayal of the public trust in the integrity of the FBI.'<sup>122</sup>



**Figure 5: The Church Committee's public hearings.**  
(Courtesy of Boise State University, Albertsons Library Special Collections and Archives)

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<sup>121</sup> *Church Hearings*, Vol.6, 3.

<sup>122</sup> *United States Congress, Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Final Report together with additional, supplemental, and separate views, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., S. Rep. 94-755, 'Book II: Intelligence Activities and the Rights of Americans', (Washington D.C., 1976), [Hereafter referred to as Church Report, Book II], 226.*

The first day of hearings consisted of a near six-hour presentation on the task force's findings given by Fritz Schwartz and minority counsel Curt Smothers. The entire FBI hearings took place in the brightly lit Caucus Room of the Senate's Russell Building, surrounded by spectators and public television. The prospect of hearings on the FBI 'struck the fancy of ratings-conscious producers more than the IRS abuses had done.'<sup>123</sup> In what amounted to an extended question and answer session on the history of the FBI, Schwartz and Smothers gave an insight into the unconstitutional operations of the bureau. Schwartz and Smothers revealed how the FBI had undertaken throughout its history a series of extra-legal operations that not only impinged on their First Amendments rights, their Fourth Amendment rights against unreasonable searches, but was also aimed at denying them their Fifth Amendment right of due legal process. Chief among the bureau's operations was COINTELPRO, whose name derived from a portmanteau of counter intelligence programme. Schwartz called COINTELPRO 'the effort by the bureau to destroy people and to destroy organisations.'<sup>124</sup> It was a series of operations that lasted from 1956 to 1971, at times under presidential direction. Its aim, according to the FBI, 'was to expose, disrupt, misdirect, discredit, or otherwise neutralise' political dissent within the United States.<sup>125</sup>

Targets of each COINTELPRO were varied but shared one feature – political dissent. The Communist Party of the United States (CPUSA) was the target of the first COINTELPRO, which started in 1956 during the Eisenhower administration. Other programmes included COINTELPRO White Hate, which targeted the Ku Klux Klan at the instigation of President Lyndon Johnson; anti-Vietnam War and various other student groups were the subject of the ambiguously named COINTELPRO New Left; while COINTELPRO Black Nationalist-Hate was aimed at a diverse range of groups such as the Black Panther Party for Self-Defence (BPP), the Southern Christian Leadership Conference (SCLC), and the Nation of Islam. The naming of the operations allowed a variety of groups to fall under the umbrella of the COINTELPRO as Director Hoover and his advisers saw fit. The bureau attempted to stifle political views that differed to its own and that of four consecutive presidential administrations through a variety of methods such as so-called 'black bag jobs' – illegally breaking and entering to conduct warrantless surveillance; obtaining IRS tax returns and prompting IRS investigations into individuals and organisations; snitch-jacketing falsely labelling group members as informants in an effort to get them to leave the group; and instilling paranoia and internal strife among organisations such as the Black Panther Party, by anonymously suggesting rival groups were planning violence

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<sup>123</sup> Johnson, *Season of Inquiry*, 125.

<sup>124</sup> *Church Hearings*, Vol.6, 21.

<sup>125</sup> J Edgar Hoover to FBI Field Offices, Memorandum, Counterintelligence Program Black Nationalist – Hate Groups, August 25, 1967, found in *Church Hearings*, Vol.6, 383.

against its members. In its final report the Church Committee labelled such action by the bureau as 'indisputably degrading to a free society.'<sup>126</sup>

One of the investigation's most shocking revelations concerned the FBI's continuous harassment of Martin Luther King Jr. The civil rights leader had been subject to constant FBI surveillance, first under the COINTELPRO CPUSA in 1959, which continued until the Black Nationalist-Hate programme began in 1967 and lasted until his death in May 1968. Schwartz and Smothers described the FBI's operations ranged against King as 'the most complete surveillance imaginable' as part of a wider effort to 'knock King off his pedestal. Furthermore, Smothers illustrated how the attacks against King were believed by the bureau to be the only solution to what it perceived as the growing problem of civil disobedience. Schwartz described the efforts against King by the FBI as timed to 'come to crescendos at every single point where Dr King touched the country.' Efforts to discredit King were made when King was declared *Time* magazine's Man of the Year, when he met Pope Paul in 1964, and when he was awarded the Nobel Peace Prize. The last event caused the bureau to write an anonymous letter to King, in which the author – thought to be Assistant Director William Sullivan – posed as an African American and urged him to commit suicide before he was able to accept the prize.<sup>127</sup>

The committee responded with incredulity and dismay at the revelations of the enquiry into the FBI. Philip Hart, who had spent some weeks away from the investigation as he continued to struggle with cancer, was given the first opportunity to comment on Schwartz and Smothers' presentation. 'I have been told for years, by among others, some of my family, that this is exactly what the bureau was doing all of the time,' he began, 'in my great wisdom and high office, I assured them that they were - it just wasn't true. It couldn't happen. They wouldn't do it.' Hart clearly identified that the priority for him and his colleagues was to 'figure out how to persuade the people of this country that this did go on.'<sup>128</sup> Johnson called it the 'committee's finest moment' and added that he had 'never seen an audience so quiet and deeply affected during a congressional hearing.'<sup>129</sup> Schwartz agreed with Johnson's judgement of Hart's poignant summary. 'That was clearly the most emotional moment in the whole committee's work.'<sup>130</sup> Hart's surprise at the inquiry's findings was not staged for the cameras, as he had been receiving treatment for cancer and had missed the depositions, and his disbelief and disappointment were a reflection of that of the American public.

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<sup>126</sup> *Church Report, Book II*, 10-11.

<sup>127</sup> *Church Hearings Vol.6*, 31-33.

<sup>128</sup> *Church Hearings Vol.6*, 41.

<sup>129</sup> Johnson, *Season of Inquiry*, 129.

<sup>130</sup> Interview, Frederick A.O. 'Fritz' Schwartz, 28 October 2014, in: *Oral History Interviews*.

For the next two days, the committee interviewed both former and present officials of the FBI and Justice Department. For the first of these days, former FBI agent Courtney Evans was questioned by the committee. Evans, who had been Assistant Director during the Kennedy administration revealed how the bureau had placed Martin Luther King under surveillance as instructed by then-Attorney General Robert Kennedy in October 1963. Electronic surveillance involved wiretaps (taps) on telephone lines, and listening devices (bugs) placed in homes, rooms and offices. The hearing revealed that King had been subjected to such treatment because of a known associate of his was suspected of being influenced by the Communist Party of the United States.<sup>131</sup> It was also revealed that King had been bugged while at the 1964 Democratic National Convention at the request of President Lyndon Johnson.

If the objective of the public hearings into the domestic intelligence enquiry was to generate press interest in the committee's work, then it was a substantial success. The hearings covering the domestic inquiry found their way onto the front pages and editorial columns across the nation. In particular, the continuous attempt by the FBI to discredit Martin Luther King caused considerable uproar. The *Washington Star* stated that the bureau's treatment of King 'far transcended reasonable or authorised surveillance.' Furthermore, it argued, the FBI failed to distinguish between 'real public business and poisonous intrusion into the personal affairs of the citizenry.' It laid the fault clearly at the feet of Hoover, 'who held too much power for much too long' and succumbed to 'the corruptions of unchecked power.'<sup>132</sup> The *Washington Post* ruminated over possible reforms as a consequence of the bureau's actions. At the very least, it argued in an editorial, 'it becomes plain that no individual should again be allowed to run an agency of the importance of the FBI for a half-century.'<sup>133</sup> The *New York Times* argued that the lack of reports that confirmed King was a national security threat meant that the targeting of King by Hoover and the FBI was driven by 'a racist attitude' on the part of Hoover.<sup>134</sup>

Further outrage was expressed, both within the committee and the press, at the domestic investigations into political protesters during the previous fifteen years as part of COINTELPRO. The *New York Times* stated that the bureau's methods were a result of 'an outgrowth of the personality and attitude of J Edgar Hoover. Hoover, who had previously been held as a hero of justice, was now perceived as an instigator of 'three decades of sin performed by the bureau in the name of national security.'<sup>135</sup> The *Washington Post* rebuked not just the FBI's operations but also the Church

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<sup>131</sup> *Church Hearings, Vol.6, 166-70.*

<sup>132</sup> 'Mr Hoover and Dr King', *Washington Star*, 21 November 1975.

<sup>133</sup> 'The Cointelpro Scandal', *Washington Post*, 22 November 1975.

<sup>134</sup> 'Assassins and Penitents', *New York Times*, 23 November 1975.

<sup>135</sup> Nicholas M. Horrock, 'Polishing Up the FBI's Reputation', *New York Times*, 23 November 1975.

Committee's enquiry into the bureau. It argued that the committee's findings suggested Church's enquiry had not been damning enough of the presidents involved. It accused the Church Committee of being 'skimpy with the details of what was happening in the Justice Department and the White House while all these bizarre undertakings were being conducted at the FBI.'

Furthermore, the *Washington Post* suggested Church needed to be 'quick to lay to rest any intimation that Democrats have been protected in his inquiry.' Failure to do so would be to allow the inquiry to be subject to accusations of partisanship; and such was the seriousness of the FBI's past actions 'any hint of partisanship in this aspect of the Church inquiry should be dispelled.'<sup>136</sup> This was a theme picked up also by the *Washington Star's* William Safire, who also wrote that the investigation was 'conducted in such a way as to not unduly embarrass officials of the Kennedy or Johnson administrations.' In an assault on Church's claims to be a bipartisan investigation, Safire accused the committee of 'not asking embarrassing questions even when answers are readily available.'<sup>137</sup> If such a label could be stuck on the Church Committee, it would seriously impede the enquiry's chances of gaining public support for its reforms.

### 3.8 The Effect of the Public Hearings

The committee's willingness to bend to the demands of the public had a serious effect on the remainder of the investigation. Importantly, the desire to accede to all of the public's demands meant that the enquiry had to be lengthened to sixteen months. This in itself was problematic as the committee risked losing what public support it did have the longer it went on. The committee's need for public support also depended on it doing what the public demanded; assassinations, therefore, was an essential line of enquiry, but the time it took to investigate the matter properly was counter-productive in earning public support.<sup>138</sup> The time that had to be spent on assassinations meant that the committee was unable to look at some of the other matters in depth, and had to extend the committee's investigation so that it could examine the topics it had to look at. One staff member had called the assassinations plots a 'bottomless pit' which made it 'impossible to focus on other subjects.'<sup>139</sup>

The American public's desire for knowledge about assassinations had borne fruit. While not explicitly about the assassinations, the public hearings into covert action and the storage of toxic agents, addressed some of the methods and objectives utilised by the CIA in its assassination plots.

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<sup>136</sup> 'The Cointelpro Scandal', *Washington Post*, 22 November 1975.

<sup>137</sup> William Safire, 'Selective Coverup in the Church Committee', *Washington Star*, 21 November 1975.

<sup>138</sup> Olmsted, *Challenging the Secret Government*, 85.

<sup>139</sup> Burt Wisnes, quote in Johnson, *Season of Inquiry*, 54.

Public pressure, exerted through the various forms of media, had an extensive effect on the Church Committee when it came to the subject of assassinations. The public's disappointment with the Rockefeller Commission had energised the committee into investigating the claims that the CIA had plotted to kill foreign leaders. Furthermore, the public hearings that addressed some of the issues associated with assassinations only occurred because Church had persuaded the committee that the American public should know what had been done in its name. Church's support of such claims had overcome the argument put forward by Senators Tower and Goldwater that public hearings would damage national security. Public opinion, it appeared, was the dominant force in determining the Church Committee's strategy with regards to investigating and reporting on the assassinations plots.

The committee's hearings that covered the FBI's efforts to stifle political dissent or protest were also the result of the influence of public opinion and the necessity to have considerable public support for their investigation. The domestic investigation's hearings proved to be the most productive in terms of generating press coverage. The investigation 'supplied considerable detail' to what had already been previously made public.<sup>140</sup> The foreign intelligence investigation gave a greater opportunity for Church to play to the cameras; it was more selective in its target audience than the domestic investigation. The glamour of the poison dart pistol and the assassination plots did not have the same effect as the investigation into the FBI's insidious campaign against Martin Luther King Jr. The possibility that targets of the FBI's New Left and Black Nationalist programmes could have been the family members of those watching hit home and had a greater effect on the American public. Unfortunately for the Church Committee, through a series of manoeuvres by the executive branch such as passing the buck on the assassination report and slowing down the flow of information to the committee's investigators, the domestic hearings came at the end of the committee's campaign and not the start. As a result, the public support that it would have garnered had it been conducted in the summer, failed to materialise at the end of November. Schwartz later believed that 'if we had been able to start our public hearings in August with the FBI stuff that we eventually came out with, I think we would have had more momentum.'<sup>141</sup>

But the support and publicity generated by the public elements of the investigation came at a cost to the rest of the enquiry. The criticism levelled at the committee was that it was sensationalist and that it had become the very personification of the television drama that the Senate had wished to avoid. The public and broadcasted revelations of CIA poison dart guns, assassination plots to kill foreign leaders, unconstitutional and illegal surveillance, and the FBI's

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<sup>140</sup> Norman Kempster, 'How FBI Tried to Ruin, Replace Dr King', *Washington Star*, 18 November 1975.

<sup>141</sup> Interview, Frederick A.O. 'Fritz' Schwartz, 28 October 2014, in: *Oral History Interviews*

COINTELPRO operations aimed at political dissenters and national icons, had associated the entire enquiry with a sensationalism that was only surface deep. The questions of greater importance about the clandestine activities of the intelligence community were in danger of being brushed aside for those that gained greater press coverage.<sup>142</sup> Furthermore, the accusations that Church was directing the investigation to look after the Democratic Party's concerns were beginning to increase in number.

If the investigation was permanently allied to the startling and dramatic headlines, it risked losing political significance and the support it required to push forward reform of congressional oversight. Furthermore, there was a growth of accusations that Church was conducting an investigation that was not just protecting the legacy of Democratic Party presidents, but also preparing a springboard for his entry into the presidential race in 1976. These charges laid against the Church Committee were a danger to the committee's own historical importance. The committee had worked hard to gain public support and approval for its investigation and had been successful because it had been affected by public opinion throughout its enquiry. The committee had taken on the assassination enquiry, held public hearings, and exposed the nefarious activities of the FBI, because of public opinion, and in return had managed to acquire a considerable amount of public support for its efforts at reform. To completely fulfil its remit, as set by the Senate, it needed to maintain the public's support until its recommendations for reform were published in its final report.

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<sup>142</sup> Interview, William Miller, 16 May 2014, in: *Oral History Interviews*

# Chapter Four

## Criticism of the Church Committee

### 4.1 Aspersion Cast at the Church Committee

The investigations of the intelligence community in the post-Watergate period were guided by the wishes of the American public. The Year of Intelligence was shaped and affected by the demands of the public; in particular, the Church Committee investigation had been heavily influenced by public opinion. In an effort to gain public support, the Senate's investigation into the various branches of the foreign and domestic intelligence gathering processes had bended to the will of public opinion. The enquiry had been established because of the public's rejection of the executive branch's creation of the Rockefeller Commission; further public dismay with the Rockefeller Commission's intentional exclusion of any assassination plot findings from the commission's final report forced the Church Committee to deal with the subject itself. The Church Committee's public hearings into covert action, the National Security Agency, and the FBI's counterintelligence programmes directed at political dissenters of the previous decade, was driven by the public's demand for knowledge. Furthermore, the committee understood that any attempt to successfully reform intelligence oversight was embedded within the necessity of acquiring public approval of its work.

After the investigative side of the committee's work was finished in December 1975, Senate Majority Leader Mike Mansfield (D-MT) stated that the committee had been 'given a most difficult job.' Mansfield, who had urged the Senate unsuccessfully for almost twenty years to review the intelligence community, argued that the committee's success was in its education of the American public. 'It becomes apparent that what the Americans knew before were but dim shadows of our intelligence establishment.'<sup>1</sup> Senator Frank Church, the committee's chairman, had responded not just to the task set by the Senate, but also to the public's demands for knowledge of misdeeds, and for highlighting the processes, institutions and individuals accountable for such failures. Such adherence to public opinion would naturally suggest that the Church Committee's findings and recommendations, as detailed in their voluminous report, would find favour and support from the American public. Such an assumption though would be erroneous, as a combination of bad luck and partisan criticism of the committee and its members led to the enquiry's legacy becoming neither as effective nor as influential as it should have been.

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<sup>1</sup> United States Congress, Senate. Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976), 12.

This chapter investigates as to why the American public failed to give significant support to the Church Committee and its recommendations. It argues that the continuous unfounded accusations that the committee's activities were a significant national security risk, gained credibility when CIA station chief Richard Welch was murdered in late December 1975. Furthermore, the committee's legacy was drastically affected by criticism from figures that stretched across the political spectrum. Conservative and right-wing individuals claimed that the enquiry was a liberal witch hunt designed to destroy and damage the US intelligence community. Conversely, those on the left of the political spectrum believed that the findings were not as critical as they could have been, and that the investigation has deteriorated into a whitewash. One observer suggested that Church's style of management by consensus had led the committee to be ineffectual and 'less than demanding' of the intelligence establishment.<sup>2</sup> Finally, extensive criticism was placed at the chairman's management of the committee: that Church had been too consensual in his leadership, and that the publicity generated by the committee through its public hearings, press conferences and television appearances, were designed to establish Church as a national political figure before running for the Democratic Party's presidential nomination in 1976.

The condemnation of the Church Committee and its chairman has been found by this research to be unjustified. The disparaging remarks and negative analysis of the enquiry was driven by ulterior motives of those individuals dispensing such an evaluation. Whilst not entirely partisan in nature, the criticism aimed at the Democrat-led committee was mostly from a Republican source. The criticisms were part of a continuous public relations struggle between the Republican Ford administration and the Democratic dominated Congress. Such censure of the committee's work can be traced to an effort to gain support for an alternative, less-radical programme of intelligence oversight reform than that found in the Church Committee's recommendations. In addition, the press's disappointment with the committee's final report, and the failure of the committee 'to keep public attention on the problems of intelligence abuse' meant that the initial press support for the committee ebbed away.<sup>3</sup>

Furthermore, the cataclysmic nature of the House's investigation into the intelligence community, the Pike Committee, had an effect on the public's understanding of the Church Committee. In essence, the Church Committee was damned by the mistakes of the Pike Committee and its own inability to distinguish itself apart from the ill-fated House investigation. The public disapproved of the Pike Committee's methodology and result: the combative, interrogatory manner

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<sup>2</sup> Nicholas M. Horrock, 'Senator Church's Committee: More Than One Voice', *New York Times*, 25 April 1976.

<sup>3</sup> Nicholas M. Horrock, 'The Meaning of Congressional Intelligence Inquiries', *New York Times*, 29 April 1976.

that it used to deal with the executive branch; the chairman's refusal to bow to executive demands to consider national security concerns; and the leaking of the committee's report to the press after its publication had been cancelled by the House. The Church Committee's lack of an individual that was well versed in public relations became its Achilles heel in the period following the Welch murder in Athens, causing one staff member to suggest that there was 'no coherent response' to the executive branch's media strategy.<sup>4</sup>

Finally, the doubts that were placed against the character and ability of Senator Frank Church were significantly wide of the mark. The detractors of the committee have often used Church's entrance into the Democratic Party's presidential nomination race as an indication of his attempt to build up support for a bid at the presidency. This research has found Church to be regarded as a man of his word, and of a strong moral fibre. Furthermore, these allegations fail to take into account the documentary evidence available and the oral histories of those associated with Church's presidential campaign. Church asserted that he would not pursue any path to the White House until after the committee had finished its investigation, and this research supports such claims, despite the accusations levelled at him.

That is not to say that Church's bid for the presidency did not damage the reputation of the Church Committee; it did. But it alone was not enough to undermine the quality of work and the depth of the enquiry. Instead, it was a combination of the factors – the accusations of risks to the national security and the future efficiency of the intelligence community, the charges of a whitewash or a witch hunt, the publicity seeking bid for the presidency – that damaged the reputation of the Church Committee enquiry and lost the support of the majority of the American public. It is ironic that Church's realisation that to gain public support the committee needed to bow to public demands led to the American public's indifferent attitude towards the Church Committee.

#### **4.2 The Efficiency and Safety of the US Intelligence Community**

When the Church Committee completed the last of its public hearings on December 11, 1975, Church summarised that it marked 'both an end and a beginning for the select committee.' It was the end of public hearings that had seen the exposure of the finer details of the Huston Plan, the confirmation that the National Security Agency (NSA) had the potential to turn its sophisticated surveillance technology on the general public, and the confirmation to the younger generation that the FBI had been conducting a series of covert operations aimed at silencing political dissent. It concluded with the committee members questioning Attorney General Edward Levi on how to

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<sup>4</sup> Interview with the author, Pat Shea, Salt Lake City, Utah, 5 October 2016.

ensure that the FBI could be prevented from running operations such as COINTELPRO.<sup>5</sup> At times, the exchanges between the members and the Attorney General became heated. Walter Mondale, the head of the committee's Domestic Task Force, labelled Levi's inability to confirm whether documents would be handed over to the committee as arrogant and the reason 'why we have trouble between the executive and the legislative branch.'<sup>6</sup> The contentious session ended a period that had been the most emotional of the entire investigation. The hearings on the FBI had drawn considerable praise and press attention.

Church also mentioned in his introduction to the hearing, that whilst the investigation was coming to an end the committee's 'task of making constructive recommendations is beginning.'<sup>7</sup> The committee rightly went into the report-writing phase of the investigation with a positive outlook, but by Christmas that optimism had been sorely tested. On December 23, 1975, the CIA's station chief in Athens, Richard Welch, was murdered. Welch had been shot as he returned from a social function at the residence of the American Ambassador in Athens. Described by Church Committee Staff Director, William Miller, as a result of 'the CIA's failure to protect their station chief adequately,' the event became front page news.<sup>8</sup> The *New York Times* reported that a local English language daily newspaper, the *Athens News*, had printed the identities, telephone numbers, and addresses of the top CIA officials in Greece, making Welch easily identifiable. The CIA failed to make arrangements for the protection of its agents in Greece, particularly in light of the fact that the agency had been 'subject to virulent criticism' from leftist groups.<sup>9</sup> Initially the blame for Welch's death was correctly credited by the American public as a combination of CIA incompetence, and anti-American fervour. Such agency recklessness caused one *New York Times* reader to be 'amazed at the carelessness of our super secret spy agency,' especially after Welch had also been unmasked on a previous assignment in Peru.<sup>10</sup> In addition to these instances of being identified as a CIA operative, Welch had also been named as one of 150 station chiefs by *Counterspy* magazine, the same magazine that in late 1975 had a front page emblazoned with 'Chiefs of Station: who they are and what they do.'<sup>11</sup>

In spite of such evidence, the finger of blame for Welch's death was pointed towards the Church Committee and its investigation of the intelligence community. In the *Washington Star*, a publication that had criticised much of the committee's work, one columnist had no qualms about

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<sup>5</sup> *Church Hearings, Vol.6*, 311.

<sup>6</sup> *Church Hearings, Vol.6*, 332.

<sup>7</sup> *Church Hearings Vol.6*, 312.

<sup>8</sup> Interview, William Miller, 10 June 2014, in: *Oral History Interviews*.

<sup>9</sup> Steven Roberts, 'CIA Station Chief Slain Near Athens By Gunmen', *New York Times*, 24 December 1975.

<sup>10</sup> Kevin Kinsella, 'Careless CIA', *New York Times*, 31 December 1975.

<sup>11</sup> Philip Shabecoff, 'CIA Aide to be Buried in Arlington', *New York Times*, 28 December 1975; *Counterspy*, 2 (1975).

accusing the committee of reckless abandon. Charles Bartlett stated that Welch's assassination was a 'direct consequence of the stagey hearings of the Church Committee' and that 'the committee's prolonged focus on CIA activities in Greece left agents there exposed to random vengeance.'<sup>12</sup> It was the beginning of a press relations onslaught from which the Church Committee would never fully recover; an attack on the committee's reputation that was based on fabrication. As Loch Johnson commented, the Church Committee had taken the utmost care to refrain from endangering agents of the various agencies. Furthermore, it had never mentioned Greece in any of its public hearings.<sup>13</sup> Johnson rightly saw the event as the most significant incident in the public relations battle during the Year of Intelligence.

Within days, fuelled by the executive branch, the cause of Welch's murder had moved from the anti-American atmosphere within Greece to the congressional enquiries into the intelligence community. Only the *New York Times* continued to report on the fractured nature of Greco-American relations. It correctly highlighted the growing opposition within Greece to American foreign policy, in particular the installation of the military dictatorship in 1968, and that which concerned Cyprus. 'Practically every Greek feels betrayed by American policy toward the island,' wrote Steven Roberts. 'If Henry Kissinger came to Athens today he would be run out of town.'<sup>14</sup> Taki Theodoracopulos went further and said that Welch's murder was 'an indirect result of the poisonous anti-Americanism advocated by the Greek press.' Furthermore, this atmosphere was generated by Russian infiltration of the Greek communist party which organised 'a brilliant propaganda ploy that has associated antifascism with anti-Americanism.' A consequence of this was that 'the Americans are responsible for everything.' The Church Committee's hearings and publications, such as former CIA agent Philip Agee's *Inside the Company* which claimed that the CIA was responsible for millions of people having their lives destroyed, merely re-enforced to the Greek populace that 'Uncle Sam is the CIA.'<sup>15</sup>

The incumbent Director of the CIA, William Colby, had a different view. Colby, who was due to be replaced as head of the agency by the US ambassador to China and former Republican Party Chairman George H W Bush, declared that it was *Counterspy's* publication of the list of CIA station chiefs in its winter publication of 1975 that had led to Welch's murder. The *New York Times* rebuffed him, arguing that it was unlikely, taking into account all of the evidence, that *Counterspy* was responsible. This was a perspective shared by *Counterspy*, and Ralph Lewis, a member of

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<sup>12</sup> Charles Bartlett, *Washington Star*, 29 December 1975.

<sup>13</sup> Johnson, *Season of Inquiry*, 161.

<sup>14</sup> Steven Roberts, 'Letter From Athens', *New York Times*, 18 January 1976.

<sup>15</sup> Taki Theodoracopulos, 'Anti-Americanism in Greece', *New York Times*, 23 January 1976.

*Counterspy's* advisory board, argued in a letter to the *New York Times* that such an accusation was 'an excuse to avoid a serious re-evaluation of US intelligence activities and to attack its critics, including Congress and the press.'<sup>16</sup> Instead, it suggested that Colby's attack was part of an engineered move to use Welch's murder to assist the executive branch's resistance to congressional reforms of intelligence oversight. Colby's denunciation had a clear ulterior motive, and that was 'to make the case that the CIA needs more secrecy in general than it has been getting lately.' Furthermore, it warned that President Ford and the executive branch would use Welch's murder 'to resist limits on covert operations and to reduce congressional scrutiny.'<sup>17</sup>

The Ford administration had taken extraordinary steps to ensure that the press coverage of the Welch murder was capitalized. Almost immediately reporters in Washington spoke of the executive branch's efforts to link Welch's murder not just to *Counterspy* but also to 'general criticism of the agency.' The tragic event in Athens was expected by many in the US capital to 'create a backlash of reaction to criticisms of CIA activities by the congressional select committees looking into CIA activities.'<sup>18</sup> Ford and his advisers developed Welch's death into a national martyrdom, manipulating television coverage to a maximum. When his body returned by air to Andrews Air Force Base, it was met with full military honours of an armed air force guard and was broadcast live on television. In addition to the honour guard, the casket was met by several high-ranking members of the Ford executive, not least of which was outgoing CIA Director Colby. When the plane tried to land earlier than expected a television technician told the Air Force public information office to 'tell that plane to do a great 360 degree turn up there for 15 minutes.'<sup>19</sup>

In addition to the grand arrival, Ford organised for Welch's body to be buried at Arlington National Cemetery, despite the fact that Welch had never served in the military. The splendour and ceremony that surrounded the funeral was managed by the executive perfectly to produce numerous headlines in the nation's press. The chief counsel of the Pike Committee, Aaron Donner, said that Ford had handled the situation 'magnificently, in a malevolent sort of way.'<sup>20</sup> The Church Committee's chief counsel, Fritz Schwartz, was just as cynical of the executive branch's performance. Ford and his advisers had 'danced with joy on his grave,' he said later. 'They weren't happy he was killed, but his being killed they used and danced on his grave.'<sup>21</sup> Schwartz believed the tragedy was manipulated for maximum political effect. 'They egregiously and unfairly took advantage of the

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<sup>16</sup> Ralph Lewis, 'On the Motivations of *Counterspy*', *New York Times*, 22 January 1976.

<sup>17</sup> Anthony Lewis, 'Death and Secrecy', *New York Times*, 8 January 1976.

<sup>18</sup> John Cooley and Peter Mellas, 'Anti-CIA Press Cited in Slaying', *Washington Post*, 25 December 1975.

<sup>19</sup> Eugene Meyer, 'Slain CIA Agent Receives Unusual Honour', *Washington Post*, 31 December 1975.

<sup>20</sup> Interview, Aaron Donner, 5 September 1992, quoted in Olmsted, *Challenging the Secret Government*, 153.

<sup>21</sup> Interview, Frederick A.O. 'Fritz' Schwartz, 28 October 2014, in: *Oral History Interviews*.

situation. In a short-term, tactical way, they rejoiced in his death.<sup>22</sup> Johnson agreed with Schwartz's analysis adding that public opinion had turned against the Church Committee because of the Welch affair, regardless of whether the Ford administration had planned for such an outcome.

Furthermore, mail from the public to the Church Committee was now no longer generally positive as it had been throughout the investigation. The committee's mail pouches 'overflowed with hostility.'<sup>23</sup>

The main carrier of the executive branch's claims was the *Washington Post*. While the *New York Times* attempted to present a balanced view that considered all the mitigating factors of Welch's death, the *Washington Post* turned on the congressional enquiries into the intelligence community. Suddenly, the language used in its columns associated with the Church Committee's investigation became more accusatory and denigrating. The investigation was branded part of an 'anti-CIA orgy in Congress' that was designed to 'grasp new authority over traditional executive prerogatives.'<sup>24</sup> The editorials in the *Washington Post* changed the paper's previous support of the enquiries to one that questioned their responsibility. 'There is a crucial distinction to be made between exposing the policies and practices of an errant government agency in order to encourage reform, and acting in a way to put the lives of particular government employees at extra-legal jeopardy.' The Church Committee, in its attempt to illustrate to the American public, the dark recesses of secrecy in the name of national security, was responsible for the death of Richard Welch. By vilifying the Church Committee, the paper had, by extension, condoned the executive branch's efforts to resist legislative oversight. From the same paper that refused to give up on the Watergate scandal, this was damning for the Church Committee.<sup>25</sup>

There is no doubt that the *Washington Post's* judgment of the Church Committee was done with the support of the Ford administration. White House Press Secretary Ron Nessen had already publicly implied that the congressional enquiries had been warned about ensuring they refrained from publishing lists of agents' names during their investigation. Such warnings had come during 'various negotiations and discussions with committees on the hill which wanted to reveal names.' It was a thinly veiled attempt to suggest that both the Church and the Pike committees wanted to reveal dangerous classified data that would jeopardize the lives of agents abroad, and that the executive branch was the sole office that could be trusted to ensure national security.<sup>26</sup> The

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<sup>22</sup> Interview, Frederick A.O. 'Fritz' Schwartz, 24 May 1983, quoted in Smist, *Congress Oversees*, 64.

<sup>23</sup> Johnson, *Season of Inquiry*, 162.

<sup>24</sup> Rowland Evans and Robert Novak, 'Congress' Effort Toward "Super-Oversight" of Intelligence', *Washington Post*, 13 January 1976.

<sup>25</sup> 'Mr Welch and Mr Wheaton', *Washington Post*, 7 January 1975.

<sup>26</sup> Lou Cannon, 'Ford Links Welch Death to Reports', *Washington Post*, 28 December 1975.

*Washington Post*'s Rowland Evans and Richard Nowak continued the executive's job, citing Welch as 'one of the CIA's most respected analysts' in an effort to place him in a favourable light with the public.<sup>27</sup> Joseph Kraft on the other hand, called congressional critics of the CIA 'senators and representatives most eager to make cheap headlines on the intelligence issue.'<sup>28</sup> The *Washington Post* had run a very convincing campaign to indicate that the misdemeanours of the American intelligence community were the fault of Congress to enforce effective oversight. Such oversight was due to Congress's inability to maintain security on its intelligence committees. 'There can be no congressional oversight unless the President takes the Congress into his confidence,' one editorial ran at the end of January. 'But the President cannot take the Congress into his confidence if his secrets are to be betrayed.'<sup>29</sup>

The executive branch had worked hard behind the scenes to ensure that the congressional enquiries received such an admonishment. CIA counsel Mitchell Rogovin claimed that whilst the Ford White House did not explicitly claim that the Church Committee was the cause of Welch's murder, it 'waved it around like a bloody shirt.'<sup>30</sup> Loch Johnson agreed with Rogovin. 'The Ford White House choreographed the return of Welch's body. That was really a pretty awful exercise in public relations, but it really worked. After that exercise in propaganda, the public really began to turn against the committee. A lot of people thought the Ford White House was right – that we were responsible for Richard Welch's death.'<sup>31</sup> The Church Committee failed to effectively present a united front against the accusations because of the wide spectrum of political views within the membership. Press officer Spencer Davis 'had an impossible job' to present a story as the voice of the committee, said committee counsel, Pat Shea. 'The idea that you could have a single storyline doesn't happen' on senate committees, he said.<sup>32</sup> The effect on the Church Committee was devastating. Stansfield Turner, director of the CIA during the Carter administration, acutely observed that it was 'hard to overstate how much this killing undermined the investigation.'<sup>33</sup>

In stark contrast to the claims of the executive branch, the Church Committee had an outstanding record of security throughout its sixteen-month lifetime. This was a result of both the enquiry's physical location and the ethos that permeated all of the staff members. The committee was housed entirely within room G-308 of the Senate's Dirksen Building, the same room that the Senate's Watergate Committee had occupied until the previous year. 'When the Watergate staff

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<sup>27</sup> Rowland Evans and Robert Novak, 'Restructuring the CIA', *Washington Post*, 1 January 1976.

<sup>28</sup> Joseph Kraft, 'White House Mishandling of Intelligence', *Washington Post*, 9 January 1976.

<sup>29</sup> 'The Basis of CIA Oversight', *Washington Post*, 20 January 1976.

<sup>30</sup> Interview, Mitchell Rogovin, 24 March 1992, quoted in Olmsted, *Challenging the Secret Government*, 153.

<sup>31</sup> Interview with the author, Loch K. Johnson, Athens, Georgia, 20 September 2017.

<sup>32</sup> Interview with the author, Pat Shea, Salt Lake City, Utah, 5 October 2016.

<sup>33</sup> Stansfield Turner, *Burn Before Reading: Presidents, CIA Directors, and Secret Intelligence* (New York, 2005), 153.

moved out, we moved in as the next big show in town,' said Fritz Schwartz's assistant Frederick Baron. 'Whatever security they had, we tripled it,' he said, 'the whole office was a safe.'<sup>34</sup> At the centre of the room was Schwartz and Miller, and the rest of the room was an open plan office with partitions set up for each staff member. Such close proximity meant that not only was the atmosphere bipartisan, but security was exceptional. 'It's the old adage,' said Pat Shea, 'you keep your friends close but your enemies closer.'<sup>35</sup> Even Church's senatorial office assumed that the phones were tapped and that background checks had been conducted on them. 'If any dirt could be found people could use it.'<sup>36</sup>

'Secrecy was paramount for us,' said staff member Peter Fenn, for both the reasons of national security and the integrity of the investigation. This was a desire shared by both the Republican and Democratic members of the investigation, said Fenn. 'This was something that Church cared about, that Tower cared about, everybody on the committee cared about.' The Senate's concerns that the committee could turn into a television spectacle were shared by the committee staff. 'If at some point things looked like it was a circus, like things were being leaked all over the place, the reporters were all over things, then our credibility was harmed,' said Fenn.<sup>37</sup> Baron agreed, adding that the committee's sensitivity towards the classified information was necessary to establish a good relationship with both the executive and the intelligence agencies, adding 'we needed them to trust us so that they would give us the documents to conduct this inquiry.'<sup>38</sup> Furthermore, there were no incidents of any recognised leaks from the committee's staff or its members, except for one incident where a staff member was talking about the investigation at dinner in a restaurant and was overheard by a member of the intelligence community. Although the staff member was not talking about classified information he was still dismissed from the investigation. 'They were very tough on that kind of stuff and made it very clear. You weren't taking documents home or you weren't doing anything which would harm the committee,' said Fenn.<sup>39</sup>

Regardless of the Church Committee's attempts to instil a secure environment from which to launch, the executive branch's attempts to stain the reputation of the congressional enquiry were a considerable success. Not only had the press become split in its opinion of the validity of the investigation into the intelligence community, but the public had too. Public perception of the FBI and the CIA had been in decline for a number of years. In August 1973, Gallup polls indicated that

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<sup>34</sup> Interview, Frederick D. Baron, 28 May 2015, in: *Oral History Interviews*.

<sup>35</sup> Interview with the author, Pat Shea, Salt Lake City, Utah, 5 October 2016.

<sup>36</sup> Interview with the author, Mike Wetherell, Boise, Idaho, 15 September 2016.

<sup>37</sup> Interview, Peter Fenn, 2 October 2014, in: *Oral History Interviews*.

<sup>38</sup> Interview, Frederick D. Baron, 28 May 2015, in: *Oral History Interviews*.

<sup>39</sup> Interview, Peter Fenn, 2 October 2014, in: *Oral History Interviews*.

only 52% of the American public were strong supporters of the FBI, and 23% thought the CIA were doing a good job. By December 1975, the public's opinion of the two agencies had gone into further decline. The FBI had just 37% of the American public giving it their full backing, and CIA a mere 14%.<sup>40</sup>

**Table 1: Intelligence Agency Gallup Poll Results 1965 -1975**

<b>Year of Gallup Poll</b>	<b>FBI Favourable Rating</b>	<b>CIA Favourable Rating</b>
<b>1975</b>	37%	14%
<b>1973</b>	52%	23%
<b>1970</b>	71%	-
<b>1965</b>	84%	-

(Data from George Gallup, *The Gallup Poll: Public Opinion 1972-1977, Volumes 1 and 2*, 596-7.)

By January 1976, the effect of the executive's campaign against the Church Committee had taken effect. In a Harris poll published in the *Chicago Tribune* on January 22, when asked how well the Church Committee had been performing those questioned gave a rating in favour of their work at just 38%, compared to a negative rating of 40%. The Pike Committee fared even worse – with a 36% favourable rating and a 40% negative rating. To make matters worse for the congressional enquiries 48% of those questioned believed that there should not be tighter controls imposed on the intelligence community. The poll also revealed the quandary that the American public found itself in; for although it thought the investigations into the CIA and FBI had been poorly done those questioned still had little faith in either of the two agencies. Just 32% of the respondents gave a favourable rating to the CIA, while 62% of the American public was critical of the bureau's domestic intelligence and surveillance programme. To confound matters even further, the same respondents gave a 49% positive rating to the FBI.<sup>41</sup>

Both the members of the Church Committee and the executive branch agree that the Welch murder was responsible for the change in public opinion against the Church Committee. CIA director William Colby wrote that it was an event that 'did more than anything else to cap the American public's desire to see the pendulum swing back and an end brought to the hysteria over the CIA.' Colby blamed the publicity surrounding the congressional enquiries for the agent's assassination. 'It

<sup>40</sup> Gallup Survey #874-k 9 August 1973, and Survey #939-k 4 December 1975, in: George Gallup, *The Gallup Poll: Public Opinion 1972-1977, Volumes 1 and 2*, (Wilmington: 1978)

<sup>41</sup> Harris opinion poll findings in Louis Harris, 'CIA, FBI, Lose Faith of Public', *Chicago Tribune*, 22 January 1976.

was clear that the main cause of his death was the sensational and hysterical way the CIA investigations had been handled and trumpeted around the world.’ As a consequence, he argued, the committee’s unprofessional and melodramatic performances meant that the ‘American public began to demand that it stop.’<sup>42</sup> Frank Church agreed with Colby’s assessment of the impact of Welch’s death on the public’s confidence in the congressional enquiries. ‘The Welch murder was the event. It was stage-managed,’ he argued. ‘An attempt was made to lay the responsibility on the congressional investigations.’ Predictably, Church disagreed that the committee and its enquiry was any sort of a contributory factor to Welch’s death. ‘There is no substance to that charge. There is not one scintilla to that charge. We didn’t have names,’ he countered. He identified the cause of the furore surrounding the murder as being instigated by the executive branch. ‘I sensed the political interests of the administration to close down the investigation as soon as possible to keep control of whatever remedies were sought.’<sup>43</sup>

While both the executive and legislative branches have strong cases, it is unlikely that the Church Committee was the cause of Welch’s death. A combination of animosity towards the CIA and the United States in general in Greece, exacerbated by *Counterspy*’s publication of station chief identities had enabled the perpetrators to take advantage of lax CIA security and murder Welch. Church Committee staff director Bill Miller is unequivocal as to who is at fault, stating that it was ‘the agency’s faulty procedures for protecting their own station chief’ that cost Welch his life, not the committee’s investigation.<sup>44</sup> In all likelihood, the publicity generated by the committee that appeared in the press around the world merely reinforced the anti-American feeling in Greece among the left-wing extremists. Church was right: the committee mentioned no names of agents in its interim report, and throughout the enquiry it had an exemplary security record despite the claims of the executive branch and the supporters of the CIA.

### 4.3 Church and the Public

The differing views of the *New York Times* and the *Washington Post* were a clear indication to the Church Committee that the American public was not united in support of the panel’s investigation of the intelligence community. The both favourable and critical opinions of the enquiry as depicted by the press was an accurate, if confusing, reflection of the American public’s opinion on the Year of Intelligence. The Harris poll published in the *Chicago Tribune* on January 22, 1976, was an indication of the illogical and inconsistent perspective that confounded the American public. On the

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<sup>42</sup> Colby and Forbath, *Honourable Men*, 450-451.

<sup>43</sup> Interview, Frank Church, 25 April 1983, quoted in Smist, *Congress Overseas*, 64.

<sup>44</sup> Interview, William Miller, 5 May 2014, in: *Oral History Interviews*.

one hand, there was a genuine desire for an investigation into an intelligence network that the American public had no confidence in. It had rejected the executive's attempt to do so behind closed doors through the Rockefeller Commission. On the other, it resented the secrets of the intelligence community being exposed by the congressional investigations.<sup>45</sup> Church Committee counsel, Pat Shea, suggested that even if the committee did not have the full backing of the public, its existence was a consequence of the nation's desire to know what was going on. 'We had the public's curiosity,' he said.<sup>46</sup>

But Church was well aware of the public's desires during the Year of Intelligence. In addition to the demands of the press, the conflicting and confusing nature of public opinion had also been conveyed to him through letters from friends, Idahoan constituents, and American citizens. While the committee itself had received mail from the public, both favourable and critical, Church too had personally received mail from his Idahoan constituents through his Senatorial office in Washington. They wrote to him to express their opinions on their Senator's performance as chairman, and of the committee's task and objectives, and shared the same variety of views as the rest of the nation. The majority of correspondents had a sense of pride that their Senator had been chosen to head such an important committee and wished him good luck. For some Idahoans, watching Church on television was an opportunity for them to become more acquainted with their Senator. One particular appearance on *Face the Nation* in February, 1975, caused one Pocatello resident to express his delight at discovering 'that Idaho had such a capable representative in our Nation's capitol.'<sup>47</sup> Another wrote how he was 'impressed that someone from Idaho would be selected to head such an important investigation', and wished him luck in his endeavours.<sup>48</sup>

The more positive mail encouraged Church in his role and confirmed to him that his committee was proceeding in the right direction. One correspondent from neighbouring Oregon stated how grateful they were that Church had assumed the 'difficult tasks of leadership' of the committee, and that reassured Church that 'checking into the "secret police" activities is a must.'<sup>49</sup> One Idahoan resident requested that if the select committee found any evidence of CIA surveillance on US citizens, then he was to 'give them hell!'<sup>50</sup> George Brown, pastor of the United Church of

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<sup>45</sup> Harris opinion poll findings in Louis Harris, 'CIA, FBI, Lose Faith of Public', *Chicago Tribune*, 22 January 1976.

<sup>46</sup> Interview with author, Pat Shea, Salt Lake City, Utah, 5 October 2016.

<sup>47</sup> Letter, Rampton Barlow, 3 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>48</sup> Letter, Scott Blackham, 17 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>49</sup> Letter, Herb Richards, 24 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>50</sup> Letter, Janet Rogers, 31 January 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

Kellogg, Idaho, believed that the FBI was 'essential to the safety and security of our country, but never, never at the expense of the abuse of the rights and privacy of all the citizens of this country.' However, his judgement of the CIA was more severe, arguing that 'there is no justifiable excuse for the existence of the agency', adding that it was 'the antithesis of our type of government, and its founding principles.'<sup>51</sup> This would have come as no surprise to Church as Brown had previously written requesting that Church introduced legislation 'to completely do away with the CIA' which he described as an 'anachronism.'<sup>52</sup> Church countered suggesting that it was impossible to eliminate the CIA, but suggested that it was possible to halt covert operations 'which had been a scandal for years.'<sup>53</sup> And Church received encouragement from further afield than just Idaho, with one correspondent from Miami, Florida, expressing agreement with Church that 'all Americans have the right to know the facts relating to activities of the various offices.' Church's committee, he argued, would ensure that 'only legal, proper charter-activities be engaged in by such agencies.'<sup>54</sup>

But not all of Church's constituents were as supportive of his appointment or of the committee's objectives. The objections relayed to Church by members of his constituency and the wider American public were for a number of reasons. A resident of Nampa, Idaho, questioned the funding being made available to the committee – the \$750,000 budget 'does nothing for our crippled economy,' he wrote.<sup>55</sup> This was a view reflected by another constituent who urged Church to 'stop this unwarranted investigation' and the unnecessary use of government resources, especially when it could be used to address the nation's 'staggering problems of inflation and recession that confront all of us.'<sup>56</sup> One particular irate Idahoan from Boise, suggested that Church should turn away from national issues that could be used as a 'spring board to run for the presidency' and spend more time in solving 'the problems of your voters in Idaho.'<sup>57</sup>

The cost of the enquiry was not the only concern, but also the damage that could be dealt to the nation's intelligence community. One businessman from Terretton, Idaho, wrote that the 'FBI and CIA have already proven their worth.' He warned that they should not be 'torn down as is

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<sup>51</sup> Letter, George Brown, 10 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>52</sup> Letter, George Brown, 10 January 1975 (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>53</sup> Letter, Frank Church, 4 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>54</sup> Letter, John Allen, 4 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>55</sup> Letter, J W Richardson, 8 February, 1975 (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>56</sup> Letter, James Maloney, 4 February 1975 (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>57</sup> Letter, Verl Kersey, 3 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

threatened by the full scale investigation of the Senate Democrats.<sup>58</sup> Church replied to such concerns by attempting to reassure him that the committee intended to move ‘cautiously and fairly to arrive at the facts’, and that it would be ever mindful of the national security implications of the enquiry.<sup>59</sup> One Idahoan couple wrote that they disagreed with the investigation, and commented that it was ‘nice to know that the CIA and FBI are checking here at home.’<sup>60</sup> Another writer from the neighbouring state of Washington said that whilst he was sure that ‘some mistakes had been made, he did not see any benefit from ‘exposing and disarming’ the intelligence agencies. To do so, he said, would only give advantage to ‘the criminal element and those who seek to destroy us.’<sup>61</sup> In addition, one resident from Idaho Falls objected ‘to having everything exposed’ and argued that Church and his fellow investigators were ‘destroying every feeling of security we as citizens might have.’ Furthermore, she told Church, the investigation was being conducted ‘to get the publicity you need on your run for the presidency.’<sup>62</sup>

The variation between those who supported the committee and those who opposed it continued throughout the length of the investigation. As more was revealed of the nefarious practices of the CIA and FBI, more was demanded of Church to ensure that it did not happen again. One Idahoan strongly urged for the introduction of legislation that would ‘place effective control and supervision over these agencies.’<sup>63</sup> Another, a principal of a local school in Deary, Idaho, was delighted that the nation had ‘someone who is not inclined to cover up or sweep something under the rug.’<sup>64</sup> One correspondent from Georgia offered encouragement to Church by telling him that he was ‘doing a great job!’ However, such motivation was underlined by the warning, ‘For God’s sake, don’t sell out.’<sup>65</sup>

Again, there was also clear opposition against the enquiry. One Idahoan from Homedale suggested that Church should look at the B.M.O. – the Big Mouth Organisation as the press was nicknamed in the correspondence. The actions of the press were nothing better than ‘jackals and lizards’ who were diverting blame from themselves to the intelligence community.<sup>66</sup> Another Boise

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<sup>58</sup> Letter, F R Hill, 29 January 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>59</sup> Letter, Frank Church, 11 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>60</sup> Letter, Mr and Mrs John Bryngelson, 21 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>61</sup> Letter, Kenneth Parks, 25 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>62</sup> Letter, Lorene Brainard, 3 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>63</sup> Letter, Steven Briggs, 1 May 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>64</sup> Letter, Dennis Racicot, 26 June 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>65</sup> Letter, Julian Edwards, 9 July 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>66</sup> Letter, S. J. Albasini, 3 March 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

resident doubted Church's dedication in bringing to heel anybody who had both broken the law and was Democrat. 'The FBI and the CIA will be destroyed by your investigation,' he argued, because it was biased in its partisan objectives.<sup>67</sup> It was a view shared by another Idahoan couple from Paul, who said that the United States needed the CIA 'just as every other country in the world needed their secret eyes,' whilst one New Jersey resident suggested that the public hearings were ineffective in convincing the American public that action needed to be taken.<sup>68</sup> The public, he said, 'are sick of displays that serve only the purpose of giving Senators and Congressmen exposure.' All the public hearings achieved, he argued, was to 'harass the hell out of many persons who have been honourable, dedicated citizens.'<sup>69</sup>

Dissatisfaction with the enquiry was not restricted to Church's constituents. Concerns were expressed by entertainer Bing Crosby about how worthwhile the investigation was. In November 1975, Crosby wrote to Church questioning 'what useful purpose' was being served by the public exposures. He felt that Church was merely 'satisfying the insatiable appetite of the media for sensationalism.' Crosby lamented that 'the damage being done to our international image is irreparable' and that 'the effectiveness of our intelligence service and law enforcement agencies is almost ruined.'<sup>70</sup> Church gave a lengthy reply to Crosby, outlining the committee's objectives with its enquiry. The damage to the nation's international reputation would be just a 'temporary injury' and that overseas nations would come to admire the United States more 'for keeping faith with its democratic ideal than they will condemn us for the misconduct revealed.' Church also argued that the reports in the press only contained misleading half-truths and innuendo, and that full disclosure in a responsible setting would 'lay the groundwork for informed public policy judgments.'<sup>71</sup> Church seemed to have convinced Crosby of the committee's intention to conduct a responsible enquiry. 'I see your point completely,' Crosby replied in April, 1976. 'I am relieved,' he continued, 'to know that the investigations have proceeded in a non-partisan fashion and that what you're doing is something that needs to be done.'<sup>72</sup>

The mixed reception that Church received in his mail bag was reflected in the views of the select committee members. In this way, the Church Committee through design was a true representation of the contradictions and diversity of views of the American public, as Senate Majority Leader Mike Mansfield had intended. Of course, Church was fully aware of this, and

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<sup>67</sup> Letter, R. R. Phillips, 16 May 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>68</sup> Letter, Mr & Mrs Rosa, 25 August 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>69</sup> Letter, Henry Haines, 27 September 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>70</sup> Letter, Bing Crosby, 20 November 1975, (Series 2.6 Church Committee, Box 1, Folder 3 1976 January - March, FCP)

<sup>71</sup> Letter, Frank Church, 9 January 1975, (Series 2.6 Church Committee, Box 1, Folder 3 1976 January - March, FCP)

<sup>72</sup> Letter, Bing Crosby, 14 April 1976, (Series 2.6 Church Committee, Box 1, Folder 3 1976 January - March, FCP)

realised that allowing public dissention was an essential part of ensuring the committee's reputation as considered and bipartisan. When Church spoke of the 'difficult path' that the committee had to tread to 'inform the American public of deficiencies in their intelligence services' at the public hearings into the NSA he was indicating to those who objected that he had heard their voice.<sup>73</sup> He underlined this by allowing both Tower and Goldwater to voice their objections. Church hoped that by explaining the reasoning behind the committee's methods and objectives, he would be able to convince the American public of the worthiness of the enquiry in the same way he had convinced Bing Crosby.

#### **4.4 A Witch hunt? A Whitewash?**

Detractors of the Church Committee have, in the forty years since it conducted its investigation, criticised its conduct and Church's claim to have led a balanced enquiry. For many on the right of the political spectrum it appeared to be a poorly disguised witch-hunt designed to destroy the intelligence community. Conversely, the political left saw the committee's enquiry as too soft on the various intelligence gathering agencies and a missed opportunity to curtail the growth of executive power. Church claimed in a letter to a critic of the enquiry that the committee had been 'very cautious' and had proceeded in its investigation 'in a most careful way.'<sup>74</sup> Even Vice Chair John Tower expressed his surprise at the unanimity among the committee members on certain issues. 'This committee has been more free of partisanship and bickering than any one I have served on in my public life,' he said. There was only one person to praise for such an outlook – Church. 'I commend the chairman for his talent in maintaining that climate in the committee.'<sup>75</sup> In the majority, Church was right. The committee was driven by a combination of press and public demands for information and governmental transparency. But the committee was also wary about falling into the trap of becoming a sensation-seeking circus that endangered the efficacy of the intelligence capabilities of the United States.

Supporters of the intelligence community have condemned the Church Committee as a self-publicising campaign aimed at breaking up the various intelligence agencies. The effects of the enquiry have been portrayed by various individuals as damaging the nation's intelligence gathering process, making the United States vulnerable to attacks on its national security. Stansfield Turner, who became CIA Director during the Carter administration, suggested that it was the hysteria

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<sup>73</sup> *Church Hearings, Vol.5, 3.*

<sup>74</sup> Letter, Frank Church, 31 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>75</sup> United States Congress, Senate. Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976), 45.

surrounding the hearings that was most damaging. The committee called 'witness after witness,' he said, and 'gradually extracted document after document from the intelligence community.' While he did not disagree with the committee's findings that the CIA had been involved in domestic surveillance, he argued that it was the hype that surrounded the hearings that made matters worse. In his opinion 'the impact on the intelligence agencies was devastating.'<sup>76</sup> Turner argued that the Church Committee's enquiry had damaged the relationships the CIA held with the media and academia. Prior to the investigation the agency had used both fields as sources of intelligence but, after the committee highlighted such activity, found such avenues closed after the Year of Intelligence.<sup>77</sup>

The majority of the criticisms about the damage inflicted by the Church Committee on the intelligence community had originated from conservative supporters of the agencies. Accusations that the committee was negligent in its care to protect the capabilities of the various intelligence agencies first appeared with the printing of the committee's final report in April 1976. The extensive report was split into seven volumes of hearings and six books of findings and recommendations that covered the various topics that the committee had covered. The first book, simply entitled 'Foreign and Military Intelligence', included the additional views of the committee members. Senators Tower, Baker and Goldwater together castigated the investigation for suggesting reforms that would 'impose undue restrictions upon vital and legitimate intelligence functions.'<sup>78</sup> Tower argued that the committee's recommendations, which numbered 183 in total, were an overzealous reaction to the findings. Tower warned that if the recommendations were adopted in totality, 'they would unnecessarily limit the effectiveness of the nation's intelligence community.' Barry Goldwater believed that the final report would cause 'severe embarrassment, if not grave harm, to the nation's foreign policy.' Baker argued that the proposed recommendations that report intended to place on the intelligence community would be 'damaging to our intelligence effort' and 'decrease rather increase our intelligence effort.'<sup>79</sup>

Unsurprisingly members of the Ford White House were also disparaging in their remarks when they assessed the impact of the Church Committee and its work. Vice President Nelson Rockefeller, who had chaired the Presidential Commission that investigated the CIA's domestic intelligence activities in early 1975, held nothing back. He argued that the committee's work had gone 'far beyond the domestic scene' where they should have focussed. The public reports and

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<sup>76</sup> Stansfield Turner, *Secrecy and Democracy: The CIA in Transition* (Boston, Mass, 1985), 40.

<sup>77</sup> *Ibid.*, 101-105.

<sup>78</sup> *Church Report, Book I*, 571.

<sup>79</sup> *Ibid.* 573-597.

hearings of the committee had, in Rockefeller's words, 'a most serious impact on the effectiveness of our foreign policy and our national security.'<sup>80</sup> Gerald Ford, in an effort to protect his political legacy wrote that the Church Committee's investigation was 'sensational and irresponsible.' Furthermore, he claimed that the constant press headlines and accusations levelled at the intelligence community had 'a devastating impact on morale at the CIA.' As a result, the agency had lost some agents and analysts and hindered the operational efficiency of the CIA. Not only did he think that the 'sensational debate over legitimate intelligence activities constituted a disservice to the nation', he also believed that 'some members of Congress wanted to dismantle the CIA.' But he claimed that the motivation for continuing the in-depth investigation came not so much from the members of Congress, but from the staff members.<sup>81</sup>

Constituents and correspondents wrote to Church to express their indignation at the committee's investigation. One New Jersey resident wrote that the enquiry's revelations had made 'the Soviets and KGB gleeful' and had damaged the nation's security.<sup>82</sup> Another questioned Church's patriotism because of the 'destructive effects of the investigations of both the CIA and FBI.' The revelations had done irreparable damage to the agencies, he argued, and urged Church to support both the CIA and FBI in their efforts 'to fight subversion both at home and abroad ... because you represent Americans.'<sup>83</sup> One Idahoan constituent felt that the investigation was destructive not just to the agencies, but also to the nation's values. 'We love this country and feel that you are tearing it down' he wrote.<sup>84</sup> One former FBI special agent urged Church to 'not restrict our intelligence agencies to the point that they cannot be effective.' He expressed concern that a large congressional oversight committee would 'unduly restrict and unnecessarily publicise the activities of intelligence agencies, and thereby render them ineffective.'<sup>85</sup> And the press too joined in the claims that the Church Committee had a damaging effect on the nation's intelligence gathering capability. The *Washington Post* continued the critical tone it had adopted after the Welch assassination, saying in late April 1976 that the committee's recommendations for oversight were 'more restrictive than those developed by Attorney General Levi.' If imposed, such restrictions would have serious implications for the intelligence community.<sup>86</sup>

Efforts by Church Committee members to reassure the public that its investigation would result in a more efficient and law-abiding intelligence community and not risk the nation's security

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<sup>80</sup> John M. Crewdson, 'Inquiries on CIA Irk Rockefeller', *New York Times*, 5 May 1976.

<sup>81</sup> Gerald Ford, *A Time to Heal*, (New York, 1979), 265-266.

<sup>82</sup> Letter, Marie Stanton, 27 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>83</sup> Letter, John Fitzgibbon, 25 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>84</sup> Letter, Melvin Harris, 19 January 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>85</sup> Letter, M E Steffen, 14 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>86</sup> 'The Domestic Intelligence Report', *Washington Post*, 30 April 1976.

had mixed results. Appearances on current affairs television and radio programmes such as *Face the Nation* and *Meet the Press*, and the press conferences held after the executive sessions by Church and Tower left a mark on the public. Church's appearance on *Meet the Press* in August 1975 caused the public to write in to host Lawrence Spivak and programme producers NBC. Before the show had aired one Floridian from Sarasota expressed her concern at Church's leadership and wondered 'what the CIA investigating committee hopes to gain by airing 'their gripes' via press and airwaves – worldwide.' Church's investigation was endangering the nation's security, she said. 'Heaven help us if such as Frank Church has his way!' she exclaimed.<sup>87</sup> Despite declaring that 'only through a thorough investigation can cleanse the air and enable public confidence to be restored in the work of the CIA within the law in the future,' Church failed to gain the majority of the correspondents' support.<sup>88</sup> Other viewers questioned Church's personal motivation. One anonymous correspondent called him 'phoney as a \$3 bill', while one Idahoan resident asked whether the 'newsmen [were] impressed by Church's arrogance, or are they just intimidated by it?'<sup>89</sup>

Church's appearance on the show was not the only episode to instil in some members of the public that the nation would be in danger because of the investigation. When William Colby, director of the CIA, appeared in June 1975 he confirmed for many Americans that national security was at risk because of the public airing of classified information. One Californian viewer said of the Church Committee, 'they have no right to tear down our defences and sell it to a foreign government through the media.'<sup>90</sup> One Texan correspondent said that the nation fully supported the intelligence community and its work. 'There are not many Americans who want the CIA abolished – in fact we feel that they ought to be authorised "Full Steam Ahead,"' he wrote.<sup>91</sup>

The portrayal of the Church Committee as a reckless, negligent, witch hunt of the intelligence community was not confined to the Year of Intelligence. For decades afterwards, the committee had been dragged out as a scapegoat for every intelligence failure since 1975. Most significantly after the terrorist attacks on September 11, 2001, former Secretary of State James Baker spoke of the committee's intention to 'unilaterally disarm in terms of our intelligence capabilities.'<sup>92</sup> Such a narrative has been continued by others such as spy writer Tom Clancy. Clancy, who made his fortune writing about fictional analyst Jack Ryan among other CIA heroes, said that

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<sup>87</sup> Letter, Maxine Krimm, 12 August 1975, (Box 69, Lawrence E. Spivak Papers, Library of Congress)

<sup>88</sup> Frank Church, *Meet the Press*, 17 August 1975, (Transcript found in Lawrence E Spivak Papers, Box 272, Library of Congress)

<sup>89</sup> Letter, Anonymous, no date, and Letter, Ruthie Johnson, 12 August 1975, (both found in Lawrence E. Spivak Papers, Box 69, Library of Congress)

<sup>90</sup> Letter, H.D. Stephens, June 1975, (Lawrence E. Spivak Papers, Box 69, Library of Congress)

<sup>91</sup> Letter, Chris J. Tolle, 29 June 1975, (Lawrence E. Spivak Papers, Box 69, Library of Congress)

<sup>92</sup> Baker quoted in Frederick A. O. Schwartz, *Democracy in the Dark: The Seduction of Government Secrecy* (New York, 2015)

the agency was a partisan affair. 'The CIA was gutted by people on the political left who don't like intelligence operations,' he stated on Fox News's *O'Reilly Factor*. 'And as a result of that, as an indirect result of that, we've lost 5,000 citizens this week.'<sup>93</sup> It was a view echoed by Henry Kissinger who told German television networks after 9/11 that the impositions on US intelligence community over the years had 'facilitated the rise of terrorism.'<sup>94</sup> The message has even been pushed forward by non-partisan bodies such as the 9/11 Commission. The panel stated in its final report that investigated the causes of the terrorist attacks of 2001, that a contributory factor to the tragedy was the investigation of the Church Committee during the Year of Intelligence. 'Decades of encouragement to perform as a domestic intelligence agency abruptly ended in the 1970s,' it argued.<sup>95</sup>

FBI historians have also judged that the bureau was irreparably damaged by the publicity generated by the Church Committee's investigation into domestic intelligence, and especially COINTELPRO. Rhodri Jeffreys-Jones argued that the investigations into the bureau left it a 'demoralised agency' and illustrative of the crisis that enveloped American democracy.<sup>96</sup> Richard Gid Powers claimed that the enquiry was just part of an extensive attack on the bureau by numerous assailants. 'The day was past when the FBI was going to get fair treatment from Congress, the media, or the public, whatever the merits of its case,' Powers lamented. Despite the efforts of FBI Director Clarence Kelley to illustrate that the abuse was minimal, Powers wrote that 'the public had already reached its own verdict on the FBI and COINTELPRO: guilty.' Furthermore, Powers also indicated that the bureau's 'timid surveillance of potential Islamic terrorists' in the United States was a direct consequence of the restraints imposed on the bureau after the Year of Intelligence.<sup>97</sup>

Just as criticism of the Church Committee was not exclusively that of the 1970s neither was it dispensed solely by those on the right of the political spectrum: the Senate investigation had its liberal critics too. Whilst conservative critics have suggested that the committee damaged the intelligence community, those on the political left have suggested that Church's methods of compromise and sensational headlines gave reason to believe that the enquiry had been more style than substance. Fellow congressional investigator Otis Pike, chairman of the House's enquiry into the intelligence community, said that the committee 'focused on aberrations and blowguns.' In

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<sup>93</sup> Clancy quote from Chris Mooney 'Back to Church', *The American Prospect*, 19 December 2001, <http://prospect.org/article/back-church> (accessed 26 October 2017)

<sup>94</sup> Roger Burbach, 'State Terrorism and September 11, 1973 and 2003', *Counterpunch*, 11 September 2003, found at <https://www.counterpunch.org/2003/09/11/state-terrorism-and-september-11-1973-and-2003/> (accessed 26 October 2017)

<sup>95</sup> 9/11 Commission, *Final Report of the National Commission on Terrorist Attacks Upon the United States* (Washington DC, 2004), 75.

<sup>96</sup> Jeffreys-Jones, *The FBI*, 190.

<sup>97</sup> Richard Gid Powers, *Broken: The Troubled Past and Uncertain Future of the FBI*, (free Press, New York: 2004), 313-315.

addition, Pike suggested that Church's committee through failing to name any executive branch official in its report on Chile, 'protected Henry Kissinger.' He accused the committee of working alongside the Ford administration to protect the office of the presidency. 'My suspicion is that they cut a deal' he said.<sup>98</sup> Ron Nessen, the White House press secretary during the Year of Intelligence, suggested that the committee's final report lacked the impact and shock factor that the investigation had seemed to promise. 'The congressional enquiry's report was a little disappointing,' he observed.<sup>99</sup>

Members of the committee's staff lamented the missed opportunity to make a greater mark on the political landscape than they had done. Committee counsel, Pat Shea, believed that the enquiry had failed to grasp the opportunity to ensure greater financial control of the intelligence community because it had been side-tracked by the assassination investigation. It was a mistake to step into the briar patch of the assassination data because 'the intelligence community knew the ins and outs of the briar patch much better than any temporary Senate staff.' Shea and staff director Bill Miller had attempted to steer the committee towards a systematic investigation that focused on financial accountability and efficiency, rather than the more sensational route it did take. Speaking of the Black Budget – the intelligence community's budget that is not revealed to the public – Shea said that 'in 1975, 1976, we could have put the budgetary mechanism in place so that Congress had its historic role in authorisation and appropriation.'<sup>100</sup>

Committee staffer Loch Johnson felt, in retrospect, that the committee was weak in its efforts to protect itself from criticism that it was responsible for the death of CIA station chief Richard Welch. In particular, Johnson believed that the committee failed to adequately counter the assault from the executive branch. 'Most people on Capitol Hill realised we were not responsible for Welch's death.'<sup>101</sup> However, Johnson pointed out that the committee was unable to match the resources of the Ford White House in its efforts to blame the investigation for Welch's death. 'I don't think we reacted maybe as thoroughly as we could at refuting those charges,' he said, 'although we tried hard. After all, Mondale and Church and others were on the television shows and trying to explain what we were doing.'<sup>102</sup>

The liberal press of the East Coast also questioned whether the Church Committee had gone deep enough with its observations and recommendations. *New York Times* reporter Nicholas Horrock claimed that the report was not the revelatory list of accusations. 'There seemed a

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<sup>98</sup> Interview, Otis Pike, 7 October 1983, quoted in Smist, *Congress Oversees*, 54.

<sup>99</sup> Ron Nessen, *It Sure Looks Different From The Inside*, (New York, 1978), 78.

<sup>100</sup> Interview with the author, Pat Shea, Salt Lake City, Utah, 5 October 2016.

<sup>101</sup> Interview with the author, Loch K. Johnson, Athens, Georgia, 20 September 2016.

<sup>102</sup> Interview, Loch K. Johnson, 28 August 2014, in: *Oral History Interviews*.

willingness by the committee to delete material at the request of the intelligence agencies,' he reported, 'and a decided unwillingness to try to force material from secret vaults of the executive branch.'<sup>103</sup> Horrock argued that the committee failed to deliver and was somewhat lightweight. 'The intelligence investigation was never good box office,' he wrote. However, Horrock disagreed that the failure of any new legislation concerning the issues covered by the enquiry 'mark the investigation as a failure' and he refuted the accusation that 'the national defence may have been damaged as a result.' Horrock argued that there was not enough publicity surrounding the hearings and too much was done in executive session. It was, he said, the committee's attempt to appear as responsible as the executive branch that would cause strong legislation to be 'a casualty of these tactical decisions.'<sup>104</sup>

George Lardner, who had covered the Year of Intelligence extensively for the *Washington Post*, was just as scathing in his judgement of the Church Committee. Lardner called the investigation 'a striptease in slow motion: exasperating, tedious and inadequate.' The *Washington Post* staff writer stated that the committee failed to delve deep enough into the intelligence community. 'Questions that beg to be answered often go unasked,' he argued. 'The Senate inquiries have resulted in hurried glimpses,' he said, which were 'good enough for a quick headline but little more.'<sup>105</sup> He suggested that Church's approach to the public hearings was to keep 'slogging ahead until the headlines began to read like warmed-over news leaks, until the public began to yawn.' Summing up, Lardner succinctly adjudged both the Church and Pike Committees to be abject failures. 'Sorry, fellas. You muffed it,' he wrote.<sup>106</sup>

#### **4.5 Judging the Church Committee's Political Neutrality**

The criticisms laid at the Church Committee's door had some substance behind them, but the nature of the task laid the enquiry open to criticism. Not every interested observer of the Year of Intelligence felt the committee failed to complete its remit. Indeed, for as much criticism it received, it was laden with the same amount of praise. For every accusation of persecution or compromise, Church was also commended for the committee's sensible handling of classified information, and for conducting a thorough investigation. The *New York Times'* Anthony Lewis adjudged the committee as praiseworthy: 'they fought no great fights with the executive, they leaked no great secrets, they

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<sup>103</sup> Nicholas M. Horrock, '15 Month Inquiry', *New York Times*, 27 April 1976.

<sup>104</sup> Nicholas M. Horrock, 'The Meaning of Congressional Intelligence Inquiries', *New York Times*, 20 April 1976.

<sup>105</sup> George Lardner Jr., 'Hearings – News Analysis', 12 October 1975, (George Lardner Jr. Papers, Box 36, US House of Representatives- Select Committee on Intelligence/ General Articles Folder, Library of Congress)

<sup>106</sup> George Lardner Jr., 'Investigations', Undated - September, 1976, (George Lardner Jr. Papers, Box 39, United States Senate/ Select Committee to Study Governmental Operations/General Article Folder, Library of Congress)

proposed no radical changes.’ The same editorial also observed that the final report was free of party politics and identified that it was the system of oversight that needed repairing.<sup>107</sup> Such an evaluation should certainly appease both the liberal and conservative critics of the committee.

The committee had a very good security record. Whilst it was not entirely leak free, ‘there were few *disclosed* leaks,’ said Church Committee counsel Pat Shea.<sup>108</sup> Mondale compared the security of the two congressional enquiries, noting that the House committee under the chairmanship of Otis Pike ‘sought to revive public interest through unauthorised disclosures of information.’ In contrast, the Church Committee kept its classified information secure to both ‘show that Congress can do so, and that Congressional oversight can work.’<sup>109</sup> The *Washington Post* agreed with Mondale’s judgement of the enquiry’s security. It ran its views under the editorial headline ‘Dealing Intelligently with Intelligence,’ suggesting that its handling of classified information had ‘earned the public’s confidence in its capacity to join in the shaping of national intelligence policy.’ Its enquiry was conducted in what it described as the ‘only spirit in which Congress can hope to win the requisite executive, congressional and public support for a continuing intelligence role.’<sup>110</sup> In part this was due to Church’s compromising style of management. The report on the CIA’s Chile operation, for example, had been sanitised by the CIA on the understanding that it would be made public without objection by the executive branch.<sup>111</sup>

The claims of the White House and the supporters of the CIA of the threat of the Church Committee to the intelligence community’s efficiency were driven by ulterior motives. For those contemporaries of the Year of Intelligence the motivation was to steer public opinion away from the congressional demand for reform of intelligence oversight. In particular, the objective was to raise enough support for the executive branch’s own efforts at reform that manifested in Gerald Ford’s Executive Order 11905. Compared to the Church Committee’s own recommendations for reform the executive order was essentially a continuation of the White House’s control of the intelligence community. And Republican and conservative attacks on the committee’s reputation in the period that immediately followed the terrorist attack on the World Trade Center in 2001 had no substance. The motivation for the twenty-first century attacks was to lay the groundwork for the passing of the

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<sup>107</sup> Anthony Lewis, *New York Times*, 6 May 1975.

<sup>108</sup> Interview with the author, Pat Shea, Salt Lake City, Utah, 5 October 2016.

<sup>109</sup> Leslie H Gelb, ‘Spy Enquiries, Begun Amid Outrage, End in Indifference’, *New York Times*, 12 May 1976.

<sup>110</sup> ‘Dealing Intelligently with Intelligence’, *Washington Post*, 27 April 1976.

<sup>111</sup> Memorandum, ‘Staff report on Covert Action in Chile’, William G. Miller to Select Committee Members, 20 November 1975, (Clark M. Clifford Papers, Box 59, 1975, December 5, Senate Select Committee to study governmental operations with respect to intelligence activities, staff report, Folder 12, Library of Congress)

Uniting and Strengthening American by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, more commonly known as the Patriot Act.<sup>112</sup>

The enquiries did not damage the intelligence agencies that it investigated, at least not in the long term. Nor were they designed to. Church felt that the importance of the committee's work was in informing the American people about what its government was doing. 'The transparency issue was extremely important,' said the committee's investigator Peter Fenn.<sup>113</sup> While the agencies may have fallen in prestige in the eyes of the American public during the Year of Intelligence, its work as a collector of intelligence was only hindered by the resources it had to allocate in dealing with the investigation. Colby complained that the clearance of files, the continuous appearance before the committee's investigators took its toll on the agency. 'The agency over-all was diverted from its proper responsibilities by the deluge of demands from the hordes of investigators.'<sup>114</sup> Instead the committee's investigation allowed the CIA and other agencies to draw a line under its past malpractices. The debates that it undertook in public on the role of intelligence and secrecy in a democracy allowed the CIA to emerge from its ordeal 'with a refurbished reputation.'<sup>115</sup> The investigations of the intelligence community during the Year of Intelligence enabled the CIA to wipe the slate clean. Instead of forcing intelligence to its knees, as some agency supporters feared, it 'gave it a hand up by clearing the air, reforming the abuses, and creating an atmosphere of trust.'<sup>116</sup> Stansfield Turner admitted that the CIA had, because of the Church Committee, established new relationships with Congress that was beneficial to both parties.<sup>117</sup> In an effort to regain public and congressional support, the agency recognised that 'a better informed public' was essential to restoring public confidence. The agency created an Outreach Programme and made unclassified studies and compilations available to the public.<sup>118</sup>

Even William Colby agreed that the final report was a 'comprehensive and serious review' of the intelligence community of the United States.<sup>119</sup> The supporters of the intelligence community's claims that the various agencies' efficiency was being affected by the investigation were also erroneous. Colby had mentioned in an interview that the 'accumulation of extra publicity and extra sensational talk' generated by the Year of Intelligence had influenced potential foreign sources from

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<sup>112</sup> Frederick A O Schwartz Jr. and Aziz Z Huq, *Unchecked and Unbalanced: Presidential Power in a Time of Terror* (New York, 2007), 246

<sup>113</sup> Interview with the author, Peter Fenn, Washington D.C., 11 October 2016.

<sup>114</sup> Colby and Forbath, *Honourable Men*, 412.

<sup>115</sup> Jeffreys-Jones, *The CIA and American Democracy*, 212.

<sup>116</sup> Rhodri Jeffreys-Jones, *Cloak and Dollar: A History of American Secret Intelligence* (New Haven, 2002), 181.

<sup>117</sup> Turner, *Secrecy and Democracy*, 146.

<sup>118</sup> Stansfield Turner, Declassified Chapter of DCI's Annual Report, 1977, (Staff Offices Press, Granum Files, Box 85 Griffin, Robert to Kennedy, Ted, 1/3/80-5/1/80, Intelligence, 1976-1978, [JCPL])

<sup>119</sup> Colby and Forbath, *Honourable Men*, 442.

working with the CIA.<sup>120</sup> Church was advised by committee Task Force Leader David Aaron in October 1975 that the CIA had not been seriously affected by the enquiry. The agency, he was informed in a sensitive memo, had been 'extremely active recently in developing new agreements with countries throughout Europe and the Middle East.' Aaron confirmed to Church that CIA station chiefs and liaison officers that there had been 'no change whatsoever in the level of cooperation' between the United States and its partners in Europe.<sup>121</sup> Furthermore, the internal CIA reforms that were placed into effect in the period immediately following the Year of Intelligence were adjudged by many to be a continuation of the institutional reforms that began under Directors James Schlesinger and William Colby. Robert Gates, who would become Director of Central Intelligence under President George H. W. Bush, saw Colby as a reformer. Colby was 'someone from the inside prepared to make changes in order that CIA do its job better.' It was Colby alone, Gates said, that saw that 'CIA's role would not be the same' after the scrutiny of Watergate and the Year of Intelligence.<sup>122</sup>

The committee had the same effect on the FBI. The enquiry's focus on the bureau's investigations that occurred under the tenure of J. Edgar Hoover allowed it to portray itself as having initiated and incorporated procedural reforms that would ensure these same aberrations would not be repeated. The message that it attempted to convey was that such malpractices firmly belonged in the past. FBI Director Clarence M. Kelley believed that the Church Committee's was part of a longer assault on the FBI by Congress and the press. He called the committee's final report on COINTELPRO both 'exhaustive' and 'overwhelmingly inconclusive.' Kelley did acknowledge that after two years in which 'controversy over COINTELPRO had gone on, with seemingly no end in sight', the furore aimed at the bureau abated after May 1976.<sup>123</sup> The public image of the FBI, one of a demoralised agency with little or no public confidence, was not simply the result of the Church Committee's investigations. For years, the bureau had depicted itself as the protector of American democracy at home. During the mid-1970s, after Watergate and the Year of Intelligence, the American democratic system was in severe crisis, and, because of its association, so was the FBI. The revelations of the Church Committee merely poured fuel on the fire that had been lit by a media that had grown in confidence over the previous decade.<sup>124</sup> The American public had questioned the effectiveness of

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<sup>120</sup> Interview, William Colby, 20 June 1975, (George Lardner Jr. Papers, Box 18, William E Colby Folder, Library of Congress)

<sup>121</sup> Memo, David Aaron to Frank Church, 'Bill Beecher Article on How Select Committee Is Cutting Off Foreign Intelligence Sources', 24 October 1975, (10.6 Special Files, Box 1, Folder 22 CIA-FBI Investigation [2], FCP)

<sup>122</sup> Gates, *From the Shadows*, 62.

<sup>123</sup> Kelley and Davis, *Kelley*, 188-189.

<sup>124</sup> Jeffreys-Jones, *The FBI*, 189-190.

the FBI for a considerable period. To claim that the Church Committee was the root cause of the decline in the bureau's public prestige is simply erroneous.

In many ways the resulting rebranding of the intelligence community after the Year of Intelligence was a desired outcome of Congress. The Senate had intended for the public's faith in the intelligence community to be restored through the Church Committee's investigation. When Senator Pastore introduced Senate Resolution 21 in January 1975 to establish the committee, he argued that he hoped that 'in the final analysis, ultimately that the confidence of the people will be reaffirmed and strengthened in their appreciation and their consideration, as to the essentiality of these great arms of government.'<sup>125</sup> The Church Committee's investigation had allowed the bureau to wipe its slate clean.

#### **4.6 Church and the Presidency**

Arguably one of the greatest criticisms of the Church Committee surrounded the publicity generated by the enquiry. For many critics, the extensive media coverage of the enquiry's hearings and reports led to accusations that it was a springboard for committee members to launch a bid for the presidency in 1976. In particular, such allegations have been made with the chairman, Frank Church, as the main beneficiary. It is indisputable that Church had looked at making a bid for the Democratic Party nomination in 1976 – it was only natural. He was one of the more senior Democratic senators, having been in office since 1956, yet was of an age – fifty-one - to still appeal to the more radical younger element of the party's supporters. Yet such claims are spurious for two reasons: firstly, despite being a good candidate, Church was never a serious contender for the nomination outside the northwest of the United States; and secondly, Church always maintained that he would not make any efforts to run for the Democratic nomination until after the committee's investigation had ended. Instead, the allegations that Church ran for the White House while chairing the investigation are a barely hidden attempt to further undermine the Church Committee's legacy.

Unsurprisingly the source of the majority of these allegations comes from the political right. Gerald Ford, while branding the investigation as 'sensational and irresponsible', also commented that Church had 'made no secret of his presidential ambitions.'<sup>126</sup> Barry Goldwater also remarked that Church had used the committee to fulfil his aspirations. 'I have never more severely questioned the conduct of a US senator than I have Church's display of ambition during those televised

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<sup>125</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121, 1417.

<sup>126</sup> Ford, *A Time to Heal*, 265.

hearings.' It was, he said, 'a brazen bid for national power at the expense of undermining national security.'<sup>127</sup> Historian Rhodri Jeffreys-Jones called it a shameless blatant misuse of the national exposure. Church was 'too publicity conscious' and made an 'obvious play for high office.' However, Jeffreys-Jones suggests that Church's over commitment to publicity and his lack of knowledge on how to play to the camera led to Church missing the opportunity to truly become a national political figure.<sup>128</sup> But Ford's charge of reckless self-promotion was to strengthen support for his own attempts to reform intelligence oversight, while Goldwater denounced the committee he was a member of to underline his loyalty to the Republican executive. It is also quite possible that Rhodri Jeffreys-Jones has misinterpreted a section of staffer Loch Johnson's political memoir. Johnson wrote of the pressure at times placed upon staff members by Church's senatorial staff for media coverage. "'Exposure, Johnson, exposure! That's the name of the game,'" one of them told me,' he wrote.<sup>129</sup>

When Church was appointed chairman of the select committee in January 1975 he received mail that identified the investigation as a potential path to the White House in the following year's presidential election. Encouragement came from supporters of Church in both Washington DC and Idaho. 'All your years of hard work are now bearing fruit,' he was told by one Washington businessman, and that at least the chairmanship of the Senate Foreign Relations Committee would be his next appointment.<sup>130</sup> As the committee continued with its investigation, the support for a Church bid at the presidency continued. One New York state resident told him that he had 'finally exploded in the public eye after too many years of low-key senatorial objectives.' He remarked that Church had 'risen to the top of the heap' because of the combination of the 'attributes of FDR, JFK and Harry Truman in one ideal candidate.'<sup>131</sup> One high school student from Florence, Alabama, expressed a wish that Church would run for the Democratic nomination. He believed that Church would make 'a humanitarian and a liberal president, concerned with many issues and all of the people.'<sup>132</sup> And one Idahoan, impressed by Church's management of the select committee's investigation was willing to support Church's bid for office. The correspondent believed that Church's 'ideals and philosophy may lead our country back to integrity and forward to a truly Constitutional government.'<sup>133</sup>

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<sup>127</sup> Goldwater and Casserly, *Goldwater*, 361-362.

<sup>128</sup> Jeffreys-Jones, *Cloak and Dollar*, 221.

<sup>129</sup> Johnson, *Season of Inquiry*, 165.

<sup>130</sup> Letter, Lawrence Merthan, 30 January 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January - March, FCP)

<sup>131</sup> Letter, William Richter, 26 September 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>132</sup> Letter, Clyde Parrish Jr., 8 August 1975, (7.1 Public Relations General, Box 3, Folder 4 1975 September, FCP)

<sup>133</sup> Letter, Wayne Modlin, 16 December 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

But not everyone was as supportive of any possible use of the publicity generated by the enquiry for a Church candidacy for the White House. One New Jersey correspondent commented sarcastically to Church that the intelligence inquiry was ‘a splendid opportunity to ingratiate yourself to the national public’ and ‘give you exposure that would redound to your personal benefit and expedite your presidential candidacy.’ It would be more refreshing, he said, to avoid participating in a committee that merely serves to increase the public image of its members.<sup>134</sup> An Idahoan constituent urged her senator to ‘find other ways to get the publicity you need to run for president.’<sup>135</sup> Another Idahoan remarked that Church had his ‘springboard to the presidency’ through the expenditure of ‘taxpayers’ money to investigate legitimate and worthy institutions.<sup>136</sup> Further concern was expressed by another Idahoan about Church’s chairmanship of the committee, stating that ‘as a legislator whose candidacy for higher office is being seriously discussed’ Church should have declined the position. By accepting the chairmanship, it displayed ‘something distressing about your judgement, and raises in my mind serious doubts about whether or not you should be considered for the presidency.’ In fairness, this criticism did not apply just to Church but also to ‘any other Senator presently considering – to whatever slight degree – running for president.’<sup>137</sup>

Church certainly had ambitions for higher office, although prior to his 1974 re-election to the Senate, this was likely to have been confined to emulating his political idol and fellow Idahoan Senator, Republican William Borah. Professional pollster Burns ‘Bud’ Roper informed Church as early as July 1974 that he was regarded as a ‘potential presidential candidate’ for 1976, although only 10% of the survey admitted to knowing either ‘a lot about’ or ‘a fair amount about’ Church, compared to market leader Senator Ted Kennedy’s 88%.<sup>138</sup> Church was not surprised at his poor showing, commenting that ‘getting known nationally takes one hell of a lot of doing.’ Church did express some disbelief at the poor showing of Walter Mondale (12%), someone who had been ‘actively campaigning for President for a year.’ Nonetheless, Church asked Roper that if he managed ‘to capture a few headlines’ that he would be interested in another survey being run.<sup>139</sup>

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<sup>134</sup> Letter, Henry Haines, 27 September 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>135</sup> Letter, Lorene Brainard, 3 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>136</sup> Letter, Verl Kersey, 3 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>137</sup> Letter, Ralph Orlett, 23 February 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January – March, FCP)

<sup>138</sup> Poll data in Letter, Burns W Roper, 25 July 1974, (Series 5.5 1975 Presidential Nomination Campaign, Box 1, Folder 19 Campaign Strategy, FCP)

<sup>139</sup> Letter, Frank Church, 9 August 1975, (Series 5.5 1975 Presidential Nomination Campaign, Box 1, Folder 19 Campaign Strategy, FCP)

The relatively low showing for Church and Mondale was due to the plethora of potential candidates for the Democratic nomination. Democratic voters had expressed support for Senator Ted Kennedy (D-MA) but the brother of the former President and Attorney General had ruled himself out of the running. As a result, in early 1975, a Gallup poll indicated that just over twenty per cent of Democrats chose Alabama Governor George Wallace ahead of former Vice President Senator Hubert Humphrey (D-MN) to lead the race, followed by Senators Henry 'Scoop' Jackson (D-WA), George McGovern (D-SD) and Edmund Muskie (D-ME). Church was not even mentioned as a potential Democrat candidate among the other eight possible contenders.<sup>140</sup> Another poll in October 1975, just weeks after the first televised public hearings of the Church Committee, still had no place for Church, with Humphrey leading the race on 23%. Nor did he appear in the results of a Gallup poll in February 1976, just two months after the public hearings had finished. It was not until the middle of March that Church first made a showing in the Democratic nomination, and even then it was with a poor 1% of those questioned.<sup>141</sup> Church's bid for the presidency was 'lost in the crowd,' as one Republican critic sharply observed, despite 'basing his candidacy on his unrelenting, headline-seeking investigation of our country's CIA and other security agencies, and his destructive exposure of American business interests abroad.'<sup>142</sup> Conversely, the Republican Party was split between supporting incumbent President Ford, or the more conservative former governor of California, Ronald Reagan.

The most significant factor behind Church's poor showing in the leadership polls was his late entry into the race for the presidential nomination. Church had been approached before the committee had been established by political pollsters such as Bud Roper, and by campaign strategists such as Joseph Napolitan. While Roper identified Church's chances, Napolitan took a different route, suggesting a strategy needed to adopt in 1975 to becoming a nationally recognised political figure. Napolitan had worked on John F Kennedy's 1960 presidential campaign and was considered a leading political consultant of the period. His advice to Church came in the form of a confidential memo which identified the 'mostly dreary and hard work' that needed to be done in 1975 to raise Church's national profile. The memo raised a number of salient points regarding organisation of teams in the field, researching how delegates were elected in each state, and how much money it would cost to ensure Church gained enough delegates. Napolitan ended the memo by telling Church to concentrate on two things: 'putting a staff together for the delegate hunt and

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<sup>140</sup> Gallup Survey #924-k 30 March 1975, in Gallup, *The Gallup Poll*, 443.

<sup>141</sup> Gallup Survey #937-k 26 October 26 1975, Survey #944-k 15 February 1976, and Survey #946-k 14 March 1976, in Gallup, *The Gallup Poll*, 577, 658 and 666.

<sup>142</sup> *Congressional Record*. 1976. 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., vol. 122 4697

raising enough money to finance this effort.' It's clear that some of Napolitan's suggestions had made an impact on Church, as he marked 'good idea' next to the suggestion that the Senator hired a professional photographer to produce some 'superb photographs.'<sup>143</sup>

Napolitan wrote again to Church in September 1975, offering what he labelled 'a conceptual plan' for Church's aspirations. The objective was not for Church to win every primary in every state but to have enough committed delegates to become a force at the national convention. Napolitan suggested that, although unlikely, it was possible that 'a lightly-regarded candidate can suddenly catch fire and win the convention.' Napolitan recommended that Church use the hearings of the investigation into the intelligence community to maximum advantage. This, Napolitan assured him, was not about turning it into a show but to display to 'millions of American voters your innate ability and intelligence.' Napolitan advised Church to conduct the hearings 'as you would if there were no impending election or you were not interested in becoming a candidate.' Napolitan recommended that Church should announce his intention to run for the nomination 'somewhere between December 1 and 15, preferably closer to the 1<sup>st</sup> than the 15<sup>th</sup>.' Napolitan warned that because of Church's 'late start and lack of an ideological or power base' obtaining a high profile would be a difficult task. The answer was intensive media coverage as it was 'the surest way to reach into the living rooms' of Church's target audience.<sup>144</sup>

Further campaign advice came from Jeff Shields. Loch Johnson wrote how Shields had been rumoured to have been drafted into Church's personal staff in late October to 'put together a presidential campaign.' His intention was for Church to finish his involvement in the intelligence inquiry and get out into the primary campaigns.<sup>145</sup> The reality was slightly different. Shields was part of Church's staff on the Senate Foreign Relations Committee as foreign policy counsel. He did offer Church advice on launching a bid for the presidency, as one particular memo in September 1975 pointed out. Church was advised that 'any publicity generated by the Select Committee hearings this fall will, with time, be eclipsed in the primary publicity.' In addition, Church was told he had to maximise the exposure that the intelligence inquiry produced to aid 'fund raising efforts in November, December, and January.' Shields argued the importance of organising fund-raising efforts as early as possible. 'Each week after November 1, greatly reduces your chances,' he warned.

Church had repeatedly, throughout the entire Church Committee investigation, stated that any personal ambitions that he held would be put on hold until after the enquiry had been

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<sup>143</sup> Confidential Memo, 'Preparations for Presidential Campaign', Joseph Napolitan, 20 January 1975, (Series 5.5 1975 Presidential Nomination Campaign, Box 1, Folder 19 Campaign Strategy, FCP)

<sup>144</sup> 'Conceptual Campaign Plan prepared for Senator Frank Church', Joseph Napolitan, 11 August 1975, (Series 5.5 1975 Presidential Nomination Campaign, Box 1, Folder 19 Campaign Strategy, FCP)

<sup>145</sup> Johnson, *Season of Inquiry*, 114-115.

completed. In response to constituents' letters that questioned him on whether he would run for the presidency he denied that he could do so while chairing the committee. To one of his Idaho constituents he wrote that he could not 'jeopardise this important assignment by mixing my role as chairman of such an investigation with any involvement in Presidential politics.' He stated that he asked those who had offered help and support in a bid for the White House, 'to call off their efforts on my behalf.'<sup>146</sup> Church's stance of denial of following any presidential ambitions continued throughout 1975. 'While many people have urged that I seek the Presidency, events have over-run whatever consideration I might have given to that possibility,' he told one correspondent from Lake Oswego in Oregon.<sup>147</sup> To an Albuquerque resident who had spoken of his potential bid for the presidency, he stated that the committee's task was 'of the utmost importance' and had called off 'any presidential campaign activities that might have been initiated on my behalf.' The decision to curtail any further ambitions was to remain Church's decision 'until the work of the committee is completed.'<sup>148</sup>

Such private reassurances were confirmed by public statements that reiterated that, despite the personal ambitions of the chairman, the work of the committee was more important than self-centred objectives. When Church appeared on *Face the Nation* in November 1975, he was questioned over his objections to George H W Bush being appointed as William Colby's replacement as director of the CIA. Church had stated that Bush's partisan background as a former chairman of the Republican Party politicised his intended role as an independent director of the CIA. George Herman of *CBS News* asked if that was the case, whether the investigation of the intelligence community should be conducted by 'a man whose aides say he is 80 per cent certain to enter politics and run for president.' Church scoffed at such an argument. 'An investigation of executive agencies can only be conducted by a committee of the Congress,' he replied. As to his political ambitions he stated that 'from the very time this committee started, I have said I would not let it get involved in presidential politics.' Furthermore, he argued he had made his position clear on numerous occasions 'that until the active investigation has ended, which will come sometime in December, I will not be a candidate, I'll make no decision about being a candidate, I will not permit a committee to be formed, I will not permit any money to be raised.' Church reassured both Herman and the television viewers that 'I have kept that pledge. I don't know what else or what more a man can do.' Furthermore,

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<sup>146</sup> Letter, Frank Church to Ralph Orlett, 17 March 1975, (Series 2.6 Church Committee, Box 1, Folder 1 1966 1974 1975 January - March, FCP)

<sup>147</sup> Letter, Frank Church to Hoyt C Franchere, 23 April 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

<sup>148</sup> Letter, Frank Church to Mrs Jack Wall, 2 October 1975, (Series 2.6 Church Committee, Box 1, Folder 2 1975 March - December, FCP)

Church admitted that his decision had severe consequences on his chances of winning: 'it is very difficult, perhaps impossible, after the public hearings close in December, to mount a presidential race.' As if to underline his commitment to the inquiry over that of his ambitions he confirmed that if new evidence came to light that required more time to investigate he would 'extend the life of the committee as long as necessary.'<sup>149</sup>

Church had kept to his pledge. He did still harbour political ambitions, but he refused to discredit the committee's work by having them tarnished as part of a bid for the presidency. He had been identified by the *New York Times* as a rising star of the Democratic Party. In a biographical piece by Christopher Lydon, Church was described by his supporters as 'the hottest liberal dark horse' for the 1976 campaign. However, the article suggested that the 'long-shot presidential candidacy' was probably too soon, and that the 'older and closer ambition' of the chairmanship of the Senate Foreign Relations Committee was a more reachable target for 1976.<sup>150</sup> The *New York Times*' assessment of Senator Church's chances for the presidency in the 1976 election was shared by the British government. In a confidential civil service briefing for Prime Minister Harold Wilson that was prepared for Church's visit to the United Kingdom in February 1976, Church was adjudged to be aiming too high too soon. Even though he had not officially declared himself in the candidacy race for 1976 at the time of the visit, it was noticed in the Foreign Office memo that he 'certainly has presidential ambitions.'<sup>151</sup> *The Economist* magazine had a similar outlook, although it questioned whether a reputation as 'the scourge of immorality' made him a suitable candidate for the presidency. It noted Church's ambition and young age meant that he was 'most likely to take a shot, probably two shots, at the presidency.'<sup>152</sup>

Church realised that the longer he put off declaring his official entry into the race for the Democratic nomination, the less his chances were of securing it. Despite Joseph Napolitan's recommendations, he refused to allow any official activity to commence until the Church Committee's investigation had ended. Once the public hearings had finished in December 1975, the 'Church for President Committee' was formed. Although Church announced that he was not officially entering the race, he had allowed the committee to be formed to 'try to raise funds and take soundings that would help him make up his mind.'<sup>153</sup> And still Church refrained from declaring his candidacy, much to the annoyance of those around him. Mike Wetherell, Church's senatorial aide,

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<sup>149</sup> *Face the Nation*, 9 November 1975, (Transcript found in Ron Nessen Files, Box 64, Folder Face the nation November 9, 1975, [GFPL])

<sup>150</sup> Christopher Lydon, 'Frank Church Moves Centre Stage', *The New York Times*, 15 June 1975.

<sup>151</sup> Foreign and Commonwealth Office Memo to Prime Minister's Office, 11 February 1976, (PREM 16 – Prime Minister's Office: Correspondence and Papers 1974-1979, PREM16/1150, National Archives, Kew)

<sup>152</sup> 'The Making of Muckraker', *The Economist*, 14 February 1976.

<sup>153</sup> George Lardner Jr., 'Church for President Committee is Formed', *Washington Post*, 13 December 1975, 6.

confided that he wanted Church's intention to be public by the end of the year at the latest. 'I was trying to make the case that Church should announce in time to get into the Massachusetts primary... I lost that argument,' he said.<sup>154</sup> Massachusetts would have been a good place to start for a Senator identified as liberal, and in a state where he could utilise his friendship with the Kennedy family. However, Church decided that at the end of December that he would be unable to announce his candidacy before the end of February because of the ongoing investigation into the intelligence community. By then, the committee had finished the investigative element of the inquiry and was writing the recommendations and findings that would constitute the bulk of the final report. The further delay meant that Church had second thoughts on whether to run or not. When he told his unofficial campaign committee leadership of his apprehension in February, he was reminded by the campaign chairman Carl Burke of the many people who had already committed to his cause on the understanding he would run for the presidency. Church acquiesced because he did not want to disappoint so many people.<sup>155</sup>



**Figure 6: Church campaigning for the Democratic Party's presidential nomination, 1976. (Courtesy of Boise State University, Albertsons Library Special Collections and Archives)**

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<sup>154</sup> Interview with the author, Mike Wetherell, Boise, Idaho, 15 September 2016.

<sup>155</sup> Ashby and Gramer, *Fighting the Odds*, 500-501.

Church finally announced his candidacy on March 18 in Idaho City, chosen because his family roots were in the town. His late entry into the race for the Democratic nomination ultimately cost him any chance at winning, as his advisors had counselled him. Church's campaign utilised the lateness of his entry and the reasoning behind it, declaring in one newspaper advertisement that 'the man who was too responsible to run for President now agrees he must run.'<sup>156</sup> Nonetheless, he performed respectfully, winning the primaries in Idaho, Oregon, Montana, and, against the odds, in Nebraska. Larry LaRocco, who co-ordinated the campaign in Oregon, spoke of the campaign strategy. The intention, he said, 'was to catapult out of Oregon with a victory and then head into California with a lot of momentum.'<sup>157</sup>

Church needed to win California to continue the drive he had developed in winning the other states and get to the convention as a force to be reckoned with. However, when California Governor Jerry Brown entered the state primary and swept all before him, Church knew his campaign was over. And, to make matters worse, Church's stance on controversial issues such as the Vietnam War and his handling of the Church Committee had alienated influential Democrats and was hindering his chances of a position in a Carter executive branch. As a consequence, eventual nominee Jimmy Carter was advised against choosing Church as his vice-presidential candidate.<sup>158</sup>

Church's campaign for the Democratic Presidential Nomination was not as a result of the investigation into the intelligence community. The roots of his ambition to be the chief executive were sown after his re-election in 1974. Peter Fenn suggested that it was an easy if wrong connection to make. 'When Church did run a late, late, late strategy, people said, "See, this was all about a presidential campaign."<sup>159</sup> And Church should be taken at his word. Those who knew him indicate that there was no scandal in the background waiting to be exposed. Church's former Senate Executive Assistant, Jerry Brady, said that Church's moral compass and behaviour set the tone for everyone. 'He was an example of what a public citizen does in public life. He thinks for us; he aspires for us. He calls us to our greater self.'<sup>160</sup> Former Idahoan Congressman Larry LaRocco, who had worked for Church during his 1974 re-election to the Senate and his 1976 presidential election, said that, 'he was the epitome of a public servant.'<sup>161</sup> Mike Wetherell, Church's Executive Assistant during the Year of Intelligence, claimed that after working for Church for ten years in the Senate, he had greater respect for him than when he first met him – no mean feat, according to Wetherell. For all of

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<sup>156</sup> Newspaper Advertisement, Unknown date and publication (Series 5.5 1975 Presidential Nomination Campaign, Box 3, Folder 18 Correspondence – Personal, FCP)

<sup>157</sup> Interview with the author, Larry LaRocco, Boise, Idaho, 14 September 2016.

<sup>158</sup> Ashby and Gramer, *Fighting the Odds*, 525.

<sup>159</sup> Interview, Peter Fenn, 2 October 2014, in: *Oral History Interviews*.

<sup>160</sup> Interview with the author, Jerry Brady, Boise, Idaho, 16 September 1975.

<sup>161</sup> Interview with the author, Larry LaRocco, Boise, Idaho, 14 September 2016.

the investigations that Church undertook, that of the Intelligence Committee, or the Multinational Committee's enquiry into bribery and corruption, there was never any dirt dished on him by powerful opponents. 'I know they were looking for it', Wetherell said.<sup>162</sup> Church had promised Mansfield that 'the presidential thing is off the table right now' before accepting the committee chairmanship in January 1975.<sup>163</sup> Church understood that the length of the committee's lifetime would seriously diminish his chances of gaining the Democratic nomination, but he told Mansfield 'I think I can do the job better than anyone else. I know I'll be giving up my chance for the presidency.'<sup>164</sup> And despite still harbouring such ambitions he was prepared to suspend them further when the inquiry demanded it, even if he was not fond of doing so.<sup>165</sup>

Church's entry into presidential politics was too late to be successful. Jimmy Carter had spent over a year longer than Church planning and financing his campaign. What the Senator's ambitions did do was to open the committee to criticism. The publicity that had been deemed so necessary in 1975 became the tool with which opponents and critics used to attack the committee. The public hearings that Church had argued were essential as an example of democratic transparency were held up as examples of Church's attempts to build a national political personality. The impact of Church's presidential campaign on the integrity of the committee's investigation has been debated by committee staff members. In spite of lead counsel Fritz Schwartz's belief that Church's announcement led some of the committee's staff 'to become a little less enamoured of him,' he asserted that, 'I don't think it affected our work at all.'<sup>166</sup> However, Pat Shea alone believed that Church's attempt to get on the campaign trail did alter the committee's work in the latter stages of the inquiry because the chairman was distracted by presidential politics.<sup>167</sup> While it is doubtful that Church's ambitions did affect the committee's work, the public's perception of the committee was altered by the accusations rallied against the chairman.

#### 4.7 Defying the Critics

Frank Church endeavoured to heed to public demands during the Year of Intelligence. Church realised that the American public and the committee had a symbiotic relationship: the public wanted to know the inner workings of the intelligence community and what the intelligence community had done on its behalf for the previous thirty years. The committee wanted the public's

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<sup>162</sup> Interview with the author, Mike Wetherell, Boise, Idaho, 15 September 2016.

<sup>163</sup> Interview, Peter Fenn, 2 October 2014, in: *Oral History Interviews*.

<sup>164</sup> Interview, William Miller, 5 May 2014, in: *Oral History Interviews*.

<sup>165</sup> Interview, Frederick A. O. Schwartz, 28 October 2014, in: *Oral History Interviews*.

<sup>166</sup> Interview, Frederick A. O. Schwartz, 29 October 2014, in: *Oral History Interviews*.

<sup>167</sup> Interview, Pat Shea, 31 October 2014, in: *Oral History Interviews*.

approval for the recommendations it would make for reform and therefore Church ensured that, to the best of his ability, he maintained the public's interest and support through the public hearings and the detailed reports. As Pat Shea confirmed, if the committee did not have the public's support, it certainly had its curiosity.<sup>168</sup>

What Church failed to take into account was that events can overcome the best laid plans. The assassination of the CIA station chief, Richard Welch, in December 1975, opened the Church Committee up to severe criticism of its methods. The public hearings and the committee's interim assassination report were all demanded by the public, but they became the weapon with which to attack the committee and its findings. No longer were the committee and its staff performing a public service; instead, the enquiry had endangered the lives of United States intelligence agents around the world. The press, and in particular the *Washington Post*, associated the investigation with Welch's death and accused it of threatening the national security. But staff members were aware that they were setting the standard for future intelligence committees and agreed that 'what goes on inside the committee stays inside the committee.' As a result of such an attitude, there were no reported leaks from the committee or its staff members that affected national security.<sup>169</sup> Nor did the Church Committee reveal any of the agents' names or intelligence collection methods. Such claims could be tentatively aimed at the House committee, and, as a result, the Church enquiry was tarred with the same brush.

Liberal critics of the enquiry have identified Church's consensual and non-aggressive approach with the executive branch as cause for concern. However, Church had identified that the White House held all the cards in the Year of Intelligence: it had the ability to use executive prerogative to withhold information from the investigation, and to influence the speed of the release of information from the various intelligence agencies. Church realised that the committee had to adopt a less than hostile approach to obtain the information it needed to fulfil its remit. Such a consensual approach had worked for him before on the Committee on National Emergency. In addition, it needed to be bipartisan in its methodology to maintain its integrity. It paid dividends for Church to adopt such a tactic as, compared to the more contentious House investigation, the Senate inquiry obtained most of the information it requested. If the Church Committee had been as uncompromising as the Pike Committee, it would have suffered from the same internal divisions, executive immovability, and institutional abandonment as the House committee. Instead, it

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<sup>168</sup> Interview with author, Pat Shea, Salt Lake City, Utah, 5 October 2016.

<sup>169</sup> Interview, Karl Inderfurth, 20 February 2014, in: *Oral History Interviews*.

illustrated to the executive branch that the Congress could conduct intelligence oversight securely and effectively.<sup>170</sup>

The characteristics that the inquiry was portrayed as having were because of its efforts to fulfil the demands of the press and the public. However, the executive and press attacks on the committee were sufficient to turn the public away from its creation. Although there was enough support to see the final report published, the committee's failure to fight back adequately caused it not have the impact that the enquiry deserved. In addition, the attacks and criticism of the enquiry damaged not just the impact of the enquiry, but its place in history. Inaccurate claims that the committee was nothing more than a springboard for Church's attempt to win the Democratic presidential nomination permanently tarnished its legacy and reputation. Church, for all of his experience and morality, showed a considerable amount of political naivety in believing that his ambitious actions would have no consequences. Church was genuine when he claimed that he would not use the publicity generated by the committee to support his presidential efforts, but that did not neutralise the criticism levelled at the committee and its chairman when he entered the presidential race in March 1975. Instead, the efforts he had made to reveal to the public the misdemeanours and crimes that the intelligence community had committed was labelled as an attempt to create a national public image for the chairman.

The irony of the Church Committee was that its attempts to satiate the public's demands during the Year of Intelligence led to the weakening of public support for its endeavours. The public had rejected the executive branch's efforts to sweep the intelligence crisis under the rug. The Rockefeller Commission was deemed too subjective and too connected to the intelligence community. The Commission's decision to not include the assassination investigation supported accusations that it was an executive whitewash. By conforming to the public's wishes, by holding public hearings, by publishing an extensive final report, the committee was portrayed as exhibitionist, irresponsible, and publicity seeking, and so lost the support of the same American public that ushered it into existence.

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<sup>170</sup> Smist, *Congress Oversees*, 80-81.

# Chapter Five

## The Legacy of the Church Committee

### 5.1 A Long-lasting Effect

Public opinion played an important and influential role during the Year of Intelligence. It helped shape the congressional enquiries that investigated the claims of serious wrongdoing committed by the intelligence community. In addition, public opinion provided the boundaries for the various enquiries to work within to gain the American public's much-needed support. Failure to work within these parameters led to the public and Congress disregarding the Pike Committee investigation and the Rockefeller Commission's final report and recommendations. Public opinion, voiced through letters, opinion polls, and more dominantly through the press, also provided a set of requirements and components that were essential to gaining the public's endorsement of the various enquiries' findings and future reform. Once again, where an enquiry was incapable of producing the necessary elements demanded by the public, the relevant investigation was castigated as being either a white wash or a witch hunt. Both the Pike Committee and the Rockefeller Commission fell short in their ability to produce an enquiry that contained the required factors as demanded by the American public. As a consequence, both the Rockefeller Commission and the Pike Committee failed to have a significant effect on national security policy.

In stark contrast to the enquiries initiated by the House of Representatives and White House, the Senate's Church Committee worked within the boundaries that had been dictated by public opinion. Furthermore, the enquiry had all of the elements required to maintain significant public and congressional support. Despite attempts by the Ford Administration and some Republicans to tarnish the reputation of the Senate enquiry, the Church Committee emerged from the Year of Intelligence as having successfully fulfilled its remit. It had investigated the accusations of abuse; it had proposed legislative remedies; and had also increased public awareness of both the agencies and their work.<sup>1</sup> As a result of the committee's ability to appease the public and Congress, the committee's legacy - and that of public opinion during the Year of Intelligence - lasted far beyond the sixteen months of the committee's existence. As one staff member observed, 'it's hard to really measure the full dimensions of what the efforts of the Church Committee contributed,' but added that it was 'vast and in many directions.'<sup>2</sup> Gary Hart, who had only been in the Senate for three weeks before being appointed to the committee, suggested that the investigation and

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<sup>1</sup> Smist, *Congress Oversees*, 80.

<sup>2</sup> Interview, Paul Michel, 7 January 2015, in: *Oral History Interviews*

recommendations centred on 'holding to principle against the pressure of expediency' because the US government had 'repeatedly chosen expediency over principle.'<sup>3</sup>

This final chapter examines the legacy of the Church Committee, highlighting the effect that public opinion had on the enquiry. The findings and recommendations of Frank Church's Senate Select Committee had a far-reaching effect on various facets of the American intelligence community. This chapter will establish that the American public's demands on the Church Committee had an effect on the Congress, the executive branch, and the intelligence community that was legislative and institutional in nature. Both the legislative and institutional effects were built on the committee's final report and its recommendations for reform. US public opinion's influence on the Church Committee is evident throughout the Church Committee's final report. As a result of the proposals presented in the report, reforms were made to congressional oversight of the intelligence community through legislation such as the Foreign Intelligence Surveillance Act (FISA) of 1978 and the executive orders of two presidential administrations. In order to fully address these consequences, this chapter will analyse the recommendations and public reception of the Church Committee's final report and trace its influence on the subsequent institutional reforms.

Of particular significance was the momentous change to congressional oversight by the establishment of a permanent Senate Select Committee on Intelligence. The creation of a permanent committee for intelligence in the Senate was seen as central to any long-term reform of congressional intelligence oversight. An effective committee was a check to any possible executive overreach in the future. Just as importantly, it was seen as a forum which would help restore 'the trust and confidence the intelligence agencies must have to operate effectively.'<sup>4</sup> FISA was, and remains to this day, the most notable legislative legacy of the Church Committee. It was enacted to define clearly the legal limitations of domestic intelligence gathering within the United States. Throughout the campaign to introduce and enact FISA, the recommendations of the Church Committee were used as terms of reference for the legislation that was enacted two years later.

The longevity of the Church Committee's effects raises questions about the validity of labelling the period as the Year of Intelligence – does the long-lasting effect of the Church Committee mean that the Year of Intelligence is wrongly named? In the first edition of his memoir of the Church Committee, historian and committee staff member Loch Johnson defined the different periods of modern intelligence oversight in the United States. He called the Year of Intelligence the *era of scepticism*, using the Hersh article of December 1974 and Jimmy Carter's selection of Mondale

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<sup>3</sup> Gary Hart, 'Liberty and Security', in: Miller (ed.), *US National Security*.

<sup>4</sup> United States Congress, Senate. Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess., 2.

as running mate, as book ends for the period. Johnson called the immediate period following this the *era of uneasy partnership* as it was a time when the relationship between Congress and the intelligence community was slowly recovering from the effects of the investigations of the Senate and House.<sup>5</sup> The Year of Intelligence is not a label of convenience for scholars. Seymour Hersh's *New York Times* article that started the entire investigative process was published in December 1974, and the last of the various consequential enquiries' reports was published in May 1976, a period of eighteen calendar months. And if the long-term effects of the Church Committee are included it would be correct to suggest that the Year of Intelligence is an inaccurate description for the period.

The era is labelled as such, however, because it was when public interest in the intelligence community and the corresponding inquiries was at its peak. Although the press had been hugely instrumental in maintaining the public's curiosity of the intelligence agencies, a combination of a seemingly overlong investigation and reduced press coverage meant that public interest had abated considerably by the time FISA was written into public law in October 1978. Despite such a convenient definition, and in spite of the decline of public interest in the Church Committee's investigation after 1976, the effects of the inquiries into the intelligence community were long-lasting. For members of the committee such as Walter Mondale, the Church Committee's final report had an enduring legacy because it was – and arguably still is – 'the most thorough, unrestrained, and balanced report' on the secret proceedings surrounding the relationships between Congress, the executive branch, and the intelligence community.<sup>6</sup>

## 5.2 The Findings of the Church Committee Final Report

Congressional intelligence oversight reform of the late 1970s was built on the foundation of the final report of the Church Committee. The report was the result of twelve months of investigation and three months of writing. After the public hearings of the Church Committee's enquiry had finished in December 1975, the various staff members and committee members sat down to write not just the findings of their investigations, but also the committee's recommendations for reform, legislative and otherwise. The objectives and the productivity of the committee were not altered by the furore surrounding the Welch murder, or the accusations that the committee was to blame for the murder of the CIA station chief. 'It did not affect our FBI work at all,' said lead counsel Fritz Schwartz.<sup>7</sup> And, instead of the original end date of December 1975, the committee had been granted an additional four months to write its report after the original nine-

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<sup>5</sup> Johnson, *Season of Inquiry*, 278-282.

<sup>6</sup> Interview, Walter Mondale, 19 December 2014, in: *Oral History Interviews*.

<sup>7</sup> Interview, Frederick A. O. Schwartz, 28 October 2104, in: *Oral History Interviews*.

month lifetime of the investigation had been extended by the Senate at the request of Senator Walter Mondale.

The Church Committee's final report gained public support and gave the committee a professional reputation. This was in stark contrast to both the Rockefeller Commission and the Pike Committee. The Rockefeller Commission's report had been rejected by the American public because it had failed to include data from its investigation into allegations of CIA involvement in assassination plots. The Commission's failure to produce a final report that included its inquiry into the plots to assassinate foreign leaders, led one critic to observe that it was down to 'the Senate and the House committees to ask the questions that really matter.' Despite the good work that been conducted by the Commission into the domestic activities of the CIA, the decision to not include any of the assassination data allowed the entire enquiry to be labelled a cover-up. Furthermore, the recommendations for oversight reform within the report were seen as 'measures of limited efficacy for the closer supervision of the existing agency with its existing mission and its existing operational abilities.'<sup>8</sup> Church Committee member Walter Mondale called it a 'patsy executive commission' devoid of any independence.<sup>9</sup>

The failure of the Pike Committee to publish its final report undermined its entire investigation, despite the relevant and important questions it raised about the quality and cost-effectiveness of the US intelligence community. The House's enquiry was beset by a relationship with the executive branch that could be described as antagonistic at best, and downright hostile at worst. The Pike Committee was censured by the House for its refusal to allow the committee to publish its findings without obtaining executive approval of its contents. The *Washington Post* called the refusal of Pike to allow the White House to censor its report as 'stubborn.'<sup>10</sup> The *New York Times* believed that the Pike Committee lacked the 'political skill needed to hold public support in the face of Presidential opposition.' Furthermore, the copious number of leaks from the committee 'increased an impression of unreliability.'<sup>11</sup>

The importance of the Church Committee's review of the intelligence community is underlined by the inability of either the Rockefeller Commission or the Pike Committee to finalise their enquiries with a publicly supported report. The Church Committee's report fulfilled the objectives set by both Congress and the American public. Its contents were illustrative of the demands of the US electorate and those who had voted to establish the committee and its enquiry

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<sup>8</sup> Tom Wicker, 'The Rocky Report: Better Than Expected', *New York Times*, 13 June 1975.

<sup>9</sup> Christopher Lydon, 'Democrats Accuse President of Avoiding Major Questions in CIA Investigation', *New York Times*, 11 June 1975.

<sup>10</sup> 'The Basis of CIA Oversight', *Washington Post*, 30 January 1976.

<sup>11</sup> Anthony Lewis, 'Farce or Tragedy', *New York Times*, 2 February 1976.

in January 1975: a detailed honest record of the intelligence community's post-war aberrations; a balanced enquiry that maintained classified national security information secure; and recommendations for reform of the oversight process of the intelligence community designed to enable a more transparent and accountable system of operation.

A consequence of the singular nature of the Church Committee's final report was the expectation and importance placed on the Church Committee by those desiring reform of congressional oversight of the intelligence community. For some observers within the enquiry, Church appeared not to share the same hopes as it was alleged that his interest in the committee dissipated in the aftermath of the public hearings on foreign intelligence. Fritz Schwartz called his position as 'dominant' at the beginning of the investigation, and less so towards the end. 'He was always important, but I think at the beginning he was more dominant.'<sup>12</sup> Some members of the committee's staff attributed this to his increasing involvement with launching a bid for the presidency. Pat Shea said that Church was 'distracted that last six to eight months' of the enquiry and that it affected the performance of the committee.<sup>13</sup> Other staffers were not so critical and noted that Church's involvement was correlated to the work on foreign policy. In particular, Loch Johnson said that Church had been 'engaged' with the report writing, but that once the committee moved onto domestic issues 'Mondale really became the titular leader of the committee.'<sup>14</sup> Mondale's ascendancy within the investigation was enhanced by Church's decision to split the work on the reports into two subcommittees: the domestic committee was headed by the Senator from Minnesota, while the foreign intelligence section was headed by Senator Walter 'Dee' Huddleston. Furthermore, while Schwartz believed that Church's presidential aspirations had become 'a distraction' it was also the growth in confidence of the other members of the committee that had diminished Church's dominance on the panel. Nonetheless, Church did spend a significant amount of time with the report writing staff, with particular attention given to Book II which concerned the intelligence activities and the rights of American citizens.<sup>15</sup>

The views of the American public were reflected within the findings and recommendations of the final report. The press had expressed the public's support of the continuance of the CIA. Calls for the disbanding of the agency were few and far between although there was a suggestion that 'clearly some of the intelligence machinery and some of the practices have outlived their usefulness.'<sup>16</sup> The majority of columnists and correspondents recognised that the American public

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<sup>12</sup> Interview, Frederick A. O. Schwartz, 28 October 2104, in: *Oral History Interviews*

<sup>13</sup> Interview, Pat Shea, 31 October 2014, in: *Oral History Interviews*

<sup>14</sup> Interview, Loch K. Johnson, 28 August 2014, in: *Oral History Interviews*

<sup>15</sup> Interview, Frederick A. O. Schwartz, 29 October 2104, in: *Oral History Interviews*

<sup>16</sup> 'Intelligence Agencies and the Constitution', *The Washington Post*, 14 January 1975.

saw the CIA as an integral part of the upkeep of the national security, but wanted it to operate within defined legal constraints. 'Foreign intelligence is essential to the well-being and continued existence of any major nation,' wrote one member of the public to the *New York Times*. He suggested that American international power was attained through the necessary but un-gentleman like methods adopted by the CIA. He continued that 'the American people have prided themselves with everything America means. Like it or not, this did not come about by our being international nice guys.'<sup>17</sup> Critics of the agency and its past urged Congress to implement reform in order to stop CIA apologists' efforts to 'persuade the American people that the national interest requires a return to total secrecy of the kind that provided a licence for so much corruption.'<sup>18</sup>

The committee agreed, on the whole, with the American public. It recognised the sensational nature of the intelligence community's failures and misdeeds was cause for considerable public concern. However, it also understood that an effective intelligence agency was an important part of the national security. 'Certain intelligence activities serve perfectly proper and clearly necessary ends of government,' the committee wrote. The intelligence community's activities in the postwar period had indicated that on several occasions it had failed to 'conduct *proper* domestic intelligence activities under effective restraints and controls.' Restoration or establishment of such controls was fundamental to the efficacy and legality of the intelligence community and lay at the heart of the committee's entire enquiry. The committee believed that previous attempts at reform of intelligence oversight had been both few in number and also ineffectual, and therefore underlined the committee's calls for statutory reform. Such legislation would ensure that the fine line between 'legal dissent and criminal conduct' during times of crisis was not forgotten as it had been in the previous decade. Furthermore, it identified the vast technological advances and capability of the intelligence community as potentially dangerous to Americans' civil liberties. Such potential for abuse meant that there was also a necessity to shape the reforms that not only dealt with past issues but had the scope to deal with problems that could arise in the future.<sup>19</sup>

In addition to the recognition of the necessity of the intelligence community and some secrecy, the Church Committee's final report proved to the American public that the current system of congressional oversight needed to be reformed. Failure to do so was to allow the intelligence community to repeat its past mistakes and infringe upon the constitutional rights of American citizens. The report itself was a considerable achievement of research, writing and interviewing, comprising two books of findings and recommendations, and seven volumes of hearings and

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<sup>17</sup> Letter to the editor, John W Callahan, 'The Name of the Game', *New York Times*, 22 January 1976.

<sup>18</sup> 'How to reform CIA', *New York Times*, 30 January 1976.

<sup>19</sup> *Church Report, Book I*, 289.

supporting documentary evidence. The report's objective was to provide the reader with a history of the development of the United States intelligence community, an evaluation of the modern-day intelligence capability, and after identifying any problems with the intelligence community it was to provide 'recommendations for legislative action and recommendations for the executive branch.'<sup>20</sup>

The tone of the report was carefully judged so as not to lose public support for the recommended reforms. Essential to this was the underlying precept that the intelligence community was an essential part of the federal government. At no point throughout the report is there any suggestion that any of the various intelligence agencies should be disbanded. In contrast to the Rockefeller Commission, it did observe that there had been serious failures in the oversight of the intelligence community. The Rockefeller Commission had stated that the CIA's illegal activities in the US were mere aberrations in an otherwise blemish-free record – 'the great majority of the CIA's domestic activities comply with its statutory authority.'<sup>21</sup> The Church Committee took a harsher stance and wrote that the enquiry discovered 'much that was good and proper in America's intelligence efforts', and praised 'the capacity and dedication of the men and women' that served in the intelligence community.<sup>22</sup> It was a subtle difference but an important one.

Instead of admonishing the CIA and FBI, the committee focused its report on identifying shortfalls in the process of the congressional oversight of the intelligence community, both domestic and foreign, and highlighted the consequences of such failures. The longevity of the succession of abuses by the various agencies was used by the committee to illustrate the failing system of checks and balances. These were not isolated instances in a short, confined period or administration, but committed 'repeatedly throughout administrations of both political parties going back four decades.' The committee accepted that the various agencies had acted beyond their remit, and noted that, in the case of domestic intelligence, they had failed to legally perform their duties, and to 'preserve, protect and defend the constitution.' The victims of such abuse were neither communists nor foreigners, and such acts were not committed in defence of the nation. Instead, the report emphasized, the federal government 'had collected, and then used improperly, huge amounts of information about the private lives, political beliefs and associations of numerous Americans.' Such actions, undertaken by the intelligence community on behalf of the federal government, were infringements of the privacy of the American public, and aligned such action with totalitarian

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<sup>20</sup> *Church Report Book I*, 1.

<sup>21</sup> *Rockefeller Report*, 10.

<sup>22</sup> *Church Report, Book I*, 15.

regimes. Privacy, declared the report 'was essential to liberty and the pursuit of happiness' and an essential component of a 'free and decent society.'<sup>23</sup>

By identifying the dangers for US citizens, and in particular the threat to the civil liberties that were protected by the constitution, the report was a thinly-veiled effort to arouse public anger with the process of congressional oversight of the intelligence community. Such ire would then be supportive to the committee's call for wholesale reform of congressional oversight. Furthermore, the report defended the committee's decision to hold public hearings during its investigation. The 'exposure of the excesses' of the federal government was essential it said because it informed Americans of 'the capability and proven willingness of their government to collect intelligence of their lawful activities and associations.'<sup>24</sup> The report identified three 'departures from the constitutional plan' evident during the period of domestic intelligence abuse: excessive executive power that allowed domestic intelligence to grow exponentially; excessive and unnecessary secrecy that inhibited reviews of practices and programmes; and avoidance of the rule of law enabled by rationalisations of the executive branch, described by the report as 'a dangerous delusion.'<sup>25</sup>

The majority of the blame for much of the intelligence community's transgressions was laid at the door of Congress. The enquiry identified that Congress had 'failed to provide the necessary statutory guidelines to ensure that intelligence agencies carry out their missions in accordance with constitutional processes.' Significantly, it stated that 'mechanisms for, and the practice of, congressional oversight have not been adequate.' The failure of Congress to monitor the financial expenditure of the intelligence community was a 'major element in the ineffective legislative oversight of the intelligence community.' It was a statement that appeared to support Church's declaration of June 1975 that the intelligence community was acting as a 'rogue elephant' with little presidential control. But it failed to follow up Church's observation, declaring that the committee's enquiry had discovered that 'presidents and administrations had made excessive, and at times self-defeating, use of covert action.'<sup>26</sup> The report identified that the intelligence community had acted, both at home and abroad, under presidential control, and that the illegal nature of their intelligence-gathering processes was due to a lack of effective countervailing congressional oversight. It was essential to blame the lack of congressional oversight as the overriding cause of the issues as it legitimised the committee's calls for reform. The committee underlined the importance of forward looking reform, and called for 'restraints that not only cure past problems but anticipate and prevent

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<sup>23</sup> *Church Report, Book II, 289.*

<sup>24</sup> *Church Report, Book II, 291.*

<sup>25</sup> *Church Report, Book II, 292.*

<sup>26</sup> *Church Report, Book I, 425-426.*

the future misuse of technology.’ Failure to do so, it argued, would enable a drift to a ‘big brother government.’<sup>27</sup>

### 5.3 The Church Committee Recommendations

For many of those that had followed the hearings and press briefings of the Church Committee enquiry, the report gave little new in the way of headlines. Much of what was enclosed in the report had been reported in the newspapers or had been televised through the public hearings during the previous sixteen months. Those interested had already heard or read of the CIA’s involvement in domestic intelligence gathering, the FBI’s COINTELPRO operations and efforts to destroy Martin Luther King Jr’s work and reputation. It caused the *New York Times* to observe that ‘few disclosures were not already in the public domain’, and that, ultimately, it did little to ‘enrich the foundation of fact and public understanding required to achieve the legislative remedies which it found necessary and viable.’<sup>28</sup> The final report may not have been revelatory as some may have expected, but it was an essential milestone in the investigation. In stark contrast to both the Rockefeller Commission and the Pike Committee, it had produced the findings of its enquiry, and of the recommendations for reform of congressional oversight of the intelligence community.

Even if the vast majority of the findings disclosed in the report had already been in the public sphere, the report was hugely important in the recommendations that it put forward. Just as with the findings, the recommendations were of foreign and domestic in nature. The domestic report contained ninety-six recommendations that the report stated were designed to safeguard ‘the constitutional rights of speech, assembly, and privacy’ whilst ensuring that they did not ‘unduly restrict necessary and proper intelligence activity.’ Furthermore, the report expressed that there was a deep belief within the committee that all of the recommendations concerning domestic intelligence needed to be part of a ‘comprehensive legislative charter’ that defined and controlled the federal government’s domestic security activities.<sup>29</sup> The eighty seven foreign intelligence recommendations fell into three categories: those designed to become legislation; those intended to be adopted by the executive branch regarding the ‘principles, practices and policies’ of its obligations and responsibilities concerning the intelligence community; and recommendations on issues that the committee felt that the executive branch needed to address concerning its relationship with congressional oversight committees.<sup>30</sup>

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<sup>27</sup> *Church Report, Book II*, 290.

<sup>28</sup> ‘Intelligence Report’, *New York Times*, 28 April 28 1976.

<sup>29</sup> *Church Report, Book II*, 292-293.

<sup>30</sup> *Church Report, Book I*, 425-426.

The Church Committee's report sustained the assault on the executive branch's claims of inherent power. It continued in the vein of the Watergate Committee, building on public distrust of unchecked presidential power. The report argued that there was no 'inherent constitutional authority for the President or any intelligence agency to violate the law.' The committee challenged Congress to make it clear to the executive branch that it did not condone or accept 'any theory of inherent or implied authority to violate the Constitution, and called for the enactment of definitive legislation that would provide 'exclusive legal authority for domestic security matters.'<sup>31</sup> By doing so, it perpetuated the aggressive and confrontational tone of the Fighting Ninety-Fourth Congress that had established the committee and its enquiry.

The recommendations for reform, however, were not only designed to stifle the growth of the executive branch's inherent power. In addition to reasserting the constitutional limitations of the presidency, the committee's proposals for restructure of intelligence oversight were aimed at protecting US citizens' civil liberties. The final report's calls for the establishment of a legal framework for domestic intelligence agencies were integral to establishing such protection. The committee underlined the importance of such a proposal by calling it 'the most fundamental reform necessary.'<sup>32</sup> Such a framework would end the long-term abuse of the civil liberties and constitutional rights of American citizens. It called for a repeal or amendment of legislation such as the Smith Act and the Voorhis Act, both of which had been used to justify domestic intelligence investigations of political groups.<sup>33</sup> Such legislative changes would put an end to the unconstitutional witch-hunts that impinged on Americans' First Amendment rights and ensure that any investigations that were undertaken were to serve as a basis for criminal prosecution.<sup>34</sup>

The revelation of the CIA's domestic intelligence activities led the Church Committee to urge a total ban on US foreign intelligence and military intelligence agencies' involvement in domestic intelligence operations. Under the committee's recommendations, the CIA, the NSA, and the Defence Intelligence Agency (DIA) would be precluded from conducting any activity within the United States. The findings of the committee's enquiry had led to the conclusion that all such operations should be conducted solely by the FBI. Surveillance through wiretapping, mail opening or unauthorised entry by the CIA on US soil was to end and was to be the sole jurisdiction of the FBI. Church and his colleagues saw 'no justification for distinguishing among these techniques' as they all

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<sup>31</sup> *Church Report, Book II, 297.*

<sup>32</sup> *Church Report, Book II, 338.*

<sup>33</sup> The Voorhis Act of 1939 required registration of certain organisations subject to foreign control that advocated the overthrow of the United States government. The Smith Act, also known as the Alien Registration Act of 1940, made it an offence to support the violent overthrow of the US government, or be part of a group with such an objective.

<sup>34</sup> *Church Report, Book II, 338.*

constituted an exercise of police powers as was strictly prohibited by the National Security Act of 1947.<sup>35</sup> Such operations could only be done on US soil if the FBI followed the correct warrant procedures. The committee placed the civil liberties of Americans above the CIA's operational efficacy by recommending such restrictions. In addition, it also recognised the public's disappointment with the Rockefeller Commission's findings that there was no ambiguity in the wording of the National Security Act.

Further protection to citizens' liberties was urged by the committee by recommending that non-intelligence organisations took no part in intelligence activities or operations. The use of the Internal Revenue Service (IRS), the US Postal Service, and various telecommunication companies to gather information on American citizens had been highlighted during the enquiries. There had been bipartisan concern about the activities of the IRS. Committee Vice-Chair, Senator John Tower, had said during the committee's public hearings into the IRS that he was 'deeply concerned about the purpose of IRS intelligence-gathering activities.'<sup>36</sup> The committee argued that reform was necessary to prevent the federal agencies from becoming tools of the intelligence community. In order to avoid a repeat of the surreptitious nature of the relationship between the IRS and CIA, the committee urged that any requests for information be lodged in writing with the Attorney General and that any congressional oversight committee be kept informed. In addition to recommendations concerning the IRS, the committee urged the tightening of legislation associated with the intelligence-gathering capabilities of the Postal Service. It urged that only the Attorney General should be able to authorise mail cover activities, whilst mail opening could only be done with a suitable warrant.<sup>37</sup>

The committee concluded its recommendations associated with foreign intelligence with the statement that it fully endorsed 'the concept of vigorous Senate oversight to review the conduct of domestic security activities through a new permanent intelligence oversight committee.'<sup>38</sup> The enquiry had underlined the committee members' belief that the temptation to abuse the power of the intelligence community would not finish with the committee's public exposure of past abuses. Without the establishment of a permanent committee 'all this is for naught,' said committee member Senator Howard Baker.<sup>39</sup> As with the rest of the final report, the call for a reform to congressional oversight of the intelligence community fell in line with the demands of public opinion. Newspaper columns and editorials had been concerned with 'the difficulties of

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<sup>35</sup> *Church Report, Book II, 299.*

<sup>36</sup> *United States Congress, Senate. Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Hearings before the Senate Select Committee to Study Governmental Operations with respect to Intelligence Activities, October 2, 1975, 94<sup>th</sup> Cong., 1<sup>st</sup> sess., 'Vol. 3: The Internal Revenue Service.', 3.*

<sup>37</sup> *Church Report, Book II, 313-316.*

<sup>38</sup> *Church Report, Book II, 339.*

<sup>39</sup> Howard Baker quoted in Laurence Stern, 'Panel details Abuses on Domestic Spying', *Washington Post*, 29 April 1976.

countenancing and controlling a secret agency in a democracy.<sup>40</sup> Reform was necessary, urged Walter Mondale, because ‘all this happened because intelligence agencies were ordered to break the law, felt they had a right to break the law, and even felt they had a duty under some higher claim of so-called “national security” to break the law.’<sup>41</sup>

Even William Colby, the former head of the CIA who had guided the agency through the Year of Intelligence, saw the necessity of tighter oversight. Colby believed that not only would it bring a more efficient agency, but one which the American public could support with confidence again. The committee’s assertion that the intelligence community laid within the confines of the law would strengthen American intelligence, Colby said, and allow the agency to work in secret within new legislation. ‘Improved supervision will ensure that the intelligence agencies will remain within the new guidelines,’ he wrote.<sup>42</sup> On the release of the committee’s final report Church told the congregated newspaper reporters that the new committee should have both legislative and budget-making authority over the intelligence community. ‘The crucial element in effective oversight is the power to authorise the intelligence budget,’ he said, and that ‘prior notice to appropriate committees of significant covert actions is essential.’<sup>43</sup>

Church, his fellow committee members, and his bipartisan team of staff had put into words what it thought the American public demanded of its Congress and intelligence community. Both the American public and the committee wanted an intelligence community that was efficient and ensured the nation was secure from foreign and domestic threats. But the revelations of the Year of Intelligence had also highlighted the nation’s necessity for the various agencies to work within the confines of the law. The ambiguous nature of some of these laws required new, clearly defined legislation that set the parameters within which the intelligence agencies could work. The attempt by Ford to portray Executive Order 11905 as fulfilling those demands fell far short of public expectations. Critics identified that Ford had ‘neither imposed nor proposed any substantive limitations on the kinds of dirty trick’ the American intelligence agencies could play abroad. Indeed, it was claimed that under Ford’s reforms American foreign intelligence agencies would have ‘almost no statutory restraints’ on covert action.<sup>44</sup> After listening to the American public throughout its enquiry, did the Church Committee’s recommendations receive the same criticism that Ford’s reforms had met?

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<sup>40</sup> ‘The Basis of CIA Oversight’, *Washington Post*, 30 January 1976.

<sup>41</sup> Walter Mondale quoted in Laurence Stern, ‘Panel details Abuses on Domestic Spying’, *Washington Post*, 29 April 1976.

<sup>42</sup> William E. Colby, ‘After Investigating US Intelligence’, *Washington Post*, 26 February 1976.

<sup>43</sup> Frank Church quoted in George Lardner Jr., ‘Panel on CIA Cites Waste, Asks Reform’, *Washington Post*, 27 April 1976.

<sup>44</sup> Anthony Lewis, ‘In Sheep’s Clothing’, *New York Times*, 19 February 1976.

## 5.4 The Public Response to the Church Committee

The Church Committee's final report's reception reflected the fractured nature of public opinion concerning the enquiry into the intelligence community. The end product of the twelve months of investigation only invigorated Church's belief that the investigation had been necessary to strengthen the intelligence community. 'A body with a cancerous growth is made healthier by its removal; so too, will the elimination of the misguided practices of our intelligence agencies make them healthier and stronger,' he wrote to one correspondent.<sup>45</sup> Church believed that the revelatory nature of the report was entirely necessary. 'Various aspects of the subjects we have investigated had already been public,' he wrote, which accentuated the need for full disclosure. 'Innuendo and misleading partial disclosures are not fair to the individuals involved, nor are they a responsible way to lay the groundwork for informed public policy judgements.'<sup>46</sup> Fellow committee member Robert Morgan agreed that disclosure to the public was necessary in order to clear the air. Such revelations, Morgan believed, were so that the intelligence community could 'devote their full attention to properly carrying out their important duties.'<sup>47</sup>

But not all the members agreed that the report was satisfactory. John Tower believed the recommendations 'if enacted into law, could endanger America's security.'<sup>48</sup> Ever the King's Man, Tower believed that the report 'urges departure from Congress's role as a partner in national security policy.' Such a document, he suggested, was a 'blueprint for authorising congressional management of the day-to-day affairs of the intelligence community.'<sup>49</sup> The committee's recommendations to restrict the use of electronic surveillance, he argued, were to 'sanction an unnecessary risk to the national security.' In addition, the proposed restriction on the use of informers was not only illusory, but unworkable' and the increased role of Congress in the management of intelligence was 'a task for which the legislative branch is ill-suited.'<sup>50</sup>

Whilst approaching the issue from a converse perspective, Gary Hart was also initially disappointed, particularly with the report's editorial concessions made at the request of the CIA. Hart, Mondale and Philip Hart objected to the CIA's exploitation of the committee's concern for national security that forced through deletions and edits to the original document. Such changes had

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<sup>45</sup> Letter, Frank Church to Stewart Horn, 20 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>46</sup> Letter, Frank Church to Marie Stanton, 1 June 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>47</sup> Additional Statement of Robert Morgan found in *Church Report, Book II*, 365.

<sup>48</sup> John Tower quoted in Nicholas M. Horrock, 'Senate Intelligence Panel Calls For A Law to Curb Covert Action As Implement of Foreign Policy', *New York Times*, 27 April 1976.

<sup>49</sup> Additional Statement of John Tower found in *Church Report, Book II*, 371.

<sup>50</sup> Press Release, John Tower, 'Tower News', 26 April 1976, found in (George Lardner Jr. Papers, Box 39, United States Senate/ Select Committee to Study Governmental Operations/General Research Material folder, Library of Congress)

'been modified to the point where the committee's concern about the CIA's blurring of the line between overt and covert foreign and domestic activities have been lost.'<sup>51</sup> However, on reflection Hart relented and suggested that the recommendations were a result of the committee seeking 'the balance between national security and the Constitution.'<sup>52</sup>

Members of the Ford Administration also voiced their disapproval. Vice President Nelson Rockefeller, whose commission had investigated the domestic activities of the CIA the previous year, was unsurprisingly critical of both the committee and its report. He told reporters in San Francisco that he believed the reports would have 'a most serious impact on the effectiveness of our foreign policy and national security.' The public nature of the enquiry, he said, 'had exposed American foreign intelligence operations to the world, to the great profit of potential enemies and the grave distress of foreign friends.'<sup>53</sup>

The staff members that dealt with the writing of the recommendations and the final report wanted to ensure that the committee's work was well-received by the public, the press, and Congress. Staff member Anne Karalakis, who wrote the committee's history of the CIA, came from a scholarly background having just finished her PhD. Her aim was to write an analytical and critical history that was unbiased. The importance of the objectivity of the report was of significance because it was to be adopted by the Senate. 'I had no interest in damning the agency, per se,' she said, 'but I did need to tell their story, good, bad, or indifferent.'<sup>54</sup> Another staff member, Paul Michel, who worked on the recommendations concerning the FBI, believed that the domestic and foreign reports had different styles and objectives 'worked out very skilfully and worked well together.'<sup>55</sup> Chief Counsel Fritz Schwartz, who was responsible for writing the report into foreign intelligence, told Church he believed that the committee had accomplished a great deal, 'both on the merits and in demonstrating the capacity to conduct balanced and comprehensive investigations.'<sup>56</sup> Such a professional attitude ensured that the final report was met with considerable respect from the press and Senate.

In its first judgement, the *New York Times* suggested that there was a rumour in congressional circles that some of the classified information within the report had been removed at the request of the intelligence community. In addition, the gossip in Washington purported that the enquiry had been less than energetic at obtaining documents from the classified branch. Nicholas

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<sup>51</sup> Gary Hart, Walter Mondale and Philip Hart quoted in George Lardner Jr. 'Reforms Urged In US Foreign Intelligence', *Washington Post*, 27 April 1976.

<sup>52</sup> Gary Hart, *Liberty and Security*, in: Miller (ed.), *US National Security*, 16.

<sup>53</sup> Nelson Rockefeller quote in John M. Crewdson, 'Inquiries on CIA Irk Rockefeller', *New York Times*, 5 May 1976.

<sup>54</sup> Interview, Anne Karalakis, 28 October 2014, in: *Oral History Interviews*.

<sup>55</sup> Interview, Paul Michel, 7 January 2015, in: *Oral History Interviews*.

<sup>56</sup> Letter, Fritz Schwartz to Frank Church, 4 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

Horrock, who had followed the enquiry throughout its sixteen months criticised the report's scholarly tone. He remarked that it appeared to be 'designed more as a resource document for those who will frame the new intelligence law than an indictment of abuse or misbehaviour by the intelligence community.'<sup>57</sup> *New York Times* correspondent Anthony Lewis also commented on the less than inflammatory nature of the report. He called its attempt to be moderate to garner public support 'a gamble, political and legal.' The greatest gamble of the report, he wrote, was that the system of checks and balances could work efficiently and sufficiently when concerning intelligence oversight.<sup>58</sup> The same correspondent called the report 'a sober piece of work' and 'an enormous record of unpleasant facts presented without hyperbole.'<sup>59</sup> One columnist wrote later on in 1976 that the foreign intelligence section of the report was impressive on the surface, but believed that 'the tepid conclusions and omissions cited render the work incomplete, if not irresponsible.' Conversely, the report into the FBI was striking because the bureau's wrongdoing 'involved deviation from generally accepted standards for the bureau.'<sup>60</sup>

On further reflection, the *New York Times* reconsidered the Church Committee's report as constructive and intelligent. It recognised that the committee had reported that 'both the executive and legislative branches of Government have mishandled the job of controlling the intelligence community. Such an observation, it claimed, was 'fundamental.' However, the same editorial suggested that 'the committee's analysis was superior to its political savvy.' The publication of the final report was too late in the day to induce any serious political reforms of congressional oversight of the intelligence community because 'legislative momentum began to dwindle weeks ago and this report did little to revive it.' The report's content, it said, 'did little to enrich the foundation of fact and public understanding required to achieve the legislative remedies which it found necessary and desirable.'<sup>61</sup> According to one editorial, what the report did indicate through its call for a Senate committee with jurisdiction over the intelligence community was that 'the rule of law still has strong defenders in Washington.'<sup>62</sup>

In stark contrast to the criticism of the *New York Times*, the *Washington Post* called the final report 'a serious comprehensive summary – surely the best in the public domain – of American (foreign) intelligence activities.' Its strength laid in the methods undertaken to produce such a report, in particular the 'congressional – executive interaction.' Furthermore, it cited the

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<sup>57</sup> Nicholas M. Horrock, 'Senate Intelligence Panel Calls For A Law to Curb Covert Action As Implement of Foreign Policy', *New York Times*, 27 April 1976.

<sup>58</sup> Anthony Lewis, 'The Church Committee: A Return to Basics', *New York Times*, 2 May 1976.

<sup>59</sup> Anthony Lewis, 'A Test of Faith', *New York Times*, 6 May 1976.

<sup>60</sup> Taylor Branch, 'The Trial of the CIA', *New York Times*, 12 September 1976.

<sup>61</sup> 'Intelligence Report', *New York Times*, 28 April 1976.

<sup>62</sup> 'Taming Beats', *New York Times*, 8 May 1976.

committee's 'substantive treatment of the political, bureaucratic, and psychological aspects of intelligence' as its greatest contributory factor. It had done the public a service by evaluating whether the nation got the intelligence it needed and paid for.<sup>63</sup> On the committee's report into domestic intelligence activities the *Washington Post* said that the final report contained many details 'almost all to one degree or another frightening' on the FBI's post-war activities. The most important element of the report was that it put the abuses and excesses into perspective by highlighting how they had 'accumulated during three decades of national tensions and strains.' The committee's recommendation that domestic intelligence operations be conducted by a single agency was said to be restrictive. The report, the paper said, showed that any domestic intelligence agency must be subject to law and 'constant informed scrutiny' to ensure that citizens would be able to 'enjoy their liberties without surveillance or harassment.'<sup>64</sup> Importantly, the paper recognised and identified that the Church Committee's calls for reforms 'would change the ground rules for domestic intelligence gathering far beyond any reforms thus far instituted or proposed by the Ford administration.'<sup>65</sup>

The *Los Angeles Times* agreed with the summary of the *Washington Post* that the report was a quality piece of work. Although it found that there were 'few new disclosures', it adjudged its 'accumulative impact' as 'chilling,' describing its findings as 'a lawless assault on the constitutional liberties of the American people and conscious subversion of free American institutions.' Church's enquiry had raised 'profound questions about American society and its freedom, now and in the future.' It saw as absolutely necessary that Congress 'impose democratic controls upon the intelligence community.' Failure to do so, it warned, would mean that the United States would 'one day surely suffer again all the abuses that flow from the secret exercise of unchecked power.' It concluded by warning both the Senate and the House that if either institution did not pass reform legislation, public opinion would be 'marshalled to command Congress to meet its clear responsibility.'<sup>66</sup>

Correspondents to Church's senatorial office gave a mixed response to the report. One Idaho constituent from Twin Falls thanked Church and his fellow committee members for their efforts in bringing the agencies of the intelligence community under control 'before someday they may control us through another more successful corrupt administration.' The intelligence community, he continued, 'should be instruments of security for all without the reserved benefit of

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<sup>63</sup> 'Dealing Intelligently with intelligence', *Washington Post*, 27 April 1976.

<sup>64</sup> 'Domestic Intelligence Report', *Washington Post*, 30 April 1976.

<sup>65</sup> John M Goshko, 'Senators' Reforms Would Exceed Administration's', *Washington Post*, 29 April 1976.

<sup>66</sup> 'To be Free and Secure', *Los Angeles Times*, 2 May 1976.

being illegal themselves.<sup>67</sup> One Californian wrote to John Tower and suggested that the committee's investigation and report illustrated that the intelligence agencies' overhaul was 'a primary matter which must be resolved if we are to carry out a democracy.'<sup>68</sup> Another Idahoan praised Church for performing a 'very thorough job in exposing the illegal activities of the CIA.'<sup>69</sup> One correspondent wrote to Church urging him to recognise his role at the head of the enquiry had been critical. Church was told that he could perform no greater a national service than to 'raise the national consciousness of the irresponsible power which threatens the survival of the republic.'<sup>70</sup> Critics of the FBI were also supportive of the committee and its reports. One Illinois resident believed that the exposure of the FBI's 'hideous activities' was necessary and underlined why the 'popular faith in our democratic institutions is failing.'<sup>71</sup>

Not all of the correspondents to Church's senate office were so supportive. One Californian suggested that Church had put his own aspirations ahead of the safety of the nation. 'When the elected officials of this or any other country put themselves above the welfare of that country,' he argued, 'then that country is surely doomed.' He ended his letter by informing Church that he would 'do all I can, to persuade ALL I can, to vote for anyone, except Senator Frank Church.'<sup>72</sup> One irate correspondent accused Church of spending 'a lot of time and a hell of a lot of the US taxpayers' money breaking down the effectiveness of the American intelligence organisations.' The correspondent even accused Church of being 'responsible for the murder of one agent already.'<sup>73</sup> One New Jersey resident wrote that she believed that the committee and its report 'have made the Soviets and the KGB gleeful by your gagging all our intelligence agencies.' She argued that Church had caused the United States to become spineless, and turned its population into 'a nation of nagging, self-critical jellyfish.'<sup>74</sup> And one of Church's constituents from Idaho believed that Church was at fault for the nefarious practices of the intelligence community. 'If you had been doing your job in Washington and aware of your responsibilities,' he wrote, 'you should have exposed

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<sup>67</sup> Letter, Wayne Modlin to Frank Church, 16 December 1975, (Series 2.6 Church Committee, Box 1, Folder 3 1976 January - April, FCP)

<sup>68</sup> Letter, Helen Kingsbury to John Tower, 23 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>69</sup> Letter, Florence Fuller to Frank Church, 10 February 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>70</sup> Letter, Michael Silver to Frank Church, 16 June 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>71</sup> Letter, V Zalatorious to Frank Church, 1 June 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>72</sup> Letter, Stewart Horn to Frank Church, 17 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>73</sup> Letter, O E Olson to Frank Church, 14 May 1976, ((Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>74</sup> Letter, Marie Stanton to Frank Church, 27 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

Watergate and other wrong doings in our government long before it reached the proportions that it did.<sup>75</sup>

The splintered character of the public response reflected that within the committee. Such a reaction illustrated that the committee had accurately represented the public throughout its investigation. While the publishing of the final reports marked the end of the Church Committee, it was not the end of the public's influence on the Year of Intelligence. The *Washington Post's* observation that the reports were released at a time when 'the impetus for reform appears to be only a shadow of what it was last year' was only partly correct.<sup>76</sup> The American public and Congress still saw the necessity for reform of oversight of the intelligence community despite a decline in the enthusiasm that had been so evident in the previous sixteen months. Integral to this reform was the creation of a permanent congressional committee dedicated to intelligence, and a legislative framework for the intelligence community that would protect the constitutional rights of American citizens.

## 5.5 The Senate Select Committee for Intelligence

The public demand for the establishment of a permanent select committee was still evident through press editorials and opinion pieces. The *New York Times* called such a reform important because it would 'use the basic theory of the Constitution to overcome the very human tendencies that were feared in the first place.'<sup>77</sup> The Church Committee's proposal was at the heart of the enquiry's attempt to 're-establish the rule of law.'<sup>78</sup> The only way to gain effective reform within the intelligence community was to have 'responsible congressional oversight', and an avoidance of 'a counterproductive rash of leaked reports and premature disclosures.'<sup>79</sup> The *Washington Post* said in an editorial that only through the creation of a permanent oversight committee in Congress could the process of reform and continuing oversight be continued. The success of the Church enquiry could only be measured through the performance of such a committee. The efficacy of the committee would 'require Congress to share responsibility' for the legality of the intelligence community's actions, and the President to share power in intelligence. The relationship between the two branches of government would be the standard by which 'the now-concluded Senate intelligence inquiry would be judged.'<sup>80</sup> 'The need for effective oversight has been proven beyond

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<sup>75</sup> Letter, Melvin Harris to Frank Church, 10 January 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>76</sup> Laurence Stern, 'Panel details Abuses on Domestic Spying', *Washington Post*, 29 April 1976.

<sup>77</sup> Anthony Lewis, 'A Test of Faith', *New York Times*, 6 May 1976.

<sup>78</sup> 'Taming Beats', *New York Times*, 8 May 1976.

<sup>79</sup> 'How to reform CIA', *New York Times*, 30 January 1976.

<sup>80</sup> 'Dealing Intelligently with Intelligence', *Washington Post*, 27 April 1976.

any serious question,' it said. A committee dedicated to intelligence oversight was only half the battle as it needed to accompany 'new legislation to define and delimit the tasks of intelligence.'<sup>81</sup>

In the Senate, support for a congressional committee on intelligence came from individuals such as Senator Gaylord Nelson (D-WI). Nelson recognised that public support for legislation had diminished from its high the previous year and, as a result, the prospects of passing legislation that created a permanent committee looked doubtful. The death of CIA station chief Richard Welch and the leaking of the Pike Committee report had meant that 'the outlook on Capitol Hill had turned full circle.'<sup>82</sup> The decline in public support for reform of congressional oversight of the intelligence community was in part the failure of Congress to present a united front. The divergent methods and objectives of the congressional enquiries into the Hersh allegations had failed to totally overwhelm the executive branch's resistance to reform. Church's committee wanted to reform congressional oversight whilst Pike's committee was aiming to restructure the entire intelligence community. The failure of Pike's committee to publish official details of its enquiry undermined the strength of the Church Committee's investigation and recommendations. Nonetheless, there were still calls for the establishment of a permanent oversight committee and legislative reform but of a quieter nature.

Church was acutely aware of support for the committee's creation through the public's correspondence to his Senate office. One such letter highlighted the activities of the FBI as reason enough for a permanent oversight committee. Likening the bureau's domestic intelligence operations as 'reminiscent of the notorious secret police of dictatorial countries', he wished Church success in 'establishing some effective oversight committee over these people.'<sup>83</sup> In addition to those expressing their encouragement for a permanent intelligence committee, Church also received mail from those who felt that any form of oversight committee would be disastrous to the intelligence community. One former FBI agent wrote of his fear that Congress would create 'some monster oversight committee that will unduly restrict and unnecessarily publicise the activities of our intelligence agencies.' Such publicity, he argued, would 'render them ineffective in a time of need.'<sup>84</sup> A New Jersey resident wrote expressing his concern over the sharing of intelligence with Congress. He argued that to do so and not expect such information to leak would be either 'stupid, naive, or treason.'<sup>85</sup>

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<sup>81</sup> 'A Failure of Oversight', *Washington Post*, 2 May 1976.

<sup>82</sup> Press Release, Gaylord Nelson, 30 April 1976, (George Lardner Jr. Papers, Box 39, United States Senate/ Select Committee to Study Governmental Operations/General Research Material folder, Library of Congress)

<sup>83</sup> Letter, V Zalatorious to Frank Church, 1 June 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>84</sup> Letter, M E Steffen to Frank Church, 14 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>85</sup> Letter, John Fitzgibbon to Frank Church, 25 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

Church believed that such a committee was essential not only to support a strong intelligence community but also to ensure ‘that the abuses my committee uncovered will not occur again in the future.’<sup>86</sup> Before the Church Committee had finished producing its report, Church introduced a bill in the Senate to form a standing intelligence committee. The bill had significant bipartisan support from members of the Church Committee with Democrats Philip Hart, Walter Mondale, and Walter Huddleston and Republican Charles Mathias and Richard Schweiker acting as co-sponsors. The new committee was to consist of nine members with a limited term of no more than six years. The limit to the duration of the committee’s membership was not just to avoid the continuous dominance of intelligence oversight by one member as John Stennis had with the Armed Services Committee; it was also to ensure that members would be objective and critical of the intelligence community. In an effort to protect the civil liberties of every American, the intelligence community would not conduct any covert or clandestine activity ‘unless the committee is informed of such activity before it takes place.’<sup>87</sup> The prior notification of covert activity was a direct challenge to the presidential authority of the intelligence community and was a significant move towards congressional parity with the executive branch concerning management of intelligence.

The bill was one of five concerned with intelligence oversight that was referred to the Senate’s Committee on Governmental Operations.<sup>88</sup> The prospect of a standing committee on intelligence was met with support by the committee chairman Senator Abraham Ribicoff (D-CT). Ribicoff asserted that the American public demanded changes to the current system of congressional oversight. ‘The intelligence agencies do not have the full trust of the American public,’ he observed. Furthermore, it was down to the legislative branch to restore that confidence and faith in an essential component of national security. ‘The public clearly wants Congress to act,’ he said. An intelligence oversight committee seemed a logical step in a governmental system of checks and balances. The CIA and other intelligence agencies should not be exempt from congressional oversight because of the nature of their activity. ‘To what extent in a democracy,’ asked Ribicoff, ‘should agency action not be subject to review by Congress and the public?’<sup>89</sup>

Senate Majority Leader Mike Mansfield, who had been an ardent supporter of the establishment of the Church Committee, went further. He believed that through its inability to

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<sup>86</sup> Letter, Frank Church to Clarence Horn, 31 May 1976, (Series 2.6 Church Committee, Box 1, Folder 4 1976 May - June, FCP)

<sup>87</sup> United States Senate, S.2893, ‘Intelligence Oversight Act’, 94<sup>th</sup> Congress, 29 January 1976.

<sup>88</sup> The five bills brought before the Committee were S. 189, S. 317, S. 2865, S. 2893 and S. Con. Res. 4. All the bills recommended the establishment of either a Senate or Joint Committee on Intelligence. The Senate Committee on Governmental Operations voted instead to present its own bill to the Senate for a permanent oversight committee under S Res. 400

<sup>89</sup> United States Congress, Senate. Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess., 2.

conduct effective oversight of the intelligence community Congress had, as elected representatives of the people had 'not performed as we should have performed.' Through the Constitution, he argued, 'the Senate is assigned a unique and special role.' It was necessary to create 'every agency and facility needed' to perform that role 'on behalf of the American people.' The permanent intelligence committee would allow congress to conduct oversight as the American public wishes. To ensure that the committee was aware of public opinion and to avoid the dominance of such a committee with senior members of the Senate, Mansfield suggested placing younger members on the committee. 'They are closer to the people than those of us who have been here for years. They are more aware of the needs of the people.'<sup>90</sup>

At the same hearings, Church also argued in favour of a new permanent committee on oversight that exercised exclusive jurisdiction over the intelligence community. He praised Mansfield in foreseeing the necessity of a permanent committee and said that the results of the Church Committee's enquiry substantiated Mansfield's demands. Such a committee, Church argued, needed both legislative powers and the requirement of prior notification of any covert activity undertaken by the intelligence community. 'Most of the covert activity that we have engaged in, in the last twenty years, has done this country far more harm than it has done us good.' The inevitable public knowledge of such operations, Church added, 'are contrary to the professed principles on which this country stands.' When questioned whether the Church Committee had been responsible for the public revelation of such activities, Church countered with a comment on the executive's efforts to make it appear that way. 'There are those who would say that, in fact, we are now the targets of what seems to me to be an apparently orchestrated effort to undercut the committee's recommendations.' Church returned to the issue of the people's right to know about the intelligence community stating that his proposed new committee would have the 'authority to make disclosures, to conduct public hearings if it chooses, and to handle the questions of secrets in an orderly and regular manner.'<sup>91</sup>

John Tower disagreed with the primacy of American public's demand for governmental transparency over national security, but not with the concept of intelligence oversight. In the minority report that contained the additional views of the Texan Republican, Tower had expressed that 'the right of American citizens to be free is inextricably linked to their right to be secure.' Tower believed that the Church Committee's efforts to gain public support through its open hearings on the NSA and CIA involvement in Chile had endangered the national security. In addition, he felt that

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<sup>90</sup> *Ibid*, 13-18.

<sup>91</sup> *Ibid*, 27-36.

Ford's attempt to reform intelligence oversight through the expansion of the executive branch was 'a thorough, comprehensive response to a long-standing problem.'<sup>92</sup> Tower testified to Ribicoff's committee that a permanent intelligence oversight committee was unnecessary. He said that disagreeing with establishing a new committee and agreeing with congressional oversight was not mutually exclusive. 'Existing committees can and should perform oversight,' he told Ribicoff. He questioned whether the public's demand for greater transparency was truly in the nation's interest. 'The people's right to know, at some point, has to be subordinated to the people's right to be secure, to the extent that an effective intelligence gathering capability can make them secure,' he argued.<sup>93</sup>

Tower's opposition to a permanent subcommittee was not just a reflection of his belief that the intelligence community's efficacy would be damaged. The establishment of a permanent committee on intelligence would remove authority from the Armed Services Committee which Tower served on. Senator John Stennis, the chair of the Senate's Armed Services Committee, agreed with Tower's position on the creation of a permanent intelligence committee. Stennis, who had unsuccessfully argued against the creation of the Church Committee, believed that intelligence oversight fell completely within the jurisdiction of the Armed Service Committee, and that the committee needed intelligence oversight within its duties to perform its national security functions efficiently. 'We can't perform our function that by law we must do unless we have jurisdiction over intelligence.' When asked his opinion on the prospect of a permanent intelligence committee before the Committee on Rules and Administration, he said quite simply, 'I strongly oppose this provision.' In addition, he castigated the Church Committee saying that he was fundamentally 'compelled to respectfully disagree with their conclusions.' He argued that a newly established committee on intelligence oversight would offer nothing to 'establish safeguards against the improper use of intelligence authority for domestic purposes.' Congressional oversight in intelligence could easily be performed by a permanent subcommittee on intelligence under the Armed Service Committee.' The creation of a committee on intelligence would be the 'most far-reaching proposal in this field since the enactment of the National Security Act which created the Department of Defence in 1947.'<sup>94</sup>

Senator Strom Thurmond (R-SC) shared Stennis's view that intelligence oversight should be the jurisdiction of the Armed Services Committee. 'Intelligence and defence are inseparable, in that

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<sup>92</sup> *Church Report, Book II*, 369-372.

<sup>93</sup> United States Congress, Senate. Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess., 67.

<sup>94</sup> United States Senate, Committee on Rules and Administration, *Hearings on S Res. 400 To Establish a Standing Committee of the Senate on Intelligence Activities*, March 31, April 1, 2, 5, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976), 45-57.

one compliments the other,' he told the Committee on Rules and Administration. Decisions and actions undertaken by the Armed Services Committee, were 'predicated to a degree on the findings of our intelligence agencies.' Thurmond, as the ranking minority member on the Armed Services Committee was clearly protecting the interests of his committee and suggested that the proposed bill, S Res 400, appeared to 'make it easier to disclose information than it would be to protect information.'<sup>95</sup> It was a view supported by another Church Committee member, Barry Goldwater, who believed that 'if the Congress wants more oversight, the existing committees can and should be asked to perform.' Goldwater admitted that the Armed Service Committee on which he served had been reluctant to hear sensitive information in case members accidentally leaked it. Rather than be informed of the data, the committee decide that they would be 'better serving our country by not hearing it.' As a result, the committee had not 'done the sort of job you might expect an oversight committee to do.'<sup>96</sup> Goldwater believed that the Church Committee's enquiry had given 'no indication that we need any more oversight of the CIA than we already have' and that, frankly, he was opposed to the Senate 'probing in this whole field.'<sup>97</sup> The questioning of the necessity of reform of the intelligence community was not restricted to congressional Republican opposition. The *Los Angeles Times* questioned why the American public was not up in arms about the findings of the Church Committee. It suggested that America had become 'so insured to disclosures of government wrongdoing that public opinion – a vital element for reform in a democracy – is paralyzed.'<sup>98</sup>

Director of Central Intelligence (DCI), George H W Bush, said that the CIA welcomed 'strong and effective congressional oversight' without committing his agency's backing to a new permanent intelligence committee. He spoke of the benefits that the CIA would gain from more efficient oversight, in particular, 'the advice and counsel of knowledgeable members.' Bush recognised the public's demand for greater transparency and accountability and how integral it was to gaining the public's confidence again. 'We will retain the support only so long as the people remain confident that the political structure provides clear accountability of our intelligence services.' The way to achieve that, he noted, was through 'effective executive and congressional oversight.' However, Bush warned against the proliferation of committees dealing with intelligence oversight, stating that 'guaranteed secrecy remains a prerequisite to success in many of our activities.' Bush believed that 'what the Senate and this country want is good oversight. Public disclosure is not synonymous with

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<sup>95</sup> *Ibid*, 68-70.

<sup>96</sup> United States Congress, Senate. Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess., 334-340.

<sup>97</sup> United States Senate, Committee on Rules and Administration, *Hearings on S Res. 400 To Establish a Standing Committee of the Senate on Intelligence Activities*, March 31, April 1, 2, 5, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976), 130.

<sup>98</sup> Jack Nelson, 'Public Apathy on CIA Abuses Criticized', *Los Angeles Times*, 2 May 1976.

good oversight.<sup>99</sup> Bush's predecessor as DCI, William Colby, told Ribicoff's committee that the intelligence community was 'well aware of the need to retain public confidence and congressional support.' But he stressed that any new oversight committee must be capable of handling classified information without leaking it, especially covert activity. The 'unilateral exposure' of covert activity was not seen as the solution to the problems raised by the Church Committee's enquiry. He believed that the establishment of a new committee with exclusive jurisdiction over foreign intelligence should be created 'the sooner the better.'<sup>100</sup> It was a belief shared by Rules and Administration Committee member, Senator Robert Byrd (D-WV). 'The political atmosphere throughout the country,' he correctly judged, 'would appear to me to demand some kind of intelligence committee.'<sup>101</sup>

The challenge to the authority of the long-standing members and the committees concerning intelligence oversight moved from the committees to the Senate floor. The Judiciary Committee attempted to amend the bill proposed by the Committee on Government Operations to reduce its effectiveness to conduct oversight of the FBI's domestic intelligence operations. The committee removed any authority from the committee to oversee the FBI activity because it impinged on its own authority to oversee the FBI. After amendments were made to the bill by the Rules Committee, the third version of the resolution was agreed upon by the committee after an amendment was put forward by Senator Howard Cannon (D-NV). On May 10, 1976, the bill was produced before the Senate for discussion but was given little consideration. It required further negotiation between Majority Leader Mike Mansfield and other leading Senators to produce what became known as the Cannon Compromise which was re-introduced to the Senate on May 12. The ensuing debate lasted seven days and saw further minor amendments made to the bill.<sup>102</sup>

On the Senate floor the issue of what the public demanded remained foremost in many minds. 'The people of this country expect us to have a thorough, ongoing intelligence facility and capability,' said Senator Charles Percy (R-IL) during the debate about S Res 400. 'What they do not want is abuse in the name of law enforcement. They do not want such an agency breaking the law.' Talking of the various amendments that had been adopted and dropped by the Committee on Rules

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<sup>99</sup> United States Senate, Committee on Rules and Administration, *Hearings on S Res. 400 To Establish a Standing Committee of the Senate on Intelligence Activities*, March 31, April 1, 2, 5, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976), 71-74.

<sup>100</sup> United States Congress, Senate. Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess., 114-123.

<sup>101</sup> United States Senate, Committee on Rules and Administration, *Hearings on S Res. 400 To Establish a Standing Committee of the Senate on Intelligence Activities*, March 31, April 1, 2, 5, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess. (Washington D.C., 1976), 109.

<sup>102</sup> William Newby Raiford, Congressional Research Service, *To Create A Senate Select Committee on Intelligence: A Legislative History of Senate Resolution 400*, August 12, 1976.

and the Judiciary Committee, Percy stated that to adopt such amendments would ‘emasculate the proposed new committee; that would make it weak; that would make it a toothless watchdog; that would provide no real effective oversight.’ As facilitators of public opinion, if Congress adopted those amendments it would ‘betray the trust placed in us by the American public.’<sup>103</sup> Senator Robert Taft (R-OH) spoke of how the American people were not just ‘deeply concerned with the whole problem of intelligence’ but also with the thought that classified information may be available to the nation’s adversaries. ‘The American people are in an uproar about that,’ said Taft. ‘Everywhere I go, people are concerned about it. They want to see Congress do something to try to tighten up this entire area.’<sup>104</sup>

On the Senate floor, the assassination of CIA station chief, Richard Welch, was once again brought up by opponents to the bill. It was an attempt to discredit the Church Committee and Congress’s ability to handle classified information safely and use the change in public mood that had been evident earlier in the year. Senator Milton Young (R-ND) stated that disclosures had ‘seriously damaged our intelligence agencies in foreign countries,’ citing Welch’s murder. Church Committee members Senators Walter Mondale (D-MN) and Walter Huddleston (D-KY) refused to allow such accusations to go unanswered. Welch’s murder, stated Huddleston, ‘has been brought up several times and has been used to try and denigrate the activity of the committee and the need for the oversight committee.’<sup>105</sup> Ribicoff, arguing for the legislation, suggested that opposition from Tower and Stennis did not reflect public opinion, but the desire to keep the authority within the Armed Service Committee. The age of consensus that had been prevalent during Stennis and Tower’s first entry into the Senate had been replaced through recent elections. Ribicoff argued that the public’s wishes were represented by ‘other members who have arrived in recent years.’ These newly-elected members, such as the Church Committee’s Gary Hart, were ‘as deeply-concerned and as deeply committed’ as Stennis and Tower.<sup>106</sup>

After seven days of debate, on May 19, 1976, the Senate voted to create a permanent Senate Select Committee on Intelligence by seventy-two votes to twenty-two. The establishment of the permanent intelligence committee was welcomed by those who had called for reform to oversight of the intelligence community. The *New York Times* believed that it would ‘improve the functioning of the intelligence agencies’ and ‘end some of the worst practices of the past that infringed on the civil liberties of Americans.’ The committee’s creation should be welcomed it

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<sup>103</sup> *Congressional Record*. 1976. 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., vol. 122, 13688.

<sup>104</sup> *Congressional Record*. 1976. 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., vol. 122, 14161.

<sup>105</sup> *Congressional Record*. 1976. 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., vol. 122, 14645.

<sup>106</sup> *Congressional Record*. 1976. 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., vol. 122, 14648.

argued. 'The national security – and the nation – should benefit.'<sup>107</sup> By establishing such a committee, 'the Senate had acted as the nation's conscience' ran one editorial, and had implemented changes that would act as 'important steps toward return of national sanity.'<sup>108</sup> Despite the steps taken by the Senate, the paper argued that they would be for nothing unless they were backed by 'changes in public attitudes' towards the infringement of civil liberties.<sup>109</sup> The *Washington Post* also believed that the new committee was an indication of a positive change towards protection of civil liberties. It recognised the Senate's realisation that the committees that had been allocated the responsibility of oversight of the intelligence agencies prior to the Church Committee 'were not doing an adequate job of keeping them under control.'<sup>110</sup>

The committee, under the initial chairmanship of Democrat Hawaiian senator Daniel Inouye, became not just the first manifestation of the Church Committee's legacy, but also that of public opinion during the Year of Intelligence. Public demands, expressed through the 1974 midterm elections, the press, and letters to the congressional offices of elected representatives, had urged not just the creation of the Church Committee, but supported the committee's recommendation for reform of intelligence oversight. Taft was right in his assertion that the American public wanted something done to tighten up the issues surrounding intelligence. The creation of the Senate Select Committee on Intelligence was the most crucial of the proposals put forward by the Church Committee and was tangible evidence to the American public that Congress had acted as they wished.

## 5.6 Legislative Legacy

In addition to the creation of the Senate Select Committee for Intelligence, the Church Committee's recommendations had called for a legislative framework for the intelligence community as part of its reform programme. President Ford and the Intelligence Coordinating Group's (ICG) attempt to put forward Executive Order 11905 as adequate remedial action fell short of public expectation. The US presidential election of 1976 gave a result that provided considerable hope to those who called for serious reform. The election of the Governor of Georgia, Democrat Jimmy Carter, at the expense of incumbent Gerald Ford, saw a change in the political landscape that surrounded the intelligence community. Carter was operating from a different standpoint to his predecessor. Republican Ford had faced an adversarial Democrat-dominated Congress, in both the

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<sup>107</sup> 'Watch on Intelligence', *New York Times*, 21 May 1976.

<sup>108</sup> 'Intelligence Oversight', *New York Times*, 23 May 1976.

<sup>109</sup> 'Intelligent Public', *New York Times*, 23 May 1976.

<sup>110</sup> Spencer Rich, 'Senate Creates CIA Panel', *Washington Post*, 20 May 1976.

House and Senate. Carter's party, in stark contrast, controlled both the House and Senate during Carter's presidency.

The 1976 elections had seen the Democrats keep their 149-seat majority in the House led by Representative Tip O'Neill (D-MA) who had taken over from legendary Speaker Carl Albert (D-OK). In the Senate the Democrats held a healthy 61 seats under the leadership of new Majority Leader Robert Byrd (D-WV). All three interest groups – the Senate, the House and the executive – had their own idea how the legislative framework for the intelligence community should be shaped. Carter informed Tip O'Neill and leaders of the House of his plans for reform in May 1977 that centred on 'statutory charters defining the responsibilities and authorities of and establishing appropriate controls on US foreign intelligence activities.' Central to Carter's plan was the assistance of Congress. 'The administration will not act unilaterally,' he told O'Neill, and that revision of Ford's Executive Order 11905 would only happen 'in closest consultation with Congress.' Carter optimistically expected the introduction of legislation into Congress by the end of September at the latest.<sup>111</sup>

The revelations of the Church Committee had reinforced Carter's natural distrust of the various intelligence agencies. He promised on his campaign that 'if the CIA ever makes a mistake, I'll be the one as president, to call a press conference, and I'll tell you and the American people, this is what happened, these are the people who violated the law.'<sup>112</sup> Once in office, Carter made a similar promise to Senate Select Committee Chairman Daniel Inouye. He assured Inouye that he considered intelligence abuses to be so important 'that I intend to deal with such matters personally,' although Carter did inform the chairman that he would rely on the assistance and advice of the Intelligence oversight Board to conduct any such investigations. Any reports of intelligence abuse were to be investigated, and the Senate Committee would be informed by Carter of 'the nature of the abuse and corrective action taken.' However, despite promising that he shared Inouye's 'deep commitment of institutionalising effective oversight of foreign intelligence activities,' he informed Inouye that any information the White House shared as part of its reports to the intelligence committee, had to be 'treated on a privileged basis.'<sup>113</sup>

In addition to his campaign promises, Carter highlighted the importance of legal collection of intelligence by including it in his inaugural address. In a reference to the CIA's involvement in assassination plots of foreign leaders, Carter promised that the United States 'will not behave in

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<sup>111</sup> Memorandum, Zbigniew Brzezinski to the President, 12 May 1977, (National Security Affairs, Brzezinski Material Subject File, NSA 7, Box 30, Intelligence Reorganisation: 8-12/77 Folder, [JCPL])

<sup>112</sup> Jimmy Carter quoted in George Lardner Jr., 'The Carter Devolution on the CIA: A Chronology', Address before the American Civil Liberties Union and the Center for National Security Studies, 7 March 1977, (George Lardner Jr. Papers, Box 38, United States Senate – Select Committee on Intelligence – Establishment of Committee folder, Library of Congress)

<sup>113</sup> Letter, Jimmy Carter to Daniel Inouye, 27 July 1977, (White House Central Subject File, National Security – Defence, Box ND-6 Executive, ND 6 1/20/77-5/32/77 to Executive, ND 6 7/1/78-12/31/78, ND 6 6/1/77-12/31/77 Folder, [JCPL])

foreign places so as to violate our rules and standards here at home.’<sup>114</sup> One of his earliest goals was to reorganise the ‘confused intelligence community.’ Carter identified the fragmentation of the responsibilities within the community, and the multiple congressional committees associated with the various agencies as obstacles to an effective intelligence operation. Carter’s objective was to unify overall responsibility under Stansfield Turner, the newly appointed Director of Central Intelligence who replaced George H. W. Bush. However, as Carter rightly recognised, ‘congressional action was needed to consummate the process.’<sup>115</sup> But the possibility of the House creating its own intelligence oversight committee gave concern to National Security Council staff members in March 1977. The discussions led to members agreeing that the ideal solution for the executive branch was to transform the Senate committee into a Joint Committee and operate in much the same way as the Joint Committee on Atomic Energy had since the end of the Second World War. Such a suggestion was correctly expected to be rejected by Senator Daniel Inouye ‘unless it could be pointed out that there was no other way to protect the national security.’<sup>116</sup> As a result, Carter had to deal with both the Senate’s intelligence committee and the House Permanent Select Committee on Intelligence after it was created in July 1977.

Public opinion played as critical a role in Jimmy Carter’s one-term presidency as it did in the Church Committee. Carter, whose election was built on the foundations of majority-rule and idealism, firmly believed ‘that the will of the people was paramount to all other political considerations.’<sup>117</sup> Members of Congress sent favourable poll results to the White House in an effort to seek out presidential support for their own bills. Unlike his predecessor, Carter was influenced by poll results and changed strategy to ensure his own efforts were received favourably by the public. Such efforts did not always succeed, such as Carter’s failing energy programme, and proved counterproductive to maintaining Carter’s popularity. One critic said the administration’s reading of public opinion led it to ‘blindly wander into political quicksand.’<sup>118</sup> Carter was advised how to react with the general public through the results of polls. Pollsters and public opinion analysts, such as Dan Yankelovich, had an immense influence over presidential policy making decisions. Yankelovich informed the president that public support for the administration’s efforts to deal with the energy crisis had stalled. Whilst recognising that Carter’s original public discussions had ‘caught the public’s

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<sup>114</sup> Jimmy Carter: ‘Inaugural Address,’ 20 January 1977. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=6575>

<sup>115</sup> Jimmy Carter, *White House Diary*, (New York, 2010), 32.

<sup>116</sup> Memorandum, Rick Merrill to Frank Moore, ‘Intelligence Discussion’, 3 March 1973, (White House Central Subject File, National Security – Defence, Box ND-5 Executive, ND 4-2 1/20/77-4/30/78 to Confidential, ND 6 1/20/77-1/20/81, ND 6 1/20/77-1/20/81 Folder, [JCPL])

<sup>117</sup> Gregory Paul Domin, *Jimmy Carter, Public Opinion, And the Search for Values 1977-1981* (Macon, GA, 2003), 1-2.

<sup>118</sup> Kevin P. Phillips, ‘The Energy Battle: Why the White House Misfired’, *Public Opinion*, 1 (1978), 9-15. (Copy in Chief of Staff, Betty Rainwater Subject Files, Box 233, Public Opinion to Reorganizations, [JCPL])

attention and started a dialogue', support had waned because 'the President is not talking about it anymore.'<sup>119</sup>

The administration commissioned polls from leading companies, such as Harris, on leading policy issues. The correspondence between key figures in the administration on phrasing of the questions indicates that Carter's White House was desperately seeking both feedback on current policy and direction for future decisions.<sup>120</sup> A survey of congressional constituent problems in mid-1977 was used by the administration to allow the president to get 'involved personally in an effort to make government work better for people.'<sup>121</sup> Carter ensured that the findings became a priority to the federal government, ordering heads of all federal departments and agencies to 'address those complaints involving your agency.' Effectively dealing with these complaints, said Carter, would provide the administration with a 'unique opportunity to improve government's competence in serving the average citizen.'<sup>122</sup> Public influence on the Carter administration's policies was not restricted to those concerning domestic issues. The President believed that foreign policy failures of the past were because 'the American people have been excluded from the process.' He wanted to ensure that the American public was involved 'so that when I do speak the American people are part of it.'<sup>123</sup>

This did not always ring true when applied to intelligence issues, however. The idealistic beliefs that he had expressed in his campaign concerning a transparent accountability on intelligence issues did not always dominate. A pragmatic understanding of the needs of secrecy and the operational needs of the executive branch challenged Carter's promises. As early as February 22, 1977, just a month after his inauguration, Carter began to cite the necessity for secrecy surrounding intelligence issues, especially covert operations. 'It can be extremely damaging to our relationship with other nations, to the potential security of our country even in peacetime, for these kind of operations, which are legitimate and proper, to be revealed,' he told reporters at a press conference. He even expressed apprehension about the sharing of intelligence data between the

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<sup>119</sup> Memorandum, Rick Hutcheson to Jimmy Carter, 10 June 1977, (White House Central Subject File, Public Relations, Box PR 75 General, 14-12 9/1/77-1/20/81 to Executive, PR 15 1/1/79-12/31/79, PR 15 1/20/77-1/20/81 Folder [JCPL])

<sup>120</sup> Memorandum, William B Quandt to Zbigniew Brzezinski, 'Harris Poll Questions', 20 June 1977, (White House Central Subject File, Public Relations, Box PR 75 General, 14-12 9/1/77-1/20/81 to Executive, PR 15 1/1/79-12/31/79, PR 15 1/20/77-1/20/81 Folder [JCPL])

<sup>121</sup> Memorandum, Dick Pettigrew to Jody Powell, 'Survey of Congressional Constituent Problems' 6 October 1977, (White House Central Subject File, Public Relations, Box PR 75 General, 14-12 9/1/77-1/20/81 to Executive, PR 15 1/1/79-12/31/79, PR 15 9/1/77-5/31/7 Folder [JCPL])

<sup>122</sup> Memorandum, the President to Heads of Executive Departments and Agencies, 'Survey of Congressional Constituent Problems', 28 October 1977, (White House Central Subject File, Public Relations, Box PR 75 General, 14-12 9/1/77-1/20/81 to Executive, PR 15 1/1/79-12/31/79, PR 15 9/1/77-5/31/7 Folder [JCPL])

<sup>123</sup> Jimmy Carter, 'Democratic National Committee – Remarks at a Luncheon for Members of the Committee's National Finance Council', 28 April 1977. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=7414>

executive and the legislative branch. 'I am quite concerned about the number of people who have access to this kind of information.' He told the reporters that he intended to work with congress to 'reduce the overall number of people who have access to the sources of information.'<sup>124</sup> Elements of this pragmatic approach that had been adopted by Carter influenced the writing of the legislative framework that had been recommended by the Church Committee.

In a similar vein to that of President Ford's Intelligence Coordinating Group (ICG), the Carter administration's intended programme of reform was organised by the Special Coordination Committee (SCC) which first met in June 1977. Created by Presidential Review Memorandum/NSC 11 (PRM/NSC-11) on February 22, 1977, the SCC was to 'undertake a comprehensive review of major foreign intelligence activities and the organisational structure and functioning of the intelligence community.'<sup>125</sup> Among the members of the SCC were former Church Committee member Walter Mondale and former Church Committee chief counsel Fritz Schwartz. Now Vice President, Mondale had been in charge of the domestic intelligence investigation on the Church Committee. Although he was the ranking member of the SCC, the committee was chaired by Carter's National Security Advisor Zbigniew Brzezinski. Further Church Committee influence came in the shape of Carter's Deputy National Security Adviser, David Aaron, who had been Walter Mondale's designee during the Church Committee's enquiry. At the first meeting of SCC, Aaron was placed in charge of a working party to look at non-structural problems the SCC faced. Such issues included oversight mechanisms, foreign intelligence search legislation, restrictions on covert activity, and a bill that framed the restrictions on overseas foreign intelligence electronic surveillance.

Just as the ICG had issues concerning the desirable outcomes of interested parties, so did the SCC. Various options were considered concerning the structural reforms that were discussed: Turner wanted a complete restructuring of the intelligence community, including a director of foreign intelligence; Secretary of Defence Harold Brown suggested reforms to Executive Order 11905; and State Department representative Warren Christopher argued that there should be a Board of Directors of the entire intelligence community.<sup>126</sup> The lack of unity behind the proposed direction that the reform should take led to the committee's ineffective attempt at the establishment of charters for the individual intelligence agencies. Throughout 1978 SCC's working group analysed and redrafted S.2525 as a possible solution. The bill, officially known as the National

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<sup>124</sup> Jimmy Carter, 'The President's News Conference', 23 February 1977. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=6887>

<sup>125</sup> Presidential Review Memorandum/NSC-11, 22 February 1977, <https://history.state.gov/historicaldocuments/frus1977-80v28/d29>

<sup>126</sup> Memorandum, Zbigniew Brzezinski, Meeting of the Special Coordination Committee, 21 June 21 1977, (National Security Council Institutional Files, 1977-1981, Box 86, SCC 017 Intelligence – PRM/NSC11, 6/15/77 Folder, [JCPL])

Intelligence Reorganization and Reform Act, had been proposed by former Church Committee member Senator Walter 'Dee' Huddleston in February 1978. But by November 1978 the legislation proposed by the working group failed to meet the demands of the various departments, Congress, and even Carter himself.

It was pointed out by Mondale that the resulting legislation 'did not face up to realities on the Hill where it would be met with an explosion.' Warren Christopher, the Deputy Secretary of State, opined that the SCC working group's recommendations 'failed to draw on experience of recent years and the abuses that occurred.'<sup>127</sup> Bill Miller, who had joined the Senate Select Committee on Intelligence as its staff director after leaving the Church Committee, wrote to CIA counsel Tony Lapham in support of Mondale's criticism of the proposed charters. The removal of Congress's full and current access to information concerning intelligence activity meant 'that there is no way legislation can pass the Congress.'<sup>128</sup> The committee's difficulties in writing such charters were further enhanced by Carter's own demands. In one hand-written note on a memo to Deputy National Security Adviser David Aaron, Carter reminded Aaron to 'be sure not to approve charter provisions which are excessively detailed, specific or an intrusion into my duties and responsibilities.'<sup>129</sup> The competing demands, often at odds with each other, meant that S.2525 never made it past the Senate's intelligence committee. The failure of S.2525 should not be seen as that of Carter's inability to manage intelligence legislation, but it should be recognised as a transformation in the nature of the relationship between Congress and the executive branch from that during the Ford Administration. Whilst Ford had competed with Congress to provide acceptable intelligence legislation reform, Carter worked very much hand-in-hand with the congressional committees and leaders to get things done.

At the start of Carter's administration, the White House recognised that the relationship between the intelligence community and Congress had improved dramatically since the end of the Church Committee investigation. Both Colby and Bush in their role as Director of Central Intelligence welcomed the reduction of congressional committees that the intelligence agencies had to refer to after the establishment of the Senate Select Committee for Intelligence. The Carter White House believed that the cause of an improved atmosphere was due to Bush who had 'worked assiduously to improve the climate of suspicion and ill will created by the Senate, and especially the House,

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<sup>127</sup> Minutes, Special Coordination Committee Meeting, 27 November 1978, (National Security Council Institutional Files, 1977-1981, Box 99, SCC 119 – Intelligence (Charters), 11/27/78 [1] Folder, [JCPL])

<sup>128</sup> Letter, William Miller to Anthony Lapham, 22 November 1978, (National Security Council Institutional Files, 1977-1981, Box 100, SCC 119 – Intelligence (Charters), 11/27/78 [2] Folder, [JCPL])

<sup>129</sup> Hand written margin comment on Memorandum, David Aaron to the President, Intelligence Charter Legislation (S.2525), 1 May 1978, (National Security Council Institutional Files, 1977-1981, Box 94 SCC 075 – SALT 5/12/78 to SCC 081 – SALT5/26/78, SCC 076 – Intelligence Charters, 5/15/78 [2] Folder, [JCPL])

investigations.’ An additional factor, noted National Security Council member Samuel Hoskinson, was the combined effort of congressional leaders who had made ‘a conscious effort to conduct responsible oversight.’<sup>130</sup>

Despite the failure of the Carter administration to push through its charters for the intelligence community, it was more successful in its partnership with Congress on electronic surveillance legislation. The recommendations of the Church Committee to enact a legislative framework for the intelligence community had initially been the subject of S. 3197. The bill, proposed by Senator Ted Kennedy (D-MA) in March 1976, had been held up in various committees and was never voted on by the entire Senate. In addition, with the support of the Ford Administration, Attorney General Edward Levi had imposed his own set of restrictions on the FBI’s use of surveillance. These restrictions, said one Church Committee staff member and later Senate Intelligence Committee staff member, contributed to Congress’s inability to pass FISA and establish charters for the various agencies in the Ninety-Fourth Congress. Although the Levi guidelines were ‘pretty good’, they were ‘designed to keep us from writing a charter.’<sup>131</sup> But the November 1976 elections saw a new administration take the reins and in the Ninety-Fifth Congress, Kennedy introduced S. 1566 on May 18, 1977, in conjunction with the White House. Kennedy said the bill ‘had broad bipartisan support’, while cosponsor Senator Birch Bayh (D-IN) announced that it was introduced ‘with the support of the administration.’ Bayh tied the legislation to the Church Committee’s investigation, citing that Carter’s willingness to develop such legislation in conjunction with Congress was ‘a sign that the lessons of past abuses had not been forgotten.’ In addition, Bayh said that the bill was desired by the American public to put an end to intelligence abuses. Such a legislative charter was ‘essential for our intelligence agencies to know what the American people expect them to do – and not to do.’ However, he expected ‘neither the intelligence agencies nor every segment of the American people’ to fully agree with the details of the legislation.<sup>132</sup>

At a press meeting on the day of launch, Frederick Baron, Special Assistant to Attorney General Griffin Bell and former Church Committee staff member, confirmed the White House’s support for the bill. Baron highlighted to the assembled press that although there were differences between S.3197 and S.1566, it was fundamentally the same bill. Significantly, unlike S.3197, S.1566 covered all electronic surveillance for foreign intelligence in the United States and contained ‘no reservation of inherent Presidential power.’ In a move to protect American citizens from any

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<sup>130</sup> Memorandum, Samuel Hoskinson to Jerrold Schechter, ‘Intelligence Legislation and Congress’, 26 January 1977, (White House Central Subject File, National Security – Defence, Box ND-5 Executive, ND 4-2 1/20/77-4/30/78 to Confidential, ND 6 1/20/77-1/20/81, ND 6 1/20/77-1/20/81 Folder, [JCPL])

<sup>131</sup> Interview, Mark Gitenstein, 20 August 2014, in: *Oral History Interviews*.

<sup>132</sup> *Congressional Record*. 1977. 95<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 123, 15222-15230.

infringement on their civil liberties by electronic surveillance, all warrants for such activity could only be issued by judges who sat on the Foreign Intelligence Surveillance Court (FISC). And any warrants that were issued had to be renewed every ninety days. The ‘vigorous standards’ that would have to be met for such a warrant to be issued was intended, Baron said, ‘to eliminate the kind of abuses that the Senate Select Committee on Intelligence found in the past.’<sup>133</sup>

The Senate and the Carter White House also worked together on other intelligence-related legislation that resulted from the Church Committee enquiry. Executive Order 12036 signed on January 24, 1978, was one such example. The order tightened the restrictions on the American intelligence agencies’ use of assassination that had originally been imposed by Ford’s Executive Order 11905. National Security Council Member, and former Church Committee staff member, David Aaron, called the order ‘an important example of how the Congress and the executive branch can cooperate together.’<sup>134</sup> Vice President Walter Mondale called it an ‘historic document’ that allowed the intelligence community to ‘fully protect our Nation and do so within the law.’ Carter suggested that such was the contribution made by the Senate to the executive order that perhaps ‘never before in history has an executive order had so much congressional input.’ Carter was also eager to point out that he personally had overseen the writing of the order in the executive branch, stating that he had ‘sent it back three or four times to be redrafted.’<sup>135</sup> Discussions between the Senate’s intelligence committee and the White House had centred on the DCI’s obligation to report to the intelligence committee on any intelligence activities, including any that might violate the constitutional rights of US citizens. Committee chairman Daniel Inouye and vice chair Barry Goldwater called the inclusions of such clauses ‘fundamental to the success of our joint effort’ and ‘critically necessary for governance of secret activities and particularly secret intelligence activities.’<sup>136</sup>

The cooperative atmosphere was instrumental in the Carter administration getting FISA passed through both chambers of Congress. However, it did little to make the matter expedient, with negotiations between the White House and the Senate over the writing of FISA described by Frederick Baron as being ‘an almost eternal process.’ Instead of two bodies – the Senate and the

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<sup>133</sup> Press Release, Press Conference of Frederick Baron, The White House, 18 May 1977, (Press Office-Media Liaison Office, Jim Purks’ Subject Files, Box 20 Intelligence [2] to Israel, Intelligence [2] Folder, [JCPL])

<sup>134</sup> Press Release, Briefing By David Aaron, The White House, 24 January 1978, (Press Office-Media Liaison Office, Jim Purks’ Subject Files, Box 20 Intelligence [2] to Israel, Intelligence [2] Folder, [JCPL])

<sup>135</sup> Press Release, Remarks of the President Upon Signing of the Intelligence executive Order, The White House, 24 January 1978, (Press Office-Media Liaison Office, Jim Purks’ Subject Files, Box 20 Intelligence [2] to Israel, Intelligence [2] Folder, [JCPL])

<sup>136</sup> Letter, Daniel Inouye and Barry Goldwater to Jimmy Carter, 20 October 1977, (National Security Council Institutional Files, 1977-1981, Box 89 SCC 030 – Indian Ocean, 9/14/77 to SCC 040 – Indian Ocean, 11/09/77, SCC 039 – Intelligence – Executive Order 11905, 10/28/77 Folder, [JCPL])

White House – the whole process concerned not just the Senate Select Intelligence Committee, but also the Judiciary Committee, as well as the respective committees in the House once the bill was passed onto the House in April 1978. In addition, the White House had to consult with the Defense Department as well as the intelligence community led by Stansfield Turner who was ‘looking out for the CIA’s prerogatives and his constituency at the CIA.’ The whole ordeal, said Baron, was akin to ‘wading through molasses.’<sup>137</sup>

The final draft of the bill was debated on the Senate floor with little opposition. Kennedy called it ‘a new chapter in the ongoing ten-year debate’ into intelligence issues. It was indicative by all of those involved ‘that Congress does have a role to play in the area of foreign intelligence.’ Senator Jake Garn (R-UT), a Republican cosponsor of the bill, said its sponsorship represented ‘a unique bipartisan collaboration in the interests of national security.’ Strom Thurmond, the veteran Senator for South Carolina, identified the role that public opinion had played in the process. ‘The American public is reassured that no individual will be subject to electronic surveillance unless a judicial officer has authorised it.’ Senator Edmund Muskie (D-ME) called it a ‘landmark achievement’ as it struck ‘a working balance between the legitimate need to collect national security intelligence and the individual rights of citizens in a democratic society.’<sup>138</sup> The bill had been produced through a remarkable partisan-free environment inside the intelligence committee. Church Committee staff member John Elliff, who worked on the permanent Senate Select Intelligence Committee, said ‘that atmosphere was created by what happened in the Church Committee.’<sup>139</sup>

When he signed FISA into law on October 25, 1978, Carter emphasized that the bill was the end result of the wishes of the American public that had first been communicated during the Year of Intelligence. ‘The Act helps to solidify the trust between the American people and its government,’ Carter said. Its objective was to provide ‘a basis for the trust of the American people in the fact that the activities of their intelligence agencies are both effective and lawful.’<sup>140</sup> It was a sentiment shared by Rep Romano L. Mazzoli (D-KY), who had expressed during the House’s reading of the bill that the American people would only support a bill that allowed electronic surveillance if a ‘detached magistrate has studied the case and found that the statutory standards for a surveillance have been met.’<sup>141</sup>

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<sup>137</sup> Interview, Frederick D. Baron, 28 May 2015, in: *Oral History Interviews*.

<sup>138</sup> *Congressional Record*, 1978, 95<sup>th</sup> Congress, 2<sup>nd</sup> sess. Vol. 124, 10887-10910.

<sup>139</sup> Interview, John Elliff, 28 March 2014, in: *Oral History Interviews*.

<sup>140</sup> Jimmy Carter, ‘Statement by the President’, 25 October 1978, (Robert Lipshutz’s Subject Files Box 13 Electronic Surveillance, Electronic Surveillance (Domestic 5/77-10/78 [CF, O/A 710] Folder, [JCPL])

<sup>141</sup> Statement of the Honourable Romano L. Mazzoli on HR 7308 before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, House Committee of the Judiciary’, 29 June 1978, (George Lardner Jr. Papers, Box 43 FISA, Wiretapping – Foreign Intelligence Surveillance Act/ Congressional Hearings Folder, Library of Congress)

Carter's claims that the bill was entirely the result of public opinion are not entirely true. There were numerous references throughout the negotiations to the findings of the Church Committee. The fascination and curiosity that engulfed the nation during 1975 were not as evident in 1978 as they had been during the Year of Intelligence. In September 1978, intelligence issues were not at the forefront of people's minds. One Harris survey said that 'the dominant issue of these times is not the Middle East or foreign policy, but instead the state of people's pocketbooks.' The economic crisis caused by inflation and a stagnant economy overshadowed Carter's success in foreign policy. The Middle East peace treaty signed in September 1978 by Israeli Prime Minister Menachem Begin and Egyptian President Anwar Sadat had been overseen by Carter during twelve days of secret talks at Camp David. The 56 per cent of Americans polled by Harris that believed that Carter had positively handled foreign affairs was outweighed by the 73 per cent negative rating he received for his handling of the economy.<sup>142</sup> While 85 per cent of those questioned in June, 1978 believed that 'illegal wiretapping and other forms of electronic surveillance' were probably going on, there was no indication that legislation was called for.<sup>143</sup>

Newspaper coverage of the bill was exceptionally light and the bill was not met with either the fanfare or acclaim that had met either the Church Committee final report or the creation of the Senate Select Committee for Intelligence. The Carter administration had recognised that the public demand for intelligence reform had dwindled significantly since the start of the administration. It put the administration's failure to have its agency charters passed down to all the momentum toward intelligence legislation being exhausted from both Congress and the public.<sup>144</sup> The lack of public interest was reflected by the story failing to reach the front pages or the editorials of either the *Washington Post* or the *New York Times*. Whilst the *Washington Post* recognised that Carter had effectively ended 'forty years of executive branch claims of "inherent" power to spy at will' the news did not receive the coverage it deserved.<sup>145</sup> The Year of Intelligence, which had begun with a sensational bang on the front page of the nation's press, finished with a whimper, almost forgotten by its proponents.

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<sup>142</sup> Louis Harris, 'The Harris Survey', 28 September 1978, (Staff Offices Domestic Policy Staff Stuart Eizenstat Subject File, Box 253 Personnel [CF, O/A 43] to Pollster Reports – Public Opinion [O/A 6316], Pollster Reports – Public Opinion [O/A 6316] [1] folder, [JCPL])

<sup>143</sup> Louis Harris, 'The Harris Survey', 15 June 1978, (Staff Offices Domestic Policy Staff Stuart Eizenstat Subject File, Box 253 Personnel [CF, O/A 43] to Pollster Reports – Public Opinion [O/A 6316], Pollster Reports – Public Opinion [O/A 6316] [2] folder, [JCPL])

<sup>144</sup> Special Coordination Committee Information Brief, 15 May 1978, (National Security Council Institutional Files, 1977-1981, Box 94 SCC 075 – SALT 5/12/78 to SCC 081 – SALT5/26/78, SCC 076 – Intelligence Charters, 5/15/78 [2] Folder, [JCPL])

<sup>145</sup> George Lardner Jr., 'Carter Signs Bill Limiting Foreign Intelligence Surveillance', *Washington Post*, 26 October 1978.

## 5.7 A Significant Contribution to Oversight Reform

The effect of public opinion during the Year of Intelligence stretched far beyond the sixteen-month period during which Congress investigated intelligence abuses. Through the legacy of the Church Committee, public opinion had a far-reaching influence on congressional oversight of the intelligence community. The creation of a permanent Senate Select Committee for Intelligence and the enactment of the Foreign Intelligence Surveillance Act of 1978 are the two major examples of the long-lasting consequence of the Church Committee and its enquiry. These were significant achievements and important milestones in congressional intelligence oversight reform. Twenty years prior to the Church Committee, Mike Mansfield had spoken of the difficulties he had establishing a joint intelligence committee. 'I hope that lesson will be remembered,' he stated, 'and I hope also what has gone on before will not be forgotten.'<sup>146</sup> The inspiration and motivation for these remarkable accomplishments can be directly attributed to the enquiry, final report, and recommendations of the investigation that was launched due to the demand of public opinion within the United States.

Frank Church had managed to keep the committee's enquiry a bipartisan affair throughout the entire sixteen months, and the report shared the same character and consequently received a favourable reception from the press. Despite Otis Pike's belief that 'less information was made public' because Church had made compromises with the executive branch, the *Chicago Tribune* wrote that 'the Senate committee's report gives an impressive warning.'<sup>147</sup> The *Los Angeles Times* believed that the committee's investigation had 'raised profound questions about American society, its freedom, now and in the future.' Furthermore, the final report's recommendations were thought to have struck 'a balance between the requirements of secrecy and the mandates of constitutional democracy.'<sup>148</sup> The *New York Times* wrote that the numerous recommendations of the report were aimed at 'the re-establishment of law abiding government.'<sup>149</sup> It was because of this assessment of the Church Committee that the recommendations for reform were taken seriously.

The creation of the permanent intelligence committee was the bedrock upon which all of the Church Committee recommendations stood. Church and his fellow panel members identified the necessity of a committee with distinctive oversight responsibilities within Congress. Church believed that effective oversight could not be done 'on a piecemeal basis or by a subcommittee of another

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<sup>146</sup> United States Congress, Senate. Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess., 12.

<sup>147</sup> Otis Pike quote from Leslie H Gelb, 'Spy Inquiries, Begun Amid Public Outrage, End in Indifference', *New York Times*, 12 May 1976; 'Lawbreaking by the FBI', *Chicago Tribune*, 30 April 1976.

<sup>148</sup> 'To Be Free and Secure', *Los Angeles Times*, 2 May 1976.

<sup>149</sup> 'Domestic Intelligence', *New York Times*, 2 May 1976.

standing committee which is primarily engaged in a different basic responsibility.<sup>150</sup> The Senate listened to Majority Leader Mike Mansfield's calls to 'exert some degree of scrutiny and vigilance, to perform some measure of oversight, to extract a commitment of ongoing accountability.'<sup>151</sup> Despite the attempts by members of the Armed Services such as Senators John Tower and John Stennis to keep their authority for oversight of the CIA within their own committee, the Senate agreed that the primary recommendation of the Church Committee should be followed through. The establishment of the committee caused 'a revolution in the way the Senate conducted intelligence oversight.'<sup>152</sup> Church thought that the committee would be 'an important step toward establishing an agreed-upon procedure by which problems of national importance that are necessarily secret in character can be addressed within the constitutional framework.'<sup>153</sup>

In addition to the creation of the Senate committee, another step recommended by the Church Committee's final report was a legislative framework for the intelligence community. Carter expected the passing of the Foreign Intelligence Surveillance Act to be 'the first long step toward the goal of establishing statutory charters.'<sup>154</sup> But despite such backing it failed to reach such heights. A lack of unity and direction within the executive branch, despite the creation of the Special Coordination Committee, meant that such aspirations were doomed. The decline in public interest in intelligence legislation both in Congress and the press only exacerbated the matter further. By the end of 1978 the public were more concerned with a stagnating economy than intelligence abuses that had long disappeared from the front pages. Carter had suffered a rapid fall in his job approval ratings from a positive 74 per cent in March 1977 to just 49 per cent at the time of signing FISA into law eighteen months later. The public's ambivalent attitude to intelligence issues during the Carter administration meant that intelligence reform was not one of his priorities.<sup>155</sup>

The Church Committee, through its recommendations and findings, established an agenda and standards for the future of congressional oversight. However, Church himself rightly recognised that the demand for intensive oversight of the intelligence community would fluctuate with the changes in the political landscape. The Church Committee had benefitted from the mistrust of the executive branch and its agencies sown by the American experience in Vietnam and of Watergate. Church noted that the Senate's intelligence committee members of the future would also 'exercise

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<sup>150</sup> United States Senate, Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess., 28.

<sup>151</sup> *Ibid.* 12.

<sup>152</sup> Smist, *Congress Oversees*, 81.

<sup>153</sup> United States Senate, Committee on Government Operations, *Hearings on Oversight of US Government Intelligence Functions*, January 21, 22, 23, 26, 27, February 2, 3, 5, 6, 1976, 94<sup>th</sup> Congress, 2<sup>nd</sup> sess., 41.

<sup>154</sup> Jimmy Carter, 'Statement by the President', 25 October 1978.

<sup>155</sup> Poll data from Gallup <http://www.presidency.ucsb.edu/data/popularity.php?pres=39> (accessed January 29, 2018)

its surveillance with whatever diligence the political climate of the time makes for.<sup>156</sup> The Church Committee had indicated that the impetus for Congress to act with such industry, in an area where it had historically been so negligent, could only come through public demand.

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<sup>156</sup> Smist, *Congress Oversees*, 81.

# Conclusion

## Life after the Committee

In July 1976, at the Democratic National Convention in Madison Square Garden in New York, Jimmy Carter was nominated as the Democratic Party candidate for that year's presidential election. Just prior to this, Senator Frank Church and his wife Bethine were invited to meet Carter to discuss the possibility of Church being Carter's running mate. Bethine had been an ever-present figure beside Church during his entire political career. From a prominent political Idahoan family, she had been 'protective of his public image with everybody.'<sup>1</sup> Church had won five state primaries during his unsuccessful attempt at winning the Democratic Party presidential nomination, more than any of Carter's other rivals for the despite his late entry into the race, and had obvious appeal to liberal voters. Accompanying Church and Bethine to meet Carter and his wife, Rosalynn, was his executive assistant, Mike Wetherell. For posterity, Wetherell decided to take the first picture of what might have been the next President and Vice President of the United States at the meeting. 'I was backing up, taking a picture, and stepped on Mrs Carter's foot. If looks could kill, Bethine would have killed me,' Wetherell said, adding that Church's intimate circle of friends and advisors jokingly blamed him for costing Church the Vice Presidency, and still do this day.<sup>2</sup>

Carter's first choice for his vice-presidential running mate had been Frank Church. Carter wrote that if he had been forced to decide prior to the convention then it would have been Church.<sup>3</sup> It was believed by Carter, according to his personal aide Mike Schneider, that not only was Church the most qualified but that he had gone through the primaries and had the most to add to the Democratic Party ticket.<sup>4</sup> Bethine wrote she was informed that Carter liked that Church and Bethine had campaigned in a similar manner to how he and his wife had conducted their campaign.<sup>5</sup> Importantly, prior to the nomination, Church had more of a national profile than Carter. Larry LaRocco, Church's representative in northern Idaho, spoke of how Church had built upon this profile to create 'a national constituency – labour, environmentalists, pro-Israel' during the 1976 campaign.<sup>6</sup>

Despite the positive indications towards Church, Carter opted to choose Walter Mondale ahead of him. Wetherell believed that despite being first choice, Church's chairmanship of the Church Committee cost him the chance of higher office. 'The CIA and intelligence community

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<sup>1</sup> Interview with the author, Jerry Brady, Boise, Idaho, 16 September 2016.

<sup>2</sup> Interview with the author, Mike Wetherell, Boise, Idaho, 15 September 2016.

<sup>3</sup> Jimmy Carter, *Memoirs of a President* (New York, 1982), 36-37.

<sup>4</sup> Ashby and Gramer, *Against the Odds*, 524.

<sup>5</sup> Bethine Church, *A Lifelong Affair: My Passion for People and Politics* (Washington D.C., 2003), 245.

<sup>6</sup> Interview with the author, Larry LaRocco, Boise, Idaho, 14 September 2016.

stopped that,' he said.<sup>7</sup> Garry Wenske agreed that the Church Committee 'had made him a lot of enemies in Washington among the intelligence groups.'<sup>8</sup> Rumours of an impending article in the *Economist* magazine that would apparently reveal that the KGB had infiltrated the Church Committee could not have helped Church's cause. The proposed article, by an unknown author, never came to be written, and the rumours disappeared after the convention. Church's stance against Vietnam had marked him as a 'dove' among influential Democrats which caused considerable opposition to such a character so close to the presidency.<sup>9</sup> Wetherell had discussed with Church prior to the convention why Carter might not choose him as the candidate for the vice presidency. The biggest concern, according to Wetherell, was that Church was more of an 'independent senator' compared to fellow Church Committee member and vice presidential hopeful Walter Mondale. Mondale also seemed to be satisfied with being the junior partner.<sup>10</sup>

Church's biographers suggest that Church would have been happy with being Vice President. Former Church staffers differed in their opinion whether Church would have been happy being Carter's vice president. Garry Wenske believed that Church 'would have done a great job' despite his previous presidential aspirations.<sup>11</sup> Wetherell was unsure when questioned about whether Church would have been satisfied with being Vice President. 'Maybe. Maybe not. It depends how Carter would have utilized him.'<sup>12</sup> In his memoir, Carter gave some indication of the enmity that lay hidden beneath the surface of the Carter-Church relationship, describing Church during his presidency as 'taking cheap shots' at him and of not always being 'a reliable ally.'<sup>13</sup>

Despite the setback in attaining higher office, Church's political career did not finish in 1976, or because of his chairmanship of the Church Committee. He ascended to the chairmanship of the Senate's Foreign Relations Committee in 1979 after the retirement of Senator John Sparkman (D-AL). In doing so, he achieved not only a lifelong ambition, but also emulated his political idol and fellow Idahoan senator, William Borah (R-ID). However, he failed to win another election. His public support for returning the Panama Canal to the Panamanian government contributed towards his failure to get re-elected to the Senate in 1980. And it was not just the Panama Canal that affected his chances of holding his seat – in a rally in Idaho Falls, Church was confronted by one member of the public and accused of killing Richard Welch, the CIA station chief.<sup>14</sup> The Panama Canal and the

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<sup>7</sup> Interview with the author, Mike Wetherell, Boise, Idaho, 15 September 2016.

<sup>8</sup> Interview with the author, Garry Wenske, Boise, Idaho, 16 September 2016.

<sup>9</sup> Ashby and Gramer, *Against the Odds*, 525-526.

<sup>10</sup> Interview with the author, Mike Wetherell, Boise, Idaho, 15 September 2016.

<sup>11</sup> Interview with the author, Garry Wenske, Boise, Idaho, 16 September 2016.

<sup>12</sup> Interview with the author, Mike Wetherell, Boise, Idaho, 15 September 2016.

<sup>13</sup> Jimmy Carter, *White House Diaries* (New York, 2010), 288-290.

<sup>14</sup> Interview with the author, Peter Fenn, Washington D.C., 11 October 2016.

Church Committee were pieces of evidence his opponents used to illustrate to conservative Idahoans, as Jerry Brady put it, that 'he was more interested in foreign affairs than cows and wheat.'<sup>15</sup>

Church's failure to get re-elected led to him returning to practicing law in Bethesda, but it was only a brief return. On April 7, 1984, Church died after a brief battle against pancreatic cancer; he was still just fifty nine years of age. His dedication to public service was recognised by those in Washington and Idaho. 'His greatest legacy is as an example of public citizenry,' said one former member of staff. 'He was a man of ideas, and a speaker, and a champion of things.'<sup>16</sup> Church's philosophy of doing what was right for the American public reflected in the staff that supported and worked for him. 'They all seemed to have a commitment to public service.'<sup>17</sup> Nowhere was this more evident than in the staff members and the investigation of the Church Committee. 'This wasn't some publicity hunt,' said investigator Peter Fenn. The committee and the staff had recognised that there was a problem with the democratic system of the United States. And in the image of the chairman, their attitude was 'let's solve the problem!'<sup>18</sup>

The Church Committee, and by a logical extension public opinion, had a largely negative effect on the ambitions of Church. His bid for the Democratic Party nomination had been sorely affected by the necessity of delaying his entry into the race for the White House. The fears within Congress in January 1975 that the enquiry would be a springboard for a bid for the presidency were unfounded. Church did not gain the high profile national image that some thought he would.<sup>19</sup> Furthermore, the extension of the lifetime of the committee's enquiry until December 1975 delayed his entry further and, consequently, severely hampered any prospects that he had of raising campaign funds capable of winning the nomination. His chances of being Carter's running-mate were halted by those who had seen his enquiry as sensational and unjustified. Nonetheless, Church recognised that the committee's investigation would arguably be his most important contribution to the American democratic process. His dedication to public service meant that, despite such obvious obstacles, he embraced it head-on.

### **Public Opinion's Effect on the Intelligence Community**

Despite the Church Committee having a negative impact on Frank Church's career, public opinion during the Year of Intelligence failed to have a structural effect on the agencies at the centre

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<sup>15</sup> Interview with the author, Jerry Brady, Boise, Idaho, 16 September 2016.

<sup>16</sup> Interview with the author, Jerry Brady, Boise, Idaho, 16 September 2016.

<sup>17</sup> Interview with the author, Larry LaRocco, Boise, Idaho, 14 September 2016.

<sup>18</sup> Interview with the author, Peter Fenn, Washington D.C., 11 October 2016.

<sup>19</sup> Nicholas M. Horrock, 'The Meaning of Congressional Intelligence Inquiries', *New York Times*, 30 April 1976.

of the crisis. The Church Committee sped up the reforms that had begun in both the CIA and FBI but did not instigate them. The committee's investigation did affect the operational procedures of the intelligence community through the legislative reforms that followed the committee's enquiry. FISA affected how foreign intelligence was collected and affected the day to day operations of those parts of the intelligence community concerning foreign intelligence. However, the individual institutions and agencies that the intelligence community was composed of remained structurally unscathed. The reforms that were made during the period of the Year of Intelligence and shortly afterwards to the CIA and FBI were largely confirmation of reforms that had been initiated or discussed prior to the period. The enquiry, revelations, findings and recommendations of the Church Committee merely accelerated the processes of restructure that were already in place.

The enquiries into the CIA had led to suggestions that structural reform would follow in both the CIA and FBI. Seymour Hersh wrote that the CIA's issues were 'far more deeply rooted' than investigators believed and called for remedial action.<sup>20</sup> However, the reforms that did follow were operational, and almost entirely independent of the investigations into the intelligence community. Furthermore, the recommendations for major reorganisation of the various intelligence agencies were not solely those of the congressional enquiries. The Rockefeller Commission had proposed structural changes to the CIA, suggesting that an outsider with a term limit of ten years be appointed as Director of the agency and that the office of the Inspector General of the CIA be enlarged. Whilst the Commission had also discussed splitting the agency into two parts, intelligence gathering and analysis being one section and operations being the other, it decided against including it in its recommendations. Douglas Dillon, vice chairman of the commission, said that 'the commission just didn't think that would be wise.'<sup>21</sup> This would have been a radical course for the Commission to have taken and not one with which Ford would have agreed.

Gerald Ford's Executive Order 11905 demanded little in terms of agency reorganisation. Ford had already selected former Republican Party chairman George Bush to replace William Colby as Director of the CIA. Church had spoken against Bush's appointment on the Senate floor, arguing that Ford was politicising the agency. He believed that Bush's appointment would 'contradict the very purpose of political impartiality and objectivity for which the agency was created.' Such an appointment was to go against the 'chorus of voices from across the land expressing strong opposition to this perversion of CIA neutrality and independence.'<sup>22</sup> Church's pleas fell on deaf ears

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<sup>20</sup> Seymour Hersh, 'At its Best, How Good is the CIA in a Democracy', *New York Times*, 15 June 1976.

<sup>21</sup> C. Douglas Dillon quoted in Clifton Daniel, 'CIA Report May Mean a Major Reorganisation', *New York Times*, 12 June 1975.

<sup>22</sup> Frank Church, 'Political Neutrality and Professionalism in the CIA: On Preserving A Noble Tradition', 27 January 1976, (Transcript found in Series 10.6 Special Files, Box 1, Folder 21 CIA-FBI Investigation (1), FCP)

and Bush's appointment was duly ratified by the Senate. In Colby, Ford had dismissed a career agency man who had been severely criticised by members of the executive branch for his willingness to cooperate with the Church Committee. Robert Gates, who would go on to serve as both Director of the CIA and Secretary of Defence in future administrations, believed that Colby was a 'reform Director – as someone from the inside prepared to make changes in order that the CIA do its job better.' Gates correctly believed that Ford was in no position to resist oversight changes after Watergate. Colby had recognised the problem and realised that he had no choice other than to work with Congress to avoid another constitutional crisis.<sup>23</sup>

Unsurprisingly Colby agreed that the 'radically altered nature of Congress' was impossible to fend off. Colby wrote that the congressional enquiries did have an effect on the CIA but not in terms of reform. 'The greatest impact,' Colby wrote, 'was on the morale of the agency. With every new sensational headline, with every new damaging revelation, nerves frayed, emotions erupted.'<sup>24</sup> Furthermore, Colby argued that Executive Order 11905 was a consequence of his ambition to frame an 'omnibus' intelligence directive after he became DCI in 1973. The directive, in many respects similar to the executive order, was expected to review 'the charter, relationships, and rules of behaviour of the community and its agencies and ensure that they were realistic and proper in today's world.'<sup>25</sup> The loss of morale was a small cost for what the CIA gained from the Year of Intelligence. 'The CIA emerged from its trial with a refurbished reputation,' wrote Rhodri Jeffreys-Jones, and the American had an appreciation and greater understanding of the agency and its work.<sup>26</sup> Colby's successor's time in charge of the agency was brief but is fondly remembered by the staff of the period. Bush aimed to raise morale, and rather than grasping the opportunity to make cosmetic reforms, Bush 'went easy on the Agency' and helped it recover from the assault it had faced during 1975.<sup>27</sup>

Instead, the influence of public opinion during the Year of Intelligence allowed the FBI to draw a line under its wayward past. In an editorial in April 1976, the *Washington Post* seemed to admonish the bureau and castigate Congress for the FBI's misdemeanours. The article framed the illegal and unconstitutional activities of the FBI as part of 'the growth of the FBI's power and autonomy during J Edgar Hoover's 48-year reign.' By doing so, it was assisting the bureau in constructing a narrative that the deceased former director was the sole internal cause of the aberrations that had been exposed. To further absolve the bureau of any guilt, the *Washington Post*

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<sup>23</sup> Gates, *From the Shadows*, 61-63.

<sup>24</sup> Colby and Forbath, *Honourable Men*, 402-412.

<sup>25</sup> *Ibid.* 447-448.

<sup>26</sup> Jeffreys-Jones, *The CIA and American Democracy*, 215.

<sup>27</sup> Stansfield Turner, *Burn Before Reading*, 155.

argued that all of the intelligence community's activities had been as a result of inadequate congressional oversight of domestic and foreign intelligence. 'Oversight was largely left to friendly committees who were not inclined to embarrass or check the agencies involved, especially the FBI,' it stated.<sup>28</sup> The *New York Times* agreed in its own editorial columns, claiming that intelligence abuses in general were because 'while the executive usurped power, the Congress was evading its responsibility.'<sup>29</sup> Hoover's successor as Director of the FBI, Clarence Kelley, attempted to put a line under the controversy surrounding COINTELPRO in May 1976. In a speech at Westminster College in Fulton, Missouri, he admitted the operations were 'clearly wrong and quite indefensible,' and consigned them as history by stating 'we most certainly must never allow them to be repeated.'<sup>30</sup>

In March 1976, Attorney General Edward Levi issued a series of new guidelines and directives concerning domestic intelligence operations; the bureau had effectively ensured that there would be no repeat of the horrors of the previous forty years. This was underlined by the bureau's move to focus on organised and white-collar crimes.<sup>31</sup> But there was no wholesale dismantling or radical restructuring of the bureau as was feared by its supporters and agents. The implementation of FISA, incorporating a lot of Levi's recommendations, placed legal restrictions on the domestic collection of intelligence through electronic surveillance. The legal ambiguity surrounding the authorisation of wiretapping and bugging that had allowed Hoover's bureau to conduct COINTELPRO so effectively was removed. Ultimately, such legislation gave the public confidence that the bureau would not commit the same terrible crimes that it had perpetrated in the previous three decades. And it was not long before those on the political right argued that the restrictions imposed on the bureau were restricting its ability to hunt down criminals and subversives.<sup>32</sup>

As well as these easily identifiable outcomes, a subtler but equally important consequence of public opinion during the Year of Intelligence was the change in public confidence and perception of the intelligence community. This hard to measure but traceable product of the Year of Intelligence is reflected through popular culture such as music, film and television of the late twentieth and twenty first centuries. The American public's estimation of the intelligence community was affected by an almost reciprocal relationship between popular culture and the intelligence community's past. In the period after the year of intelligence until the present day, public perception of the CIA and FBI has been affected by representations of the agencies in popular culture. Tricia Jenkins' work focused

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<sup>28</sup> 'The Domestic Intelligence Report', *Washington Post*, 30 April 1976, 24.

<sup>29</sup> 'Domestic Intelligence', *New York Times*, 2 May 1976.

<sup>30</sup> Kelley and Davis, *Kelley*, 188-189.

<sup>31</sup> Athan Theoharis, *The FBI and American Democracy*, 148-149.

<sup>32</sup> Jeffreys-Jones, *The FBI*, 196.

on the symbiotic relationship between the CIA and US film industry from the 1970s onwards. Jenkins notably identified that the agency had been depicted in five different ways since the 1970s – firstly, that the CIA assassinated people; secondly, that the CIA was composed of rogue operatives who failed to put country or colleagues first; thirdly, that the CIA neglected former operatives and agents; fourthly, that the CIA was a morally bankrupt institution; and finally, the CIA has been depicted as a hopelessly ineffective agency. Jenkins’ work is convincing because whilst these depictions are not all-encompassing of the agency’s portrayal on the silver screen, an exceedingly high number of films do fit these categories. In particular, there are a large number of films involving the CIA in the period after the Year of Intelligence, and very few prior to the Church Committee.<sup>33</sup>

Jenkins recognised the work on assassinations done by the Church Committee and stated that the revelations of the agency’s history directly attributed to the change in the agency’s portrayal in film and television. In addition, Jenkins suggests that the agency is a victim of the secrecy that it surrounds itself with which allows scriptwriters to be creative with the truth. It is not coincidental that all of the different depictions of the CIA identified by Jenkins were conclusions arrived at by the Church Committee, press and public during the Year of Intelligence. The Year of Intelligence was bookended by two significant movies concerning intelligence and surveillance: in June 1974, Gene Hackman starred in *Conversation*, a film that concerned the world of surveillance conducted by private investigators, whilst *Three Days of the Condor*, released in November 1975, starred Robert Redford as an analyst on the run from the CIA in New York City. These films must have appeared as realistic interpretations of the agency and the world of intelligence to the American public during the Church Committee’s enquiry.<sup>34</sup> The Church Committee’s findings and reports, released five months after the *Three Days of the Condor*, linked the film to reality and vice versa, and was the foundation on which the agency would be portrayed on screen for the next forty years.

Through the revelations of the public enquiries, the public image of the incorruptible G-Man, which Hoover had worked so hard to impose on the American public, disappeared. In its place was an agency that was ineffective and worked against the American public. However, the rank and file agents were often seen as champions of the American public acting against establishment forces within the bureau. This was depicted in films such as *Mississippi Burning* where naive Agent Ward, played by Willem Defoe, convinces the older and more cynical Agent Anderson, played by Gene

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<sup>33</sup> Tricia Jenkins, *The CIA in Hollywood: How the Agency Shapes Film and Television* (Austin, 2012), 17-26.

<sup>34</sup> *The Conversation*, dir. Francis Ford Coppola, USA, Paramount Pictures, 1974; *Three Days of the Condor*, dir. Sydney Pollack, USA, Paramount Picture, 1975.

Hackman, to thoroughly investigate the crimes against civil rights activists in the American South.<sup>35</sup> This portrayal was perpetuated further by the long running television series *The X-Files*. With the tag line 'The Truth is Out There', the maverick agents attempted to uncover a government conspiracy against the American public. What makes this conspiracy more heinous to the viewers is that it is protected by the agents' superiors thwarting the investigators by classifying information in the name of national security.<sup>36</sup>

The depictions of the FBI and the CIA in popular culture since the Church Committee were only made possible because of the findings of the Church Committee. The American public demanded to know what the enquiries during the Year of Intelligence had uncovered. The involvement of the CIA in plots to assassinate leaders of foreign nations, and the FBI's illegal surveillance of American citizens protesting against the government gave credibility to the claims of government conspiracy. This, coupled with Watergate's confirmation that the executive branch did conspire to subvert the democratic process, allowed such portrayals of the intelligence community to perpetuate. Suspicions established by the Church Committee were confirmed by films based on real-life incidents, such the investigation into the treason committed by FBI agent Robert Hanssen in *Breach*.<sup>37</sup>

These representations of the intelligence community were made all the more credible by the failure of intelligence oversight in the twenty first century. Whilst public opinion during the Year of Intelligence had caused some operational restrictions on the intelligence community, Congress failed to enforce them fully to avoid the abuses of yesteryear being repeated. At its height, during the Year of Intelligence, public opinion called for Congress to ensure that the privacy of American citizens took primacy over national security. Church's warning, during the hearings into the National Security Agency, that 'the danger lies in the ability of the NSA to turn its awesome technology against domestic communications' was chillingly prescient.<sup>38</sup> The agency, the electronic gathering arm of the US intelligence community, was prominent in the revelations of former NSA and CIA employee Edward Snowden in 2013. Snowden revealed that the NSA had been part of a global clandestine operation that collected telecommunication data on US citizens in the decade prior to his disclosure in the *Washington Post* and *Guardian*.<sup>39</sup> In a similar fashion, the Church Committee revealed not only the existence of the NSA – an agency that had not been publicly known about prior to 1975 - but

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<sup>35</sup> *Mississippi Burning*, dir. Alan Parker, USA, Orion Picture, 1988.

<sup>36</sup> *The X-Files*, dir. Various, USA, 20<sup>th</sup> Century Fox Television, 1993-2018.

<sup>37</sup> *Breach*, dir. Billy Ray, USA, Universal Pictures, 2007.

<sup>38</sup> *Church Hearings*, Vol.5, 2.

<sup>39</sup> For more on Snowden's revelations see Glenn Greenwald, *No Place to Hide: Edward Snowden, the NSA and the Surveillance State*, (London, 2015); Edward Jay Epstein, *How America Lost its Secrets: Edward Snowden, the man and the theft*, (New York, 2017).

also that it had collected international telegrams and cables of private US citizens for twenty eight years, and had monitored the international telephone calls of over 1,500 Americans.

Church had warned that if an American president wanted to aspire to dictatorship, the technological capabilities of the intelligence community could 'place in his hands the means to impose near absolute surveillance.'<sup>40</sup> The failure of the Senate Select Committee on Intelligence to conduct effective intelligence oversight was not a failure of the Church Committee. The recommendations of the Church Committee were forward thinking and recognised the possibility of what lay ahead. The National Security Agency was at the centre of such concerns. 'Some of this we could see coming because of the technology,' said Church Committee investigator Peter Fenn. The collection of electronic surveillance metadata by the NSA was already in place in 1976 although shrouded under the secrecy of national security. 'We were worried about payphones!' laughed Fenn. 'Who uses payphones now?'<sup>41</sup>

Not only was the NSA conducting warrantless collection of data in the name of national security, but the CIA was attempting to obtain vital information in the fight against terrorism through inhuman methods. The agency's abuse was catalogued in a 2012 report by the Senate Select Committee on Intelligence popularly known as the *CIA Torture Report*. The report uncovered instances of water-boarding, sleep deprivation, and other physical and psychological methods of torture conducted by the CIA between 2001 and 2009. The committee found the interrogation and conditioning techniques to be 'cruel, inhuman and degrading.' Crucially, none of these methods were judged by both the agency and the Senate Select Committee on Intelligence to produce worthwhile intelligence. Committee chairman, Senator Dianne Feinstein (D-CA), mirrored the comments made by Church in the final report of the Church Committee. Whilst Feinstein recognised that the agency had committed 'improper actions' that were 'taken in the name of national security,' she said she could 'understand the CIA's impulse to consider the use of every tool to gather intelligence.' Just as Church had charged that responsibility for the abuses his committee found were the result of oversight failure, Feinstein said the CIA had responded to 'political leaders and the public to do whatever it could to prevent another attack.'<sup>42</sup>

The NSA's data collection and the CIA's torturing of prisoners were symptomatic of the failure of congressional oversight, not of the Church Committee and its recommendations. In the post-9/11 United States, the intelligence community was placed under minimal scrutiny by the

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<sup>40</sup> Frank Church, 'Americans and the Law: a Speech before the Women's National Democratic Club, 8 September 1975, (Transcript found in 10.6 Special Files, Box 1, Folder 21, CIA-FBI Investigation (1), FCP)

<sup>41</sup> Interview with the author, Peter Fenn, Washington D.C., 11 October 2016.

<sup>42</sup> Senate Select Committee on Intelligence, *Committee Study of the Central Intelligence Agency's detention and Interrogation Program*, (Washington D.C., 2014), 1-4.

permanent congressional intelligence committees. In the period between the Church Committee and the Snowden revelations, Congress and the intelligence community had entered the Era of Uneasy Partnership (1975-1986); an Era of Distrust (1987-1991); and Era of Partisan Advocacy (1992-2001); followed by an Era of Ambivalence. It was an era in which the oversight committees rallied behind the executive and the intelligence community and applied little in the way of checks or balance.<sup>43</sup> Congress had once again failed to perform its constitutional duty to apply checks and balances to the executive branch's agencies of the intelligence community. In the *CIA Torture Report*, Feinstein urged Americans to learn from the committee's findings and not allow 'history to be forgotten and grievous past mistakes to be repeated.'<sup>44</sup> But the committee itself had forgotten its own history and the instances which had caused it to be established and had allowed, under the guise of national security, the executive branch to go beyond its limits of constitutional power.

### **Public Opinion and National Security Policy**

This research set out to answer five main research questions. Firstly, it has shown that public opinion had a limited role in President Gerald R. Ford's decision-making process during the Year of Intelligence. Ford's incomplete and inaccurate assessment of public opinion contributed significantly towards the administration's failure to achieve its objectives during the Year of Intelligence. Secondly, Congress recognised that any of its proposed reforms to intelligence oversight would need the backing and support of the American public. It is for this reason, that the Church Committee was created and why its members were chosen. Thirdly, the investigation was largely guided by public opinion. The enquiry's methods and objectives were responses to the wishes of the American public. Fourthly, Church kept his promise and ensured that the investigation was neither a white wash nor a witch hunt. The committee's enquiry was a balanced review of the intelligence community that recommended legislative reform. Finally, this research illustrated that public opinion's effect on US national security policy can have long term consequences. The legislation and institutional reforms caused indirectly by public opinion have survived into the twenty first century.

The Year of Intelligence was enabled, instigated, perpetuated, diminished, and finally ended by public opinion. The same public opinion, through the Church Committee's recommendations and subsequent reforms of oversight of the US intelligence community, had a legacy that has lasted until the twenty first-century. Its influence was not restricted to just the sixteen months of the

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<sup>43</sup> Loch K. Johnson, *A Season of Enquiry Revisited: the Church Committee Confronts America's Spy Agencies*, (Lexington, 2015) 298; Loch K. Johnson, 'Accountability and America's Secret Foreign Policy: Keeping a Legislative Eye on the CIA', *Foreign Policy Analysis*, 1 (2005), 99-120.

<sup>44</sup> Senate Select Committee on Intelligence, *Committee Study of the Central Intelligence Agency's detention and Interrogation Program*, 3.

congressional investigations. For two years after the enquiries the Carter administration endeavoured to convert into legislation the wishes of the American public. The slow speed of the government's reaction, as regulated by the Constitution, meant that public clamour had diminished. The reciprocal relationship between Congress and public opinion meant that as public demand for reform died, so did Congress's enthusiasm to establish restrictive charters on the agencies of the intelligence community. It is unlikely that the congressional enquiries would have occurred without the public's outrage at the intelligence abuses reported by the *New York Times*. The failure of previous attempts to investigate the intelligence community reflected the conservative nature of the American political system sustained by 'the passive sea of public concern over intelligence matters.' The Seymour Hersh article of December 1974 provided the outraged and interested public that was the essential ingredient in the drive for enquiry and reform.<sup>45</sup>

Public opinion was not the only cause of the Church Committee, but it was the most substantial factor in the creation of the Senate enquiry. Public opinion was first expressed through the mid-term elections of November 1974. These elections ushered in the Watergate Babies that constituted the momentum of the Fighting Ninety Fourth Congress. Sensing a change in the political atmosphere, the voice of the nation was expressed through the editorials of the press. The columns that castigated the executive branch were supported by the private views of individuals, illustrated in the letters of Church's national constituency. The public dissatisfaction with the management of the intelligence community would never have materialised without Hersh's article. Public opinion was enough of a factor, on its own, to force Congress to act. Other influences, such as the personal agenda of some members of Congress, the détente between the United States and the Soviet Union, added to the weight of the argument created by public opinion. Public opinion, alone, had the political power to pressurise Congress into reviewing the intelligence community's misdemeanours.

Only the Church Committee recognised and abided by the framework established by public opinion. The chances of successfully reforming oversight of the intelligence community were decided not just by taking public opinion into consideration, but also by what sources of public opinion were listened to. The Ford administration's efforts were rejected by both Congress and the public because it failed to get a complete understanding of what the American public wanted. The executive branch's Rockefeller Commission investigation was deemed disingenuous from the start. As a consequence, the proposed reforms fell short of public expectation. The Pike Committee's failure to recognise that it had strayed beyond the acceptable boundaries on national security established by public opinion led to the House putting an end to its investigation.

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<sup>45</sup> Johnson, *Season of Inquiry*, 9.

The Church Committee's relationship with the American public, and Frank Church's understanding of the necessity to have public support, illustrated the integral role that public opinion had on national security policy during the Year of Intelligence. The connection between public opinion and national security policy was not a simple one, as the Church Committee's enquiry indicated, but a complex correlation of demands and answers. Three of Bruce Russett's four possible interpretations on the relationship between public opinion and national security policy are proved inadequate by the Year of Intelligence. Firstly, public opinion does not dictate national security policy. There are demands made by the public but, under certain circumstances, the public can be ignored. Secondly, public opinion is not controlled by elites or policy makers, although it may be influenced for a short time. Thirdly, public opinion and national security policy makers are 'mutually irrelevant' – policy makers neither influence public opinion nor are they affected by it.<sup>46</sup>

During the Year of Intelligence, the relationship between policy and opinion displays the characteristics of Russett's fourth interpretation, which is one of *interaction*, that is to say both public opinion and policy influence each other. The Church Committee illustrated that public opinion and national security policy played both roles in a flip-flopping master and servant relationship. At times, public opinion took the upper hand dictating to both Congress and executive branch what was the preferred course of progress. This is especially true when the public was given information on events and issues that affect them directly, such as the creation of the committee or the demand for information on assassination plots. Congress reacted by assuming the role of the people's representatives in the Year of Intelligence. Senator Cranston declared that the enquiry would lead to 'the American people's full understanding of the problem.'<sup>47</sup> It was a position that Ford could not assume because he was inextricably associated with the intelligence community as agencies of the executive branch. Nevertheless, Ford believed that the president had 'the backing, faith and trust of the American people' and acted without reference to public opinion.<sup>48</sup>

Recommendations that centred on the establishment of a permanent Senate Select Committee on Intelligence fell within the boundaries dictated by public opinion during the enquiry. The public expressed its concerns, demands and observations through a variety of means during the Year of Intelligence. The results of opinion polls, letters to members of Congress and the Senate, to the newspapers and current affair television shows, votes in congressional elections, and the editorials of influential newspapers had all contributed to the public voice that was heard in the Congress. The public demanded to know what the intelligence community had done in the name of

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<sup>46</sup> Russett, *Controlling the Sword*, 87-88.

<sup>47</sup> *Congressional Record*. 1975. 94<sup>th</sup> Cong., 1<sup>st</sup> sess., vol. 121 1419

<sup>48</sup> Jack Anderson, 'Mr Ford – A Part of the People', *Washington Post*, 3 August 1975.

national security during the post-war period, and for reassurances that this would never happen again. The Rockefeller Commission and its enquiry failed to meet the public's calls for protection of its constitutional rights. The Commission's recommendations 'do not go far enough,' thought one *New York Times* columnist.<sup>49</sup> Conversely, there is no doubt among either contemporaries or modern-day scholars that the Church Committee's hearing and report 'laid the foundation for public knowledge of American Intelligence.'<sup>50</sup>

It is the Church Committee alone that understood the extent to which the American public both supported and opposed the movement to reform intelligence oversight. It recognised and listened to the demands of the electorate voiced through the various conduits of public opinion. The public hearings into the intelligence abuses and the interim report into assassinations were driven by a public that wanted to know what had been done in its name under the cloak of secrecy called national security. The Church Committee's balanced, thorough, and security-conscious enquiry was supported by a final report that offered recommendations designed to ensure that the nation had an effective intelligence community that operated within the law. Congress's ability to reform congressional oversight of the intelligence community was only possible because public opinion supported such an endeavour.

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<sup>49</sup> Tom Wicker, 'The Rocky Report: Better Than Expected', *New York Times*, 13 June 1975.

<sup>50</sup> Michael Warner, 'Where the Light Shines?' in Johnson (ed.) *Strategic Intelligence*, 116.

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