

AN ERA OF INQUIRY:  
CONGRESSIONAL INVESTIGATIONS AND THE 1970S INTELLIGENCE WARS

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This is a working paper that centers on a case study of two congressional intelligence inquiries and oversight relations during the Cold War. The paper draws on and summarizes research from my ongoing dissertation project on the role of congressional investigations as instruments of truth-telling and political accounting. This is an early draft of the paper, so constructive comments and suggestions are welcome.

**Abstract:** This paper re-examines the post-Watergate congressional intelligence investigations by the Church and Pike Committees in connection with the development of executive-legislative oversight relations during the Cold War. A comparative analysis of the investigative process of each committee is combined with an institutional analysis of oversight in the surrounding period to understand the extended causes and significance of the heightened institutional response that characterized these investigations and the so-called “Year of Intelligence.” The goal is to better understand the shock-centered pattern of development that appears to characterize intelligence oversight relations in the separation of powers system. While these investigations are widely thought to mark an abrupt shift in congressional practices and attitudes towards intelligence oversight, a closer analysis of the preceding decades reveals that were both a catalyst and the

culmination of multiple long- and short-term factors driving Congress to increase its scrutiny of the intelligence agencies.

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## **Introduction**

In 1975, Congress established two special select committees to investigate allegations of widespread abuses and misconduct by U.S. intelligence agencies. The charges against the intelligence establishment included a massive domestic spying program, foreign assassination attempts, and the exploitation of data for political purposes by the highest levels of government. The subsequent investigations conducted by the Senate and House select committees constituted one of the most thorough and critical reviews of the modern intelligence community since its creation in 1947. Together with separate inquiries by standing congressional committees, a presidential blue-ribbon commission, and by the agencies themselves, these committees ushered in a period of unprecedented scrutiny of the intelligence community that became popularly known as “the year of intelligence.” Within the intelligence community, the same period was known as the “intelligence wars.”

This paper re-examines the role of the post-Watergate congressional intelligence investigations in the development of executive-legislative oversight relations during the Cold War. A comparative analysis of the investigative process of each committee is combined with an institutional analysis of oversight in the surrounding period to understand the extended causes and significance of the heightened institutional response that characterized these investigations and the so-called year of intelligence. Viewed in relation to the broader effort by government institutions and the press to examine and respond to the crisis of legitimacy facing intelligence agencies, the investigations demonstrate some of the benefits and limitations of congressional oversight of the modern intelligence establishment and broader national security state.

The cases are also examined in relation to the shock-centered pattern of development that appears to characterize intelligence oversight relations in the separation of powers system. An examination of the internal dynamics that shaped both committee and congressional behavior during the 1960s-1970s is intended to supplement (rather than refute or replace) existing theories. It should also contribute to our understanding of the relationship between this period of institutional transition and reform and the broader development of intelligence oversight relations and practices. Ultimately, it may be helpful to adjust traditional accounts of the

periodization and characteristics of historical phases of intelligence oversight to reflect periods of transition and variations in substance and intra-institutional unity.

### **Congressional Investigations and the “Year of Intelligence” (Traditional Interpretations)**

By most accounts, the culture of neglect and passivity that characterized intelligence oversight for much of the Cold War underwent an abrupt and dramatic reversal in 1975. In addition to broader political and institutional developments, the immediate cause of this change was a string of revelations beginning in late 1974 about intelligence abuses and violations of civil rights that had been taking place without the knowledge or consent of Congress and the American people. In some cases, it appeared that even the President and agency heads had been unaware of the actions going on within the CIA and other intelligence agencies. The period of inquiry that followed came to be known as the “Year of Intelligence” or the “intelligence wars.” For roughly eighteen months beginning in January 1975, Congress and the executive branch conducted a series of internal reviews, official inquiries and public hearings on all aspects of intelligence operations and abuses. The major investigations of this period were conducted by a presidential commission and standing and special committees of the Senate and House. These inquiries uncovered a staggering range of abuses, including: foreign assassination plots; illegal mail and electronic surveillance; improper use of IRS data; drug experimentation on civilian and military subjects; bio-chemical weapons programs; surveillance and harassment of hundreds of American citizens, organizations and businesses; covert operations targeted at democratic processes and regimes abroad; and numerous other examples that the intelligence agencies and personnel had repeatedly and intentionally disregarded the most basic standards of justice and democratic accountability (Church Committee 1976, Vols. 1-2).

According to scholars of intelligence oversight and history, the extensive inquiries conducted by the Church Committee in the Senate and Pike Committee in the House signaled an effort to assert congressional authority and oversight of the intelligence community after nearly three decades of neglect. The congressional investigations in 1975-1976 constituted the first extensive public review of the intelligence agencies. Throughout the hearings and in the findings and recommendations of each committee, members sought to restrict and to question the massive

expansion and seemingly unchecked capacity of the intelligence agencies. At the same time, Congress (and the Democratic majority in particular) appeared to be re-asserting its authority after a period of presidential excesses and expansion in the post-war and Vietnam eras. Whatever the objectives, the Senate investigation, and to a lesser extent its counterpart in the House, is typically seen as ushering in a new period of formalized and increased congressional oversight of intelligence (See e.g., Johnson 2007; Smist 1994; Snider 2008).

This paper does not attempt to refute these basic accounts of the period but instead to refine and contribute to them by highlighting the significance of investigations during periods of institutional transition and cultural-political uncertainty. The goal is to provide a richer understanding of the connection between these investigations and existing arrangements and norms of intelligence oversight.

### **Scope of the paper**

This paper presents an analysis of two major congressional investigations and the surrounding institutional arrangements for intelligence oversight. It draws on committee records, contemporaneous and historical accounts from media and academic sources, and other archival materials to examine the relationship between the alarms, institutional responses, and reforms that characterize the transition and development of intelligence oversight in this era. The analysis proceeds in three parts. First, the conditions and practices of intelligence oversight during in the post-war “Era of Trust” are examined closely to provide a backdrop and institutional framework for evaluating the later investigations. Next, the immediate political-historical context of the 1975 investigations is examined to identify the main factors and contextual incentives that influenced the creation and conduct of the investigations. This is followed by a descriptive analysis of the conduct and objectives of the investigative process.

The central object is to evaluate the impact of various environmental and institutional factors on the creation and conduct of congressional investigations in the 1970s. The conditions that triggered a heightened congressional response in 1975 are expected to distinguish the investigations from other responses to alarm with respect to their objectives, capacity, and impact. By providing a more complex account of the preceding period and closer analysis of the

investigative process and experience of each committee, I hope to show that the committees were a culmination of institutional pressures and weaknesses of the basic approach for intelligence oversight, in addition to serving as a catalyst for reforms. I argue that these factors should be taken into account in order to fully appreciate the significance and legacy of these investigations on executive-legislative relations and Congress' approach to intelligence oversight.

Viewed in relation to the broader effort by government institutions and the press to examine and respond to the crisis of legitimacy facing intelligence agencies, the investigations also demonstrate some of the benefits and limitations of congressional oversight of the modern intelligence establishment. In the context of an intelligence crisis, a primary goal of the investigations is to stabilize the system of separated powers and to restore the basic status of the intelligence services within a framework of democratic accountability. Examining committee records reveals how committee members succeed, or fail, to manage and balance issues of secrecy and security with standards of democratic accountability in order to enact reforms and produce official accounts that restore the legitimacy of the broader political system. The cases demonstrate that the major objectives and gains of each investigation in terms of public accounting and repairing institutional standing may come at the expense of achieving relative gains for Congress in terms of institutional prestige, administrative control, or legislative reforms, and vice versa. This may help explain why major investigations often fail to produce the "continuous watchfulness" envisioned by congressional reformers.

### **Origins and Political Context**

Over sixty years have passed since the modern intelligence system was established. As intelligence community has grown larger and more complex over time, so too has its relationship with the institutions and principles of American democracy. At the center of this relationship is a fundamental challenge facing modern representative democracies: the need to balance secrecy and the protection of national security with the standards of liberty and accountability needed to maintain democratic legitimacy. Since 1947, Congress has devoted varying degrees of attention to the task of overseeing the intelligence agencies, with equally varied levels of success.

Because of the secretive and special nature of intelligence, traditional approaches to measuring

oversight cannot capture the full range or volume of activity. Hearings are often closed, records are classified, and the incentives and institutional dynamics that influence participants are in many ways unique. With so much of intelligence work going on behind-the-scenes and off-the-record, this paper focuses instead on observable elements of action. One of the things we can observe about intelligence oversight is its developmental pattern. The standard account of this pattern comes from Loch Johnson, a political scientist and former staff member to the Church and House Permanent Select Intelligence committees. According to Johnson (2003), intelligence oversight has progressed through five major phases: an Era of Trust (1947-74); Era of Uneasy Partnership (1975-1986); Era of Distrust (1987-1991); Era of Partisan Advocacy (1992-2001); and the current Era of Congressional Acquiescence (2002- ).

Several aspects of this pattern are of interest for the current paper. First is that the development of intelligence oversight has progressed through a series of institutional responses to external shocks or alarms. Next, although there have been a number of intelligence alarms since 1947, only a small number of major crises have resulted in substantial changes to congressional oversight and influence over areas of intelligence. Alarms thus appear to be necessary but insufficient to trigger change. With the exception of the early 1990s transition following the collapse of the Soviet Union, major intelligence investigations have historically corresponded with transitions between phases. Thus, intelligence oversight relations appear to have followed an investigation-centered as well as shock-centered pattern of development (Johnson 2007; Wooten 2009). Despite link between investigations and transitions, we know little about how these investigations respond to perceived intelligence crises or their role in bringing about organizational and institutional changes. This paper focuses on the investigations that corresponded with transition from the “Era of Trust” to the “Era of Uneasy Partnership.”

The select intelligence investigations by the Church and Pike Committees are widely regarded as marking a sudden and dramatic shift in congressional practices and attitudes towards intelligence oversight after nearly three decades of inaction and acquiescence. However, recent scholarship on congressional oversight of the intelligence community suggests that intelligence oversight during the mid-20<sup>th</sup> century was more varied and robust than has traditionally been thought. A closer analysis of the years preceding the Church and Pike inquiries reveals that they

were both a catalyst and the culmination of multiple long- and short-term factors driving Congress to increase its scrutiny of the intelligence agencies. To the extent that these investigations defined the legislative and oversight agenda for several years to come, they are not only important as examples of discrete alarm-fighting, but also as part of a five- to six-year investigative phase in the broader development of intelligence oversight relations.

### **Development within the “Era of Trust” (1947-1974)**

Congress provided the statutory foundations for the modern intelligence community when it passed the 1947 National Security Act (NSA) and Central Intelligence Agency Act of 1949. Although this legislation specified the roles and procedures for a new and expanded peacetime intelligence capacity, there was little effort to adapt existing committee structures to support an expanded congressional oversight role. Until the early 1970s, congressional oversight of intelligence was conducted primarily by small, informal subcommittees of the House and Senate Armed Services and Appropriations committees. Because the committees kept few written records of their meetings and much of what they discussed remains classified, it is difficult to verify precisely how much and what type of oversight was being conducted. However, evidence seems to support the basic claim of those who participated in such activities that oversight was largely informal, sporadic and crisis-driven (Barrett 2005; Smist 1994). Throughout the period, members of the subcommittees and Congress as a whole, much like the general public, tended to be supportive of the intelligence community and its achievements in the pursuit of Cold War objectives. What oversight did occur seemed to focus on predictive failures and the need to prevent the spread of communism or “another Pearl Harbor.” Absent any evidence indicating serious failures or deficiencies, intelligence subcommittee members tended to trust the intelligence agents and were often reluctant to press for information. Committee barons had no interest in subjecting the agencies to a high-profile inquiry and actively blocked other lawmakers from initiating oversight that threatened either the agencies or their own jurisdiction over them. Since oversight was generally trusting and supportive of the intelligence services, few instances of conflict or scrutiny gained public notice. The supportive and informal character of oversight during this period leads many to conclude



that Congress was disinterested in intelligence and/or neglected its oversight function altogether (see Johnson 1985, Smist 1994). Although it is tempting to believe that the entire universe of congressional intelligence oversight began and in some ways peaked during the mid-1970s, this view may be mistaken. David Barrett (2005) argues that the nature of intelligence work and congressional practices during the mid-20<sup>th</sup> century have led scholars to underestimate the amount and types of oversight practiced in that era. Through careful and detailed analysis of official and personal documents relating to congressional oversight during the early Cold War period, Barrett demonstrates that congressional oversight of intelligence, and in particular the CIA, was more robust and varied than official records would seem to indicate. He also shows how variations in committee membership, agency leadership, and inter-agency relations within the intelligence establishment could significantly affect both the level and tone of intelligence oversight conducted by Congress in a given period or in response to a critical issue.

A timeline of selected alarms and institutional responses reflects increased oversight efforts throughout 1950s – mostly in collaboration with executive branch [see *Figure 1*]. It also shows the preference for commission-style inquiry. For much of the post-war era, the official response to intelligence crises was characterized by a combination of standing committee hearings, executive-centered institutional reform, personnel changes, and some form of inquiry. Typically, external inquiries took the form of a president-sponsored commission composed by a mixture of civilians, experts, and one or more members of Congress. The inclusion of individual congressmen in presidential commissions may have helped to forestall any separate legislative action and inquiry and to avoid the appearance of inter-branch conflict by maintaining a low level of congressional involvement in the executive-driven response. Still, throughout much of the Cold War Congress tended to support executive-centered responses to intelligence crises and to encourage increased presidential control over the intelligence establishment as a whole. The timeline of institutional responses to intelligence alarms appears to show a decline in congressional attention to intelligence during the mid-1960s and early 1970s. This may be more a reflection of organizational barriers to formal oversight than a straightforward drop in congressional interest or activity in this area. The institutional structure and arrangements for congressional intelligence oversight reflected the pre-war organization of intelligence services,

which were located within the military. The committees with primary responsibility for overseeing the intelligence agencies – Appropriations and Armed Services – were also some of the largest and most important in Congress. As a result, intelligence often took a backseat to more pressing defensive and domestic issues for which there was more public salience and accountability. The relative attention given to intelligence issues declined during the 1960s, as the Armed Services committees turned their attention to growing conflict and policy concerns in Indochina, as well as other defensive concerns connected to the threat of spreading communism. Even so, starting in the mid-1960s, it is possible to identify shifts in the tone and content of intelligence crises and the official actions taken in response. The episodic and failure-driven pattern of oversight slowly gave way to a more sustained congressional interest in intelligence oversight and compliance. Whereas earlier studies focused on aspects of effectiveness and achievement (often in relation to Soviet gains), oversight in this era began to include questions of propriety and about operational details. Moreover, the shifting power distribution and demographics within Congress combined with a series of intelligence scandals and escalating military engagements to draw the attention of rank-and-file lawmakers to issues of oversight and influence over all areas of national security. Connections and interactions between intelligence officials and members of Congress increased tremendously during this period, while intra-branch tensions over intelligence grew. Although there were no major intelligence investigations under the Johnson administration, members of Congress became more vocal and active in pressing for access and authority over all aspects of military and foreign policy.

The magnitude of events during this period did not remove intelligence activities from view but instead changed the way they were approached. During the latter half of the 1960s, the intelligence community devoted an increasing share of its resources and attention to the pursuit of military objectives in Southeast Asia. This helped connect military and intelligence issues to a greater degree in the minds of the American public and Congress. A result of this shift was that as oversight of military operations increased, so too did scrutiny of the intelligence role. For example, under the leadership of Senator J. William Fulbright (D-AR) the Senate Foreign Relations Committee (SFRC) conducted periodic hearings on the war in Vietnam and broader Indochina policy over a period of four years, from 1966 to 1970. When Fulbright complained

about his lack of access to vital intelligence concerning U.S. military capacity, he was eventually granted attendance at CIA briefings by SASC Chairman Richard Russell (D-GA).

The extent of non-CIA committee access was a frequent point of tension, however, as in April 1965, when the new Director of Central Intelligence (DCI) William Raborn angered Nixon and Chairman Russell by agreeing to Fulbright's request that the CIA provide the SFRC with regular briefings about the changing global situation without first checking with the White House or intelligence committees. The experiences of the SFRC illustrate the complex relationships that shaped congressional intelligence oversight during the period. Major opposition to expanded access and interaction between Congress and the intelligence agencies came from two unlikely institutional allies. Presidents and other high-level executive officials were angry about intelligence gaps and congressional opposition leading to bad press and declining public approval of the administration's policies. At the same time, leaders of the oversight committees were anxious to protect their jurisdiction over intelligence.

Chairman Russell was particularly adamant about retaining exclusive access, directing DCI Helms in 1967 that any requests for CIA briefings by other members should be cleared with him personally and that no written information should be provided to anyone outside the intelligence subcommittees. Russell also warned officials on many occasions to "stay in the background" or risk losing the support of the SASC and its chairman. This reflected a desire to maintain the prestige of the committee *as well as* to prevent the emergence or "leaks" of details that might damage the reputations of either the intelligence agencies or committee members.

By the early 1970s, public distrust and disenchantment with government conduct in Vietnam, the Watergate scandal, and domestic unrest helped end the era of minimal oversight. The congressional universe also underwent major changes in this period, marked by modifications to party caucus rules governing the House and Senate and the Legislative Reorganization Act (LRA) of 1970. Symbols of the changing dynamics within Congress and its relationship with the executive branch could be seen in the passing from the scene of the great barons of the Senate like Richard Russell (D-GA) and Leverett Saltonstall (R-MA), as well as procedural changes that made it easier for junior congressmen to gain entry and influence on influential committees in the House. Additional signs of the changing relationship between Congress and the executive

branch over issues relating to intelligence during this period included the increasingly vocal and active dissent over ABM systems and foreign policy issues from members of presiding committees, like Senators Church (D-ID) and Fulbright (D-AR) and Representative Harrington (D-MA). Finally, there was an increase in the number and substance of intelligence leaks and scandals during this period – including details about the covert war in Laos and the Army’s infiltration of student groups in the United States.

In addition to the broader social and institutional changes influencing the political climate during this period, the late part of 1974 was dominated by revelations that the government had misled Congress and the American people about the extent of U.S. involvement in Chile. In September 1974, *The New York Times* published several stories revealing that the Nixon administration had authorized more than eight-million dollars for CIA efforts to thwart and then destabilize the Allende regime and had intentionally deceived Congress about the extent of its involvement. These revelations illustrated the difficulty of conducting oversight in the area of intelligence and the inability of such oversight could serve as a deterrent against excesses and abuse. Growing concerns that the government had developed a pattern of deceiving Congress and exercising unchecked authority and powers contributed to support for pending legislation that could curtail the sort of actions seen in Chile, Laos, and Vietnam. Congress was in the process of debating a measure to limit the ability and funds available for presidents to conduct covert operations without congressional knowledge in December 1974, when charges emerged about illegal domestic spying programs and other abuses by the intelligence community.

This section examined the characteristics of oversight during the period from 1947 to 1974 and the developments that preceded the surge of investigative activity in 1975. It shows that oversight was more varied and robust during the “Era of Trust” than traditional accounts of the period suggest, and that it grew substantially in the post-war decades. Members of Congress began pressing for increased scrutiny and control over aspects of intelligence as early as the 1950s but were blocked by both the oversight subcommittees and executive resistance to reform. In the years leading up to the 1975 investigations, the primary committees charged with conducting intelligence oversight were increasingly distracted by the conflict in Southeast Asia, domestic turmoil, and economic problems. The nature of these distractions also increased general

and committee support for intelligence operations and national security issues. This suggests that changes in the focus and attention to intelligence oversight in the 1970s may be less radical than once assumed. If viewed in relation to overall increases in attention and pressure to reform intelligence practices and oversight, it may be more accurate to say that the 1970s ushered in an era of increasingly public and adversarial intelligence oversight.

This account will be helpful for understanding the transition from the “Era of Trust” to the “Era of Uneasy Partnership” that lasted from 1975 to 1986. Ultimately, as a result of multiple changes in the political and institutional environment, intelligence oversight changed dramatically in the 1970s. The transition between phases on intelligence oversight relations to the next was not simply characterized by an increased in patrolling activity, but also by a shift in the substantive focus of oversight, the degree of institutional conflict, and the degree of coordination within the executive branch and among the intelligence agencies. The next section attempts to show the connections between these changes and the congressional investigations conducted in response to the massive intelligence controversy that broke in December 1974.

### **Intelligence Alarm: Alleged Domestic Spying and the “Family Jewels”**

The origins of the Church and Pike investigations date back to 1973, although the substance of what they uncovered reached back through several decades and presidential administrations. At that time, the newly-appointed DCI James Schlesinger distributed an internal memo within the CIA directing employees to report information about any questionable activities in the agency’s past. When all of the responses were compiled, they formed a 693-page document that became known as the “Family Jewels.” By this time, Schlesinger had left the Agency to become Secretary of Defense. His successor, William Colby, saw the list of infractions as “pretty small potatoes” but decided to share information about the exercise with selected members of the armed services committees and intelligence subcommittees in Congress (Dujmovic 2007). Colby briefed the members on the compilation and contents of the list, and assured them that all of the offending activities had been terminated and no continuing abuses had been uncovered. The congressmen agreed that there was no need to publicize the list and risk sensationalizing past abuses and damaging current efforts to restore the agency’s reputation.

On December 22, 1974, *The New York Times* published a front page article by Seymour Hersh describing a “massive, illegal domestic intelligence operation” in which the CIA, in violation of its charter, had targeted thousands of American citizens and even members of Congress through the use of mail intercepts, electronic surveillance, illegal break-ins, and other questionable means. While some of these efforts appeared to be the unaccompanied work of individuals within the agencies, other activities seemed to be part of a coordinated program with directions from the highest levels. If confirmed, these charges would represent a pervasive and intentional disregard of constitutional and statutory authority by officials in the agencies all the way up to the White House. They also added to growing suspicions about a “shadow government” or secret government institutions and operations conducted behind the façade of the democratic system. Although intelligence had rarely risen to the level of other major issues driving public debate and American politics in the post-war period, the collapse of the so-called “Cold War consensus” during the Vietnam era helped to open intelligence to increased scrutiny. Still, it may be a mistake to assume that even in a changed political climate these new charges were sufficient to trigger the massive investigative and congressional response that followed. Indeed, despite the success of the Watergate committee, members of Congress surely remembered the excesses of McCarthyism and the dangers of appearing overzealous in their efforts to investigate the intelligence community. Revelations earlier in the year that the intelligence subcommittees had been intentionally deceived about the nature and extent of U.S. involvement in Chile had resulted only in calls for increased legislative restrictions and regular oversight of the intelligence community. Previous scandals and failures had also fallen short of triggering a massive public inquiry. The following section outlines several factors helped trigger a heightened congressional response outside the traditional legislative channels.

### **Triggering and Influencing Factors**

Although it is plausible that a combination of traditional institutional responses could have been effective, the intelligence crisis in 1975 was distinguished from previous controversies by the nature of the charges at its center and the immediate political context in which it arose. It is possible to identify several factors which, when combined, helped trigger a heightened

congressional response outside the traditional legislative channels.

First, many lawmakers were anxious to restore congressional authority and prestige within the political system, which had been weakened by executive excesses and public discontent with Vietnam. This was especially true in the House, where a number of newly-elected “Watergate babies” came to Washington ready to challenge the president and implement sweeping reforms. Additionally, Congress was implicated in the crisis to some degree. The inability of congressional overseers to detect or prevent violations raised questions about the basic capacity and authority of Congress to control intelligence operations. Although it was unclear whether or to what extent individual presidents were implicated in the abuses, lawmakers could no longer trust the White House to conduct an unbiased inquiry and worried about the continued exclusion of Congress from policy and oversight processes. Fortunately for reformers, the conduct of the congressional Watergate committee had helped restore the public image of congressional investigations that had been so badly damaged during the McCarthy era, by showing that Congress could be responsible and conduct serious inquiry.

The content of the crisis also provided grounds for a greater congressional response. Whereas the majority of intelligence shocks during previous decades had dealt with predictive failures or perceived weaknesses in the U.S. intelligence or defensive capacity, this new crisis dealt with issues of external accountability and intentional lawbreaking or noncompliance. The alleged improper and illegal actions by the intelligence agencies appeared to violate not only congressional intent (and trust), but also express statutory limits on the authority and means to conduct intelligence operations. The alleged domestic spying activities of the CIA, in particular, would constitute a direct violation of its charter.

The impact of the press must also be considered as a significant factor influencing the congressional response. Investigative journalism flourished during this period, as repeated high-profile government scandals and policy failures gave journalists a new freedom to question the U.S. government. Seymour Hersh’s investigative articles breaking the domestic spying story unleashed a renewed burst of interest in examining and challenging the internal workings of the national security state. By January, other papers began publishing the results of their own investigative work – revealing further abuses by the FBI and other intelligence agencies.

Finally, the executive response to the allegations was unusually slow and clumsy in comparison to similar crises in the past (Kitts 2006). When President Ford first learned of the charges, he was en route to Vail, Colorado for a scheduled “working vacation.” He remained largely silent about the growing controversy for over a week until returning to Washington. On January 4, 1975, Ford established a blue-ribbon commission with three months and a narrow mandate to investigate only alleged domestic abuses by the CIA that gave “rise to questions of compliance” with select provisions of the U.S. Code (E.O. 11828). Unlike earlier commissions, no members of Congress were selected to serve on the panel. Instead, Ford appointed a handful of close allies and gave the position of chairman to Vice President Nelson Rockefeller.

A commission with a broader mandate and more inclusive membership may have more effectively deferred or avoided additional investigations within Congress. Instead, many viewed the commission as an attempt to “whitewash” the abuses without taking real steps to reform the intelligence agencies or oversight arrangements. Combined with charges of lax congressional oversight and public pressure for a comprehensive official inquiry and resolution, Congress seemed obligated to pursue further action. This range of factors also had important consequences for how investigations were conducted and the resulting changes to intelligence oversight.

### **The Church and Pike Committee Investigations**

Rather than form a joint committee to investigate the alleged abuses, each chamber of Congress created its own special committee to conduct distinct, but concurrent investigations of issues relating to domestic and foreign intelligence. The Senate committee, chaired by Frank Church (D-ID), focused on specific allegations of abuse and wrongdoing; while the House panel, ultimately chaired by Otis Pike (D-NY), sought to conduct a broader investigation into the details and performance of intelligence operations. Generally speaking, members of both committees voiced some commitment to retaining intelligence apparatus as vital component of national security and defense. They also expressed the need to strike a careful balance between security and liberty in order to ensure the legitimacy and effectiveness of intelligence operations within the representative democratic system. Despite these common commitments, the committees adopted contrasting approaches and had disparate experiences in their efforts to



manage the balance between openness and security. The analysis of these investigations focuses on four interrelated aspects of the investigative process 1) composition and structure; 2) conflict and cooperation 3) substantive focus 4) publicity and access.

Composition and structure: To accomplish the goal of a balanced inquiry, the Church Committee benefited from several structural and procedural factors. Foremost was the balanced ideological and partisan composition of the committee. Its membership was composed of eleven senators appointed by the president of the Senate, with six selected from the majority (Democratic) with the recommendation of the majority leader, and five from the minority (Republican) on the recommendation of the minority leader. To further encourage bipartisanship, a chairman and vice chairman would be selected by members of the majority and minority, respectively, and both sides were given support staff. The resulting committee was broadly representative of the Senate as a whole [see *Table 2A*].

Despite the slight Democratic majority, members of both parties demonstrated a range of viewpoints and levels of experience. Several members of the committee had come to Congress during an era of personal oversight and strong committee chairmanships. They respected the committee process, the leadership position of the chairman, and the importance of maintaining the institutional integrity and respect of both congressional committees and the intelligence agencies. A shared commitment to maintaining a peacetime intelligence capacity fostered mutual trust and respect within and between the committee and the executive branch (Johnson 1985). Partisanship did play an increasing role in shaping the participation and strategies of members as the investigation wore on. Still, the committee managed to reach consensus or bipartisan majority agreements on all but a few major procedural and substantive issues and to produce a bipartisan final report. In this sense, the investigation appears to have been authentically bipartisan and cooperative, if not purely consensus-driven and nonpartisan.

The structure and composition of the House investigating committee created early and persistent barriers to conducting a fair and comprehensive inquiry. Compared to the Senate, the House membership in 1975 was younger, more ideological, and more confrontational. This was also true for the investigating committee [see *Tables 2B&C*]. Democrats held a lopsided majority of seats on the committee and there was no minority leadership role or support staff to give the

appearance of bipartisanship. Additionally, the House leadership from both parties chose to popular the committee with men from the far ends of the ideological spectrum. This gave the House committee membership a decidedly liberal slant and a deep internal ideological rift. Fights over the composition and management of the investigation hampered progress in the House for several months and nearly derailed the entire investigative effort. Eventually, the initial committee headed by Lucien Nedzi (D-MI) was disbanded to give a new panel a fresh start and investigative agenda. In July 1975, a reconstituted committee chaired by Otis Pike (D-NY) was formed with an expanded membership of thirteen (9-4) and a clarified mandate (94 H. Res. 591). Even so, the membership remained overwhelmingly liberal. Pike recognized limits of bipartisanship given the composition of committee and sought to press ahead with his solid majority. After wasting months on procedural disputes and with an expanded mandate, he could scarcely afford to adopt the slow consensus-building approach favored by Church. Pike's own rigid ideological and moral stances helped to further split the committee. So too did the decision to conduct a majority of the committee's procedural business in open session, subjecting the committee process itself, as well as its internal deliberations, to public and executive scrutiny.

Cooperation and Conflict: The Church Committee allowed its inquiry to be moderately constrained and diverted by the demands of the executive branch. It submitted to numerous restrictions on levels of access and custody of government records and conducted a majority of its work in closed sessions. Chairman Church and Vice Chairman Tower worked continuously to reach personal agreements and compromises with executive branch officials. With a large staff, the committee conducted depositions and closed hearings in the advance of public hearings, giving witnesses and the administration ample time to prepare for public sessions and testimony. Its investigation also moved quickly through topics and witnesses, rarely spending more than a day or two on any given topic area. Important conflicts did arise over the publication of an interim report and holding public hearings on the NSA. Still, while the committee held its ground and won concessions from the White House in terms of access and publication, it was not a prime example of inter-branch conflict or the assertion of congressional authority.

While the Church Committee was generally restrained and sought compromise with the executive branch, the Pike Committee waged a bitter and open battle for access and control over

aspects of intelligence operations. The Pike Committee struggled with the executive branch on two fronts: to protect and assert the “coequal status” of Congress relative to the presidency; and to drastically alter the balance between security and accountability, by controlling the terms of the inquiry and opening the oversight process to public scrutiny (Haines 1998). The investigation was stalled almost immediately by internal conflicts and delays obtaining government documents and testimony. Pike’s uncompromising stance on issues of access and classification procedures drove the committee into repeated, nasty battles with the executive branch. The committee eventually adopted more drastic measures, including subpoenas and citations of contempt against high-ranking figures in the administration. This pressed the committee beyond institutional conflict into a public relations war it could not win. Ultimately, the committee lost the support of the press and the House and was forced to disband without publishing its final report.

It is important to note that the committees faced far more resistance from the White House than from the intelligence agencies. Indeed, in October Ford ordered a massive reshuffling of national security personnel that was widely viewed as a reaction to the inability of intelligence officials to manage the congressional inquiries. DCI Colby, in particular, seemed too willing to cooperate with the Senate committee and to accept statutory reforms (see Gelb 1975). In contrast, White House officials worried about ceding power to Congress and intensified its counter-offensive efforts as the investigations continued through the fall. The Ford administration and other critics charged that the Pike Committee was engaging in a “New McCarthyism” that threatened to undermine the entire intelligence community, if not the entire nation, in the overzealous attack on the executive branch. While the administration was already working to adopt the reforms suggested by the Rockefeller Commission, Congress was dwelling on past abuses. This prevented the nation from leaving the recent history of institutional excesses and instability in the past and beginning the work of reform and a return to normalcy.

Here, the aggressiveness and apparent partisanship that characterized the Pike investigation had consequences for both the Senate and House investigations. The Pike Committee was the main focus of this criticism, but while its counterpart in the Senate benefitted in comparison, it also suffered from efforts to paint congressional investigators and Congress as a whole as irresponsible and unproductive. Although Church and Tower worked patiently to gain access and

reach compromises with the administration, they faced increasing hostility and intransigence from the White House in the fall and early winter of 1975. As the assault on the investigations grew larger and more coordinated, it became easier for individual Republicans on each committee to break from the majority and defend efforts intended to limit or even undermine the investigative process.

The Church committee was showing clear signs of strain and fracturing by the end of its public hearings and as it turned to crafting a final report. In order to ensure bipartisan support and executive cooperation for the publication of its report and records, the Church Committee agreed to submit them to government censors and made substantial revisions and alterations that weakened its criticisms and the level of detail available to the public. When the Pike Committee refused to make similar concessions on the content and charges contained in its final report, White House and agency officials were joined by minority members of the committee in opposing its publication. They were successful. The committee was denied an extension to complete its work and was prevented from publishing its final report. Thus, the limitations and concessions accepted by the Church committee appear to have been reasonable or even essential for ensuring an acceptable majority report and enabling the committee to make steady progress.

Mandate and Substantive Focus: Perhaps the greatest difference between the Senate and House inquiries was their substantive focus, yet scholars routinely neglect this aspect in evaluating the relative achievements of the two investigations. Each committee's mandate and agenda reflected different aspects of the developing intelligence controversy. The Church Committee was primarily focused on abuses, while the Pike Committee emphasized broader issues of performance and management. As one unnamed CIA official described it at the time, "The House goes after the arteries, while the Senate goes after the capillaries" (Hersh 1975).

On January 27, 1975, the Senate voted to establish a special committee to conduct "an investigation and study of governmental operations with respect to intelligence activities and the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency or by any persons" in the conduct of such operations (94 S.Res.21). The committee was thus positioned to examine any abuses by any of the agencies comprising the U.S. intelligence establishment as well as any violations of law or congressional intent. With such a broad

mandate, some worried that the committee would use the investigation as an excuse attack executive authority and dominance over areas of intelligence and national security and might do irreparable harm to the capacity and operations of the U.S. intelligence community in the process. These fears appear to have been misplaced.

In his introduction of the resolution, Senator John Pastore (D-RI) emphasized the need to focus on past abuses as a way to “clear the air” and to restore institutional integrity and balance to the political system, adding: “I’m afraid we will do irreparable harm to the security and survival of the country unless we do this.” Debate over the passage of the resolution centered on the balance between holding intelligence agencies accountable and maintaining their standing and capacity within the political system to protect national security. Most Senators who spoke in support of the investigation wished to avoid the perception that they were “out to destroy the CIA.” They shared Pastore’s belief that public accounting and revelation of the abuses was needed for the intelligence community to function properly: “The important thing here is to restore public confidence so that these agencies, in the final analysis, will be responsive.”

Ultimately, the committee conducted a wide-ranging investigation that emphasized specific instances of abuse and remedial measures to restore the capacity and legitimacy of all of the government institutions involved. In doing so, it uncovered substantial new details and evidence relating to the organization and past activities of the intelligence services. The desire to avoid any unnecessary risk to national security or ongoing operations led the committee to scale back its investigation of foreign intelligence abuses, despite recent controversies concerning involvement in Chile, Laos, and Vietnam. As a result, the Church Committee spent a greater proportion of its public hearings discussing aspects of domestic intelligence. Its investigation of alleged foreign assassination plots was entirely closed and the committee held only brief public hearings on covert action and other aspects of foreign intelligence operations.

Throughout the investigation, committee members generally demonstrated their respect and support of the intelligence officers and agencies engaged in protecting the nation from internal and external security threats. The committee was reform-minded and explicitly rejected the notion that the inquiry would function as a court or establish criminal liability. During the hearings, members used their examinations to identify potential reforms which could prevent

both isolated and endemic violations in the future. Most emphasized the need to generate reforms that would not radically alter or undermine the basic operating procedures or purposes of the agencies with respect to their broader national security role. Although the committee had the potential to uncover more unsavory details about past abuses or to examine the alleged “politicization” of intelligence policy and operations; its remedial approach to issues of compliance and oversight helped it gain the cooperation and trust of the executive branch. Unlike the Senate investigating panel, the Pike Committee looked beyond the specific allegations of abuse at the center of the immediate intelligence controversy to areas of intelligence policy and practice that placed it on a collision course with the intelligence agencies and White House. From the beginning, the House investigation faced more institutional resistance and partisan opposition than its counterpart in the Senate. At the center of these early and later difficulties were ideological differences between the leadership and active membership of the parties in the House. Whereas Republicans worried that Democrats would use their majority powers to exploit the committee and its investigation for political gain and to undermine the Ford Administration, many Democrats seem to have failed to appreciate how even the appearance of anything short of nonpartisan objectivity could damage the ability of the committee to conduct a fair and comprehensive investigation.

Early support for an intelligence investigation in the House came from young, radical Democrats and known critics of intelligence policy and the administration. Unlike their Senate counterparts who emphasized need to restore legitimacy and stability of intelligence operations as part of broader political system, Democrats in the House were more likely to view investigation as opportunity to expose agencies to overdue scrutiny and reforms. Former HASC and current HFAC member Michael Harrington (D-MA) emphasized the larger principles at stake in the investigation, arguing that national security “depends just as much on the maintenance of a rule of law as it does on the preservation of diplomatic secrets.” After some initial resistance, HASC Chairman Nedzi and Rep Minority Leader John J. Rhodes endorsed the proposed investigating committee, but many Republicans worried that it could turn into a runaway committee or “biggest witch hunt” since McCarthy’s loyalty hearings. Finally, on February 19, 1975, the House voted 286-120 to establish the House Select Intelligence Committee to investigate the

charges of abuses by the intelligence agencies (94 H. Res. 138).

After five months of inaction, in July 1975 a reconstituted committee began the task of examining the effectiveness and internal organization of the intelligence establishment (94 H. Res. 591). By this time, the Rockefeller Commission had already completed its inquiry and submitted a final report to the president detailing the domestic intelligence abuses and recommended organizational and oversight reforms. Meanwhile, the Church Committee had inherited the commission's information on assassinations and would spend much of the summer examining these records and taking testimony in closed sessions. In this context, the political and substantive grounds for the House inquiry were less clear than they had been back in February when the controversy was still unfolding.

With reduced political capital and a weakened mandate following months of inaction, Pike could've opted to pursue a narrowed inquiry to focus on issues most upsetting to the American public – domestic spying and covert operations. Rather than re-examining the litany of abuses outlined in detail by the Rockefeller and Church inquiries, the press, and the CIA's initial report to President Ford, Chairman Pike sought to distinguish his committee and take advantage of the opportunity to conduct a thorough examination of the entire intelligence establishment. This broader inquiry would complement rather than supplement the other official investigations.

The House investigation was intended to focus on systemic problems and performance throughout the entire intelligence establishment. The committee planned to conduct hearings on four sets of thematic issues: intelligence appropriations and costs; performance and efficiency; domestic intelligence operations; and command and control of foreign intelligence. Pike wanted to examine the entire intelligence appropriations process, including the contents of the budget. The investigation would then evaluate the performance and effectiveness of the intelligence agencies over a ten-year period. The committee would first look at how agencies had predicted and responded to six major international crises: “the 1973 Mideast war; the 1974 Cyprus crisis; the 1974 coup in Portugal; the 1974 nuclear explosion by India; the 1968 Tet offensive in Vietnam; the 1972 declarations of martial law in the Philippines and Korea; and the 1968 Soviet invasion of Czechoslovakia” [Pike Committee]. It would then examine covert operations in the same period, focusing on three cases: the 1972 Italian elections; covert aid to the Kurds in Iraq

from 1972 to 1975; and covert activities in Angola.

This agenda represented a major departure from previous investigations in terms of scope, substance, and perhaps most importantly, publicity. Although Congress had already demonstrated some authority over such administrative details in its investigation of Pearl Harbor and by providing the statutory foundations of the intelligence establishment, it had done so in cooperation with the Truman Administration. In the intervening period, the White House had exercised extensive control over the details and administration of intelligence agencies, largely with assent of Congress (Best 2004; Snider 2008). By focusing on internal aspects of administration, the Pike committee investigation carried an implicit assertion of legislative authority which an already-weakened White House was unwilling to accept. What followed was a difficult and bitter struggle between the committee and members of the executive branch over the authority to access and evaluate the details of intelligence operations.

Publicity & Access: The Church and Pike Committee investigations constituted the first substantial, public review of the modern intelligence establishment. Whereas previous investigations had been limited to specific intelligence failures or were conducted through closed or un-sworn proceedings, both committees strove to conduct a substantial number of open hearings and to produce extensive public records and reports. The ability of each committee to achieve these goals reflects and explains differences in their broader development.

Although the Church Committee was largely focused on known and past abuses, it still struggled initially to negotiate executive cooperation with requests for information and testimony. To satisfy concerns about safeguarding the secrecy of information and controlling the scope of the inquiry, the committee submitted to restrictions on the level of access and custody of government records and conducted much of its investigation in closed session. Church also accepted the mandate and materials to continue the Rockefeller Commission's abandoned inquiry of foreign assassination plots, further delaying the start of public hearings. The decision to submit its final report to government censors and limit its scope opened the committee to questions of completeness and bias, while reinforcing executive dominance and power in area of intelligence policy and oversight (Lardner 1976). Overall, decisions designed to enable steady progress worked to compromise the openness and scope of its work, though the records of the committee



still provide one of the most comprehensive reviews of the intelligence community available to the public (Pforzheimer 1985).

Whereas the Church committee seemed committed to restoring the legitimacy and controlling the institutional-political damage of the intelligence crisis, the Pike Committee (or at least Pike himself) sought to assert the constitutional authority and power of Congress relative to the President, even at the expense of good relations with the agencies involved. The committee insisted on setting its own security standards and procedures as a matter of congressional authority as well as an understanding of the primary duty of the inquiry as an instrument for informing the public. In addition, the objectives of the investigation – to evaluate the effectiveness, efficiency, and compliance of intelligence operations within the political system – required a greater degree of access to agency records. This signaled an assertion of expanded congressional authority to audit and reform areas of internal operations – something Congress had largely avoided since outlining in vague terms the foundations and responsibilities of the intelligence community nearly thirty years before (NSA 1947).

Chairman Pike adhered to an ideal of *public* access which, while grounded in a popular mandate and congressional power, was difficult to achieve and sustain over the course of the investigation. Pike favored openness and expressed his wish to conduct as few meetings in private as possible. Starting just two weeks after it was established, the Pike committee held fifty-four public hearings over the course of the summer and fall (as opposed to handful of Church). Unfortunately, potential institutional conflicts over access were thus compounded by Pike's commitment, and the executive aversion, to publicity.

The Pike Committee's assertions of authority and access placed it in an increasingly-hostile challenge with the White House for institutional dominance position. Despite several hard-won battles for access, political infighting and relations within and between the committee and executive branch continued to deteriorate throughout the summer and fall and hampered progress. Battles over confidential memoranda and State Department records eventually led the committee to issue subpoenas and citations of contempt against high-ranking executive officials. In the end, the drama of partisan and institutional battles overshadowed much of the substantive work and arguments made during the hearings, effectively undermining the gains made in terms

of access and evaluation. As the White House strengthened its counter-offensive, a series of apparent leaks from members of the committee and staff damaged public opinion of the investigation. Members of the intelligence agencies quickly came to view the committee as too inexperienced and immature to be trusted with sensitive information, while the White House viewed the committee as outright dangerous. A final conflict within the committee over the unilateral declassification of information in its final report led the House to prohibit its publication and to a repudiation of the committee as a whole.

The significance of publicity and openness to the limitations and failures of the two investigations can be seen in the low levels of public support that followed battles over publication and public testimony as well as growing concerns that members of Congress could not be trusted not to leak sensitive information to the public. The White House waged a full assault on the practices and objectives of the congressional investigations as subjecting the intelligence agencies to excessive and dangerous scrutiny. This put both committees in a defensive position during the preparation of their final reports and seriously delayed the formation of a permanent intelligence oversight committee in the House. The impact of publicity in this context suggests that the goal of institutional access was not the sole or even main factor driving congressional-executive oversight relations. It is at least plausible that Congress may have gained more access and authority over aspects of intelligence performance through a series of closed hearings or a joint congressional-presidential commission on the abuses.

### **Comparative Evaluation**

The Church Committee investigation is typically credited with producing most of the limited institutional and legislative gains for Congress during this period. The committee provided a sweeping and unprecedented public review of the modern intelligence establishment. It produced fourteen volumes of records, including transcripts, documentary evidence, and a seven-volume report. The Pike Committee, in contrast, was quickly debilitated by internal partisan divisions, clashes with executive, and rejection by the House majority. The committee was ultimately denied an extension of time to complete its work and its final report was suppressed (Rosenbaum 1976). House members' anxieties about leaks and unproductive

character of such openly hostile investigation dampened support for proposed intelligence reforms, which passed nearly a year after similar reforms implemented in Senate.

Most studies of the Church and Pike Committees suggest that their divergent courses resulted largely from differences in terms of their leadership, procedural style, and investigative disposition (see Johnson 1985; Smist 1994). It is also important to recognize the influence of other key distinctions like the mandate and institutional setting. Each committee was given not only separate tasks, but also different procedural tools and resources with which to conduct them. The committees were formed in distinct institutional contexts and reflected the organization of collective interests in their parent chamber. The distracting and immobilizing clashes between the Pike Committee and the White House demonstrated the risks of refusing to compromise on issues of access and publicity, while making the Church Committee appear more responsible. At the same time, without the comparatively objective findings of Church, it would be difficult to see why the House ever adopted *any* recommendations of the Pike Committee. That the inquiries were conducted concurrently in a context of divided government suggests that party-control and inter-branch conflict alone cannot account for the use and impact of investigations.

The investigative process and public hearings of both committees were defined by interactions along dimensions of partisanship and institutional membership. However, unlike the cooperative and compromising character of relations on the Church committee, these same interactions on the Pike committee were more often combative and unproductive. The divergent experience of the Pike committee suggests the influence of two important factors: purpose and composition. With respect purpose, it appears that the Senate panel approached the investigation with an interest in damage-control. The Church Committee was willing to relinquish a greater degree of institutional control in the immediate context of the intelligence controversy and investigation in order to achieve broader institutional goals of stability and reform. This freed the House panel to assert institutional authority and control over administrative aspects of intelligence. Importantly, this led them away from controversial issues of policy and instead on aspects of organization and performance. The Church Committee confronted covert operations and domestic spying, while Pike focused on efficiency and effectiveness in carrying out policy ends, in addition to the ends themselves.

To understand why the Pike Committee conformed more closely to patterns of conduct associated with divided government while the Church Committee was more driven by institutional objectives of problem-solving and stabilization, it may be helpful to look at how each was composed. The Senate committee was carefully balanced along lines of ideology, seniority, and region and was structured to encourage bipartisan leadership. Even the language establishing the committee indicated that the investigation would be conducted in a way that sustained the basic capacity and reputation of the intelligence services as vital to national security. In contrast, the uneven partisan and ideological composition of the Pike Committee made it difficult to attain bipartisan consensus or even cooperation among members. Chairman Pike expressed a goal of reforming and restoring the legitimacy of the U.S. intelligence apparatus by subjecting it to a thorough congressional audit. However, institutional jealousies and ideological disputes prevented the committee from ever forming the sort of working relationship with the intelligence agencies and White House that was so central to the limited success of the Church Committee. Ultimately, the combination of a polarized membership, a focus on internal aspects of intelligence performance and organization, and commitment to congressional access and revelatory authority helped to derail the Pike investigation. Taken together, these cases demonstrate the diversity in causes, conduct, and consequences of major investigations.

### **Impact and Influence**

The impact of these investigations is typically measured in terms of the achievement of legislative and institutional reforms and the related increases in oversight activity in the period that followed. Comparative analysis of the investigations suggests that the full measure of achievement for each investigation should include its institutional legacy as well as its informational and remedial impact on the surrounding political landscape. The committees may have been most successful in prompting public debate regarding the status and authority over intelligence operations within the democratic system. A closer examination suggests that a combination of factors drove the decision to conduct a massive, public review of the intelligence agencies in 1975. In addition to giving Congress an opportunity to assert authority over aspects of intelligence and national security, the investigations were intended to allay public concerns

about democratic accountability and to identify the appropriate reforms to prevent future abuses. Congress was also responding to increasing public pressure to examine and constrain activities which appeared to threaten constitutional-democratic principles. A new public mood required increasing transparency and congressional oversight which had been actively unpopular in prior eras (See Colby in Dujmovic 2007). Public hearings opened a national debate over the appropriate balance between national security and democratic accountability. The committees found the acceptable balance only when they seemed to move beyond it in their attempts to expose internal aspects of intelligence operations. When the investigations appeared to endanger the continued legitimacy and capacity of the intelligence community, rather than reinforce it, they came under heavy and sustained criticism. Unfortunately for congressional investigators, members of the public and even Congress seemed to year for a return to normalcy after more than a decade of prolonged uncertainty and “self flagellation” felt during the civil rights struggle, student protests, Vietnam, and Watergate. A sort of “investigative fatigue” set in before the committees could wrap up their investigations and publish their findings and recommendations. The intense public review of America’s intelligence community prompted a series of reforms as well as a popular debate over the correct balance between national security and democratic principles. The period that followed was characterized by increased patrolling oversight and reforms directed at preventing intentional wrongdoing and the specific types of violation uncovered during the investigations. However, many of the statutory reforms to the agencies themselves, including charter legislation and budgetary transparency, outlined in the committee recommendations were never implemented. Meanwhile, the experience of the so-called “Year of Intelligence” in some ways actually strengthened and consolidated executive controls over the intelligence agencies and increased executive-legislative tension (Snider 2005; Olmstead 1996). Still, the lessons and limitations of the Church and Pike Committees helped to define the intelligence oversight agenda for the next five years (1976-1980).

Within three years of the initial allegations, Congress responded by creating permanent, select committees to oversee the intelligence community: the Senate Select Committee on Intelligence (SSCI) and House Permanent Select Committee on Intelligence (HPSCI). These committees quickly set out to enact the Church and Pike Committee recommendations and to conduct the

sort of continuous oversight lacking from the previous era. With increased resources and staff to conduct oversight, intelligence became a more formal and regular part of the congressional oversight agenda. The committees also expanded their focus to include aspects of legal compliance and covert actions that had been overlooked by the earlier focus on analytic performance. They achieved several reform objectives, including the 1978 Foreign Intelligence Surveillance Act or FISA (P.L. 95-511), which established a court to review wiretap requests for national security purposes. Despite significant support from the intelligence agencies, progress stalled over the issue of charter legislation. The strained negotiations culminated in the 1980 Intelligence Oversight Act. Although the act tightened supervision over the intelligence agencies, it was a weakened version of the controls initially envisioned by Congress that represented a significant compromise with the executive. The intelligence committees soon ran out of political capital and cooperation for their reform agenda.

The arrival in 1981 of a new administration in Washington marked the end of the transitional and reform period that began in 1975. The incoming administration had close ties to the intelligence community and was more antagonistic toward congressional scrutiny and attempts to control areas of intelligence. In addition to Regan's service on the Rockefeller Commission in 1975, new Vice President George H.W. Bush had served as DCI in 1976-1977. Within days of taking office, Reagan replaced the relatively cooperative and reform-oriented DCI Stansfield Turner with his own former campaign manager, William J. Casey. From 1981 to 1987, Casey worked with the White House to consolidate executive controls and the direction of intelligence operations. The new foreign policy agenda emphasized Soviet links to terrorism, the threat of nuclear war, and the menacing spread of communism in the western hemisphere.

By the mid-1980s, disagreements over covert operations and U.S. involvement in Nicaragua had effectively split the intelligence oversight committees along party lines and further damaged committee relations with the intelligence agencies and the Reagan administration. With no charter legislation clearly outlining the duties and limits on the intelligence agencies and weakened oversight provisions, the committees struggled to curtail unfavorable operations and policies pursued by the White House. When Democrats sought to block action through the appropriations process, the Reagan Administration simply crafted mechanisms to finance and

direct covert actions outside the traditional intelligence channels and safe from congressional discovery or sanction. The revelation of these secret intelligence operations, about which members of Congress had been intentionally deceived, led to a scandal (Iran-Contra) that ushered in a new era in oversight relations.

Thus, despite the creation of new oversight committees and a substantial increase in oversight activity and attention to overlooked areas of intelligence operations like covert action, the nation was plunged into another major intelligence scandal in which congressional arrangements for controlling and overseeing the intelligence agencies appeared to have failed. Whatever the accomplishments of the previous investigations on the overall scope and amount of intelligence oversight, it is clear that they did not do enough to increase the *relative* authority of Congress compared to the President and Cabinet-level officials.

## **Conclusions**

This paper examined the arrangements and conduct of intelligence oversight during the “Era of Trust” in connection with the congressional investigations that helped to signal its end and the transition to a new era of oversight relations. The investigations of domestic and foreign intelligence abuses by the Church and Pike Committees (1975-1976) are widely regarded as having helped to usher in a new period of increased and regular intelligence oversight after a long period of inattention and “benign neglect.” This reflects a broader pattern of development in which major, special congressional investigations of intelligence correspond with periods of transition between phases of oversight, with respect to institutional arrangements and practices. The case-study in this paper appears to reaffirm the basic pattern of executive dominance and congressional deference in such areas. In addition, however, it suggests a need for some adjustments to traditional accounts of the development of oversight in the periods preceding and immediately following the investigations, as well as the investigations themselves.

Era of Trust: With respect to the so-called “Era of Trust”, this paper examined the characteristics of oversight during the period from 1947 to 1974 and the developments that preceded the surge of investigative activity in 1975. It suggests some basic new findings about the nature of intelligence oversight in the post-war era.

First among these is that the period leading up to investigations was more complex and varied than is typically assumed. Members of Congress began pressing for increased scrutiny and control over aspects of intelligence as early as the mid-1950s but were blocked by both the oversight subcommittees and executive resistance to reform. Intelligence oversight barons in Congress blocked reforms and major inquiries for two main reasons – jurisdiction and supportive relationship. This suggests a need to be attentive to the distinction between committees and Congress as a whole in our characterizations and examinations of congressional oversight activity and interests throughout the period. Levels of interest in intelligence policy, oversight, and reforms, in addition to relationships with the intelligence community could differ considerably depending on whether one was or was not a member of an intelligence subcommittee.

It is also possible that the shift in focus and attention to oversight in the 1970s may be less radical than traditionally assumed, however. Congress' attention was diverted considerably during the 1960s to Vietnam, Kennedy's assassination, and domestic political movements. Much more activity in 1950s and early 1960s before domestic unrest, war, and assassinations diverted attention away and increased general and committee support for intelligence operations and national security issues. Recent scholarship demonstrates that Congress paid increasing attention to intelligence throughout the post-war period. Thus, it may be more accurate to say that the 1970s ushered in an era of increasingly *public* and investigative intelligence oversight.

Investigations: With respect to the Church and Pike Committee investigations, this paper presents a comparative analysis of the investigative process and organization of each committee. The analysis is intended to contribute to a better understanding of the investigations' relative and combined connections to the immediate political-institutional context as well as to the transition to a new phase of intelligence oversight relations. Viewed in relation to the rising oversight impulse of the post-war era and the lack of concrete policies or structures to control and oversee aspects of covert operations and internal compliance, the investigations appear to be a complex response to the developing intelligence establishment rather than simply a direct response to the immediate crisis. Participants in the investigations were less focused on the overall volume of oversight or particular instances of wrongdoing and deception than they were on the fact that vast areas of operations and policymaking were taking place outside the main institutional



channels envisioned in the 1947 NSA. Both committees focused on the gap between policy and practice and the need to bring agencies into compliance through a framework of increased internal and external accountability and the passage of charter legislation.

To be sure, the investigations were concerned with the inability of Congress to predict, detect, or prevent the various abuses and unauthorized actions within the intelligence community.

However, a large proportion of the hearings and reports of both investigations was devoted to understanding and reforming internal control mechanisms and procedures. While the Pike Committee explicitly sought to evaluate the management and performance of the agencies, the Church Committee also focused on the organizational practices and structures that had contributed to an atmosphere in which lawbreaking and abuse could flourish. It is important to note that the intelligence agencies had been given wide discretion over these areas of internal management and policy by the 1947 NSA, which included intentionally vague language authorizing and restricting areas of operation. Committees charged with overseeing the intelligence community had similarly interpreted the authority and integrity of the agencies quite broadly. The Church and Pike inquiries were thus distinguished from earlier investigations and commission inquiries by the scope and substance of the controversy they addressed.

The fact that these investigations addressed new areas of intelligence and levels of accountability that had not been central or even anticipated in the last major period of institutional inquiry and reform is important for appreciating the full scope of their achievements. These investigations succeeded in altering not only the arrangements but also the substantive focus of oversight activity in the following period. The biggest result of the committees was on the arrangements for and approach to congressional intelligence oversight. Indeed, the impact of the investigations was mostly felt within Congress and on the image and terms of congressional oversight authority and practices. They had a more indirect and limited (though still significant) influence on executive organization and procedures, public opinion, and the terms of the broader debate over intelligence accountability and national security.

Examining the conduct and investigative process of each committee reveals that the Church and Pike investigations were not simply assertions or exercises in oversight authority. Complex and multiple objectives driving performance and investigative process worked to direct and constrain

the investigations. Ideals of complete access, revelation, and accountability were sacrificed to preserve working relationship with executive, overall stability and security of system, legitimacy of intelligence operations, and bipartisan consensus. Where committees unwilling to defer or yield on these issues, faced considerable executive, public, and even congressional resistance and disapproval. The divergent approaches and experiences of the two committees demonstrate that the houses of Congress and individual committees act independently to some degree and with unique sets of incentives and objectives influencing the organization and performance of a given investigation.

Broader implications: The nature of intelligence oversight and distinctive character of the investigations examined in this paper complicate efforts to draw from the findings any generalizeable claims about intelligence oversight and investigations. Still, I would like to offer some basic and *tentative* conclusions about congressional intelligence oversight and inquiry. Because the very nature of intelligence work often demands secrecy and swift action, it is difficult for Congress to hold the intelligence community accountable. In addition, oversight relations between the agencies and Congress involve multiple players and institutions whose incentives and objectives for action may overlap or conflict. The complex forces driving oversight are further complicated during a major intelligence crisis, in which the basic institutions and principles of the American democratic system may be threatened. In this context, committees are in the position of conducting a public inquiry of intelligence issues while wanting to avoid causing lasting damage to the capacity and standing of the intelligence operations or starting a constitutional showdown with the president over who controls national security. To conduct a full and fair inquiry, the committees are forced to negotiate the terms of access and publicity with the executive branch. Any appearance of partisanship, bias, institutional jealousies, or individual ambitions for higher office or political gain can damage the public image of the investigation. Because of these limitations it is exceedingly difficult for the committees to produce a comprehensive factual account and construct plausible narratives of accountability and blame while also securing significant relative gains for Congress. These findings seem to reaffirm the basic notion that major inquiries have been unable to produce sustained and comprehensive oversight or a successful challenge to executive dominance in the

areas of intelligence and national security. But they do so, in part, because they are focused on restoring institutional stability and establishing a comprehensive public accounting. As such, they are both less *and* more than meets the eye.

At the most general level, these findings suggest that scholars should distinguish between types of committees and routine and special forms of oversight, and particularly major public inquiries when evaluating performance and rates of success within and across periods of time. Intelligence oversight, in particular, may be more effective as a tool for monitoring and gathering information about operations when it is conducted informally and out-of-sight. Moreover, because major intelligence failures and scandals raise such serious issues of security and stability, we must carefully examine our assumptions about why and how Congress responds to them in terms of executive-legislative relations and the broader political-institutional context.

Figure 1: Selected Intelligence “Shocks” and Investigative Responses (1941-2002)

| Era             | Date   | Alarm   | Response  |
|-----------------|--|---|---|
| Pre- modern     | 1941   | Pearl Harbor, □ U.S. enters WWII (1941-45)  | 1942: Nelson Commission (Presidential) □ 1944: Army and Navy Inquiries (Executive) □ 1945: Pearl Harbor Committee Investigation (Congressional)   |
| “Era of Trust “ | 1948   | Alger Hiss spy scandal, Disloyalty and communism fears  | 1947: EO 9835: loyalty reviews (Exec) □ 1948: HUAC hearings (Cong, standing) □ 1951: Commission on Internal Security and Individual Rights (Pres) □ 1954: Army-McCarthy Hearings (public, Cong, standing) |
|                 | Fall of China  | 1950: Board of National Estimates (BNE) est’d (Exec) □ 1955: Hoover Commission II (Cong-Pres) * congressionally mandated □ 1956: Bruce-Lovett Report (Exec) |   |
|                 | N. Korea invades S. Korea                              |   |   |
|                 | Sputnik  | 1957-1959: Series of executive reviews, reforms   |   |
|                 | U-2 Incident – Gary Powers                             | 1960: Internal Review, Closed congressional hearings  |   |
|                 | Bay of Pigs  | 1961: Kirkpatrick Report (Internal CIA review) □ 1961: Taylor Commission (Pres)   |   |
|                 | Berlin Wall erected                                    |   |   |
|                 | Cuban Missile Crisis                                   |   |   |
|                 | JFK assassination                                      | 1963: Warren Commission (Pres, 4 MCs)   |   |
|                 | Tonkin Gulf Incident , Vietnam war (1964-1975)         | 1966-1971: SFRC Fulbright Hearings (mixed, Cong – standing)   |   |
|                 | Ramparts affair – Army infiltration of domestic groups | 1967: Katzenbach Commission (Pres)  |   |
|                 | SALT I / Strategic weapons capacity (1969-             | 1971: Schlesinger Report (closed, OMB –   |   |

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
|                              | 1972)                                | Pres/Exec)   |  |
|                              | CIA deception & involvement in Chile | 1972-73: SASC, HAFC, SFRC, HFAC hearings (mixed, Cong – standing)<br>□ 1975: Murphy Commission (Cong-Pres)<br>* congressionally mandated |  |
| “Era of Uneasy Partnership”  | 1974                                 | Post-Watergate Intelligence Scandal: Domestic spying & □ foreign assassination plots   | 1975: Rockefeller Commission (Pres) □ 1975: Church Committee Investigation (public, Cong – select, Senate) □ 1975: Pike Committee Investigation (public, Cong – select, House) □ 1975: Justice Department internal review (executive, closed)<br>□ 1975: Standing committee hearings (mixed, Cong – standing ) |
|                              | “Year of the Spy”                    | 1985+: Criminal trials   |  |
| “Era of Distrust”            | 1986-1987                            | Iran-Contra Scandal  | 1987: Tower Commission (Presidential) □ 1987: Joint House-Senate Iran-Contra Investigation<br>□ 1987-1989: Independent Prosecutor? Investigation – legal proceedings   |
|                              | Pan Am Flight 103 bombed             | 1989: Commission on Aviation Security & Terrorism (Pres-Cong, closed)  |  |
| “Era of Partisan Advocacy”   | 1991                                 | Soviet Union collapses   | Oversight reforms : Boren and McCurdy proposals (Cong)   |
|                              | World Trade Center Bombing           | 1993: ATF, FBI, NYPD investigations (Exec, closed)   |  |
|                              | Aldrich Ames spy scandal             | 1995: Aspin-Brown Commission (Pres, MCs?) □ 1996: HPSCI “Intelligence Community in the 21 <sup>st</sup> Century” (closed, Cong)          |  |
| “Era of cong’l Acquiescence” | 2001                                 | September 2001 terrorist attacks   | 2002: Congressional investigation (public, Cong – standing) □ 2002: Kean Commission (mixed, Pres – 4MCs) * congressionally mandated  |
|                              |                                      |  |  |



**Table 2A: Church Committee Membership**

|             | Member                                   | Seniority / years       | Committee membership | 1974 ADA □ Score ** | 1974 NSI □ Score ** | Military service | J.D.? / other |
|-------------|--|-------------------------|----------------------|---------------------|---------------------|------------------|---------------|
| Democrats   | Frank F. Church, <i>Chairman</i> , ID    | 18                      | Foreign Relations    | 83                  | 0                   | Y- Army Intel.   | Y             |
|             | 16                                       | Judiciary               | 100                  | 0                   | Y- Army             | Y                |               |
|             | 11                                       |                         | 100                  | 0                   | N                   | Y                |               |
|             | 2  | Appropriations          | 55                   | 22                  | Y- Army             | N - radio        |               |
|             | 0  |                         | -                    | -                   | Y- Navy             | Y                |               |
|             | 0  | Armed Services          | -                    | -                   | N                   | Y, PhD           |               |
|             | Dem average                              | 7.8                     |                      | 84.5                | 5.5                 |                  |               |
| Republicans | John G. Tower, <i>Vice Chairman</i> , TX | 14                      | Armed Services       | 5                   | 100                 | Y - Navy         | N – PhD       |
|             | 8  | Foreign Relations, JCAE | 16                   | 100                 | Y- Navy             | Y                |               |
|             | 18****                                   | Armed Services          | 6                    | 100                 | Y- Air              | N-business       |               |
|             | 6  | Armed Services          | 90                   | 11                  | Y-Navy              | Y                |               |
|             | 6  |                         | 85                   | 33                  | Y- Navy             | N –business      |               |
|             | Republican average                       | 10.4                    |                      | 40.4                | 69.0                |                  |               |
|             | Committee Average                        | 9.0                     |                      |                     |                     |                  |               |

**Table 2B: Pike Committee Membership**

|           | Member                        | Seniority / years     | Committee membership | 1974 ADA □ Score ** | 1974 NSI □ Score ** | Military service | J.D.? / other? |
|-----------|-------------------------------|-----------------------|----------------------|---------------------|---------------------|------------------|----------------|
| Democrats | Otis Pike, NY <i>Chairman</i> | 14                    | Armed Services       | 74                  | 30                  | Marines          |                |
|           | 16                            | Appropriations        | 68                   | 50                  | Army                | Y                |                |
|           | 4                             | Government Operations | 90                   | 8                   | Air Force           | Y                |                |
|           | 4                             | Armed Services        | 96                   | 10                  | Marines             | N - M.S.W        |                |
|           | 4                             |                       | 50                   | 44                  | Marines             | Y                |                |
|           | 4                             | Appropriations, HGOC  | 96                   | 0                   | Army                | PhD              |                |

|             |                          |                |    |    |           |        |   |
|-------------|--------------------------|----------------|----|----|-----------|--------|---|
|             | 2                        |                | 16 | 57 | Army      | N      |   |
|             | 0                        |                | -  | -  | N         | Y      |   |
|             | 2                        |                | 86 | 25 | N         | N      |   |
|             | 5.56                     |                |    |    |           |        |   |
| Republicans | McClory, Robert (IL)     | 12             |    | 24 | 70        | MC Res | Y |
|             | 2                        | Armed Services | 4  | 90 | Air Force | Y      |   |
|             | 2                        |                | 29 | 44 | Marines   | Y      |   |
|             | 0                        |                | -  | -  | Air N.G.  | MBA    |   |
|             | 4                        |                |    |    |           |        |   |
|             | <i>Committee Average</i> | 5.08           |    |    |           |        |   |

\*data drawn from *Almanac of American Politics* (1976), Smist (1994), Congressional Biographical Dictionary - <http://bioguide.congress.gov>

\*\* ADA and NSI Index score descriptions included in Methodological Appendix.

\*\*\*\* Goldwater seniority number is overall years, with break. Consecutive score = 7



**Table 2C: Nedzi Committee Membership**

|             | Member                            | Seniority /<br>years     | Committee<br>membership | 1974<br>ADA□Score<br>** | 1974<br>NSI□Score<br>** | Military<br>service | J.D.? /<br>other? |
|-------------|-----------------------------------|--------------------------|-------------------------|-------------------------|-------------------------|---------------------|-------------------|
| Democrats   | Lucien<br>Nedzi (MI),<br>Chairman | 14                       | Armed<br>Services       | 74                      | 30                      | Marines             |                   |
|             | 16                                | Appropriations           | 68                      | 50                      | Army                    | Y                   |                   |
|             | 4                                 | Government<br>Operations | 90                      | 8                       | Air Force               | Y                   |                   |
|             | 4                                 | Armed<br>Services        | 96                      | 10                      | Marines                 | N - M.S.W           |                   |
|             | 4                                 |                          | 50                      | 44                      | Marines                 | Y                   |                   |
|             | 4                                 | Appropriations,<br>HGOC  | 96                      | 0                       | Army                    | PhD                 |                   |
|             | 6                                 | Foreign<br>Affairs       |                         |                         |                         | Y                   |                   |
|             | 12                                | Judiciary                |                         |                         | Navy, FBI               | Y                   |                   |
|             | 8                                 |                          |                         |                         |                         |                     |                   |
| Republicans | McClory,<br>Robert (IL)           | 12                       |                         | 24                      | 70                      | MC Res              | Y                 |
|             | 2                                 | Armed<br>Services        | 4                       | 90                      | Air Force               | Y                   |                   |
|             | 0                                 |                          | -                       | -                       | Air N.G.                | MBA                 |                   |
|             | 7                                 |                          |                         |                         |                         |                     |                   |
|             | <i>Committee<br/>Average</i>      | 7.8                      |                         |                         |                         |                     |                   |

## Appendix A: Directors of Central Intelligence

| ORG      | Director                          | Tenure             |                   |      |
|----------|-----------------------------------|--------------------|-------------------|------|
|          |                                   | Length (~mo)       |                   |      |
| CIG      | RADM Sidney Souers, USN           | January 23, 1946   | June 10, 1946     | 4.5  |
|          |                                   | June 10, 1946      | May 1, 1947       | 11   |
| CIA      | RADM Roscoe H. Hillenkoetter, USN | May 1, 1947        | October 7, 1950   | 41   |
|          |                                   | October 7, 1950    | February 9, 1953  | 28   |
|          |                                   | February 26, 1953  | November 29, 1961 | 105  |
|          |                                   | November 29, 1961  | April 28, 1965    | 41   |
|          |                                   | April 28, 1965     | June 30, 1966     | 14   |
|          |                                   | June 30, 1966      | February 2, 1973  | 79   |
|          |                                   | February 2, 1973   | July 2, 1973      | 5    |
|          |                                   | September 4, 1973  | January 30, 1976  | 29   |
|          |                                   | January 30, 1976   | January 20, 1977  | 12   |
|          |                                   | March 9, 1977      | January 20, 1981  | 47   |
|          |                                   | January 28, 1981   | January 29, 1987  | 72   |
|          |                                   | May 26, 1987       | August 31, 1991   | 51   |
|          |                                   | November 6, 1991   | January 20, 1993  | 15   |
|          |                                   | February 5, 1993   | January 10, 1995  | 23.5 |
|          |                                   | May 10, 1995       | December 15, 1996 | 19   |
|          |                                   | July 11, 1997      | July 11, 2004     | 84   |
|          |                                   | September 24, 2004 | April 21, 2005    | 7    |
|          |                                   |                    |                   |      |
| D/CIA □* | Porter J. Goss                    | April 22, 2005     | May 26, 2006      | 13   |
|          |                                   | May 30, 2006       | February 12, 2009 | 32.5 |
|          |                                   | February 12, 2009  | Present           |      |
|          |                                   |                    |                   |      |
| DNI*     | John Negroponte                   | April 21, 2005     | February 13, 2007 | 22   |
|          |                                   | February 13, 2007  | January 27, 2009  | 23   |

|  |                  |         |  |
|--|------------------|---------|--|
|  | January 29, 2009 | present |  |
|--|------------------|---------|--|

\*From 1947-April 2005, the DCI served as de-facto director of both the Central Intelligence Agency and the broader intelligence community. In 2005, the intelligence community was reorganized and the position of Director of Central Intelligence (DCI) was discontinued. In its place, two new positions were created. The Director of National Intelligence (DNI) is the head of the intelligence community and is the principal intelligence adviser to the President and NSC. The Director of the Central Intelligence Agency (D/CIA) is the head of the CIA and reports to the DNI.

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\*\*The details of committee dynamics and commitments to maintaining institutional legitimacy and security are the focus of my dissertation project, which examines how major intelligence investigations balance demands of secrecy with those of democratic accountability in order to construct official histories and causal accounts

The first use of the phrase “year of intelligence” to describe this period appears to be a *New York Times* editorial on February 8, 1975. Although the phrase is still used to refer to this era, the period of inquiry and reform actually extended roughly eighteen months. The use of the phrase “intelligence wars” within the intelligence community to refer to the same period appears in interviews and writings of intelligence professionals. See Johnson 1991 & 2007

The official investigative response included: a presidential commission (Rockefeller); a select Senate committee (Church); two select House committees (Nedzi and Pike); an independent commission (Taylor); an internal CIA review by DCI Colby; and sets of public and closed hearings by related standing committees in Congress.

For additional descriptions and discussion of these investigations, see especially: Olmstead 1996, Smist 1994, Schwarz 2007, and Johnson 1985. Haines (1998) provides a rare and helpful evaluation of the Pike Committee.

We presume there is a (in)direct relationship between crisis-inquiry-reform, but investigations themselves are like a “black box.” Entirely separate literatures suggest these investigations are primarily symbolic (Hinckley 1994; Fisher 2004) or products (or not) of divided government (Mayhew 1991; Fowler and Hill 2006). I am more concerned with institutional development than the questions of executive-legislative conflict driving these works.

Issues related to atomic warfare and energy were overseen by the Joint Atomic Energy Committee. Other topics relating to intelligence and national security were also taken up sporadically by other committees, including the Judiciary, Foreign Affairs, and Government Operations committees. For good accounts of the arrangements and characteristics of intelligence oversight during this period, see especially: Barrett 2005 and Snider 2005 & 1997

Comments by SASC member Leverett Saltonstall (R-MA) in 1956 opposing the creation of a joint congressional intelligence committee suggest the tension between members’ obligation to oversee the intelligence community and their personal aversion to much of what they heard: “The difficulty in connection with asking questions and obtaining information is that we might obtain information which I personally would rather not have, unless it was essential for me as a Member of Congress to have it.” Still, he insisted that CIA officials had been “ready at all times to answer any questions” the committees posed (quoted in Barrett 2004, pg.6).

The Army-McCarthy and HUAC hearings are the obvious exception and likely influenced attitudes toward oversight. Although congressional attention to intelligence issues and pressure to reform oversight increased throughout the 1950s, the experience of McCarthyism may have dampened interest in conducting open hearings on intelligence and national security issues. See Barrett 2005; Griffith 1987

Congress regularly participated in commission inquiries of serious intelligence failures but rarely mounted special investigations of its own. Thus, although oversight tended to occur via commissions, Congress remained a relatively active oversight partner. Independent commissions established by both presidents and Congress often included one or more members of Congress. Internal executive commissions and reviews, though not required to report to Congress, frequently consulted and shared findings with oversight committees. While Congress deferred to the president to investigate and reform intelligence following the disastrous Bay of Pigs operation, this was also the first major covert action for which Congress was given prior notice. See: Barrett 2005; Kitts 2006; Best 2004.

Following the creation of the CIA with the NSA 1947, the committees charged with overseeing the armed services repeatedly and successfully resisted efforts to establish a separate committee devoted to intelligence. In addition to the desire to maximize individual authority and prestige by enlarging the jurisdiction of one’s committee, lawmakers were also likely responding to the recently-passed Legislative Reorganization Act (LRA 1946; P. L. 79-601), which overhauled the committee system and substantially reduced the number of standing committees in Congress.

The successful launch of the Soviet satellite Sputnik in 1957 and capture of U-2 spy plane and pilot Gary Powers in 1960 were clear reminders of the ongoing threat posed by the Soviet Union. Additional events followed that helped to refocus the committees’ energies on the priorities of winning the arms race, increasing the relative defensive capacity of the United States, and halting the spread of communism. See *Figure 1* for examples.

Tensions arose from the growing interest of Congress’ rank-and-file in addressing intelligence issues and the resistance of oversight barons to perceived jurisdictional and reputational challenges. These sometimes outweighed inter-branch tensions over issues of oversight, especially committee-agency relations. See Barrett 2005; Snider 2008

The closest thing to an intelligence inquiry during this period was the Warren Commission inquiry into President

Kennedy's assassination, which examined aspects of the intelligence services, FBI links to Cuba, and other sensitive information. Johnson managed to preempt a congressional inquiry of CIA ties to domestic organizations by creating a three-person commission (Katzenbach) to investigate charges made in *Ramparts* magazine about covert funding of the National Student Association. For discussion of the commission and *Ramparts* affair, see: Theoharis, et al. 2006.

Following the defeat of a proposal to establish a joint oversight committee in 1966, Russell agreed to allow SFRC members Fulbright, Mansfield, and Hickenlooper to attend his subcommittee hearings. However, Fulbright stopped attending after only a few meetings, complaining that the CIA "would never reveal anything of significance . . . this was basically a device to silence the critics in the Senate" (quoted in Smist 1994, pp. 6-7). HYPERLINK "<https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/sharing-secrets-with-lawmakers-congress-as-a-user-of-intelligence/1.htm>" \l "rft11"

An earlier instance followed the release of unclassified information in 1964. "If you ever do this again," Russell is reported to have warned DCI McCone, "I am simply not going to support the Agency in its works or its budget or anything else" (quoted in Snider 2008, p.97).

An incident illustrating the basis of such concerns about SFRC access and oversight occurred in 1970, when Senator Stuart Symington (D-MO) publicly disclosed the existence of a "secret war" in Laos being conducted by the CIA. Although subcommittee members had privately supported the CIA efforts in the past, declining public support for operations in Vietnam made it nearly impossible for members to publicly approve of continued involvement in Laos. Many refused to acknowledge they had ever supported or even been aware of the situation in Laos. Operations soon ceased and funding in the area was discontinued. For detailed accounts of these episodes and CIA involvement in Laos, see: See Snider 2008; Schlesinger 2004, pp.202-3; Leary 1999; and Hamilton-Merritt 1999, chs 15-16

Included in the passing of the old guard during this period was the death in 1971 of Senator Russell, who had dominated congressional politics throughout much of the century and reigned over SASC and SAC for most of the post-war period. His colleague, Leverett Saltonstall retired from the Senate in 1967. In April 1975, Symington announced he would retire to make way for the younger generation, declaring: "I'm tired of having old men in Government passing laws that force young men to do battle in causes that are not essential to the United States."

Congress had conducted numerous hearings to examine government interest in the 1970 Chilean election and possible connections to a failed coup, but witnesses denied any efforts to interfere with the internal politics of Chile. DCI Colby provided details about the full extent of operations in closed testimony before the HASC in the spring of 1973, but this information was kept classified. Press stories now described Colby's testimony and exposed contradictions with earlier testimony to congressional committees. The controversy expanded as MCs who had held hearings on these issues complained that government deception made oversight meaningless. Hersh 1974, Sept. 2-20; Falk 1975

The Hughes-Ryan Act (amending the Foreign Assistance Act of 1961) limited the ability of presidents to conduct covert operations without the knowledge of Congress by requiring presidents to report all such actions by the CIA to the appropriate congressional committees prior to using appropriated funds. See Clark 2007, pp.103-4; Snider 2008.

Schlesinger replaced Richard Helms (DCI 1966-1973), who had been appointed as Ambassador to Iran. During his brief five-month tenure as DCI, Schlesinger sought to reform the CIA by reviewing past activities, restructuring, and ordering layoffs. Resentment among current and ex-employees may have led to the leak of the "Family Jewels."

The Family Jewels were finally released in 2007 as part of a 702-page document. The release includes the original Schlesinger memo and compilation of documented abuses, although it contains significant redactions. (CIA 1973).

Committee members briefed by Colby included Senators Stuart Symington (D-MO) and John Stennis (D-MS) and Reps. F. Edward Hebert (D-LA) and Lucien Nedzi (D-MI). Senator Barry Goldwater (R-AZ) later stated that he had also been informed and felt nothing could be gained from revealing past abuses. See: Snider 2008, Olmstead 1996

This shift in public perceptions of intelligence and espionage, in particular, is illustrated by changes in popular representations of the agencies and intelligence operations in television, movies, and the growing spy literature of the period. In particular, traditionally positive portrayals of the FBI and clandestine operations against foreign enemies began to cede ground to plots involving government conspiracies, corruption, and secret government agencies. For a good discussion of these changes, see: Taylor 2003 and Olmstead 1996, Chapter 1.

Responses to alleged foreign intelligence abuses had been straightforward and swift – Congress passed the Hughes-Ryan Act in late December and promised additional hearings when it reconvened in January.

The Watergate investigation uncovered evidence that the CIA had unwittingly provided disguises and then been asked and refused to participate in providing cover for FBI officials engaged in the conspiracy. Testimony and evidence collected suggested that further abuses may exist. Evidence of clear FBI involvement and presidential excesses overshadowed these grounds for additional and heightened congressional scrutiny of the intelligence



agencies following the inquiry. See Baker 1973

The 1947 NSA expressly prohibited the CIA from performing any “police, subpoena, law-enforcement powers, or internal security functions” within the United States. This language was intended to alleviate fears that a permanent intelligence apparatus would create an American “Gestapo” or police state. For more on the intent and subsequent interpretation of this language in relation to the development of intelligence operations and policy, see: Ransom 1970, Hastedt 1991, and Warner 2001.

Hersh is credited with breaking the story of intelligence abuses and keeping it salient by publishing a string of front-page stories on the controversy in the following weeks. Cynthia Nolan (1999) has evaluated the impact of Hersh’s articles on the intelligence controversy and concludes that Hersh likely helped to quicken a congressional response and mobilize already growing public displeasure with government deception and unaccountability.

For example, a Harris poll conducted during this period found that 49% of Americans believed the commission would be influenced by the White House. Nearly as many – 43% – thought the panel inquiry would result in “another cover-up” (Harris 1975).

Unless otherwise noted, descriptions of the Church and Pike Committee investigations are drawn from archival records, including: committee reports, hearing transcripts, contemporaneous press coverage, recorded interviews, and historical and scholarly accounts of the period. However, note that the complete records and report of the Pike Committee are unavailable. Please contact the author for more detailed account of each case or for particular citations or source material information.

H. Res. 138 directed that the committee would be composed of ten members, with seven selected from the majority party (D) and three from the minority (R). This composition was designed to reflect the proportion of party representation in the House, in accordance with Democratic Caucus rules. For the 94<sup>th</sup> Congress, that ratio was 2:1.

House Speaker Carl Albert and Majority Leader T. P. O’Neill selected members from the liberal wing of the party, including several members with strong histories of criticizing intelligence. Lacking the bipartisan makeup and objectives of the Senate probe, Republicans worried that anti-administration Democrats would wield the investigation as an axe to dismantle the intelligence apparatus and to attack executive authority over national security. Minority Leader John J. Rhodes appointed ideologically conservative congressmen to balance out the committee. See: *Congressional Quarterly*, 19 February 1975, p. 240; “House Establishes” Feb 20, *NYT*.

The committee split largely along party lines over the issues of whether to hold public hearings on NSA spying and the cooperation of American telecommunications corporations in electronic surveillance and the publication of its interim report on assassinations. In both cases, the executive branch expressed strong disapproval and resistance to the actions. Minority members joined the executive in resisting and criticizing the decisions of the committee.

One of the largest battles involved the committee’s request for documents from the CIA, NSA, DIA, NSC and State Department relating to the process for approving covert action operations and the connection between policymaking and intelligence. The CIA, DIA, and NSA agreed to supply documents, but the executive branch, and Kissinger in particular, refused to comply with the subpoenas addressed to the NSC and State Department. Although the committee had refused to take a hard-line stance in earlier confrontations with Kissinger, a majority now voted to recommend that the House initiate contempt proceedings against the Secretary. The State Department refused and charged that Pike was engaging in “McCarthyite” tactics of harassment, while the White House worked to reach a compromise on two of three subpoenas. Ford argued that the third was covered by “executive privilege.” Eventually, both sides backed down from a constitutional showdown, but not before causing further damage to the image and capacity of the investigating committee. (Time 1975; Olmstead 1996)

For example, while the congressional investigations were still underway, the Ford Administration announced a prohibition on assassination and a series of reforms intended to improve command-and-control of the intelligence community within the executive branch.

[Give examples – Goldwater speech? Votes?] Bipartisanship and cooperation within the Church committee began to break down as early as late-August and September.

The Church Committee thus had a broader mandate to investigate intelligence activities than the Rockefeller Commission, which was limited to examining possible improper actions by the CIA within the U.S. The Committee could look into the activities of any agency or agent of U.S. intelligence occurring on foreign or domestic soil.

The introduction of the resolution and the debate over its passage took place over the course of two days, January 21 and 27, 1975. *Congressional Record*, 94<sup>th</sup> Cong., 1<sup>st</sup> sess.

Notable exceptions came from Republicans who may have been seeking to distance themselves from the Nixon administration. For example, Howard Baker (R-TN) noted that the Watergate inquiry had reeked of CIA involvement and shared his “shuddering fear” that the White House had lost control of the intelligence agencies.

The investigation expanded to include topics ranging from foreign assassination attempts and biological weapons programs to spying on political activists by the NSA, IRS, and FBI.

Example: Dellums indicated his view that “this committee ought to come down hard and clear on the side of stopping any intelligence agency in this country from utilizing, corrupting, and prostituting the media, the church, and our educational system” [Pike Committee, Hearings, pg.2163].

Harrington had introduced a resolution to create committee over a month earlier, on January 16. Initial opposition came from both Republicans and oversight committee members, who wished to contain the inquiry within their own committees. See Olmstead 1996; Naughton 1975.

The drastic nature of this approach is clearest with respect to the issue of intelligence budgets, which had long been closed to members of Congress and the GAO, as well as the public. In addition to lacking precedent for public investigation of these topics, the Pike Committee was delving into detailed aspects of intelligence procedure and organization about which there was less public express controversy or manifest interest and which could not easily be addressed in terms of individual accountability or broad policy reform. This weakened their capacity to challenge executive resistance and counter-attacks on the investigation.

The committee explicitly rejected arrangements made by Church which might compromise its authority to establish its own standards of security or to access and review information. Pike also believed the committee had authority to unilaterally declassify information and documents as part of the investigative process (Haines 1998).

The executive counter-offensive got a huge break in December 1975 when a CIA operative in Athens, Greece was murdered after his identity was leaked in the magazine *Counterspy*. Although the leak was ultimately traced to poor cover and intelligence sources; executive officials promoted the popular view that it was an effect of the congressional assault on intelligence and national security institutions. See Johnson 1985, Olmstead 1996

Former supporters of increased oversight shared the view of Senator Fulbright (SFRC) that the investigations now threatened the stability and security of the nation: “I have come to feel of late that these are not the kind of truths we most need now; these are truths which must injure if not kill the nation” (quoted in Olmstead 1996, p.39).

Even so, the creation of permanent committees represented somewhat of a compromise. Only the HPSCI gained budgetary oversight authority, and in both chambers significant portions of the broader intelligence community (ex. DIA, FBI, NSC) remained under the jurisdiction of other standing committees or the executive branch.

The FISA 1978 established procedures for the physical and electronic surveillance and collection of intelligence between foreign powers, their agents, citizens and residents of the U.S. suspected of engaging in espionage or contacts with hostile foreign powers. The Act requires a court order or warrant for this type of surveillance, with some exceptions. It also established a court to hear requests and grants secret warrants for surveillance of parties where national security is at stake and obtaining a regular warrant is not possible or would take too long.

The achievements and compromises of this period may also reflect efforts to adjust to a new political climate and institutional context. The prolonged assault on the executive and federal government from the late 1960s into the mid-1970s had taken a toll on elected officials and the American public. Congress and the executive branch had a shared interest in rebuilding institutional trust and the status of the intelligence community while striking the right balance to ensure the continued legitimacy and security of the U.S. in a hostile international climate.

From 1982-1984, Congress passed three amendments aimed at limiting U.S. involvement and assistance to the Nicaraguan rebel Contras by restricting the funds available for various military purposes and operations in Nicaragua. Collectively, they are known as the “Boland Amendments” after the sponsor of the first amendment (H.Amdt.974) to the Defense Appropriations Act of 1983, Rep. Edward P. Boland (D-MA). See Grimmet 2001.

Thus, unlike the majority of intelligence alarms sounded between 1947 and 1975, the stimuli for the selected investigations can be distinguished by the scale, subject matter, and institutional conditions involved. I distinguish alarms according to type (compliance, performance) and area of intelligence (management, covert operations, counterintelligence, intelligence collection and analysis). The distinction between alarms focused on compliance (propriety and legality) and performance (efficiency and effectiveness) is rarely acknowledged in the existing literature. I have not found anyone who has formally advanced it as a means of categorizing activity. For discussion of the types and distinctions between areas of intelligence, see especially: Dulles 1963; Snider 1997; Ransom 1970

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