

**The American Right to Privacy: Legacies of the 1975 Church Committee in  
U.S. Public Memory (1976 – 2021)**

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## **Abstract**

In 1975, the U.S. Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities began a long and thorough investigation into American intelligence operations. The Committee, dubbed 'The Church Committee' after its chairperson Senator Frank Church, responded to growing public concern that U.S. agencies such as the FBI, the NSA, and the CIA were abusing executive authority against the American people. Their domestic spying and counterintelligence operations against U.S. citizens, conducted under the guise of foreign intelligence surveillance, had been revealed. The United States has declared privacy an essential component of an active democratic society, but in the interest of national security, to what extent can, and should, individual privacy be maintained? Prior to the terrorist attacks of 9/11, it could be argued that the memory of the Church Committee encouraged legislation to make a concentrated effort to regulate executive agencies to protect individual privacy; however, once the investigations ended, the Committee's findings faded from public memory. Furthermore, once terrorist attacks threatened the safety of Americans, concern for infringement of individual privacy and the original intentions of the Church Committee was largely forgotten. However, American whistleblower Edward Snowden's exposure of NSA data collection operations in 2013 reinvigorated discussions of privacy expectations and set the stage for requests for a second Church Committee. Through a historical survey of modern intelligence history, I explore how society has remembered the Church Committee and its ideas of privacy, and more significantly, whether we need a second investigation to understand the extent to which U.S. citizens' privacy rights are still being violated today.

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## Introduction

In March 1971, Betty Medsger, a religion reporter for *The Washington Post*, published a bombshell article that detailed documents stolen from an FBI office in Media, Pennsylvania which revealed that the Federal Bureau of Investigation (FBI) had conducted extensive surveillance of activist and dissent groups throughout the 1960s and into the 1970s.<sup>1</sup> Three years later, in 1974, America awoke to see on the front page of *The New York Times* the shocking headline, “Huge C.I.A. Operation Reported in U.S. Against Antiwar Forces, Other Dissidents in Nixon Years,” in which investigative reporter Seymour M. Hersh had exposed that the Central Intelligence Agency (CIA) was in direct violation of their charter by conducting massive domestic intelligence operations against U.S. dissent groups.<sup>2</sup> In combination with the recent exposure of the Watergate scandal, the public and Congress pushed for an inquiry into US intelligence organizations, concerned by the breach of privacy and infringement on the rights of US citizens. The Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, dubbed the “Church Committee” after its chairman Frank Church, was formed as this response. The Church Committee commenced its public and private inquiries in 1975, and their official investigation concluded with the publishing of a final report in 1976.<sup>3</sup>

Over that sixteen-month period, the Church Committee brought the U.S.’s secret operations to light on the Senate floor, and its final report outlined ninety-six recommendations designed to “place intelligence activities within the constitutional scheme for controlling

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<sup>1</sup> Betty Medsger and Ken W. Clawson, “Stolen Documents Describe FBI Surveillance Activities,” *The Washington Post*, March 24, 1971, <https://www.washingtonpost.com/history/2021/09/01/fbi-burglary-hoover-cointelpro/> (accessed 1/3/22).

<sup>2</sup> Seymour M. Hersh, “Huge C.I.A. Operation Reported in U.S. Against Antiwar Forces, Other Dissidents in Nixon Years,” *The New York Times*, Dec. 22, 1974. <https://timesmachine.nytimes.com/timesmachine/1974/12/22/432151792.html> (accessed 1/2/22).

<sup>3</sup> U.S. Senate Historical Office, “Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence,” U.S. Senate, n.d., <https://www.senate.gov/about/resources/pdf/church-committee-full-citations.pdf> (accessed 10/12/21).

government power.”<sup>4</sup> The goal was, foremost, to establish legislative guidance that would be able to regulate intelligence operations. However, the memory of the investigation itself, in tandem with its public consequences, would potentially hold organizations within the intelligence community (IC) to a higher standard of ethics and legality while conducting both their public and covert operations. Historians and legal scholars have investigated the effectiveness and longevity of the policy created by the Church Committee. In contrast, this paper will examine the legacies of the Committee and how it has remained within both U.S. collective memory, and the memory of scholars post-1975.

The American public diverged into two significant groups: the general public and expert analysts. American media shapes members of the general public and those who fall into the distinctly separate category of expert analysis are shaped by their own experience and research. As time moved further away from the Church Committee of 1975, the investigation became forgotten within U.S. collective memory mainly to the general public – although many of the intelligence operations and privacy issues investigated remain in public discourse.

Immediate reforms such as the Foreign Intelligence Surveillance Act of 1978 and the permanent establishment of congressional intelligence oversight boards sought to legitimize intelligence accountability and regulation over time; however, significant threats to U.S. national security such as the 9/11 Terrorist Attacks disrupted progress made to intelligence oversight and its strengthening of the privacy rights of Americans. In times of political upheaval and international threats, members of the intelligence community were no longer held to those standards, mainly because the shocking revelations of the Church Committee had faded from public memory, replaced by newer threats. In response, the public called for definitive

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<sup>4</sup> U.S. Senate Historical Office, “Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence.”

government action, leading to legislation such as the PATRIOT Act of 2001, which expanded the search and surveillance of government intelligence powers.

In order to examine the life of the Church Committee in the public consciousness, this paper will explore collective memory since 1975 and break down U.S. history into intelligence eras. A study of calls for a new Church Committee amidst privacy concerns in our current age are supplemented by a historical examination of three other significant eras: the Year of Intelligence, the establishment of the FISA Court in 1978 into the new 21<sup>st</sup> century, and the reversal of legislative intelligence safeguards prompted by the terrorist attacks of 9/11 until the Edward Snowden NSA leak.

This idea of collective memory is essential to the distinction made between groups of the American public and to our examination of the legacies of the Church Committee as it pertains to its longevity and possible second life. Cognitive psychologists Dr. Henry L. Roediger III and Dr. K. Andrew DeSoto define collective memory as “how groups remember their past.”<sup>5</sup> This vague definition aims to simplify what is, as historian Dr. Amos Funkenstein writes, “an elusive entity.”<sup>6</sup> The study of collective memory looks at what groups have remembered about their own culture and their own history, and what they have collectively forgotten.

Collective memory is also not to be confused with a group’s factual history. Memory can easily be manipulated and to study collective memory is to understand not just the memory of a collective, but the memory of their memories.<sup>7</sup> However, collective memory is significant in more aspects than just the interest of cognitive scientists, but this memory shapes national

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<sup>5</sup> Henry L. Roediger III and K. Andrew DeSoto, “The Power of Collective Memory,” *Scientific American*, June 28, 2016, <https://www.scientificamerican.com/article/the-power-of-collective-memory/#:~:text=Collective%20memory%20refers%20to%20how,at%20more%20local%20levels%2C%20too> (accessed 4/3/22).

<sup>6</sup> Amos Funkenstein, “Collective Memory and Historical Consciousness,” *History & Memory* 1, no. 1 (Spring – Summer 1989): 5.

<sup>7</sup> *Ibid.* 8.

narratives, and influences present and future decisions and attitudes. Within the general public's memory, the Church Committee and its role within past and contemporary intelligence history are largely forgotten, while within the memory of those “insiders” its legacies are prevalent in modern discussions of intelligence operations prompting their calls for a second, modern Church Committee.

## **Historical Background**

The Fourth Amendment, ratified in 1791, says that the American people have the right to be “secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,” and furthermore, search and seizure warrants must be obtained by proving probable cause prior to the intrusion.<sup>8</sup> In the context of the late 18<sup>th</sup> century, the Fourth Amendment was passed in response to warrant abuse by British troops, but has come to be symbolic of American privacy rights from unnecessary and illegal surveillance by the government. Although the amendment does not say verbatim that this protection extends to new technology, U.S. Supreme Court has ruled that American citizens, based on their interpretation of the Fourth amendment, should be able to expect that without probable cause, the government should not be able to violate a citizen’s personal space – which in the context of a technological age – extends to their online entities.<sup>9</sup>

In 1890, Samuel D. Warren and Louis D. Brandeis published an essential law review article entitled “The Right to Privacy,” based on the core belief that under privacy law, citizens

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<sup>8</sup> U.S. Const. amend. IV.

<sup>9</sup> *Carpenter v. United States*, 585 U.S. \_\_ (2018).



have the “right to be left alone.”<sup>10</sup> They argue that a person must be able to expect that they will be free from intrusion of their privacy and that:

Every individual has some phases of his life and his activities and some facts about himself that he does not expose to the public eye, but keeps entirely to himself or at most reveals only to his family or to close personal friends... When these intimate details of his life are spread before the public gaze in a manner highly offensive to the ordinary reasonable man, there is an actionable invasion of his privacy, unless the matter is one of legitimate public interest.<sup>11</sup>

This precedent, established by Warren and Brandeis, will be quoted in further privacy court cases and will be mentioned later in this paper.

It is not only the fear of completely losing legal rights that is problematic under the guise of a democratic society but the loss of personal privacy and its effects on the self. Privacy is an essential feature of being a free individual. It is innately understood, by all people, that the desire for existence in our own private sphere is critical to not only participation in our society but in feeling secure as an individual. In the United States, which prides itself on being the land of the free, privacy is not just a constitutional right but an expectation, and thus, continuing legislation such as the Patriot Act poses an ultimate threat to the privacy of the American self, and, furthermore, based on public opinion of such legislation, begins to show Americans straying away from initial concerns raised by the Church Committee of intelligence agencies overstepping in the name of democracy. The idea that people want to be left alone has shifted meanings among growing online personalities and dependency.

A constitutional expectation to individual privacy amidst new technology was a grey area during the early 20<sup>th</sup> century. Telephones could now be found just about anywhere, and access to public phones allowed citizens to communicate even when away from their personal landlines. In

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<sup>10</sup> Samuel Warren and Louis Brandeis, “The Right to Privacy,” *Harvard Law Review* 4, no. 5 (December 1890).

<sup>11</sup> Ibid.

1928 the U.S. Supreme Court ruled that evidence collected via warrantless wiretapping in a federal investigation was not in violation of the defendant's Fourth Amendment rights. *Olmstead v. United States* demonstrated the court's fixation at the time on determining the physical boundaries of the private home, rather than the individual's right to privacy,

In 1967, the Supreme Court would overturn their own ruling. In *Katz v. United States*, the government expanded a US citizen's protections under the Fourth Amendment, stating that they possessed a reasonable expectation to privacy which was essential for a democratic citizen.<sup>12</sup> Federal agents had attached an electronic bugging device to a public telephone booth that Charles Katz, a sports gambler, was known to use – and then used recordings during Katz's trial to charge him with "transmitting wagering information by telephone across state lines."<sup>13</sup> The agents had not obtained a warrant prior to conducting the electronic surveillance because of the assumption that a public phone would not be subject to privacy protections, and therefore ignored "the procedure of antecedent justification," causing Katz's conviction to be overturned.<sup>14</sup> U.S. Supreme Court Judge Potter Stewart, who voiced the official ruling stated that:

No less than an individual in a business office, in a friend's apartment, or in a taxicab, a person in a telephone booth may rely upon the protection of the Fourth Amendment. One who occupies it, shuts the door behind him, and pays the toll that permits him to place the call is surely entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world.<sup>15</sup>

While the telephone booth is a public location, the idea that one's conversations are assumed to be as private as one's property, those conversations should be protected under the Fourth Amendment, but the line for determining appropriate use of electronic wiretaps is controversial.

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<sup>12</sup> *Katz v. United States*, 389 U.S. 347 (1967).

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

Shortly after the Katz ruling, Title III of the *Omnibus Crime Control and Safe Streets Act* (1968) was signed into law by Lyndon B. Johnson and set forth legislation for obtaining wiretap orders within the United States.<sup>16</sup> Also referred to as the “Wiretap Act,” Title III prohibited government agencies and private parties from intercepting “wire, oral, or electronic communication,” without authorization and consent.<sup>17</sup> In 1968, Title III only provided protections for wire and oral communication, and electronic communications was added as an amendment in 1986.<sup>18</sup> Furthermore, this legislation supported Fourth Amendment protections and emphasized, yet again, the need for justifiable warrants prior to the collection of data.

Historically, there has been an innate struggle between national security, data collection, and breach of rights. Federal agencies largely acted on their own prerogative to obtain results pertinent to their investigations. The Federal Bureau of Investigation (FBI) was formed initially in 1908 as an entity known as the Bureau of Investigation (BI) responsible for investigations within the Department of Justice (DOJ), seeking out criminals that crossed state lines and focusing on the rising threat of anarchists, progressives and communists seeking to undermine and demolish American democracy.<sup>19</sup> The FBI answers directly to the United States Attorney General, who aside from leading the DOJ, acts as the primary layer for the U.S. federal government. In 1924, J. Edgar Hoover was appointed Director of the FBI, and held the position until his death in May of 1972, serving a 49 year-term.<sup>20</sup> Under his direction, he re-structured and re-imagined the bureau, turning him and his agents into the ultimate crime-fighting force. At

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<sup>16</sup> Title III of The Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, H.R. 5037.

<sup>17</sup> Title III of The Omnibus Crime Control and Safe Streets Act of 1968.

<sup>18</sup> Ibid.

<sup>19</sup> David Cunningham, *There’s Something Happening Here: The New Left, The Klan, and FBI Counterintelligence* (Oakland: University of California Press, 2004), 15-23.

<sup>20</sup> Ibid.

this point, the Bureau was focused on destroying organized crime, rooting out communist infiltrators and becoming absolutely essential to the government itself.

The Central Intelligence Agency (CIA) was officially created within the National Security Act in 1947 under President Harry S. Truman.<sup>21</sup> Simplistically, the CIA was to be a distinct intelligence agency that would gather foreign intelligence and carry out covert operations internationally. As opposed to the law-enforcement abled FBI, under Truman the CIA was originally created to be a centralized hub for information gathering that would then be analyzed and reported to relevant parties.<sup>22</sup> Most importantly, the CIA was expressly prohibited in their charter from conducting domestic intelligence, as it pertained to spying on Americans.<sup>23</sup> That jurisdiction was allotted to other organizations such as the FBI, who felt that if the CIA conducted domestic intelligence, they would be stepping on their toes and undermining their power.

Although its conceptual inception can be dated back to World War One, the National Security Agency (NSA) was not officially established until 1952 and was kept secret from the public until 1975.<sup>24</sup> While originally the dedicated organization for deciphering and analyzing communication intelligence during World War Two, the NSA was quickly restricted to intercepting only foreign communication. There were exceptions to this restriction, but they would require specific warrants and circumstances. Both the NSA and the CIA were to focus on foreign intelligence, and the FBI to largely focus on domestic problems, as members of the

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<sup>21</sup> Tim Weiner, *Legacy of Ashes: The History of the CIA* (New York: Doubleday Publishing, 2007), 27-28.

<sup>22</sup> Weiner, *Legacy of Ashes*, 3.

<sup>23</sup> Tim Weiner, "Look Who's Listening; The C.I.A. Widens Its Domestic Reach," *The New York Times*, Jan. 20, 2002, pg. 1. <https://timesmachine.nytimes.com/timesmachine/2002/01/20/212407.html?pageNumber=106> (accessed 1/2/22).

<sup>24</sup> Electronic Frontier Foundation, "NSA Timeline 1791-2015," Electronic Frontier Foundation, Last Update Nov. 9, 2015, <https://www.eff.org/nsa-spying/timeline> (accessed 2/28/22).

intelligence community were portioned to specific tasks and responsibilities to in the name of efficiency and effectiveness.

However, prior to the 1975 Church Committee, intelligence agencies operated largely unchecked, operating under the conditions that desperate times call for desperate measures. The unveiling of covert intelligence operations pointed at citizens, such as Project SHAMROCK, Operation CHAOS and COINTELPRO, was grossly shocking to both Congress and the public and seemingly found to be in direct violation of American rights. To breach an individual's right to be secure in their own persons, houses, papers, and effects was in direct violation of the Fourth Amendment, yet intelligence organizations defended their actions as to why they were dismissing their original operational goals and responsibilities. These operations were framed within budgets and to those in-the-know as weapons in the battle against subversiveness in the United States, and with the justification that the threats were tied to foreign powers, organizations such as the FBI, could forego Congressional approval and "focus on the political aspects of subversive behavior without obtaining the required legal justification."<sup>25</sup>

COINTELPRO, short for "Counterintelligence Program," was the FBI's covert domestic counterintelligence program to "discredit and neutralize organizations" various organizations such as the Communist Party (CP), the Socialist Workers Party (SWP), the Ku Klux Klan (KKK), and the Black Panther Party (BPP).<sup>26</sup> Aside from these major organizations, they also targeted Black Nationalists, members of Hate Groups, Antiwar Dissidents, and affiliates of the Civil Rights Movements. According to the Bureau, members of such groups were easy prey for Communist infiltrators and were likely to undermine American democracy, thus they must be

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<sup>25</sup> Cunningham, *There's Something Happening Here*, 28-29.

<sup>26</sup> Ibid. 32-33.

surveilled and treated as threats to national security.<sup>27</sup> For nearly twenty years, under the direction of J. Edgar Hoover, the FBI illegally surveilled and actively undermined and sabotaged American citizens.<sup>28</sup> Agents placed wiretaps, harassed and intimidated, encouraged undercover agents to sow paranoia, and threatened exposition of subject's secrets in order to "neutralize" the perceived threat.<sup>29</sup> COINTELPRO, first exposed by the Citizens Commission to Investigate the FBI and then further fleshed out the investigation through subpoenas within the Church Committee, was heavily criticized by both Congress and the American public for its infringement of core amendment rights.<sup>30</sup>

While COINTELPRO was criticized for its active infringement of privacy and free speech rights, it also brought up something more important to consider: how far were Americans willing to allow their privacy to be violated in order to preserve democracy? The uproar and criticism concerning domestic counterintelligence came when media sources, protestors, and outspoken government officials were being informed about an overflow of intelligence breaches and anger towards its government. Even more so, people were openly skeptical and distrustful of their own government - making this period unique. As will be mentioned later, once the initial fervor and media storm surrounding the Church Committee and domestic spying revelations died down, so did the outright concern for intelligence oversight. In reference to the revelations of COINTELPRO, Clarence M. Kelley – director of the FBI from 1973 to 1978 - defended the agency, saying that "FBI employees acted in good faith and within the bounds of what was expected of them by the president, the attorney general, Congress, and, I believe, a majority of

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<sup>27</sup>Cunningham, *There's Something Happening Here*, 31.

<sup>28</sup> Ibid. 40-41.

<sup>29</sup> Ibid. 38.

<sup>30</sup> Ibid. 39-40.

the American people.”<sup>31</sup> In Kelley’s attempt to fix public relations between the FBI and the American people, he excuses the inappropriate behavior of the agency by citing implied permission from the government and most Americans in order to preserve and uphold democracy within the U.S.

The FBI was not alone in this work. The CIA had conducted domestic operations to utilize Cuban exiles that could be used in the war against Communist Cuba, and this expanded into a larger investigation into domestic dissent.<sup>32</sup> President Truman had been explicit during his creation of the CIA that domestic activities were not within their charter, as he feared the agency would take advantage of its executive power and engage in political abuse.<sup>33</sup> However, President Lyndon B. Johnson supported them, and when Richard Nixon came into power, he too, stood by and expanded their operations.<sup>34</sup> By 1967, their domestic efforts had consolidated into Operation CHAOS, and they focused on uncovering foreign influences on American dissenters.<sup>35</sup> When operations concluded in 1974, the CIA had collected over 7,000 files on American citizens, and since 1953 had been surveying “mail between this country [U.S.] and the Soviet Union, opening several thousand letters each year.”<sup>36</sup>

While the CIA conducted operations independently of other agencies, they were found to, on occasion collaborate with the FBI on similar targets, undertaking similar tactics such as burglary and wiretapping. (see Appendix 1) This collaboration between the CIA and FBI was

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<sup>31</sup> Betty Medsger, *The Burglary: The Discovery of J. Edgar Hoover’s Secret FBI* (New York: Vintage Books, 2014): 338.

<sup>32</sup> Hersh, “Huge C.I.A. Operation Reported in U.S. Against Antiwar Forces, Other Dissidents in Nixon Years.”

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Nicholas M. Horrock, “Colby Says N.S.A. Tapped Phone Calls of Americans,” *The New York Times*, Aug. 7, 1974, 16. <https://www.nytimes.com/1975/08/07/archives/colby-says-nsa-tapped-phone-calls-of-americans.html?searchResultPosition=332> (accessed 1/2/22)

<sup>36</sup> “Operation Chaos,” *The New York Times*, June 11, 1975, 42, <https://timesmachine.nytimes.com/timesmachine/1975/06/11/110402614.html?pageNumber=42> (accessed 1/3/22)

highly problematic. The CIA conducts international operations and disseminates knowledge to pertinent parties, whereas the FBI acts as federal law enforcement, meaning that, when working together they define all executive priorities, both international and domestic. Similarly, both agencies step outside of their mandated operations, allowing them more powers and classified information than previously allowed.

Similarly, under Project Shamrock, the NSA collected telegraphic messages entering and leaving the United States. Their operations, which began in 1945, seven years before the NSA was officially established, involved accessing microfilm copies of all telegraphs largely from Western Union.<sup>37</sup> Their contents were then analyzed, and reports were sent to other agencies such as the Department of Defense, the CIA, and the FBI. At the height of their operations, the NSA analyzed around 150,000 messages a month.<sup>38</sup> Although Project Shamrock commenced as a wartime precaution, soon some telegraph companies became uncomfortable with assisting such a large compilation of data, noting that this was a violation of Americans privacy rights.

To legitimize intelligence activities and encourage cooperation between government agencies, President Ronald Reagan signed into effect Executive Order 12333 in 1981, officially expanding the role of the Director of National Intelligence (DNI) and legitimizing the United States Intelligence Community (IC).<sup>39</sup> The existence of such a community brings together what were independent organizations and allows for collaboration in analyzing and disseminating intelligence pertinent to the well-being of the United States. (see Appendix 6) The organizational structure of the IC does not necessarily create positive or negative consequences for privacy

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<sup>37</sup> Nicholas M. Horrock, "Senate Unit Says Cable Companies Aided in Spying," *The New York Times*, Aug. 9, 1975, 32, <https://www.nytimes.com/1975/11/07/archives/senate-unit-says-cable-companies-aided-in-spying-published-over.html?searchResultPosition=38>. (accessed 1/2/22)

<sup>38</sup> *Ibid.*

<sup>39</sup> Exec. Order. No. 12333, 40 Fed. Reg. 59941 (Dec. 4, 1981).



rights. All members of the IC report to the DNI, who in turn reports directly to the President. Although the IC contains branches of the military as well as government science departments, for the purposes of understanding the legacies of the Church Committee as it pertains to surveillance and intelligence oversight, this paper will largely focus on the Federal Bureau of Investigation, the Central Intelligence Agency, and the National Security Agency.

With a history of privacy violations during times of both foreign and domestic threats, the U.S. has utilized its intelligence agencies past their legal responsibilities to take action. As executive tools acting under the utmost secrecy their resources may be commandeered for personal political agendas, rendering them incredibly dangerous. The Church Committee developed at a time where the American people were finally allowed to view executive organizations, even though this view was still heavily restricted in the interest of security. There has not been much academic material written on the Church Committee, but political scientist Loch K. Johnson has written what is considered to be the definitive account of the investigation into American intelligence abuses, *A Season of Inquiry: The Senate Intelligence Investigation*. Johnson served as special assistant to Sen. Frank Church of the Senate Select Committee on Intelligence in 1975-76. He also held the role of staff director of the House Subcommittee on Intelligence Oversight from 1977-79 and was the special assistant to senators Les Aspin and Harold Brown during the Commission on the Roles and Capabilities of the U.S. Intelligence Community in 1995-96. Johnson's experience allowed him to work closely with key intelligence oversight advocates such as Frank Church, but his position also allowed him to be objective in his perspective of the Church Committee events. While this is valuable for researchers seeking primary recounting of the hearing, the lack of further voices within the field often leaves Johnson as the sole historical keeper of the Church Committee experience.

## **The Church Committee (1975-1976)**

Prior to the creation of the Church Committee, Congress had established similar commissions to investigate specific intelligence activities. Most prominently, the Watergate Committee, in session from 1973 to 1974, had worked to investigate the break-in at the Democratic National Committee (DNC) headquarters and any illegal and unethical conduct that had occurred during the 1972 presidential election.<sup>40</sup> The first two weeks of the hearings were broadcast on major news networks in the U.S., such as ABC and CBS.<sup>41</sup> They were broadcast live during the day, and then replayed at night, allowing Americans to intimately witness the Congressional proceedings into one of America's largest intelligence scandals. Before Watergate, U.S. citizens largely existed in a state of ignorance concerning what their government did behind closed doors. Betty Medsger, the *Washington Post* journalist who published the stolen FBI files back in 1971 writes that, "Americans didn't ask questions about such matters. They were willing to assume those leaders knew what was best for the country and to let the leaders of those agencies do whatever they wanted."<sup>42</sup> There was a base assumption that the government did what had to be done, and even if a citizen didn't personally agree with the tactics, as long as it didn't affect them, they existed in a state of apathy. However, the unveiling of illegal intelligence activities that likely imposed on Americans civil liberties changed this attitude for several years.

The coverage of the Watergate hearings, along with the residual memory of the Vietnam War, and the new media coverage of FBI and CIA domestic spying, had Americans, for once,

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<sup>40</sup> U.S. Senate Historical Office, "Notable Senate Investigations: Select Committee on Presidential Campaign Activities," U.S. Senate, <https://www.senate.gov/about/powers-procedures/investigations/watergate.htm> (accessed 2/24/22)

<sup>41</sup> Ibid.

<sup>42</sup> Medsger, *The Burglary*, 536.

keenly focused on U.S. privacy and surveillance. President Gerald Ford had the difficult task of reinstating public trust in the U.S. government. While members of Congress were calling for an intelligence investigation, claiming that they held too much executive power, it was the knowledge that the public was viewing America's dirty laundry that put pressure on the government to act quickly. However, to investigate all intelligence organizations within the U.S. posed itself as an overwhelming job, with the possibility of transparency becoming a threat to national security. On top of that, the majority of organizations involved in the intelligence community were not interested in having their operations deeply investigated and were not likely to cooperate.<sup>43</sup>

Nevertheless, the Senate approved the creation of the Church Committee with a vote of 82 to 4.<sup>44</sup> Eleven Senate representatives were chosen to sit on the Committee, with Democratic members as the majority (6-5).<sup>45</sup> Frank Church, a Democrat from Idaho served as Chairman with John Tower (R-TX) as Vice Chairman.<sup>46</sup> Church had not been the first candidate for chairman, but after Senator Philip A. Hart (D-MI) had to decline for health-related reasons, Church was recommended for the role.<sup>47</sup> The Senate Committee was responsible for conducting a wide-range investigation of U.S. agencies that had been, up until this point, been operating in complete secrecy. Over a sixteen-month period, the Church Committee held 126 full committee meetings, and 40 subcommittee hearings, interviewed around 800 witnesses, accessed and analyzed 110,000 documents, and participated in both public and private sessions.<sup>48</sup> Their final report,

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<sup>43</sup> Seymour M. Hersh, "C.I.A.'s Work Unimpeded by Inquiries and Reports, Officials of Agency Assert," *The New York Times*, Nov. 10, 1975, 1, <https://www.nytimes.com/1975/11/10/archives/cias-work-unimpeded-by-inquiries-and-reports-officials-of-agency.html> (accessed 1/12/22)

<sup>44</sup> U.S. Senate Historical Office, "Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence."

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

published April 29, 1976, summarized observations made of American intelligence activities and included 96 recommendations, both legislative and regulatory that would ultimately “place intelligence activities within the constitutional scheme for controlling government power.”<sup>49</sup>

While the contents found in Book II and III of the Church Committee final reports are most pertinent to this exploration, the Committee investigated “Alleged Assassination Plots Involving Foreign Leaders,” as well as investigating case studies on agency interference and covert operations in foreign countries – only the case study on Chile (1963-1973) has been declassified for access.

Nicholas M. Horrock, a Washington D.C. political reporter for *The New York Times*, was the primary media messenger between Committee findings and the general public. He not only reported on Congressional decisions, such as the choosing of Frank Church as chairman prior to the hearings but followed their contents and remained a primary name in intelligence reporting in the years after. On November 2, 1975, Horrock published an article in *The New York Times* entitled “Activities of Federal Agencies Raise Fourth Amendment Questions: Public Disclosures of Lost Privacy.”<sup>50</sup> The article, published ten months into the investigation, provided a brief overview of key disclosures from the hearings:

- The Central Intelligence Agency illegally opening 215,000 letters in one of four mail intrusion projects. Totals in the three other projects are not known. The agency, too, in clear violation of its charter, conducted domestic surveillances, sought data from the National Security Agency and prepared dossiers on Americans.
- The National Security Agency scanned virtually every overseas telephone call and cable from 1967 until 1973 to locate communications of 1,680 American citizens involved in political dissent, suspected of being narcotics traffickers or feared to be potential threats to the President.

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<sup>49</sup> U.S. Senate Historical Office, “Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence.”

<sup>50</sup> Nicholas M. Horrock, “Activities of Federal Agencies Raise Fourth Amendment Questions: Public Disclosures of Lost Privacy,” *The New York Times*, Nov. 2, 1975, 216.  
<https://timesmachine.nytimes.com/timesmachine/1975/11/02/95824133.html?pageNumber=216> (accessed 1/2/22)

- The Federal Bureau of Investigation has publicly acknowledged that it committed 238 burglaries aimed at domestic dissidents. Bureau officials estimate that 700 others may have been carried out against foreign espionage targets or foreign embassies. The bureau has also acknowledged that, like the C.I.A., it also opened mail, in eight projects in as many cities. It has not made public how many letters it opened and photographed. In addition, the bureau operated a counterintelligence program against such ‘dissidents as the Ku Klux Klan, the Socialist Workers party and the Black Panthers. Agents used forged letters and made anonymous telephone calls, among other techniques, to harass those they could not charge with a crime.
- The Internal Revenue Service set up dossiers on 8,586 political activists and 2,673 political organizations. It traded information with the C.I.A. and the F.B.I.
- Military intelligence units collected political intelligence and spied on domestic dissidents from 1967 until 1970 and prepared dossiers on a broad range of American citizens<sup>51</sup>

Horrock’s article is not only a debrief of the events thus far in a major newspaper, but directly brought in Fourth Amendment and civil rights issues. These media accounts and the public hearings provided the public with its only real window into the proceedings because the majority of the materials in the Church Committee archives have been marked as classified and kept secret in the interest of national security. Thus, major newspapers and televisions became a key way that the American public could remain updated on the intelligence debate.

The division between the general public and those personally involved with the investigation became more pronounced in the sense that the U.S. public, while not completely iced out of the proceedings, was forced to stay in the dark and the behest of many of the agencies. For this reason, the memory of the Church Committee is associated with issues of privacy and surveillance for those in the general public, while for those who took part in the hearings have a larger viewpoint and we will see them call for the Church Committee later.

The decision that the majority of the Committee hearings would take place in a closed, executive environment came at the behest of many intelligence officials such as William E.

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<sup>51</sup> Nicholas M. Horrock, “Activities of Federal Agencies Raise Fourth Amendment Questions: Public Disclosures of Lost Privacy.”

Colby, who served as the Director of the CIA from 1973 to 1976, who firmly believed that the nature of their work was so secret and important, that full disclosure – to the extent of being transparent with the public as well – would put U.S. safety at risk.<sup>52</sup> However, a handful of hearings were conducted publicly and televised nationally in order to educate the American people concerning the “unlawful or improper conduct of the intelligence community.”<sup>53</sup> The cases selected for these hearings were chosen carefully so as not to disrupt significant, current operations or federal secrets while also providing the public with transparency that had not previously been even offered. These hearings investigated, amongst others, the FBI’s extensive programs aimed at disrupting the civil rights and anti-Vietnam war movements. For the audience, the revelations were shocking but clear, not only were executive agencies utilizing resources to conduct surveillance on its own citizens but were acting upon that information to support their alleged pro-democracy agenda. These selected hearings were publicly televised, but for the majority, news came in newspapers from writers like Horrock.

It is clear that Congress and scholars involved in the Committee, such as Athan Theoharis and Loch K. Johnson, cared deeply for conversations of intelligence agencies and their accountability to the higher government and to the American people. But to what extent did the American public care about these hearings? In a democratic nation, how much should the public have to care? One might argue that they should not have to care. Elections are held with the intention of giving the responsibility, the job, to someone else. If every American were to receive a daily brief concerning U.S. intelligence, it would only be some time before they never got read, if they were even fully understood. This is not to diminish their participation to nothing more

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<sup>52</sup> U.S. Senate Historical Office, “Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence.”

<sup>53</sup> U.S. Senate Historical Office, “Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence.”

than spectators in the ring of American politics, but it is debatable as to how much Americans not only needed but wanted to know about their intelligence agencies.

In a June 22, 1975, article in *The New York Times*, Horrock questioned, “How Deeply Should the C.I.A. Be Looked Into?” He pointed out that there was “a substantial portion of the public,” who “believes that too much information on the intelligence agency has already come out.”<sup>54</sup> Furthermore: “Do the American people need to know the rest? Do even selected members of Congress need to poke into every nook and cranny of the country’s intelligence operations?”<sup>55</sup>

The final report was released in April 1976, and while a majority of this document has yet to be declassified, the areas that had already been made known to the public such as illegal wiretaps and other intelligence activities targeting Americans, were released.<sup>56</sup> Within the final report the Committee writes that “Intelligence agencies have undermined the constitutional rights of citizens, primarily because checks and balances designed by the framers of the Constitution to assure accountability have not been applied.”<sup>57</sup> To summarize the recommendations that remain pertinent to the rest of this paper begins with two distinct ideas that would eventually come to fruition: (1) the establishment of permanent intelligence oversight committees, and (2) the creation of a Foreign Intelligence court to control electronic surveillance.<sup>58</sup> Aside from these major recommendations, the Church also urged a limit on term years for agency directors –

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<sup>54</sup> Nicholas M. Horrock, “The Church Committee Must Address That, Among Other Questions: How Deeply Should the C.I.A. Be Looked Into?” *The New York Times*, June 22, 1975, 182, <https://www.nytimes.com/1975/06/22/archives/the-church-committee-must-address-that-among-other-questions-how.html?searchResultPosition=84>. (accessed 1/1/22)

<sup>55</sup> Ibid.

<sup>56</sup> U.S. Senate Historical Office, “Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence.”

<sup>57</sup> U.S. S. Select Comm. To Study Governmental Operations with Respect to Intelligence Activities. *Intelligence Activities and the Rights of Americans*. 94<sup>th</sup> Congress, 2d sess., 1976. S. Rep. No. 94-755, bk. II. 289.

<sup>58</sup> U.S. Senate Historical Office, “Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence.”

taking a direct lesson from allowing J. Edgar Hoover to rule the FBI for over 40 years; as well as establishing clear criteria for the limits of conduct within an investigation.<sup>59</sup>

Following the Committee's recommendation, in 1976, the Senate voted to create the Senate Select Committee on Intelligence Responsibilities and Activities, which consists of 15 senators, and works to review intelligence reports, budgets and activities.<sup>60</sup> Alternatively, there exists a similar body within the House of Representatives, known as the U.S. House Permanent Select Committee on Intelligence, with 22 representatives.<sup>61</sup> Together the two aim to provide "vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States."<sup>62</sup> The possibility of new, consistent intelligence reform was impressive considering the vast investigation that had just occurred, incurring criticism that the process as a whole was more than could be handled. However, it exposed impositions onto American civil rights and started to create legislation that would allow for accountability in the growing technological world.

The Church Committee investigations have opened up the most covert aspects of intelligence operations, and the American public was invited to be privy to more information than ever before. At this point, there is already a significant division between the general public and those in-the-know, as the Church Committee ends and for much of the public, its name begins to fade. However, members within extreme divisions of U.S. political parties might have been more interested in the revelations of the Church committee. As a possible area for future research, manifestos and promotional materials from political margin groups could be explored

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<sup>59</sup> Medsger, *The Burglary*, 489-490.

<sup>60</sup> U.S. Senate Historical Office, "Notable Senate Investigations: Senate Select Committee to Study Governmental Operations with Respect to Intelligence."

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.



to research this. Both parties are still cognizant of the fact that agencies such as the FBI, the CIA, and the NSA have trespassed into their privacy and conducted illegal surveillance. For the time being, intelligence reform is still prominent in American politics, with no other significant threats presenting themselves to overtake all policy.

### **From FISA to the 90s (1978-2000)**

Perhaps the most significant recommendation made in the Church Committee final report was for the creation of a foreign intelligence court to control electronic surveillance. In 1978, Jimmy Carter signed into effect the Foreign Intelligence Surveillance Act (FISA).<sup>63</sup> The act regulates the acquisition of electronic surveillance – defined at this time as any radio or wire communication – within the U.S. for the purposes of foreign intelligence.<sup>64</sup> It also permits the physical search of the “premises, information, materials, or property used exclusively by a foreign power.”<sup>65</sup> The second part of FISA was the creation of the Foreign Intelligence Surveillance Court (FISC), otherwise known as FISA Court. Often referred to as “America’s Most Secret Court,” the FISC exists solely to process requests for surveillance warrants by federal agencies.<sup>66</sup> The Court itself is made up of eleven judges who are chosen from the Chief Justice of the United States, these members are district court judges from at least “seven of the United States judicial circuits of whom no fewer than 3 shall reside within 20 miles of the District of Columbia.”<sup>67</sup> Each one of these judges serves a term of seven years, and their role is to approve or deny applications for surveillance warrants.<sup>68</sup> If an application is denied, the

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<sup>63</sup> Foreign Intelligence Surveillance Act of 1978, Pub. L. No. 95-511, 92 Stat. 1783.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

applicant has the ability to appeal to the Foreign Intelligence Surveillance Court of Review. This Court of Review is comprised of three judges also designated by the Chief Justice, “one of whom shall be publicly designated as the presiding judge.”<sup>69</sup>

The FISC was meant to be a safeguard against domestic spying. By making federal agencies prove their target was indeed a foreign subject, the government would be able to partially amend the damage and trust lost from years of domestic spying conducted by its intelligence organizations. However, the secret nature of the FISC leaves the majority of the U.S. in the dark about intelligence proceedings, furthering the divide between the general public and those in-the-know. The secrecy is understood, as federal intelligence agencies want to make sure the selected subject is not privy to these actions, however every document is automatically classified, and court orders are never published. With the exception of evidence found on account of the FISC, it is likely not many Americans would be aware of its existence.

For those who are members of the IC there is an understanding that the majority of the U.S. cannot know about the FISC’s operations. The majority of Americans were not even aware of its existence until it popped up as a topic in *The New York Times*. Leslie Maitland, in a special article for *The New York Times*, describes in her article, “A Closed Court’s One Issue Caseload,” the nature of the FISC and the debate lawmakers have concerning it.<sup>70</sup> Nowhere in the article does Maitland mention the Church Committee, but key terms that would have been familiar to the general public such as bugging, intelligence, and wiretap, are prevalent. There was immense difficulty in finding out information about the court since “those involved will not even allow visitors to see their offices,” and those that did talk to her would decline “to elaborate.”<sup>71</sup>

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<sup>69</sup> Foreign Intelligence Surveillance Act of 1978.

<sup>70</sup> Leslie Maitland, “A Closed Court’s One Issue Caseload,” *The New York Times*, Oct. 14, 1982, B16, <https://www.nytimes.com/1982/10/14/us/a-closed-court-s-one-issue-caseload.html> (accessed 1/3/22)

<sup>71</sup> Ibid.

However, she is able to provide the public with some FISA data: within “the court’s first seven and a half months of operation, it issued 207 electronic surveillance orders; in 1980 it granted 332, and in 1981 it issued 433.”<sup>72</sup>

One major concern with the use and legislation of FISA has been the existence and use of surveillance in trials. In the same article, Maitland provided both the opinion of a Federal District Court Judge and an attorney. Judge John M. McLaughlin was aware that defendants who attempt to have that evidence excluded from their trial on account of it being a violation of the Constitution, and that FISA itself was derived from Watergate and other “gross abuses of the executive’s presumed authority,” but overall, he believed that “Congress has struck a reasonable balance between the Government’s need for foreign intelligence information and the rights of its citizens.”<sup>73</sup> Attorney William Mogulescu on the other hand was of the opinion that FISA law allowed the government too much leeway in dealing with perceived threats, saying that “the way the act is written, they can wiretap anybody they deem connected to any organization that they deem to be terrorist.”<sup>74</sup>

The difficulty throughout the 80s and 90s was the rise of new communications technologies and the role they could play in cultivating and surveilling threats. The IBM Personal Computer was released in 1981, and the Macintosh 128k was released in 1984.<sup>75</sup> Mobile handheld phones were becoming more portable and widespread starting in the late 80s, and technology was pushing the limits to allow communication between different parties.<sup>76</sup> The rise of modern communication posed an immense problem for FISA and for those who hoped to

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<sup>72</sup> Leslie Maitland, “A Closed Court’s One Issue Caseload.”

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> Computer History Museum, “Timeline of Computer History,” Computer History Museum, n.d. <https://www.computerhistory.org/timeline/computers/> (accessed 4/4/22)

<sup>76</sup> Ibid.

keep it as an effective piece of intelligence oversight. Especially in the context of FISA, which hinges on its specification and definition of foreign and domestic threats, “the proliferation of modern communication technologies has caused increasing slippage between the definitions of domestic and international terrorism.”<sup>77</sup> Attorney Nick Harper, although writing from a 21st-century perspective, noted concerns from the original FISA legislature, saying that there should be concern about “an expansive interpretation of FISA’s internationality requirement,” and that “not only would subjecting domestic terrorist groups to FISA surveillance violate FISA itself, but such an application might also be unreasonable under the Fourth Amendment.”<sup>78</sup> Although FISA was created to provide protection for civil rights, it’s clear that for those who understood its usage, there was a concern as to whether the courts were effective enough to remain steadfast and unbiased. However, for those not interested in American intelligence or FISA courts, there was no commitment to remain invested since the courts were so secret and untransparent.

Just nearly five years after the Church Committee had worked diligently to pass legislation that would give the intelligence committees the right to review CIA covert operations, the U.S. Foreign Affairs panel voted “to require that only the select intelligence committees of each House of Congress receive briefings on clandestine operations.”<sup>79</sup> They went on to say also that the President – who was Carter at the time – could “order a covert operation without informing the intelligence committees in ‘extraordinary circumstances’ affecting the ‘national interest’ or to protect the safety of intelligence personnel and methods.”<sup>80</sup>

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<sup>77</sup> Nick Harper, “FISA’s Fuzzy Line between Domestic and International Terrorism,” *The University of Chicago Law Review*, 81:3 (Summer 2014): 1124.

<sup>78</sup> *Ibid.*

<sup>79</sup> Charles Mohr, “House Panel Votes to Ease Requirement on Reporting Covert C.I.A. Acts,” *The New York Times*, March 13, 1980, A20, <https://www.nytimes.com/1980/03/13/archives/house-panel-votes-to-ease-requirement-on-reporting-covert-cia-acts.html> (accessed 1/14/22)

<sup>80</sup> *Ibid.*

This was welcomed news within the intelligence community, as agencies such as the CIA were essentially saying that too much oversight would hinder their operations; thus, new legislation was already being overturned. Although privacy rights are still considered, they are not remembered collectively with the Church Committee; on the other hand, for those innately related to Congressional intelligence, the Church Committee is remembered as something already being fought by federal agencies. Although Senate members are proud of the investigation, moving into the 80s and 90s, the Church Committee is being forgotten among new conflicts in Iran and Afghanistan, the end of the Cold War, and the new millennium, but this is not historically unique.

### **Since 9/11 (2001-2012)**

On the morning of Tuesday, September 11, 2001, al-Qaeda – a militant Islamic terrorist group – conducted coordinated terrorist attacks against the United States.<sup>81</sup> Members hijacked four commercial airliners, with the intention of crashing into prominent American buildings. Two planes hit the Twin Towers of the World Trade Center in New York City, and the third plane hit the west side of the Pentagon in Arlington, Virginia. The fourth plane seemed to be targeting a government building in Washington, D.C., but passengers stormed the cockpit, and the plane crashed into a farm field in Western Pennsylvania. Nearly 3,000 people were killed, but the wave of fear created by the attacks was immeasurable.<sup>82</sup> President George W. Bush immediately mobilized U.S. intelligence agencies to figure out exactly who was responsible. It became clear later that many warning signs were present in the months leading up to the attack

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<sup>81</sup> Amy B. Zegart, “September 11 and the Adaptation Failure of U.S. Intelligence Agencies,” *International Security* 29:4 (Spring 2005): 78.

<sup>82</sup> Electronic Frontier Foundation, “NSA Timeline 1791-2015.”

though they were ultimately missed because of poor coordination within the U.S. government.<sup>83</sup>

The public response to the attacks, and the call for retribution, made it clear that the American people wanted whatever could be done to prevent such an attack from occurring again.

Bush acted quickly, proposing the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, which Congress passed only 45 days after the attacks.<sup>84</sup> Known more commonly as the PATRIOT Act, it was part of the U.S. initiative to strengthen its own security against foreign threats. The PATRIOT Act provides provisions for enlarging U.S. counterterrorism efforts and increased penalties and criteria for terrorism crimes, but it also dramatically expanded the surveillance abilities of law enforcement.<sup>85</sup> This extended to the tapping of both domestic and international phones. Under Section 215 of the PATRIOT Act, the government can “obtain a secret court order requiring third parties, such as telephone companies, to hand over any records or other “tangible thing” if deemed “relevant” to an international terrorism, counterespionage, or foreign intelligence investigation.”<sup>86</sup> The use of the word relevant in quotations suggests the vagueness in which threats were defined by current legislation at the time, and further illustrates the loosening grip on the relationship between intelligence gathering, safety, and morality.

At this point, when presented with an immense threat to national security, the idea of intelligence oversight largely went missing. While privacy experts and civil rights groups spoke out against the PATRIOT Act, the Church Committee had largely disappeared from public memory. Discussion of privacy issues continued but these rights were seemingly waived with the

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<sup>83</sup> Zegart, “September 11 and the Adaptation Failure of U.S. Intelligence Agencies,” 78.

<sup>84</sup> Uniting and Strengthening America By Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

understanding that a loss of constitutional rights would allow for U.S. security organizations to catch terrorists and avoid future attacks. Journalist Glenn Greenwald summarizes this sentiment in his book *No Place to Hide*, writing that “since the beginning of the War on Terror, Americans have frequently been told that they must relinquish their core political rights if they are to have any hope of avoiding catastrophe.”<sup>87</sup>

Throughout the early 2000s, legislation struggled to accommodate both privacy laws and the collection of intelligence. In 2008, significant amendments to the Foreign Intelligence Surveillance Act were approved (69-28), the most important to this study being Section 702.<sup>88</sup> Enacted by Congress in an effort to address technology advancement since 1978, Section 702 permits federal agencies to conduct targeted surveillance of non-American persons “located outside the United States to acquire foreign intelligence information.”<sup>89</sup> In many cases, this surveillance is conducted with the court-ordered assistance of electronic communication service providers and requires a court order in order to complete the surveillance.<sup>90</sup>

Interested in the public opinion concerning intelligence legislation post 9/11, Pew Research Center for the People & the Press conducted a survey in February of 2011 using 1,000 U.S. adults, which collected broad opinions about the Patriot Act, as well as collecting data that illustrated opinions based on political party.<sup>91</sup> (see Appendix 2) Although the difference between those that thought the Patriot Act was necessary (33%) versus those who did not (39%) was not exceptionally large, the majority of those surveyed in 2004 believed that the Patriot Act went too

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<sup>87</sup> Greenwald, *No Place to Hide*, 208.

<sup>88</sup> Brennan Center for Justice, *Are They Allowed to Do That? A Breakdown of Selected Government Surveillance Programs*, Brennan Center for Justice at New York University School of Law, Jan. 27, 2015, <https://www.brennancenter.org/sites/default/files/analysis/Government%20Surveillance%20Factsheet.pdf>. (accessed 1/2/22)

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.

<sup>91</sup> Tom Rosentel, “Public Remains Divided Over Patriot Act,” Pew Research Center, Feb. 15, 2011, <https://www.pewresearch.org/2011/02/15/public-remains-divided-over-the-patriot-act/>, (accessed 1/2/22).

far in its allowances and posed threats to civil liberties. This is an interesting outlier in the history that has been set up thus far. Rather than demonstrate that concern for privacy has disappeared in the post 9/11 years, this data illustrates that this was false. Only two years later (2006), the majority had shifted opinions, saying that it was a tool that helped the government find terrorists, and in 2011 while the majority remained the same, the difference between those who thought the Patriot Act was necessary versus those who thought it went too far increased.<sup>92</sup>

Although the use of a court order requirement ensures a level of safeguarding against surveillance abuse, it does not protect against broad generalized orders. The danger of broad surveillance is the collection of non-targeted persons data being collected during the act of gathering intelligence on the intended target. The amendment worked to assure Americans that they were not being surveilled, and that it was instead working to identify and assess possible dangerous foreign entities. There was no transparency concerning the collection of bystanding data.

The American Civil Liberties Union (ACLU) immediately criticized the 2008 Amendments Act, calling out the new “spying bill” for giving “vast, unchecked surveillance authority to the government” and announcing its intention to challenge the bill on the grounds of it being “unconstitutional.”<sup>93</sup> In a July 9, 2008, press release ACLU argued that:

The FISA Amendments Act nearly eviscerates oversight of government surveillance by allowing the Foreign Intelligence Surveillance Court (FISC) to review only general procedures for spying rather than individual warrants. The FISC will not be told any specifics about who will actually be wiretapped, thereby undercutting any meaningful role for the court and violating the Fourth Amendment’s protection against unreasonable search and seizure [...] The bill essentially grants absolute retroactive immunity to telecommunication companies that facilitated the President’s warrantless wiretapping program [...] This means

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<sup>92</sup> Tom Rosentiel, “Public Remains Divided Over Patriot Act.”

<sup>93</sup> American Civil Liberties Union, “ACLU Announces Legal Challenge To Follow President’s Signature.” American Civil Liberties Union, Press Release, July 9, 2008, [www.aclu.org/press-releases/senate-passes-unconstitutional-spying-bill-and-grants-sweeping-immunity-phone](http://www.aclu.org/press-releases/senate-passes-unconstitutional-spying-bill-and-grants-sweeping-immunity-phone) (accessed 2/28/22)



Americans may never learn the truth about what the companies and the government did with their private communications.<sup>94</sup>

The ACLU noted that not only is this expansion of intelligence allowance detrimental to the future of the protection of American's constitutional rights, but the bill undermines the power of the US courts and eliminates transparency about domestic surveillance.

The intent of the FISA Amendments was to allow the protection of privacy of those within the United States while allowing for the surveillance of persons "reasonably believed to be foreigners outside the United States."<sup>95</sup> However, the Amendments Act of 2008, utilizing non-individualized court orders, found a loophole in which it may take advantage of any information collected on American citizens. As Senator Ron Wyden (D-ID) wrote in a statement to the President prior to Congressional conversations considering the continued enactment of FISA, "Section 702, as it is currently written, does not contain adequate protections against warrantless "back door" searches of this nature."<sup>96</sup>

Under Section 702, the Office of the Director of National Intelligence reported that "it is not reasonably possible to identify the number of people located in the United States whose communications may have been reviewed."<sup>97</sup> This inability to even estimate the number of citizens who have had private data collected and possibly reviewed suggests that the number is incredibly high. While the Amendments Act was passed to prevent this exact breach of privacy, as Senator Wyden and the ACLU emphasize, it rather encouraged and legitimized further government authority considering warrantless surveillance of Americans. FISA would again be

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<sup>94</sup> American Civil Liberties Union, "ACLU Announces Legal Challenge To Follow President's Signature."

<sup>95</sup> Foreign Intelligence Surveillance Act of 1978.

<sup>96</sup> Ron Wyden, "Hold Statement for Congressional Record on FISA Amendments Act," Ron Wyden, Hold Statement, June 11, 2012, <https://www.wyden.senate.gov/imo/media/doc/Hold%20Statement%20for%20Congressional%20Record%20on%20FISA%20Amendments%20Act.pdf>. (accessed 2/28/22)

<sup>97</sup> Ibid.

up for debate in 2012, and while the overall public seemed to have been staying out of the intelligence conversation, there was soon to be another catalyst event that would bring all public opinions back onto the topic of intelligence oversight and possibly into the consideration for a new, 21<sup>st</sup> century Church Committee.

### **Edward Snowden and Calls for a New Church Committee (2013-2021)**

June 6<sup>th</sup>, 2013; *The Washington Post* and *The Guardian* publish startling exposé articles disclosing the existence of a top-secret NSA program known simply as PRISM.<sup>98</sup> Attached in the articles was a top-secret, 41-slide PowerPoint disclosing the existence and operations of the \$20 million a year program.<sup>99</sup> Under PRISM, the NSA had secured direct access to material collected through systems such as Google, Yahoo, Apple, Microsoft and Facebook, including “search history, the content of emails, file transfers and live chats.”<sup>100</sup> The uproar was almost immediate. Not only was the public angry at the implications of a mass surveillance collection program utilizing their private data, but members of the government were in a rush to know how these top-secret sources had been acquired.

Interestingly, once media outlets revealed PRISM, the communication companies utilized by PRISM denied any knowledge or cooperation with the said program.<sup>101</sup> Google CEO at the time, Larry Page, claimed that as a company they had no knowledge of PRISM, nor did any

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<sup>98</sup> Barton Gellman and Laura Poitras, “U.S., British Intelligence Mining Data from Nine U.S. Internet Companies in Broad Secret Program,” *The Washington Post*, June 7, 2013. [https://www.washingtonpost.com/investigations/us-intelligence-mining-data-from-nine-us-internet-companies-in-broad-secret-program/2013/06/06/3a0c0da8-cebf-11e2-8845-d970ccb04497\\_story.html](https://www.washingtonpost.com/investigations/us-intelligence-mining-data-from-nine-us-internet-companies-in-broad-secret-program/2013/06/06/3a0c0da8-cebf-11e2-8845-d970ccb04497_story.html). (accessed 2/28/22) : Glenn Greenwald and Ewen MacAskill, “NSA Prism Program Taps In to User Data of Apple, Google and Others,” *The Guardian*, June 7, 2013. <https://www.theguardian.com/world/2013/jun/06/us-tech-giants-nsa-data>. (accessed 2/28/22)

<sup>99</sup> Ibid.

<sup>100</sup> Ibid.

<sup>101</sup> Tom McCarthy, Obama Defends Secret NSA Surveillance Programs – As it Happens,” *The Guardian*, June 7, 2013, <https://www.theguardian.com/world/2013/jun/07/obama-administration-nsa-prism-revelations-live>. (accessed 2/28/22)

“back door” for government collection exist within their software.<sup>102</sup> He wrote that “any suggestion that Google is disclosing information about our users’ Internet activity on such a scale is completely false.”<sup>103</sup> Mark Zuckerberg, CEO of Facebook, gave a similar statement, arguing that “Facebook is not and has never been part of any program to give the US or any other government direct access to our servers.”<sup>104</sup> In both cases, the systems denied knowledge of PRISM, denied being served a court order, and requested transparency from the government in order to continue protecting civil liberties. As businesses, their instinct to assure customers that their privacy was not being infringed upon is of the utmost importance, yet evidence provided by PRISM documents illustrates that whether or not the company directly provided it, at one point PRISM was allowed collection powers to their databases.

PRISM’s growing power was a direct consequence of the 2008 FISA Amendments Act and the 2012 extension under President Barack Obama. In 2017, days before the FISA Amendments Act was scheduled to expire, the U.S. Senate voted to reauthorize the law, and in 2018, Congress reauthorized Section 702 for another six years.<sup>105</sup> It is set to expire in 2023. Likely similar concerns will be raised about the usage of surveillance on US citizens, but if it is to be extended, it will continue to provide government surveillance authority beyond reasonable limits.

The media disclosure of PRISM quickly followed a leak of a FISC court order requiring the Verizon company to provide comprehensive copies of all telephone metadata “created by Verizon for communications (i) between the United States and abroad; or (ii) wholly within the

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<sup>102</sup> Tom McCarthy, Obama Defends Secret NSA Surveillance Programs – As it Happens.”

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

<sup>105</sup> Electronic Frontier Foundation, “NSA Timeline 1791-2015.”

United States, including local telephone calls.”<sup>106</sup> The distinction between data and metadata is critical in this scenario. An easier way to describe this difference is to picture a telephone call. The data would be what was said during the call, and it would gather the names mentioned during the call and make a note of who was talked to. Metadata provides information about the call; in this case, metadata refers to the length of the call, the time in which the call was made, and the associated phone numbers. This descriptive metadata may not present itself as information one would not want to be released. However, these descriptions, collected by software companies, can help agents infer how someone talks on the phone to certain people, when calls are made to these people, and what that could mean about somebody’s personal life. While the Verizon court order is an example of the FISC being utilized to secure broad nets of information, secure agencies such as Google, Facebook, and Yahoo are subject to the collection and disbursement of their member's own metadata.

While the news that the US government had conducted mass surveillance that collected the private data of American citizens raised immediate discussions of intelligence activities and necessary oversight, the identity of the whistleblower who had provided such vast and informative documents to the media was revealed to be that of twenty-nine-year-old Edward Snowden. Snowden – a name now significant enough to be a descriptor for intelligence eras in the US, had worked for the CIA and as an employee for NSA contractors Dell and Booz Allen Hamilton.<sup>107</sup> Confronted with ethical doubts concerning the work, he began collecting NSA documents in bulk, which he then provided to journalists Glenn Greenwald and Barton Gellman

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<sup>106</sup> U.S. Foreign Intelligence Surveillance Court, *In Re Application of the Federal Bureau of Investigation For an Order Requiring the Production of Tangible Things from Verizon Business Network Services, Inc. On Behalf of MCI Communication Services, Inc. D/B/A Verizon Business Services*. Court Order, April 25, 2013.

<sup>107</sup> Barton Gellman, “Code Name ‘Verax’: Snowden, in Exchanges with Post Reporter, Made Clear He Knew Risks,” *The Washington Post*, June 9, 2013, [https://www.washingtonpost.com/world/national-security/code-name-verax-snowden-in-exchanges-with-post-reporter-made-clear-he-knew-risks/2013/06/09/c9a25b54-d14c-11e2-9f1a-1a7cdee20287\\_story.html](https://www.washingtonpost.com/world/national-security/code-name-verax-snowden-in-exchanges-with-post-reporter-made-clear-he-knew-risks/2013/06/09/c9a25b54-d14c-11e2-9f1a-1a7cdee20287_story.html). (accessed 2/28/22)

and documentary filmmaker Laura Poitras.<sup>108</sup> He worked with his three contacts to provide them with encrypted documents and their meaning, as well as being transparent about his reasons for taking such a risk, saying that:

Perhaps I am naïve, but I believe that at this point in history, the greatest danger to our freedom and way of life comes from the reasonable fear of omniscient State powers kept in check by nothing more than policy documents [...] The steady expansion of surveillance powers is such a direct threat to democratic governance that I have risked my life and family for it.<sup>109</sup>

The Media burglars, who had leaked the existence of COINTELPRO back in 1971, risked their well-being because of their strong feelings toward amending injustice. Snowden demonstrates a similar significant personal dedication to preserving both democracy and privacy. While his actions sparked the modern-day US surveillance debate, the public was significantly split in their opinion of Snowden's actions.

In the aftermath of Snowden's revelations, Americans extensively debated whether he was a hero or a traitor. This debate was nicely summed up in *The New Yorker* by opposing viewpoints presented by writers John Cassidy and Jeffrey Toobin. Toobin argued that Snowden was a traitor, while Cassidy argued he was a hero. Cassidy wrote that Snowden had performed a great public service, and the existence of the documents allows Americans to have healthy doubt when receiving claims from their government.<sup>110</sup> Most significantly, he wrote about the documents in regards to FISA, saying that:

For most Americans, the main concern will be domestic spying, and the chronic lack of oversight that Snowden's leaks have highlighted. In the years since 9/11, the spying agencies have been given great leeway to expand their activities, with the Foreign Intelligence Surveillance Act Court...all too often acting as rubber stamps rather than proper watchdogs. Partly, that was due to lack of gumption and

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<sup>108</sup> Barton Gellman, "Code Name 'Verax': Snowden, in Exchanges with Post Reporter, Made Clear He Knew Risks."

<sup>109</sup> Ibid.

<sup>110</sup> John Cassidy, "Why Edward Snowden is a Hero," *The New Yorker*, June 10, 2013, <https://www.newyorker.com/news/john-cassidy/why-edward-snowden-is-a-hero> (accessed 1/2/22).

an eagerness to look tough on issues of counterterrorism. But it also reflected a lack of information.<sup>111</sup>

Toobin, on the other hand, regards Snowden as a “grandiose narcissist who deserves to be in prison.”<sup>112</sup> Furthermore, he argues that it is difficult to be shocked by the information leaked in the PRISM documents and that the programs in question were all legal. Thus, “he wasn’t blowing the whistle on anything illegal; he was exposing something that failed to meet his own standards of propriety.”<sup>113</sup> Regardless of personal opinion on Snowden himself, the arguments made by both sides are consistent with intelligence opinions from the time. These opinions being that while it is clear FISA has failed in its original intentions to secure intelligence oversight since the Church Committee, there is also an unspoken understanding that collection of data is expected to ensure American security.

However, post-Snowden we do see a rising shift in public opinion surrounding opposition to government surveillance. (see Appendix 3) Although many Americans still believe it is appropriate for US intelligence agencies to monitor outside foreign entities, since 2013, there has been a shift in the majority of citizens who disapprove of the government's collection of electronic data as part of anti-terrorism efforts (the original majority had been approved).<sup>114</sup>

What had been missing in intelligence conversations up until this point was the discussion of a modern-day Church Committee. The Church Committee, seemingly forgotten, found a second life in the Snowden revelations. Although the general public were not the ones

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<sup>111</sup> John Cassidy, “Why Edward Snowden is a Hero.”

<sup>112</sup> Jeffrey Toobin, “Edward Snowden is No Hero,” *The New Yorker*, June 10, 2013, <https://www.newyorker.com/news/daily-comment/edward-snowden-is-no-hero> (accessed 1/2/22).

<sup>113</sup> Jeffrey Toobin, “Edward Snowden is No Hero.”

<sup>114</sup> Shiva Maniam, “Americans Feel the Tensions Between Privacy and Security Concerns,” Pew Research Center, Feb. 19, 2015, <https://www.pewresearch.org/fact-tank/2016/02/19/americans-feel-the-tensions-between-privacy-and-security-concerns/>, (accessed 1/2/22). : Mary Madden and Lee Rainie, “Americans’ Views on Government Surveillance Programs,” Pew Research Center, March 16, 2015, <https://www.pewresearch.org/internet/2015/03/16/americans-views-on-government-surveillance-programs/>, (accessed 1/2/22).

explicitly calling for a second Church Committee, they were once again highly cognizant of privacy and intelligence news. (see Appendix 4) The important thing to note is that under the context of a post-Snowden environment, US citizens were calling for legislation to safeguard the abuse of power by government entities in conducting surveillance amongst citizens. Similar to concerns that arose in the 1970s over lack of accountability in the sense that intelligence agencies such as the FBI, NSA, and CIA were accountable to only themselves and thus, could infringe upon US constitutional rights because of a lack of executive power to prevent this abuse. While the public announced their concerns, it was those who fall into the category of “in-the-know,” shortly after the Snowden revelations that would bring back the Church Committee explicitly by name.

Less than a year after the Snowden news broke publicly, former members and staff of the Committee wrote a letter encouraging Congress to create a Church Committee for the 21<sup>st</sup> century.<sup>115</sup> Their reasoning behind this first formal request in 2014 was concern about the similarities to the 20<sup>th</sup> century that led to the Church Committee in the first place. The combination of new technology and a loss of public trust has created a need “for another thorough, independent, and public congressional investigation of intelligence activity practices that affect the rights of Americans is apparent. There is a crisis of public confidence.”<sup>116</sup> Signed by 15 previous counsel, advisers, and professional staff members of the Church Committee ended their letter by saying that:

The erosion of public trust currently facing our intelligence community is not novel, nor is it a solution. A Church Committee for the 21<sup>st</sup> century – a special congressional investigatory committee that undertakes a significant and public

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<sup>115</sup> Frederick A.O. Schwarz Jr., et al. Frederick A.O. Schwarz Jr. et al. to Congress, et al. March 17, 2014 via *Electronic Frontier Foundation*. [https://www.eff.org/files/2014/03/16/church\\_committee\\_-\\_march\\_17\\_2014\\_.pdf](https://www.eff.org/files/2014/03/16/church_committee_-_march_17_2014_.pdf). (Accessed 1/2/22)

<sup>116</sup> Frederick A.O. Schwarz Jr., et al. Frederick A.O. Schwarz Jr. et al. to Congress, et al.

reexamination of intelligence community practices that affect the rights of Americans and the laws governing those actions – is urgently needed.<sup>117</sup>

These individuals, who had personal affiliations with the original hearings, requested a new Church Committee by name. However, although they come with a request with personal experience, they are not the only ones to publicly consider whether or not a second, modern-day Church Committee would be needed, or if it would even be helpful.

Frederick A. O. Schwarz Jr., chief counsel for the Church Committee, who signed the previous letter, also penned an article for *The Nation*, “Why We Need a New Church Committee to Fix Our Broken Intelligence System.”<sup>118</sup> In it he wrote that “the ability now to look into the post-9/11 secret programs conducted under administrations from both parties should add to the impetus to form a new committee.”<sup>119</sup> His article not only stressed the importance of a thorough and thoughtful committee to investigate intelligence abuse, but he places a large amount of respect on the Church Committee for doing what it did at the time, and for making wise propositions regardless of whether official legislature ever took effect. However, what is most important to him is that the Committee neither act as a “prosecutor nor a court.”<sup>120</sup> In order to move forward without solely blame, a new committee would enable an investigation without a trial, going further on to say that “fairness requires recognition that most officials who broke our laws, undermined our values and sullied our traditions thought they were acting to protect us from grave threats. But a new investigation should nonetheless expose what happened and assess

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<sup>117</sup> Frederick A.O. Schwarz Jr., et al. Frederick A.O. Schwarz Jr. et al. to Congress, et al.

<sup>118</sup> Frederick A.O. Schwarz Jr., “Why We Need a New Church Committee to Fix Our Broken Intelligence System,” *The Nation*, March 31, 2014. <https://www.thenation.com/article/archive/why-we-need-new-church-committee-fix-our-broken-intelligence-system/>. (accessed 1/2/22)

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.



the damage.”<sup>121</sup> A new Church Committee would be costly in terms of both time and money, but according to advocates for intelligence oversight, it is thoroughly necessary.

While past members of the Church Committee, intelligence-informed individuals, and select journalists have called for a similar investigation, there have been no plans for a second committee in the near future – and that may be because of a lack of overwhelming pressure from the other members of the public. The argument that the public is not informed on intelligence is a weak one. A yearly intelligence opinion study conducted by the Strauss and Clements Center Intelligence Studies Project asked participants their opinions on numerous intelligence topics, from their view of its effectiveness in specific contexts to their opinion on who or what should be overseeing operations.<sup>122</sup> (see Appendix 5) This study illustrates that the general public does have opinions on intelligence, privacy, and the role of its executive agencies (topics that were all pertinent in the original Church Committee investigation) even if they do not mention the Church Committee by name.

While topics present as significant themes during the Senate investigation, such as protection of privacy, safeguards against abuse of power within intelligence agencies, and misuse of resources to impede constitutional rights are present within US collective memory, the revelations of the Church Committee have largely faded from view. The embarrassing nature under which the investigations occurred prompted a desire to sweep the endeavor under the rug. Lastly, the lack of significant positive change to occur as a result has not solidified the Church Committee within public memory. The original intentions of Frank Church and the rest of the Committee have been undermined most noticeably at a legislative level, and even more so, the

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<sup>121</sup> Frederick A.O. Schwarz Jr., “Why We Need a New Church Committee to Fix Our Broken Intelligence System.”

<sup>122</sup> Joshua Busby and Stephen Slick, “2020 Public Attitudes on US Intelligence,” *The Chicago Council on Global Affairs*, May 20, 2021. <https://www.thechicagocouncil.org/research/public-opinion-survey/public-attitudes-us-intelligence-2020>. (Accessed 1/2/22)

secretive nature of intelligence operations has never encouraged the American public to remain involved. If the public memory of the Church Committee were prominent enough to be easily recalled by the American people, perhaps rather than just asking for intelligence change, they would explicitly name the call for a second Church Committee.

Daniel Ellsberg, who, in 1971 leaked portions of an important military document known as the Pentagon Papers, petitioned Congress in 2017 to create a new Church Committee.<sup>123</sup> In his petition, he writes that “pressure by an informed public on Congress to form a select committee to investigate these revelations might lead us to bring NSA and the rest of the intelligence community under real supervision and restraint and restore the protections of the Bill of Rights.”<sup>124</sup> This idyllic dream, categorized by both an informed public and a reinvigoration of the original constitutional rights, stated by Ellsberg and echoed by other members of the original Church Committee, is not possible without a second select committee to investigate rising and persistent issues among the intelligence community. While the Church Committee’s importance is stressed by these members of the public deemed as “informed,” it will be essential to utilize the general public as well – newly informed – to enact a successful call for a second Church Committee.

## **Conclusion**

The American expectation of privacy has remained a core cultural and political belief since the 1700s, and the constant threat of its demise has been met historically with protest and anger. To take away one’s privacy is not only unconstitutional but means the loss of one’s free

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<sup>123</sup> Miranda Green, ““Daniel Ellsberg Issues Call for a New Church Committee To Probe NSA,” The Daily Beast, July 1, 2013. Updated July 11, 2017. <https://www.thedailybeast.com/daniel-ellsberg-issues-call-for-a-new-church-committee-to-probe-nsa>. (accessed 2/28/22)

<sup>124</sup> Ibid.

self, but more than that, individual privacy is an essential cornerstone upon which the notion of American democracy stands. Without privacy, the democratic society is at risk of crumbling into chaos. During *Olmsted v. United States* (1928), Supreme Court Justice Louis D. Brandeis argued that “The makers of our Constitution...sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred as against the government, the right to be let alone – the most comprehensive of the rights of man and the right most valued by civilized men.”<sup>125</sup> Privacy is essential within the democratic society to protect ourselves from our government, lest we be influenced totally and lose the ability to wield democratic power.

The Senate Select Commission to Study Governmental Operations with Respect to Intelligence Activities grew from this necessity to create safeguards for American citizens against intelligence agencies. The danger of entities such as the FBI utilizing executive power and resources to exert control over dissent groups not online violates individual privacy but demonstrates the leniency with which the government monitors these agencies. The Church Committee of 1975 has been one such effort to hold these agencies accountable, however with the growing dependence on technology, lines between public and private becoming increasingly blurred, and the political landscape of a post 9/11 world focused on national security, original revelations of the Church Committee has all but disappeared from U.S. collective memory.

The relative recency with which the original hearings occurred has allowed for former members to call for a second, contemporary Committee. It is these voices, those with personal experiences, as well as historians, journalists and interested parties, who make up the small subset of the American public who possess memory of the Church Committee. On the other

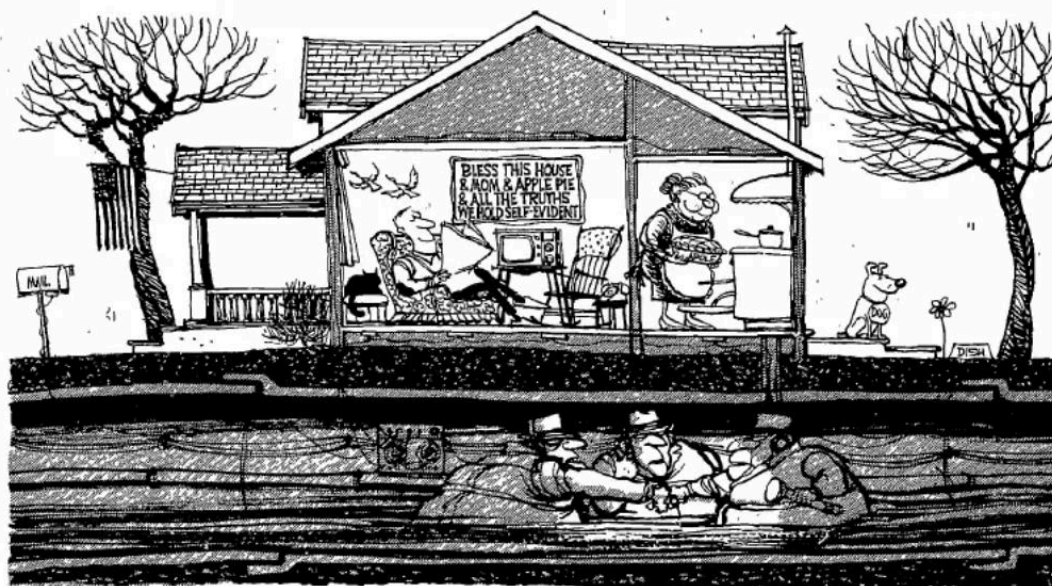
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<sup>125</sup> *Olmstead v. United States*, 277 U.S. 438 (1928).

hand, the general public, although not ignorant of modern issues of privacy, has largely been forced into the conversation.

## Appendix

### Appendix 1



Oliphant, The Denver Post

"Hi, Ferguson, FBI" . . . "Oh, Hi, Kelley, CIA . . . Meet Wilson, Phone Company" . . . "Hi."

202

THE NATION/February 22, 1975

A political cartoon published in 1975 depicts FBI, CIA, and phone company wiretappers making introductions to each other underneath the home of an American family, suggesting the cooperation and presence of surveillance on U.S. families.

Source: Pat Oliphant, "Hi, Ferguson, FBI...Oh, hi, Kelly, CIA...meet Wilson, phone company...Hi," *The Nation*, February 22, 1975, <https://www.loc.gov/item/2020631159/> (accessed 3/25/22).

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## Opinions of the Patriot Act

	<b>Dec 2004</b>	<b>Jan 2006</b>	<b>Feb 2011</b>
<i>Which comes closer to your view of the Patriot Act...</i>	%	%	%
A necessary tool that helps gov't find terrorists	33	39	42
It goes too far and poses threat to civil liberties	39	38	34
Don't know	<u>28</u>	<u>23</u>	<u>23</u>
	100	100	100

PEW RESEARCH CENTER Feb. 10-13, 2011.

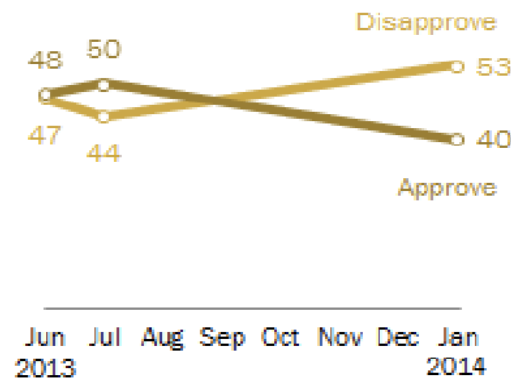
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A survey conducted by the Pew Research Center for the People & the Press among 1,000 U.S. adults found that little had changed in public opinion concerning the Patriot Act since its original reinstatement.

Source: Tom Rosentel, "Public Remains Divided Over Patriot Act," Pew Research Center, Feb. 15, 2011, <https://www.pewresearch.org/2011/02/15/public-remains-divided-over-the-patriot-act/>, (accessed 1/2/22).

## Post-Snowden, increased opposition to gov't surveillance

*The government's collection of telephone and internet data as part of anti-terrorism efforts*



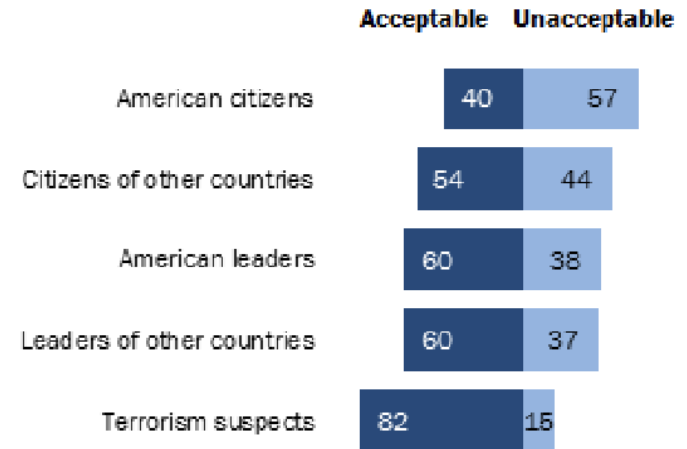
Survey conducted Jan 15-19, 2014.

PEW RESEARCH CENTER/USA TODAY

Image 1

## Most Americans believe it is acceptable to monitor others, but not U.S. citizens

*% of U.S. adults who say it is acceptable or unacceptable for the American government to monitor communications from ...*



Source: Survey conducted Nov. 26, 2014-Jan. 3, 2015.

PEW RESEARCH CENTER

Image 2

### Image 1:

Source: Shiva Maniam, "Americans Feel the Tensions Between Privacy and Security Concerns," Pew Research Center, Feb. 19, 2015, <https://www.pewresearch.org/fact-tank/2016/02/19/americans-feel-the-tensions-between-privacy-and-security-concerns/>, (accessed 1/2/22).

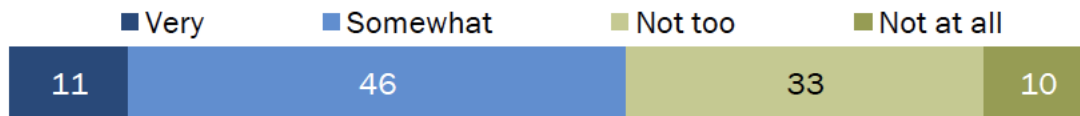
### Image 2:

Source: Mary Madden and Lee Rainie, "Americans' Views on Government Surveillance Programs," Pew Research Center, March 16, 2015, <https://www.pewresearch.org/internet/2015/03/16/americans-views-on-government-surveillance-programs/>, (accessed 1/2/22).

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## About six-in-ten Americans say they follow privacy news at least somewhat closely

*% of U.S. adults who say they follow privacy news \_\_\_ closely*



Note: Those who did not give an answer are not shown.

Source: Survey conducted June 3-17, 2019.

"Americans and Privacy: Concerned, Confused and Feeling Lack of Control Over Their Personal Information"

**PEW RESEARCH CENTER**

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### Caption:

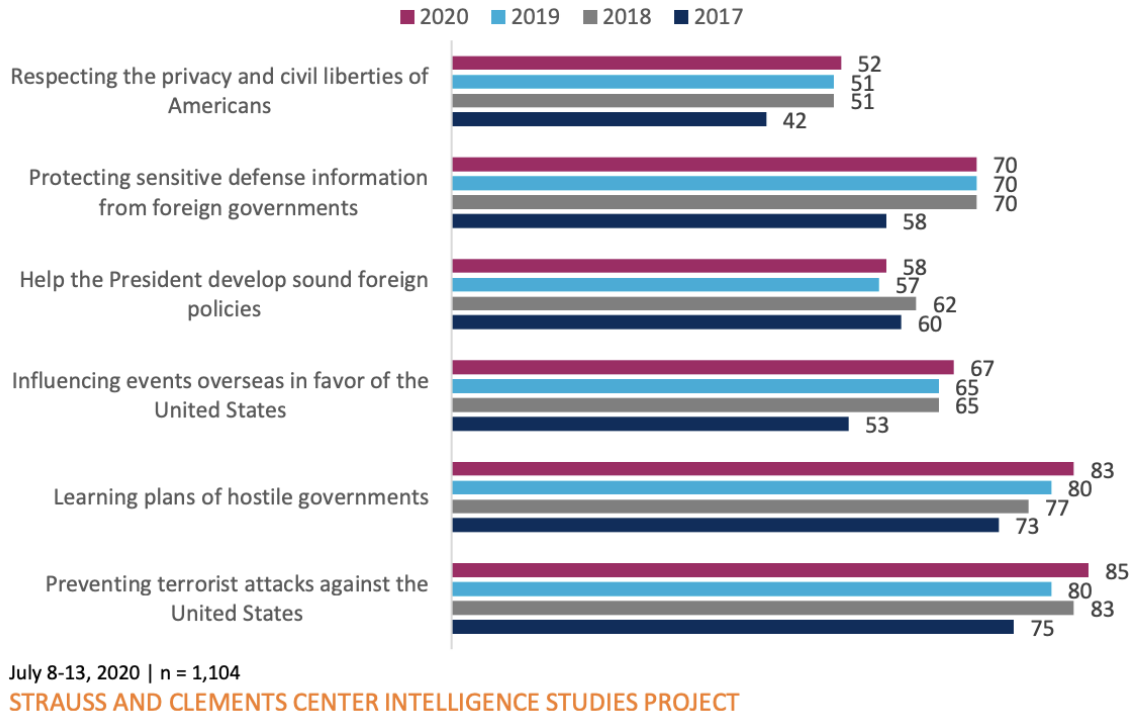
Source: Brooke Auxier, et al, "Americans and Privacy: Concerned, Confused and Feeling Lack of Control Over Their Personal Information," Pew Research Center, Nov. 15, 2019, <https://www.pewresearch.org/internet/2019/11/15/americans-and-privacy-concerned-confused-and-feeling-lack-of-control-over-their-personal-information/>, (accessed 1/2/22).



## Appendix 5

### Effectiveness of the Intelligence Community

*How effective do you think the intelligence community is in meeting the following responsibilities: (% very/somewhat effective)*



**Image 1**

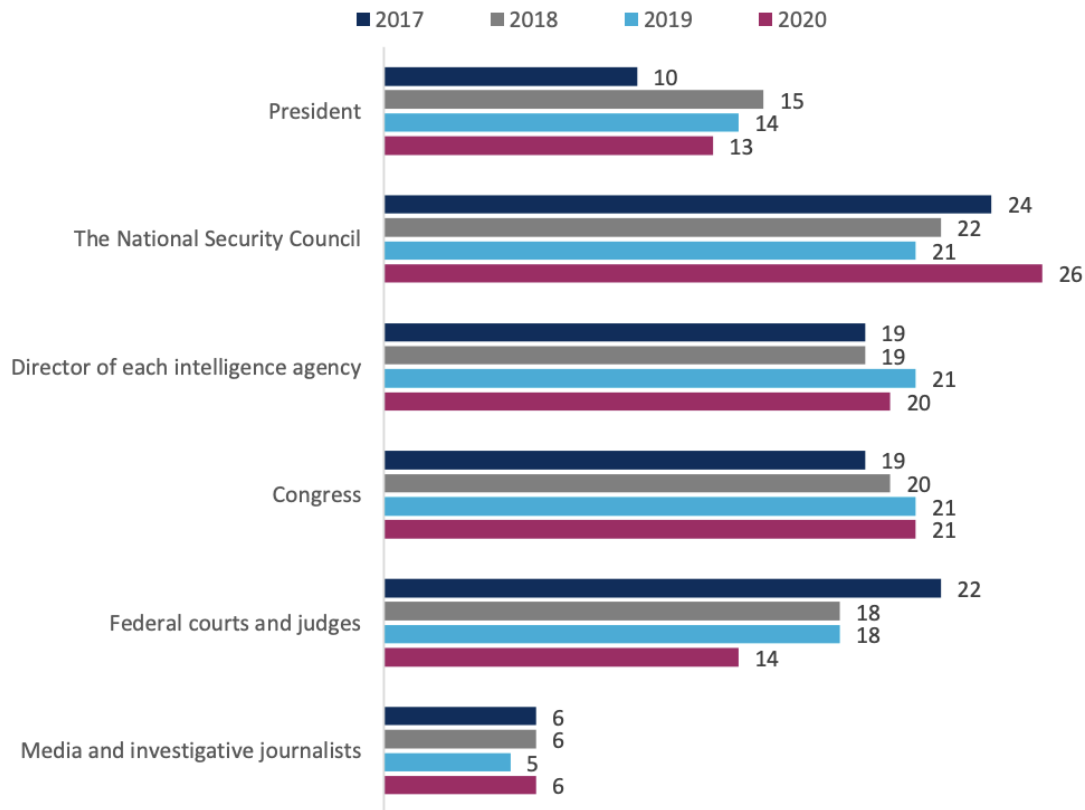
This infographic, showing data from 2017-2020, depicts answers to questions concerning how effective Americans believe their intelligence organizations are in fulfilling specific responsibilities.

Source: Joshua Busby and Stephen Slick, “2020 Public Attitudes on US Intelligence,” *The Chicago Council on Global Affairs*, May 20, 2021.

<https://www.thechicagocouncil.org/research/public-opinion-survey/public-attitudes-us-intelligence-2020>. (Accessed 1/2/22)

## Oversight of the Intelligence Community

*Intelligence work is almost always conducted in secret. In the past, United States intelligence agencies have exceeded their authority and used secrecy to conceal inappropriate activities. If you had to say, who do you think should be principally responsible for monitoring these agencies to ensure they act within the law and in the country's best interest? (%)*



July 8-13, 2020 | n = 1,104

STRAUSS AND CLEMENTS CENTER INTELLIGENCE STUDIES PROJECT

**Image 2**

This infographic, showing data from 2017-2020, depicts answers to questions concerning who Americans believe should be responsible for monitoring intelligence agencies.

Source: Joshua Busby and Stephen Slick, “2020 Public Attitudes on US Intelligence,” *The Chicago Council on Global Affairs*, May 20, 2021.

<https://www.thechicagocouncil.org/research/public-opinion-survey/public-attitudes-us-intelligence-2020>. (Accessed 1/2/22)

## Appendix 6



**Image 1**

A simple chart showing a breakdown of intelligence community members and their respective areas underneath the Director of National Intelligence (DNI). Departments are separated into three areas: those representing branches of military services, those that serve as a department within an executive agency, and those considered program managers or leaders.

Source: Colliers | Government Solutions, “Spotlight: The U.S. Intelligence Community,” Capitol Markets, March 14, 2012, <https://www.capitolmarkets.com/spotlight/spotlight-the-us-intelligence-community/> (accessed 2/28/22).

IC Branch	Home Org.	Org. Est.	IC Membership
Air Force Intelligence	United States Air Force	1947	1981
U.S. Army Intelligence and Security Command	United States Army	1775	1981
Central Intelligence Agency		1947	1981
Coast Guard Intelligence	United States Coast Guard	1790	2001
Defense Intelligence Agency		1961	1981
Office of Intelligence and Counterintelligence	Department of Energy	1977	1981
Office of Intelligence and Analysis	Department of Homeland Security	2002	2002
Bureau of Intelligence and Research	Department of State	1789	1981
Office of Intelligence and Analysis	Department of the Treasury	1789	1981
Office of National Security Intelligence	Drug Enforcement Administration	1973	2006
Intelligence Branch	Federal Bureau of Investigation	1908	1981
Marine Corps Intelligence Activity	United States Marine Corps.	1775	1981
National Geospatial-Intelligence Agency		1996	1996
National Reconnaissance Office		1961	1981
National Security Agency		1952	1981
Navy Intelligence	United States Navy	1775	1981
Space Force Intelligence	United States Space Force	2019	2021

**Image 2**

The above chart provides a brief overview to members of the intelligence community and the specifics of their membership. This chart has been updated to account for the recent addition of Space Force Intelligence to the IC.

Source: Office of the Director of National Intelligence, “Members of the IC,” Office of the Director of National Intelligence, n.d., <https://www.dni.gov/index.php/what-we-do/members-of-the-ic> (accessed 2/28/22).

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