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THE ROLE OF ESPIONAGE IN FOREIGN RELATIONS

By Eric Chung

INTRODUCTION

From hidden cameras to disguised weapons, the life of a spy has been recorded for centuries through dramatic plays and movies. Time and time again, traitorous crimes and acts of betrayal have captured the imaginations of popular culture. Enshrouded in these dramatizations is a much more serious history of **espionage** – a history that puts spies at the center of importance for US foreign policy and foreign relations. Whether used to map the actions of the British during the Revolutionary War or the German and Japanese operations in World War II, or losing US secrets regarding the atomic bomb to the Soviet Union or having national security defenses infiltrated by Chinese cyber attacks, espionage has helped define an important aspect of US foreign affairs in an increasingly interconnected world.

The Senate Foreign Relations Committee cannot effectively steer foreign policy or engage in foreign relations without understanding and helping determine how its espionage operations should be managed and addressed, both at home and abroad. This briefing focuses on espionage as it applies to three key aspects critical to the United States government's decision-making: 1) the role of espionage in collecting information and engaging in diplomacy with other countries; 2) the role of espionage in bolstering and threatening national security; and 3) the role of

espionage in shaping current foreign policy and foreign relations more generally. How the committee and ultimately the United States Congress go about understanding the current situations in sensitive areas of the world, as well as managing both the success and risks of espionage, becomes increasingly important everyday as efforts to protect the national security of the United States and to ensure friendly ties with its country counterparts continue.

EXPLANATION OF THE PROBLEM

Historical Background

Spies have been important figures in American foreign policy since the United States' nascent during the years of the Revolutionary War. During the fight against Great Britain, a network of agents and double agents used deception, code, ciphers, and the dissemination of **propaganda** as they coordinated sabotage operations and paramilitary raids. It was not surprising then that in 1790, during America's presidential state of the union address, George Washington requested a "secret service fund" for **clandestine** activities. Congress obliged and created a fund that accounted for more than 10% of the federal budget at the time. Espionage, along with the related methods of **counterintelligence** and other covert actions,

have been integral aspects of US foreign policy ever since. [<Click here to read more about the CIA's biography on a few key leaders during the Revolutionary War and their role in collecting foreign intelligence.>](#)

Perhaps the most famous spy in US history and a household name today, Benedict Arnold was a US commander who had held the esteem and trust of George Washington during the Revolutionary War. After years of loyally fighting for the United States during the Revolutionary War, Arnold became frustrated with being an under-appreciated officer within the United States military and began bargaining with the British by May of 1779. Committing **treason**, a crime subject to execution, Arnold helped provide secrets to the British and later became a member of the British military fighting against the country he had once supported. Not trusted by either side at the end of the war, Arnold eventually died with little fame in 1801. [<Click here to view a short video biography on the life of Benedict Arnold.>](#)

In the 19th century, spies continued to have an important impact on US foreign relations. Clandestine activities ranged from President Thomas Jefferson authorizing a covert attempt to overthrow one of the Barbary Pirate states in North Africa to President James Madison influencing Spain to relinquish territory in Florida to US spies obtaining a copy of a treaty between the Ottoman Empire and France. During the Civil War, spymasters infiltrated both the Union and the Confederacy, passing on counterintelligence and conducting sabotage missions, which could range from organizing antiwar protests to setting fires in cities. On the international scene, the Union and Confederacy both used spies abroad to spread propaganda in favor of their sides within foreign countries in hopes that they would win over more allies overseas. [<Click here to view a short video biography on Harriet Tubman, a famous Union spy.>](#)

Overseas operations upgraded even further during the Spanish-American War in

1898 when many officers within the Office of Naval Intelligence and Army's Military Intelligence Division, offices that had been set up to collect intelligence overseas, determined that espionage could be made more effective. Informant rings and reconnaissance operations to learn about the Spanish military's aspirations and resources began to proliferate and the United States became increasingly successful in intercepting communications between Spain and its commanders in Cuba. The United States Secret Service even broke up a Spanish **spy ring** based in Montreal, evidence both that the United States was serious about counterintelligence and that other countries were just as serious about espionage efforts. [<Click here to read two confidential letters written on potential Spanish spies in Florida.>](#)

Moving into the 20th century, espionage has varied in effectiveness depending on funding and the changing bureaucracy within the government. During World War I, the Army developed its own communications intelligence agency branch. Much attention was drawn toward preventing espionage within the country, including participation by the United States Secret Service, the New York Police Department, and the military to prevent German infiltration within the country. Even before the United States declared war on Germany, German spies had waged psychological warfare and sabotage attempts against companies supplying resources to Britain and Russia. [<Click here to read more about espionage during World War I as recorded by the National Archives, including features of confidential memos and music scores written with secret messages between the lines.>](#)

In a post-World War I and pre-World War II world, the United States engaged in heavy intelligence efforts to combat the growing threats of Germany and Japan. Many of these intelligence attempts often did not provide significant information, including perhaps most significantly, the failure of espionage attempts to

foresee the Japanese strike on Pearl Harbor. The lack of American preparation for such a strike helped spur the creation of the Office of Strategic Services in 1942, an agency devoted to coordinating espionage from behind enemy lines for the United States military during World War II. This office later became the modern day Central Intelligence Agency (CIA) in 1947. [<Click here to view a diagram on the organization of foreign policy following the National Security Act of 1947, to be discussed in a following section.>](#)

Espionage attempts continued throughout the Cold War period. One of the most famous cases is that of Julius and Ethel Rosenberg, two US citizens born in New York City to immigrants from Russia, who in 1951 were convicted of espionage conspiracy under the Espionage Act of 1917. After a series of investigations, the Federal Bureau of Investigation uncovered a Soviet spy ring including the Rosenbergs that had helped relay US secrets about the atomic bomb to the Soviet Union, helping accelerate the enemy country's development of the nuclear weapon. The Rosenbergs were promptly executed in 1953, the only American citizens to be executed for espionage during the Cold War. [<Click here to view a video on a news report announcing the conviction of the Rosenberg's.>](#)

RECENT DEVELOPMENTS

The United States Congress has played an important role in espionage policy over the last few decades, especially because it holds budgetary powers. In 2013, Congress voted to drastically reduce the budget for US spies and satellites by almost 10%. Counterterrorism and counterintelligence spending had peaked at \$80 billion in 2012 and fell to \$72 billion in 2013. Even though funding has been reduced, the high levels of funding indicate that the United States Congress still recognizes that espionage remains an integral component of US foreign policy as a source of information gathering in

regions around the world with challenging and complex foreign threats. These activities include intelligence efforts in the war-torn region of Afghanistan, the rapidly developing communist country of China, the country of Iran with a defiant nuclear exploratory program, the many developing countries within Latin America and the Middle East, a secluded communist country of North Korea, the country of Pakistan suspected of harboring knowingly or unknowingly hundreds of terrorists, and the post-Cold War country and former Soviet Union, Russia. A case file on each of these aforementioned regions and how espionage has helped shape the foreign relations between the United States and the featured region follow.

Espionage Case File on Afghanistan

In a war-torn region where threats of instability and insurgency from militant and terrorist groups remain high, American and foreign spy activity remain significant. These efforts have been pushed significantly in the wake of the War in Afghanistan that began under President George W. Bush in 2001 following the September 11th terrorist attacks.

CIA efforts have surged in the last half-decade with some estimating that US presence in the country could match the size of its stations in Iraq and Vietnam during the height of the two respective wars. The estimates include figures that there are upward of 700 employees in Afghanistan. These spies pursue highly sought after targets, including leaders of the Taliban. Spies keep a record of public sentiment in regions that are prone to support Taliban groups, and monitor corruption within the Afghani government. Despite the well-known corruption in the Afghani government, the CIA is also responsible, and has been criticized, for providing regular cash transfers from the Agency to President Hamid Karzai's office on a monthly basis. According to Karzai, these transfers are not unusual and are used by

his office and the national security office to pay salaries, help the wounded, and provide scholarships to students.

A private spy ring, called the Eclipse Group, which had operated with relations to the Pentagon, continued to work with the Federal Bureau of Intelligence as of 2011. Managed by Duane R. Clarridge, former top official of the CIA, the ring has provided information to the FBI regarding militants who are suspected of killing 10 medical aid workers, including 6 Americans, in northern Afghanistan in August of 2010. The use of a private ring group by the United States government is an indication of the limits of information sources in a chaotic war zone, posing tricky situations of how much the United States can afford to chance in terms of contracting out very sensitive missions that could potentially risk strong foreign relations with other countries.

In 2012, 40 NATO service members were victims of insider killings. Also known as green-on-blue attacks, insider killings occur when apparently friendly combatants kill each other. These killings have at times been linked to spy activity from neighboring countries, including Pakistan and Iran. In August of 2012, the Afghani government, including Afghanistan's President Hamid Karzai, suspected and asserted that foreign spy agencies were responsible for many of the insider killings of Western troops by Afghan security forces. NATO studies have countered that only 1 in 10 of insider killings were linked to Taliban insurgents posing as soldiers or police officers, while 9 out of 10 insider killings were attributed to personal disputes, stress, or cultural clashes. Pakistan has denied any espionage activity that would result in these killings. [<Click here for a news report on concerns of spies being privately contracted without Pentagon approval.>](#)

Espionage Case File on China

The United States has been especially careful to practice strategic diplomacy with the People's Republic of China, a rapidly developing world power. Espionage information therefore remains highly classified. Beyond routine intelligence activities, one notable incident occurred in 2012 when it was leaked that, unlike North Korea, (as will be discussed in a following case file), the United States had ties to at least one official working within the Chinese government to provide sensitive political, economic, and strategic information. In June of 2012, it was reported that President of China Hu Jintao had ordered an investigation following news that an aide for a vice minister within the Ministry of State Security had passed information onto American officials. The Ministry had grown suspicious after repeated incidents of Chinese agents being compromised while on US missions. The aide's vice minister was eventually exonerated.

Additionally, perhaps more conspicuously, fears and sensitivities over Chinese spies within the United States, especially when secrets are leaked to its communist counterparts, have not abated following the Cold War. In 1999, the government accused Wen Ho Lee, a nuclear scientist and US citizen, for conducting espionage activities against the United States for the People's Republic of China. After being arrested, held in solitary confinement for nine months, and the victim of an organized campaign of private information leaks, the government finally dropped all 59 indictment counts except for improper handling of restricted data. Accepting a settlement by pleading guilty to this charge, Ho Lee later received over \$1 million from the government and the press for the improper leaking of his personal information.

Tensions from the United States' national secrets being leaked to China have continued through a more modern form of espionage. In May of 2013, reports surfaced

linking the Chinese government to cyberespionage attempts that had infiltrated into the highly sensitive national security technology of the United States. The Pentagon directly accused the Chinese government of engaging in cyber attacks, but the government has widely denied any espionage in US agencies. President Obama met with current President of China Xi Jinping at a summit in June of 2013, where Obama brought up the issue to Jinping. Although the two leaders spoke on the issue for several hours, they reportedly did not come to any conclusions, with both sides pointing out that espionage from the other party had been evident but neither making any apologies.

The potential threat of this breach within US-China relations is twofold: 1) it can undermine the national security of the United States by rendering its technology useless in times of defense and 2) it can reinforce Chinese military operations by using the information to accelerate their own programs. Even if the Chinese are behind the attacks, the infiltration of one government can indicate the possibilities of future infiltration by other governments and even terrorist and other malicious groups.

The surfacing of these incidents also raises the question of what information should be shared with one's own country and other countries and what information simply cannot. For instance, the United States' concerns that China may be spying into its advanced technology stems partially from the fact that China will save on billions of dollars if it has the technological knowledge that the United States currently possesses. If there were information that can help all countries to develop further, is it diplomatically strategic to withhold all of that information, especially if a potential risk is not immediately clear? This foreign relations question remains a difficult one to answer given the complexities and contingencies surrounding the issue.

Reports have also indicated that China, in retaliation for US surveillance of the Chinese

coast, has periodically sent ships and planes to the United States **exclusive economic zone**. These ships can use patrol flights launched from distant Pacific possessions with concealed intelligence. It is unlikely that these can gather as much sensitive information as cyberespionage is potentially capable of doing, but the actions serve as a political reminder of growing tensions between the United States and China. [<Click here to listen to a documentary on cyber espionage employed by the Chinese.>](#)

Espionage Case File on Iran

US relations with Iran have been tense since the United States, along with the international community, have condemned Iran for pursuing a nuclear program that the US suspects is tailored to eventually creating nuclear weapons. Although Iran insists its nuclear program is solely for peaceful purposes, the widely concealed and secretive country has made it difficult for the United States to know whether this is truly the case. With Iran's justifications up for debate, espionage therefore poses an opportunity to learn the truth without the use of actual military intervention.

Iran has responded swiftly, and often with little transparency, when it has harbored suspicions over spies. In May of 2013, two men identified as Mohammed Heidari and Kourosh Ahmadi were accused and sentenced for providing classified information to Mossad, the Israeli intelligence agency, and the CIA, respectively. Without any details on their arrests or trials, the two were executed by hanging. According to the Human Rights Activists News Agency based in Iran, 488 hangings have taken place in Iran over the last 12 months, in which, according to the United States Department of State, 12% were public executions. The lack of transparency, however, has made it difficult to glean much detailed information beyond these statistics, and it is hard to tell how many of these may be show trials and executions – a tactic many members

of the international community suspect Iran of practicing.

These hangings have occurred at a time when the United States is increasingly concerned about the status of one of its own US citizens. Iran's judiciary sentenced to death Amir Mirzaei Hekmati, a 28-year old born and raised in Arizona, for conducting espionage for the CIA. Hekmati had been visiting his grandmother before being detained in August 2011. Iranian media released reports on Hekmati confessing to espionage and being tasked with finding out secrets for the United States government. The White House and the State Department responded by pointing out that Iranian prosecutors had a history of coercing confessions and denied that Hekmati was a spy; the agencies promptly demanded his immediate release. Hekmati's arrest follows a history of Iranian officials arresting accused US spies and later releasing them on bail. These included an Iranian-American journalist in 2009 and a set of three American hikers who were captured on the Iran-Iraq border. Unlike those spy suspects, Hekmati had a military background, having been a member of the United States Marine Corps. On March 5, the Iran Supreme Court overruled the conviction and called for a retrial. Hekmati currently remains in prison.

The United States is not the only country that Iran has accused of sending spies into the country. In June of 2013, the Iranian government released details that it had captured a spy ring sent from Israel and Britain with sabotage and assassination motives intended to influence the national elections taking place later in 2013. [<Click here to see a video news report announcing the death sentence of Hekmati.>](#)

Espionage Case File on Latin America

Reminiscent of the Cold War years when the United States attempted to promote democratic and anti-communist governments throughout the region, pro-American US espionage activities, or at least their suspicions, remain high in Latin America. One of the most significant recent news stories concerns that of a clandestine mission called "Operations Pliers." Six years ago, suspicions arose surrounding a conspiracy that a CIA internal memorandum had called for a plan to destabilize Venezuela at the time of the constitutional referendum in 2007 and overthrow President Hugo Chávez. The United States government denied the allegations and evidence of the original memorandum was never found.

More recently, according to Julian Assange, founder of WikiLeaks, Latin America's reliance on hardware and traffic handling by Washington poses a threat to the **sovereignty** of the countries within the region because they are vulnerable to monitoring by US spy agencies. Assange claimed that Latin American countries unknowingly upload profiles of their citizens to computer systems that are then stored on enormous servers within the United States. He argued that the United States government had "not demonstrated scruples in following its own laws in intercepting these [phone] lines to spy even on its own citizens." Assange is currently seeking asylum at the Ecuadorean embassy in London, United Kingdom. [<Click here to view a news report featuring Latin American leaders discussing foreign relations with the United States and information uncovered through Wikileaks.>](#)

Espionage Case File on the Middle East

Following the September 11th terrorist attacks and the goal to locate militant extremists from around the world, the Middle East continues to be a region of intense interest for US foreign policy.

Similar to Afghanistan and Pakistan, and perhaps even to a greater degree, spying in the Middle East is a prime example of the major difficulty of gathering intelligence to enact appropriate foreign policy and pursue appropriate foreign relations: lack of understanding of the many diverse languages. From Arabic and Farsi to Pashto, Dari, and Urdu, the myriad of fluent language-speakers that the US would need to employ to understand cultural meanings and different dialects, makes intelligence gathering difficult. The Director of National Intelligence contrasted the complexities of this challenge with that of Cold War era spying, which involved Russian and a handful of Eastern European languages that were more familiar to US spies.

Native speakers are preferred given the amount of slang that is involved in foreign communications with persons of interest who often may not be highly educated. Consequently, first and second-generation Americans with the language and cultural understanding are therefore the most promising, but the conundrum is that these Americans must be vetted against a very strict security clearance process that heavily considers family ties in their countries of heritage. The Office of the Director of National Intelligence has begun working to change that process so that it is easier for these Americans to join the spy agencies.

In one devastating setback, more than a dozen spies working for the CIA in the Middle East were caught. Feared executed, the spies were paid informants that were members of two spy rings targeting Iran and the Hezbollah terrorist organization headquartered in Beirut, Lebanon. A former CIA officer indicated that Hezbollah's typical practice is to execute any suspected spies. Some have used the aggressive efforts of groups such as Hezbollah to uncover spies while others have criticized the "sloppy" methods used by the CIA. Hezbollah's leader, Sayyed Hasan Nasrallah, had first announced

that two high-ranking members of Hezbollah had been exposed as CIA spies, indicating to US officials that the entire network inside Hezbollah had been compromised.

Spying in this region occurs not only by Western states but also between countries within the Middle East. Saudi Arabia, led by conservative Sunni Muslims, reported discovering and arresting suspects as members of a spy ring linked to Iran in May of 2013. Although Iran, dominated by Shia Muslims, denies involvement in the alleged spy ring, its possibility is an indication of the strained ties between the two countries. These ties weakened in 2011 when a Saudi-led military intervention stopped Shia-led pro-democracy protests in the neighboring country of Bahrain. [<Click here to read a news report on the capturing of over a dozen US spies in the Middle East.>](#)

Espionage Case File on North Korea

Shrouded in secrets as one of the most secluded worlds, the United States and other countries have had to rely on spies to learn from the isolated communist country of the Democratic People's Republic of North Korea. Espionage has been of even more critical importance because of the need to address the arguably largest foreign relations concern with North Korea: the existence of a nuclear weapons program. One US Defense Intelligence Agency report read that North Korea had likely already accomplished a miniature nuclear warhead that could be placed on a ballistic missile while more senior US officials called the report a "low-level" assessment, insisting that North Korea had no nuclear-armed missiles on hand. This is also the official stance the White House has adopted. These conflicting reports all point back to the difficulty of espionage in North Korea, which US National Intelligence Director James Clapper calls "*one* of the, if not *the*, toughest intelligence targets."

What intelligence countries have gathered has predominately come from two main sources: spy satellites and defectors. Regarding the former, the CIA, citing that it is virtually impossible to sponsor human spies to penetrate the North Korean state, tracks North Korean military movements through satellites. Many countries, including those with the closest proximity to North Korea, including Japan and South Korea, have been known to launch spy satellites that monitor what can aptly be described as an unpredictable neighbor.

As for the latter strategy, no high-level official has defected since 1997, when Hwang Jang-yop, Chairman of the Standing Committee of the North Korean Supreme People's Assembly and responsible for much of North Korea's official state ideology, defected to South Korea. Jang-yop discussed how the Juche Ideology he espoused had been abused and turned into a personality cult with a dictatorship that had ruined North Korea. He condemned a war atmosphere and emphasis only on military power while sacrificing the well being of its citizens. He also warned that North Korea did have the military capacities to demolish South Korea, although he has allegedly never seen a nuclear weapon. After many failed assassination attempts from North Korean spies and the probable deployment to labor camps of many of his family members still residing in North Korea, Supreme Leader of North Korea Kim Jong-il eventually accepted the defection. Jang-yop eventually died from what appeared to be natural causes in 2010.

Kim Hyun-Hee, another famous North Korean, also left the country, though not exactly by choice. Since her departure, she has provided valuable insight into the transition of the North Korean regime to Kim Jong-un, the son of the late head of state, Kim Jong-il. She has described the young leader as inexperienced and struggling to gain control over the military. Hee was herself once a member of that military. A North Korean spy, she bombed a South Korean airliner in 1987

and killed 115 people in the attack. Hee confessed to the act and implicated that Kim Jong-il had made the orders. Because she appeared to have been brainwashed, Hee's death sentence was lifted. The United States Department of State labeled North Korea as a state sponsor of terrorism as a result of the act. Apart from Hee and a few other defectors, there have been no high-level officials defecting since 1997, making collecting information even more difficult. <[Click here to view a short interview with Kim Hyun-Hee about North Korea.](#)>

Espionage Case File on Pakistan

Perhaps one of the most poignant examples of how espionage affects the foreign relations between the United States and its counterparts is the case of Pakistan, where two developments severely shifted America-Pakistani relations.

In January of 2011, Pakistani officials arrested Raymond Davis after he had allegedly gunned down two Pakistani citizens and a car attempting to aid him ran over another. Davis told the Pakistani officials that he was working as a consultant. Further investigations indicated that Davis was in actuality a spy, sent to work by the CIA in a tracking mission of al-Qaeda and other militant organizations that had roots in Lahore. His capture fueled already growing suspicions that the CIA had an entire army in Pakistan, wrecking chaos and havoc in a country in which they were not welcome. It further pointed to the fact that the CIA had outsourced some of its most sensitive missions to outside contractors who may not have the necessary experience to work in Islamic war zones. After payments were made to the families of the victims in the incident, Davis was released and immediately left Pakistan.

The Davis case is overshadowed by the CIA operation that ultimately located and killed Osama bin Laden in May of 2011, less than 4 months after the incident. American spies spent

four years trying to locate the trusted courier that bin Laden employed to send messages. In August of 2010, the spies finally discovered a compound 35 miles north of Islamabad, Pakistan in Abbottabad. A year later, after much deliberation between President Obama and the National Security Council, the raid of the compound was approved and the death of bin Laden was announced not long after. The location of bin Laden after many failed searches was clearly made possible through effective intelligence efforts. In terms of foreign relations, however, relationships between the United States and Pakistan soured further as a result of the raid. The Pakistani Parliament condemned the raid as a unilateral action clearly in violation of its country's sovereignty. Not long after, members within the United States Congress argued that funding should be cut to Pakistan under the suspicion that the Pakistani government knew of bin Laden's hideout all along. The raid and the consequent debate is an example of the precarious difficulties that come with espionage activities and maintaining relationships with critical allies while assuring the national security of one's own country. [Click here to view President Barack Obama's address to the country following the death of Osama bin Laden.](#)>

Espionage Case File on Russia

Unsurprisingly, during the Cold War, US spy activity honed in on information gathering from the Soviet Union. Since the end of the Cold War, however, much spy activity has been turned over to other concerns, including the aforementioned case files on several strongholds of US foreign policy scares. Still, interest in Russia has not abated completely and tensions and a lack of trust between the countries remain apparent.

Most recently, a story unfolded in May of 2013 that Ryan Fogle, a US citizen, was apparently acting as a spy in Moscow and attempting to recruit a spy familiar with the

Caucasus, the region of the terrorists who planted bombs at the Boston Marathon in April of 2013. Russian media took up the story and mocked the spy as an amateur, displaying in a story an alleged spy kit including an ill-fitted blonde wig, sunglasses, a compass, and thousands of Euros. Analysts have found the development interesting, noting that most spy cases are kept in secret as opposed to being broadcast so widely. The United States government has only acknowledged that Fogle worked as an embassy staffer and has not indicated his involvement in any other spy agencies.

At around the same time, the reverse appeared also to have happened. A former Justice Department official and Moscow-based criminal legislation attorney, Thomas Firestone, was allegedly approached by the Federal Security Service, the successor agency to the Soviet Union Committee for State Security (or "KGB"), to spy on Russia. When Firestone ignored the requests, he was detained at Moscow airport on a return trip on May 5 of 2013 and later expelled. Firestone had once also staffed at the United States Embassy before joining the Russian law firm. [Click here to view a news report including clips from an interview with Vladimir Putin including a question on US cables released by WikiLeaks that claim that there was no longer democracy in Russia.](#)>

Congressional Action

Much of the foreign policy that is connected with espionage activities is hidden from public view and therefore not likely to be coded into public legislation. Instead, the United States Congress generally provides broader guidelines and the organizational support to maintain strong foreign policy and foreign relations approaches that maintain a strong network for achieving confidential information abroad and a strong network for maintaining confidential information at home.

It is the latter that has been more often codified into law, which will be included below. As for the former, this will be an important challenge for the Senate Foreign Relations Committee to explore the means through which it wishes to provide direction for how espionage can be factored in with foreign relations and how it can do so within federal laws and other directives.

Alien and Sedition Acts of 1798

The United States Congress, under a looming war with France, passed the Alien and Sedition Acts in 1798 featuring four separate laws. Together, the Acts raised the residency requirement for US citizenship from 5 to 14 years, authorized the president to imprison or deport aliens considered “dangerous to the peace and safety of the United States,” and restricted speech critical of the government. The Acts were at the time and today widely understood to be intended as a Federalist attempt to silence the Democratic-Republican Party, the Federalists’ outspoken critics at the time. These Acts were considered also to have actually helped the Democratic-Republicans win in the 1800 elections. The Naturalization Act regarding US citizenship was repealed in 1802 and the other Acts expired soon thereafter.

PL 65-24 Espionage Act of 1917

The United States Congress passed the Espionage Act in 1917 making illegal any obtaining, distribution, or possession of information relating to the national defense of the United States and related US interests. The Act also made illegal the assistance, conspiring, or sharing of any information or documents related to national defense. In short, the justification of the Act was to punish anyone who provided assistance to enemies or otherwise undermined the national security of the United States.

Within a few months of the passage of the Espionage Act, approximately 900 people had already been imprisoned. Immigrants believed to be members of left-wing politics that could be a danger to the United States were deported, many of them sent back to Russia as part of a growing Red Scare of 1919 - 1920 that feared the rise of communism.

Critics since the passage of the Act have argued even at the time of its founding that the American government had a political motive to stifle domestic criticism of World War I during the Wilson Administration. In direct opposition to citizens using their First Amendment rights, the Espionage Act was used to silence civil rights activists, educators, union leaders, and other anti-war protestors. With high-level arrests, including that of Eugene Debs, a well-known union leader who spoke out against the war, in 1918, the Espionage Act had a **chilling effect** on anti-war speech throughout the country.

Despite this tortuous history, the Espionage Act continues to be a valid law today. In one recent case, John Kiriakou, a former CIA officer who became a Democratic staff member on the Senate Foreign Relations Committee, was charged under the Espionage Act for leaking information to journalists regarding information about other CIA officers who may have participated in waterboarding and other interrogation techniques. Kiriakou is one of several national security officials who have been accused of speaking with the media illegitimately and therefore violating federal law.

Today, concerns persist on how the Espionage Act can be used to restrict the rights of Americans. Many members of Congress have pushed the use of the Espionage Act against Julian Assange, the founder of Wikileaks that has released hundreds of thousands of confidential government cables and messages by U.S. diplomats and other members of the intelligence community. Even more recently, Edward Snowden, a 29-year old former CIA employee turned whistleblower

who released top-secret National Security Agency information on a domestic surveillance program named PRISM, is expected to face conviction under the Espionage Act. He has currently fled to Russia seeking asylum.

PL 80-235 National Security Act of 1947

The United States Congress passed the National Security Act in 1947 as a major reorganization of the foreign policy and military institutions within the United States government. The Act included the creation of the **National Security Council** tasked to respond to national security crises and created the Department of Defense, a merger between the War Department and the Navy Department. The Act also created the Central Intelligence Agency, which replaced the Office of Strategic Services and post-war intelligence organizations. Since its formation, the CIA as one of the primary intelligence-gathering agencies of the United States government and includes the National Clandestine Service that manages espionage activities throughout the world.

PL 107-56 USA PATRIOT Act of 2001

The United States Congress passed the USA PATRIOT Act of 2001 with the goals of, according to the Department of Justice: 1) US investigators to be able to use already existing tools to investigate organized crime and drug trafficking (e.g. allows law enforcement to use surveillance against more crimes of terror, allows federal agents to follow sophisticated terrorists trained to evade detection), 2) facilitating information sharing and cooperation among government agencies in an effort to uncover terrorist plots before they are implemented, 3) updating the law to reflect new technologies and new threats (e.g. allows law enforcement officials to obtain a search warrant anywhere a terrorist-related activity occurred, allows victims of computer hacking to request

law enforcement assistance in monitoring their computers), and 4) increasing penalties for those who commit terrorist crimes (e.g. prohibits the harboring of terrorists, enhances the number of conspiracy penalties). Although on its face these seem to promote national security, many have criticized the Act as a form of domestic spying, in which there are ongoing fears that the United States government has, through this Act, increasingly followed private phone conversations and Internet activities. The Act puts into question privacy rights and the balance between protecting the country against terrorism while following the constitution, particularly the Fourth Amendment's protection against unlawful search and seizure.

FOCUS OF THE DEBATE

Conservative View

Developing one holistic view of the conservative or liberal approach to any foreign policy issue, let alone one that is shrouded in confidential operations, will never be wholly accurate and can often be misleading. While each member of the Senate Foreign Relations committee will likely have his or her own opinion that might differ from the following points, these should serve as general themes to guide your thinking of policymaking on this issue. On a broad level, conservative ideology values a strong commitment to national defense as key components to peace, economic prosperity, and the protection of freedom. It laments defense spending cuts given the high risks of the countries featured in the aforementioned case files, including what the Republican Party, known for its conservative views, calls in its 2012 platform "a nuclear-armed North Korea, an Iran in pursuit of nuclear weapons, rising Chinese hegemony in the Asia Pacific region, Russian activism, and threats from cyberespionage and terrorism." Conservatives have condemned high-profile

leaks, citing them as being used by the Obama Administration for political purposes and a partisan agenda at the expense of national security.

Liberal View

On a broad level, the liberal ideology focuses on shoring up national security through diplomacy and building stronger relations with countries, including throughout Asia. Liberals are generally in support of foreign aid and assistance that can be used to secure economic development that can in turn support stability and security beneficial to US interests. Through these alternative, diplomatic methods, liberals generally support decreases in military spending and would prefer to avoid military entanglements where possible.

Presidential View

President Barack Obama, a liberal and a member of the Democratic Party, has taken responsibility for devastating al-Qaeda's leadership, ending the war in Iraq, and reducing the war in Afghanistan. In line with the Democratic platform, President Obama has espoused during these visits and throughout his time in office the importance of diplomacy and has made several visits with democratic reform, economic development, and counter-terrorism being his core aims. The importance of espionage has come into play with these efforts, most visibly with President Obama's following of the intelligence and authorization of the Osama bin Laden raid, despite criticism of its unilateral nature and impingement on country sovereignty. President Obama has recently in June of 2013 defended what critics are calling domestic espionage, in which his administration has approved secret surveillance efforts collecting phone records and Internet use in the name of national security.

Interest Group Perspectives

The following interest group perspectives have been included not only to illustrate three different perspectives, but also three different dimensions to the issue of espionage that members of the Senate Foreign Relations Committee can consider. The first, Amnesty International, discusses the potential pressure the United States and other countries face as members of the international community as a result of espionage activities. The second, the Brookings Institution, discusses ways in which the United States can improve espionage activities. The third, the Heritage Foundation, discusses the debates on how to respond to the espionage activities of other countries. These three dimensions are paired specifically with these three organizations because the dimensions fit within the purview of each respective organization. The discussions of the many opinions these organizations may take on espionage and intelligence gathering activities are not exhaustive, but are meant to provide a clear idea of their core aims.

Amnesty International

Amnesty International, an advocacy nonprofit organization devoted to protecting the human rights of people around the world, has come to the assistance of many accused spies in past years. When Iran captured two US hikers accused of spying in the country and placed them in detention for over two years, Amnesty International responded with harsh language for their release. Phillip Luther, Deputy Director for the Middle East and North Africa, cited evidence that Iran knew all along that the two men were not spies and said at the time, "The Iranian authorities must stop treating Shane Bauer and Josh Fattal as pawns – both in their dealings with the United States government and in domestic political rivalries ... The two men must be released immediately and unconditionally, and be promptly allowed

to leave Iran to be reunited with their families. Amnesty International took a similarly hard stance when it insisted that Iran must not execute Amir Hekmati, citing violations of international law when he was held without access to his family, a lawyer, or consular assistance.

Cases such as these exemplify the complexities of foreign policy when spies are involved: national security risks are at stake that make the restriction of human rights to anyone, let alone spies, seem plausible and even justified. It is clear that Amnesty International is willing to step into these complexities when human rights violations are at hand. One conclusion may therefore be that the United States government can find an ally in the organization when it seeks to protect its nationals. But if it challenges the human rights of its own nationals or of other humans abroad in its espionage activities, the United States too will likely be the subject of equal criticism from the organization.

Brookings Institution

The Brookings Institution, a liberal-leaning think tank based in Washington DC, cites the importance of intelligence as a result of terrorism being a very real threat in the modern world. The Brookings Institution understands intelligence gathering as the first line of defense and recognizes that it's critical for policymakers from the President down to his other senior officials to pursue better decisions. The Institution provides many suggestions for improving espionage activities, including gaining deeper country knowledge, recruiting analysts who have extensive experience related to a country of concern, establishing a National Intelligence University, devoting more time and attention to formal training, and rewarding area specialists.

Heritage Foundation

The Heritage Foundation, a conservative think tank based in Washington DC, has focused much of its work on US foreign relations when espionage threatens the United States. Generally in these cases, the Heritage Foundation has been critical of the United States for not taking a harder stance against other countries and their attempts to infiltrate US confidential information systems. As a prime example of this stance, one article by a Heritage Foundation researcher focuses on Chinese cyberespionage attempts and has argued that the United States needs to take stronger actions to deter future cyber aggression. The Heritage Foundation suggested the following steps: 1) "the United States should continue to name and shame China" and 2) "the United States should actually take a tougher line on China by ceasing to cooperate with China on cybersecurity." Arguing that failing to address the situation will endanger US national security and economic growth, the Heritage Foundation suggested that the "US should stand up to China and make them feel pain when they steal US secrets." In line with the conservative ideology, the Heritage Foundation supports hard line, strategic stances as essential for maintaining effective foreign relations.

POSSIBLE SOLUTIONS

Because there are hundreds of ways to pursue espionage within foreign relations, there are also hundreds of possible solutions. A solution can push foreign policy with regards to espionage activities abroad as much as it could turn inward to espionage activities at home. It may focus extensively on providing resources to specific regions or to national security efforts more generally. What any solution should accomplish, however, is to recognize the amount of resources, including human capital, that is being used in place of other means, and determine how much would be appropriate for any given region of interest and from there,

how those resources would be allocated. Strong solutions should improve the intelligence gathered toward furthering US goals and use that intelligence in order to justify foreign policy. Perhaps most importantly of all, solutions should help improve national security and foster improved foreign relations, not hinder them. Any proposed solution that does not grapple with the resource question, the role of espionage versus other foreign policy interventions, what intelligence already tells us, and the potential consequences it has on national security and foreign relations, will be unlikely to gain the support of the full committee and full Senate, let alone the United States Congress, White House, Pentagon, CIA, and the hundreds of other voices that will be interested in the Senate Foreign Relations Committee's proposals.

Reassess Espionage Activities Abroad

As illustrated through the aforementioned case files, gathering the proper information and realizing the significance of that information are crucial for understanding and devising foreign policy and foreign relations in a variety of regions that are of high interest to the United States government. How these espionage activities continue in the international setting is in part steered by the United States Congress, namely its foreign policy oriented committees.

The first step is to set priorities. Clearly, and increasingly so, there is a limited budget and resources for gathering information. Out of these cases, and any others that a particular senator may be interested in, members of the Senate Foreign Relations Committee can determine which cases should be prioritized and in what order: whether that means pursuing support for language-learning programs in the Middle East or funding aid to North Korea with the complementary, and perhaps lofty, goal to achieve greater transparency from the North Korean government for the purpose of collecting information.

The second step is to determine what the espionage activities should look like. The military and intelligence agencies have often clashed in responsibilities and determination of clear divisions in foreign policy responsibilities at the micro-level. Senators possess some ability to determine those divisions from the macro-level. They can advise on what aid should be provided and to whom, the engagements of the military, and the channeling of clandestine operations to where they are appropriate. Perhaps clandestine operations shouldn't be quite so clandestine. Perhaps information gathering should be delegated to certain officials but not others. Certainly, as a leading committee on foreign policy, members share authority with many different institutions within the United States government; but with your expertise, you may be able to convince other institutions to adopt your hopefully balanced, well informed, and well-reasoned approach.

Reassess Espionage Activities At Home

Although the scope of the Senate Foreign Relations Committee may be less limited in the field of domestic intelligence gathering, its concerns that foreign nationals may be compromising the United States from within is a very tricky foreign relations situation. Just as foreign countries are quick to protect their sovereignty and condemn the meddling of spies in confidential government business, the United States is not keen on spies infiltrating from within. In this sense, it may be most appropriate to consider the potential agreements or compromises that should be pursued between countries in an effort to manage espionage activities between countries. This could be in the form of a proposed letter, resolution, treaty, or legislation. In these materials, it may be best to be clear on the stipulations for how spies within the United States will be treated if captured for certain acts, and what these stipulations may mean in terms of reciprocity by other countries. These

efforts may not only support positive foreign relations but also help influence the discussions on the reformation of laws, such as the Espionage Act, that have been widely criticized for taking away the freedoms of Americans.

Develop Clear Priorities and Targets

Whether it is the problem of a lack of sufficient funding or the souring of foreign relations between countries, establishing clearer foreign policy priorities and targets will help determine what espionage activities will actually be worth the funding and upsetting of US allies and enemies that is sometimes inevitable. For instance, President Obama and the National Security Council made a unilateral decision to uncover intelligence and ultimately raid Osama bin Laden's campsite without the approval of the Pakistani government. Debate continues whether this was an appropriate foreign policy decision, but it is clear in the eyes of some US officials that the benefits exceeded the costs. Is it reasonable to channel more resources into language learning in the Middle East, to pressure Iran to release suspected spies, or seek out government officials to serve as spies within the North Korean government? Setting priorities and targets are essential because resources cannot be allocated to allow for all espionage agencies to function appropriately, and just as resources are not infinite, n

either is foreign capital. If relations with the United States sour around the world because of poorly conducted espionage efforts, it would be even more tragic if they did so while setting the wrong priorities and targets that provide no benefit, and perhaps even an undermining, to US national security. The Senate Foreign Relations Committee can therefore position itself through legislation and recommendations to steer intelligence efforts in a way that protects the United States image, and in turn, national security.

QUESTIONS FOR POLICYMAKERS

Issues of foreign relations are rarely simple and generally cannot be solved sufficiently through a single piece of legislation. Members of the Senate Foreign Relations Committee should ask themselves where their impact would be greatest. What are the goals and responsibilities of the Senate Foreign Relations Committee? How do these goals compare to other foreign policymakers in other government divisions? If talking about proposing solutions, is a federal law appropriate? If so, what are all of the intended and potentially unintended consequences on national security and foreign relations? It is important to remember also that the Senate Foreign Relations Committee, in addition to submitting bills to the full Senate, can explore directives, letters to key foreign policymakers, and propose potential treaties between countries. Ultimately, what creative set of strategies can members of the committee pursue that would allow the United States to optimize its espionage activities in order to protect national security while maintaining strong relations with other countries?

CONCLUSION

The requirement of spies for maintaining their security involves a constant balancing act of trying to gain more information while not drawing unwanted attention to them. The requirement of the United States for maintaining its espionage activities is the same. While it needs the clearest information to make effective foreign policy decisions, it must determine the most reasonable ways for receiving this information while maintaining its relations with others and not sacrificing its own national security. The relationships that the United States carries with other countries hinge on the success of this balancing act. The members of the Senate Foreign Relations Committee are therefore at the crossroads of national security, foreign policy, and

intelligence gathering in a way that few other government officials can be. How they choose to proceed will be critical for the future of the United States and the world.

GUIDE TO FURTHER RESEARCH

This briefing only provides an initial overview of espionage and the role that it has had on US history and current foreign relations throughout the world. Those interested in learning more about the nuances and complexities should continue their research by examining the focus and priorities of the particular member of the Senate Foreign Relations Committee they represent: these priorities may be evident in written statements or articles found online for public view. Better understanding this perspective will help provide search items to further an understanding of specific regions of interest. From there, it would be significantly helpful to be familiar with the [Publications](#) and the [Legislation](#) pages of the Senate Foreign Relations Committee. Reading reports, letters, and legislation will help better understand how espionage issues as studied through the lens of a particular senator in the Senate Foreign Relations Committee can be addressed. Being an expert in all of the cases presented here is not necessary, but a broad knowledge of all of them and a keen interest to a few will be helpful. If you have questions about searching for specific items of interest, please do not hesitate to contact your chair, Eric Chung at this [e-mail](#). Best of luck!

GLOSSARY

chilling effect - a legal term referring to the discouragement of the exercise of a constitutional right because of the threat of a legal sanction

clandestine - marked by, held in, or conducted with secrecy

counterintelligence - organized activity of an intelligence service designed to block an enemy's sources of information, to deceive the enemy, to prevent sabotage, and to gather political and military information

cyberespionage - espionage conducted using methods on computers, networks, and the Internet

espionage - the practice of spying or of using spies to obtain information about plans and activities, especially of a foreign government

exclusive economic zone - the area of sea and seabed extending from the shore of a country claiming exclusive rights to it

National Security Council - the President of the United States' principal forum for considering national security and foreign policy matters with his or her senior national security advisors and cabinet officials; regular attendees include the Vice President, Secretary of State, Secretary of the Treasury, Secretary of Defense, Assistant to the President for National Security Affairs, Chairman of the Joint Chiefs of Staff, Director of National Intelligence

propaganda - the spreading of ideas, information or rumor for the purpose of helping or injuring an institution, a cause, or a person

sovereignty - the possession of independent and exclusive authority over a geographic area, such as by a state

spy ring - a network of multiple spies working as a team or unit

treason - the offense of attempting by overt acts to overthrow the government of the state to which the offender owes allegiance

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