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Turning Against the CIA: Whistleblowers During the ‘Time of Troubles’

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Abstract

Edward Snowden is not the first – nor will he be the last – disgruntled US intelligence officer to spill the beans. Using newly declassified materials, private papers and interviews, this article explores how the Central Intelligence Agency (CIA) dealt with whistleblowers and disillusioned staff in the 1970s, a period often described as the Agency’s ‘Time of Troubles’. It will be argued that ugly revelations by former employees caused more distress to the CIA than disclosures that emerged in the press and on Capitol Hill. At Langley, there was genuine shock that supposedly trusted insiders would write tell-it-all books and betray the Agency’s code of ‘never celebrate successes, never explain failures’. Focusing on the CIA’s attempts to manage three intelligence apostates – Victor Marchetti, Phillip Agee and Frank Snepp – it will be shown that the Agency invariably made a rod for its own back. As well as ham-fisted efforts to spy on them and steal manuscripts, the CIA constitutionally frogmarched certain whistleblowers off to court, provoking widespread criticism that it was an enemy of free speech. By looking at how the CIA responded to the challenge of leaks in the 1970s, this article places into long-term perspective the contemporary struggle between intelligence agencies and rebellious insiders who use electronic media to promote transparency.

The 1970s rank as the most turbulent decade in the history of the Central Intelligence Agency (CIA). It is often referred to as the CIA’s ‘Time of Troubles’. The first stirrings of trouble came in 1967 when *Ramparts* magazine, a Catholic counterculture publication from the San Francisco Bay area, disclosed that the CIA had been covertly funding the US National Student Association. Picking up the trail, the American media exposed the CIA’s links to think tanks, universities, foundations and labour unions. The public outcry was immediate and deafening, but it paled in comparison to what was to follow. By 1973, the CIA had been sucked into the unfolding Watergate scandal as press sleuths established that two of the so-called ‘plumbers’ who had broken into the Democratic National Committee headquarters, James McCord and E. Howard Hunt, were previously connected to the CIA. Besieged by investigators and muckraking journalists, CIA Director Richard Helms lamented in private that he ‘felt like a GI

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creeping through a mine field', terrified about 'what is going to blow apart next'.¹

Helms's worst fears materialized when, on 22 December 1974, *The New York Times* published a path-breaking article by Pulitzer Prize-winning investigative journalist Seymour Hersh revealing CIA complicity in a large programme of political surveillance on American soil. Allegations that the CIA had illegally spied on Vietnam War activists and other domestic dissident groups, the inference being that it had become a Gestapo, caused a huge scandal and compelled legislators to investigate. By the time several congressional committees, as well as a presidential commission, had published their findings, the CIA was on its knees. Hersh's story was the just the tip of the iceberg. The investigations disclosed a host of 'dirty tricks', from drug experimentation on unwitting subjects to assassination plots against foreign leaders, including tragicomic attempts to kill Fidel Castro. A devastating picture emerged of the CIA causing mayhem around the world, conducting covert operations in places like Guatemala, Indonesia, Iran and Chile, whilst politicians back home openly declared their belief in self-determination. To prevent future abuses, the House and Senate established permanent oversight committees on intelligence. The days when slumbering legislators on the Hill turned a blind eye to the CIA were over. Oversight had replaced overlook.

Unsurprisingly, the trials and tribulations of the CIA in the 1970s have generated a sizeable literature.² The role and impact of reporters like Hersh have been studied at length, as have the labours of congressmen such as Frank Church.³ CIA officers have also written memoirs that provide fascinating glimpses into the negative effect of blazing newspaper headlines and sweeping investigations on CIA efficiency and morale. Reflecting on the 'Year of Intelligence' in 1975, future CIA Director Robert Gates suggested in his memoir *From the Shadows* that people were in 'purgatory'. 'Our pride', he recollected,

took a blow from which we never recovered. We all would go home at night and face spouses and children who had watched news of poison dart guns and assassination attempts and other nefarious activities and question whether that was a place they wanted a spouse or father or mother to work. Some colleagues became estranged from their college-age children, who couldn't understand how a parent could work in a place like CIA.⁴

¹ R. Helms to D. Woodruff, 16 Aug. 1972, Richard Helms Papers, 8/30/488, Lauinger Library, Georgetown University, Washington DC.

² R. Kessler, *Inside the CIA* (London, 1994); K. Olmsted, *Challenging the Secret Government: The Post-Watergate Investigations of the CIA and FBI* (Chapel Hill, NC, 1996); J. Prados, *The Family Jewels: The CIA, Secrecy, and Presidential Power* (Austin, TX, 2013); R. Immerman, *The Hidden Hand: A Brief History of the CIA* (Oxford, 2014).

³ C. Nolan, 'Seymour Hersh's impact on the CIA', *International Journal of Intelligence and Counterintelligence*, 12/1 (1999), pp. 18–34.

⁴ R. Gates, *From the Shadows: The Ultimate Insider's Story of Five Presidents and How They Won the Cold War* (New York, 1996), p. 61.

David Atlee Phillips, a former chief of western hemisphere operations, and founder of the Association of Former Intelligence Officers (AFIO), claimed in his memoir that he was a ‘happy man’ before a newly energized press and Congress, emboldened by Watergate, started rummaging around the skeleton cupboard.⁵ The controversy, he wrote, ‘changed my life’. Indeed, in 1975 he took early retirement so that he could respond in public to charges being levelled at his beloved Agency. He called this his ‘Last Assignment’.⁶

It is the chief contention of this article that, while the CIA was undoubtedly hurt by the revelations that came out of the press and on Capitol Hill, the greatest trauma and pain came from another source: whistleblowers. Until the 1970s, the CIA had never really had to worry about its employees wanting to tell tales out of school. A handful of intelligence officers had gone into print in the 1960s, but only to say good things about the Agency and to defend the organization in the wake of scandals like the Bay of Pigs fiasco in April 1961. For example, in 1963, legendary CIA Director Allen Dulles produced what is still held among the intelligence cognoscenti as perhaps the definitive textbook on his trade – *The Craft of Intelligence*.⁷ Written with the aid of two CIA veterans, E. Howard Hunt and Howard Roman, the book involved earnest salesmanship on behalf of the CIA and, quite deliberately, avoided the controversial subject of special operations, stressing that the primary function of the Agency was analysis, not action.⁸ ‘In terms of space’, noted a reviewer for the *Washington Post*, ‘this important topic hardly receives a balanced share of the book’.⁹ In the 1970s, however, the CIA was confronted with the challenge of disgruntled writers for the first time.

Whistleblowers hurt the CIA like a knife to the heart. When a person joins the CIA, he chooses more than just a career and enters into what French sociologist Pierre Bourdieu calls a ‘habitus’ with socialized norms that guide behaviour and thinking. At the heart of the CIA’s habitus is a code: never celebrate our successes; never explain our failures. All officers are expected to abide by this code. They are made aware of it from day one when they sign a secrecy agreement. This agreement is a symbol that the officer is giving his word that he will not reveal the secrets of the ‘Company’, in perpetuity. When a person breaks this agreement, therefore, he is rejecting not just a job, but an entire belief system. While this might appear strange or baffling to outsiders, inside the hallowed walls of Langley it is the worst crime a person can commit. Accordingly, leaks by intelligence apostates hurt the

⁵ D. Phillips, *The Night Watch: 25 Years Inside the CIA* (London, 1977), p. vii.

⁶ C. Moran, ‘The last assignment: David Atlee Phillips and the birth of CIA public relations’, *International History Review*, 35/2 (2013), pp. 337–55.

⁷ A. Dulles, *The Craft of Intelligence* (New York, 1963).

⁸ ‘Walter Pforzheimer, proposed anthology by Mr. Dulles’, 19 July 1965, CIA Records Search Tool [hereafter CREST], National Archives II, College Park, Maryland.

⁹ R. Bowie, ‘Lifting the cloak but only a bit’, *Washington Post*, 13 Oct. 1963.

CIA on a deeper emotional level than the revelations of journalists and congressional investigators. In a speech delivered to the AFIO annual convention in October 1978, former CIA Director John McCone perfectly encapsulated this anguish: 'The most serious [development] is the creation of a climate that has given licence to the Victor Marchetti's and the Phillip Agee's to set aside their vows to their country, and to preserve secrecy, to unveil – in books written for modest profit – information more damaging than that of most serious defectors.'¹⁰ 'No violation of trust', he continued, 'no defection to the other side, no damage from the acts of the [Kim] Philby's, the [Donald] Maclean's or the Klaus Fuch's has been more damaging to our national interest and our security than the work of these men who prostitute their principles and make disclosures which places their close associates of many years in mortal danger.'¹¹ For Herbert Hetu, who headed the CIA's Public Affairs Office under Director Stansfield Turner, whistleblowing boiled down to honour. 'It's a matter of honour', he declared in a 1978 interview, 'there's some sort of personal moral obligations – you either have personal integrity or you don't.'¹² Atlee Phillips has argued that nothing 'gnaws more voraciously at the fabric of the CIA' – i.e. its habitus – than whistleblowers.¹³

This article will explore three intelligence officers who 'turned against the CIA' in the 1970s – Victor Marchetti, Philip Agee and Frank Snepp. Particular attention will be given to how the CIA responded and tried to manage the problem. Three themes emerge from the analysis. First, for the CIA the learning curve was steep. As renegade authors arrived on the scene, the Agency hit the panic button and mistakes were made. Foolhardy attempts were made to spy on authors, steal manuscripts and intimidate publishers. When these tactics became known, they fed into the broader narrative circulating in political discourse that the CIA was unethical, lawless and an enemy of free speech. The CIA eventually sought refuge in the panacea of the law, but again this only served to fuel suspicion that it disrespected freedom of expression. The First Amendment to the US constitution protects the right of every American, even disillusioned CIA officers, to speak their mind – irrespective of what that message might be. By taking authors to court, especially when it was not obvious that national security had been harmed and actual secrets revealed, the CIA was castigated by many respected voices for pursuing a course of action that was antithetical to American values.

Second, whistleblowing is a blood sport. The official backlash against each of the individuals studied in this article was such a ferocious orgy

¹⁰ 'John McCone: Speech to AFIO, 2 October 1978', John McCone papers, BANC/MSS 95/20, Container 27/63, Bancroft Library, The University of California, Berkeley.

¹¹ *Ibid.*

¹² 'The CIA, secrecy, and books', *Stanford Daily*, 7 Feb. 1978.

¹³ D. Phillips, 'The CIA story: irresponsible critics and suspect sources', unpublished article, Scott Breckinridge papers, Box 1, Special Collections, University of Kentucky, Lexington.

of overkill that all three were devastated by the experience. As we shall see, Marchetti and Snepp were thrust into a psychological and financial tailspin that left them a shadow of their former selves; Agee was, quite literally, cast into the wilderness. The sad moral of their story was: publish at your peril.

Third, whistleblowers from this era fundamentally challenged the celebratory story of US Cold War foreign policy, and provided further grist to the mill of nascent revisionism in this area. For much of the 1950s and 1960s, the dominant interpretation of the Cold War was that it had been triggered and maintained by ruthless Soviet expansionism, first into eastern Europe and then into other parts of the world. The major dissenting voice to this orthodoxy had been William Appleman Williams, whose landmark 1959 work, *The Tragedy of American Diplomacy*, represented an iconoclastic assault upon conventional wisdom.¹⁴ Against the traditionalists, and focusing on the United States rather than the Soviet Union, Williams argued that the main driver of the east–west dispute was not Soviet aggression, but the unquenchable requirements of US capitalism, dating from when the original thirteen states drove westwards to claim the rest of the continent. Specifically, he pointed to the US pursuit of an ‘Open Door’ world in which all countries and peoples would buy into free market principles laid down by Washington. As a result of American involvement in the quagmire of Vietnam, Williams’s thesis achieved greater traction and a host of works were published excoriating the imperialist tendencies of US capital and power.¹⁵ Memoirs by disaffected CIA officers fed into this new way of seeing US foreign policy. At the heart of these works was the argument that the primary objective of US policymakers was expansion, both territorial and economic, with the CIA as an obedient servant of this policy. Agee, in particular, suggested that the engine of foreign policy was fuelled not by any devotion to morality or democratic values, but by a desire to make the world hospitable for globalization, led by American multinational corporations.

I

A graduate from Penn State University, Victor Marchetti was recruited by the CIA in 1955. He went on to enjoy a successful fourteen-year career with the Agency. He climbed the escarpments to become executive assistant to the Deputy Director, Admiral Rufus Taylor, in 1966. In this role, he was entrusted with many of the CIA’s most carefully guarded secrets. Indeed, he was one of the privileged few who had

¹⁴ W. Williams, *The Tragedy of American Diplomacy* (New York, 1959).

¹⁵ Seminal ‘revisionist’ works include W. LaFeber, *America, Russia and the Cold War* (New York, 1967); G. Kolko and J. Kolko, *The Limits of Power: The World and United States Foreign Policy 1945–1954* (New York, 1972); T. Paterson, *Soviet–American Confrontation: Postwar Reconstruction and the Origins of the Cold War* (Baltimore, 1973).

morning coffee with Director Richard Helms.¹⁶ 'I never loved anything in my life so much as the CIA', he later asserted, 'I was going to be one of these guys who get special dispensations to keep working past retirement age. I wanted to die with my boots on.'¹⁷

However, the higher he rose within the organization, the more disenchanted he became. He eventually arrived at the view that the CIA had abandoned its core responsibility as a collector and producer of national intelligence, and had instead become obsessed with covert action and indefensible levels of secrecy. Vietnam weighed heavily on his mind. Especially troubling to him was that while, on the one hand, CIA analysts were reporting that the war was a 'lost cause', on the other hand, the Agency was getting itself in 'deeper and deeper' with the controversial 'Phoenix Program', a campaign aimed at 'neutralizing' the political infrastructure and leadership of the Viet Cong.¹⁸

Marchetti resigned in September 1969. His first act of rebellion was to publish a spy novel, *The Rope Dancer*. Beforehand, a CIA officer vetted the text at Marchetti's home in Virginia. There was no objection from a security perspective, and publication went ahead in 1971.¹⁹ Interviewed by the press, Admiral Taylor called it 'pretty trashy'.²⁰ Behind the scenes, however, senior CIA officials were vexed. Although the book had been marketed as pure fiction (everyone worked for an imaginary organization known as the National Intelligence Agency), the plot was clearly based on Marchetti's career. The chief protagonists were unflattering *roman à clefs* of real CIA officers, including Helms and James Jesus Angleton, the CIA's legendary chief of counterintelligence. In the novel, agents twisted facts to suit the whims of the President and, in a not so subtle gesture to real CIA activities against Salvadore Allende in Chile, plotted the downfall of an anonymous South American government.

Helms placed Marchetti under surveillance in an operation called 'Project Butane'. This commenced on 23 March 1972 and lasted for about a month.²¹ The CIA justified the operation by arguing to the Justice Department that it wanted to know if Marchetti was a traitor looking to sell secrets to a foreign power. It is unknown whether this was a genuine concern, or whether the CIA simply wanted to ascertain if he was writing a book. Butane found no evidence linking Marchetti with enemy services, although secret photographs were taken of him meeting with a journalist from *The New York Times*.²² With this, the

¹⁶ H. Allen, 'Quitting the CIA: and living to tell about it, more or less', *Washington Post*, 16 Oct. 1972.

¹⁷ *Ibid.*

¹⁸ 'Interview with Victor Marchetti: Station WBAI, 21 February 1972, 6pm', CREST.

¹⁹ A. Mackenzie, *Secrets: The CIA's War at Home* (Berkeley, 1997), p. 43.

²⁰ M. Malloy, 'Spook turns writer', *National Observer*, 6 May 1972.

²¹ '“Family Jewels” Report', 16 May 1973. Declassified in June 2007 and available as a PDF on the National Security Archive website, <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB222/family_jewels_full_ocr.pdf>.

²² 'CIA spied on spook author', 9 April 1979, <<http://www.jfk.hood.edu/Collection/Weisberg%20Subject%20Index%20Files/M%20Disk/Marchetti%20Victor%20CIA/Item%2027.pdf>>.

CIA turned the surveillance side of the operation over to the FBI. The Bureau agreed, but warned that, 'Under such circumstances he could be the target of a recruitment attempt by the opposition, and it is not entirely inconceivable that he might choose to defect.'²³ Marchetti had no intention of defecting, but he was planning a tell-it-all book and had circulated a proposal to six New York publishers. A copy was covertly obtained by a CIA informant in the publishing world. According to a later sworn affidavit by Robert Lohman, an officer based in one of the Agency's Manhattan offices, this 'confidential source' had 'provided reliable information in the past' about potentially dangerous books.²⁴ It was, of course, illegal for the CIA to have spy inside a New York publisher.

Whistleblowing was on the rise. At the very moment the CIA was monitoring Marchetti, Patrick McGarvey, a fourteen-year veteran of the Agency, published *CIA: The Myth and the Madness*.²⁵ The book portrayed the CIA as a bureaucratic shambles with no central direction. McGarvey argued that it had grown so cumbersome that the country's intelligence product was currently inferior to what it had been a decade before with fewer personnel and less high-tech equipment. The book contained several startling disclosures, including the detail that, in 1958, CIA agents stole a Sputnik satellite whilst it was on a world tour. It talked about Project 'Fat Fucker', the CIA plan to overthrow Egypt's paunchy King Farouk in 1952. Although the book undoubtedly angered the CIA, no thought was given to legal action. McGarvey revealed nothing about illegal domestic operations, whilst his thesis that the biggest problem with the CIA was mismanagement, not excess power or secrecy, was tolerable. McGarvey also gave the CIA the chance to vet the manuscript before publication. This led to the 'blacking out' of several parts of the text, including the name of the country where the Sputnik had been snatched.²⁶

In Marchetti's case, however, the CIA turned to the law. For Helms, the book was the stuff of nightmares. As well as showing how the CIA had violated its authority overseas, it was going to discuss how the CIA had broken the law with Operation MHCHAOS, a domestic spying programme of alleged Orwellian proportions.²⁷ Whereas McGarvey attributed failures to the bumbledom of bureaucracy and wanted the CIA to reform itself from within, Marchetti, more controversially, targeted excessive levels of secrecy and wanted to open up the Agency to greater congressional and public scrutiny.

With President Richard Nixon's blessing, the CIA asked Judge Albert Bryan of the Federal District Court of Virginia for a court order

²³ Ibid.

²⁴ J. Marks, 'On being censored', *Foreign Policy*, 15 (1974), CREST.

²⁵ P. McGarvey, *CIA: The Myth and the Madness* (Baltimore, 1972).

²⁶ 'CBS Evening News, 19 October 1972', CREST.

²⁷ Mackenzie, *Secrets*, p. 42.

requiring Marchetti to submit all his writings, ‘factual, fiction, or otherwise’, to the CIA for pre-publication review. The request hinged on the idea that Marchetti had signed a secrecy contract, which might have the same legal weight as a commercial contract that prevented employees from disclosing trade secrets.²⁸ On 18 April 1972, in a landmark move, Bryan authorized the request and issued a temporary injunction.

Bryan’s order was hugely significant. This was the first occasion in US history that the government had moved legally to silence a former government official. Moreover, the injunction had been issued before the author had written a single word. The question raised by the action was whether a US citizen should be required to surrender his or her freedom of conscience. *Washington Post* reporter Alan Birth was indignant: ‘It is trying to impose a kind of preventive detention in the realm of ideas.’²⁹ He continued: ‘The expression of ideas cannot be enjoined in America. To imprison ideas is to dam the democratic process.’³⁰ The popular weekly journal *The Nation* proposed that the case underscored the ‘fact that the CIA is essentially an alien institution – alien to American custom, alien to the Constitution – and incompatible with both the forms and the spirit of democracy’.³¹

The American Civil Liberties Union (ACLU) agreed to provide free counsel for Marchetti. They demanded that the injunction be lifted, and argued that anything less would represent a breach of the Republic’s most cherished right, that of free speech. The trial began on 15 May 1972; it lasted less than eight hours. In a ruling of great importance, Bryan sided with the CIA, claiming that the contract signed by Marchetti amounted to a relinquishment of his First Amendment rights. Marchetti appealed to the Supreme Court on the grounds that no contract should trump a constitutional right. He was defeated by a vote of six to three.

The plot thickened as Marchetti teamed up with John Marks, a former State Department employee, to write *The CIA and the Cult of Intelligence*. As required by the court, in August 1973, they submitted the text for pre-publication review. After thirty days, they were contacted and ordered to remove 339 passages, roughly a quarter of the book.³² It was immediately clear that the CIA had taken a wide interpretation of what had to be safeguarded in the interests of national security. For example, deleted was the insight that Helms had mispronounced the name of the Malagasy Republic at a National Security Council meeting.³³ Also removed was the remark by Henry Kissinger, then National Security Advisor, that the United States could not let

²⁸ *Ibid.*, p. 44.

²⁹ A. Birth, ‘Free speech, security and the CIA’, *Washington Post*, 16 June 1972.

³⁰ *Ibid.*

³¹ ‘The whistleblowers’, *Nation*, 6 Nov. 1972.

³² ‘\$6 billion a year spent on spying, authors say’, *Los Angeles Times*, 19 June 1974.

³³ J. Marks, ‘On being censored’, CREST.

Chile fall into communist hands ‘just because of the irresponsibility of its people’.³⁴ With the best will in the world, it was hard to see how such a ‘revelation’ could damage American interests.

Marchetti and Marks struck back by filing a suit to challenge the deletions. In March 1974, with the Agency being hauled over the coals in the press for its wholesale hatchet-job on the book, CIA attorneys acquiesced to reduce the number of deletions to 168. However, this concession only served to increase the suspicion that the CIA’s classification policy was ad hoc and capricious, with no consistently applied standards.

On 20 March 1974, having grown impatient with the CIA’s strategy of constantly moving the classification goalposts, Bryan decreed that of the 168 items, only 27 were valid. The CIA instantly filed an appeal, but rather than be dragged through the courts any longer, in June 1974 the authors boldly decided to publish a version with 168 blank spaces. Embarrassingly for the CIA, the publisher also set in bold typeface the reinstated 141 passages the CIA had originally cut. Readers, therefore, knew exactly what information the CIA had regarded as a threat to national security, if disclosed. Among the emboldened items was the perfectly innocuous disclosure that Director John McCone had demanded a limousine and had his office ‘enlarged, paneled in wood, and impressively furnished’ – hardly a disclosure that was likely to compromise sources and methods.

The book resonated with disillusionment at home about Vietnam and more broadly America’s ill-fated and morally questionable attempts to remake the world in its own image. Increasingly, in books and articles, the United States was being presented as a cross between a greedy colossus and school bully – its foreign policy, far from being benign, was dictated instead by a determination to acquire foreign markets under the auspices of a new international economic order. Marchetti and Marks contributed to this. The central contention of the book was that, despite the United States’ rhetorical devotion to the self-determination of nations, it had been violating the sovereignty of foreign states. As a result, the CIA’s authorized mission to coordinate and process intelligence had been supplanted by an obsession with covert action. This obsession, the book argued, had led the CIA, without approval by Congress, to fuel the Cold War and destabilize the international system. The authors recalled the CIA’s early ‘back-alley’ struggles against communism, including the successful putsch against Iranian premier Mohammed Mossadegh in 1953 and its abortive attempt five years later to overthrow Indonesian President Sukarno. They discussed the CIA’s programme to train Tibetan rebels to fight Chinese communists. Furthermore, they suggested that the CIA worked

³⁴ F. Snapp, *Irreparable Harm: A Firsthand Account of How One Agent Took on the CIA in an Epic Battle over Free Speech* (Lawrence, KS, 1999), p. 172.

for 'corporate America'. For example, they revealed the CIA's ownership and management of proprietary organizations, including Air America.

William Colby, who replaced Helms as Director in September 1973, later admitted that the CIA should have backed down much earlier than it had done.³⁵ Media coverage of the case gave unprecedented publicity to a book that may have sunk without a trace. The liberal magazine *The New Republic* ironically suggested that the CIA merited a nod of gratitude for having unwittingly launched the book in the direction of the bestseller list.³⁶ However, there was to be no happy ending for Marchetti. Chief Judge Clement Harmsworth of the Fourth Judicial Circuit eventually threw out Bryan's ruling. The courts, he argued, had no authority to determine what constituted a genuine secret, announcing that information was 'secret' the moment the CIA official affixed the legend to the document.³⁷ Significantly, he underlined that an individual sacrifices his First Amendment rights when he signs a secrecy agreement. Marchetti was mortified and spent a week in bed licking his wounds: 'I didn't shave or bathe or even turn on a light'.³⁸ Over the coming years, there would be no let-up in the flood of CIA recriminations. When Snapp met him for the first time in 1978, it was clear that events had taken a huge toll: 'The potbellied munchkin with the double chin and Buddy Holly glasses who greeted me was so unrelentingly pathetic that I found myself mumbling apologies for even disturbing his evening.'³⁹ Before the two parted company, Marchetti embraced Snapp and said, with tears swelling up in his eyes, 'From now on you're gonna be an outlaw, a gunslinger all by yourself. And every time you walk down the street there's gonna be somebody waitin' to take a shot at you.'⁴⁰

II

A conservative Catholic from a white family of social climbers in Tampa, Florida, Phillip Agee was prime CIA material. He served as a staff officer from July 1957 to November 1968. Eight of those years were spent undercover in Ecuador, Uruguay and Mexico. The circumstances behind his resignation have long been disputed. According to Agee, he resigned because his Catholic social conscience had made him uneasy with US foreign policy. The CIA, he believed, had become the 'secret policeman of capitalism', wielded by Presidents at the request of big business to facilitate the optimal conditions for multinational cor-

³⁵ Kessler, *Inside the CIA*, p. 217.

³⁶ 'Spy story', *New Republic*, 22 June 1974, p. 8.

³⁷ Mackenzie, *Secrets*, p. 52.

³⁸ Snapp, *Irreparable Harm*, p. 173.

³⁹ *Ibid.*, p. 170.

⁴⁰ *Ibid.*, p. 173.

porate investment.⁴¹ Specifically, Agee was distressed with the CIA's support for anti-communist, authoritarian regimes across Latin America. Agee has written that there was no bad blood between him and the Agency for leaving. Indeed, his boss was reportedly 'startled' since he had been lining Agee up for 'another promotion'.⁴²

The reality, however, is that Agee was pushed. CIA evaluations of his performance and character were extremely negative. One report suggested that he 'showed himself to be an egotistical, superficially intelligent, but essentially shallow young man'.⁴³ Another report stated that his 'financial accountings were constantly in a poor state'.⁴⁴ Moreover, he was frequently in trouble for heavy drinking, as well as the vulgar propositioning of wives of US embassy staff.⁴⁵ Any one of these offences could have been grounds to dismiss him; intelligence officers should not attract controversy for fear of being blackmailed by hostile services. Agee's 'family difficulties' proved the final straw. The trouble originated when Agee separated from his wife, following a string of extramarital affairs, and, defying a court order, relocated his children to Mexico where he lived with his mistress.⁴⁶ Agee's wife informed the US Ambassador in Mexico City that, unless her boys were returned to the United States, she would reveal her ex-husband's CIA work. With this, Agee was asked to leave.

After resigning from the Agency, Agee completed a Master's degree in Latin American history at the National Autonomous University of Mexico, a hotbed of leftism. He hoped that he would get rich by assisting affluent Mexicans he had met through his work. When this failed, he turned to a more sinister trade: treachery.⁴⁷ In 1973 he strolled into the KGB station in Mexico City and offered what Oleg Kalugin, a former head of the KGB's Counterintelligence Directorate, described as a 'mound of information' about CIA operations worldwide.⁴⁸ The KGB resident wrongly believed Agee to be a CIA plant and sent him packing. With this, he approached the Cuban Dirección General de Inteligencia (DGI), who accepted his offer with alacrity. Kalugin has gone on record as saying that, while the Cubans shared Agee's information with the KGB, he 'cursed our officers for turning away such a prize asset'.⁴⁹

⁴¹ P. Agee, *Inside the Company: CIA Diary* (London, 1975), entry for 28 Oct. 1968.

⁴² *Ibid.*

⁴³ [Anon.], 'Phillip Agee', Phillip Agee Papers, Box 5, Tamiment Library & Robert F. Wagner Labor Archives, New York University, New York.

⁴⁴ *Ibid.*

⁴⁵ J. Barron, *KGB Today: The Hidden Hand* (London, 1984), pp. 227–30.

⁴⁶ [Anon.], 'Personal problems', Phillip Agee Papers, Box 5, Tamiment Library & Robert F. Wagner Labor Archives, New York University, New York.

⁴⁷ [Anon.] to Deputy Director for Plans, 'Mr. Phillip Agee and the CIA expose in the Uruguayan press', Phillip Agee Papers, Box 5, Tamiment Library & Robert F. Wagner Labor Archives, New York University, New York.

⁴⁸ O. Kalugin, *Spymaster: My Thirty-Two Years in Intelligence and Espionage against the West* (New York, 2009), pp. 93, 220.

⁴⁹ *Ibid.*, p. 220.

Agee always denied that he worked for either the KGB or DGI. The charges, he argued, were CIA smears. The evidence, however, is stacked against him. In 1992 a high-ranking Cuban intelligence defector claimed that Agee had received nearly \$1million from the DGI. In 1999 Vasili Mitrokhin, a former KGB librarian who had been smuggled out of Russia by British intelligence complete with six trunks of classified files, disclosed that Agee was a communist agent with the codename 'PONT'.⁵⁰ And, in an interview for this article, CIA alumnus Cameron La Clair, who spent twenty-one years with the Agency before retiring in 1978, claimed that the CIA had amassed 'overwhelming' evidence that Agee was 'in the hands of the Cuban intelligence service'.⁵¹

Agee revealed himself as a critic of the CIA in November 1971 with an article, published in a Montevideo newspaper, accusing the Agency of meddling in Uruguayan elections. In it, he confirmed that he was writing a book on dirty tricks. With this, CIA officer Salvatore Ferrera was dispatched to Paris, where Agee was living impoverished, to befriend him. Ferrera's cover was that of an 'underground' journalist with close ties to anti-Vietnam War activists in Paris. Exploiting Agee's weakness for women, Ferrera introduced the renegade spy to Leslie Donegan, a blonde, bosomy and wealthy heiress of an American businessman in Venezuela. Donegan was in fact a CIA agent (real name, Janet Strickland), sent to acquire a copy of his manuscript. Presenting herself as a patroness of the arts, she agreed to finance his research. Additionally, she allowed him to use her apartment and gave him a portable typewriter. Grateful, he gave her 250 photocopied pages of draft material.⁵²

The CIA's attempts to monitor Agee came back to haunt them. Agee discovered that the typewriter was secretly packed with microphones and transmitters, and he would publicly embarrass the CIA by including a photograph of the impressively wired device on the front cover of his book. Moreover, Strickland's financial assistance actually facilitated the book's completion. 'It is no exaggeration to say', Agee later claimed, 'that the CIA financed me during the most critical period in writing the book.'⁵³ Upon realizing that the typewriter was bugged, he immediately left Paris. For a short while, the CIA had no clue of his whereabouts.

He eventually showed up in London in October 1972, where he lived until he finished the book in May 1974. There is every reason to believe that, during this time, he received help from the Russians, the Cubans, or both. Agee has admitted that he conducted interviews with Cuban embassy officials in London, some of whom were DGI intelligence

⁵⁰ C. Andrew and V. Mitrokhin, *The Mitrokhin Archive: The KGB in Europe and the West* (London, 1999).

⁵¹ Interview with Cameron La Clair.

⁵² 'Rendezvous in Geneva: my spy exposed', *Counter Spy*, 3/2 (1976), pp. 4-6.

⁵³ P. Agee, 'Affidavit', Phillip Agee Papers, Box 7, Tamiment Library & Robert F. Wagner Labor Archives, New York University, New York.

officers.⁵⁴ He has also claimed that he received help from the Communist Party of Cuba. According to Mitrokhin, whose secret notes were turned into a book by Professor Christopher Andrew, there is a KGB file that proudly declares that the manuscript was prepared in conjunction with the KGB's 'Service A, together with the Cubans'.⁵⁵

The CIA made repeated efforts to contact Agee, to remind him of the Agency's contractual right to review the manuscript before its publication, but to no avail. Assistant CIA General Counsel John Greaney visited the spy's father in Florida, whilst letters were sent to publishers warning them of the legal implications of publishing the book without pre-publication review.⁵⁶ Agee recalls his time in London as one when he was constantly watched by British security services working at the CIA's request. 'This surveillance', he stated, 'caused psychological pressures and fears of physical assault'.⁵⁷

To avoid the potential for the kind of arbitrary censorship that had shredded parts of Marchetti's book, *Inside the Company: CIA Diary* was published by Penguin in London in April 1975. UK distributors shipped around 500 copies to Classics Book Store in New York, as well as Sidney Kramer Books in Washington. However, US Customs interceded and seized them.⁵⁸ The book gave an uncompromisingly negative assessment of US foreign policy. The central thesis was that the United States was defending despots in Latin America, while ensuring that its states were kept in peonage to US investors under the ruse of 'development'. At a press conference, Agee said that the CIA's job was to 'plug up leaks in the political dam, night and day, so that shareholders of US companies operating in poor countries can continue enjoying the rip-off'.⁵⁹ Readers were provided with gruesome tales showing the ugly side of US intervention around the world. For example, Agee revealed that he was required to give the names of rebels to Uruguayan police officers knowing that they would be tortured. He recalled one particular haunting episode where, in a Montevideo police station, he heard screams from the cell of a man he had given up. The officers simply turned up the volume of a televised soccer match to drown out the noise.

Horror stories such as this were nonetheless not the most controversial aspect of the book. In an alphabetized appendix, Agee identified some 250 CIA officers. Nothing is more sacred in the spy business than the identity of agents working abroad. Keeping the names of these agents secret is seen as absolutely essential not only for the safety of the agent and his or her family, but to ensure that friendly intelligence

⁵⁴ Phillips, 'The CIA story'.

⁵⁵ Andrew and Mitrokhin, *Mitrokhin Archive*, p. 300.

⁵⁶ J. Greaney to DCI, 'Meeting with Agee's Father', Phillip Agee Papers, Box 7, Tamiment Library & Robert F. Wagner Labor Archives, New York University, New York.

⁵⁷ P. Agee, 'Affidavit'.

⁵⁸ 'CIA Diary on Sale', *Washington Post*, 11 April 1975.

⁵⁹ W. Pincus, 'Review: *Inside the Company*', *New York Times*, 3 Aug. 1975.

services do not break off relations for fear of having their own secrets exposed. As Director Stansfield Turner (1977–81) would later state in a sworn affidavit, ‘Foreign intelligence agencies simply will not cooperate with the CIA unless they are confident that the CIA’s assurances of confidentiality can be honored.’⁶⁰ Agee, therefore, had taken a huge step.

The CIA abhorred the book. A review in the Agency’s (then) classified in-house journal, *Studies in Intelligence*, suggested that it was a ‘severe body blow’ to the organization.⁶¹ It lamented that ‘A considerable number of CIA personnel must be diverted from their normal duties to undertake the meticulous and time-consuming task of repairing the damage done to its Latin American program, and to see what can be done to help those injured by the author’s revelations.’⁶² CIA alumnus Atlee Phillips predicted that the book would result in the ‘unnecessary death of an American intelligence officer abroad’.⁶³ Agee was unrepentant. He declared that his intention was not to endanger the lives of CIA officers, but to ‘drive them out of the countries where they are operating’.⁶⁴ Exhibiting coldness in the extreme, he argued that CIA officers can ‘take care of themselves’, a view insensitive to the fact that wives and children might be targeted.

The CIA then proceeded to shoot itself in the foot once more by failing to heed the lessons of its legal tussle with Marchetti. There was every chance that the book would scarcely have registered on the public’s radar. To quote espionage writer Ladislav Farago, it was ‘repetitious, anticlimactic, badly written and confusingly organised’.⁶⁵ For six months, the Agency nevertheless tried to block publication in the United States. Legal action was threatened against Agee’s US publisher. By the time the CIA backed down, it had generated enormous public interest in the book, which became a bestseller, and intensified the feeling that the CIA was overly secretive. The fact that the nation’s enemies could already read the book, from Chairman Mao to General Secretary Brezhnev, undermined the Agency’s claim that domestic publication would harm national security and was suggestive of a more sinister desire to keep the American people in the dark. ‘The CIA can blame only itself for this mishap’, wrote Farago: ‘This is what they deserve for hiring an unstable young scout and making him perform some of the dirtiest tricks of the Cold War . . . The wise men of Langley

⁶⁰ ‘Affadavit: Stansfield Turner’, Phillip Agee Papers, Box 7, Tamiment Library & Robert F. Wagner Labor Archives, New York University, New York.

⁶¹ ‘Book review of *Inside the Company: CIA Diary* by Phillip Agee’, *Studies in Intelligence*, <<https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol19no2>>.

⁶² *Ibid.*

⁶³ Phillips, ‘The CIA story’.

⁶⁴ [Anon.], ‘*Inside the Company: CIA Diary* by Philip Agee’, Phillip Agee Papers, Box 5, Tamiment Library & Robert F. Wagner Labor Archives, New York University, New York.

⁶⁵ L. Farago to the Editors of *Publishers Weekly*, 7 May 1975, Ladislav Farago Papers, 807/25, Howard Gotlieb Archival Research Center, Boston University, Massachusetts.

[should] let his book die the natural death it so amply deserves by its acute boredom and chronic soporism.⁶⁶

Agee saw *Inside the Company* as just one element of larger campaign against the CIA. He became affiliated with the 'Fifth Estate', a watchdog organization founded by the outspoken writer Norman Mailer in February 1973. The Fifth Estate was conceived as a citizens' action committee designed to monitor spy agencies and to investigate their possible complicity in scandals ranging from the assassination of President Kennedy to the death of Marilyn Monroe. Agee worked as an adviser to the Fifth Estate's quarterly magazine, *Counterspy*, which was edited by a motley band of disaffected intelligence officers. These included Tim Butz and Kenneth Osborn, from military intelligence, and Winslow Peck, otherwise known by his pseudonym, Perry Fellwock, a former analyst for the National Security Agency (NSA). The declared aim of *Counter Spy* was to name CIA officials in the hope that exposure would force the CIA to bring them home. The CIA interpreted this as a declaration of war. 'In twenty five years as a professional intelligence officer', announced Atlee Phillips, 'this is first time I have seen a group of citizens urge a covert action plan against its own secret service.'⁶⁷

Counter Spy's most sensational exposé came in winter 1975 when it published a list of 225 CIA officers around the world under diplomatic cover. Agee was indelibly associated with the list since, in the same issue, he wrote an editorial declaring: 'The most effective and important systematic efforts to combat the CIA that can be undertaken right now are the identification, exposure, and neutralization of its people working abroad.'⁶⁸ One of those named was Richard Welch, station chief in Athens. Tragically, on 23 December 1975, as he returned from a Christmas party, he was ambushed by masked assailants and shot dead. CIA Director George H. W. Bush laid the blame squarely at the feet of *Counter Spy* and Agee. A CIA press release announced 'we've had an American gunned down by other Americans fingering him – rightly or wrongly – as a CIA agent'.⁶⁹ *Counter Spy* refuted the charge, releasing a statement on 24 December stating, 'If anyone is to blame for Mr. Welch's death it is the CIA that sent him there to spy.'⁷⁰ They explained that Welch's identity had already been disclosed by the Peruvian press in 1974, and most recently in a letter published by *Athens News* on 25 November. It emerged some years later that hundreds of Greeks in fact knew Welch's identity because he lived in a house known to be residence of the incumbent CIA station chief in Athens. Reportedly, local tour guides even pointed out the residence during their bus journeys around the city.⁷¹

⁶⁶ Ibid.

⁶⁷ Phillips, 'The CIA story'.

⁶⁸ 'Chiefs of station: who's who, what they do', *Counter Spy*, 2/2 (1975), pp. 1–32, at p. 23.

⁶⁹ M. Dearborn, *Mailer: A Biography* (New York, 1999), p. 394.

⁷⁰ 'CIA blamed for Greek death', *The New York Times*, 25 Dec. 1975.

⁷¹ R. Jeffreys-Jones, *In Spies We Trust: The Story of Western Intelligence* (Oxford, 2013), p. 167.

Agee nevertheless attracted little sympathy. The *Washington Post* announced that the winter edition of *Counter Spy* was 'tantamount to an open invitation to kill him'.⁷² It did not matter that Welch's name might have been printed elsewhere: what mattered was that Agee was the loudest champion of naming names, and now an American was dead. Sensing an opportunity to swing the pendulum of popular opinion back in its favour, the CIA wasted no time in making Welch a martyr, a symbol not only of the dangers inherent in disclosing names, but of openness in general. Although a non-combatant, he was buried, by order of President Ford, in Arlington National Cemetery. The plane carrying the coffin was timed to land at Andrews Air Force Base for live coverage on breakfast television, even circling for fifteen minutes to maximize viewing figures. The funeral was handled with the ceremony typically afforded to the burial of Presidents, replete with honour guards and hundreds of flags. With both the House and Senate committees at that very moment drafting their recommendations for intelligence reform, Senator Church accused the CIA of exploiting the death to frighten would-be reformers and water down their proposals.

His reputation had taken a buffeting, but Agee was undeterred by Welch's murder. He penned two further books – *Dirty Work: The CIA in Western Europe* and *Dirty Work: The CIA in Africa* – which exposed more than 2,000 personnel. He established an anti-CIA journal, *Covert Action Information Bulletin*, which urged a worldwide campaign to blow the cover of US spies abroad. The *Bulletin* featured a regular 'Naming Names' section and called on subscribers to send in tips on possible CIA agents.⁷³ Yet, the remainder of his life served as a cautionary tale for anyone who dared to challenge the CIA. Pressure from the Agency led the government to confiscate his US passport and, in 1982, pass the Intelligence Identities Protection Act, which made it illegal to reveal the name of covert CIA officers. He was expelled from, or refused admittance to, Great Britain, Italy, West Germany, the Netherlands and Norway – almost certainly at the request of unforgiving US officials. With the door slammed shut in these countries, and facing prosecution if he returned to the United States, he was forced to jump from country to country in search of asylum. For over two decades, he was, in his own words, living in abject fear and 'always on the run'. He wanted to die in the harness, revealing CIA secrets, but his dotage was spent running a website in Havana helping US citizens to exploit legal loopholes to holiday in Cuba.

III

Marchetti and Agee had put the CIA on high alert for employees who wanted to wash the Agency's dirty linen in public. Accordingly, on 19

⁷² 'The Fifth Estate and a CIA agent's death', *National Observer*, 19 Jan. 1976.

⁷³ 'Lives of CIA agents deliberately imperiled', *Human Events*, 19 Aug. 1978.

June 1976, DCI George H. W. Bush established the Publications Review Board (PRB) to 'review the nonofficial writings of current employees'. Historically, the vetting of manuscripts had been done by the Office of Security in an ad hoc fashion with no ground rules. This casual arrangement had sufficed when memoirs were few in number, but was clearly unsuitable at a time when more personnel were running off to publishing houses. In 1977, Director Turner extended the board's reach by giving it the authority to examine the writings of former, as well as serving, officers.

The professed purpose of pre-publication review was to prevent authors from making inadvertent disclosures of classified information that would be damaging to national security. A CIA report of August 1981 emphasized that 'even supportive books about the Agency and intelligence operations have proved damaging'.⁷⁴ It is nevertheless hard to escape the conclusion that the CIA, in creating the PRB, was also looking to prevent embarrassing disclosures. If the board's only responsibility was to protect classified information, it would have been logical to put a career CIA officer in charge, someone with an eye for potentially harmful material based on years of experience. Instead, the PRB's first chairman was Herbert Hetu, Head of CIA Public Affairs and a complete intelligence neophyte. The timing of Turner's decision to broaden the board's mandate also hints at an underlying rationale to manage negative representations. At the precise moment that Turner gave the PRB the power to inspect the writings of ex-employees, he was firing some 800 spies who were, in his felicitous phrase, 'clogging the system'. The PRB therefore ensured that Turner had advance warning of any 'surplus' officers who might take up the pen in anger.

No sooner had the PRB been established than the CIA became entangled in a legal dispute with an author that went all the way to the Supreme Court. Frank Snepp was a conservative North Carolinian. Recruited from Columbia University, he served two tours of duty at the US embassy in Saigon, where he became the CIA's chief analyst of North Vietnamese strategy. During his final tour, he was at the heart of the action, running a key informant network in the North; writing segments of the President's Daily Brief; and interrogating high-ranking prisoners and defectors. For his services, he was awarded the CIA's coveted Medal of Merit.

However, Vietnam eventually broke Snepp. His descent into disgruntlement was confirmed with the US government's shambolic handling of the fall of Saigon on 30 April 1975, which resulted in thousands of indigenous CIA 'assets' being left behind, to the mercy of the victorious communists from the North. Snepp had long warned his superiors of an impending communist takeover, and repeatedly urged for intensified planning for the evacuation of the loyal Vietnamese nationals who

⁷⁴ 'Preliminary investigation report for the PRB', 27 Aug. 1981, CREST.

had risked their lives by working for the Americans. CIA Station Chief Tom Polgar, as well as Ambassador Graham Martin, dismissed his predictions about the endgame. Martin had lost a son in Vietnam and was determined not to lose Saigon. Clinging to the prospect of a new negotiated settlement with the North, he emphasized the importance of the United States not being seen ‘bugging out’ and scolded Snepp when he discovered that he was secretly burning documents. The ashes, he complained, were dirtying the embassy swimming pool.⁷⁵

At mid-morning on 29 April, with 140,000 North Vietnamese troops within an hour’s drive of downtown Saigon, the evacuation order finally came from Washington. Operation ‘Frequent Wind’, the biggest helicopter evacuation in history, was launched with a radio broadcast declaring it was ‘112 degrees and rising’, followed by a playing of Bing Crosby’s ‘White Christmas’. By this point, it was too late to pull everyone out. Snepp took the last CIA chopper off the embassy roof, burdened with guilt that he was abandoning loyal allies to be tortured, killed or sent to ‘re-education’ camps.

Back in America, Snepp urged the CIA to investigate what he considered an ‘institutional disgrace’. However, just as his pleas had fallen on deaf ears in Saigon, now no one was willing to listen to him at Langley. His immediate superiors refused to approve an ‘after-action’ report. The Inspector General turned him away, as did the Agency’s Office of Political Research. ‘The CIA wanted to shut Vietnam down and be done with it’, Snepp said in a recent interview.⁷⁶ Snepp became further scandalized as some of the key players put out false statements absolving themselves of blame. Disingenuously, Secretary of State Henry Kissinger said that Hanoi had promised a negotiated settlement, only to change its mind two days before moving into Saigon, meaning that there was no time for an orderly evacuation. In a last attempt to force a post-mortem, Snepp wrote a short paper, which he distributed around headquarters, claiming that the CIA had left behind secret documents that would help the communists identify US agents and collaborators. Those who bothered to read it treated it like a ‘skunk’s carcass’.⁷⁷

After trying unsuccessfully to blow the whistle from the inside, Snepp saw a memoir as his only option. ‘I tried to go through the system’, he later told the press, ‘and I had been turned away. The only thing that distinguishes the CIA from the Mafia or any criminal outlet is its commitment to getting the truth to Washington and to acknowledging the truth to itself. In the wake of Saigon’s collapse, the CIA tried to cover reality with a lie.’⁷⁸ He did not take this decision lightly. A strong backer of the CIA, he subscribed to a consequentialist mentality of ‘the end justifies the means’, and had no scruples with the CIA getting its

⁷⁵ E. Thomas, ‘The last days of Saigon’, *Newsweek*, 13 March 2010.

⁷⁶ Interview with Frank Snepp.

⁷⁷ Snepp, *Irreparable Harm*, p. 30.

⁷⁸ ‘Q & A: Snepp tells of His War with the CIA’, *Washington Star*, unknown date, CREST.

hands dirty to defeat threats to national security. Moreover, he despised previous whistleblowers like Marchetti and Agee. Agee was, in his opinion, a 'traitor', 'turncoat' and 'coward' – not only for disgracefully fingering colleagues by name, but for fleeing the country and 'failing to face the music'.⁷⁹ In short, Snapp was not interested in money or betraying secrets. He wanted to ensure that lessons would be learned to prevent such a tragedy from occurring again.

Bob Loomis, senior editor at Random House, contracted the book but on two conditions. One, it must not disclose secrets; and two, it would be written in secrecy. Experience had taught Loomis that any publisher who printed negative material about the CIA was playing with fire. In 1964, Random House had published Thomas Ross and David Wise's critical history of the CIA, *The Invisible Government*, but not before the Agency had stolen galleys and threatened Loomis with espionage offences. As in a spy operation, therefore, the two men met in city parks, dark alleys and restaurants. Moreover, there would be no correspondence or drafts with the author's real name. Until the book was in production, Snapp would have a cover identity – 'Virgil Black'.⁸⁰

Despite being oblivious to the Loomis connection, the CIA suspected that Snapp had authorial desires. In January 1976, they ordered him to take a lie detector test, to ascertain the truth. Considering this an indignity, Snapp stormed out and resigned. For the next eighteen months, he worked non-stop on the manuscript, taking every precaution to ensure that the Agency did not ascertain a copy. Dead drops were used to get drafts to Random House. Ingeniously, one of Snapp's friends stored chapters in a safe at Langley, based on the idea that 'the pit bulls would never go snuffing around their own sandbox'.⁸¹

In November 1977, Snapp published the hard-hitting and redemptive memoir *Decent Interval*, without having submitted it to the CIA for pre-publication review. The CIA purchased all the copies in Washington, but it quickly became a bestseller. The book was a classic piece of Cold War revisionism, questioning the wisdom and morality of US foreign policy. Vietnam was presented as an old man's war and a young man's tragedy, whilst the fall of Saigon was portrayed as one of most shameful episodes in US history. Snapp repeated what many critics of Richard Nixon and Henry Kissinger had said of the Vietnam peace settlement in January 1973: that instead of amounting to 'peace with honor', it merely constituted a 'decent interval' before the inevitable communist takeover – hence the title of the book. Martin, Polgar and Kissinger were all accused of disregarding overwhelming intelligence showing that the North Vietnamese were making haste for Saigon. The Agency was pilloried for ignoring its own intelligence product, and heartlessly deserting its South Vietnamese allies. Beyond the evacuation

⁷⁹ 'PBS Late Night, 11 February 1982: Interview with Snapp', CREST.

⁸⁰ Interview with Frank Snapp.

⁸¹ Snapp, *Irreparable Harm*, p. 81.

failure, Snepp gave a devastating portrait of CIA senior management. He described how top-secret intelligence reports were routinely distorted and then given to visiting congressmen.

Nothing could have prepared Snepp for the fury that was brought down upon his head. Turner reacted with outrage, and confirmed that the CIA was going to take Snepp to court for not submitting his text for prior review which, he argued, was a condition of the secrecy contract Snepp had signed when he joined the Agency in 1968. In an op-ed for the *Washington Post*, he rejected Snepp's suggestion that there had been a 'cover up' of events by officials, and disputed the claim that Snepp had been unable to induce the CIA to investigate its own failings.⁸² Most seriously, he suggested that the book had caused as much damage to national security as the leak of the Pentagon Papers by Daniel Ellsberg in 1971. What was at stake, he argued, was the integrity of the classification system. 'The logical conclusion of the Ellsberg–Snepp syndrome', he emphasized, 'is that any one of our 210 million citizens is entitled to decide what should or should not be classified'.⁸³ In a rebuttal that the *Washington Post* declined to publish, Random House President Bob Bernstein reproached Turner for overlooking the fact that Snepp was not the first former operative to publish without prior clearance. In 1974, Miles Copeland bypassed pre-publication review with his book *Without Cloak or Dagger*; so too did Joseph Burckholder Smith with *Portrait of a Cold Warrior* in 1976. To go after Snepp, when others had gone unpunished for the same 'crime', gave the lie to Turner's position that no officer was allowed to determine what information might be safely disclosed. There had to be other factors.

Snepp was a victim of circumstance. With *Decent Interval*, he was poking the CIA in the eye at a time when the public image and private morale of the Agency was still recovering from its 'time of troubles'. Having had its legitimacy fiercely questioned, the last thing the CIA wanted was someone like Snepp feeding new ammunition to its critics. Snepp believes that he was targeted partly to pay the dues of Agee. Adopting a bunker mentality that failed to distinguish between dangerous renegades and critics, the CIA went after Snepp as the next best thing. Snepp also believes that he was singled out to send a warning to other employees who might be tempted to publish in vengeance: 'They were concerned about the next Agee . . . In fact, they were terrified of not one or two Agees, but many Agees. Turner didn't want anybody opening the floodgates.'⁸⁴ 'The fear', argues Snepp, 'was that I would be some kind of wayward Pied Piper who would lead everyone off to publishing houses'.⁸⁵

⁸² S. Turner, 'Draft article: secrecy and society', unknown date, CREST.

⁸³ Ibid.

⁸⁴ Interview with Frank Snepp.

⁸⁵ Ibid.

At Turner's insistence, a suit was filed against Snepp in the Federal Court of Virginia, the site of the Agency's victory against Marchetti. Importantly, the Justice Department did not prosecute Snepp criminally, and did not accuse him of compromising secrets. Instead, they sued him for breaching a 'fiduciary' obligation not to publish without prior clearance. Despite acknowledging that the book did not contain classified information, government lawyers claimed that *Decent Interval* had 'irreparably harmed' security by creating the impression that there had been a breakdown in internal CIA discipline. Its unauthorized release, they proposed, had damaged intelligence operations because it gave the 'appearance' that the CIA could not control its officers and thus the information to which they become privy.

The trial became a cause célèbre. In the press, Snepp took a fair amount of criticism from friends of the CIA who gave interviews, lumping him together with Agee. Snepp nevertheless had plenty of supporters. Hersh applauded him for having the courage and integrity to sacrifice his career to ensure that the truth came out about the cowardly, bumbling and reprehensible end to the US involvement in Vietnam. An unlikely ally came in the shape of former CIA operative and sesquipedalian champion of conservatism William F. Buckley. Buckley argued that the shocking events described in *Decent Interval* could have been avoided if his hero, Nixon, had not been forced to resign over Watergate.

For Snepp, the trial was a disaster from start to finish. Assigned to the case was a crotchety old judge called Oren R. Lewis. Nicknamed 'Roarin' Oren', Lewis was a staunch Republican who, in the words of one attorney, 'made Genghis Khan look like a civil libertarian'.⁸⁶ He had angered many liberals by handing out draconian punishments to anti-war activists, even suggesting that they should 'sample life' in North Vietnam.⁸⁷ Less than thirty minutes into the trial, the writing was on the wall for Snepp. Lewis clearly implied that a guilty verdict was a foregone conclusion by giving Snepp's legal team directions to the appeals court in Richmond: 'You just take I-95 and go south.'⁸⁸ Throughout the proceedings, Lewis went against Snepp at every turn. He turned down a request by the defence to submit evidence showing that the CIA had taken no action against other officers who had published without prior review.⁸⁹ Lewis's political bias was on full display when, during a speech by one of the defence attorneys, he scoffed: 'You sound like someone from the ACLU.'⁹⁰

Unsurprisingly, then, Lewis ruled in favour of the prosecution. The appallingly biased judge dismissed the argument of Snepp's lawyers

⁸⁶ Snepp, *Irreparable Harm*, p. 177.

⁸⁷ A. Dershowitz, *The Best Defense* (New York, 1983), p. 228.

⁸⁸ 'Snepp gets early directions to appeals court from judge', *Washington Star*, 21 June 1978.

⁸⁹ Dershowitz, *Best Defense*, p. 228.

⁹⁰ Snepp, *Irreparable Harm*, p. 180.

that the secrecy agreement only applied to disclosures of a classified nature. 'I would have no difficulty speculating', he declared, 'that the US government and the people suffered a loss by giving away this information. It doesn't have to be about the atomic bomb. I don't think the government has to show it lost \$2.'⁹¹ Lewis argued that Snapp was a fiduciary, or trustee, of the CIA. As punishment for abusing that trust, he ordered that Snapp surrender all his profits from the book to the federal government, calling them 'ill-gotten gains'. He also imposed a lifetime gag order on Snapp demanding – on pain of criminal contempt – that he submit all his future writings, even fiction, to the CIA for prior review.

Snapp had lost the battle, but was not prepared to lose the war. In his eyes, he was the victim of a technicality, mercilessly exploited by the CIA to even the score. Accordingly, he took his case all the way to the Supreme Court. Once again, circumstances seemingly conspired to work against him. In November 1979, with the court still deliberating, the American embassy in Tehran was seized by militant Islamic students. More than sixty Americans were taken hostage, including several CIA officers. The nation went into mourning. Against this background, alleges Snapp, the 'Court had a real "hard on" for national security' and made it difficult for an alleged radical like himself to attract sympathy.⁹²

In February 1980, in a milestone ruling, the Supreme Court decreed, by a vote of six to three, to uphold the lower court's decision. In consequence, the gag order was allowed to stand, as was the garnishment of earnings. Snapp was immediately reduced to penury. Stripped of the royalties he had made in the nearly two years it took him to write the book, and faced with a mountain of unpaid legal bills totalling \$100,000, he would need years to recover. As well as being an encroachment on his right to free speech, the gag order made it difficult for Snapp to secure a new career in writing or lecturing, since potential employers did not like the idea of the CIA having to approve his every word.

One for the law textbooks, the Court's ruling had profound implications that stretched well beyond Snapp's financial plight. First Amendment purists were horrified. Nat Hentoff of the *Los Angeles Times* exclaimed: 'No court decision in history has so imperilled whistle-blowers, and thereby, the ability of citizens to find out about rampant ineptitude and corruption in the agencies purportedly serving them.'⁹³ In the *Washington Monthly*, Jonathan Alter wrote that the 'decision may have been the most absurd and intellectually shoddy performance in the last twelve years of the Burger Court'.⁹⁴ The Snapp precedent effectively heralded an American Official Secrets Act. Just as in Britain, it was now

⁹¹ F. Barbash, 'Ex-CIA agent's defenses of Viet book rebuffed', *Washington Post*, 21 June 1978.

⁹² *Ibid.*

⁹³ Snapp, *Irreparable Harm*, p. 344.

⁹⁴ D. Logan, 'An insider out', *Orange Coast Magazine*, April 1987, p. 48.

a criminal offence for an intelligence officer to publish any information, learned in the course of his duties, without permission. It did not matter how harmless, trivial or old the material. In the wake of the decision, President Ronald Reagan issued a directive requiring pre-publication review for every government employee, not just CIA personnel, with access to highly classified information. Reagan tried to make light of the order at a press conference, announcing: 'What we're trying to control is what seems to be the favourite game of Washington, even more popular than the redskins, and that is leaks.'⁹⁵ But the alarming 'ripple effect' from Snepp was obvious. All government employees were now required to follow their contract, not their conscience.

IV

The 1970s saw the CIA lurch from scandal to scandal. Hanging heavy in the air was a belief that the Agency had strayed from its statutory path and become a sinister and overly secretive body, capable of wrongdoing not only overseas but also in the American backyard. Journalists and Congress led the charge, but whistleblowers caused the most distress at Langley. Until this point, the Agency had never seriously entertained the notion that one of its trusted members would blow the whistle. The CIA was no ordinary government department; to be a 'Company Man' required a devotion to secrecy unrivalled anywhere in Washington. Undergirded symbolically by the secrecy agreement, this was a habitus to which everyone was expected to adhere.

The CIA's shock and total lack of preparedness for apostates led to clumsy mistakes. Sending a Mata Hari to Paris to snoop on Agee, give him money and loan him a bugged typewriter was egregiously poor spycraft and backfired spectacularly. Frogmarching Marchetti off to court, and then suffering the indignity of watching Judge Bryan condemn the pre-publication review of the text as haphazard and unrelated to national security in many instances, reinforced the dominant image of the CIA at that time as a bogeyman subverting democratic values. Stigmatizing Snepp as an enemy of the state and leaving him destitute when, by the CIA's own admission, *Decent Interval* had not revealed any secrets, attracted further stinging criticism. Ultimately, there were no winners; the CIA was vilified as a high-handed martinet with no respect for free speech, whilst, in different ways, the whistleblowers all paid dearly for speaking out.

In the early twenty-first century, a new era of intelligence whistleblowing is at hand that threatens to match, if not eclipse, the battles of the 1970s. The digital storage of information plus the advent of new technologies have given disaffected insiders the ability to steal a much bigger volume of material than ever before, making possible

⁹⁵ 'ABC Nightline, 28 April 1983, 11:30pm', CREST.

whistleblowing on a grand scale. Before, all the talk was about ‘leaks’; now, it is about ‘deluges’. In July 2013, Army Private Chelsea Manning was convicted of stealing and communicating 750,000 Pentagon and State Department documents to WikiLeaks. US Director of National Intelligence James Clapper has proposed that former NSA contractor Edward Snowden downloaded 1.5 million files.⁹⁶ NSA Director Keith Alexander has reported that Snowden might have passed up to 200,000 of these to various journalists.⁹⁷ A theft on a scale such as this would have been an impossible feat in the days of Marchetti, Agee and Snepp, requiring round-the-clock access to hundreds of photocopiers and a convoy of trucks to transport the material to its destination. For governments, the fact that employees can steal exponentially larger amounts of information nevertheless represents only half the problem. To make their disclosures, whistleblowers today no longer have to publish memoirs or rely on middlemen in the press; software allows them to post information on the Internet while remaining anonymous. It is also fair to say that intelligence agencies have not helped themselves. Since 9/11, as they grew in size to combat the threat of international terrorism, they not only generated more secrets, but gave more people access to them, including many contract staff in an effort to cut costs and bureaucratic red tape. Snowden was a perfect storm of the intelligence community’s creation. A 29-year-old high-school dropout, with no expressed desire to be a career intelligence officer, in his role as a ‘systems administrator’ he was nevertheless given virtually unfettered access to highly sensitive data.

It will be fascinating to see how intelligence agencies respond to this new environment. One lesson that might be drawn from this article is that rather than hounding whistleblowers after the horse has bolted, a healthier solution would be to ensure that the public is better informed about intelligence activity through carefully managed outreach initiatives, such as official histories. The agencies presently in the firing line – the NSA and GCHQ – have historically been the most reluctant to educate the public about what they do. It is interesting to speculate: would Snowden’s revelations have caused such a storm if both organizations had been more open with the public about the breadth and depth of their surveillance programmes? This is not to say that action should not be taken against offenders who genuinely damage national security. It is about acknowledging that, like it or not, fast-paced technological advances are making the walls of state secrecy increasingly porous and unauthorized disclosures harder to prevent. Recognizing that whistleblowing is here to stay, the rules of information management need to be rewritten. The choice for intelligence agencies is whether to punish or persuade.

⁹⁶ D. Ignatius, ‘Edward Snowden took less than previously thought, says James Clapper’, *Washington Post*, 5 June 2014.

⁹⁷ ‘NSA chiefs says Edward Snowden has shared up to 200,000 classified documents with the media and that leaks increase the probability of a terrorist attack’, *Mail Online*, 15 Nov. 2013.