

**Prepared Statement of**

**David G. Major  
President**

**The Centre for Counterintelligence and Security Studies (CI Centre)**

**Before the**

**US House of Representatives  
Committee on the Judiciary  
Subcommittee on Crime, Terrorism, and Homeland Security**

**“Enforcement of Federal Espionage Laws” Hearing**

**January 29, 2008  
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Room 2237  
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Mr. Chairman, Ranking Member and members of the Subcommittee, thank you for the opportunity to testify today at your hearing on Enforcement of Federal Espionage Laws.

The Centre for Counterintelligence and Security Studies (CI Centre) was established eleven years ago in 1997 as a centre of excellence to support the nation’s counterintelligence and counterterrorism mission and concerns. We have only one mission: to provide the best possible education on the strategic and tactical importance of counterintelligence, counterterrorism and security. We offer 40 different courses on these topics ranging from one to five days.

We have a staff of 37 personnel with 25 professors and guest speakers, all of whom are intelligence experts retired from the FBI, CIA, Department of Defense, State Department, Canadian RCMP, Cuban DI and Russian KGB. One of our Professors is John Martin, the retired Chief of the Internal Security Section at the US Justice Department, responsible of overseeing the successful prosecution of 76 people for espionage. Another professor is Oleg Kalugin, a retired KGB Major General who was chief of foreign counterintelligence in the KGB and oversaw and conducted espionage operations against the USA before he immigrated to the US. We also employ recognized intelligence historians and authors to support our programs.

The majority of our students are current employees of the US national security community. We train approximately 8,000 students per year and have provided training to approximately 67,500 students in the past 11 years.

Since 1945 to this year, there have been 247 individuals arrested in the United States for espionage or espionage related crimes. The Soviet Union and Russia have been involved in 49% of these cases (121) and as such the US Counterintelligence Community has learned CI tradecraft through the lens of studying KGB and GRU operations around the world.

In February 1992, the FBI changed its strategy approach to counterintelligence and began to investigate any country that was targeting the US with their intelligence

collection methodologies. The result was the FBI uncovered over 100 countries collecting against the US with 28 different countries publically identified as involved in running espionage operations against the USA. This list includes both political allies and adversaries. This is an average of four cases per year, with 10 cases in 2006 and 10 cases in 2005.

Since the end of the Cold War, there have been 78 individuals arrested for espionage or espionage-related crimes and since the 21<sup>st</sup> century began, there have been 37 individuals arrested in the US as agents of foreign powers. This is a clear indicator that espionage continues to be a very real threat to US National Security. Note the many different countries spying against America since the year 2000 in the following chart:

### Agents of Foreign Powers Arrested in the United States in the 21<sup>st</sup> Century

NAME(S)	ORGANIZATION	SPYING FOR or ATTEMPTED or ALLEGED SPYING FOR	YEAR OF ARREST
FAGET, Mariano	US Immigration & Naturalization Service (INS)	Cuba	2000
SMITH, Timothy S.	Navy civilian	Stole classified document	2000
TROFIMOFF, George	Retired US Army Colonel and GS-15 civilian	USSR/Russia	2000
HANSSEN, Robert	FBI	USSR/Russia	2001
MONTES, Ana	Defense Intelligence Agency	Cuba	2001
REGAN, Brian	US Air Force detailed to NRO; contractor for TRW	Iraq, China, Libya	2001
DUMEISI, Khaled Abdel	Civilian	Iraq	2003
LEUNG, Katrina	FBI Asset; Civilian	People's Republic of China	2003
SMITH, James J.	FBI	People's Republic of China	2003
YAI, John Joungwoong	Civilian	North Korea	2003
LATCHIN, Sami	Civilian; gate agent at Chicago O'Hare airport	Iraq	2004
ANDERSON, Ryan	US Army National Guard	Al Qaeda	2004
KEYSER, Donald	Department of State	Taiwan	2004
LINDAUER, Susan	Civilian/Journalist/Hill staffer	Iraq	2004
AQUINO, Michael	Former Philippine security official living in US	Philippines	2005
ARAGONCILLO, Leandro	US Marine on security detail to White House; FBI	Philippines	2005
FRANKLIN, Larry	Department of Defense	Israel	2005
ROSEN, Steven J.	Civilian, AIPAC	Israel	2005
WEISSMAN, Keith	Civilian, AIPAC	Israel	2005
GOWADIA, Noshir	Self; formerly Northrop	People's Republic of China, 7 other countries	2005
MAK, Chi	L-3/Paragon (DOD Contractor)	People's Republic of China	2005
MAK, Tai	Chinese TV Network	People's Republic of China	2005
MAK, Rebecca Laiwah Chiu	Civilian	People's Republic of China	2005
MAK, Flora	Civilian	People's Republic of China	2005
MAK, Fuk-Heung Li	Civilian	People's Republic of China	2006
MAK, Billy	Civilian	People's Republic of China	2006
ALVAREZ, Carlos	Civilian; University Professor	Cuba	2006
ALVAREZ, Elsa	Civilian; University Staff	Cuba	2006
MONTAPERTO, Ronald	DIA	People's Republic of China	2006
ALI, Amen Ahmed	Civilian	Yemen	2006
OMER, Ibrahim	Contractor	Yemen	2006
AL-RAHIMI, Mohamed	Civilian	Yemen	2006
BENJAMIN, William Shaoul	Civilian	Iraq	2006
WEINMANN, Ariel	US Navy	Russia	2006
HALL, Paul (Hassan Abujihad)	US Navy	Al Qaeda/Islamic Jihadists	2007
SHEMAMI, Najib	Civilian	Iraq	2007
AL-AWADI, Ghazi	Civilian	Iraq	2007

The Federal Espionage Laws codified in Title 18 Section 793 and 794 US Code along with other related crimes date back to the terrorist attack of 1916 on Black Tom Island carried out by the German IIIb intelligence service. This event had such an impact on the nation that proposals were made to court martial civilians since there were no viable laws to deal with espionage at the time. The result was the 1917 Espionage Law of which codified a very restricted definition of the crime of Espionage. As you know espionage has four elements:

- Unauthorized transmittal
- of national defense information
- to a foreign power or agent
- with the intent to harm the US or aid that foreign power

As a result of a German espionage case in the early 1940s, that was appealed, and precedence was established that the national defense security information transmitted in an espionage case had to be protected information. Accordingly, it is essential to prove in an espionage prosecution that the information affected the military defense of the United States and was protected information not in the public domain at the time it was transmitted.

There was a period in America's history that we did not prosecute spies because we did not have the tools or the political will to do so. But as the evolution of espionage prosecutions evolved, the US began to develop the right tools and investigative expertise to successfully prosecute spies. To illustrate this, from 1967 to 1974 there were no federal prosecutions for espionage and only ten individuals convicted in military court for espionage-related activity. Training on how to conduct espionage cases was an essential tool which led to this new success. The FBI began to formally train its Special Agents in counterintelligence in November 1973 and how to conduct an espionage interview in early 1980s.

I'd like to focus on one of our courses which is applicable to today's hearing on espionage laws, entitled "Counterespionage Today: Complexities and Decisions." I'll describe what we teach attendees of the course and then I welcome your questions on the topics you would like more information on.

"Counterespionage Today" is an intensive five-day course which was designed because many US Intelligence Community personnel have no understanding of how difficult it is to fashion and build a successful prosecutable espionage case. Espionage cases are the "Super Bowl" of prosecutions. If you make a mistake during the process of investigating someone who turns out to be a real spy, it's going to be in the front page of the newspapers. This course introduces attendees to the complexities and the

decision making processes associated with investigating and prosecuting espionage cases in the United States in the 21st Century.

The course examines the basis for and establishment of viable predications for the initiation of espionage investigations. It also explores the inherent conflicts between the need for internal vigilance by US Counterintelligence and the civil rights of personnel within US sovereign territory.

The nation is in a time period where US Counterintelligence is required to address the US expanding war on terrorism and address the reality of post cold war espionage by US allies. During this period, the nation is debating and examining the tools, policies and laws that are and should be made available to the US Government to meet these challenges. This course identifies these issues and explains the evolution of key legal and policy decisions associated with prosecuting espionage cases today, emanating from both adversaries and allies.

“Counterespionage Today” provides all members of the US national security community a deeper understanding of the status of counterespionage today and their individual roles in the protection of our nation’s most vital secrets, plans and programs.

We begin by ensuring the attendees know how a US person is targeted, recruited and handled by foreign intelligence services and collectors. We then provide a deep understanding of the various federal laws which aid the counterespionage investigator, including the Espionage Act of 1917, the CIPA Law which protects classified information and sources in prosecutions, and the Foreign Intelligence Surveillance Act (FISA). This includes a discussion of the North Vietnamese espionage case code named “Magic Dragon” which resulted in the passage of the FISA statute. Attendees see an espionage case from the legal prosecutions standpoint so they are able to conduct their investigations and security duties with the due process always in mind and therefore ensure the case is successfully prosecuted in court.

The course examines several espionage cases from the legal and investigative perspective, including the Judy Coplon case, the Mariano Faget case, the Albert Sombolay case, the Ryan Anderson Case ,the Clyde Conrad case, an overview of spies in State Department, and for 1 ½ days, the Robert Hanssen case. Attendees learn from the mistakes and successes made during the counterespionage investigations of these cases and what happens if you do it wrong.

Challenges are reviewed such the predications of investigations, arrest or neutralizing of the subject, obtaining evidence legally, multi-agency involvement in a case including when foreign CI services must become involved, investigating in an overseas

environment, deciding when to brief the chain of command, the role of political leadership which gets involved in a case, and the result of lack of training in counterintelligence at all levels which can result in missteps allowing a subject to go free.

Attendee feedback on the course has been very positive and shows the impact the course had on them and their jobs:

- “This course has given me ideas for how to pursue current counterespionage cases and has reinvigorated my zeal for doing counterespionage work.”
- “This course provided a solid foundation from which to conduct espionage/CI investigations. Understanding actual cases allows an investigator to recognize anomalies and patterns that may be exhibited by subjects in an ongoing investigation as well as reasons to initiate an investigation.”
- “Really forced me to think of varied counterespionage issues that I had never thought of.”
- “I can and will use all that I've learned as I do my job. I always leave here with a different/greater perspective of counterintelligence and counterespionage.”
- “Wow! I am new to counterespionage/counterintelligence and the course is my first exposure to the intelligence world. I took an immense amount of information away from this course. I look forward to becoming a student of my new profession.”
- “The course was very eye-opening in that I learned new ways to spot espionage and I got an internal look at how investigations can be glitched up and still be successful. I plan to keep my eyes wide open and to become a ‘professional student’ of counterintelligence.”
- “The course clearly articulated a complex problem and the dynamic environment of counterintelligence. It demonstrated the decision making process when you have limited information and showed how *not* deciding can be harmful. It exposed the differences between CI investigations and criminal investigations. It had a great exercise of the conflict and balance between civil liberties and state sovereignty.”

I welcome your questions.