

General Counsel

LAWRENCE R. HOUSTON: A BIOGRAPHY

Gary M. Breneman

"A lawyer without history or literature is a mechanic, a mere working mason; if he possesses some of these, he may venture to call himself an architect."

— Walter Scott *

On 1 February 1974, at the request of the President, the Director of Central Intelligence presented the National Security Medal to Lawrence R. Houston, the Agency's first General Counsel who had retired the previous year.¹ Houston was also awarded CIA's Distinguished Intelligence Medal. These events capped an extraordinary career of public service starting with the Office of Strategic Services during World War II; continuing through the OSS remnant, the Strategic Services Unit (SSU) in the War Department, and the Central Intelligence Group (CIG); and extending for 26 years as the General Counsel of the Central Intelligence Agency.

Those in attendance who knew Larry Houston well understood the contradictory forces at play in the man that day. Undoubtedly he was proud of the two awards and pleased that the country and his colleagues had chosen to honor him but he was also a private man who preferred to work in a quiet and reserved manner and avoid the public eye. This was an attribute which had served him well over the years, for he had survived as the General Counsel—the trusted adviser—to nine decidedly different DCIs.² Houston's comments at the ceremony cannot be found but almost certainly his thoughts were akin to the remarks he made in accepting the National Civil Service League Award four years earlier: "For one involved for so many years in the CIA's philosophy of anonymity, it is somewhat traumatic to find oneself in such a bright limelight."

Some have called him a legal architect, for he was the principal drafter of the section of the National Security Act of 1947 which created the Central Intelligence Agency and also the substantive law, embodied in the CIA Act of 1949, necessary for the Agency to function. But Houston was more than a legislative draftsman. He was a convincing advocate with a vision of a Central Intelligence Agency, a vision based on historical perspective and personal experience.

Family and Early Years

Lawrence Reid Houston was born on 4 January 1913 in St. Louis. His father, David F. Houston, was chancellor of Washington University and had been president of Texas A&M College and of the University of Texas. Woodrow

* Scott, Walter, *Guy Mannering* (New York: E.P. Dutton & Co., 1906), p. 259.

¹ Houston was the sixteenth recipient of this medal which was established via Executive Order by President Truman in the final days of his administration to honor an individual for his "distinguished achievement or outstanding contribution . . . in the field of intelligence relating to the national security."

² Souers and Vandenberg at CIG; Hillenkoetter, first of CIG and then CIA; Smith, Dulles, McCone, Raborn, Helms, and Schlesinger.

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Wilson, newly elected President of the United States, appointed David Houston as Secretary of Agriculture and the family moved to Washington. The infant Lawrence had a brother, David F., Jr., and a sister, Helen. The senior Houston was Secretary of Agriculture until 1920 and then served for a year as Secretary of the Treasury. Larry Houston was eight years old when the family left Washington for New York, where the senior Houston was first vice-president of AT&T and president of Bell Telephone Securities Company, then from 1930 to 1940, president of Mutual Life Insurance Company of New York. The family lived at 165 East 74th Street but also had a summer home at Oyster Bay, Long Island, the site of Teddy Roosevelt's famous Sagamore Hill estate and not far from the summer home of another of the country's famous public families, the Dulles' at Cold Spring Harbor.

Larry Houston was sent off to Milton Academy in Boston for his pre-college education. Supplemental to his formal education were the rich and instructive experiences he had during his formative years among the elite of New York's corporate officialdom. Summers were for sailing, first off Cape Cod and later at Oyster Bay. Houston is an avid sailor who helped race ocean-going yachts in major regattas and, in later years, crewed on various yachts.

Houston entered Harvard University in 1931 and took his degree in modern European history in 1935. He then went on to the University of Virginia and received his LL.B. in 1939. At Charlottesville he met Jean Wellford Randolph and they were married just after his graduation. Houston sat for and passed the New York Bar and then joined the prestigious Wall Street law firm of White and Case as an associate.

His parents died in 1940. Houston has proud memories of their accomplishments. His mother had been prominent in work with orphans and in other charities, including the Robert E. Lee Memorial Foundation, Inc. for the preservation of Stratford, the ancestral home of the Lees of Virginia. In his home, Houston keeps on display several denominations of currency his father had signed as Secretary of the Treasury and two works written by him, *Eight Years With the Wilson Cabinet*, and *An Estimate of Woodrow Wilson*.

Intelligence

Larry Houston's induction into the world of intelligence and espionage occurred through inadvertence. In 1942, classified 1-A, he went to the draft board, explained that he and Jean did not have any children, and asked if they would take him; they did not. He then tried to enlist in the "sailing" Coast Guard but was rejected because of newly adopted, stringent eye requirements. Finally he was drafted into the Army in 1943 and assigned to the Army Finance School. He contracted pneumonia and his completion of the course was delayed. During this time, the Judge Advocate General recruiters were looking for law school graduates and had lowered the eye requirements for officer candidate school, so Houston sent in an application. Several times he inquired as to why he had not heard about his application and later learned that it had been lost in a wooden file drawer. This delay, while irritating at the time, was propitious, because his

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Lawrence R. Houston

OCS class was the first to have any of its students' profiles released for review by OSS. Out of a class of about two hundred, Larry Houston was one of three selected for OSS.

Lieutenant Houston was ordered to report to the OSS in June 1944 and met the head of OSS, Brigadier General William J. "Wild Bill" Donovan,* a lawyer and former Assistant Attorney General. By September 1944, Houston was assigned to the OSS Headquarters of the Mediterranean Theater (MEDTO), which was billeted near an old palace in the city of Caserta just north of Naples. Technically, both Cairo and Athens were under the OSS command at Caserta, but the OSS base in Cairo had the main responsibility for Greece. In December 1944, the situation in Greece was tense, communist forces surrounded Athens, and the British forces in the city were very edgy. In addition, there were considerable stirrings in the Arab world as the war began to wind down. Donovan arranged for Houston to go to Cairo in January 1945 to serve as deputy to Colonel Harry S. Aldrich, the head of the OSS Middle East Theater contingent. Houston served there until September of 1945 when he was assigned to OSS Headquarters in Washington.

It was during his stay in Cairo that Houston became particularly concerned with the manner in which postwar Washington would deal with the various forces at work throughout the Middle East, Greece, and Europe. Donovan had been discussing for some time the need for a permanent intelligence department of some sort and Houston's deliberations and observations during this period led him to conclude Donovan was right—there was a need for a permanent,

* Donovan was promoted to major general in November 1944.

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centralized intelligence establishment, separate and apart from the military departments and the Department of State.

Via Executive Order 9621, 1 October 1945, President Truman terminated OSS and transferred its functions to various elements of the Department of State and the military. Larry Houston became General Counsel of the Strategic Services Unit (SSU) in the War Department and, when President Truman issued another directive on 22 January 1946, establishing the Central Intelligence Group (CIG), Houston moved over to the job of General Counsel of CIG.

CIG was headed by Rear Admiral Sidney W. Souers, and, while he had seen the possibility of some independence for CIG, whose stated functions were almost totally in coordinating intelligence reporting, he did not strongly challenge the plain meaning of Truman's 22 January directive. He did, however, write a farewell report dated 7 June 1946 which pointed out CIG's shortcomings. When Lieutenant General Hoyt Vandenberg replaced Admiral Souers, he seized on the matters discussed in Souers' report and took it upon himself to push for legislation that would establish a new organization with a centralized intelligence function.

Houston's deputy at SSU and CIG was John S. Warner, who had distinguished himself as a bomber pilot in Europe. Their professional relationship and trust is an unusual story in itself and has lasted to this day. For all 26 years in which Houston was the Agency's General Counsel, John Warner was its Deputy General Counsel. In 1957, Allan Dulles made Warner CIA's Legislative Counsel but told him to continue as Deputy General Counsel. Houston acted as Legislative Counsel in Warner's absence; Warner acted as General Counsel in Houston's absence. This unusual arrangement was often described by Houston: "John is my deputy for legal matters; I am his deputy for legislative matters." Warner says only Larry Houston could have made such an arrangement work.

It was Warner who, while working on other problems, discovered a federal statute, the Independent Office Appropriations Act of 1945, which provided that a governmental entity set up by a presidential directive could not exist for more than one year without legislation from the Congress. This discovery applied to CIG. That realization, along with the general impotency of CIG to do anything more than coordinate, added to the urgency of getting legislation for a centralized intelligence agency.

Houston in a 13 June memorandum described in very bleak terms CIG's lack of authority in almost all areas relating to its personnel, travel, and contracts. Tom Troy's *Donovan and the CIA* states that Vandenberg commissioned the preparation of a bill to create a Central Intelligence Agency and sent it to Truman's special counsel, Clark Clifford. Houston's recollection of this event is somewhat different. He recalls that he and John Warner had written a substantial part, if not all, of the legislation prior to Vandenberg's arrival on the scene. With Vandenberg's new impetus for the creation of a Central Intelligence Agency, they touched up the legislation they had already written and presented it to Vandenberg for forwarding to the White House. Houston then visited with Clark Clifford, who was concerned about the proposed bill, and persuaded Clifford that the original concept of a coordinating function only for CIG would not work and that a larger, permanent agency with broader powers was needed.

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Throughout the fall of 1946, Houston and others continued to push for the legislation needed to create a Central Intelligence Agency. Walter Pforzheimer became a key player in this process, serving primarily as a legislative counsel selling the idea to the Congress.

Early in January 1947, this effort took on new meaning and it became clear there was going to be an administration bill on national security (the National Security Act) and that a centralized intelligence organization would be a part of it. Key to the discussions and concerns during the winter and early spring of 1947 was whether a CIA and all of its functions would be included within the President's bill or whether the creating part only would be within the bill and the substantive, housekeeping authorities of the new agency would be placed in a subsequent piece of legislation. Houston recalls a White House meeting he and Pforzheimer attended on 23 January 1947. Present were General Vandenberg, Vice Admiral Forrest Sherman representing the Navy, Major General Lauris Norstad representing the War Department, and Charles Murphy, who had just been put in charge of the legislation on behalf of the White House. General Norstad formally suggested putting only the creating part in the National Security Act with the functional parts of the Agency's authorities to follow in a second bill, and the suggestion was adopted. Houston also recalls with some amusement that the Central Intelligence Agency did not exist until 18 September 1947, a year and nine months after the creation of CIG by presidential directive. Technically CIG was an entity without legal standing from 22 January until 18 September 1947.

Unique Legislation

Once the Central Intelligence Agency was established, Houston became its General Counsel and turned his attention to securing the second half of the legislation needed for the efficient functioning of an intelligence agency. Some people have called the CIA Act of 1949 the special legal tool required by an intelligence organization operating within a democratic framework. Indeed, within the CIA Act of 1949 there are unique sections without which the Agency simply could not function. Of particular note is Section 8 which provides a confidential funds authority for the Director of Central Intelligence. Under this section, the DCI has the authority to expend funds for objects of a confidential, extraordinary, or emergency nature, and account for them solely on his own certificate. Without this provision, there would be no way for the Agency to conduct clandestine operations or create, manage, and terminate covert proprietary projects which are so essential to its mission. Without this provision, other government agencies would be conducting audits of the Agency's activities and expenditures.

A second unique feature is Section 7 which permits the Director of Central Intelligence, with the concurrence of the Attorney General and the Commissioner of Immigration, to bring up to 100 aliens and their immediate families into the United States for permanent residence notwithstanding their inadmis-

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sibility under the immigration or other laws.⁹ The only requirement is that the entry of the alien must be in the interest of the national security or central to the furtherance of the national intelligence mission. This permits the Agency to bring defectors and political refugees of interest to the United States and provide for their resettlement and eventual citizenship. Directorate of Operations officers often refer to defectors as "P.L. 110 cases." While such a designation is not technically correct, it has persisted through the years. The reference to P.L. 110 is to the entire Central Intelligence Agency Act of 1949, which was Public Law 81-110, 20 June 1949. (Some 25 years ago, a few lawyers within the Office of General Counsel determined that a fitting tribute to Larry Houston would be a specialized District of Columbia license plate for the tan, 1946 Lincoln Continental convertible that he drove to work. They arranged to secure a plate carrying the designation "P.L. 110." Houston was amused, kept the plates on the car for several years, and still has them.)

One early controversy emerged over the two Houston memorandums on covert action. In opinion number one, Houston advised DCI Hillenkoetter he could find no specific language in the National Security Act authorizing the Agency to engage in covert action as opposed to intelligence activities. In opinion number two, while some have claimed he reversed himself, he maintains that he simply clarified the earlier opinion by saying that if, within the statute, the President in the furtherance of his constitutional responsibility in the area of foreign affairs issued a proper directive to the Agency, and the Congress appropriated the necessary funds, then covert action could be a permissible activity of the Agency.

A perusal of the early Office of General Counsel opinion books reminded this author that Houston, Warner, and others had worried over, researched, and written opinions on the basic legal questions confronting the Central Intelligence Agency, questions which seem to come back for review every five or ten years.*

An Independent Office

From 1947 until 20 March 1962, the Office of General Counsel was under the Deputy Director for Administration (sometimes called the Deputy Director for Support). How Houston was able to function and how the office was able to perform its assigned Agency-wide responsibilities working within the support directorate and not having, at least on paper, direct access to the Director and Deputy Director was in part the result of the stature and nature of the man who was the General Counsel. Houston, above all, was self-confident and self-assured with respect to his relative importance within the Agency and within the Washington bureaucracy. He knew that he had access on a personal or professional basis to anyone within the Agency, or for that matter, within the US

⁹ Technically, the law permits any one of the three to initiate an action and effect the admission of the alien into the US if the other two concur. In practice, it is usually the DCI who initiates the action.

* Houston, a skilled and prolific writer, has left a rich literary legacy to those who follow him in the profession of intelligence. In addition to the legislation he drafted and the legal opinions he wrote, he contributed articles on the issues he dealt with to *Studies in Intelligence*: "Executive Privilege in the Field of Intelligence," Fall 1958; "Impunity of Agents in International Law," Spring 1961; "*United States v. Harry A. Jarvinen*," Winter 1971; "The John Richard Hawke Case," Special Edition, 1972; and "CIA, the Courts and Executive Privilege," Winter 1973.

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Government. Thus, he was not overly concerned about wiring diagrams and where his office fit in the scheme of things. Other lawyers in his office argued that it should be an independent office within the Office of the Director.

During this period, an event occurred which probably altered Houston's thinking on this issue. DCI Walter Bedell Smith brought in a DDA from outside the Agency. This was Walter Reid Wolf, a New York banker who suspected that Houston's legal advice might be lacking something because Houston had never been a partner in a major New York law firm. Wolf decided to conduct a thorough review of the Office of General Counsel and the services it was providing. He hired for this purpose Fred Eaton, a former New York district attorney and partner in the New York firm, Shearman and Sterling. Eaton and another member of his firm reached a conclusion which probably did not comport totally with the DDA's views. It is reported that when Eaton met with the DCI and Wolf to present his findings, he stated: "If you (the DCI) will fire Houston, Shearman and Sterling will make him a partner the next day."

Another part of Houston's reluctance to push the separation of the General Counsel's office from the DDA until later was his professional respect for the A/DDA and later DDA, Colonel Lawrence K. "Red" White.⁴ When Wolf departed with Smith and a search commenced for Wolf's replacement, it again focused outside the Agency. Ellsworth Bunker accepted on a Friday, only to decline on Monday, saying that he had been made president of the American Red Cross. At this point the position was given to Colonel White.

Proprietaries

High on the list of achievements for Larry Houston was his involvement in the creation, operation, and dissolution of the major proprietaries owned by the Agency. Houston was in on the ground floor providing conceptual approaches to the purchase or creation of proprietaries, and for a number of them this involvement continued throughout the entire operation to sale or dissolution.

Of these, none was dearer to Larry Houston than the air proprietary complex. Much of the early history of the air proprietaries is found in the well-researched book, *Perilous Missions* (William M. Leary, University of Alabama Press, 1984), including Houston's involvement in the purchase and legal structuring of the first air proprietary, Civil Air Transport (CAT). Houston recalled recently that the whole thing started when CIA became associated with Claire Chennault, Whiting Willauer, and CAT. CAT had been set up after World War II and operated out of Shanghai, but as the communist forces moved across China in pursuit of Chiang Kai-shek's Nationalist forces, CAT was forced to move first to the island of Hainan and then to Taiwan.

About November 1949, the Agency signed a charter contract with CAT to provide a specified number of hours of flying time. By January 1950, CAT was on the verge of bankruptcy and some personal funds of Chennault and Willauer had to be infused to try to keep it afloat. On 24 March 1950, CIA signed a new

⁴ See "Colonel Lawrence K. White," by R. Jack Smith, *Studies in Intelligence*, Winter 1981, Volume 25, Number 4.

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contract with CAT for additional hours of flying time, but the contract contained an option for CIA to purchase the airline in June 1950 if it desired to do so. Toward the end of June, DCI Hillenkoetter, after clearing it with the Department of State, approved the purchase. Larry Houston, together with outside counsel, began to write and compile the necessary legal documents. In addition, he worked with the outside counsel in developing the project's eventual legal structure: a Delaware holding company; a Delaware operating company; a Chinese (Taiwanese) corporation to own the property and the repair facility, organized under the Chinese Foreign Investment Law which permitted a majority of owners and board members to be foreigners, thus ensuring direct, US control; and a Chinese (Taiwanese) corporation with a majority of Chinese (nominee) owners to operate the Chinese (Taiwanese) flag air rights internationally. The wrenching and hauling in the Washington bureaucracy with respect to the new proprietary, how it would be run, and who was in charge, etc., cannot be overstated. There were tremendous arguments between the Agency and Department of State and between the Agency and the civilian managers of CAT in the field. Also involved in the bureaucratic process was the Civil Aeronautics Board asserting its statutory mandate to regulate civilian carriers.

Tangential to this issue was the fact that one of the two operational elements of the Agency, the Office of Policy Coordination (OPC) was a hybrid within the community. It was attached to the CIA for purposes of its budget and allocations of personnel, but its director was appointed by the Secretary of State. In addition, it received its policy direction from the Departments of State and Defense. When General Walter Bedell Smith replaced Hillenkoetter in October 1950, one of the first things he did was end OPC's peculiar position by bringing it totally within the Agency and making it directly subordinate to him. Later, in 1952, he merged OPC with the Office of Special Operations and created the Directorate for Plans. Houston assisted Smith considerably in this regard by sending him a memorandum which detailed the three problem areas—coordination, national estimates, and covert action.

In the summer of 1954, Houston traveled to Japan and Taiwan to review CAT's management policies as they were affected by law and Agency direction, and at the specific direction of DDCI General Charles P. Cabbell, to have a look at CAT's president, Alfred T. Cox, and make recommendations with respect to his retention or dismissal. Houston concluded that Cox should probably be replaced and recommended as his successor, Hugh Grundy. Despite his dismissal, Al Cox remained a good friend of Houston.

During the start-up years of the air proprietary complex which grew to include Air America, Inter-Mountain Aviation, and Southern Air Transport, there were tremendous problems of management and direction and friction between Headquarters and the field. No one before in government had ever tried to run proprietaries in the commercial world. The field officers had to be constantly reminded that commercial business was simply a cover to mask the operational activities of the various air proprietaries and reined in from their pursuit of business which was often in direct competition with US flag carriers. The internal CIA direction of the air proprietaries, "the direction of the owners,"

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came from the Executive Committee on Air Proprietaries (EXCOMAIR), composed of a very senior group of Agency officers. The chairman of EXCOMAIR for most of its existence was Larry Houston. Among the factors that made the EXCOMAIR task so difficult was that in the early 1950s the Agency hired as manager of the air proprietary complex a man Houston recalls as being extremely skilled in all aspects of aviation and particularly at negotiating air routes, but one who quickly earned the reputation of not being able to make a decision.

During the later years of Houston's tenure as General Counsel, he oversaw the dissolution and termination of a number of proprietary projects and the corporations within them which had served the Agency well over the years. It was the Agency's special spending authority as contained in Section 8 of the CIA Act of 1949 that made it possible to have proprietary corporations and spend money either for their creation or purchase and their maintenance without regard to other laws regulating government expenditures. In like fashion, when it came time to terminate a proprietary, it was necessary either to sell the stock of a corporation which included all of its assets, or to sell all the assets individually. Both methods appeared to be in conflict with those provisions of the Federal Property and Administrative Services Act which directed the manner in which the government was to dispose of surplus property. Working with lawyers in his office, Houston developed the theory that Section 8 of the CIA act, which contained the authority to make covert purchases on behalf of the Agency, had within it the inherent, implied authority to dispose of such property covertly without recourse to the Federal Property and Administrative Services Act. Thus, the sale of the assets of the stock of the various proprietary corporations went forward without divulging the Agency hand unnecessarily and without reference to the General Services Administration which was required by the statute to assume responsibility for federal surplus property. At the request of Congress, these disposals were later reviewed by the General Accounting Office. The GAO commented favorably on how they were handled.

Contributions

When this author asked Larry Houston to name what he thought were significant contributions he and the Office of General Counsel had made to the conduct of intelligence, contributions which were not well known, Houston replied there were two basic roles he and the office had played which were neither well understood nor much appreciated. The first of these dealt with the position of the DCI within the intelligence community. In the very early days of the Agency, the military, FBI, and the Department of State wanted the DCI to remain in an overall coordinating and cooperating posture. They viewed him and wanted him viewed as one of a number of co-equals within the intelligence community. Houston felt strongly that such a posture was wrong, would not work, and that the DCI's position should be one of preeminence with respect to intelligence.

Pushing this position, having it recognized and accepted, and then solidifying it involved all sorts of disputes, conflicts, and verbal arguments. Houston states that he spent a lot of time trying to strengthen the DCI's position. He got considerable outside help from Secretary of the Navy James A. Forrestal and

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others. In the summer of 1950, Forrestal had written a letter which he sent to DCI Hillenkoetter describing his views concerning the DCI's role as the top intelligence officer within the bureaucracy. Hillenkoetter allegedly read the letter at a meeting of the senior intelligence chiefs, whereupon an Army general who headed G-2 looked up and said, "What's the problem, Hilly? You're the boss."

A second contribution which Houston views as significant for the office is the function of hand-holding and counseling. Because of the rotational assignment policy elsewhere within the Agency, the General Counsel's office was one of the few islands of constancy. In Houston's words: "We were the only ones who were around for the whole time." This constancy put the office in a position of having witnessed the big picture over a long period of time and thus being able to provide counseling and legal guidance on the basis of both knowledge and experience.

A substantial contribution Houston should have mentioned concerns his personal involvement in the U-2 project. In the world of espionage, few success stories surpass the events surrounding the US decision to establish its first high altitude reconnaissance capability, the construction of the U-2 reconnaissance platform, and its operational deployment. Most readers will recall the downing of Francis Gary Powers' U-2 over Sverdlovsk in central Russia on 1 May 1960. Few, however, have any idea of the origins of the U-2 and fewer still, the contributions this capability made to the national security. Larry Houston played a major role in the birth of the U-2.

Old hands will remember and younger officers may have studied "Open Skies," a US foreign policy proposal during the Eisenhower administration. Behind it was the notion that each nation could fly over and photograph the other's fixed military installations, thereby ensuring no surprises. The USSR would have none of this. From these events flowed the idea that perhaps the US could build a special aircraft which could fly over and photograph the Soviet Union with impunity, far above the capability of Soviet fighters to intercept it and too high for Soviet ground to air missiles to reach it.

Government working groups and at least one non-government committee, headed by Edwin Land of Polaroid fame, studied the feasibility of such an aircraft. When the concept began to take shape, the responsibility for procuring and eventually deploying the aircraft fell upon the CIA, primarily because the Air Force concluded it could not provide the security deemed essential to do the job successfully.

CIA officers, among them Richard Bissell, commenced work with one of the most innovative airplane designers in history, Kelly Johnson, of Lockheed Aircraft Corporation's famous "skunkworks." In December 1955 the President gave his approval to the project and in January 1956 Larry Houston met with Kelly Johnson to work out the contract for a number of U-2s. Because of the sensitive nature of the project, for a considerable period Houston was the only attorney to get a clearance for it and thus had to write all the documents himself—the letter of intent, the contract, etc. In a unique twist of contract requirements, CIA did not provide Lockheed with technical specifications of what it wanted. Rather, it provided *performance* specifications which had to be met. The

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Agency did not care what the aircraft looked like, but the Agency knew what it wanted the aircraft to do.

Houston told Johnson that he did not want a succession of change orders or enhancements which would increase costs once work on the contract was commenced without prior approval. Johnson led off saying the Lockheed comptroller had determined the first 19 planes would cost between 26 and 27 million dollars. Houston replied: "That's too much; I only have 22 million to spend." Johnson said he thought he could do the job for less than the projected 26 to 27 million dollars. The two men negotiated for some time and then resolved the impasse by inventing and employing a unique feature of contract law. They established 22 million dollars as the total target or contract price, a figure which contained both cost and profit factors, and agreed they would review the entire matter about two-thirds through the contract. If Lockheed's costs were running above the 22 million figure, CIA could lower Lockheed's profit factor. If Lockheed was below the 22 million target figure, CIA could raise the profit factor. Thus, there was a built-in incentive for Lockheed to hold costs below the target figure. Houston recalls that CIA got the first 19 U-2s for about 19 million dollars and that Lockheed never asked the Agency to raise the profit factor.

Through the skill, trust, and imagination of all involved, the first U-2 flew in August 1956, just nine months after the project was started. This feat was and continues to be unparalleled in large systems design and development.

Another case that Houston worked personally involved recouping a loss occasioned by the Agency when it was defrauded in an ore deal. A delegation came to Frank Wisner, Director of OPC, and advised him that Japanese officers had squirreled away stores of tungsten ore during World War II. This news came during a period when the US Government was building up its stockpiles of various ores, and other government departments expressed a clear interest in securing the ore. Initially, the sellers produced one third of the contracted amount of ore which was assayed after delivery and found to be good tungsten. When the remaining two thirds arrived, it was basically sludge with no monetary value at all, largely because operations people did not insist on the full terms of the contract as written by Houston. Thus, the US Government was out a substantial amount of money. Colonel White, the DDA, charged Houston with developing and then implementing a plan to recoup the US Government's losses. Houston went off to Tokyo for introductions into the Japanese business community, but after a number of discussions and negotiations, no satisfactory conclusion was reached. Later, the Japanese came to Washington to negotiate further and Houston enlisted the aid of Phillips & Company, a New York firm which engages in arbitrage arrangements in ores.

Phillips had been trying without success to break into the Japanese metals market, particularly the titanium market. With US Government support, Phillips agreed with the Japanese if Phillips could secure a contract to purchase large quantities of titanium from Japan for the stockpiling effort, it would undertake, at no additional charge, to make available an amount of tungsten to the US Government equivalent to the dollar amount the government had lost on the bogus tungsten. This rather anomalous proposal was eventually accepted and the US Government was made whole.

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Times of Trouble

During Houston's tenure as General Counsel, not all Agency activities were successful and deserving of praise. One monumental failure for the Agency, and indeed for the nation, was the effort to topple the Fidel Castro regime in Cuba and, in particular, the Bay of Pigs invasion in April 1961. Within the context of these efforts was the extremely controversial activity which was brought to the attention of the office prior to Houston's retirement—the attempt to assassinate Castro.* The genesis of this effort is not known but in its first stage, it reposed in the Office of Security under then Director of Security Colonel Sheffield Edwards. Castro had come to power in 1959 and by August of 1960 Edwards had been tasked by the then Deputy Director for Plans, Richard Bissell, to find someone who could assassinate Castro. The Office of Security officers assigned this task turned to a Las Vegas resident, Robert A. Maheu, a private investigator and ex-FBI agent who worked for Howard Hughes, to line up people who could do the job. Who first pointed to underworld figure John Rosselli is unclear but Rosselli was known to Maheu and Maheu apparently told Rosselli "certain senior government officers needed Rosselli's help in getting rid of Castro." Rosselli in turn introduced Maheu to "Sam Gold", true name, Momo Salvatore "Sam" Giancana, a gangster from Chicago, and "Joe", true name, Santos Trafficante, the reported Mafia chief of Cuba who was responsible for overseeing numerous gambling operations. Through a series of misadventures and possibly even feigned attempts, the effort to do Castro in by putting poisoned pills in his food ultimately failed prior to the Bay of Pigs invasion.

While a number of people, including Larry Houston, thought the operation had been closed down, it was in fact transferred to the Directorate of Plans under William Harvey of Berlin tunnel fame, and phase two commenced. Harvey in April of 1962 reportedly asked to be put in touch with Rosselli. Again, several schemes were examined and possibly attempted: the poison pills for a second time; a proposed exploding seashell to be planted in Castro's favorite skin-diving spot; a diving suit which contained a breathing apparatus laced with tubercule bacillus to be given to Castro as a present. By mid-February 1963, all of these either had failed or were squelched and Harvey terminated the operation.

Larry Houston was first pulled into the operation in early April 1962 because during phase one Maheu had engaged a Florida private investigator to place an illegal bug in a Las Vegas hotel room. Arthur J. Balletti, an employee of the private investigator, had been caught, arrested, and was about to be tried. Realizing that the whole matter could come unraveled if the trial went forward, Director of Security Edwards approached Houston for assistance; specifically, he wanted the Department of Justice to drop the prosecution of Balletti. Thus, in April 1962, when Harvey was starting phase two, Houston was meeting with Justice to see what could be done about turning off Balletti's prosecution from phase one. He met with Herbert J. Miller, Assistant Attorney General (Criminal Division) and reported back to Edwards that Miller thought the prosecution could be stopped. Via a 24 April 1962 memorandum, Miller advised Attorney

* The account given here is based primarily on the report of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the Church Committee): *Alleged Assassination Plots Involving Foreign Leaders* (US Government Printing Office, 1975).

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General Robert F. Kennedy that the national interest would probably preclude any prosecution based upon the wiretap. Then on 7 May 1962, Houston and Edwards met with the Attorney General to explain the operation and how prosecution for the illegal wiretap in Las Vegas would be damaging to the national security. This was a time when Bobby Kennedy was exerting enormous pressure and sparing no manpower to get a handle on organized crime, and Houston's mission obviously ran against the tide. Houston relates that Kennedy was clearly upset, but not because of an effort to assassinate Castro and not because of attempts to use the Mafia for this purpose. Kennedy was upset because he had not been consulted and was concerned some of his efforts to prosecute major Mafia figures would be jeopardized if the CIA had other undercover operations involving the Mafia. If CIA was going to get involved with Mafia personnel again, Kennedy wanted to be informed first. Concerning Kennedy's demeanor, Houston stated: "If you have ever seen Mr. Kennedy's eyes get steely and his jaw set and his voice get low and precise, you get the definite feeling of unhappiness." Notwithstanding, the Attorney General agreed to help and the prosecution ended.

By way of epilogue to this story, exactly who did what to whom in this operation may never be known. Sheff Edwards and Bill Harvey are both dead of natural causes. John Rosselli testified about his involvement in the operation before the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the Church Committee) on 21 and 24 June 1975. Sam Giancana, described as the Chicago crime syndicate boss, who reportedly was scheduled to testify before the Church Committee, was found dead in his suburban Oak Park, Illinois home on 28 June 1975 with one bullet hole in the mouth and five in the neck. John Rosselli went out for a routine round of golf in early August 1976 and turned up 10 days later, stuffed into a 55-gallon oil drum found floating in the Intercoastal Waterway in south Florida. So far as the author knows, of the main group involved in the assassination attempt, only Santos Trafficante is still alive.

McCarthy Era

A difficult time for the Agency and Houston occurred during the McCarthy era when there were dozens of so-called loyalty board cases. Walter Pforzheimer handled the lion's share of these, but Houston became directly involved in two of them. The first is the case of Cord Meyer, which is amply documented in Meyer's book, *Facing Reality*. Meyer was a long-time Agency employee who rose to the rank of A/DDP before retiring. An FBI report had been presented to the Agency's Director of Security which indicated Meyer had taken several unpopular and pro-Russian positions in a 1946-47 timeframe. Meyer was suspended without pay for a considerable period of time but, following a loyalty board review, was exonerated and reinstated. Houston, asked recently for his recollections and comments on the case, replied simply that the Director of Security at the time "had overreacted."

A second case was that of William Bundy, an analyst. The issue was Bundy's possible involvement with Alger Hiss. Hiss's brother, Donald, was a partner and William Bundy's father-in-law, Dean Acheson, was a senior partner in the prestigious Washington law firm, Covington and Burling. When Alger Hiss first

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had to testify before Congress and was later tried and convicted of two counts of perjury concerning his relationship with Soviet spy Whittaker Chambers. Covington and Burling set up a defense fund to help pay for his legal expenses. William Bundy contributed \$200 on each occasion, a fact he had told the Agency during processing of his security clearance. The FBI had a list of contributors to the defense fund and eventually the list found its way to the House Un-American Activities Committee.

Reportedly, one day in July 1953, McCarthy needed a big, headline-producing story to cover or draw attention away from the sudden resignation of his committee's chief investigator, J. B. Matthews. Walter Pforzheimer received a call about 9:15 a.m. from Roy Cohn who asked that William Bundy be on the Hill by 11 a.m. to testify. Pforzheimer quickly realized the Agency's situation and went to the DDI, Bundy's supervisor. The DDI, in turn, called DCI Allen Dulles who was at the White House.

Dulles ordered Bundy on leave immediately and suggested strongly that he leave town for a few days. Pforzheimer called Cohn back and advised him that Bundy was away on leave, whereupon Cohn stated that was "very funny" because he (Cohn) had called Bundy's office prior to his call to Pforzheimer and was told Bundy had just stepped out for a few minutes. Cohn then demanded that Pforzheimer and Bundy's secretary be on the Hill to testify by 3 p.m. Pforzheimer refused. This produced the headlines McCarthy wanted. He stood on the floor of the Senate and castigated Bundy and Pforzheimer. By 5 p.m., Pforzheimer had received a subpoena from the committee.

DCI Allen Dulles was very concerned about this and spoke to the White House. Dulles and Houston then met with Senators McCarthy, Mundt, and others to try to work out a solution. They expected a hostile reception. Dulles led off by telling them bluntly that Bundy would not be a witness, whereupon McCarthy, who was apparently having one of his better days and no longer needed the headline, said: "Okay, Allen." In addition, through the assistance of William Rogers, a Deputy Attorney General, and one of the members of the committee, Francis Fripp, Pforzheimer's subpoena was withdrawn.

The case did not end there, however, and there was still the requirement to convene a loyalty board of five people from other government agencies. This was done and while it was determined there was no adverse information concerning Bundy, the board recommended that his employment be terminated anyway. Frustrated, Dulles then turned to Houston for a solution, asking what he could do and could the Agency legally convene its own loyalty board. Houston determined the Agency had the legal authority to do this, and the Attorney General agreed. Accordingly, a board was put together composed of Agency employees and the case was equitably resolved.

As a footnote to the Bundy case, McCarthy also requested (or issued a subpoena) for the CIA file on Bundy. Allen Dulles, undoubtedly with advice from Houston, informed President Eisenhower that he would resign before he would turn over the file. The President backed Dulles and some say this was a turning point in the McCarthy phenomenon.

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Earlier in the McCarthy era CIA became involved in its first major court case, that of *United States v. Harry A. Jarvinen*. Jarvinen, a source of CIA's Seattle contact office, worked for a travel agency and reported from time to time on the travels of certain of his clients. In June 1952, he informed two CIA officers that a local attorney had made arrangements and purchased tickets for Owen Lattimore, a man McCarthy had claimed was a major Soviet espionage agent, to travel to Moscow. While this was totally false, Jarvinen having made it up just "to tell someone something sensational and exciting," before the falsity of the story became known, Jarvinen had repeated it to the FBI, a report was made to the Department of State, and then a version of the story leaked to the press. When the sensationalism died down and the facts began to be understood, the Department of Justice was directed to take action against Jarvinen. It obtained a felony indictment under 18 USC. 1001—generally, making false statements to a government officer.

CIA concern, which took a while to crystalize because too many people seemed to be running with the action, focused on the possible testimony which would be required of the two CIA officers who first heard Jarvinen's tale. The DDI and the IG, who both happened to be lawyers, were negotiating with the Department of Justice. When this was sorted out and the Office of General Counsel was finally seized with the problem, Houston immediately recognized the seriousness of the case for the Agency. Jarvinen was a CIA source and he had been promised source protection. To renege on that promise even in this case would have had a chilling effect on the Agency's ability to retain sources and develop new ones.

Without success, Houston argued with Department of Justice attorneys and the special prosecutor that the testimony of the FBI officer should be sufficient for prosecution purposes and that the two CIA officers were not needed. Houston advised then DCI Smith to order each officer in writing to appear, if subpoenaed, give his name and address, but refuse to answer any further questions.

At trial the officers did just as directed whereupon the judge stated he would probably have to hold them in contempt. The prosecutor had promised Houston if this occurred that he (Houston) would be given an opportunity to argue on behalf of the officers. Houston did so and outlined the points of law which supported a source protection theory, but the judge would not buy it. Again, the witnesses refused to testify and the trial went on without them, resulting in a jury acquittal of Jarvinen.

The judge then scheduled a hearing on the contempt issue and Houston, working with a prominent Seattle trial attorney, argued on their behalf. The judge heard their arguments but still found the two officers in contempt and sentenced them to two weeks in jail. At this, Houston enlisted the help of his former OSS chief, General William J. Donovan, of the New York law firm, Donovan, Leisure, Newton and Irvine, who agreed to participate *pro bono* in an appeal of the case.

Separate reviews of the law and facts surrounding the case led to the conclusion that this was not a good case to appeal and an adverse appellate opinion could result in a lot of bad law which would haunt the Agency for years. But what about the two officers and their jail sentences? The only option left was

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a pardon by the President of the United States. Houston recommended this action to the DCI and was strongly supported by Donovan and the Seattle trial attorney; the DCI directed Houston to get it done.

After several frustrating weeks of dealing with the Justice Department and with Counsel to the President, Houston confessed to DCI Smith that he was getting nowhere. Shortly thereafter Houston inexplicably received warrants of pardon for the two officers from the Pardon Attorney at the Department of Justice even though none of the formal documents requesting same had been filed. The effect of a pardon is not only that an individual is forgiven for the crime and does not have to go to jail, but that the slate is wiped clean as if there had been no crime at all.

Houston learned later from DCI Smith that a chance meeting between the DCI and the Attorney General in the White House had been the catalyst for the pardons. The Attorney General had told the DCI he needed a little public support in Pennsylvania and the DCI, who was going to Pennsylvania a few days later to give a speech, suggested he could provide this if the Attorney General, in turn, would do a favor for him. According to Houston, such a thing "could only happen in Washington."

Recollections

A number of senior Agency officers, some of whom are retired, were interviewed with respect to their recollections of Larry Houston. Richard Helms described him as

a lawyer who was constructive and helpful but not intrusive. He kept his nose out of those things which did not concern him. He was very steady and did not shake easily but more than anything else you got the feeling of substantial integrity when dealing with him.

Houston is remembered by "Red" White as

the kind of guy who was just as devoted and interested in rendering a correct legal opinion about little things that affected individual employees as he was about the big problems. You could always count on him for his best effort whatever the facts.

One senior officer has suggested if one made a careful study of the Agency's laws, regulations, and policies concerning personnel, insurance, pay, and all of the other administrative matters which have an impact daily upon CIA employees, he would find evidence of Larry Houston's vision and wisdom in all of them. Houston participated on early panels and executive committees which established the basic career service concept that exists within the Agency today. He was also instrumental in establishing the concept of a training program wholly contained within the Agency. Also, when the Agency picked up the pieces and dealt with the survivors of the Bay of Pigs effort, Larry Houston moved out smartly to help the widows of the four Alabama Air National Guardsmen who were killed in the invasion while making bombing runs. The widows were compensated in a manner akin to the benefits which are available to widows of staff employees killed in the line of duty. He also worked to provide similar

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benefits for the widows and children of the Cuban anti-Castro brigade members who were killed in the invasion.

As the General Counsel, Houston had a certain stature and presence which permitted him to be embroiled in the most distasteful, unpleasant controversy and yet remain above the controversy and guide it to a successful resolution. Indeed, he is a lawyer who solved problems. The National Security Act (Sec. 102(c)) contained a section giving the DCI peremptory authority to fire Agency employees. Though time and administrative abuse have diluted the provisions somewhat, the section gives the DCI the authority to terminate the employment of any officer or employee of the Agency whenever he "deems such termination necessary or advisable to the interests of the United States." One clear purpose of this section is to terminate the employment of people who are security risks. There were several early challenges to this authority but the Agency's view concerning its peremptory nature was sustained by the courts. Subsequently, however, the Supreme Court ruled with respect to a Department of State termination case, *Service v. Dulles*, that if an agency had regulations concerning the manner in which an employee was to be terminated, then those regulations must be followed.

One former member of the Office of General Counsel, Milan C. "Mike" Miskovsky, recalls writing a series of memorandums on this point and arguing in the first instance that the writing of regulations concerning termination caused a diminution of the DCI's special authority; and, secondly, if such regulations existed or were to exist, then the Agency, by law, would be bound to follow them. Shortly thereafter the then Director of Personnel, Emmet Echols, wished to discharge a number of employees and have the DCI exercise his special termination authority, an action in which there was some question whether the regulatory procedures extant at that time had been followed. In a meeting with Miskovsky and Houston, the Director of Personnel stated emphatically he was going to fire the individuals and no lawyer could tell him what his authority was in that regard. In one of the few breaks with the reserved manner, Houston responded: "Damn it, you will not fire these people," and they were not fired.

Houston was willing to use a mix of the laws available to him to try to achieve a legitimate management purpose. The Civil Service Retirement and Disability Act, which establishes the retirement annuities of most government employees, provided that an employee may retire at age 55 with 30 years service but could work until age 70. (Under the current law, there is no upper age limit.) The CIA Disability and Retirement Act (CIARDS), which did not become law until October 1964, provides generally that an employee who is a participant may retire as early as age 50 but *must* retire at age 60. Agency management, believing that it was important to provide for flow-through of employees and headroom for younger employees, addressed the issue whether the Agency could adopt for its own purposes an administrative rule which *required* employees under Civil Service Retirement and Disability Act to retire at age 60, notwithstanding the language of the statute.

After careful deliberations and Houston's review of the legal implications, such a rule was adopted and became known as the "age 60 policy." As might be expected, this "policy" was not popular with a number of employees and

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many disputes arose. Houston recalls the DCI designated him as the officer to talk to employees who wanted to challenge the policy and further, that many of them were "damned mad about it when they came into my office and still mad when they left."

Some have suggested that the club or lever which the Agency held over the heads of uncooperating employees to force them to retire at age 60 was the Director's special termination authority, Section 102(c) of the National Security Act of 1947, as amended. While this issue almost always arose in Houston's conversations with these employees, he advised them the Director probably would not use his special authority in such a case and in fact, he, Houston would recommend that the Director not exercise it for the purpose of forcing an age 60 retirement.

Despite its unpopular nature and the fact it is no longer applied, while it existed the "age 60 policy" helped assure an orderly flow-through of Agency careerists and provided the visible headroom which permitted the Agency to attract and retain bright young officers. Houston himself retired at age 60.

Style

Houston's managerial style both as to people and projects has been much discussed over the years. Some former attorneys in Houston's office viewed his style of management as somewhat aloof, and yet a style which gave them free rein to use their intellect and legal skills to solve legal problems with only a casual reference to the boss to keep him informed. Some have said that Houston did not like or felt uncomfortable in dealing with personnel matters and often delegated these to his deputy, John Warner. One former member of the office, Walter Pforzheimer, relates that he believed he was a management problem for Houston because of his rather abrasive, outspoken manner. On the other hand, he believes that he helped Houston "loosen up a little" over the years. There are many examples of the Houston free-rein managerial style. Paramount among these were two important prisoner exchanges which members of the office worked on with only general, directional input from the boss. The first was the Abel-Powers exchange in which the United States exchanged a Soviet illegal intelligence officer, Colonel Rudolph Abel, for U-2 pilot Francis Gary Powers. This was controversial inasmuch as Abel had been tried and convicted and had reposed in the Federal Penitentiary in Atlanta without giving the US Government any information about the intelligence he had gathered or the intelligence apparatus he worked for. Notwithstanding, an OGC lawyer worked almost full time on the exchange for a number of months with an outside lawyer, James B. Donovan, the former General Counsel of OSS, and the exchange was finally made. Donovan, of the Brooklyn law firm, Waters and Donovan, had been Abel's court-appointed lawyer in his espionage trial and had taken the case all the way to the Supreme Court only to lose in a 5-4 decision. A second case was the exchange of the Bay of Pigs prisoners for medical supplies. A substantial number of OGC lawyer hours were expended on this arrangement with James B. Donovan again playing a large role, and Larry Houston, in his management style, providing general, directional guidance.

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Those who thought Houston's quiet and reserved manner and free-rein management style implied a lack of toughness were in for a rude awakening. It was unwise to push him too far. A case in point is that of an officer who had been selected to be the OGC representative in the Far East. He was a lawyer who had not been in OGC prior to his selection for the assignment. Following training and integration into OGC, and following the shipment of his household effects to the Far East, the officer met with Houston and said he would not go on the assignment unless he first received a promotion. His timing apparently was chosen to ensure the maximum leverage against the General Counsel. It is reported that Houston had two or three conversations with the individual, who kept pushing. Houston stopped talking and abruptly canceled the assignment.

OGC had a touch football team which played in an intra-Agency league. Someone suggested courtesy required that the General Counsel be asked if he would like to play. To everyone's surprise Houston accepted, showed up at the game, and played well, catching several passes. Following the game, there was another surprise: Houston went with the rest of the team to the nearby apartment of a junior officer where they all showered, changed, and got at the beer. The contrast between this setting and Houston's reputation for aloofness was mind-boggling to those who were there. Years later, they still talk about it.

Following his retirement in 1973, Houston has participated in numerous intelligence-related panels, given informal advice to follow-on General Counsels, and has written articles and letters to the editor clarifying intelligence activities and law. He is active in a number of charitable endeavors. Chief among these have been the society to preserve the Woodrow Wilson house in Northwest Washington and the Family and Child Services of Washington, Inc. Houston provides *pro bono* legal services to the latter organization and often represents it in court.

He is, then, a man whose interests and endeavors parallel those of his parents. Houston the public servant. Houston the supporter of charities involving the house of a famous person and the welfare of orphans. We who follow him in intelligence and, indeed, his country are fortunate to have had his service for so long as the Agency's first General Counsel. Lawrence R. Houston made a difference.

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Jo Clare Bennett, Office of the General Counsel, assisted Mr. Breneman in the research for this article.