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THE STATE OF U.S. INTELLIGENCE TODAY
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For the past several years, the Central Intelligence Agency and the other agencies of the American Intelligence Community have been the subject of almost daily speculation, accusation, analysis, and advice. There seemed to be something for every appetite: the alleged abuses, the failures, the intrigue, the good old days. If the thoughtful observer trying to evaluate the state of American intelligence were not confused, it would be a surprise.

Very little has been written about the significant current of change which has affected American intelligence during these same years. Change stemming from the investigations of the mid-70's which have increased markedly the public's interest in intelligence activities; from the increasingly legalized context in which intelligence activities are now conducted; from the near revolution in the process by which intelligence is collected; and, finally, from the new requirements placed on intelligence agencies as a result of the United States' changing perception of its role in international affairs. An appreciation of these forces and the inevitable affect they are having on intelligence lends perspective and balance to the admixture of fact and fiction; confirms the strength and resilience of the institution which is the eyes and ears of this nation overseas; and underscores the magnitude of the Intelligence Community's achievement in adapting successfully to a totally changed operating environment.

The New Openness: Progress and Pitfalls

The congressional investigations of 1974 and 1975 brought American intelligence activities under more public scrutiny than has ever been the case for a major intelligence organization in the history of intelligence.

Both the public and the Intelligence Community benefitted substantially from those investigations. But an unfortunate side effect was the destruction of much of the confidence and support the American public has traditionally had for its intelligence agencies. While that support and confidence, is beginning to return gradually, some individuals continue to suspect that intelligence organizations may be still engaged in the kinds of activities for which they were criticized. They are not. Corrective action was necessary and it has been taken. Over time, openness and increased visibility will confirm that fact.

In addition there is now a series of oversight procedures which serve as an important check on intelligence. In the Executive Branch, it begins with the President himself taking a direct and personal interest in what we are doing, and continues with an Intelligence Oversight Board to which the public has direct access. In the Legislative Branch, two committees of the Congress are empowered to conduct intelligence oversight exclusively.

Greater openness also means that more of the intelligence product can be passed directly to the public through regular publication of unclassified analytic work, adding importantly to understanding of key global problems like terrorism, economic trends, military spending, nuclear proliferation, and energy. It also permits more intelligence analysts to be able to speak in public and to participate in symposia and academic conferences. Access to information will enable the public to understand what intelligence agencies are doing. Greater understanding plus the assurance that oversight controls exist and are working will rebuild public confidence.

However, a controlled openness policy cannot be considered a license to disclose properly classified information. Today, leaks are a very serious problem. The media seems ready to publish any leaked information, believing wrongly that they can evaluate the national security equities of doing so. But those equities are seldom apparent. The media sometimes

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does not seem to recognize that leakers often have a personal axe to grind; that it is not axiomatic that if something has been leaked to them, the KGB must also have it; and that the effect of not being able to protect sources of information is the same for the Intelligence Community as it is for the press--we lose them. For the media that may mean the loss of a story; for intelligence it could mean the loss of a life.

No foreign individual or intelligence service, will entrust lives or information to us unless we can keep them secret. It is impossible to ferret out information in a closed society like the Soviet Union if what we do and how we do it is known. It is impossible to operate at all if the identities of American intelligence officers are systematically revealed. Unauthorized disclosures not only reduce our capability to produce intelligence on which policymakers can base sound decisions, but also damage the long term ability of this country to know what is going on around it. And, in a world where more societies are closed than open, the United States cannot long survive in ignorance. Legislation is badly needed to stop this epidemic of damaging disclosures before it is too late.

The New Legalization: Dilemmas and Contradictions

Protecting intelligence sources and methods from unauthorized disclosures is a complex and difficult legal process. There is a natural tension between the effective and impartial administration of criminal justice and the successful prosecution of intelligence. Criminal justice requires that all relevant information be available to the prosecution and the defense. And yet, national intelligence interests often require that evidence derived from intelligence sources be protected against disclosure. The resulting dilemmas are painful and not infrequent.

Are these real dilemmas? Yes. When the Attorney General must drop the prosecution of a criminal case in order not to disclose intelligence secrets, as occurred recently in the case against two ITT officials, it

is a genuine dilemma. There would be no dilemma if on the scale of national values law enforcement interests were always superior to intelligence interests. Intelligence information would always be brought forward as needed. Or if law enforcement interests were always subordinated to intelligence interests, any criminal proceeding would be terminated should any intelligence information be threatened with disclosure.

Clearly neither view is correct. The values are variable and cannot be ordered in advance. Each case must be separately judged on its merits, and intelligence interests must be placed in perspective with other interests such as justice and precedent, when deciding whether and on what basis to proceed with prosecution. The Attorney General has the discretion to decide whether a prosecution is warranted and on what basis to go forward.

However, the Director of Central Intelligence has a role in influencing that decision whenever intelligence interests are concerned. In the first place, he is responsible for ensuring that no relevant information is withheld from the Attorney General. Access to relevant information, regardless of its classification, should not be a point of dispute.

Beyond this, the Director is responsible for giving the Attorney General an estimate of the potential impact of the public disclosure of intelligence information that may be relevant to a criminal prosecution. This kind of an estimate is something the Attorney General must have to make informed decisions and to properly weigh the consequences of those decisions. If it should happen that the Director concludes that the Attorney General has come to the incorrect balance, then he must appeal to the President to decide whether the best interests of the United States favor prosecution or not. In brief, the Director cannot frustrate a prosecution simply by withholding secret information from release. That choice lies with the Attorney General and the Director must appeal that choice if he does not agree with it.

The foregoing takes on greater force when one considers the necessities of proof under some of the basic criminal statutes which are of special concern to intelligence agencies. Suppose, for example, that a government employee is arrested attempting to deliver a classified document to a foreign agent, and the delivery is frustrated by the arrest. A crime has been committed under the espionage laws. Yet prosecution would exact an extraordinary price. The government would be required to show that the information in the document was of enough significance to materially injure the national security if it had fallen into the foreign government's hands. That burden of proof would likely require that the document be offered as evidence and that a government witness confirm its accuracy. The net result would be that the trial proceedings would have succeeded in doing exactly what the defendant was being tried for attempting but failing to do, that is, transmit and disclose the information. Moreover, the information's accuracy would have been verified in the bargain. A spectacle of this sort would not be pleasant to contemplate for those who had to struggle with a decision to prosecute.

Another well publicized problem in trial proceedings is the last minute discovery blitzes that have been favored by defense counsels in some espionage cases, the recent case of the United States versus Kampiles for example. It is unfortunately true that whenever the CIA is involved, it is inviting for a defense attorney to hope to collapse the prosecution by pressing for more disclosure than the CIA is likely to be willing to provide. Hence, the evolving "gray mail" approach against which there are no easy countertactics.

Another set of legal dilemmas we face centers on the many rules and regulations which have recently been applied to intelligence agencies, especially those to protect the privacy of American citizens. Because they are new and often complex and because they must be interpreted in the light of sometimes unique activities, they have impacted heavily

on the speed and flexibility with which intelligence agencies have traditionally been able to operate. Often questions of Constitutional Law have been involved which have required both the Attorney General's and the CIA's legal staffs to think through issues in the midst of an operational crisis.

While we applaud and, in most instances, can adapt to these efforts to ensure the constitutional and privacy rights of Americans, the issues are complex and must be assimilated by intelligence officers in the field who are not attorneys. The uncertainty as to whether all applicable legal standards are met can lead to overcaution and a loss of initiative. In fact, today, our officers are almost forced to avoid operations which could involve US persons. This in turn could reduce response flexibility in crisis situations when the lives and property of American nationals may be involved.

The Revolution in Intelligence Collection: Opportunities and Challenges

The third factor of change that the Intelligence Community faces stems from intelligence collection technology. In addition to open sources, basically there are three ways of acquiring knowledge about other countries: by photographs from satellites or airplanes, by intercepting signals that pass through the air from military equipment or communications systems and by the traditional spy.

The capabilities in imagery and signals intelligence are burgeoning. Interestingly, rather than denegrating the value or need of the traditional spy, technical capabilities have increased his importance. Technical intelligence collection generally reveals what happened in the past. But that often raises the questions, why did that happen and what may happen next? Fathoming the "whys" and the "whats" requires uncovering people's concerns, the pressures which influence their decisions, and their intentions. This is the unique forte of the human intelligence agent and is indispensable if we hope to be able to anticipate future

trends in world affairs. The challenge here, then, is to pull together our

collection efforts so that they ~~in photographic, signals, and human efforts~~

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~~logical~~ ~~and~~ ~~simple,~~ ~~but~~ ~~because~~ ~~technical~~ ~~capabilities~~ ~~are~~ ~~growing~~ ~~so~~ ~~rapidly,~~

intelligence collection can no longer be managed in the traditional

manner.

Intelligence is a large bureaucracy spread over a number of different government agencies and departments, each with its own priorities and concerns. It has taken some fundamental restructuring to accommodate these changes. Since the National Security Act was passed in 1947, the Director of Central Intelligence has been authorized to coordinate all national intelligence activities. However, until just over a year ago, he has never had adequate authority to do so. The President, in Executive Order 12036 of January 1978, strengthened the Director of Central Intelligence's authority to direct all collection activities. The Order authorized setting up a tasking office--a single locus which can direct the right mix of collection assets on an intelligence question to find the right answer. The intent of this tasking organization is not to tell other agencies how to do their business, but to ensure that each of the different collection systems, some operated by Defense, others by the CIA, etc., are used to best advantage whenever they are needed.

The same Executive Order gave the Director of Central Intelligence authority for the first time to put together a single intelligence budget. This has helped enormously in assuring the complementarity of photographic, signals, and human collection assets and efforts. Those changes in budgeting and in collection are still evolving, but are coming along well and are making a substantial difference in the management of intelligence.

The Foreign Policy Context - New Demands

The final challenge facing the Intelligence Community today stems from the changing perception of the US role in world affairs which is moving from an interventionist outlook to one where the constraints on our ability to influence events in other countries are more widely recognized and accepted as normal. This is not a transition toward isolationism, but rather a gradual emergence from our post-Vietnam aversion to international interaction to a more reasoned, realistic view of the world. Clearly, we must continue to play a major role, but circumstances now require us to gauge more carefully what that role should be.

How much more difficult it is to know which side of a conflict we should support. Traditionally we often favored those whom the Soviets were against. Some of our choices today are not that simple. In a number of instances just last year, we found two communist regimes fighting each other. Neither was an ideal candidate for our support, even if the Soviets were supporting one or the other.

Moreover, it is also not nearly so clear today that it is necessary for the United States to take sides on all international issues, even if the Soviets are pressing for advantage. The consequences of a nation succumbing to Communist influence are not always as irreversible as we often thought. Indonesia, Sudan, Egypt, and even Somalia shook off that influence to return to independence.

Even when we want to support some nation, there are problems in providing that support which did not exist a few years ago. One stems from the revolution in international communications. International actions are instantly communicated around the globe, instantly analyzed,

and instantly judged. That judgment--often approbation or criticism--even though often coming from second or third order powers, can influence even major powers.

In such fora as the United Nations each country uses its one vote and the major powers often find themselves in the minority. Whether the lesser developed countries join or fragment on a specific issue, their independence makes consensus difficult.

These realities do not mean that we are impotent in world affairs. They mean that the leverage of our influence, while still considerable, must be exercised more intelligently if it is to be effective. We must not be satisfied with putting a finger in the dike, but instead must be able to interpret the underlying forces which can be influenced and driven over time and as a consequence anticipate rather than just react to events. For intelligence this requires a vastly expanded analytical capability.

Thirty years ago the primary concern of American intelligence was keeping track of Soviet military activities. Today threats to our national well-being are not limited to actions which the Soviet Union could take, nor to purely military concerns. Certainly, intelligence interests continue to encompass the military--the Soviet military buildup continues; recently wars have been or are being fought in Chad, the Sahara, Rhodesia, Vietnam, Cambodia, Yemen--but today our field of interest has broadened to include politics, economics, food, population, narcotics, terrorism, the health of foreign leaders, and energy reserves, to name just a few. There is hardly an academic discipline, hardly an area of the world about which national leaders do not need good information.

The need to deal with these problems has reshaped our approach to analysis. In military analysis the emphasis is on fact finding and comparison. Generally, military commanders want to know ^{the} size, characteristics, and location of the enemy. What are his capabilities? But when

analyzing political and economic issues, we are concerned with intentions. The analyst requires different analytic techniques, a different mind-set.

Over the years, with the emphasis on factual military analysis, the Intelligence Community grew accustomed to consensual analysis, trying to ensure the Defense Intelligence Agency, the CIA, the Army, Navy, and Air Force all agreed with an analytic conclusion. A consensus regarding military capability is not bad because, for example, if one Agency estimates a bomber's range is 1,000 miles and another estimates 2,000 miles, 1,500 miles is probably a reasonable working estimate.

But with political or economic intentions, consensual analysis can be dangerous. If two analysts look at the evidence and one concludes the enemy will attack on Monday and ^{the} other Friday, the one absolutely wrong conclusion would be Wednesday. If Monday is sent forward as the assessment, then, beside the reasons that Monday was selected must appear the reasons why Friday seemed only somewhat less reasonable. Then the decisionmaker can compare the two points of view, add whatever additional insights he may have and reach a reasoned conclusion of his own based on a complete evidentiary base.

This change in analytic emphasis and technique has meant that the Director of Central Intelligence, as the President's chief intelligence advisor, and the single signatory on all National Intelligence Estimates, must be more deeply involved in the analytic process than heretofore so that key decisions on analysis and estimates do not flounder in search of the least common denominator. That has also meant that he has an increased responsibility to ensure that dissenting views do come forward. In the past, dissenting comments appeared in the footnotes of estimates and often were based on different assumptions than the majority opinion in the text. The two could not be meaningfully compared. Today, minority views are placed side by side in the text with the Estimate's views so they can be easily compared.

The essence of political and economic intelligence, as opposed to military intelligence, is that differences of view be emphasized rather than precise predictions made. No one will believe a prediction that a coup will occur in 37 days, but a thorough explication of why a

coup seems just over the horizon can be helpful. Good economic and political analysis lays out those forces pushing in one direction and those pushing in an opposite direction. Then, the decision maker can weigh the factors on both sides and reach his own conclusion.

SUMMARY

The adjustment which the Intelligence Community is having to make to the changes I have described has not been an easy or a placid process. It is especially difficult for the intelligence professional to adjust to an environment of greater openness. Secrecy, as I have noted, is a life or death ingredient of intelligence. It is also difficult for the professional to attempt to turn his spies into lawyers and in frustration to call them off from actions that are logical, desirable and ethical simply because of legal technicalities that stretch one's credulity. It is just as difficult to adapt the ingrained habits of each of the collecting mechanisms to see themselves as part of a team effort which requires coordination and direction. And it is difficult to shift analytic talent away from current and factual matters and onto long run and interpretative questions when all of the incentives and rewards have long been with the former. It is especially difficult to achieve these adjustments in a period of generational change. The veterans who signed into this exciting profession in the post-World War II days are retiring. The mantle is passing to an equally capable new generation. Still, the passing of this baton is bound to be characterized by distress at seeing one era end and another begin; but more so when the waters ahead are new and uncharted, and hence point, when viewed from the past, to an uncertain future.

Yet the intelligence arm of our government today is strong and capable, even as it undergoes substantial change. It is strong because that original generation of professionals was superbly capable and is leaving behind a great heritage. It is strong because their successors are first class also. It is a great tribute to the youth of our country that some of the best of them have seen through the shallow criticisms and distortions and have joined the ranks of the intelligence community. Even in the days of greatest public abuse, the recruitment of top-notch young people did not flag. And so we are going forward with good people; with a strong foundation of public and legal support; with ever expanding technical ingenuity characteristic of America; and with superb analytic talents free to apply their intellect and imagination to all manner of important issues. We are ahead of the Soviets in all these dimensions. We are setting the pace for other free world intelligence organizations. The fact that the rate of evolution makes us uncomfortable is normal. Too much has been made of it.

Out of the present metamorphosis is emerging an intelligence community where the legal rights of Americans and the salutary constraints and controls on intelligence operations are balanced with a continuing need to be able to garner information. The transition has not been easy nor are we there yet. But we are moving rapidly and surely in the right direction. Our goal is to construct a new model of intelligence, a uniquely American model which will conform to the laws of the land and will reflect American ethical principles and ideals.

Thus, the Nation's Intelligence Community is earning a return of public confidence. This Community has served, and is continuing to serve the needs of our country superbly. It does this because of the faithful and capable professionals who dedicate their lives to producing the best intelligence ever for our Country. They deserve public approval and encouragement. They, indeed, have mine.