BLUEPRINT FOR INTELLIGENCE REFORM

By Melvin Goodman

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The United States was relatively late in establishing the Central Intelligence Agency, an organization that grew out of the smaller and more limited wartime Office of Strategic Services. In contrast, government organizations devoted to intelligence gathering existed in the sixteenth century in Great Britain, in the eighteenth century in czarist Russia, and by the nineteenth century in France. President Harry Truman’s creation of the CIA in 1947 met with resistance within the government bureaucracy, particularly from the FBI and the Pentagon. The most significant opponent of the CIA was J. Edgar Hoover, the director of the FBI. Hoover did not want competition in the field of counter intelligence, particularly clandestine collection of intelligence. The Pentagon enjoyed its key role in intelligence collection and analysis, and feared competition and independence in the production of finished intelligence. The Pentagon’s approach to finished intelligence was one of worst-case analysis, which was used to justify increased defense spending and the procurement of specific weapons systems. The last thing the Pentagon wanted was an intelligence arm that might be used to monitor and verify arms control and disarmament, which was not in the interest of the military. There was domestic opposition from the left, which feared the intrusive role of an intelligence agency, but particularly from the right, which feared a debate of intelligence issues that would challenge the exaggerated threat perceptions during the Cold War.

Since the creation of the CIA, there have been three major efforts to curb the influence of the agency and to move the finished intelligence product of the agency to the right, particularly to create worst-case analysis of threats to U.S. national security. Two of these efforts originated outside the agency, the infamous Team A/Team B exercise of the mid-1970s and the White House campaign to slant intelligence analysis on Iraq in the run-up to war in 2003. The other campaign of politicization was an in-house affair that found the director of the CIA, William Casey, and his deputy director for intelligence, Robert Gates, pressuring the intelligence community to support the Reagan administration’s view of the Soviet Union as an “evil empire” and its campaign for increased defense spending. As a result, the CIA produced overstated threat assessments of the Soviet Union during the exact period (1981-1991) that the Soviet Union was in decline. The campaign of politicization in 2002-2003 harmed the credibility and integrity of the CIA, leading to an intelligence reform act in December 2004 that virtually ended the central and independent role of the agency.

The policies of the Bush administration have created problems for the CIA and the intelligence community. First, there is the problem of politicization of intelligence, particularly misuse of intelligence to make a case for war. Vice President...
Cheney's agitation for war against Iraq led to pressure on the CIA to provide evidence of Iraqi weapons of mass destruction and links between Iraq and al Qaeda. Second, there is the problem of pressure on the operational arm of the CIA to abuse and torture prisoners in order to produce such evidence, when traditional forms of collection failed to provide grist for the war mill. Former Attorney General John Ashcroft and one of his senior deputies, John C. Yoo, prepared the legal framework for designating individuals as "unlawful enemy combatants," detaining them indefinitely, and then using abuse and torture in secret CIA facilities. Finally, there is the problem of conducting intelligence surveillance and secret eavesdropping on American citizens without warrants, which violates the Foreign Intelligence Surveillance Act of 1978 as well as the Fourth Amendment of the Constitution against "undue searches and seizures."

Before the Bush administration could fight its war in Iraq, it waged a bureaucratic war to make sure there would be no opposition to its plans to invade and occupy Iraq. The director of Central Intelligence, George Tenet, was neutral on the idea of a military invasion, just as an intelligence chief should be, but by October 2002 the proponents of war had worn down the opposition. In December 2002, Tenet assured the president in the Oval Office that providing intelligence to support the administration's case on Iraqi WMD would be a "slam dunk," and in February, then Secretary of State Powell gave a speech to the UN that contained 28 erroneous assertions that became the case for war. Powell made sure that sitting directly in front of him at the UN were CIA director Tenet and UN Ambassador John Negroponte, who became the director of national intelligence in 2005. Thus, the key figures were present at the creation in the misuse and politicization of intelligence.

These activities have exposed major problems within the CIA and the intelligence community that were not fixed by the 9/11 Commission or the Intelligence Reform Act of December 2004. These problems include the militarization of the intelligence community, which must be reversed; the absence of congressional oversight over a flawed intelligence product, which must be ended; and the seeming inability of the Central Intelligence Agency to tell truth to power, which finds the CIA without a moral compass. What is to be done?

Demilitarizing the Intelligence Community. The Department of Defense is in many ways the chief operating officer of the $45 billion intelligence industry. The Pentagon controls more than 80 percent of the intelligence budget as well as more than 85 percent of all intelligence personnel. Most collection requirements flow from the Pentagon and the defense within the policy community and the congressional intelligence committees for "the warfighter" has meant that tactical military considerations have overwhelmed collection for strategic geopolitical considerations. Tactical considerations, and not strategic, now drive collection requirements for satellite imagery.

There are major risks in the military domination of the important field of satellite imagery, which is used to justify the defense budget, to gauge the likelihood of military conflict, and to verify and monitor arms control agreements. General Colin L. Powell's memoir, An American Journey, details the military's willingness to suppress sensitive imagery intelligence. During Desert Storm in 1991, General Norman Schwarzkopf said at a press conference that a smart bomb had destroyed four Iraqi Scud missile launchers. Intelligence imagery demonstrated that it had actually destroyed four Jordanian fuel tanks. General Schwarzkopf's intelligence officers would not tell him he was wrong, nor would General Powell, who concluded that preserving General Schwarzkopf's "equanimity" was more important than the truth.

The best example of the Pentagon's lack of interest in strategic intelligence, particularly dealing with arms control and disarmament, took place in 1998, when the National Geospatial Intelligence Agency failed to monitor five Indian nuclear tests. This intelligence failure led CIA director Tenet to tell the congress that the CIA could not monitor the Comprehensive Test Ban Treaty and, as a result, the Senate failed to ratify the CTBT. In piecing together the reasons for the intelligence failure, it was obvious that the Pentagon had placed a low priority on satellite collection of intelligence against India because the military was not concerned with threats from South Asia and was certainly not interested in arms control issues.

It is essential that the major technical collection agencies, the National Security Agency (which intercepts signals and communications and is essential to strategic warning), the National Reconnaissance Office (which designs and launches spy satellites), and the National Geospatial Intelligence Agency (which interprets satellite imagery) be taken from the Pentagon's control and transferred to a new office that reports to the director of national intelligence. The Senate Select Committee on Intelligence and the Senate Armed Forces Committee must agree to abolish the position of undersecretary of defense for intelligence, which was created by Secretary of Defense Rumsfeld to solidify the Pentagon's
control over the intelligence community. Unfortunately, the new director of national intelligence, John Negroponte, has had no support from the Congress in trying to weaken the Pentagon’s control over these key intelligence collection agencies.

One of the greatest threats to civil liberties in this country is the enhanced role that the Department of Defense has assumed to gather intelligence within the United States. The department has created new agencies, added personnel, and received greater legal authority to conduct domestic security activities in the name of post-9/11 surveillance. In 2002, the Pentagon quietly created the Counterintelligence Field Activity (CIFA) to coordinate security efforts, such as protecting military facilities from terrorist attack; in 2005, CIFA sought authority to investigate crimes within the United States such as treason, foreign sabotage, and economic espionage. CIFA already has more than a thousand employees and a secret budget. The Pentagon has exploited the 9/11 terrorist attacks to expand its intelligence activities into the clandestine collection of intelligence within the United States, including the monitoring of peaceful anti-war and counter-military recruitment groups.

The Pentagon’s intelligence agency, the Defense Intelligence Agency, has even received authorization to allow their personnel to hide the fact that they work for the government when they seek domestic intelligence. Each of the military services has begun a post-9/11 collection of intelligence relating to terrorist threats to military facilities. The Pentagon is also seeking an exception from the Privacy Act in order to gain access to FBI intelligence on American citizens, which would provide access to information on U.S. citizens that has nothing to do with terrorism. Bert Tussig, director of Homeland Defense and Security Issues at the U.S. Army War College and a former Marine, says “There is very little that could justify the collection of domestic intelligence by the U.S. military. If we start going down this slippery slope, it would be too easy to go back to a place we never want to see again.”

The extent of the slippery slope became more obvious in December 2005 when we learned that after the 9/11 attacks, President Bush ordered the NSA to eavesdrop on the conversations of Americans inside the United States without court-approved warrants as part of the war against terrorism. The NSA is the most secretive member of the intelligence community; it was created in 1952, but it was not until five years later that its existence was officially acknowledged in government documents. The NSA charter emphasizes collection against foreign communications, and the agency itself assures the Congress and the American public that it does not target Americans for wiretapping. The conduct of eavesdropping inside the United States against American citizens is more than a major shift in American intelligence gathering; it raises serious constitutional and criminal implications contained in the Fourth Amendment protections against “undue searches” and the Foreign Intelligence Surveillance Act of 1978.

Revive Congressional Oversight. The decline of the CIA and the increased importance of the Pentagon over the past decade coincide with the reduced role of oversight of intelligence by congressional intelligence committees. These committees were established as elite, bipartisan committees and behaved that way from the mid-1970s to the early 1990s. But the Gingrich revolution in the Congress had a terribly partisan impact on the intelligence committees, and now both the Senate and House intelligence committees are in the hands of extreme partisans, particularly Senator Pat Roberts (R-KS), the chairman of the Senate Select Committee on Intelligence. The partisanship of the Senate and House committees has weakened the oversight role. Roberts has kept the Senate committee from conducting a counter-intelligence investigation of the forged documents on Niger that wound up in the president’s State of the Union address in January 2003, which made the case for going to war against Iraq on the basis of an intelligence fabrication. Roberts has also blocked an investigation of the CIA’s role in the abuse and torture of detainees, the agency’s policy of extraordinary renditions, and the NSA’s warrantless eavesdropping.

For too long, the Senate and House
intelligence committees have been advocates for the
CIA—particularly for the clandestine world of spies and
cover operations. Thus Congress has failed to make the
CIA accountable for its transgressions; Iran-contra
demonstrated that far more rigorous and experienced
accountability was needed to monitor the CIA. A presidential
pardon in 1992 for key CIA operatives involved in Iran-
contra meant that we would never learn the extent of CIA
perfidy in presidential maneuverings related to that scandal.
And congressional confirmation of Gates as CIA director in
1991 signaled that the Senate intelligence committee was no
longer interested in this senior CIA official who lied to
congress about his knowledge and involvement in Iran-contra
and politicized intelligence for CIA director Casey.

In addition to bolstering the capabilities and missions of
the Senate and House intelligence committees in the field of
oversight, it is necessary to revive and strengthen the
president’s Foreign Intelligence Advisory Board and the
Intelligence Oversight Board, which have significantly
diminished during the Bush era. Both the executive and
legislative branches must radically increase their surveillance
and oversight of intelligence in order to make sure that the
United States maintains an intelligence community that is both
effective and reflective of our democratic values. The CIA
system of secret prisons, abuse and torture, and extraordinary
renditions as well as the Pentagon’s domestic surveillance and
collection of intelligence strongly suggest that the Bush
administration’s commitments to international law and even
the Constitution are being observed in the breach. Public
accountability must be established in order to restore the
integrity and credibility of the entire intelligence community.

Reform of Covert Action. If the Cold War and the
Soviet threat generated the rules that governed the use of
cover actions, then the end of the Cold War and the
dissolution of the Soviet Union demand a reexamination of
every aspect of such operations, creating new requirements
and perhaps the need for fewer operations. It is not enough
to suggest—as defenders of covert action have suggested—
that the world remains a dangerous place and that the
president needs an option short of military action when
diplomacy alone cannot do the job. Many problems that
could be considered candidates for covert action could be
addressed openly by unilateral means or cooperatively
through international measures such as sanctions or
embargoes. It was the international sanctions imposed against
Libya that succeeded in persuading Muammar al-Gaddafi to
end his country’s nuclear weapons program. Nuclear-
proliferation problems created by missile programs in Iran and
North Korea, for example, certainly can also be addressed
by diplomacy and negotiation involving overt multilateral
activity, with the United States playing a leading role. Covert
action would worsen relations with both Iran and North
Korea, creating regional problems and a greater risk of
military force. Covert action in Somalia, never properly
vetted through the policy community, recently contributed to
renewed violence and instability there. And this month, rivals
of the U.S.-backed warlords seized control of the
government in Mogadishu.

Clandestine operations could be radically reduced with
no compromise of U.S. national security. CIA propaganda
has had little effect on foreign audiences and should end
immediately. The recent clumsy attempt by the U.S. military
to place “black propaganda” in the Iraqi press clearly
backfired and undermined the U.S. emphasis on creating
democracy in the Middle East. Covert efforts to influence
foreign elections or political parties also should be stopped.
The United States has had far better success encouraging
democratic reform in such places as Georgia and Ukraine by
working openly through non-governmental organizations and
international monitoring groups.

The Brown-Aspin Commission on intelligence reform in
1996 recommended that covert operations should take place
only when “essential” and where the reason for secrecy is
“compelling.” Most covert operations are “operations for
operations’ sake,” however, and are undertaken with
inadequate consideration of results and implications. There is
no absolute political and ethical test for covert action, but
former secretary of state Cyrus Vance articulated a good
standard in the 1970s when he recommended covert
intervention only when “absolutely essential to the national
security” of the United States and when “no other means”
would do.6 U.S. covert actions in Central America, the
Middle East, South America, and Africa could certainly not
pass such a test, witness U.S. intervention in Honduras,
Guatemala, Iran, Chile, and the Congo over the past 50
years.

The committees must also examine a series of operational
policies at the CIA, including CIA “secret prisons” as well as
an accounting of the interrogation practices used at these
facilities. The CIA also must present information on
“extraordinary renditions” in order to halt the transfer of
individuals to countries, particularly in the Middle East, that
practice torture. The military has addressed the issue of
abusive treatment of detainees, but the CIA has not. There is
no question that war crimes have been committed. If the
intelligence committees cannot conduct a rigorous oversight process, then it is time to establish a bipartisan select committee with subpoena authority to examine the CIA’s misuse of intelligence information and operational authority.7

Any reform of CIA operations must include an end to torture and abuse. In addition to the Geneva Conventions of 1949 and the UN Convention against Torture, numerous international treaties prohibit the use of torture of any person under any circumstance. These treaties include the UN’s Universal Declaration of Human Rights of 1948, the Military Code of Justice, and the Hague Convention Respecting the Laws and Customs of War. Even when the Congress passed a law banning torture, the White House issued a statement insisting that Article II—the power of the Commander in Chief—trumps any act of Congress. But the Constitution also states that the president “shall take care that the laws be faithfully executed,” and that the Congress has the power to set policy and that the president has the right and the duty to execute it. In a democracy, where laws are derived from broad principles of right and wrong and where those principles are protected by agreed procedures, it is not in the interest of the state to flout those procedures abroad.

Tell Truth to Power: The CIA requires a director and a senior management that are capable of instilling integrity into the agency from top to bottom. The previous CIA director, Porter Goss, failed that test in blocking the distribution and declassification of the CIA Inspector General’s review of the agency’s performance on issues related to the 9/11 intelligence failure. The new director, Michael Hayden, directed policies as head of the NSA that should have prevented his confirmation as CIA director. Hayden carried out the White House policy of warrantless eavesdropping and massive data collection against U.S. citizens, which violate the 1978 Foreign Intelligence Surveillance Act requiring a judge’s warrant for such activities. Hayden was also involved in approving spurious intelligence materials that were part of Secretary of State Colin Powell’s speech to the UN in the run-up to the Iraq War. Hayden’s willingness to shape intelligence to suit the policies of the Bush administration while at the NSA does not augur well for his possible role on behalf of the administration as CIA director.

For too long, CIA directors have been willing to provide intelligence messages favored by the White House. In addition to Tenet’s “slam dunk” assurance to the president regarding intelligence to support the decision to go to war against Iraq, former director Gates said that he watched Bill Casey, a Reagan appointee, “on issue after issue sit in meetings and present intelligence framed in terms of the policy he wanted pursued.” Gates himself censored intelligence assessments in the 1980s that did not conform to the Reagan administration’s perception of the “evil empire” and personally managed the intelligence assessment that tried to blame the Soviet Union for the assassination attempt against the Pope in 1981.

In order to encourage telling truth to power, existing whistleblower laws must be amended to include protection to intelligence personnel so that illegal activity can be brought to the attention of the oversight committees. FBI officers Coleen Rowley and Sibel Edmonds were hit with gag orders for trying to report abuses of power at the FBI; Edmonds was eventually fired. In the early 1990s, the CIA used polygraph examinations to intimidate senior officials who filed signed affidavits with the Senate intelligence committee during the nomination hearing for Gates. CIA director Goss also used the polygraph to prevent leakers and whistleblowers from reporting illegal CIA activity.

The Abuse of Secrecy and the Need for Glasnost. One of the greatest scandals within the intelligence community is the over-classification of government documents in order to keep important information out of the hands of the American people. Government vaults hold over 1.5 billion pages of classified information that is more than 25 years old, and thus unavailable to scholars and researchers, let alone the general public. Open sources, such as books, newspapers, and public broadcasts, account for nearly all intelligence analysis on economics, but this information remains classified. Senator John Kerry, when he served on the Select Committee on POW/MIA Affairs, learned what all of us who served in the intelligence community always understood: documents are often classified to hide negative political information, not secrets.

During the Reagan administration, CIA director Bill Casey presented intelligence framed in terms of policy he wanted pursued.
Whenever there has been an example of politicization of intelligence or an abuse of the CIA's power, some of the most senior and capable analysts or operators have resigned or retired. This was certainly the case in the 1980s and early 1990s, when the politicization of intelligence on the Soviet Union led to a loss of many Soviet and East European analysts. And this also was the case during the stewardship of Goss as director of CIA, who made it known that the agency must support the policies of the Bush administration. As a result, we witnessed a wholesale departure of senior operational officers from the regional offices of the directorate of operations. The vast turnover created a prima facie case for the removal of Goss, who was ostensibly appointed to stabilize CIA operations and not to add to the discontinuity there.

Organizing for Strategic Intelligence Analysis. It is essential that the intelligence community provide an alternative source of information and intelligence to the decision-making community. Currently, the uniformed military dominates the collection and analysis of sensitive intelligence, which means that the CIA is no longer a check on the military bureaucracy as it was during the Cold War, the Vietnam War, and the period of arms-control decision-making in the 1960s and 1970s. In these years, civilian analysts were a more objective and balanced source of intelligence than their military counterparts in assessing threats to the United States and the military capabilities of state and non-state actors. Since the 1991 Gulf War, the CIA has not played a major role in military intelligence. According to a former CIA analyst, Richard Russell, "the absence of an independent civilian analytic check on military intelligence threatens civilian control of the military instrument for political purposes." 

For the past three decades, the CIA has gotten away from strategic and long-term intelligence and placed too much emphasis on short-term, tactical intelligence and so-called "operational intelligence." CIA director James Schlesinger, who had a background that included research at the Rand Corporation and therefore should have known better, was primarily responsible for the demise of the historical staff and the estimates staff. The historical staff (senior research staff) consisted of a small group of political, military, and economic analysts who did long-term analysis on such strategic issues as the Sino-Soviet dispute, Soviet domestic politics, and the Chinese economy. The estimates staff (office of national estimates) had a small cadre trained to write national intelligence estimates that were the most important corporate product of the intelligence community. When these offices were abolished in 1973, this kind of expertise was folded into larger offices and left unprotected. The failure to track the decline and anticipate the demise of the Soviet Union was due in part to the absence of long-term thinkers.

One of the great advantages of an organization that sponsors long-term research, current intelligence, and estmative intelligence is the creation of competitive analysis. These offices gave the appearance of redundancy to outside experts who deal with the intelligence community, but they actually had different methodologies and orientations and tended to compete with one another. Experts in current intelligence succeeded in making up new information and reporting that estmative officers could put to use. Strategic researchers often developed new interpretations that served as lessons learned for the experts in current intelligence. Intelligence is a symbiotic process that requires this kind of competition and even redundancy.

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The new director of national intelligence, John Negroponte, has made no attempt thus far to create a corporate analytical community within the intelligence community. He needs to form an elite analytical cadre from the key analytical and collection institutions (CIA, INR, DIA, NSA, NGA), and needs to be the decisive voice in selecting the directors of these agencies. The DNI must be responsible for opening up the analytic community to the larger academic and think-tank community outside the intelligence arena. Outside experts, for example, did a much better job of anticipating the results of the Palestinian elections in December 2003 than did the analysts of the intelligence community. The increased importance of ethnic politics and ethnic violence and the death of ethnic and linguistic analysts within the community demand more exposure to the outside arena.

But the CIA is too insular and parochial to turn to outside experts. The CIA's mentality is driven by a counter-intelligence orientation, which puts too much emphasis on
security clearances, polygraph tests, and a need to know. The military intelligence culture is even worse in this respect. The intelligence community is going to have to risk the occasional leak and the occasional compromise of information in order to draw outside expertise from within the United States as well as overseas. No one expects the community to put sources and methods at risk, but there needs to be a freer and more open exchange of information to the people who can offer the most substantive and experienced critique. The current analytic community is extremely young and very inexperienced, and this is another reason for drawing from the larger and grayer outside community of experts. Fewer than half of the analysts in the directorate of intelligence have more than three years of experience on their areas of expertise, and even fewer have lived in or known the language of the countries they monitor.

It is crucial that the CIA strengthens links across the intelligence community in order to share intelligence, with the failure to share being responsible in part for the 9/11 failure in 2001. The unwillingness of the CIA to share sensitive intelligence with the FBI and the NSA’s unwillingness to share with the CIA compromised the corporate effort to monitor the terrorist threat, not unlike the failure in 1941 when the absence of intelligence sharing enabled the surprise attack on Pearl Harbor. Unfortunately, all the major intelligence agencies of the community place too much emphasis on counter-intelligence, the compartmentalization of intelligence, and a strict “need to know,” which are obstacles to intelligence sharing. The failures in 1941 and 2001 could have been prevented with genuine sharing of sensitive intelligence information. At the very least, intelligence information in the hands of military planners would have diminished the strategic losses at Pearl Harbor and sensitive data in the hands of civilian planners would have led to actions that could have disrupted Osama bin Laden’s attacks on 9/11. More warning time in both instances would have limited, perhaps prevented, the losses.

Sadly the 9/11 and Iraqi War intelligence failures are the first major examples of bureaucratic corruption and incompetence at the CIA that have not been accompanied by a reform effort to correct flawed processes. The CIA corruption of the 1960s and 1970s during the Vietnam War led to the creation of the congressional oversight committees in the Senate and House as well as a congressional review function for covert action. The Iran-contra scandal of 1987 led to the creation of a statutory or “independent” Inspector General at the CIA, appointed by the president with the advice and consent of the Senate. A more powerful and independent inspector general at the CIA was required because agency investigations of the CIA’s role in the sale of arms to Iran were inadequate in comparison with the investigations of the congressional and independent counsels. At the same time, the congressional intelligence committees have lost oversight powers to the armed forces and government affairs committees that monitored the intelligence reform act of 2004 as the intelligence committees stayed on the sidelines. As a result, there has been no systematic effort to understand the serious intelligence failures of the past 15 years and to prevent future failures.

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Footnotes
2 In the words of former Secretary of Defense Casper Weinberger (1981-1987), “Yes, we used worst-case analysis. You should always use a worst-case analysis in this business. You can’t afford to be wrong. In the end we won the cold war, and if we won by too much, if it was overkill, so be it.” Quoted in Tim Weiner, “Military Accused of Lies over Arms,” The New York Times, June 24, 1993, p. 10.
4 Pincus, p.1.
7 Previous bipartisan select committees have included the Ervin Commission in the 1970s to investigate the Watergate abuses of the Nixon administration as well as select committees to investigate the Reagan administration’s sale of weapons to Iran in the 1980s and U.S. military activity in Southeast Asia in the 1970s.

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