

Do Intelligence Bureaucracies Fear Ethics, and If So, Why?

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Yes. Why will take longer because the bureaucracies are very defensive about this topic.

Introduction: Special Challenges

Every intelligence professional knows that the domain they enter presents unusual challenges. Stakes can be extremely high (like life or death for nations, or for your personal infantry squad). Information is always incomplete and all too often incorrect. Moral ambiguities abound, and tradeoffs between alternative outcomes can be excruciatingly painful. Least-evil options are sometimes the only options available, and they are better than watching catastrophe unfold.

To be considered a professional by polite society, one must belong to a group mature enough to have developed codes of ethics, among many other issues of standards, training, expected skills, duties, and such. It took doctors and attorneys centuries to develop their codes, and issues still remain or emerge anew with new technologies. So this is not an easy process even for normal organizations,^{1, 2} which intelligence bureaucracies are not.

We do not have centuries to linger on nuances now, because nuclear, biological, and other “special” weapons could destroy our civilization. So a sense of urgency is appropriate. Intelligence failures sometimes precede catastrophic wars. Politicians and their policy people often blame intelligence staff for their own policy failures (see “Elephants in the Room” to follow). But after the carnage is done, finding who to blame is a sad exercise among tragic people, most of whom were sworn to protect the innocents of their countries.

Bureaucracies are not people. They are composed of people, like a human body is made of cells. But bureaucracies have emergent properties, system dynamics, capabilities, and behaviors that go far

beyond what any individual human or cell could accomplish. Bureaucracies have no souls or conscience in the human sense, but they fear ethics and oversight. This is why they often crucify whistleblowers. Fear is seldom the stated reason, but it is often the real reason.

Some secrets should be exposed, lest they lead to waste, fraud, abuse, or the murder of thousands of innocents. But the mantra of protecting sources and methods generally prevails, even when the real reason for secrecy is bureaucratic incompetence, sloth, or mortal sin. Finally, be assured that you can put good people into a dysfunctional system and that bad system can then put the good people to work on very evil ends. Totalitarian governments provide numerous examples from history. Most of them are gone now; a warning to those who think the status quo is stable.

So bringing ethics to intelligence bureaucracies is not easy, but it is important. I am not a moralist; rather, I am a practical person trying to preserve civilizations faced with profound challenges in the third millennium of the Common Era. So I beg you to attend and to do better than I have as you move forward. The order of presentation will be: 1) a brief history of the quest for ethics for spies, 2) a quick survey of a dozen U.S. intelligence agencies, 3) discussion of “elephants in the room” that are seldom mentioned, where everyone has been scrubbed by security clearances, and 4) conclusions about why systemic, bureaucratic FEAR of ethics is a primary cause of other problems that bedevil those guardians who would like to be called professionals of intelligence.

A Very Brief History of Intelligence Ethics from Sun Tzu to Jan Goldman and Beyond

Sun Tzu did not write directly for spies, although his thirteenth chapter is all about them.³ Sun Tzu wrote scripture for generals, where he said that the first of five fundamental factors in war is moral influence, and fourth is command. By command he meant the general’s qualities of wisdom, sincerity, humanity, courage, and strictness. So moral issues were very important to Sun Tzu, who encouraged his high-level readers to be extremely forgiving of spies, since the information spies obtained could be decisive in battle or even in the life or death of nations.

Millennia of experience since have shown that spies are often expected to violate or ignore many laws of ordinary men. Bribery, extortion, propaganda, torture, assassination, and threats of assassination

have been tools of tradecraft since the beginning of recorded history. Sometimes these bring victory, in the short term anyway, which is as far as many politicians think. But the recurring brutal consequences of no ethics at all also led to development of things such as the Catholic just war theory, international laws of war such as the Geneva Conventions, and domestic variations such as the U.S. laws of war⁴ and Uniform Code of Military Justice.

Libraries are filled with writings from attorneys and practitioners trying to pin down every detail of what is proper conduct when. Yet deeper thinkers such as Russell Swenson find that ethics begin where laws end, and nearly everyone with deep experience knows it is impossible to codify all the bizarre scenarios that real spies encounter.⁵ Finally, ethics tell you what to do when laws are immoral.

Jan Goldman from what was then called the Joint Military Intelligence College (JMIC) and Jean Maria Arrigo from Southern California engaged a few others with serious interests in ethics for intelligence professionals, including especially the uniformed services of the United States, in an attempt to transcend these dilemmas. Dr. Arrigo had compiled histories of intelligence personnel with an emphasis on ethical dilemmas they encountered during their careers. Goldman had been teaching ethics, so he and Arrigo began with some panels in 2005 at a Joint Services Conference on Professional Ethics (JSCOPE) and engaged a committee of like-minded scholar practitioners. In 2006 they hosted a two-day conference to lay the groundwork for what would eventually become an International Intelligence Ethics Association (IIEA). Goldman's first book, *Ethics of Spying*, was published in 2006,⁶ and he later got a PhD in this esoteric subject.

Parallel efforts were occurring in other places, such as European efforts to address this problem, led partly by Hans Born of the Geneva Center for Democratic Control of Armed Forces (DCAF) in Switzerland⁷ and Mark Phythian and Ian Leigh in the United Kingdom. The fall of the Berlin Wall greatly accelerated this process. In Latin America, many countries struggled with how to democratize intelligence entities that had been devoted to persecuting political dissidents until their military governments were replaced by more democratic ones. The "dirty wars" of the 1970s and 1980s had many echoes, one of which was reform of intelligence institutions.⁸ Virendra Verma in India helped organize an association of retired Pakistani and Indian intelligence officers to work on both ethical issues and on practical issues of crisis communications to avoid future wars.

Most involved in these disparate efforts recognized that challenges varied considerably such that no one code could possibly do for all job types. Collectors, analysts, operators, and managers face very different problems, each with challenging moral dilemmas in the peculiar, high-stakes world of intelligence systems. And none, to be blunt, found much guidance from their institutions.

Attracted by these efforts, I hosted three panels with eighteen papers on these topics at the 2007 conference of the International Studies Association, and I engaged twelve other authors who could not come to that conference to create a competitive, judged process leading to a fifty-page reader used by both the Central Intelligence Agency (CIA) and Defense Intelligence Agency (DIA) for awhile.⁹ But all of these efforts ran into considerable trepidation from people not retired and resistance both subtle and blunt from institutions that had once hired many of the people cited here.

Goldman's conferences revealed a host of people who were sincerely and deeply interested in intelligence ethics, active duty, retired, and academics alike. But they also surfaced a recurring problem of active-duty personnel being denied permission to attend because of fears by their agencies that they might reveal secrets to civilians. Some could come; many could not. The mirror image of this is conferences of cleared insiders from which the unwashed are excluded, like a recent symposium at the National Intelligence University (February 2012, paraphrased by Bailey). There is progress, but it sputters, and the security clearance barrier is a big reason why.

This barrier is so important that I will address it separately at the end. But in one very simplistic sentence, it separates the deeply moral from those willing to hide crimes against humanity if so ordered. Then, the latter can chat about small issues, while ignoring elephants in the room that sometimes result in the murders of innocents all over the world.

Another window on this dilemma is what typically happens to cleared insiders who try to reveal serious wrongdoing in their agencies. Typically the effort is just a career negative unless they go public, in which case they get crucified, except in police states where they may be literally killed. To polite society, whistleblowers are heroes, but to insiders they are often considered traitors. They have violated a code of *omerta* that often preempts other guidance such as the U.S. Constitution. I will recall very briefly here the experience of some veterans of the National Security Agency (NSA), CIA, and Federal Bureau of Investigation (FBI) to illustrate their dilemmas.

Brian Snow and Thomas Drake at the NSA

At one of those IIEA conferences I met Brian Snow, a thirty-plus-year veteran of the NSA, including many years as a senior intelligence executive. In retirement, Snow put great effort into developing a draft code of ethics for collectors. Collectors are among the more problematic categories of intelligence professionals, although none rival the covert operators for dilemmas. Like Goldman at the JMIC, Snow had assembled a group of collaborators, including insiders with moral concerns and outsiders with expertise on either spies or dilemmas faced by human beings. For seven years he tried to get officials to pay attention. Snow and his colleagues got many encouraging nods but scant progress on making serious ethics training part of agency education programs, much less establishing real codes of ethical conduct for intelligence professionals.¹⁰

It is not that agencies don't have codes; some do. Their codes are just remarkably rudimentary, or legalistic references to Byzantine documents that do nothing to cultivate an ethos that can be internalized. "Don't steal from the government" is required of every federal employee. Prudent. "Avoid conflicts of interest, and don't lie to your bosses." That's nice, too, but underwhelming, especially since the same employees may be required to lie to the rest of the world in their daily work, where deception, theft, manipulation, and occasional betrayal or murder are part of the operating environment. "Don't reveal secrets"; that's pretty universal, and understandable, unless the secrets protected are killing your Constitution. The only other universal I have found is seldom explicitly written, but certainly is recognized worldwide. That is "Don't get caught!"

One of Snow's younger colleagues, Thomas Drake, got into serious trouble trying to expose waste, fraud, abuse, and unconstitutional behavior in the NSA. In the search to find terrorists in post-9/11 America, NSA developed a software program for scanning domestic communications with relatively strong civil liberties protections to try to find real terrorists among the millions of ordinary citizens who sometimes rant about things they don't like about the government. Those citizens are thousands of times more common than actual terrorists in North America, which makes this a quest for intelligence efficiency as much as for preserving liberty. The system they designed in house worked well and cost a few million dollars.

Then Director General Michael Hayden opted for a fancy, defense industry plan that cost over a billion dollars, did not protect civil liberties, and ultimately did not work well at finding terrorists anywhere. After spending over \$1 billion, they scrapped it. When Drake tried to point out huge waste, fraud, and abuse issues inherent through established channels, he was ignored, as so many others are. When he went public, carefully never sharing a classified datum, he was threatened with prosecution under the 1917 Espionage Act and confronted with a possible death penalty.

That kind of bureaucratic overreaction to whistleblowing is all too common in the intelligence world. Drake's case was so egregiously unfair that it caught the attention of CBS's *60 Minutes* and other major media, so in the end the prosecutors reluctantly settled for a minimal plea bargain of misusing government computers.¹¹

Free, but exhausted from four years of fighting for his literal life for an alleged crime of revealing literal truth in the interests of the United States of America, Mr. Drake experienced the harsh reality that truly ethical people inside these secret societies are often punished severely if they actually *act* on ethical impulses. Those who would teach ethics should attend, because without protection of those who would be ethical, you are just setting them up for career suicide.

That is just for calling attention to waste, fraud, and abuse. What about murders of innocent people? Army private Bradley Manning is confined today for exactly that, along with spilling hundreds of thousands of State Department cables in which the underwear of international affairs were often discussed. We will return to Private Manning in due time.

Valerie Plame Wilson at the CIA, and Predecessor Operators such as Burton Gerber and Melissa Mahle, and Principled Analysts from Veteran Intelligence Professionals for Sanity such as Ray McGovern

The excellent 2010 movie *Fair Game* was inspired by a book written by CIA case officer Valerie Plame Wilson.¹² Her exemplary nuclear nonproliferation career had been destroyed by operatives from the White House, only one of whom was ever charged ("Scooter" Libby of Vice President Dick Cheney's office). Libby's conviction was promptly commuted by President Bush, so insiders know he was taking the fall for crimes committed by people far more powerful than he was.

Valerie's crime—well, she had not committed any, and no one said she did. Her husband, Joe Wilson, a former ambassador for the Department of State, had dared to write some truth in the *New York Times* about lies promoted by the White House to sell the invasion of Iraq. Valerie Plame Wilson's career was destroyed by exposing her identity (and the lives of all her contacts abroad were also endangered) to send a message to the rest of the U.S. intelligence community about what could happen to anyone if even your family dared to defy party lines on discretionary wars.

Wilson was dragged into public truth telling by her very public crucifixion. Once her cover was blown in major papers, her career as a covert operator was over, regardless of whether she might be excused for her husband's truth telling about an issue of war and peace and life or eventual death of thousands of American troops and hundreds of thousands of Iraqis.

The Wilson case was dramatic enough to make a movie about it, but it was preceded by many quieter cases of CIA insiders revealing some horror story such as those that led to the Church Commission hearings in 1976 and such. I met Burton Gerber and Melissa Mahle at another of those IIEA conferences. Among other assignments, Gerber had been chief of the Moscow station back when the Cold War was often hot in proxy countries, and Mahle had a similar career among Middle Eastern nations. Both were retired now and had encountered ethical dilemmas that troubled them, but they found very little guidance or help from the system to deal with them. So both wrote books^{13, 14} and appeared as speakers at those early intelligence ethics conferences.

Ironically, Mahle could not actually give her speech that day because the CIA's office of publications review would not clear her comments. This is another barrier to those who would be ethical inside, the forever prohibition on telling the truth about things that should be known unless one gets permission from a bureaucracy that fears truth a lot, and ethics even more.

The importance of protecting "sources and methods" is universally recognized among intelligence professionals, including me. But thought control runs very deep in spooky-luky land, and these are NOT the same concepts. The nondisclosure agreement that all employees must sign is a Rubicon that keeps them forever apart from polite society unless they are prepared to risk incarceration or worse. So, while mostly unknown, Burton Gerber and Melissa

Mahle were pioneers by raising the possibility of public discussion of ethical dilemmas for spies.

Analysts Ray McGovern and David MacMichael went further in a different way. After retirement as CIA analysts they agitated for years about growing violations of constitutional principles within our U.S. intelligence community. One served earlier in the army, the other was a marine officer before both joined the CIA, and so they took their oaths to protect the Constitution more seriously than some. Quiet agitation produced no change, so they cofounded a group in 2003 called Veteran Intelligence Professionals for Sanity when the lies used to sell the invasion of Iraq to a gullible U.S. public became too egregious. That has not produced much practical change either, but it does provide an outlet for other intelligence retirees alarmed by present trends of reckless immorality and indifference to constitutional principles.

Coleen Rowley and Michael German at the FBI

Coleen Rowley gained national prominence by testifying to Congress about failures to connect dots at the FBI prior to 9/11 and became a “Person of the Year” for *Time* magazine in 2002. Like whistleblowers everywhere, she got hammered by her bureaucracy, even though she only testified after weeks of getting no attention to her in-house communications. A career special agent, she had also taught constitutional law to her colleagues for thirteen years as the staff attorney for a regional FBI headquarters, so ignoring that pesky Constitution after 9/11 bothered her.

Michael German had been an undercover agent for the FBI for sixteen years, and he complained about the mishandling of a terrorism investigation. That got him a polite good-bye from the FBI and awards from groups such as the Los Angeles Federal Bar Association. Then he wrote a revealing book comparing the “terrorist mindsets” of foreign jihadis and of domestic zealots from the skinhead, Aryan Nation, and other neo-Nazi groups in America.¹⁵ German now works as a civil liberties and national security specialist for the American Civil Liberties Union, still trying to protect the Constitution he swore to preserve as an FBI agent.

There are others at the FBI, CIA, NSA, and in every other agency who remember core principles and who take the Constitution seriously. But they seldom blow whistles, and over half of all FBI

agents are now assigned to chasing terrorists rather than bank robbers, fraud, or Wall Street crimes. That matters a lot. Since there are very few real terrorists in America, domestic or otherwise, many agents are reduced to surveilling peace groups, labor, environmentalists, and feminists much like in the bad old days of J. Edgar Hoover. Also, low IQ people who rant on Facebook are now often seduced into crossing red lines by special agents posing as al-Qaeda operatives who give them fake weapons in order to puff up counterterrorism metrics.

Hoover thought that any critic of the government (such as Dr. Martin Luther King Jr.) was a potential subversive. So his FBI conducted a five-year psychological operations campaign against Reverend King that began the day after John F. Kennedy was killed, and it ended only when Dr. King was assassinated. That campaign included fabricating false documents and sowing discontent among factions of what would become one of the greatest achievements of American democracy, the civil rights movement. All due to paranoia about people who criticized immoral governments.

That is history. What matters now is growth of a vast bureaucracy devoted to domestic surveillance, best described by Dana Priest of the *Washington Post* in a series called "Top Secret America."¹⁶ Top-secret people say they are "protecting America," while many actually erode the Constitution that made us a leader among nations. To be blunt, many of these bureaucrats are not interested in ethics at all because real ethics might restrain their true quest for ever-more money and power. We spend billions today to stop events that are less common than deaths from bee stings or toasters in North America. The annual quest to justify those billions spent leads to labeling millions of Americans as "potential terrorists" because of their politics, religion, or ethnicity.

A Host of Europeans and Latin Americans

Hans Born, Mark Phythian, Ian Leigh, and Russell Swenson were mentioned at the onset of this essay because they wrote English-language papers and books about democratic reforms of intelligence systems, especially after the fall of the Soviet Union, the Berlin Wall, and military governments in Latin America. Michael Herman, ex-officer of Government Communications Headquarters in Britain, also hosted an ethics conference there. Thomas Bruneau and colleagues from the Center for Civil-Military Affairs at the Naval Postgraduate

School¹⁷ wrote about Brazil in particular and Latin America generally. Preceding each of these were large numbers of scholars and practitioners in those areas and countries, working in their own languages to reform systems that had afflicted their populations rather than protecting them. I want to acknowledge these people as a very worthy group I see mainly by reflection in literature by others. Only a few can I mention explicitly, such as Cristiana Matei, who has written extensively about reforms in her native Romania.¹⁸ In Latin America, Marco Cepik and Joanisval Goncalves of Brazil have been noteworthy, and Eduardo Estevez in Argentina. But those are just three countries among dozens of others that endured huge transitions from military-/police-state-type governments to more democratic forms. And in each of those countries there were dozens or hundreds of people who were intimately involved with intelligence community reform, both certified “insiders” who stayed inside their classified job descriptions and cocoons, and outsiders with academic, human rights, legal, or other credentials that helped the process along. I want to acknowledge them en masse, in my ignorance of their particulars, and move back to the U.S. system that I can know slightly better.

A Brief Survey of a Dozen U.S. Intelligence Agencies in Early 2012

Dr. Goldman provides much more detail on agency “ethics” codes than I will here in his Appendix A (pp. 379–93) on “Principles, Creeds, Codes and Values.”¹⁹ He had to work like a dog to get those, even though he was employed by the Joint Military Intelligence College, had security clearance, and was working on an ethics PhD. Jan still had to pull teeth from chicken’s lips because the bureaucracies truly are afraid of ethics. Many U.S. agencies would not respond to his requests for text on ethics no matter what assurances he gave. Knowing this background, I decided to do a simple survey in 2012 to see if things had moved forward during the last decade. Maybe, but the bureaucracies were more reticent with me and I was less persistent than Goldman.

So I called and/or emailed when calling was not encouraged the following components of our U.S. intelligence community on or very near January 19, 2012: ODNI, CIA, NSA, FBI, DHS, NGIA, National Reconnaissance Office (NRO), DEA, Department of State’s INR, Treasury, Energy, and the DIA. I spared the uniformed services

on the theory that DIA and ODNI would do it for them. To each, after a call I sent a standard email request for any information they could provide, with three specific questions: 1) Does your agency have a code of ethics specific to it? 2) If so, may I get a copy? 3) And if so, how does your agency try to teach ethics to its employees? As expected, I got little concrete response to this query, but what they sent was instructive anyway.

The most substantive response came from a public affairs officer in the usually extra-secretive NRO. He did this because 1) he was a human being with a conscience, and 2) in conversation with his partner in the office (who suggested blowing me off) he offered that they did not want people thinking that the NRO was “afraid of ethics.” A prescient person, that one, and a better public affairs officer than most.

One contrast would be the NSA whose unnamed public affairs officer sent me these exact words: “Good Afternoon, Thank you for your email and your interest in the National Security Agency. Due to the current ops tempo, we are unable to assist you at this time. Please visit our web site, www.nsa.gov, for information regarding the Agency. Have a great day.” Of course, ops tempos are high everywhere; we thoroughly understand that. But this is also a perennial excuse to avoid ethical issues in many bureaucracies. They are just too busy to be bothered with ethical issues.

The most common response was no response. Of course, I could pester them for months, assure them I don’t bite, and eventually get a few more scraps of things we mostly already know. Every U.S. federal employee must read and sign off on a common code for stewardship of financial resources (aka don’t steal). Each is instructed to avoid conflicts of interest in various ways and to obey “the law.” Intelligence Community personnel are also required to know about Executive Orders #12333, #12958, and the ODNI’s additional ethical guidance, if any. The ODNI sent me some on March 22, 2012, affirming why the National Counterterrorism Center can now keep records on all Americans for five years, regardless of any connections to terrorism. Defense Department agencies are also bound by Directive #5500.07 (Standards of Conduct, Joint Ethics Resolution of November 29, 2007), <http://www.dtic.mil/whs/directives/corres/pdf/550007p.pdf>, and DoD Directive #5240.01 <http://www.dtic.mil/whs/directives/corres/pdf/524001p.pdf> of August 27, 2007. Each of these is chock full of legalistic language that could not inspire even attorneys. Each uniformed agency also has its own list of “core values,” which are invariably quite honorable qualities, such as to

work with “integrity” or to strive for “excellence” or to put duty to country before personal welfare. But such admirable virtues are also too general to serve as codes for the excruciating situations that intelligence professionals may encounter in their work. What I sought was a code, or codes, of ethics such as attorneys and physicians have, concise enough to be inspirational (and read, unlike the million-plus items in U.S. “law” today) but precise enough to appeal to the real dilemmas faced by real intelligence professionals in the field or otherwise.

Readers may interpret this tiny exercise however they like. I think it supports the thesis that American intelligence bureaucracies (at least) are actually afraid of ethics, are very reluctant to discuss it with anyone “uncleared,” and really do not like oversight no matter how often they claim to embrace that concept. Oversight is difficult enough when it is done by committees of Congress that are forbidden to talk publicly about whatever they are told by agencies “overseen.” Actual oversight is anathema to most intelligence agencies, and who should be surprised?

Elephants in the Room

This nervousness is obvious before any discussion of the elephants in the room of intelligence affairs in America today that are so clearly visible to those outside the security-cleared cocoon. These elephants are pooping all over our professional reputations, so we ought to be able to talk about them. I will list just three, and comment very briefly before turning to the practical issue of why the bureaucracies are so frightened by such things. They are 1) initiation of illegal and immoral wars, 2) torture as official policy (resulting in more murders), and 3) violations of the U.S. Constitution that all American intelligence professionals are sworn to protect and defend.

1. The invasion of Iraq was sold by flagrantly fraudulent intelligence claims, many of which are known with 100 percent certainty today to have been false.²⁰ That makes our invasion of a country that did not attack us, did not have weapons of mass destruction, and was adversarial to al-Qaeda rather than friendly an international war crime. This means we have murdered hundreds of thousands of innocent people and coincidentally caused the deaths of thousands of U.S. service men and women, and serious injuries to tens of thousands more.

Who wants to deal with the ethical implications of this elephant in the room? Almost no one, because it causes us such pain. Therefore, many otherwise exemplary people follow the party script, read the abundant propaganda, deny reality, and pretend there is nothing wrong with murdering thousands of innocents and committing war crimes against humanity.²¹

2. Along this difficult path, powerful parties in America decided that torture was OK for us (if others do it, torture is still condemned) despite our domestic laws forbidding torture and signed international treaties that forbid torture under any circumstances whatsoever, a very rare stringency in international law. Along with systemic torture came kidnappings of foreign nationals in many countries, including a few who were 100 percent innocent victims of confused identification and such, some of whom were literally tortured to death.²²
3. Along with those atrocities came systemic violation of the U.S. Constitution to rationalize surveilling every U.S. citizen in various novel ways, such as the warrantless wiretapping of domestic communications described by the *Washington Post*,²³ by definition without probable cause since every single U.S. person could not possibly be a terrorist, and more intensive surveillance of others because they are Muslims or activists. We have murdered U.S. citizens overseas without due process of law, as in the cases of Anwar al-Awlaki on September 30, 2011, his sixteen-year-old son Abdul Rahman al-Awlaki two weeks later on October 14, and Samir Khan, an editor of the al-Qaeda publication *Insight*. Many commentators on the left, right, and middle of our domestic political spectrum have noted that this has damaged our Constitution a lot (Congressman Ron Paul and comedian Bill Maher are examples along with *ABC News*²⁴ and the *Los Angeles*²⁵ and *New York Times*²⁶).

Does initiating wars “of discretion” against innocent peoples bother intelligence bureaucracies in America? Apparently not, since the agencies are mute about that. Does torturing people and violating both domestic and international laws on that bother our bureaucracies? The record there is mixed, because there were both public and private discussions of those dilemmas—many—and some reform of disgusting practices once revealed. Does savaging our Constitution and murdering even American citizens abroad without due process of law bother our bureaucracies? Apparently not, according to At-

torney General Eric Holder²⁷ or the CIA, special forces, and air force predator operators who do much of the actual killing without public comment, some of whom are personal students of mine.

Even the U.S. Congress bowed and groveled by authorizing all of these evil and unconstitutional things in its latest Department of Defense Authorization Act of 2012. That authorized a sitting president at war to not only kill anyone, anywhere but also directed our Department of Defense to be prepared to hold indefinitely U.S. citizens thought to be possible supporters of terrorism, without due process of law, forever.²⁸ So another bureaucracy of cowardly politicians (the U.S. Congress) is apparently shameless in its sin as well.²⁹ But few are surprised by that, as public approval of Congress now approaches single-digit levels in America today.

Conclusions: Why?

I have been very judgmental here, and the good book says, “Judge not, lest ye be judged.” In truth I am deeply sympathetic to the harsh dilemmas faced by intelligence professionals, and I am deeply grateful to those who have risked much to give birth to the beginnings of a professional ethos for those who work in the shadows of society, keeping chaos at bay. It makes life so much harder for professionals when they work for institutions that are morally bankrupt, clinically paranoid, and that force methods on their employees that are damaging to all (aka tradecraft). I am very, extremely sympathetic for the many excellent people who join such organizations with the best of intentions and who suffer many bad consequences of this institutional toxicity while trying so hard to protect and serve the peoples of the countries that employ them.

So let’s be clinical for a moment. Intelligence bureaucracies fear ethics for at least five reasons: fear, greed, embarrassment, an obsession with secrecy itself, and resulting isolation from polite society. We will consider each in their turn briefly.

Fear: Tasked with defending America (in our case, parallels with others are obvious) from all threats to the republic, and faced with novel dangers of international terrorism, our intelligence community has overreacted enormously. Pervasive propaganda to encourage public support for unpopular wars and invasive surveillance at home blows back on the agencies themselves.

Greed: A climate of perpetual fear leads to much bigger budgets for all of the security and intelligence services. Yet it is a statistical fact

that North Americans in North America are less likely to be killed by actual terrorists today than they are to be killed by bee stings, by our own toasters, by lightning strikes, or by many other graphic examples of how grossly exaggerated the real threat of “terrorism” is. But you will never hear that in a pitch to Congress about budgets.

This has many extremely adverse and expensive consequences I will neglect for now except one. Many more American service men and women now die by their own hands each year than all Americans killed by terrorists in North America. More U.S. veterans commit suicide each year in America today (average of eighteen per day) than active-duty troops die that are deployed in actual war zones. This is a tragedy and a scandal directly related to the prime crime of waging immoral wars abroad.

Embarrassment: No bureaucracy (or human being) likes to admit mistakes, so some secrecy is common to bureaucracies in general. It is so much more so in those of which secrecy is quite essential to their function and where stakes include life or death for someone every day. Physicians bury their mistakes, but physicians seldom have to bury their own colleagues when someone finds out their true identity. IC bureaucracies do not want their mistakes, waste, and other dirty laundry revealed to a world that is very focused on costs of government in normal times, much less when thousands are dying each year because of mistakes made long ago. It bears emphasis that the obsession with secrecy makes learning about those mistakes extra difficult, so mistakes have grown large and scary by the time many inside can begin to know the scale of sin involved.

The Obsession with Secrecy: Anyone who has run agents knows why protecting sources and methods is critical. Anyone who has walked on death ground understands why protecting operational plans is an issue of life and death for you and yours. Anyone who understands special weapons comprehends why some things simply should not be disseminated openly.

But trying to operationalize protection of essential secrets in large bureaucracies has led to a spider’s nest of rules, regulations, and cherished customs that turns back to ensnare and poison the very people who created them. The greatest political accomplishment of the United States of America has been our Constitution, which has been savaged by many people recently, most of whom sincerely thought they were doing good things. There is no doubt that secrecy is essential for many aspects of actual spy agencies. But you should

remember Aristotle, who pointed out that any virtue, even the best virtue, can become a harmful vice if carried to unhealthy extremes.

Security clearance systems isolate many good and kind intelligence professionals from deeply moral people (like their mothers and spouses) who can often see more easily what is wrong and sometimes help with solutions. Furthermore, the most moral people simply will not sign a broad nondisclosure agreement that requires keeping ALL secrets, no matter how lethal or evil. That keeps those with moral dilemmas inside, isolated from outsiders with expertise in such problems, such as clergy and psychologists. I mean no insult at all to the dedicated people who enter these dysfunctional systems trying to do good by protecting their societies from angry, armed adversaries. I do intend to warn such professionals why these best intentions of sincere people are so often frustrated, and occasionally are turned to doing evil itself by dysfunctional systems. That has had consequences for IC employees, as evidenced by their stunning rates of alcoholism, divorce, and suicide, among other indicators of excessive stress induced by employer rules.

The cost of such dysfunctions to America has been profound. It is profound for practitioners as well as for our nation. Once we were a moral leader among nations. Those days are long gone. We created the concept of human rights, and now we are poster children for violations of them. Practical consequences abound, such as the growing reluctance to share intelligence and costs of combat, to name just two. Once we enjoyed substantial support from many other nations, not least in intelligence affairs. That has been severely degraded by our reckless, immoral, and illegal wars against countries that never attacked us. And by attacking truth when it objects.

Ethics matter. And discarding ethics just because we are scaring ourselves to death, to get a few billions more in budgets, because we prefer to hide our embarrassments, and/or because we are obsessed with some aspects of tradecraft and thus are isolated, is insane. But it is not inevitable.

U.S. Army private Bradley Manning is being prosecuted today. His alleged crime was revealing classified information by giving data to WikiLeaks. The data he shared included something he called "Apache Airstrike," which others labeled "Collateral Murder." This was gunship video showing an attack on a group of eleven men on July 12, 2007, in Baghdad, most of whom were unarmed and two of whom were war correspondents for Reuters. They were killed,

including the reporters. Reuters is upset about that. Manning is also charged with transferring hundreds of thousands of State Department classified cables, which revealed all sorts of private reactions, assessments, and deals with embassies worldwide. This was extremely embarrassing to many people, but so far no one I know has shown that even one death has resulted from it. In fact, the judge at his trial recently insisted that damage assessments made by the CIA, DIA, and others be provided.³⁰

Private Manning will be an especially challenging case study of the core dilemma, because to polite society he is a hero for revealing to the citizens of America what their government was truly doing in various places with our money and our children under arms. To America's IC, Manning is a traitor of unusual proportions, because he told so much truth when truth was classified.

Manning was arrested in May 2010, and he was charged with transferring classified data to unauthorized media on July 5, 2010. He was kept in solitary confinement under maximum-security conditions for almost a year, until Amnesty International and 295 legal scholars noted that the conditions he experienced at Marine Corps Brig, Quantico amounted to violations of the U.S. Constitution. So in April of 2011 he was transferred to medium-security conditions at Fort Leavenworth, Kansas. Almost two years after his arrest Manning still had not been prosecuted, partly because they were struggling with how to hold a secret trial of someone who now has an international reputation. There is often a fear in such prosecutions that even more embarrassing secrets might be revealed by the defense. But Manning is a private, and the court is military, so they will find a way.

You will know that ethics has arrived in America's intelligence community when people who defend our Constitution by telling our citizens what they need to know about our government are labeled *patriots* instead of *traitors*." Until that day, spies can pretend they are being "ethical" until the sun grows cold, and the only people to be fooled will be those in the cleared cocoons where political power determines which truths are "the" truths and which shall be prosecuted.

Notes

1. William E. Hudson, "The Ethical Spy: Towards Intelligence Community Rules of Professional Conduct," *Georgetown Law Journal* 98, no. 5 (May 2010): 1415–39.

2. Michael Andregg, "The Birth of Professional Ethos: Some Comparisons among Medicine, Law and Intelligence Communities," *American Intelligence Journal* 28, no. 1 (fall 2010): 82–92.

3. Sun Tzu, *The Art of War*, Samuel B. Griffith, translator (London: Oxford University Press, 1963).

4. *Law of War Deskbook* (U.S. Army Judge Advocate General's Legal Center and School, Charlottesville, Virginia: International and Operational Law Department, 2010).

5. Russell G. Swenson and Susana C. Lemozy, editors, *Democratization of Intelligence: Melding Strategic Intelligence and National Discourse* (Virginia: National Defense Intelligence, 2009; paperback by CreateSpace, 2009).

6. Jan Goldman, *Ethics of Spying: A Reader for the Intelligence Professional* (Lanham, MD: Scarecrow Press, 2006). A second, revised edition was published in 2009.

7. Hans Born and Mariana Caparini, editors, *Democratic Control of Intelligence Services: Containing Rogue Elephants* (London: Ashgate, 2007).

8. Peter Gill and Michael Andregg, editors, "Democratizing Intelligence," *Intelligence and National Security* (2013; in press).

9. Michael Andregg, *Intelligence Ethics: The Definitive Work of 2007* (St. Paul: Ground Zero Minnesota, Center for the Study of Intelligence and Wisdom at 2007).

10. Brian Snow and Clinton Brooks, "Privacy and Security: An Ethics Code for U.S. Intelligence Officers," *Communications of the ACM* 52, no. 8 (2009): 30–32.

11. CBS News, *60 Minutes*, "U.S. vs. Whistleblower Thomas Drake," May 22, 2011, <http://www.cbsnews.com/video/watch/?id=7366912n>.

12. Valerie Plame Wilson, *Fair Game: How a Top CIA Agent Was Betrayed by Her Own Government* (New York: Simon and Schuster, 2007).

13. Jennifer Sims, and Burton Gerber, editors, *Transforming U.S. Intelligence* (Washington, DC: Georgetown University Press, 2005).

14. Melissa Boyle Mahle, *Denial and Deception: An Insider's View of the CIA* (New York: Nation Books, 2004).

15. Michael German, *Thinking Like a Terrorist: Insights of a Former FBI Undercover Agent* (Dulles, VA: Potomac Books, 2007).

16. Dana Priest, "Top Secret America," in the *Washington Post*. This was a two-year investigation involving quite a few specific articles published in 2010 that are archived by the *Washington Post* at <http://projects.washingtonpost.com/top-secret-america/>.

17. Thomas Bruneau and Steven C. Boraz, *Reforming Intelligence: Obstacles to Democratic Control and Effectiveness* (Austin: University of Texas Press, 2007).

18. Florina Cristiana Matei, "Romania's Intelligence Community: From an Instrument of Dictatorship to Serving Democracy," *International Journal of Intelligence and Counterintelligence* 20, no. 4 (2007): 629–60.

19. Goldman, *Ethics of Spying*, 2006. A second, revised edition was published in 2009, page 12.

20. Frank Rich, *The Greatest Story Ever Sold: The Decline and Fall of Truth in Bush's America* (New York: Penguin Books, 2006).

21. This case is well known to informed Americans, but our readers are international. Secretary of State Colin Powell's speech to the United Nations on March 5, 2003, made a case for war against Iraq on the grounds that they were aggressively pursuing nuclear and other weapons of mass destruction. Powell did his job well, but he now regards this moment as the most embarrassing speech of his long career because so much "evidence" claimed to be well founded turned out to be very false indeed. Powell alleged that Iraq had an aggressive biological weapons program, but he did not say that this was based on a single informant we had never met, and who German intelligence warned us was a drunken fabricator, a person code-named Curveball. Powell claimed aluminium tubes had been purchased to make centrifuges, which our Department of Energy specialists objected to, saying these were for ordinary artillery shells. He claimed that Iraq bought uranium yellowcake from Niger, based on a document known to have been forged. This was the claim former U.S. ambassador to Niger, Joseph Wilson, was sent by the CIA to investigate, which got his wife in so much trouble when Wilson reported the truth to our country. All these and many other items were "cherry-picked" by an "Office of Special Plans" created in the Pentagon by Vice President Dick Cheney's office to avoid normal interagency review processes and to send highly politicized "intelligence" to President Bush to justify a war against Iraq that had been planned for long before. The head of Britain's MI6 reported to his prime minister that "US intelligence was being fixed around the policy" in a "Downing Street Memo." The point here is that even when many well-qualified U.S. intelligence professionals detected various frauds and mistakes in that party line, politicized "intelligence" remained silent, honoring their oaths of secrecy more than oaths to the U.S. Constitution. So hundreds of thousands of mostly innocent Iraqis were killed and many more wounded in a "discretionary," illegal, and immoral war against a nation that never attacked us. Thousands of U.S. troops also died, and tens of thousands were wounded for a bad cause.

22. A 2006 report by Human Rights First claimed that almost one hundred prisoners (ninety-eight, exactly) had died in U.S. custody as of February of that year, many in Iraq but some in Afghanistan also, like the utterly innocent taxi driver who was beaten to death by interrogators there. His case is covered in "Taxi to the Dark Side," which won the U.S. film Academy Award for documentaries in 2007. Even the U.S. government's own

reporting classified thirty-four of these deaths as “confirmed or probable homicides.” That was due to army investigations such as General Taguba’s report on Abu Ghraib. Our CIA was simultaneously running a number of “black prisons” in countries such as Poland, Romania, and Thailand, where other people simply disappeared and many were tortured. This brought us new words such as *extraordinary renditions* and *waterboarding*. Some of those victims were also utterly innocent. Italy eventually convicted twenty-three CIA personnel of abducting their citizen “Abu Omar” from the streets of Milan. Germany decided not to indict, but they condemned the arrest of their citizen Khalid al-Masri from Macedonia, who was tortured for five months then dumped on a hillside in Albania after the CIA recognized that they had grabbed an innocent man with a name similar to someone else they were looking for. Canada’s case was of citizen Maher Arar, who was tortured in Syria for ten months before being returned to Canada and given \$9 million in compensation. The point of this paper is to provide a few graphic examples of what happens when loyalty to intelligence organizations (and indifference to ordinary laws, much less to any truly professional ethos) overwhelms the consciences of people who pledged to protect and serve a noble Constitution that forbids violating U.S. laws and treaties signed by presidents and ratified by the U.S. Senate.

23. German, *Thinking Like a Terrorist*, 16.

24. Jason Ryan and Pierre Thomas, “Holder: When War on Terror Targets Americans,” ABC News, March 5, 2012, <http://abcnews.go.com/Blotter/holder-speak-targeted-killings-americans/story?id=15851232>.

25. *Los Angeles Times*, editorial, “Holder’s Troubling Death-by-Drone Rules,” March 7, 2012, <http://articles.latimes.com/2012/mar/07/opinion/la-ed-holder-20120307>.

26. *New York Times*, editorial, “The Power to Kill,” March 11, 2012, http://www.nytimes.com/2012/03/11/opinion/sunday/the-power-to-kill.html?_r=1&scp=1&sq=The%20Power%20to%20Kill&st=cse.

27. Eric Holder, U.S. Attorney General’s speech delivered at Northwest University Law School, March 5, 2012, <http://www.justice.gov/iso/opa/ag/speeches/2012/ag-speech-1203051.html>.

28. John Pilger, “The World War on Democracy,” *Global Research*, January 19, 2012, <http://www.globalresearch.ca/index.php?context=va&aid=28753>.

29. Paul Pillar, “Three Amigos’ Eager for More War,” in *Consortium News*, March 20, 2012, <http://consortiumnews.com/2012/03/20/three-amigos-eager-for-more-war/> (Mr. Pillar was a high-level, career CIA analyst before joining the faculty at Georgetown).

30. Associated Press, “Judge in Manning Case Seeks WikiLeaks Damage Assessments,” April 24, 2012, printed in the *Los Angeles Times*, among other newspapers, <http://www.latimes.com/news/local/bs-md-manning-wikileaks-20120424,735,1937361.story>.

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