Counterintelligence, Homeland Security, and Domestic Intelligence

by Gene Poteat

"Counterintelligence means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs."

– EO-12333, 4 December 1981

Introduction

The stuff of great spy novels is not about the spy, it’s about finding and catching the spy, which is counterintelligence, or more specifically, counterespionage. Interestingly, James Fenimore Cooper wrote The Spy: A Tale of the Neutral Ground (1821), the very first “great American novel,” shortly after the Revolutionary War. His novel was based on the true exploits, trials, and tribulations of Enoch Crosby, one of George Washington’s wartime counterespionage agents. The complexity of the plots in spy vs. spy thrillers tells us just how difficult, tricky, and controversial counterintelligence actually is. Sometimes it takes the smallest, seemingly insignificant detail – and even the right nose, hard work, or just plain dumb luck – to find and catch the spy.

Counterintelligence doesn’t end with uncovering and finally catching the foreign spy – or the American traitor. It ends only when there is enough hard evidence to arrest, successfully prosecute, and convict the spy – or to turn him (or her) into a double agent working against his foreign handlers. Counterintelligence in the US is, therefore, a law enforcement function and falls under the FBI’s purview, which is empowered to arrest and prosecute American citizens. All too often, however, as with other serious crimes, prosecution can prove even more difficult than finding the spy, and any number have gone free.

The FBI is not the only player in the spy vs. spy game. The military has a strong role as well. EO-12333 states also that the secretary of defense shall “conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General.”

In the broader sense, then, counterintelligence can readily be seen as just as difficult, and at times more frustrating and consequential, than conventional intelligence and espionage. Further, failing to catch the spy can be disastrous, even have war-winning consequences, under the right circumstances, as when Mikhail Gorbachev told President Ronald Reagan that had the US and the Soviet Union gone to war in 1980, the Soviets could easily have won. Gorbachev was basing his assessment on the advantage the Soviets had gained over the US – by knowing where all our ballistic missile submarines were at all times – from the US naval codes provided by the traitor John Walker, a former Navy chief, over a period of 20 years. The Walkers, Aldrich Ames, and Robert Hansen were not only spies, they were traitors. A spy is a patriot who works for his own people and nation against a foreign adversary, whereas a traitor works against his own people and nation for a foreign power.

Counterintelligence in War

Historically, Americans have always had a problem with the “dirty business” of intelligence and counterintelligence. We forget, however, that George Washington was credited, by none other than Major George Beckwith, chief of British intelligence at the end of the Revolutionary War, with having won the war by simply having outspied, rather than outfought, the British. It was Washington’s intelligence that told him when to fight, and when to avoid a fight, and it was his counterintelligence that kept British spying in check and helped him interdict Benedict Arnold’s treachery by capturing the chief British spymaster, John André. The British made a serious counterintelligence mistake that could well have altered the outcome of the
war – they never even considered turning Nathan Hale into a double agent rather than hanging him, which should always be a first consideration. By the time of the War of 1812, both intelligence and counterintelligence had been forgotten. The Civil War saw neither side with good military intelligence, which probably accounted for the heavy casualties on both sides. Alan Pinkerton, Lincoln’s early chief of intelligence and a former railroad detective, did have a good sense of counterintelligence, however, and succeeded in jailing the first effective Confederate spy, Rose O’Neal Greenhow, and then went on to keep the city of Washington virtually free of Confederate spies.

A single intelligence operation is credited with the lopsided win in the Spanish-American War when the Office of Naval Intelligence (ONI) tapped the undersea cables running into and out of Havana, enabling them to read the Spanish war planners’ mail in real time. There was little need for counterintelligence during this war except during the brief period when Lieutenant Colonel Teddy Roosevelt’s crack “Rough Riders” deployed to Tampa, Florida, heavily populated with Spanish immigrants working in the cigar factories. To keep his plans for the Cuban invasion secret, Major General William Shafter, commandant of the Cuban invasion forces, pulled off an unusual operation. Shafter employed Mabel Bean, the 16-year-old daughter of the local postmaster, to keep an eye out for any strangers circulating in the Cuban community. Mabel knew virtually everyone in Ybor City, the cigar manufacturing suburb of Tampa, spoke fluent Spanish, was well known and recognized as she bicycled and chatted with the locals. She had no trouble in keeping up with everyone and everything going on in the Cuban community and reporting back to Shafter. Mabel’s successful counterespionage forays led Shafter to invite her to the many parties he arranged for his officers waiting to invade Cuba, where she was the belle of the ball.

World War I found America intelligence and counterintelligence capabilities again completely withered away; still with no laws on the books regarding espionage; and, when pressed by the US military to get back into the intelligence business, President Woodrow Wilson suggested that, if needed, the US could get its intelligence from our allies, the British and French. Meanwhile, British and German intelligence and counterintelligence activities against each other inside the US were rampant. The British were trying to get America into the war – on their side of course – and at the same time working against German intelligence efforts to keep us out of the war. The Germans focused on recruiting ethnic German-Americans to support their sabotage program.

The British very effectively used the Bohemian National Alliance, which included over 320,000 Czech and Slovak émigrés living throughout the US, and organized under the leadership of Emanuel “Victor” Voska, all of whom spoke flawless German and hated Germany, in highly successful counterintelligence and propaganda operations against the German spies in the US. Voska had placed his agents inside virtually every German diplomatic establishment, including the German Embassy, their covert sabotage organization, and their wireless station handling German diplomatic traffic. Voska even had one of his counterintelligence men on board a German ship that contained a bomb-making factory, interned in New York harbor. On their part, the Germans unsuccessfully tried to use Indian Sikh organizations, operating out of Berkeley, California, (where else?) and seeking independence from the detested Britain, in several covert political and paramilitary operations against the British. During this time, Wilson was concerned only with the plight of poor suffering Mexican peons during a series of Mexican revolutions and had sent the US Army off to chase after the elusive Pancho Villa.

One of the greatest British intelligence operations of the war was their placing their agent, Sir William Wiseman, into the heart of the Wilson White House. Sir William would become an incredibly effective agent of influence in the White House for the British intelligence that bypassed all normal diplomatic channels.

In 1916, the Germans finally made the fatal mistake of using ethnic Irish Americans – who intensely disliked the British – to sabotage a large depot stocked with American munitions, destined for England, at the Black Tom port in New Jersey just opposite the Statue of Liberty. The massive explosion killed three men and a child and blew out every window in Jersey City, with damages estimated at $14 million, and finally forced Wilson to go into the counterintelligence business, if not into intelligence. Britain’s intelligence and counterintelligence in the US, along with the sinking of the Lusitania and Zimmerman’s Telegram, finally dragged America into the war.

Once in the war, America quickly passed the Selective Service and Espionage Act of 1917. The Act defined espionage as the unauthorized transmittal of national defense information to a foreign power or agent with intent to harm the US or to aid a foreign power. The problem for counterintelligence, however, was that there had to be two eyewitnesses and it was up to a jury to decide if there was any real intent to harm – and all
12 jurors had to agree that all four elements of the act were valid to convict and then expel an “alien.” Little wonder there were no convictions or expulsions. The law prescribed penalties for: resisting the draft; insubordination in the armed forces; opposing the production of munitions; speaking, printing, or otherwise expressing contempt for the military; using language calculated to aid the enemy; using language favoring the enemy; and hampering the sale of war bonds. The Act also gave the government broad censorship powers over the press and the right to open mail. Wilson also used the earlier Alien and Sedition Acts to require all aliens, mostly recent immigrants, to register with the government. The American radical Left, which included anarchists, socialists, communists, and the International Workers of the World (IWW), called for “unyielding opposition” to the draft and identified itself with the Bolsheviks, who had removed Russia from the war.

It fell on the Justice Department’s new Bureau of Investigation to not only enforce these laws; keep up with the aliens, the radical left, and German intelligence; but to protect the nation’s war industry with security measures. In other words, American law enforcement began to back (perhaps stumble is a better word) into the business of counterintelligence. The Bureau was quickly in over its head, and an overzealous public, gripped by one of those periodic spy-frenzies that strike this and other nations when it suits their governments, seeing German spies behind every lamppost, formed volunteer amateur spy-chasing vigilante groups. Xenophobia led to hamburger becoming Salisbury steak, sauerkraut becoming liberty cabbage, and German fried potatoes became French fries, towns with German names were renamed, local orchestras stopped playing Beethoven, the Boy Scouts burned German newspapers and books, and a mob in Illinois lynched a German-American who had opposed the war – the ugly downside of spy hysteria. One group of volunteer counterintelligence amateurs, A. M. Brigg’s American Protective League (APL), were issued tin badges and an ID card and had a quarter of a million members by the end of the war. At the attorney general’s behest, the APL carried out a series of “slacker raids” against draft dodgers by emptying and searching theaters, restaurants, train stations, and arresting any draft-age man who couldn’t produce a draft card – without finding a single German spy.

The Army found itself with only one experienced intelligence and counterintelligence officer, Major Ralph H. Van Deman, with experience in the Spanish-American War, the Philippines, in China during the Boxer Rebellion, and during the Japanese war scare of 1907-1908. Van Deman, now in the War College Division, wrote a staff study on what kind of intelligence and counterintelligence organization the Army needed, but Chief of Staff Major General Hugh Scott simply filed and forgot it. It seemed also that Van Deman had a long-standing liaison with the State Department, Voska’s espionage organization, and Sir William Wiseman. Scott would later say that military intelligence was superfluous and parrot Wilson’s view that intelligence could be provided by our British and French allies. When the paucity of American intelligence came to the attention of Sir William, he suggested to Van Deman that he speak with “Colonel” Edward M. House, Wilson’s political crony and advisor. House helped Scott see the light and Van Deman was named head of the new Military Intelligence Section (MIS), starting with two officers and two clerks. Van Deman’s British intelligence friend, Lieutenant Colonel Claude E. M. Dansey, offered considerable advice and help with a handbook on intelligence and counterintelligence, deception techniques and methods, and complete organizational details.

General John J. Pershing’s intelligence chief, Colonel Dennis E. Nolan, seized the intelligence lead in Europe, forcing Van Deman to concentrate on counterintelligence and security in the Western Hemisphere. He formed MI-4G to deal with civilian subversion, and MI-10 to monitor and censor the mail, telephones, radio communications, books, newspapers, and motion pictures. Van Deman’s was, therefore, the first true American counterintelligence organization. G-2 was finally separated from the War College Division and made a separate General Staff division, with a general officer placed in charge, and Van Deman assigned to Pershing’s American Expeditionary Force headquarters in Europe in an uncertain job. Van Deman did eventually retire as a major general – having placed intelligence and counterintelligence on an equal footing with other staff functions.

ONI had a good head start in intelligence and counterintelligence, with a successful track record around the world. The Navy, apparently, as did the Army, set up separate intelligence operations in Europe to support the war. Admiral William S. Sims, who had run exceptionally effective intelligence operations in Europe during the Spanish-American War as a lieutenant in ONI, was now assigned to London, leaving ONI headquarters in charge of counterintelligence – and security at naval installations – in the Western Hemisphere. The Navy, with a history of
successful intelligence operations and its Ivy League heritage, would, however, exhibit the same excessive zeal in counterintelligence during World War I, as did the Army. Their zeal would lead a naval officer to fire his “German-looking” housekeeper. Ethnicity, all too often the key to foreign intelligence penetrations in America, would always be a counterintelligence problem.

With the abdication of the Russian Czar on March 15, 1917, Sir William Wiseman’s influence over Wilson was the means by which Britain secured American support in a failed effort to counter the German intelligence campaign to have the revolutionary Kerensky Government in Russia get out of the war against Germany. They succeeded with Kerensky, but failed with the Bolsheviks and Lenin. More interestingly, and after the failure to counter this German campaign, Sir William’s intelligence back channel appears to have been the means by which Britain drew America into its scheme for an armed intervention in Russia from 1918 to 1920 – a move that America would come to regret and Russia would never forget. This debacle could have been avoided if America had better intelligence – and counterintelligence – in respect to what was really going on in Russia.

By the end of World War I, the Army emerged with the world’s greatest codebreakers, William Friedman and Herbert Yardley, a well-oiled and functioning G-2 organization that included a counterintelligence staff headed by Major Aristides Moreno. ONI would be the primary source for intelligence on Japan’s moves, motives, and intentions from the beginning of the century to Pearl Harbor and beyond.

The inter-war period would see the rise of American military intelligence, especially its codebreaking expertise, to its zenith and in time to save the day in World War II, notably at the Battle of Midway. It would also see one of the greatest days in the annals of counterintelligence when the FBI arrested virtually every German spy and saboteur in the United States days before Hitler declared war on the US. On December 6, 1941, the FBI, after having penetrated a 33-member Nazi espionage ring with their double agent, Wilhelm Sebold, a loyal German-American, arrested and jailed Hitler’s hope for espionage in America during the war. President Franklin Roosevelt had earlier placed the FBI in charge of all counterintelligence and foreign intelligence in the Western Hemisphere, and ONI and MID assigned to cover the rest of the world. The FBI had equal success in Mexico, Central, and South America, where the Germans had hopes of drawing on the large and powerful business and industrial community of German émigrés – albeit with help from the Rockefellers and Pan American Airways, both with competing business interests in the region. The British would also arrange for another of their agents-in-place in America, William Stephenson, the self-anointed “Intrepid,” to step into the shoes of Sir William Wiseman, and Roosevelt would agree to his assignment as Secret Intelligence Service (SIS, MI-6) counterintelligence liaison to the FBI during the war.

Enter the Red Menace

The rise of anarchy that spilled out of the 1917 Bolshevik coup quickly found its way to this country with the Communists taking advantage of the depression and unrest in the aftermath of World War I to spread their version of utopia by violent revolution. The engine driving the Communists’ moves to expand their reach was their intelligence services, the Soviet General Staff Main Intelligence Directorate (GRU) and the NKVD. They created and supported labor unrest, riots, the formation of the Civil Liberties Union, and established a spy network that would infiltrate the highest levels of government. Although the FBI well knew what was underway, Roosevelt and his left-leaning New Deal social experimenters didn’t want to see or hear of any evil about the Soviet Union, so their hands were tied. Further, in 1937, Secretary of State Sumner Wells dissolved the East European Affairs Division, the only effective intelligence group keeping an eye on Russia. State Department officials let it be known that the order to stop “spying” on Russia came directly from the White House. Secretary of State Henry L. Stimson will always be remembered for his 1929 closing of Herbert Yardley’s Black Chamber code breaking operation and his statement that “Gentlemen do not read each other’s mail.” Shortly after Roosevelt came into office, the Communications Act of 1934 was passed, which did not fix the Radio Act of 1927, which made it illegal to intercept any foreign diplomatic traffic, including that of an enemy. Fortunately, the Army and Navy ignored the law and quietly proceeded to hone their codebreaking skills.

The FBI got its first break, and insights, into the massive Soviet espionage campaign against the US with Whittaker Chambers’ 1938 defection, although there was little that was done about it during the Roosevelt era. The FBI was, after that, neither blind nor...
that McCarthy’s basic premise was correct. Sages, released in the 1990s, however, would prove Venona files of decrypted Soviet intelligence messages legitimate anti-Communism a severe blow. The establishing another public spy hysteria – thereby dealing legitimate anti-Communism a severe blow. The expanded and distorted it with sweeping accusations that exceeded all bounds of credibility by including established patriots (e.g. General George Marshall), creating another public spy hysteria – thereby dealing legitimate anti-Communism a severe blow. The VENONA files of decrypted Soviet intelligence messages, released in the 1990s, however, would prove that McCarthy’s basic premise was correct.

McCarthyism in the 1950s, however, was a setback for counterintelligence. Senator Joseph McCarthy took a basically correct premise, the extraordinary degree to which the government, media, and entertainment industry harbored Soviet apologists, “fellow travelers,” communists, and outright spies, but then expanded and distorted it with sweeping accusations that exceeded all bounds of credibility by including established patriots (e.g. General George Marshall), creating another public spy hysteria – thereby dealing legitimate anti-Communism a severe blow. The VENONA files of decrypted Soviet intelligence messages, released in the 1990s, however, would prove that McCarthy’s basic premise was correct.

US counterintelligence during the Cold War was a series of disastrous failures and incredible successes. These failures and successes tell the true story of counterintelligence. More importantly, they clearly reveal what is required to maintain a healthy, effective, and lawful – and acceptable, accountable, and appreciated – American counterintelligence system. A few selected examples:

- William Weisband was a Soviet agent inside the Army’s codebreaking operation in Arlington Hall during World War II. He tipped off the Soviets that their codes were being read. The failure to catch Weisband in time, and the resulting sudden change in Soviet codes contributed to US “blindness” on Chinese preparations to enter the Korean War.
- Operation SOLO: Morris and Eva Childs were FBI assets, with close connections at the highest levels in the Kremlin, providing the FBI with intelligence from the late 1950s onward. In 1987, President Reagan bestowed the National Security Medal for their lifetime work.
- CIA counterintelligence officer Aldrich Ames provided the Soviets the names of all CIA agents in the Soviet Union, resulting in their arrest and execution.
- Navy Petty Officer John Walker, and the ring of family and friends he recruited, provided the Soviets with critical Naval codes over a 20-year period, which had war-winning potential.
- Cuban intelligence infiltrated CIA intelligence agents throughout the Cuban community in Florida.
- In the 1970s, more than 200 Line X Soviet KGB officers worldwide targeted and stole US and Western technologies to support Soviet military developments and industries.

3. Soviet intelligence officer Arnold Deutsch recruited the Cambridge Five from Cambridge University, England. They were Kim Philby, Donald McLean, Guy Burgess, Anthony Blunt, and John Cairncross.

The Cold War

Inside the Soviet Union and Communist China, counterintelligence was more important than foreign intelligence. Their dictatorial leaderships came to power in coups, killing off their domestic rivals, and survived by keeping their own population under tight control – foreign intelligence, therefore, being of secondary importance. In other words, these regimes were counterintelligence states, where their own people were considered as much an enemy as foreign adversaries, and where the “means justified the end.” In the US, intelligence and counterintelligence institutions and operations must operate more carefully, under the rule of law, and would never survive if using such means against the US citizenry in violation of the Constitution.

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- In the 1970s, more than 200 Line X Soviet KGB officers worldwide targeted and stole US and Western technologies to support Soviet military developments and industries.
• **Jonathan Pollard**, a Naval intelligence analyst and Israeli agent, provided Israel with thousands of US secrets.

• **Robert Hanssen**, an FBI counterintelligence officer, armed with a license to probe into virtually every US secret, provided the Soviets with virtually every US secret and counterintelligence operation underway.

### The Post Cold War Environment

In the present global economy, economic competition has been increasingly important in relation to military confrontations in world affairs. America’s intellectual property, industrial and trade secrets are not only the basis of our strong economy and military, but also our economic competitiveness – and not only the loss of it through economic espionage by foreign governments poses a serious threat to the future of our nation. Economic espionage is a relatively-low risk enterprise with extremely high payoff – with little consequences even when caught at it. The technologically advanced strong US economy is a priority target for our competitors, and the present economic espionage feeding frenzy taking place is now being carried out by both friend and foe alike, for both economic and defense reasons. This economic espionage is an entirely new challenge for counterintelligence and led to the passing of the Economic Intelligence Act of 1996. There is, nonetheless, a widely held perception that the end of the Cold War means that, other than a few scattered terrorism and drug problems, we no longer face a serious foreign threat to our national security, and that these past threats have turned into nothing more than normal economic competition, or business as usual. The Economic Intelligence Act of 1996 thus far has failed to have much impact.⁴

### The War on Terrorism

By any measure, the terrorist attacks of September 11, 2001 are rightly viewed as a counterintelligence failure, with the brunt of the criticism being leveled at the FBI, the legally-constituted counterintelligence service. The reasons for the FBI’s failures are clear. The FBI is a law enforcement agency, i.e., solving crimes after they have been committed, and not crime prevention, which is more of an intelligence and counterintelligence function requiring intelligence sources and methods. The FBI, therefore, had been preoccupied with obtaining post-crime evidence that could lead to an arrest, conviction, and prosecution before a jury in a court of law. Although the FBI was also primarily responsible for counterintelligence, their history in crime solving, along with legal constraints imposed against their collecting “preemptive” intelligence, i.e., collecting intelligence and information necessary, in advance, to prevent a crime – or terrorist attack – had left them culturally ill-equipped for this new threat environment.

In the immediate post-9/11 years, the questions were, “Is the FBI really be up to the job?” and “Can any counterintelligence agency, including the new Department of Homeland Security and other intelligence agencies, empowered by the Patriot Act, but hindered by those more concerned with civil liberties, be able to protect America from the certain terrorists acts surely to come?” Certainly military counterintelligence, which has historically been preoccupied with criminal investigations rather than real counterintelligence, and has failed to prevent the loss of the very weapons and technology that give our military its advantage, and now committed to tactical counterintelligence in the war zones, is inconsequential when it comes to counterterrorism and homeland defense.

These questions, along with the failures with respect to 9/11, and the Wen Ho Lee and Robert Hanssen cases, led many to call for the creation of a new US domestic intelligence agency modeled on the British domestic intelligence agency, MI-5. Britain’s Security Service Act of 1989 and 1996 read:

> “The function of MI-5 shall be the protection of national security and, in particular, its protection against threats from espionage, terrorism and sabotage, from the activities of agents of foreign powers and from action intended to overthrow or undermine parliamentary democracy by political, industrial or violent means. ... and to safeguard the economic well-being of the UK against threats posed by the actions or intentions of persons outside the UK ... and to support the activities of police forces and other law enforcement agencies in the prevention and detection of serious crime....”

MI-5 has no executive powers, such as the authority to investigate individuals or organizations unless they fall within its statutory remit, nor can it arrest people. But Congress was doubtful that the American public would stand for MI-5’s means and methods, things that would never be permitted here. Their deadly effectiveness is what led Parliament to

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⁴ Congress requires an annual report from the National Counterintelligence Executive on economic espionage by foreign countries. See http://www.ncix.gov/publications/reports/index.php.
give MI-5 the lead role over the military in countering the IRA in Northern Ireland. MI-5, for example, has access to all encryption codes used in Britain, and keys to virtually every house and apartment (flat). It is interesting to compare this authority with the far more limited allowances given the National Security Agency as has come to light in the aftermath of the leaks from defector Edward Snowden.

The Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004, which substantively changed the organization and management of the US Intelligence Community (IC), did not include provision for a new domestic counterintelligence agency. In the years since, the FBI has undergone a significant mission and cultural transformation. “Today’s FBI is a threat-focused, intelligence-driven organization,” then Director James B. Comey told Congress. “Counterterrorism remains our top priority.”

In the final analysis, counterintelligence must strive to know everything possible about an adversary’s intelligence capabilities, including his sources and methods of collection, his covert actions, including terrorism, attempts at influencing and managing our actions and perceptions, and even his culture and thought processes. In other words, it must collect preemptive intelligence if it is to prevent the crime of terrorist attacks.

Counterintelligence is ultimately about protecting our core democratic values. It has done reasonably well so far, and is still improving. To be effective in the near-term, it will require continued coordination within the IC, continued funding and, especially, support from the American people. Counterintelligence cannot, however, no matter how effectively organized, coordinated, and implemented, completely eliminate terrorists bent on suicide attacks. The long-term solution will require our understanding the root causes of the hatred behind the suicidal attacks, and our attacking and correcting the basic problems and frustrations, perceived and real, behind this hatred of America and the West. And that may prove to be our mission impossible.

Readings for Instructors

The following is a selected list of informative readings useful for instructors:


The National Counterintelligence Executive has on its website a CI Reader in three volumes at http://www.ncix.gov/publications/ci_references/index.php. Although spotty in places, it nonetheless is one of the more extensive histories of US counterintelligence.

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