

Intelligence Ethics and Communication: An Uncompleted Project*

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The International Studies Association (ISA) helped to develop a very slowly emerging sub-field called intelligence ethics. Its Intelligence Studies Section has been a venue for many efforts to develop literature on ethics for spies. For one example, we hosted three panels with 18 papers on that topic in 2007, contributing to a reader on intelligence ethics that was used by the Central Intelligence Agency (CIA) and Defense Intelligence Agency (DIA) for a while. Dr. Jan Goldman of the Northern Illinois University (NIU), Federal Bureau of Investigation (FBI), and other positions, also presented papers at ISA, and edited the “Scarecrow Professional Intelligence Education Series” that published 13 books, three focused on ethics for intelligence professionals. He started an international ethics association and a peer-reviewed journal.¹ However, this worthy effort to professionalize intelligence education with an ethical dimension was and remains greatly slowed by something Dr. Goldman labeled “ethics phobia” among the bureaucracies. The association is now dormant and the journal’s last print edition was in 2013. Senior executive Brian Snow also tried at National Security Agency (NSA), where a team of colleagues created a model code of ethics for collectors that did not gain traction for similar reasons. Individual and institutional concerns result in a “fear” of ethics among many three-letter United States Intelligence Community (US-IC) agencies.² What agencies fear, practitioners avoid because children need feeding and pensions have meaning. Many definitions of a “profession” require a professional code of ethics to guide their craft, as doctors developed their “Hippocratic Oath”, and attorneys developed their “Model Code of Professional Conduct” for lawyers. It is time “professional” spies did so also. Some comparisons with non-Western countries will conclude that this is a problem only for societies that already embrace concepts, like “rule of law” and “individual liberties”. No one expects the spies of brutal, police state dictators to eschew deception, betrayal, propaganda, torture, or even killing of critics in service to the power of their immoral leaders.

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¹ The International Intelligence Ethics Association, at: <http://intelligence-ethics.blogspot.com/p/international-intelligence-ethics.html>; the International Journal of Intelligence Ethics, at: <http://journals.fcla.edu/ijie/issue/archive>.

² How ethical issues are handled by non-American intelligence agencies would be a worthy subject for some enterprising Ph.D. student with no interest in actually working in espionage since they would be considered radioactive by most bureaucracies. Therefore, we will confine ourselves here mainly to the American situation. But one reference begs to be mentioned. “Rise and Kill First” is a superb discussion by a top-tier Israeli journalist (Ronen Bergman) of “targeted killings” (a.k.a. assassinations) by Israel’s MOSSAD which already had an exceptional reputation in that area of tradecraft. On the one hand, they break innumerable laws to kill their many targets. On the other hand, they undoubtedly maintain a certain code of conduct and an internal sense of the morality of their missions. This is not the same as normal law, or normal concepts of morality, but it is a moral code created by actual practitioners. I will also affirm that this is a code familiar to many killers elsewhere confronting mortal foes.

Introduction

Practitioners of espionage are well aware of the bromide that spying is the world's "second oldest profession", and scholars can cite many passages in the Bible that refer to spies or a whole chapter of Sun Tzu's (1963) incomparable "Art of War" on "Employment of Secret Agents" written in about 400 BCE. Thucydides also wrote about spies then, so they have been with us for a long time. But "ethics for spies" is a rarity. Most people think of espionage as an ethics-free zone, and that ethics for spies is an ultimate oxymoron. It is easy to understand why. Sustained and persuasive lying is at the heart of effective espionage, and stealing secrets is their main stock in trade. Deception and betrayal are pervasive, killing less so but most train for that to some degree. Some specialize in killing (Bergman, 2018). Perennial hot topics like torture and targeted killing dominate the attention of media, and occupied much of the commentary at rare intelligence ethics conferences from 2006-2011. Many intelligence professionals who have tried to develop ethical guidelines for this very unusual business have been driven by consciences unfulfilled, but they typically run into considerable skepticism from colleagues, and even stronger institutional barriers.

Coleen Rowley wrote very specifically about that in her chapter for the 2007 Intelligence Ethics reader cited at the top. She made the cover of *Time Magazine* as a person of the year in 2002 for a relatively mild leak of a memo she prepared for her FBI Director (Robert Mueller) concerning mistakes made prior to 9/11. Having become a publicly recognized whistleblower, Rowley then experienced what happens to such idealists even after a 25-year career as an FBI attorney. Anger from some colleagues was extreme, and she learned many varieties of bureaucratic retaliation.

Among other observations, Rowley later wrote that

Becoming sensitized to universal ethical principles, especially the need for truth and clarifying what one's highest loyalty should be, can actually lead to greater (not less) moral dilemma if there is no constructive outlet for practicing and adhering to the ethics code. The sad reality is therefore that development of an ethics code for intelligence professionals, coupled with institution of an effective training program and model compliance system are only first steps. Without affording actual mechanisms for surfacing and addressing waste, fraud, abuse and problems, and also providing job protection for those whom the code and training have inspired to do the right thing, any progress gained from these first steps will prove mostly illusory.³

In fewer words, if you encourage young intelligence professionals to be ethical, but do not protect them when they try to be, they may be punished, and you will teach everyone else that genuine ethics can be suicidal for their careers.

Whistleblowers

In the United States, all educated people are familiar with Daniel Ellsberg who achieved fame by sharing thousands of pages of top-secret documents with the *New York Times* and *Washington Post* that came to be called the "Pentagon Papers" in 1971. These showed that then Secretary of Defense Robert McNamara's Pentagon knew for many years that they could not win the war in Vietnam, while a series of Presidents (and McNamara himself) lied to the American public about alleged progress in that war. Very few people are aware of dozens of other military and intelligence veterans who have risked their careers and often their freedom

³ Rowley notes elsewhere that intelligence professionals are specifically exempted from Federal whistleblower protection laws in the United States. Truly ethical spies appear to be punished more often than protected by their agencies or countries, especially if they "go public".

making public allegations of other wildly expensive and painful failures like the 2003 invasion of Iraq under false pretenses, and the mid-1980's affair commonly called "Iran-Contra".

What matters is the bond that unites them, rather than long lists of names each with powerful stories attached. You can find such lists and stories in books, like *Breaking Ranks* (Everett, 1989) and *Dissent: Voices of Conscience* (Wright, 2008). Whistleblowers in the USA have typically chosen to honor their oaths to the US Constitution over their contracts with various agencies or branches of the military to keep all secrets they were trusted with. All continued to protect sources, most methods, and many national security secrets, but they chose to reveal criminal activities and gross wrongdoing by policy-makers who had lied to the American public about matters of life, death, and constitutionally protected liberties. As FBI attorney Rowley noted, everyone else in the federal government has some protection from retaliations related to revealing waste, fraud, abuse, and "problems" except military and intelligence personnel who are specifically exempted from US whistleblower protection. This serves as an indicator of whether our government will ever take ethics seriously. If and when it does, it must protect patriotic IC whistleblowers who reveal grave problems for the public good. Today, it punishes them, some quite severely. Police states often kill their whistleblowers, so there is some progress among the democracies. But it is not enough, and today, freedom is in retreat across the world as authoritarian politics surges in China, Russia, Eastern Europe, Turkey, the Philippines, Venezuela, and elsewhere.

Both of those books were written before scandals at the National Security Agency were revealed by Edward Snowden and the far less famous Thomas Drake, Edward Binney and Russ Tice who revealed that the US government was routinely monitoring most electronic communications of US citizens in vast computer searches for intelligence after the events called 9/11. And those people were preceded by people, like Bradley (now Chelsea) Manning, who served seven years at Leavenworth prison for telling our public some unpleasant truths about our invasion of Iraq.⁴

The Problem of Legalism and Attempts to Equate "Ethics" With "Law"

One of the many problems facing actual spies who truly want to develop a professional ethos of some kind is the prevalence of attorneys in the bureaucracies. This may seem counterintuitive unless you know attorneys, who with best of intentions tend to reduce "ethics" to "what is legal". Deeper thinkers know that everything the Nazi's did in Germany was "legal"—they were careful to change the laws to suit their evil plans. But few would consider that worst-case example to be "ethical". Latin America is also familiar with a bromide "ethics begins where the law ends". This is one consequence of their intimate experience with police states during the "dirty wars" of the Southern cone and Central America, and what happened when Brazil adopted the military state model complete with routine torture and murders of innocents with impunity (Stockwell, 1990, pp.

⁴Manning was originally sentenced to 35 years for revealing things like "Collateral Murder" which was an Apache helicopter video that recorded the murders of about a dozen unarmed Iraqis including two Reuter's reporters. Thomas Drake got a 60 minutes episode in 2013 dedicated to his story of abuse by the Justice Department, "US vs. Whistleblower Thomas Drake" at <https://www.cbsnews.com/video/u-s-v-whistleblower-tom-drake/>, and Edward Snowden had an Academy Award winning documentary made about his revelations in 2014, called Citizen Four, at <https://citizenfourfilm.com/>. But Drake's career and finances were still destroyed by four years of threatened prosecution under the Espionage Act, and Snowden now lives in exile in Russia where he was trapped by a bizarre US government effort to capture him in transit from Hong Kong to Latin America. Snowden is among the most eloquent in his defense of the US Constitution, and has often offered to return to defend his views if the US government would let him without immediately putting him in prison for telling the public his truth. Most whistleblowers who are not in jail now live quiet lives in obscurity, but there is an association of US national security whistleblowers at <https://www.nswbc.org/>, and Wikipedia lists hundreds, many from other countries at https://en.wikipedia.org/wiki/List_of_whistleblowers.

25-33).⁵

In 1949, the USA signed the Geneva Convention relative to the Treatment of Prisoners of War, which entered into force on October 21, 1950. This did not prevent the US from torturing many prisoners of war in Vietnam, and suspect civilians, then murdering many of them after extracting lists of other alleged Viet Cong sympathizers for torture and murder on later days. Bill Colby (1978) estimated that 20,000 people were killed in this way in his book *Honorable Men: My Life in the CIA* and the Vietnamese estimated that 40,000 people were killed that way during “Operation Phoenix”.⁶ This sets some lower and upper estimates of the scale of this particular war crime.

We lost that war, partly due to our stubborn barbarism, largely due to our inability to recognize that the Vietnamese were the ones who were actually fighting for freedom (theirs) not us. The CIA created “Kubark” its first known torture manual there (CIA, 1963/2015). That lay dormant, mostly, while the UN worked on better legal instruments to restrain the barbarism of states, eventually resulting in the UN Convention on Torture, which the US signed on April 18, 1988 and ratified on October 21, 1994. This still did not prevent the CIA from updating Vietnam era documents to produce “Psychological Operations in Guerilla Warfare” which advocated torture, propaganda and targeted killings during our “secret” war against Nicaragua in 1985.⁷ The US Army used similar “enhanced interrogation” methods in the egregious torture scandals at Abu Ghraib prison in Iraq in 2003. Every step of this progression was accompanied by lawyers trying to prove that torture was legal regardless of what international treaties or even US national law said (Strasser, 2004). This very common phenomenon, where truly honorable people with truly good intentions slide down slippery slopes into depraved behaviors that violate both national and international laws is a core problem that any genuine effort to develop ethics for intelligence professionals must deal with.

The Problem (and Promise?) of Psychopaths

One of the many exceptional problems that any true code of “ethics for spies” must face is the concentration of psychopaths in intelligence systems. Therefore, one must face directly why psychopaths are attracted to espionage, why they sometimes make better spies, and thus, why some agencies actually look for psychopaths “who can be controlled” to staff harsher units.⁸

So, grossly simplifying a complex topic, one must begin by recognizing that not all psychopaths are serial

⁵ Dan Mitrione was the chief of police in Indianapolis when he was asked by the CIA to teach torture techniques in Latin America in 1960. Mitrione spent seven years in Brazil, then three years in Uruguay, “until he was picked up by the people he was persecuting, assassinated, and then brought back to the United States”. This quote comes from page 30 of CIA veteran John Stockwell’s essay in *Secret Democracy: Civil Liberties vs. The National Security State*, edited by Gary McCuen, and published by GEM publications of Hudson, Wisconsin, in 1990, pp. 25-33.

⁶ *The Fog of War* is a documentary directed by Errol Morris about Robert McNamara and his decision processes that won the 2003 Academy Award for best documentary including much testimony from McNamara including the alleged 40,000 killed in Operation Phoenix statistic, at <http://www.imdb.com/title/tt0317910/>.

⁷ *Psychological Operations in Guerilla Warfare* is especially relevant to this discussion because it explicitly advocates both targeted killings and torture as well as systemic propaganda, or “psychological operations”. The CIA released an approved, redacted, or in their own words “sanitized” version in 2010, available at <https://www.cia.gov/library/readingroom/docs/CIA-RDP86M00886R001300010029-9.pdf>. We would strongly recommend reading JoAnne Omang and AryehNeier’s version first, however, since it is not “sanitized” and is arguably therefore more accurate. *Psychological Operations in Guerilla Warfare* was published openly by Vintage Books in 1985, and Omang’s “A Historical Background to the CIA’s Nicaragua Manual” covers pages 1-30.

⁸ A retired CIA psychologist first told me decades ago that they look for certain kinds of psychopaths “because they make better spies...if they can be controlled”. Since then I have received several confirmations about this, but good luck getting any actual data out of their psychometric office. The biggest problem is of course control.

killers, and that many have *some* conscience despite the truth that lack thereof is the primary diagnostic feature of “psychopathy” as clinically defined. Rather, there is a spectrum of psychopathy, characterized by lack of conscience, high intelligence, extreme focus, sophisticated abilities to lie and deceive long-term in hostile environments, predatory behavior, and high abilities to manipulate and use other people without apparent remorse (Dutton, 2012). Intelligence agencies try to teach otherwise normal people to do exactly those things in the field. That is difficult, but not impossible. In fact, the classic experiments of Stanley Milgram (1974) and the experience of many police states have shown that thousands of otherwise normal people can be induced to commit horrible acts against fellow citizens if they are sufficiently obedient and “patriotic”.

Born psychopaths lie like others breathe, and can pass “lie detector” tests much more easily than born normal people, partly because they have been deceiving the world their entire lives to avoid punishments. If you intend to use and abuse other people as mere instruments to accomplish some mission, lack of conscience or remorse can be helpful. Finally, if targeted killing is your mission, most people would prefer a psychopath or three on their team to absolute pacifists.

There are times in the fate of nations when killing one particular bad actor is considered better than going to war with an entire country, for one example. So, having some psychopaths on your staff is an option that many intelligence agencies have chosen.

If they can be controlled in the field, which is almost laughably difficult since true psychopaths are “in the field” much of their lives, and routinely abandon the pretense of compliance once out of sight of authorities. Fortunately, most high-functioning psychopaths retain some sense of conscience and some code of honor internally, even though that code may seem quite strange to polite society. This is critical, because the only thing that restrains such men (and a smaller frequency of women) in the field is their own sense of honor, duty and mission, which must be strengthened if a government wants to use them without suffering severe blowback effects.

A metaphor may be useful. Consider psychopaths to be like Uranium 235 surrounded by much larger quantities of safer Uranium 238. The former, when concentrated, can produce nuclear explosions. The latter is normally inert, and much less radioactive. An intelligence agency may wittingly or unwittingly concentrate psychopaths far beyond their ~1% natural frequency to 6% or higher (Lobaszewski, 1984/2006).⁹ This makes bigger explosions easier, but also makes the organization unstable. A team, or a country, full of psychopaths would tear itself apart. They are, after all, fundamentally predatory and produce little of value themselves, preferring to steal or extort it from the relatively docile sheep of polite society. But, if you are faced with lethal enemies animated by their own psychopaths, it is better to have some wolves on your team than only those who obey rules.

The Problem of Immoral Political Leaders

Even in advanced, theoretically enlightened democracies, one must face the dilemma of immoral leaders. You could have a “perfect” code of ethics for intelligence professionals, complete with sophisticated training and accountability mechanisms, and one emerging dictator could upset all that good work by hiring Genghis Khan to command his/her intelligence system. Without strong institutional protections, in a remarkably short time, gentle moralists can be purged from the analytic and collection parts of intelligence communities,

⁹ Since spy agencies to my knowledge simply do not share their data on this (while forcing every career employee to endure days of psychometric testing, often supplemented by polygraph tests) the best work I can cite on this is Lobaszewski, 1984/2006.

oversight legislators terrified, and journalists who look behind the veils of secrecy imprisoned or worse. It has happened many times in many dictatorships, and you can watch the process in real time today in countries like Russia, Venezuela, Turkey, and Iran. All of those countries are, in theory, still democracies.

How much harsher is the dilemma for spies in the darkest of police states like North Korea? During his consolidations of power, the current “dear leader” of North Korea, Kim Jong-un, had his uncle Jang Song-thaek killed for being too close to China, his step brother Kim Jong-nam killed for similar reasons in Malaysia, with VX nerve agent administered by assets of his secret police, and two other top officials killed by a large caliber anti-aircraft weapon in a public arena where others could witness the penalty for falling asleep during a meeting (Lee & Kim, 2016). Today, North Korea maintains the largest concentration camps on earth for housing not just dissidents, but three generations of their relatives, so that everyone knows how cruel that police state can be.¹⁰ Every one of these actions and institutions are controlled or guided by intelligence personnel.

Russia’s Vladimir Putin had a wayward KGB defector, Alexander Litvinenko killed by the very sophisticated and painful polonium 210 method in London in November, 2006. A Bulgarian dissident named Georgi Markov was killed in 1978 by ricin poison administered by an umbrella—wielding agent of the Bulgarian secret police, allegedly with help from the KGB. In the dark world of targeted killings, how one dies is easier to determine than the exact hand that killed, much less the hand that employs, trains and equips the killers. Dark forces probably allied with Putin murdered his main political rival in 2015, Boris Nemtsov, by ordinary bullets on a bridge outside the Kremlin (BBCNews, 2015). They also assassinated an investigative journalist, Anna Politkovskaya, by first poisoning her (that failed) then cornering her in an elevator and filling her with bullets on October 7, 2006. These are just a few of the more publically known highlights of a much broader campaign of Mafia politics in Russia today (Erickson, 2018). As the author writes, Scotland Yard is investigating the attempted murder of another Russian expatriate (Sergei Skripal) and his daughter Yulia by another exotic nerve agent developed for military use in the 1970’s.¹¹

So, intelligence professionals in countries like those find it that much harder to exercise whatever conscience they can retain in the very harsh and toxic environments where even spies are spied on, and sometimes tortured and killed in gruesome ways. The dilemma of immoral leaders is less in functional democracies but it never disappears, because immoral leadership is as common as dirt in high politics, and there are always advocates for torture. There is no magic formula for preserving democracies from the slow erosions of corruption and the quick ambitions of eager politicians. The primary antidote is truly functional consciences among the security services, the judiciary, and the media, without which tidal forces tend to grind down the idealists one by one. Working in secret systems makes the spies more vulnerable to silencing in paradoxical ways.

Lord Acton, more famous for another quote, wrote this about secret systems. “Everything secret degenerates, even the administration of justice; nothing is safe that does not show how it can bear discussion and publicity” (Gasquet, 1906). So, ethics for spies is triple important, because they live in secrecy.

¹⁰ See “Life in a North Korean Prison Camp” on 60 Minutes, May 17, 2013, or “Ex-guard at North Korean concentration camp reveals horrific treatment of prisoners with some beheaded and babies buried alive”, Chris Kitching, The Mirror, UK, April 30, 2017, accessible at: <https://www.mirror.co.uk/news/world-news/ex-guard-north-korean-concentration-10328731>.

¹¹ Russia ratified the UN Convention on Chemical Weapons on December 5, 1997 and agreed to destroy all their stockpiles along with the United States. These were certified 100% gone in September 2017, which highlights one limit to international treaties. At another level, developing a new class of nerve agents (labeled Novichok) tailored to evade detection would have required sustained effort by many “secret scientists” employed by secret agencies to do evil. Assumed exemptions from ethics for spies trickle down to contaminate scientists and many others.

Efforts Elsewhere and Conclusions

The author hammered away at hypocrisies and false starts at the CIA and other US intelligence agencies like they were the center of evil on earth. But the author can only do that because so many of our agents have gone public with their stories and often deep ethical concerns. Have no doubt that most American secret agents have some conscience and intend to do noble things, like protect their communities from lethal dangers of terrorism, nuclear annihilation and such. But they work in toxic environments against problems that can easily corrode souls, so they need our help.

Other countries have whistleblowers also, like Mordechai Vanunu of Israel who revealed their nuclear weapons program at great cost to himself, and Katherine Gunn of Great Britain who revealed GCHQ's (Government Communications Headquarters) collusion in selling the 2003 war in Iraq to naive publics based on false evidence. Vanunu had fled to London to reveal his story to the London Times (along with many pictures) about the Dimona weapons project. Ironically, he was then seduced to go to Rome by a Mossad honey trap, kidnapped there, and taken to Israel where he was sentenced to 18 years in prison, many in solitary confinement where mental illness blossomed. Gunn suffered lesser punishments befitting a British patriot, but still, she suffered greatly for telling her fellow citizens what their own "democratic" government was doing with their money and intelligence systems.

Note, however, that each of these stories occurred in relatively advanced democracies with relatively strong civil societies and institutions dedicated to protecting human rights and liberty. How many good people have been assassinated by the various *mukhabarat* of Islamic nations? We cannot know, because they do not have anything like the traditions of human rights, rule of law, and free press essential to uncover such crimes. How many dissidents and human rights activists have been murdered in China since 1950? How many in Tibet alone? We cannot know, except that they must be many thousands. Millions died during the "Cultural Revolution" alone, most by famine we are told, but certainly many thousands by single bullets to the brain. This is still embarrassing enough that China did not even allow its Nobel Peace Prize recipient (Liu Xiaobo) to obtain his prize in Norway, insisting rather that he die in jail alone. They have quite different legal systems, where human rights mean very little compared with the collective "rights" of state power. But still, this embarrasses the leadership, so it is not talked about to this day.

As pathetic as legal oversight is in America, at least some exists. There are oversight committees in both the House and Senate, and there have been a few major investigations of malfeasance in America's intelligence community, like the Church and Pike Committees in the mid-1970 and the Iran-Contra investigation of the mid-1980. After decades of agitation from inside and out, the Office of the Director of National Intelligence eventually allowed creation of some "Core Values" in 2014. These are remarkably simple compared to other ethics codes: "Mission, Truth, Lawfulness, Integrity, Stewardship, Excellence and Diversity". But all great things start small, and at least, these are universal virtues. We hope that readers appreciate better from this little essay how difficult the path to real ethics for actual spies truly is.

Remember how brutal our adversaries are, and therefore, how strained their codes of ethics must be. We have heard 1,000 times the cry, "Why tie our hands when our enemies are free to torture and murder and sow black propaganda without any inhibitions?" Why? Because the strategic challenge of our time is between civilization and barbarism. If you do not aspire to a better code, one's combat simply makes one more barbaric. A last word on this shall come from one of our many intelligence adversaries, the current President of Russia,

Vladimir Putin, who often has political opponents and nosy reporters killed, but always denies everything. On March 6, 2018, Marc Bennetts of *The Guardian, UK* wrote from Moscow about the attempted murder of Sergei and Yulia Skripal, “Speaking in 2010, Putin, a former KGB officer, said ‘traitors always end badly’. ‘Secret services live by their own laws and these laws are very well known to anyone who works for a secret service’, he said” (Bennetts, 2018). Those are secret laws for secret societies that degenerate into police states. We must learn how to defeat them without becoming our enemy.

That is why a professional ethos for spies is important to advanced democracies, and our earth. It is a *very* uncompleted project, but it is important nonetheless.

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