THE DEVELOPMENT OF U.S. INTELLIGENCE

Each nation practices intelligence in ways that are specific—if not peculiar—to that nation alone. This is true even among countries that have a common heritage and share a great deal of their intelligence, such as Australia, Britain, Canada, New Zealand, and the United States—the group known as the **Five Eyes**. A better understanding of how and why the United States practices intelligence is important because the U.S. intelligence system remains the largest and most influential in the world—as model, rival, or target. (The practices of several foreign intelligence services are discussed in chap. 15.) Therefore, this chapter discusses the major themes and historical events that shaped the development of U.S. intelligence and helped determine how it continues to function.

The phrase "intelligence community" is used throughout the book as well as in most other discussions of U.S. intelligence. The word "community" is particularly apt in describing U.S. intelligence. The community is made up of agencies and offices whose work is often related and sometimes combined, but they serve different needs or different policy makers and work under various lines of authority and control. The intelligence community grew out of a set of evolving demands and without a master plan. It is highly functional and yet sometimes dysfunctional. One director of central intelligence (DCI), Richard Helms (1966–1973), testified before Congress that, despite all of the criticisms of the structure and functioning of the intelligence community, if one were to create it from scratch, much the same community would likely emerge. Helms's focus was not on the structure of the community but on the services it provides, which are multiple, varied, and supervised by a number of individuals. This approach to intelligence is unique to the United States, although others have copied facets of it. The 2004 legislation that created a director of national intelligence (DNI; see chap. 3) made changes in the superstructure of the intelligence community but not to the essential functions of the various agencies.

MAJOR THEMES

A number of major themes contributed to the development of the U.S. intelligence system.

Liberty and Security. Throughout the history of the United States under the Constitution there has been a constant debate and sometimes tension between two equally desired outcomes: liberty and security. These goals are not in opposition but, at certain times, one value has had to give way to the other. In the John Adams administration (1797–1801), Congress passed legislation, the Alien and Sedition Acts, designed to limit criticism of the government in speech or the press. During the Civil War, Abraham Lincoln (1861–1865) suspended habeas corpus (the requirement to be charged with a crime after arrest) several times (as did Jefferson Davis in the Confederacy). During World War I, Woodrow Wilson (1913–1921) used the Espionage Act to arrest those opposed to certain wartime policies. In the period after that war, Attorney General A. Mitchell Palmer conducted raids and arrests against American left-wing radicals. At the onset of U.S. entry into World War II, Japanese citizens (Nisei) were forced into internment camps. During the early part of the cold war, Sen. Joseph McCarthy, R-WI, held numerous hearings to root out suspected Communist infiltrators in the government, often with little evidence. During the Vietnam War, Presidents Lyndon B. Johnson (1963–1969) and Richard M. Nixon (1969–1974) used the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA) to investigate anti-war and civil rights protesters. Finally, during the campaign against terrorists there have been concerns about National Security Agency (NSA) programs and their breadth and degree of intrusiveness within the United States.

The Novelty of U.S. Intelligence. Of the major powers of the twentieth and twenty-first centuries, the United States has the briefest history of significant intelligence beyond wartime emergencies. The great Chinese military philosopher, Sun Tzu, wrote about the importance of intelligence in the fifth century BCE. British intelligence dates from the reign of Elizabeth I (1558–1603), French intelligence from the tenure of Cardinal Richelieu (1624–1642), and Russian intelligence from the reign of Ivan the Terrible (1533–1584). Even given that the United States did not come into being until 1776, its intelligence experience is brief. The first glimmer of a **national intelligence** enterprise did not appear until 1940. Although permanent and specific naval and military intelligence units date from the late nineteenth century, a broader U.S. national intelligence capability began to arise only with the creation of the Coordinator of Information (COI) in 1941, the predecessor of the World War II–era Office of Strategic Services (OSS).

What explains this 165-year absence of organized U.S. intelligence? For most of its history, the United States did not have strong foreign policy interests beyond its immediate borders. The success of the 1823 Monroe Doctrine (which stated that the United States would resist any European attempt to colonize in the Western Hemisphere)—abetted by the acquiescence and tacit support of Britain, the most powerful of the European states—solved the basic security interests of the United States and its broader foreign policy interests. The need for better intelligence became apparent only after the United States achieved the status of a world power and became involved in wide-ranging international issues at the end of the nineteenth century.

Furthermore, the United States faced no threat to its security from its neighbors, from powers outside the Western Hemisphere, or—with the exception of the Civil

War (1861–1865)—from large-scale internal dissent that was inimical to its form of government. This benign environment, so unlike that faced by all European states, undercut any perceived need for national intelligence.

Until the cold war with the Soviet Union commenced in 1945, the United States severely limited expenditures on defense and related activities during peacetime. Intelligence, already underappreciated, fell into this category. Historians have noted, however, that intelligence absorbed a remarkable and anomalous 12 percent of the federal budget under President George Washington. This was the high-water mark of intelligence spending in the federal budget, a percentage that was never approached again. The intelligence request for fiscal year 2021 amounts to $85 billion, which is 1.7 percent of the total U.S. budget request. These data suggest that although there has been a great increase in intelligence spending in terms of dollars since the 9/11 terror-ist attacks, intelligence has not increased substantially as a national priority since 2001, going from 1.6 percent of the federal budget during the pre- and post-attack period and increasing slightly thereafter. In other words, intelligence spending has increased as has the rest of the federal budget, but intelligence has increased only barely the share of the federal budget that it consumes, which is a more important indicator than dollar spending levels.

Intelligence was a novelty in the 1940s. At that time, policy makers in both the executive branch and Congress viewed intelligence as a newcomer to national security. Even within the Army and the Navy, intelligence developed relatively late and was far from robust until well into the twentieth century. As a result, intelligence did not have long-established patrons in the government, but it did have many rivals with competing departments, particularly the Army, the Navy, and the FBI, none of which was willing to share its sources of information. Furthermore, intelligence did not have well-established traditions or modes of operation and thus was forced to create these during two periods of extreme pressure: World War II and the cold war.

A Threat-Based Foreign Policy. With the promulgation of the Monroe Doctrine, the United States assumed a vested interest in the international status quo. This interest became more pronounced after the Spanish-American War in 1898. With the acquisition of a small colonial empire, the United States achieved a satisfactory international position—largely self-sufficient and largely unthreatened. However, the twentieth century saw the repeated rise of powers whose foreign policies were direct threats to the status quo: Kaiserine Germany in World War I, the Axis in World War II, and then the Soviet Union during the cold war.

Responding to these threats became the mainstay of U.S. national security policy. The threats also gave focus to much of the operational side of U.S. intelligence, from its initial experience in the OSS during World War II to broader covert actions in the cold war. Intelligence operations were one way in which the United States countered these threats.

The terrorism threat in the late twentieth and early twenty-first centuries fits the same pattern of an opponent who rejects the international status quo and has emerged as an issue for U.S. national security. However, now the enemy was not a nation-state—even when terrorists have the support of nation-states or appear to be quasi-states, as did the Islamic State (ISIL) for a period—which makes it more difficult

to deal with the problem. The refusal to accept the status quo could be more central to terrorists than it was to nation-states such as Nazi Germany and the Soviet Union, for whom the international status quo was also anathema. Such countries can, when necessary or convenient, forgo those policies, temporarily accept the status quo, and continue to function. Terrorists, however, cannot accept the status quo without giving up their *raison d'être*.

There has been much debate about whether China represents a similar status quo threat. China seeks—and has largely received—recognition as a great power, based primarily on its renewed economic strength. China also seeks a more hegemonic role in East Asia and the western Pacific, which poses a challenge to the United States. Does this portend a more pointed and perhaps dangerous competition with the United States?

Being the guarantor of the status quo imposes costs—economic and military— that are usually seen as being offset by the benefits of the status quo. Donald Trump's administration appeared unwilling to bear those costs. The 2019 *Worldwide Threat Assessment* issued by DNI Dan Coats (2017–2019) suggested that this "America first" stance had caused a reassessment of relations and roles by U.S. allies and partners.

The Influence of the Cold War. Historians of intelligence often debate whether the United States would have had a large-scale intelligence capability had there been no cold war. The view here is that the answer is yes. The 1941 Japanese attack on Pearl Harbor, not the cold war, prompted the initial formation of the U.S. intelligence community.

Even so, the prosecution of the cold war became the major defining factor in the development of most basic forms and practices of the U.S. intelligence community. Until the collapse of the Soviet Union in 1991, the cold war was the predominant national security issue, taking up to half of the intelligence budget, according to former DCI Robert M. Gates (1991–1993). Moreover, the fact that the Soviet Union and its allies were essentially closed targets had a major effect on U.S. intelligence, forcing it to resort to a variety of largely remote technical systems to collect needed information from a distance.

The Global Scope of Intelligence Interests. The cold war quickly shifted from a struggle for predominance in postwar Europe to a global struggle in which virtually any nation or region could be a pawn between the two sides, especially as decolonization created many new independent states. Although some areas always remained more important than others, none could be written off entirely. Thus, U.S. intelligence began to collect and analyze information about, and station intelligence personnel in, every region.

A Wittingly Redundant Analytical Structure. Intelligence can be divided into four broad activities: collection, analysis, covert action, and counterintelligence. The United States developed unique entities to handle the various types of collection (imagery, signals, espionage) and covert action; counterintelligence is a function that is found in virtually every intelligence agency. But, for analysis, U.S. policy makers

purposely created over time three agencies whose functions appear to overlap: the CIA's Directorate of Analysis (until 2015, the Directorate of Intelligence, or DI), the State Department's Bureau of Intelligence and Research (INR), and the Defense Intelligence Agency (DIA). Each of these agencies is considered an all-source analytical agency; that is, their analysts have access to the full range of collected intelligence, and they work on many of the same issues, although with differing degrees of emphasis, reflecting the interests of their primary policy customers.

Two major reasons explain this redundancy, and they are fundamental to how the United States conducts analysis. First, different consumers of intelligence—policy makers—have different intelligence needs. Even when the president, the secretary of state, the secretary of defense, and the chairman of the Joint Chiefs of Staff are working on the same issue, each has different operational responsibilities and concerns. The United States developed analytical centers to serve each policy maker's specific and unique needs. Also, each policy agency wanted to be assured of a stream of intelligence analysis dedicated to its needs.

Second, the United States developed the concept of **competitive analysis**, which is based on the belief that by having analysts in several agencies with different backgrounds and perspectives work on the same issue, parochial views more likely will be countered—if not weeded out—and more reliable proximate reality is more likely to be achieved. Competitive analysis should, in theory, be an antidote to **groupthink** and forced consensus, although this is not always the case in practice. For example, during the prewar assessment of Iraq's weapons of mass destruction (WMD) programs, divisions formed among agencies about the nature of some intelligence (such as the possible role of aluminum tubes in a nuclear program) and whether the totality of the intelligence indicated parts of a nuclear program or a more coherent program. But these differences did not appreciably alter the predominant view with respect to the overall potential Iraqi nuclear capability.

As one would expect, competitive analysis entails a certain cost for the intelligence community because it requires having many analysts in several agencies all working on similar issues. During the 1990s, as intelligence budgets contracted severely under the pressure of the post–cold war peace dividend and because of a lack of political support in either the executive branch or Congress, much of the capability to conduct competitive analysis was lost. There simply were not enough analysts. According to DCI George J. Tenet (1997–2004), the entire intelligence community lost some 23,000 positions during the 1990s, affecting all activities. One result was a tendency to do less competitive analysis and, instead, to allow agencies to focus on certain issues exclusively, which resulted in a sort of analytical triage.

Consumer-Producer Relations. The distinct line that is drawn between policy and intelligence leads to questions about how intelligence producers and consumers should relate to each other. The issue is the degree of proximity that is desirable.

Two schools of thought have been evident in this debate in the United States. The distance school argued that the intelligence establishment should keep itself separate from the policy makers to avoid the risk of providing intelligence that lacks objectivity and favors or opposes one policy choice over others. Adherents of the distance

school also feared that policy makers could interfere with intelligence so as to receive analysis that supported or opposed specific policies. This group believed that too close a relationship increased the risk of politicized intelligence.

The proximate group argued that too great a distance raised the risk that the intelligence community would be less aware of policy makers' needs and therefore produce less useful intelligence. This group maintained that proper training and internal reviews could avoid politicization of intelligence.

By the late 1950s to early 1960s, the proximate school became the preferred model for U.S. intelligence. But the debate was significant in that it underscored the early and persistent fears about intelligence becoming politicized.

In the late 1990s, there were two subtle shifts in the policy-intelligence relationship. The first was a greatly increased emphasis on support to military operations, which some observers believed gave too much priority to this sector—at a time when threats to national security had seemingly decreased—at the expense of other intelligence consumers. The second was the view among some analysts that they were being torn between operational customers and analytical customers.

The apotheosis of the proximate relationship may have come under President George W. Bush (2001–2009) who, upon taking office, requested that he receive an intelligence briefing six days a week. DCI Tenet and Porter J. Goss (2004–2006), the last DCI and first director of the CIA (DCIA), attended these daily briefings—as did the first two DNIs, Ambassador John Negroponte (2005–2007) and retired vice admiral Mike McConnell (2007–2009), which was unprecedented. This greatly increased degree of proximity at the most senior level led some observers to question its possible effects on the DCI's ability to remain objective about the intelligence being offered. President Barack Obama (2009–2017) received a President's Daily Brief (PDB), not necessarily presented to him by the DNI but there was a postbrief meeting that the DNI or his deputy attended. Under President Trump, the DNI and the DCIA sometimes both attended the briefings, although these were held less frequently. This suggests that a regular president-DNI meeting has become a standard part of the policy-intelligence relationship.

The Relationship Between Analysis and Collection and Covert Action. Parallel to the debate about producer-consumer relations, factions have waged a similar debate about the proper relationship between intelligence analysis, on the one hand, and intelligence collection and covert action, on the other.

The issue has centered largely on the structure of the CIA, which includes both analytical and operational components: the Directorate of Analysis (DA) and the Directorate of Operations (DO). (A similar structure exists in DIA with both analysts and a clandestine service, now called the Defense Clandestine Service, or DCS, but DIA has not usually been the focus of these concerns.) The DO is responsible for both espionage and covert action. Again, distance and proximate schools of thought took form. The distance school argued that analysis and the two operational functions are largely distinct and that housing them together could be risky for the security of human sources and methods and for analysis. Distance adherents raised concerns about the ability of the DI (as it then was) to provide objective analysis when the DO

is concurrently running a major covert action. Will covert operators exert pressure, either overt or subliminal, to have analysis support the covert action? As an example of such a conflict of interest, such stresses existed between some analytical components of the intelligence community and supporters of the counterrevolutionaries (contras) who were fighting the Sandinista government in Nicaragua in the 1980s. Some analysts questioned whether the contras would ever be victorious, which was seen as unsupportive by some advocates of the contras' cause.

The proximate school argued that separating the two functions deprives both analysis and operations of the benefits of a close relationship. Analysts gain a better appreciation of operational goals and realities, which can be factored into their work, as well as a better sense of the value of sources developed in espionage. Operators gain a better appreciation of the analyses they receive, which can be factored into their own planning.

Although critics of the current structure have repeatedly suggested separating analytical and operational components, the proximate school has prevailed. In the mid-1990s, the then-DI and DO entered a partnership that brought together their front offices and various regional offices. This did not entirely improve their working relationship. One of the by-products of the 2002 Iraq WMD national intelligence estimate (NIE) was an effort to give analysts greater insight into DO sources. This was largely a reaction to the agent named CURVE BALL, an Iraqi human source under German control whose reporting on Iraqi biological weapons proved to be fabricated, unbeknownst to some analysts, who unwittingly continued to use this reporting as part of their supporting intelligence even after the reporting had been recalled. In 2015, DCIA John Brennan (2013–2017) announced a major reorganization of the CIA into a series of regional and topical mission centers that would combine analytic and operational staffs and functions. These mission centers, each headed by an assistant director, have become the loci of all CIA activities, with the DA and DO essentially becoming logistical supports for the mission centers. Thus, the proximate model is still the preferred one, although some observers have raised concerns about the mission center structure homogenizing the unique cultures and attributes of the DA and the DO.

The Debate Over Covert Action. As discussed in chapter 1, the use of covert action by the United States has always generated some uneasiness among those concerned about its propriety or acceptability as a facet of U.S. policy—secret intervention, perhaps violently, in the affairs of another state. In addition, some policy makers, members of Congress, and citizens debated the propriety of paramilitary operations—the training and equipping of large foreign irregular military units, such as the contras in Nicaragua or the mujahideen in Afghanistan. Other than assassination, paramilitary operations have been among the most controversial aspects of covert action, and they have an uneven record. The vigor of the debate for and against paramilitary operations has varied widely over time. Little discussion occurred before the abortive Bay of Pigs invasion (1961), and afterward there was little discussion until the 1970s, when the Vietnam War fostered a collapse of the U.S. bipartisan cold war consensus that had supported an array of measures to counter Soviet expansion. At the same time, a series of revelations about intelligence community misdeeds fostered more

skepticism if not opposition to intelligence operations. The debate revived once again during the contras' paramilitary campaign against Nicaragua's government in the mid-1980s. In the aftermath of the terrorist attacks in the United States in 2001, however, broad agreement reemerged on a full range of covert actions—as opposed to a later debate on interrogation techniques and renditions, meaning nonjudicial apprehension of terrorists overseas.

Two more recent aspects of this continuing debate over covert action are the use of armed UAVs (unmanned aerial vehicles, or drones) to attack terrorists overseas—including targeting U.S. citizens, which has raised questions about propriety and legality—and whether the use of cyberspace as a preemptive or precursor weapon is a military action or a covert action. (These issues are discussed in more detail in chaps. 8 and 12.)

The Continuity of Intelligence Policy. Throughout most of the cold war, no difference existed between Democratic and Republican intelligence policies. The cold war consensus on the need for a continuing policy of containment vis-à-vis the Soviet Union transcended politics until the Vietnam War, when a difference emerged between the two parties that was in many respects more rhetorical than real. For example, both Jimmy Carter (1977–1981) and Ronald Reagan (1981–1989) made intelligence policy an issue in their campaigns for the presidency. Carter, in 1976, lumped together revelations about the CIA and other intelligence agencies' misconduct with Watergate and the Vietnam War; Reagan, in 1980, spoke of restoring the CIA, along with the rest of U.S. national security. Although the ways in which the two presidents supported and used intelligence differed greatly, it would be wrong to suggest that one was anti-intelligence and the other pro-intelligence.

A similar broad continuity of intelligence policy initially emerged over the issue of terrorism. As a candidate, Barack Obama pledged to make a number of changes in U.S. policy toward terrorism and terrorists. Although he took steps to signal a changed direction, such as ordering the eventual closure of the prison at Guantanamo Bay, Cuba, this proved to be difficult to do. The terrorist detention center remained open as of 2021. The Obama administration also ordered UAV attacks on terrorist targets four times as often as did the George W. Bush administration and continued to authorize programs to gather data from telephones and computer communications. Interestingly, the Obama administration's 2011 counterterrorism strategy noted the continuity between the Bush and Obama administrations in this area. There has been more continuity than change overall, especially as the terrorist threat went from larger attacks to more individual ones. Similarly, the *Worldwide Threat Assessment* presented annually by the DNI did not change very much from DNI James Clapper to his Trump-appointed successor, Dan Coats, until Trump forbade further presentations of the assessment to Congress as it questioned some of the premises of his policies toward North Korea and Iran.

Heavy Reliance on Technology. Since the creation of the modern intelligence community in the 1940s, the United States has relied heavily on technology as the mainstay of its collection capabilities. A technological response to a problem is not unique

to intelligence. It also describes how the United States has waged war, beginning as early as the Civil War in the 1860s. Furthermore, the closed nature of the major intelligence target in the twentieth century—the Soviet Union—required remote technical means to collect information.

The reliance on technology is significant beyond the collection capabilities it engenders because it has had a major effect on the structure of the intelligence community and how it has functioned. Some people maintain that the reliance on technology resulted in an insufficient use of human intelligence collection (espionage). No empirical data are available supporting this view, but this perception has persisted since at least the 1970s. The main argument, which tends to arise when intelligence is perceived as having performed less than optimally, is that human intelligence can collect certain types of information (intentions and plans) that technical collection cannot, although this intelligence can sometimes be obtained via signals intelligence. Little disagreement is heard about the strengths and weaknesses of the various types of collection, but such an assessment does not necessarily support the view that espionage always suffers as compared with technical collection. The persistence of the debate reflects an underlying concern about intelligence collection that has never been adequately addressed—that is, the proper balance (if such balance can be had) between technical and human collection. This debate arose again in the aftermath of the terrorist attacks in 2001. (See chap. 12 for a discussion of the types of intelligence collection required by the war on terrorists.)

Secrecy Versus Openness. The openness that is an inherent part of a representative democratic government clashes with the secrecy required by intelligence operations. No democratic government with a significant intelligence community has spent more time debating and worrying about this conflict than the United States. How open can intelligence be and still be effective? At what point does secrecy pose a threat to democratic values? The issue cannot be settled with finality, but the United States has made an ongoing series of compromises between its values—as a government and as an international leader—and the requirements for some level of intelligence activity as it has continued to explore the boundaries of this issue. In the debates over the use of UAVs and the NSA collection programs, there were frequent calls for more "transparency," which is simply another way of framing this same debate. In October 2015, DNI Clapper released principles for transparency, which he noted were important not only to give more insight into what intelligence does but also to build greater support for intelligence based on this greater insight.

The Role of Oversight. For the first twenty-eight years of its existence, the intelligence community operated with a minimal amount of oversight from Congress. One reason was the cold war consensus. Another was a willingness on the part of Congress to abdicate rigorous oversight. Secrecy was also a factor, which appeared to impose procedural difficulties in handling sensitive issues between the two branches. After 1975, congressional oversight changed suddenly and dramatically, increasing to the point where Congress became a full participant in the intelligence process and a major consumer of intelligence. Since 2002, Congress has also become more

of an independent intelligence consumer in its own right, in several cases requesting NIEs on specific topics. Within the larger oversight issue is a second issue: Do the intelligence committees serve well as surrogates for the rest of the Congress, or should this responsibility be shared more broadly?

Managing the Community. The size of U.S. intelligence is a strength, in that it allows for greater breadth and depth across a range of intelligence activities and issues. But the size also poses a challenge when it comes to coordinating the various agencies toward specific goals. From 1947 to 2004, the directors of central intelligence had this responsibility, but they tended to function more as "first among equals" rather than as empowered heads of the community. The DCIs also tended to focus more on their CIA responsibilities, which were the source of most of their bureaucratic clout. The director of national intelligence now has this community role, minus the CIA function. A major issue, whether under the DCIs or DNIs, is the fact that all of the intelligence components, with the exception of the CIA, belong to a cabinet department, diminishing the DNI's ability to give them orders. A succession of staffs have been created to support the DCIs and now the DNIs in their community role, but the effectiveness of these staffs is tied directly to the effectiveness of the DNI. DNI Clapper made "intelligence integration" his major area of emphasis when it came to community management, which can best be described as ongoing efforts to foster unity of purpose and of effort. DNI Coats continued to emphasize intelligence integration in his 2018 mission statement and his 2019 *National Intelligence Strategy*. Both of them understood that the DNI can provide leadership but not necessarily direction of U.S. intelligence agencies.

MAJOR HISTORICAL DEVELOPMENTS

In addition to the themes that have run through much of the history of the intelligence community, several specific events played pivotal roles in the shaping and functioning of U.S. intelligence.

The Creation of COI and OSS (1941–1942). Until 1941, the United States did not have anything approaching a national intelligence establishment. The important precedents were the COI (Coordinator of Information, 1941) and the OSS (Office of Strategic Services, 1942), both created by President Franklin D. Roosevelt (1933–1945). The COI and then the OSS were headed by William Donovan, who had advocated their creation after two trips to Britain before the United States entered World War II. Donovan was impressed by the more central British government organization and believed that the United States needed to emulate it. Roosevelt gave Donovan much of what he wanted but in such a way as to limit Donovan's authority, especially in his relationship to the military, making OSS part of the newly created Joint Chiefs of Staff in 1942 rather than making it an independent entity.

In addition to being the first steps toward creating a national intelligence capability, the COI and OSS were important for three other reasons. First, both organizations

were heavily influenced by British intelligence practices, particularly their emphasis on what is now called covert action—guerrillas, operations with resistance groups behind enemy lines, sabotage, and so on. For Britain this wartime emphasis on operations was the natural result of being one of the few ways the country could strike back at Nazi Germany in Europe until the Allied invasions of Italy and France. These covert actions, which had little effect on the outcome of the war, became the main historical legacy of the OSS.

Second, although OSS operations played only a small role in the Allied victory in World War II, they served as a training ground—both technically and in terms of esprit—for many people who helped establish the postwar intelligence community, particularly the CIA. However, as former DCI Richard Helms, himself an OSS veteran, points out in his memoirs, most of the OSS veterans had experience in espionage and counterintelligence and not in covert action.

Third, the OSS had a difficult relationship with the U.S. military. The military leadership was suspicious of an intelligence organization operating beyond its control and perhaps competing with organic military intelligence components (that is, military intelligence units subordinated to commanders). The Joint Chiefs of Staff therefore insisted that the OSS become part of its structure, refusing to accept the idea of an independent civilian intelligence organization. Therefore, Donovan and the OSS were made part of the Joint Chiefs structure. Tension between the military and nonmilitary intelligence components has continued, with varying degrees of severity or cooperation. It was evident in 2004, when the Department of Defense (DOD), and its supporters in Congress, successfully resisted efforts to expand the authority of the new director of national intelligence to intelligence agencies within DOD. (See chap. 3 for details.)

Pearl Harbor (1941). Japan's surprise attack in 1941 was a classic intelligence failure. The United States overlooked a variety of indicators; U.S. processes and procedures were deeply flawed, with important pieces of intelligence not being shared across agencies or departments; and mirror imaging blinded U.S. policy makers to the reality of policy decisions in Tokyo. The attack on Pearl Harbor was most important as the guiding purpose of the intelligence community that was established after World War II. The fundamental mission was to prevent a recurrence of a strategic surprise of this magnitude, especially in an age of nuclear-armed missiles.

MAGIC and ULTRA (1941–1945). One of the Allies' major advantages in World War II was their superior signals intelligence, that is, their ability to intercept and decode Axis communications. MAGIC refers to U.S. intercepts of Japanese communications; ULTRA refers to British, and later British-U.S., interceptions of German communications. This wartime experience demonstrated the tremendous importance of this type of intelligence, the most important intelligence during the war. Also, it helped solidify U.S.-British intelligence cooperation, which continued long after the war. Moreover, in the United States the military, not the OSS, controlled MAGIC and ULTRA. This underscored the friction between the military and the OSS. The military today continues to direct signals intelligence, in NSA. NSA is a

DOD agency and is considered a combat support agency, a legal status that gives DOD primacy over intelligence support at certain times. Both the secretary of defense and the DNI have responsibility for NSA.

The National Security Act (1947). The National Security Act gave a legal basis to the intelligence community, as well as to the position of director of central intelligence, and created a CIA under the director. The act signaled the new importance of intelligence in the nascent cold war and also made the intelligence function permanent, a significant change from the previous U.S. practice of reducing the national security apparatus in peacetime. Implicitly, the act made the existence and functioning of the intelligence community a part of the cold war consensus.

Several aspects of the act are worth noting. Although the DCI could be a military officer, the CIA was not placed under military control, nor could a military DCI have command over troops. The CIA was not to have any domestic role or police powers, either. The legislation does not mention any of the activities that came to be most commonly associated with the CIA—espionage, covert action, even analysis. Its stated job, and President Harry S. Truman's (1945–1953) main concern at the time, was to coordinate the intelligence being produced by various agencies. Vague language in the legislation hinted at and authorized these clandestine activities.

Finally, the act created an overall structure that included a secretary of defense and the National Security Council (NSC); this structure was remarkably stable for fifty-seven years. Although minor adjustments of roles and functions were made during this period, the 2004 intelligence legislation (see chap. 3 for a fuller discussion of this act) and the establishment of a director of national intelligence brought about the first major revision of the structure created in the 1947 act.

Korea (1950). The unexpected invasion of South Korea by North Korea, which triggered the Korean War, had two major effects on U.S. intelligence. First, the failure to foresee the invasion led DCI Walter Bedell Smith (1950–1953) to make some dramatic changes, including increased emphasis on national intelligence estimates. Second, the Korean War made the cold war global. Having previously been confined to a struggle for dominance in Europe, the cold war spread to Asia and, implicitly, to the rest of the world. This broadened the scope and responsibilities of intelligence.

The Coup in Iran (1953). In 1953, the United States staged a series of popular demonstrations in Iran that overthrew the nationalist government of Premier Mohammad Mossadegh and restored the rule of the shah, who was friendlier to Western interests. The success and ease of this operation made covert action an increasingly attractive tool for U.S. policy makers, especially during the tenure of DCI Allen Dulles (1953–1961) during Dwight D. Eisenhower's administration (1953–1961).

The Guatemala Coup (1954). In 1954, the United States overthrew the leftist government of Guatemalan president Jacobo Arbenz Guzmán because of concern that this government might prove sympathetic to the Soviet Union. The United States

provided a clandestine opposition radio station and air support for rebel officers. The Guatemala coup proved that the success in Iran was not unique, thus further elevating the appeal of this type of action for U.S. policy makers.

The Missile Gap (1959–1961). In the late 1950s, concern arose that the apparent Soviet lead in the "race for space," prompted by the launch of the Sputnik satellite in 1957, also indicated a Soviet lead in missile-based strategic weaponry. The main proponents of this argument were Democratic aspirants for the 1960 presidential nomination, including Sens. John F. Kennedy of Massachusetts and Stuart Symington of Missouri. The Eisenhower administration knew, by virtue of the U.S. reconnaissance program, that the accusations about a Soviet lead in strategic missiles were untrue, but the administration did not respond to the charges in an effort to safeguard the sources of the intelligence, especially the fact that U-2 flights were violating Soviet airspace. When Kennedy (1961–1963) took office, his administration determined that the charges were indeed untrue, but the new secretary of defense, Robert S. McNamara (1961–1968), came to believe that intelligence—particularly from the Air Force—had inflated the Soviet threat to safeguard the defense budget. This was an early example of intelligence becoming a political issue, raised primarily by the party out of power.

The way in which the missile gap is customarily portrayed in intelligence history is incorrect. According to legend, the intelligence community, perhaps for base and selfish motives, overestimated the number of Soviet strategic missiles. But the legend is untrue. First, intelligence agencies were divided as to the size of the Soviet strategic force, with the Air Force advocating higher numbers that later proved to be untrue. Second, the public overestimate came largely from political critics of the Eisenhower administration, not the intelligence agencies themselves. Not only did these critics overestimate the number of strategic-range Soviet missiles, but the intelligence community also underestimated the number of medium- and intermediate-range missiles that the Soviets were building to cover their main theater of concern, Europe. McNamara's distrust of what he perceived as self-serving Air Force parochialism led him to create the Defense Intelligence Agency.

This use of intelligence for political purposes also underscored the problem of secrecy, in that President Eisenhower did not believe he was able to reveal the true state of the strategic missile balance, which he knew. He did not want to be asked how he knew, which might have led to a discussion of the U-2 program, in which manned aircraft equipped with cameras penetrated deep into Soviet territory in violation of international law. U-2 flights over the Soviet Union continued until May 1960, when Francis Gary Powers, on contract with the CIA, was shot down over Sverdlovsk. Powers survived and was put on trial. Eisenhower was initially reluctant to admit responsibility for the overflights, although he eventually did, placing the blame on the Soviet Union for its bellicosity and secrecy. (The Soviet Union tracked the U-2 flights and also knew the true state of the strategic balance, as the size of U.S. forces was not classified.)

The Bay of Pigs (1961). The Eisenhower administration planned an operation in which Cuban exiles trained by the CIA would invade Cuba and force leader Fidel Castro from power. The operation was not launched until Kennedy had assumed the

presidency, and he took steps to limit the operation and thus apparent U.S. involvement to preserve the fiction that the Bay of Pigs invasion was a Cubans-only exercise. The abysmal failure of the invasion showed the limits of large-scale paramilitary operations in terms of their effectiveness and of the United States' ability to mask its role in them. It was a severe setback for the Kennedy administration and for the CIA, several of whose top leaders—including DCI Dulles—were retired as a result, as were all of the members of the Joint Chiefs of Staff when their terms expired.

The Cuban Missile Crisis (1962). Although now widely interpreted as a success, the confrontation with the Soviet Union over its planned deployment of medium- and intermediate-range missiles in Cuba was initially a failure in terms of intelligence analysis. All analysts, with the notable exception of DCI John McCone (1961–1965), had argued that Soviet premier Nikita Khrushchev would not be so bold or rash as to place missiles in Cuba. Analysts also assumed that no Soviet tactical nuclear missiles were in Cuba and that local Soviet commanders did not have authority to use nuclear weapons without first asking Moscow—both of which turned out to be false, although this was not known until 1992. The missile crisis was a success in that U.S. intelligence discovered the missile sites before they were completed, giving President Kennedy sufficient time to deal with the situation without resorting to force. U.S. intelligence was also able to give Kennedy firm assessments of Soviet strategic and conventional force capabilities—in part because of a well-placed spy, Soviet Col. Oleg Penkovsky, which bolstered Kennedy's ability to make difficult decisions. It was an excellent example of different types of intelligence collection working together to support one another and to provide tips to other potential collection opportunities. The intelligence community's performance in this instance went a long way toward rehabilitating its reputation after the failure of the Bay of Pigs.

The Vietnam War (1964–1975). The war in Vietnam had three important effects on U.S. intelligence. First, during the war concerns grew that frustrated policy makers were politicizing intelligence to be supportive of policy. The Tet offensive in 1968 is a case in point. U.S. intelligence picked up Viet Cong preparations for a large-scale offensive in South Vietnam. President Johnson had two unpalatable choices. He could prepare the public for the event, but then face being asked how this large-scale enemy attack was possible if the United States was winning the war. Or he could attempt to ride out the attack, confident that it would be defeated. Johnson took the second choice. The Viet Cong were defeated militarily in Tet after some bitter and costly fighting, but the attack and the scale of military operations that the United States undertook to defeat them turned a successful intelligence warning and a military victory into a major political defeat. Many people wrongly assumed that the attack was a surprise.

Second, often-heated debates on the progress of the war took place between military and nonmilitary intelligence analysts. This was seen most sharply in the order of battle debate, which centered on how many enemy units were in the field. Military leaders believed that intelligence analysis (primarily from the CIA) was not accurately reporting the progress being made on the battlefield. The argument on the enemy

order of battle centered on CIA analysis that showed more enemy units than the military believed to be operating. Or, to put it conversely, if the United States was making the progress being reported by the military, how could the enemy have so many units in the field? The CIA order of battle estimates may not have been correct, but the debate showed how intelligence was being used, primarily by the military, to portray progress in the war. Third, the more long-lasting and most important result of the war was to undercut severely the cold war consensus under which intelligence operated.

The ABM Treaty and SALT I Accord (1972). The Nixon administration negotiated limits on antiballistic missiles (ABMs) and strategic nuclear delivery systems (the land-based and submarine-based missile launchers and aircraft, not the weapons on them) with the Soviet Union. These initial strategic arms control agreements—the ABM treaty and the strategic arms limitation talks (SALT I) accord—explicitly recognized and legitimized the use of **national technical means**, or NTM (that is, a variety of satellites and other technical collectors), by both parties to collect needed intelligence, and they prohibited overt interference with NTM. Furthermore, these agreements created the new issue of **verification**—the ability to ascertain whether treaty obligations were being met. (**Monitoring**, or keeping track of Soviet activities, had been under way since the inception of the intelligence community, even before arms control. Verification consists of policy judgments or evaluations based on monitoring.) U.S. intelligence was central to these activities, with new accusations by arms control advocates and opponents that intelligence was being politicized. Those concerned that the Soviets were cheating held that cheating was either being undetected or ignored. Arms control advocates argued that the Soviets were not cheating or, if they were, the cheating was minimal and therefore inconsequential, regardless of the terms of the agreements, and they maintained that some cheating was preferable to unchecked strategic competition. Either way, the intelligence community found itself to be a fundamental part of the debate.

Intelligence Investigations (1975–1976). In the wake of revelations late in 1974 that the CIA had violated its charter by spying on U.S. citizens, a series of investigations examined the entire intelligence community. A panel chaired by Vice President Nelson A. Rockefeller concluded that violations of law had occurred. Investigations by House and Senate special committees went deeper, discovering a much wider range of abuses.

Coming so soon after the Watergate scandal (which involved political sabotage and criminal cover-ups and culminated in the resignation of President Nixon in 1974) and the loss of the Vietnam War, these intelligence hearings further undermined the public's faith in government institutions, in particular the intelligence community, which had been largely sacrosanct. Since these investigations, intelligence has never regained the latitude it once enjoyed and has had to learn to operate with much more openness and scrutiny. Also, Congress faced the fact of its own lax oversight. Both the Senate and the House created permanent intelligence oversight committees, which have taken on much more vigorous oversight of intelligence and, as mentioned earlier in the chapter, are now major taskers of intelligence themselves.

Iran (1979). In 1979, Ayatollah Ruhollah Khomeini's revolution forced the shah of Iran from his throne and into exile. U.S. intelligence, in part because of policy decisions made by several administrations that severely limited collection in Iran, was largely blind to the growing likelihood of this turn of events. Successive administrations had restricted U.S. contacts with opposition groups lest the shah would be offended. In addition to these limits placed on collection, some intelligence analysts failed to grasp the severity of the threat to the shah once public demonstrations began. The intelligence community took much of the blame for the result despite the restrictions within which it had been working. Some people even saw the shah's fall as the inevitable result of the 1953 coup that had restored him to power.

One ramification of the shah's fall was the closure of two intelligence collection sites in northern Iran that the United States used to monitor Soviet missile tests, thus impairing the ability to monitor the SALT I agreement and the SALT II agreement then under negotiation.

Iran-Contra (1985–1987). The Reagan administration used proceeds from missile sales to Iran (which not only contradicted the administration's own policy of not dealing with terrorists but also violated the law) to sustain the contras in Nicaragua fighting against the pro-Soviet Sandinista government—despite congressional restrictions on such aid. The Iran-contra affair provoked a constitutional crisis and congressional investigations. The affair highlighted a series of problems, including the limits of oversight in both the executive branch and Congress, the ability of executive officials to ignore Congress's intent, and the disaster that can result when two distinct and disparate covert actions become intertwined. The affair also undid much of President Reagan's efforts to rebuild and restore intelligence capabilities.

The Fall of the Soviet Union (1989–1991). Beginning with the collapse of the Soviet satellite empire in 1989 and culminating in the dissolution of the Soviet Union itself in 1991, the United States witnessed the triumph of its long-held policy of containment, first postulated by U.S. diplomat George Kennan in 1946–1947 as a way to deal with the Soviet menace. The collapse was so swift and so stunning that few can be said to have anticipated it.

Critics of the intelligence community argued that the inability to see the Soviet collapse coming was the ultimate intelligence failure, given the centrality of the Soviet Union as an intelligence community issue. Some people even felt that this failure justified radically reducing and altering the intelligence community. Defenders of U.S. intelligence argued that the community had made known much of the inner rot that led to the Soviet collapse.

In the aftermath of the cold war, several major studies looked at how U.S. intelligence was organized and how it functioned, with a view to possible changes, although very few major changes resulted until after the 2001 terrorist attacks and Iraq WMD.

This debate has not ended. Significant questions remain not only about U.S. intelligence capabilities but also about intelligence in general and what can reasonably be expected from it. (See chap. 11 for a detailed discussion.)

The Ames (1994) and Hanssen Spy Cases (2001). The arrest and conviction of Aldrich Ames, a CIA employee, on charges of spying for the Soviet Union and for post-Soviet Russia for almost ten years shook U.S. intelligence. Espionage scandals had broken before. For example, in the "year of the spy" (1985), several cases came to light—the Walker family sold Navy communications data to the Soviet Union, Ronald Pelton compromised NSA programs to the Soviet Union, and Larry Wu-tai Chin turned out to be a sleeper agent put in place in the CIA by China.

Ames's unsuspected treachery was, in many respects, more searing. Despite the end of the cold war, Russian espionage against the United States had continued. Ames's career revealed significant shortcomings in CIA personnel practices (he was a marginal officer with a well-known alcohol problem), in CIA counterespionage and counterintelligence, and in CIA-FBI liaison to deal with these issues. The spy scandal also revealed deficiencies in how the executive branch shared information bearing on intelligence matters with Congress.

The arrest in 2001 of FBI agent Robert Hanssen on charges of espionage underscored some of the concerns that first arose in the Ames case and added new ones. Hanssen and Ames apparently began their espionage activities at approximately the same time, but Hanssen went undetected for much longer. It was initially thought that Hanssen's expertise in counterintelligence gave him advantages in escaping detection, but subsequent investigations revealed a great deal of laxness at the FBI that was crucial to Hanssen's activities. Hanssen, like Ames, spied for both the Soviet Union and post-Soviet Russia. Hanssen's espionage also meant that the damage assessment done after Ames was arrested would have to be revised, as both men had access to some of the same information. Finally, the Hanssen case was a severe black eye for the FBI, which had been so critical of the CIA's failure to detect Ames. FBI investigators had focused on a CIA officer, Brian Kelley, insisting incorrectly until very late in the investigation that Kelley was the spy.

In addition to the internal problems that both scandals revealed, the two cases served notice that espionage among the great powers continued despite the end of the cold war. Some people found this offensive, in terms of either Russian or U.S. activity. Others accepted it as an unsurprising and normal state of affairs.

The Terrorist Attacks and the War on Terrorists (2001–). The terrorist attacks in the United States in September 2001 were important for several reasons. First, although al Qaeda leader Osama bin Laden's enmity and capabilities were known, the nature of these specific attacks had not been anticipated. Some critics called for the resignation of DCI Tenet, but President George W. Bush supported him. Congress, meanwhile, began a broad investigation into the performance of the intelligence community. Second, in the immediate aftermath of the attacks, widespread political support emerged for a range of intelligence actions to combat terrorists, including calls to lift the ban on assassinations and to increase the use of human intelligence. The first major legislative response to the attacks, the USA PATRIOT Act of 2001, allowed greater latitude in some domestic intelligence and law enforcement collection and took steps to improve coordination between these two areas. In 2004, in the aftermath of a second investigation (and also prompted by the failure to

find WMD in Iraq that intelligence had assessed were there), legislation was passed to revamp the command structure of the intelligence community. (See chap. 3 for details.) Third, in the first phase of combat operations against terrorists, dramatic new developments took place in intelligence collection capabilities, particularly the use of UAVs and more real-time intelligence support for U.S. combat forces. (See chap. 5 for details.) The war on terrorists also resulted in an expansion of some CIA and NSA authorities. CIA captured suspected terrorists overseas and then **rendered** (delivered) them to a third country for incarceration and interrogation. This activity became controversial as some observers questioned the basis on which people were rendered and the conditions to which they were subjected in these third nations, especially during interrogations. The use of certain techniques became political issues during the 2008 presidential election although, as noted earlier, President Obama's overall policy toward terrorists was not dramatically different from that of President Bush. Under authority of the USA PATRIOT Act, NSA greatly expanded its collection of telephone and Internet data, in most cases the metadata (location of calls, time) but not the contents. This program was leaked in 2013 and also became controversial as critics held that NSA had exceeded its legislative authority and failed to keep Congress informed. (See later in this chapter.)

By 2004, two intensive investigations of U.S. intelligence performance prior to the 2001 terrorist attacks had taken place. Although both resulting reports noted a number of flaws, neither was able to point up the intelligence that could have led to a precise understanding of al Qaeda's plans. The tactical intelligence for such a conclusion (as opposed to strategic intelligence suggesting the nature and depth of al Qaeda's hostility) did not exist.

As the terrorist threat seemed to change in 2009 from large-scale attacks to smaller, individual attempts, new concerns arose about the intelligence community's ability to prevent these threats. Some of these were domestic in origin and appeared to call more on domestic police capabilities than national intelligence capabilities. The May 2011 operation that resulted in the death of bin Laden helped restore confidence in U.S. intelligence. The operation was also a good example of the use of multiple types of intelligence collection (human, signals, imagery), painstaking analysis over many years, and intelligence sharing both within the intelligence community and with the military.

By 2013, the decade-plus war against terrorists had also begun to cause new strains. As noted above (and discussed in more detail in chap. 8), the continued use of UAVs was subject to increased debate for two reasons: the concern that those being targeted were of lesser importance and that the ongoing campaign was turning people against the United States; and the more controversial use of UAVs to target and kill U.S. citizens working with terrorists. The revelation of NSA programs to mine communications data raised concerns among some observers about the balance between security and liberty and also the degree of oversight being conducted on such programs. Over a decade of concentration on counterterrorism and counterinsurgency had some larger effects on the analytic community, especially for the CIA, which some people felt had become too tactical and too militarized. (See chap. 6.)

Finally, the rise of ISIL (also known as ISIS or Daesh) further complicated the terrorism war as ISIL had pretensions to being a state, controlling large amounts of

territory and people. It demonstrated, in a series of attacks in November 2015 and March 2016, that it had wide geographic reach as a terrorist organization. However, a U.S.-backed offensive helped roll back ISIL, greatly reducing the territory that ISIL controlled. This led to new concerns, however, including the return of ISIL fighters to their homelands in Europe and elsewhere, where they might conduct terrorist activities.

Intelligence on Iraq (2003–2008). The George W. Bush administration was convinced, as was most of the international community, that Iraqi leader Saddam Hussein harbored weapons of mass destruction, despite his agreement at the end of the 1991 Persian Gulf War to dispose of them and to submit to international inspections. (The fall 2002 debate at the United Nations was over the best way to determine if Iraq held these weapons and how best to get rid of them—not over whether or not Iraq had them.) However, more than two years after the onset of the military conflict, the WMD had not been found. As a result, the two main issues that arose were how the intelligence could come to such an important conclusion that proved to be erroneous and how the intelligence was used by policy makers. Coupled with the conclusions drawn from the two investigations of the 2001 terrorist attacks, intelligence performance in Iraq led to irresistible calls to restructure the intelligence community. The Senate Intelligence Committee found that groupthink was a major problem in the Iraq analysis, along with a failure to examine previously held premises. At the same time, the committee found no evidence that the intelligence had been politicized. The WMD Commission (formally the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction), established by President George W. Bush, came to the same conclusion regarding politicization but was critical about how the intelligence community handled both collection and analysis on Iraq WMD and on other issues.

In addition to intelligence that may have provided a *casus belli* (justification for the acts of war), subsequent intelligence on Iraq continued to be controversial. As Iraq descended into a bloody insurgency, former intelligence officials pointed out prewar estimates that suggested such a possible outcome. In 2007, at the request of Congress, the intelligence community produced an estimate on the likely course of events in Iraq and possible indicators of success or failure. The **key judgments** of this estimate were published in unclassified form, adding additional fuel to the political debate over Iraq.

As terrible as the 2001 terrorist attacks were, the initial Iraq WMD estimate points to much more fundamental questions for U.S. intelligence. The analytical failure in Iraq was a burden for U.S. intelligence for many years to come. Subsequent analyses also seemed to point to increased politicization of intelligence, not by those who wrote it but by those in the executive branch and in Congress seeking to gain political advantage by using unclassified versions of intelligence.

The Iraq analytical controversy continued to serve as a touchstone for future intelligence analyses. In 2007, DNI McConnell released unclassified key judgments of an NIE on Iran's nuclear weapons program, which reversed its earlier (2005) findings and concluded that the weapons aspects of the program had stopped in 2003. This immediately became controversial not only because of the judgments themselves but also as some observers wondered whether this reflected either "lessons learned" from

Iraq or some means of compensating for earlier errant estimates, a curious view that betrayed significant misunderstandings of the estimative process. In 2013, the debate over whether to attack Syria for chemical weapons (CW) use again raised issues about the accuracy of current WMD intelligence, given the past problem in Iraq.

Intelligence Reorganization (2004–2005). Three factors contributed to the 2004 passage of legislation reorganizing the intelligence community: (1) reaction to the 2001 terrorist attack; (2) the subsequent 2004 report of the National Commission on Terrorist Attacks Upon the United States, more popularly known as the 9/11 Commission; and (3) the absence of Iraq WMD, despite intelligence community estimates that indicated otherwise. Congress replaced the DCI with a DNI who would oversee and coordinate intelligence but who would be divorced from a base in any intelligence agency. This was the first major restructuring of U.S. intelligence since the 1947 act. (See chap. 3 for details.) In March 2005, the WMD Commission issued its report, recommending additional changes in intelligence structure and in the management of analysis and collection.

In 2006, CIA director Porter Goss resigned. By 2007, the first DNI, former ambassador John Negroponte, had stepped down to return to the State Department after less than two years in the DNI position. Retired vice admiral Mike McConnell replaced Negroponte. McConnell resigned at the end of the George W. Bush administration and was replaced by retired admiral Dennis Blair, the third DNI in less than four years. Blair stepped down in 2010, after a little more than a year in the job. His successor, retired general James Clapper, thus became the fourth DNI in just over five years. Several senior jobs on the DNI's staff proved difficult to fill. Many observers took such staffing problems as evidence that the new structure was not working as smoothly as proponents had hoped. Clapper's six and a half years as DNI offered some stability, but some of the fundamental questions about the nature of the DNI position and its relative authority remain.

The incoming Trump administration, in 2017, appeared to prefer not to appoint a DNI and to return his authorities to the DCIA. However, it was pointed out that this would require legislation, and so a new DNI was named, former senator and ambassador to Germany Dan Coats. Coats was fired after two years and was succeeded by two acting DNIs and then a confirmed successor over the next 18 months, another period of instability.

The Manning and Snowden Leaks. In January 2010, then-Pvt. Bradley Manning downloaded some 700,000 documents from classified systems, which he shared with WikiLeaks, a website devoted to publishing classified information. In June 2013, newspapers in the United States and Britain began to publish details of NSA programs to collect metadata from the Internet and telephone lines in the United States and worldwide leaked to them by Edward Snowden, a contract employee working for NSA. Snowden also leaked a great deal of other highly classified intelligence that had nothing to do with those programs. The two leaks were different in content: Manning's material consisted, in part, of many diplomatic cables; Snowden's material concerned ongoing intelligence collection programs. The Snowden leaks are, arguably, the worst leaks in U.S. history in terms of both content and effects. Both

leaks engendered controversies. Among these have been the following: how individuals could get access to so much material and remove them from secure areas; the adequacy of U.S. laws to deal with leakers and/or spies; the future of the emphasis in U.S. intelligence on sharing as much intelligence internally as possible; the effects of the leaks on U.S. diplomatic relations and intelligence capabilities; and, in the case of the NSA leaks, whether NSA had overstepped its authorities and the adequacy of both executive and legislative oversight. Manning was found guilty under the Espionage Act and sentenced to thirty-five years in prison. In January 2017, President Obama commuted Manning's sentence to seven years; Manning was released in May 2017. Snowden had been granted temporary asylum in Russia. In 2020, Snowden announced that he had applied for Russian citizenship. In January 2014, in a speech addressing the NSA programs that had been revealed, President Obama largely defended these programs, stating that they had been managed lawfully and had not purposely abused their authorities.

There has been a veritable deluge of leaks in the years since Manning and Snowden, raising serious questions about intelligence community security. There has also been an increase in prosecutions for leaks. The Obama administration prosecuted ten people for leaking, which is the most by any administration. Some of these leaks inevitably involved journalists, which in turn raises questions about freedom of the press.

Russian Hacking and the 2016 Election. Press reports in 2016 indicated concern about possible efforts by Russia to influence the pending U.S. presidential election. In January 2017, the intelligence community briefed President-elect Trump and released an assessment coordinated by the CIA, the FBI, and NSA that found that Russian president Vladimir Putin had ordered "an influence campaign" designed to support Trump over Hillary Clinton. The report made no assessment as to the effect of this Russian campaign.

Trump initially disputed the report, seeing it as questioning the legitimacy of his election. However, the issue did not go away and, in fact, became more complex as allegations surfaced about possible collusion between members of the Trump campaign and Russian officials. The Justice Department appointed former FBI director Robert Mueller as special counsel to investigate. Mueller's investigation quickly became the subject of extremely rancorous partisan debate in Congress, especially in the House Intelligence Committee. Mueller's report found extensive contacts between Trump campaign officials and Russia but no sufficient basis to find collusion between the campaign and Russia. The Mueller report affirmed "sweeping and systematic" Russian interference in the election. In 2019, Attorney General William Barr authorized an investigation of how the intelligence community assessed allegations of a connection between the 2016 Trump campaign and Russia, presumably looking for political bias in the analysis. Some observers questioned the propriety of a special prosecutor investigating intelligence analysis, which suggested the possibility of criminal indictments. This effort was not completed by the end of Trump's term.

The Senate Intelligence Committee undertook a three-year bipartisan investigation of these same issues. The five-volume report defended the analytic integrity of the January 2017 intelligence community report. The Senate report also found extensive contacts between Trump campaign officials and Russia, which "enabled" the

Russian "assault on the integrity" of the 2016 election. However, the report did not charge collusion.

The issue of interference by Russia and others revived with the 2020 election. The analytic ombudsman of the ODNI accused Trump intelligence appointees of politicizing intelligence reporting on this issue. (See chap. 6.) In April 2021, Joe Biden's administration (2021–) released information showing that senior Trump campaign officials, including manager Paul Manafort, had passed information to Russia to abet Trump's election efforts.

Trump also began his term having made disparaging remarks about U.S. intelligence agencies, marking what has been the most difficult transition of a new administration with the intelligence community. This rift became even more noticeable after Trump's July 2018 Helsinki meeting with Putin, in which Trump publicly accepted Putin's denials of interference rather than intelligence community assessments. Trump tried to clarify his remarks after a political firestorm erupted, but this did not undo the damage. Instead, his equivocation kept the issue alive. In November 2018, Trump publicly dismissed findings by the CIA of the culpability of Saudi crown prince Mohammed bin Sultan in the murder of U.S.-based Saudi journalist Jamal Khashoggi in the Saudi consulate in Istanbul, which U.S. intelligence confirmed in 2021.

One other issue related to the 2016 election and Russia is the question of what the Obama administration did or did not do in light of the intelligence that it had. Obama administration officials have stated that Obama was reluctant to take more forceful overt action as he did not want to be seen as possibly intervening in the election in favor of Clinton. The Senate investigation criticized the Obama administration's lack of action.

A March 2021 intelligence community assessment stated that Russia, in particular, took steps to support the reelection of President Trump, while Iran sought to undercut him. The assessment also stated that the actual voting was not affected in any way.

Domestic Extremism. In the aftermath of the January 6, 2021, insurrection at the U.S. Capitol, DNI Avril Haines (2021–) announced that U.S. intelligence would investigate U.S. domestic extremism. This is within her charter as DNI, as she oversees domestic and homeland intelligence as well as foreign intelligence. However, given that the participants in these activities are predominantly U.S. citizens, there are limits on which intelligence agencies can take part and which cannot—such as CIA and NSA. Haines also said the inquiry would look into possible foreign connections to this extremism, which would allow other agencies to participate as long as the legal "lanes in the road" are observed. In either case, this is likely to become a politically controversial inquiry.

The Legal Framework of Intelligence. U.S. intelligence operates within a legal framework that has evolved over time. Here are some of the key laws and orders:

- **The Constitution of the United States of America.** The Constitution sets forth the roles and responsibilities of the three branches of government.

The key aspects in terms of intelligence are Congress's power to create departments and agencies, its power of the purse, and the basis for congressional oversight; the president's role as commander-in-chief and his obligation to defend the nation; and the judiciary's role in determining the constitutionality of laws and orders. In addition, the Bill of Rights (Amendments I–X) establishes citizens' rights that have to be taken into account in intelligence activities, including freedom of speech and the press (First Amendment); no search and seizure of personal possessions without a specific warrant showing cause (Fourth Amendment); no deprivation of life or liberty without due process of law (Fifth Amendment); and no cruel or unusual punishments (Eighth Amendment).

- **The Espionage Act, 1917.** Enacted to safeguard U.S. military operations and the operation of the draft during World War I, this act has become the main basis for prosecuting leaks of classified material.

- **The National Security Act, 1947.** This act created the modern U.S. national security apparatus—the National Security Council (NSC); a secretary of defense and the Joint Chiefs of Staff; a director of central intelligence (DCI) under the NSC, responsible for foreign intelligence; and the CIA under the DCI. It also set forth, in vague terms, a CIA charter that included no police or subpoena power but the ability to "perform such other functions" as directed.

- **S. Res. 400, 1976.** This resolution set forth the charter of the Senate Select Committee on Intelligence.

- **Foreign Intelligence Surveillance Act, 1978.** This act created procedures to conduct physical or electronic surveillance for foreign intelligence purposes, typically requiring a warrant, although there are special and limited conditions for warrantless surveillance. It also created the Foreign Intelligence Surveillance Court (FISC) to oversee this process.

- **Intelligence Oversight Act, 1980.** This act made congressional oversight of intelligence explicit. This act requires that Congress be kept "fully and currently informed" about intelligence activities, including "any significant anticipated activity."

- **Classified Intelligence Procedures Act, 1980.** This act limits the ability of defendants in criminal cases who are in possession of classified information to use that as a means of circumventing prosecution, sometimes called "graymail," by allowing judges to hear the material without divulging it to the jury.

- **Intelligence Identities Protection Act, 1982.** This act makes it a federal crime for those with access to classified information or those who systematically seek to identify and expose covert agents to intentionally reveal the identity of a U.S. intelligence agent.

- **USA PATRIOT Act, 2001.** In reaction to the 9/11 attacks, Congress enacted a series of laws to enhance the ability of intelligence to counter terrorism, including enhanced surveillance of both citizens and noncitizens, so-called "roving wiretaps," improved intelligence sharing, and so on. The act was extended and revised several times.

- **Intelligence Reform and Terrorism Prevention Act (IRTPA), 2004.** The first major revision of U.S. intelligence structure since the 1947 act, this act created a director of national intelligence as the head of U.S. intelligence, overseeing "national intelligence," which means foreign, domestic, and homeland intelligence. The DNI is separate from any intelligence agency. The head of the CIA is redesignated the director of the CIA (DCIA).

- **USA FREEDOM Act, 2015.** This act revised some of the collection programs created under the USA PATRIOT Act, ending the bulk collection program (Sec. 215). It also provides for the publication (with redactions, if necessary) of significant FISC decisions.

- **Executive Order 12333, 1981; amended 2004 and 2008–United States Intelligence Activities.** First promulgated by President Reagan, Executive Order 12333 sets out the roles and responsibilities of U.S. intelligence writ large and by specific agencies, as well as rules for the conduct of intelligence activities so as to protect civil liberties.

- **Executive Order 13526, 2009–Classified National Security Information.** This is the current executive order regarding the classification, safeguarding, and declassification of national security information.

- **Intelligence Community Directives (ICDs).** The DNI issues directives establishing policies for the intelligence community. These can be found at https://www.dni.gov/index.php/what-we-do/ic-related-menus/ic-related-links/intelligence-community-directives. These include the following:

    o ICD 107: Civil Liberties, Privacy, and Transparency

    o ICD 112: Congressional Notification

    o ICD 116: Intelligence Planning, Programming, Budgeting, and Evaluation System

    o ICD 120: IC Whistleblower Protection

    o ICD 203: Analytic Standards

    o ICD 204: National Intelligence Priorities Framework

    o ICD 304: Human Intelligence

    o ICD 403: Foreign Disclosure and Release of Classified National Intelligence

- o ICD 700: Protection of National Intelligence

- o ICD 701: Unauthorized Disclosures of Classified National Security Information

- o ICD 703: Protection of Classified National Intelligence, Including SCI

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FURTHER READINGS

Most histories of U.S. intelligence tend to be CIA-centric, and these suggested readings are no exception. Nonetheless, they still offer some of the best discussions of the themes and events reviewed in this chapter.

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