

The Real Mother of Terror

By Colonel Daniel Smith, USA (Ret.) | March 22, 2004

The *Washington Times* headline (March 9), reporting on the latest Gallup Poll, said it all: “Terrorism Ranks Highest as ‘Critical Threat’ to U.S.”

A Question of Trust

Given other recent headlines, this one—and the accompanying story, which cites the spread of weapons of mass destruction as a close companion critical threat—begs an increasingly pertinent question about the core relationship between the people and their political leadership. The question and the relationship concern trust, trust that officials are interpreting data and trends properly and honestly reporting these to the public, who in a democracy are sovereign; trust that, given the prevailing conditions, appropriate precautions and plans are in hand; and trust that security procedures and processes are balanced by the strictest observance of and respect for the constitutional safeguards involving individual rights and protections.

Such considerations point to two levels of trust—between elected officials and the public and between sovereign nations—both of which seem to be fraying as the country moves further and further from September 11, 2001, and from the March 2003 invasion of Iraq.

Trust and the Public: Part I

By happenstance, the same March morning that the Gallup results appeared, CIA chief George Tenet testified before the Senate Armed Services that his agency had never agreed with crucial pre-war “findings” about Iraq made by an ad hoc Pentagon “intelligence cell.” That organization reportedly told officials in Vice President Dick Cheney and National Security Advisor Condoleezza Rice’s offices that an operational relationship existed between Iraq and al Qaeda, implying collaboration in the September 11

attacks on the U.S. and further implying future collaboration.

In response, senators noted that the July 18, 2003 publicly released portions of an October 2002 National Intelligence Estimate (NIE) cautioned that Iraq could employ its purported weapons of mass destruction against mainland U.S. targets, a judgment that Senator Carl Levin (MI) said was not in the classified version of the entire NIE.

(The pertinent declassified NIE excerpt read: “Iraq probably would attempt clandestine attacks against the U.S. Homeland if Baghdad feared an attack that threatened the survival of the regime were imminent or unavoidable, or possibly for revenge. Such attacks—more likely with biological than chemical agents—probably would be carried out by special forces or intelligence operatives.”)

This discrepancy was reinforced by an unclassified October 7, 2002, letter from Tenet to Senator Bob Graham (FL) that stated: “Baghdad for now appears to be drawing a line short of conducting terrorist attacks with conventional or CBW against the United States.... [But] Saddam might decide that the extreme step of assisting Islamist terrorists in conducting a WMD attack against the United States would be his last chance to exact vengeance by taking a large number of victims with him.”

This linking of September 11–al Qaeda–Iraq–weapons of mass destruction in the public’s perception was the basis on which the administration first justified its long-planned invasion of Iraq. That the unclassified material the public received tilted toward (“probably” and “might”) action by Saddam–al Qaeda rather than away (“unlikely” or “might not”) while the classified ver-



sion took a different view, suggests policymakers believed they would not be called to account as these conflicting assessments would never come to light.

International Trust: the U.S. and UN

This same disdain for core relationships surrounds the controversy over U.S.-UK spying on other members of the UN Security Council (UNSC) from late January to March 2003. The period in question encompassed Secretary of State Colin Powell's presentation of Washington's case against Saddam to the UNSC to the end of efforts to secure a UN resolution authorizing military action against Iraq. The targets, according to the British newspaper *Observer*, were the "middle six" rotating members of the UNSC who were needed by the U.S. to get the minimum nine votes to pass the resolution. A January 31, 2003 memo from the Pentagon's National Security Agency to, among others, Britain's counterpart agency, GCHQ (Government Communications Headquarters), asked for a "surge" effort against UNSC members to determine reactions to the debate and any voting plans. The memo, leaked by a GCHQ Chinese-language translator to the *Observer*, violated provisions of the 1946 Vienna Convention on Privileges and Immunities of the United Nations (Article 2, Section 3) to which the U.S. and the UK are parties.¹

(By early March 2003, about the time the memo was leaked, the White House apparently had come to the view that Britain's last-ditch efforts to win over the six (Angola, Cameroon, Chile, Guinea, Mexico, Pakistan) to a new resolution authorizing the invasion was merely prolonging the inevitable. The resolution never came to a vote. Significantly, the trial under Britain's Official Secrets Act of the translator, Katharine Gun, ended abruptly on February 25, 2004, when prosecutors declined to present evidence. Neither NSA nor GCHQ has denied the authenticity of the leaked document.)

Had the survival of the U.S. been at stake, many among the public would undoubtedly contend that the "supreme national interest" justified the treaty violation. But while this clearly was not the situation on the international front, the same argument is

being applied to justify the renewal of an old tactic—intimidating and spying within the U.S. on individuals and groups exercising their constitutional right to criticize the government, to organize and lobby against policies and programs, and to practice nonviolent dissent.

Trust and the Public: Part II—Civilian Intrusion

With the passage of the USA PATRIOT Act shortly after September 11, Attorney General John Ashcroft's Justice Department was given new powers to gather information on U.S. residents even in the absence of probable cause of terrorist or criminal activity. In addition, on May 30, 2002, Ashcroft announced changes to the "Attorney General's Guidelines on General Crimes, Racketeering and Terrorism" that regulated the investigative powers of the Federal Bureau of Investigation (FBI).² Ashcroft's changes permit commercial database "mining" and infiltration of groups (e.g., attending gatherings of any kind open to the public while "undercover") even in the absence of evidence of criminal intent or acts.

Concerns about how the Justice Department was using its new powers under the USA PATRIOT Act and the Ashcroft Guidelines—and efforts to limit unwarranted snooping and prevent witch hunts—were validated in early March 2004. Newspaper and television reporting revealed U.S. military and law enforcement activities reminiscent of the 1960s and 1970s when federal agents and the Army infiltrated, spied on, and maintained dossiers on civil rights workers and leaders and on anti-war organizations.

The most publicized incident involved federal grand jury subpoenas for records—including names of attendees—of a November 2003 anti-war gathering at Drake University in Des Moines, Iowa. The summons also demanded records dating back to 2002 of the campus chapter of the National Lawyers Guild, the organization that sponsored the November meeting. Moreover, as reported by Public Broadcasting System's "Now with Bill Moyers," subpoenas issued to meeting organizers requiring their appearance before the grand jury were delivered by a person associated with the FBI Joint Terror Task Force—a clear

indication of an attempt by federal agents to link dissent to terrorism.³

“Now” also chronicled how a Colorado anti-war group planning peaceful protests against the Iraq war was infiltrated twice by undercover “anti-terror” police in the space of a month. Alarming, the second infiltrator was a classic *agent provocateur*, suggesting the group “storm” the expected police line. Similarly, an anti-war group in Fresno, California discovered that an undercover anti-terror policeman had been part of their group when his death in a traffic accident was reported in the papers.

Trust and the Public: Part III—Military Intrusion

Equally disturbing are signs that the Pentagon is resurrecting programs involving domestic information gathering that had been stopped in the 1970s. The *Wall Street Journal* reported incidents involving demands by Army and Navy intelligence for records. The Army incident involved videos of a University of Texas conference at which “suspicious” remarks were made about Army lawyers. The Navy wanted a maritime trade database maintained by the Customs Service to help stop potential terrorism. And the Defense Intelligence Agency has its own anti-terror task force that is concluding agreements on “information sharing” with local authorities.

Defense Department Directive 5105.67, dated February 19, 2002, created the Counterintelligence Field Activity (CIFA) whose mission is to “develop and manage DoD Counterintelligence (CI) programs and functions ... as well as to detect and neutralize espionage against the Department.”⁴ The Directive states that the CIFA will be “operating as a law enforcement activity” empowered to “exchange information and advice as well as coordinate actions with [other] DoD Components, as required.” This is quite reasonable in that the Defense Department must have the ability to protect itself against unlawful attempts to compromise necessary military secrets.

What is more troublesome is the possible abuse of the provision under which the CIFA director is to “communicate with other Government officials, representatives of the legislative branch, members of the public, and representatives of foreign governments, as

appropriate, in carrying out assigned functions.” “Communicate” can all too easily turn into intimidate—as illustrated in the University of Texas episode—or to “sharing” information with civilian law enforcement agencies about groups and individuals whose beliefs opposing war are practiced nonviolently. Indeed, this authority to “communicate” could be used to circumvent the general prohibition in Defense Department Directive 5200.27 against retention of files on individuals beyond 90 days.⁵ That this is not simply a far-fetched supposition was confirmed last August when, as the *Journal* recounts, Deputy Secretary of Defense Paul Wolfowitz directed the CIFA to develop a “domestic law-enforcement database that **includes** information related to potential terrorist threats directed against the Department of Defense” [emphasis added]. One might feel more at ease were “restricted to” had been used in place of “includes.”

Trust or Tyranny

It is often said that knowledge is power, and when misused, knowledge and power corrupt. And should power be used to intimidate so as to stifle dissent, the self-correcting effects of speaking truth to power are diminished, if not lost. Even the rubric of the “global war on terror,” cannot justify officialdom’s “overreach” in acquiring, processing, sharing, and retaining information on those who peaceably oppose U.S. policies—whether individuals, groups, or countries.

Nor should the public acquiesce in any instances of official overreach. Unlike the mislabeled USA PATRIOT Act, which would restrict and even deny basic freedoms, real patriots have always acted to defend, secure, and even expand their rights. This last is important, for as with much in life—even life itself—there is no *status quo*, one either advances or loses ground to exterior powers that are hard to control.

People speak of the terror of the unknown. Such terror is the greatest tyranny of all, for it can encompass such total ignorance that an individual loses all sense of control over the future. That is why knowledge, properly understood, is another word for democracy—the right to think and to speak freely.

As John Milton said, “Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.”⁶

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ENDNOTES

- ¹ The article says: “The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.”
- ² The Guidelines were first issued in 1976 by Attorney General Edward Levi following revelations by the Church Committee of persistent violations by the FBI and military intelligence/counterintelligence organizations of constitutional protections of speech, assem-

bly, dissent, and privacy. The core requirement for initiating an investigation specified in Levi’s Guidelines, subsequently weakened and finally gutted by Ashcroft, was “specific and articulable facts” indicating criminal activity.

- ³ What was really puzzling in this episode was the fact that the agenda for the meeting was sent to the police prior to the gathering and they were invited to attend. Two men from the sheriff’s office did come but “undercover,” as discovered later.
- ⁴ The full mission statement reads “to develop and manage DoD Counterintelligence (CI) programs and functions that support the protection of the Department, including CI support to protect DoD personnel, resources, critical information, research and development programs, technology, critical infrastructure, economic security, and U.S. interests, against foreign influence and manipulation, as well as to detect and neutralize espionage against the Department.”
- ⁵ Paragraph 6.4 of the Directive, dated January 7, 1980, states: “Information within the purview of this Directive, regardless of when acquired, shall be destroyed within 90 days unless its retention is required by law or unless its retention is specifically authorized under criteria established by the Secretary of Defense, or his designee.”
- ⁶ *Areopagitica* (1644) [available online at <http://darkwing.uoregon.edu/~rbear/areopagitica.html>]

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