

Intelligence Analysis and Planning for Paramilitary Operations

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INTRODUCTION

Paramilitary operations – “PM ops” in American spytalk – may be defined as secret war-like activities.¹ They are a part of a broader set of endeavors undertaken by intelligence agencies to manipulate events abroad, when so ordered by authorities in the executive branch. These activities are known collectively as “covert action” (CA) or, alternatively, “special activities,” “the quiet option,” or “the third option” (between diplomacy and overt military intervention). In addition to PM ops, CA includes secret political and economic operations, as well as the use of propaganda. Often used synergically, each form is meant to help nudge the course of history – insofar as this is possible – in a direction favorable to the United States. Since the creation of the modern U.S. “intelligence community” by way of the National Security Act of 1947, PM ops have been conducted by the Central Intelligence Agency (CIA), known by insiders as “The Agency.”² This article offers a brief history of America’s paramilitary activities, with special attention to the relationship between intelligence analysis – the attempts by the CIA and its fifteen companion agencies³ to understand

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1. *See generally* WILLIAM J. DAUGHERTY, *EXECUTIVE SECRETS: COVERT ACTION & THE PRESIDENCY* (2004); LOCH K. JOHNSON, *AMERICA’S SECRET POWER: THE CIA IN A DEMOCRATIC SOCIETY* (1989); JOHN PRADOS, *SAFE FOR DEMOCRACY: THE SECRET WARS OF THE CIA* (2006); and GREGORY F. TREVERTON, *COVERT ACTION: THE LIMITS OF INTERVENTION IN THE POSTWAR WORLD* (1987).

2. In recent years, though, some outside observers have expressed concern that the Department of Defense (DoD) may have slipped through the back door into this sensitive domain, as part of its war efforts in the Middle East and Southwest Asia in the aftermath of the 9/11 attacks against the United States. The concern is that DoD may be bypassing the procedures for accountability currently focused on CIA covert actions. *See* Jennifer Kibbe, *Covert Action and the Pentagon*, in 3 *STRATEGIC INTELLIGENCE: COVERT ACTION* 131-144 (Loch K. Johnson ed., 2007); and John Prados, *The Future of Covert Action*, in *HANDBOOK OF INTELLIGENCE STUDIES* 289-298 (Loch K. Johnson ed., 2007).

3. The other fifteen agencies include eight military organizations embedded within the DoD: the National Geospatial-Intelligence Agency, National Reconnaissance Office, National Security Agency, Defense Intelligence Agency, and the Army, Navy, Air Force and Marine Intelligence agencies; seven agencies embedded within civilian departments, including the Department of Homeland Security’s Office of Intelligence and the Coast Guard (both within DHS), Department of Justice (the FBI and the Drug Enforcement Administration, Department of State’s Bureau of Intelligence and Research, Department of

contemporary world events and forecast how they will unfold – and the use of paramilitary forces to achieve U.S. foreign policy goals.

I. THE METHODS OF CIA PARAMILITARY OPERATIONS

No covert actions have held higher risk or generated more criticism than “covert” wars (as if any kind of military conflict can be kept secret for very long). In addition to providing support to groups engaged in insurgency fighting, the CIA has funded various PM training activities, including counterterrorism operations. It has also provided military advisers to pro-American factions fighting against common adversaries, and transported arms, ammunition, and other military equipment overseas for distribution to groups allied with U.S. interests, as when the Agency provided Stinger missiles for Afghan rebels (the Mujahideen) fighting the Soviet Red Army in the 1980s. Moreover, the CIA has given assistance to the Pentagon’s unconventional warfare activities, known as “Special Operations.” The Agency has supplied weapons, as well, to U.S. military officials for covert sales abroad, including some of the missiles sold to Tehran by the Department of Defense (DoD) during the Iran-Contra scandal of 1986-1987. Further, the Agency has trained indigenous military and police units throughout the developing world. In between covert wars, America’s PM operatives spend much of their time in training activities at CIA facilities in the United States. The operatives are responsible, too, for the maintenance of their paramilitary equipment, and they support selected CIA intelligence collection operations around the globe.

During the Cold War and since, America’s PM operatives have disseminated weaponry to allied nations and factions in every corner of the developing world. The Church Committee, a panel of inquiry into intelligence activities led by Senator Frank Church, Democrat from Idaho, in 1975-1976, discovered a wide range of CIA arms shipments to pro-Western dissidents in a number of small nations. These armaments included high-powered rifles with telescopes and silencers, suitcase bombs, fragmentation grenades, rapid-fire weapons, 64-mm antitank rockets, .38 caliber pistols, .30 caliber M-1 carbines, .45-caliber submachine guns, tear-gas grenades, and enough ammunition to equip several small armies. For major PM operations, such as the one designed to assist the Mujahideen fighters in Afghanistan, the amount of ordnance provided by the CIA has been enormous, dwarfing the arsenals of most countries in the world.⁴

Energy, and Department of Treasury. The sixteenth intelligence organization, the CIA, stands alone as an independent agency.

4. On the findings of the Church Committee related to paramilitary operations, see FINAL REPORT OF THE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES, S. REP. NO. 94-755 (1976) [hereinafter CHURCH COMMITTEE]; the Committee’s volume on ALLEGED ASSASSINATION PLOTS INVOLVING

II. THE ASSASSINATION OPTION

An especially controversial aspect of PM ops has been the adoption of assassination as a method to eliminate dangerous, or, sometimes, merely annoying, foreign leaders. The CIA's involvement in murder plots came to light in 1975. In documents discovered by presidential and congressional investigators (the Rockefeller Commission, led by Vice President Nelson Rockefeller, and the Church Committee, respectively), the Agency referred to its attempts at dispatching selected foreign leaders with such euphemisms as "termination with extreme prejudice" or "neutralization." At its headquarters in Langley, Virginia, the CIA established a "Health Alteration Committee," which hatched schemes to eliminate foreign officials. Among the prime targets for assassination were Fidel Castro of Cuba and Patrice Lumumba of Congo.⁵

A. Targeting Foreign Leaders

During the Kennedy and Johnson administrations, Castro attracted the full attention of the CIA's Covert Action Staff (CAS) and its Special Operations Group (SOG, the home of the Agency's PM operatives). The CIA emptied its medicine cabinet of drugs and poisons in various attempts to kill, or at least debilitate, the Cuban leader. All of these efforts failed, however, because Castro was elusive and well protected by an elite security guard trained by the KGB. The Agency then turned to the Mafia for assistance: Chicago gangster Sam Giancana, the former Cosa Nostra chief for Cuba, Santo Trafficante, and mobster John Rosselli. These "godfathers" still had contacts on the island from pre-Castro days when Havana was a gambling mecca. No doubt assuming the U.S. government would back away from pending Mafia prosecutions in return for help against Castro, the crime figures volunteered to assemble teams of Cuban exiles and other hitmen, then infiltrate them into Cuba. None succeeded.

During the Eisenhower administration and continuing into the Kennedy years, Lumumba, a dynamic Congolese political leader, came into the CIA's cross-hairs as well. From Washington's point of view, his transgression – like Castro's – had been to develop ties with the Soviet Union. In what some viewed as a zero-sum struggle with the Soviets

FOREIGN LEADERS: AN INTERIM REPORT, S. REP. NO. 94-465 (1975) [hereinafter ALLEGED ASSASSINATION PLOTS] (subsequently published commercially by W. W. Norton & Company); and ANNE KARALEKAS, SUPPLEMENTARY DETAILED STAFF REPORTS ON FOREIGN AND MILITARY INTELLIGENCE, S. REP. NO. 94-755 (1976). On the supply of weapons to the Afghan freedom fighters, see STEVE COLL, GHOST WARS (2004); and, more generally, THEODORE SHACKLEY, THE THIRD OPTION: AN AMERICAN VIEW OF COUNTERINSURGENCY (1981).

5. ALLEGED ASSASSINATION PLOTS, *supra* note 4.

during the Cold War, Lumumba had to go. In 1961, Agency headquarters forwarded to its chief of station (COS) in Congo an unusual assortment of items in a diplomatic pouch to achieve this objective: rubber gloves, gauze masks, a hypodermic syringe, and a toxic substance that would produce a disease to either kill the victim outright or incapacitate him so severely that he would be out of commission.

The COS began to plan how he could carry out the specific directions to inject the toxic material into something that might make it into Lumumba's mouth – “into his toothpaste or food,” read the instructions.⁶ The station chief informed one of his colleagues to be careful: there was a “virus” in the CIA's safe within the U.S. embassy compound at Leopoldville, the capital of Congo. In dark humor, the recipient of this hushed disclosure later said to investigators that he “knew it wasn't for somebody to get his polio shot up-to-date.”⁷ The plan, though, was never carried out, because the Agency experienced problems in gaining access to Lumumba. Soon, though, a rival Congo faction, fearful of Lumumba's popularity, snuffed out his life before a hastily arranged firing squad. A recent study suggests that the CIA may have helped to render Lumumba into the hands of these assassins, achieving its goal after all.⁸

The CIA has also been involved in the incapacitation or death of lower-level officials. The most well known operation of this kind was the Phoenix Program, carried out by the Agency in South Vietnam as part of the U.S. war effort during the late 1960s and early 1970s. The operation's purpose was to subdue the influence of communists (the Viet Cong, or VC) in the Vietnamese countryside. According to former Director of Central Intelligence (DCI) William E. Colby, who led the program for a time as a young intelligence officer, some twenty thousand VC leaders and sympathizers were killed. Colby stresses that over 85 percent of these victims were engaged in military or paramilitary combat against South Vietnamese or American soldiers.⁹

B. A Limited Ban on Assassinations

In 1976, soon after Congress revealed the CIA's involvement in international murder plots, President Gerald R. Ford signed an executive order against this practice. The wording of the order, endorsed by his successors, reads: “No person employed by or acting on behalf of the

6. Stephen R. Weissman, *An Extraordinary Rendition*, 25 INTELLIGENCE & NAT'L SECURITY 198, 205 (2010).

7. ALLEGED ASSASSINATION PLOTS, *supra* note 4, at 41 (testimony of Michael Mulrone, senior CIA officer).

8. Weissman, *supra* note 6, at 198-222.

9. WILLIAM COLBY & PETER FORBATH, *HONORABLE MEN: MY LIFE IN THE CIA* 272 (1978).

United States Government shall engage in, or conspire to engage in, assassination.”¹⁰ While honored most of the time, when America is involved in an authorized overt war – one supported by Congress – the executive order has been waived. Indeed, former DCI Robert M. Gates observed that during the first Persian Gulf War in 1991, the White House under President George H. W. Bush “lit a candle every night hoping Saddam Hussein would be killed in a bunker” during overt bombings of Baghdad.¹¹

Most recently, the United States has been involved in authorized overt warfare in Iraq and Afghanistan, as well as against al Qaeda and its Taliban supporters in Afghanistan, Pakistan, and elsewhere. Again, the executive order against assassination has been waived in these struggles. Saddam was regularly a target in the second Persian Gulf War that began in 2003; but, as in the first Persian Gulf War, he proved to be an elusive target. Eventually, U.S. troops discovered him hiding in a hole in the ground near his hometown. He was arrested, tried by an Iraqi tribunal, and hanged – all with the strong encouragement of the United States under President George W. Bush. Saddam had ordered an assassination attempt against the President’s father and mother soon after Iraq’s defeat in the first Persian Gulf War, when the senior Bushes were visiting Kuwait to celebrate the victory – an offense not lost on Bush their son. As George W. Bush relates in a memoir, revenge was part of his motivation for invading Iraq in 2003.¹²

Added to the current list of people to be captured or assassinated by the U.S. military and CIA paramilitary forces are extremist Taliban and al Qaeda members in Afghanistan and Pakistan. Recently Afghan narcotics dealers, who are frequently complicit in terrorist activities, have been added to the targeting list.¹³ Since the end of the Cold War, the CIA (in cooperation with the U.S. Air Force) has developed and fielded its most deadly paramilitary weapon: unmanned aerial vehicles (UAVs), such as the Predator and its more muscular counterpart, the Reaper. Both UAVs, also known as drones, are armed with surveillance cameras, as well as Hellfire or other missiles. These systems are controlled remotely from sites in Afghanistan and Pakistan (for the takeoffs and landings), as well as from locations in the United States (for the targeting and killing phases of flight). Cruising at low altitudes, the UAV cameras identify targets, providing instant “analysis” before the missiles are released by their remote operators thousands of miles away.

10. Exec. Order No. 12,333, *United States Intelligence Activities*, 3 C.F.R. 200 (1981).

11. Walter Pincus, *Saddam Hussein’s Death Is a Goal, Says Ex-CIA Chief*, WASH. POST, Feb. 15, 1998, at A36 (quoting former DCI Robert M. Gates).

12. GEORGE W. BUSH, DECISION POINTS 228-229 (2010).

13. For an account of U.S. drone attacks in the Middle East and Southwest Asia, see Jane Mayer, *The Predator War*, NEW YORKER, Oct. 26, 2009, at 36-45.

Targeting mistakes are made. The mistakes are compounded by the fact that Taliban and al Qaeda terrorists often seek refuge in mosques, schools, and other locations where innocent civilians may be inadvertently struck by the UAV missiles, even though the CIA and the Pentagon take pains to avoid “collateral damage.” Through mid-October of 2010, the drone program had killed more than 400 al Qaeda militants, with fewer than ten deaths of noncombatants – at least according to *The New York Times*, although other sources believe that the incidental deaths of civilians has been much higher in number.¹⁴ One thing is certain: innocent civilians continue to die, and sometimes the drones accidentally strike U.S. soldiers, too. The drone attacks remain controversial and are unpopular among many Pakistani citizens, who view them as a manifestation of America’s violation of their national sovereignty – just as many Pakistanis criticized the Navy’s surprise commando raid in 2011 that led to the killing of the al Qaeda leader Osama bin Laden in Abbottabad, a city near the capital of Pakistan.

The U.S. military is called upon for some assassination attempts, either alone or in tandem with CIA operatives. During the Clinton administration, for instance, the President turned down two proposed attacks by cruise missiles, ready for firing from U.S. destroyers in the Red Sea and aimed at bin Laden. In one case, bin Laden was surrounded by several of his wives and children in an Afghan village, and in another by princes from the United Arab Emirates (UAE) on a bird-hunting expedition. President Clinton chose not to risk the deaths of these other individuals in an attack against bin Laden. On another occasion, the United States fired cruise missiles from a U.S. Navy cruiser in the Red Sea at a suspected al Qaeda gathering in the desert near the town of Khost in Paktia Province, Afghanistan. Bin Laden had already departed, however, before the warheads struck the encampment.

The al Qaeda leader continued to evade U.S. assassination attempts, lying low somewhere in the rugged mountains of Western Pakistan (many experts believed) and protected by Taliban warlords.¹⁵ Then, supported by fresh intelligence collection and analysis, a Navy Seal Six commando team stormed a walled, private compound in Abbottabad (just thirty-five miles from Islamabad), in May 2011, and, under orders from President Barack Obama, killed bin Laden. The al Qaeda leader had reportedly been holed up in the Abbottabad hideout for five to six years, underscoring the

14. Unsigned editorial, *Lethal Force Under Law*, N.Y. TIMES, Oct. 10, 2010, at WK 7; Amitabh Pal, *Drone Attacks in Pakistan Counterproductive*, THE PROGRESSIVE, Apr. 15, 2011, <http://www.progressive.org/ap041511.html> (arguing that the civilian casualties have been much higher).

15. On plots against Osama bin Laden, see GEORGE TENET, *AT THE CENTER OF THE STORM: MY YEARS AT THE CIA* (2007); MICHAEL SCHEUER, *IMPERIAL HUBRIS* (2004); and Eric Schmitt & Thom Shanker, *In Long Pursuit of Bin Laden: The '07 Raid That Just Missed*, N.Y. TIMES, May 6, 2011, at A1.

difficulty of locating terrorists and other criminals on the run in foreign lands.¹⁶

C. Establishing Hit Lists

Exactly who should be on the PM “kill” list has been a controversial subject. Originally, the USA PATRIOT Act of 2001¹⁷ stipulated that only those enemies involved in the 9/11 attacks were legitimate targets for retaliation. Since then, and without further legislative guidelines, the target list has widened. For example, a U.S.-born cleric by the name of Anwar al-Awlaki, reputedly hiding in Yemen where he is considered an al Qaeda recruiter, has been placed on the CIA assassination list – even though he has never been convicted in a court of law. Further, it is unclear if he has actually been involved in plots against the United States. If he has, al-Awlaki could arguably be a legitimate target; however, if he has limited himself to making speeches against the United States, al-Awlaki would just be one of hundreds of radicals in the Middle East and Southwest Asia who have advocated *jihād* against Western “infidels.” Regardless, in May 2011 he barely escaped a U.S. drone strike.¹⁸ In an earlier drone attack in 2002, a Predator missile struck an automobile in a Yemeni desert that carried six passengers suspected to be al Qaeda affiliates. All were incinerated, and one turned out to have been an American citizen – again, a person never brought to trial. Such events raise serious questions about due process, and the need to establish target bona fides beyond the shadow of a doubt before Hellfire missiles are fired.

At present, the procedures for developing assassination targeting lists lack clarity and sufficient oversight. Reportedly, the decision to add to such lists requires the approval of the U.S. ambassador to the target country, as well as the approval of the CIA COS, the director of the Agency’s National Clandestine Service (the SOG’s parent department at the CIA), the Director of the CIA (D/CIA), and the Director of National Intelligence (DNI), an

16. See *Meet the Press*, NBC NEWS (May 8, 2011) (reporting that national security adviser Tom Donilon estimated that bin Laden had been at the compound for “six years”); *60 Minutes*, CBS NEWS (May 8, 2011) (interview after the raid reporting that the President referred to “five or six years”). For an example of reporting on the raid, see Elisabeth Bumiller, *In Bin Laden’s Compound, Seals’ All-Star Team*, N.Y. TIMES, May 5, 2011, at A14. Even a high-profile fugitive within the United States can remain hidden for a long time. For example, Eric Rudolph, who set off a bomb at the 1996 Olympic site in Atlanta, remained on the loose until 2003, when he was accidentally apprehended in North Carolina – just one state away from the scene of the crime.

17. Uniting and Strengthening America by Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272.

18. See Ross Douthat, *Whose Foreign Policy Is It?*, N.Y. TIMES, May 9, 2011, at A23. In September 2011, al-Awlaki was killed by a CIA drone.

office established in 2004. If the target is an American citizen, like al-Awlaki, attorneys in the Justice Department must also approve. Further, at least some of the members of the two congressional intelligence committees are supposedly briefed on the targeting. Still, critics argue that a more formal congressional review should take place, and perhaps the courts should be part of this decision-making process, too. A special court, similar to the one established in 1978 to review wiretap requests (the Foreign Intelligence Surveillance Act, or FISA, Court), could be set up to evaluate requests for assassinations, especially when American citizens are the prospective targets.¹⁹

Even when the United States has decided to assassinate a foreign leader, the task has proved difficult to carry out. Castro reportedly survived thirty-two attempts against his life by the CIA.²⁰ Efforts to take out the warlord General Mohamed Farrah Aidid of Somalia failed during America's brief involvement in fighting on the African Horn in 1993, and Saddam Hussein proved impossible to locate during the 1990s. Osama bin Laden remained elusive until May of 2011 – almost a decade after the 9/11 attacks. Dictators are paranoid, well guarded, and elusive, as are high-ranking members of al Qaeda and other terrorist groups.

III. THE EBB AND FLOW OF PARAMILITARY OPERATIONS

Although PM ops were out of favor with some administrations in the United States, others have spent enormous sums of money them.²¹ As depicted in Figure 1, support for these activities during the Cold War accelerated from the very beginning of the CIA's history in 1947, rising rapidly from non-existence to high prominence during the Korean War.²² From 1950-1953, the Agency's paramilitary capabilities attracted a high level of attention as a means to support America's overt warfare on the Korean Peninsula – the first major use of PM operations by the United States in the modern era. Henceforth, whenever the United States was

19. This proposal is explored in *Lethal Force Under Law*, *supra* note 14.

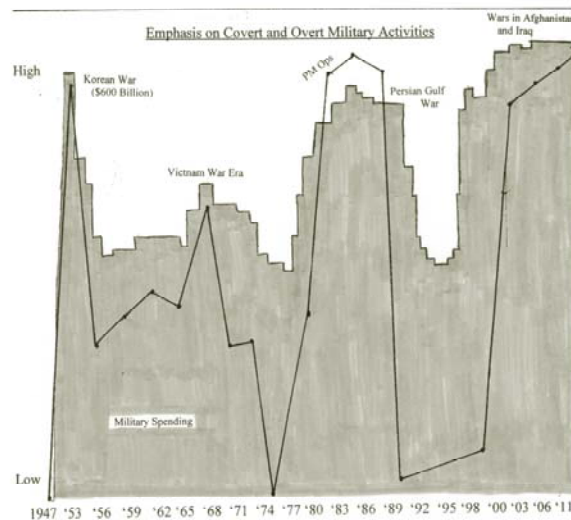
20. ADMIRAL STANSFIELD TURNER, *BURN BEFORE READING: PRESIDENTS, CIA DIRECTORS, AND SECRET INTELLIGENCE* 98 (2005).

21. For reliable histories of paramilitary operations during the Cold War, see RHODRI JEFFREYS-JONES, *THE CIA AND AMERICAN DEMOCRACY* (1989); and JOHN RANELAGH, *THE AGENCY: THE RISE AND DECLINE OF THE CIA* (rev. ed., 1987), as well as CHURCH COMMITTEE, *supra* note 4; DAUGHERTY, *supra* note 1; PRADOS, *supra* note 1; and TREVERTON, *supra* note 1.

22. In the figure, the "lows" and "highs" of PM ops represent not precise spending amounts (data that remain classified), but rather levels of emphasis on this approach adopted by the White House and the CIA. The estimates about these levels are based on a reading of the open literature, augmented by the author's interviews with CIA personnel over the years since 1975. In the interviews, respondents were asked to assess the degree of emphasis each Administration placed on PM ops during each of the years since 1947. The trend line is an approximation, but one endorsed by the hundreds of individuals interviewed, from DCIs to PM/SOG managers.

involved in overt warfare somewhere in the world, the Agency would be there as well to back up American troops with PM and other covert actions. As John Ranelagh reports, covert action funding “increased sixteenfold between January 1951 and January 1953,” and the number of personnel assigned to the covert action mission doubled, with most of these resources dedicated to PM operations.²³ The budget for covert action “skyrocketed,” according to the Church Committee.²⁴

FIGURE 1: EBB AND FLOW OF U.S. COVERT AND OVERT MILITARY ACTIVITIES ABROAD (1947-2011)



Source: This figure includes both expenditure levels for overt military activities (labeled “military spending”) and the author’s estimates of the government’s emphasis on the use of PM operations (not actual PM spending levels, which remain classified and would amount to only about 10-to-15 percent of the overt military expenditures or less, even in peak years). The PM estimates are based on the author’s interviews with intelligence managers and officers from 1975-2011, along with a study of the literature cited in the footnotes to this article. The overt military spending levels (adjusted for inflation) are adapted from Thom Shanker & Christopher Drew, *Pentagon Faces New Pressures To Trim Budget*, N.Y. TIMES, July 23, 2010, at A1.

In 1953, the CIA provided covert assistance to pro-American factions that brought down the Iranian Prime Minister, Mohammad Mossadeq, and replaced him with a more pliable leader, the Shah of Iran (Mohammad Reza

23. RANELAGH, *supra* note 21, at 220.

24. CHURCH COMMITTEE, *supra* note 4, at 31.

Shah Pahlavi).²⁵ While propaganda and political operations proved sufficient to achieve a transfer of power in this instance, PM capabilities were on stand-by. The next year they would be put to use, as the Agency succeeded with its plan to frighten the democratically elected Arbenz government out of office in Guatemala through a combination of propaganda, political, economic, and small-scale paramilitary operations.²⁶

These operations in Iran and Guatemala encouraged the Eisenhower and Kennedy administrations to rely further on the CIA to achieve American foreign policy victories abroad. William J. Daugherty notes that the outcomes in Iran and Guatemala “left in their wake an attitude of hubris” inside the Agency and throughout the Eisenhower administration’s national security apparatus.²⁷ Over the next two decades, the CIA mobilized its paramilitary capabilities in several secret military attacks against foreign governments, offering support (with mixed degrees of success) for anti-communist insurgents in such places as the Ukraine, Poland, Albania, Hungary, Indonesia, Oman, Malaysia, Iraq, the Dominican Republic, Venezuela, Thailand, Haiti, Greece, Turkey, and Cuba.

A. Vietnam and the Decline of PM Ops

The Bay of Pigs fiasco in Cuba in 1961 created only a short-lived blip of skepticism about the use of PM ops, before the Kennedy administration turned again to the Agency for secret assistance in dealing with foreign headaches.²⁸ Throughout the 1960s and early 1970s, the CIA and its recruited mercenaries abroad waged a hidden World War Three against communist forces, most notably in the jungles of Indochina. For example, from 1962 to 1968, the CIA backed the Hmung tribesmen²⁹ in North Laos during a covert war against the North Vietnamese puppets, the Communist Pathet Lao.³⁰ This struggle kept the Pathet Lao preoccupied and away from killing U.S. troops fighting next door in South Vietnam. The two sides fought to a draw until the United States withdrew from Laos, at which point the Pathet Lao decimated the Hmung. The Agency “exfiltrated” a few fortunate Hmung fighters for resettlement in the United States. Throughout the war in Vietnam, CIA/PM operatives aided the overt military effort. At times, covert actions absorbed up to sixty percent of the Agency’s annual budget, with much of the funding dedicated to paramilitary activities.³¹

25. See KERMIT ROOSEVELT, *COUNTERCOUP: THE STRUGGLE FOR THE CONTROL OF IRAN* (1981).

26. See DAVID WISE & THOMAS ROSS, *THE INVISIBLE GOVERNMENT* (1964).

27. DAUGHERTY, *supra* note 1, at 140.

28. PETER WYDEN, *BAY OF PIGS: THE UNTOLD STORY* (1979).

29. “Hmung” is pronounced with a silent “h” and sometimes referred to as the Meo.

30. See COLBY & FORBATH, *supra* note 9, at 191-202.

31. Author’s interview with a senior CIA manager, Washington, D.C. (Feb. 18, 1980).

A precipitous slide downward for PM ops occurred in the early 1970s, induced by a souring on the war in Vietnam, along with government spending cuts promulgated by the Nixon administration, tentative overtures of détente with the Soviet Union, and a domestic spy scandal in 1975 that revealed the CIA's assassinations plots and its attacks against the democratically elected government of Chile (the Allende regime). These revelations, especially from the Church Committee, raised doubts among the American people and their representatives in Congress about the propriety and value of PM and other covert actions. Public reaction brought this approach to American foreign policy "to a screeching halt," recalls a senior CIA official.³²

Covert action across the board fell into a temporary decline during the Ford and the early Carter years, but began to turn upward again during latter stages of the Carter administration – ironically, since President Jimmy Carter had campaigned in 1976 against the use of "dirty tricks" by the Agency. The chief catalyst for Carter's turn-around was the Soviet invasion of Afghanistan in 1979.

B. The Golden Age of PM Ops

Under President Ronald Reagan, the CIA pursued major paramilitary operations in a number of nations around the world, but with special emphasis in Nicaragua and Afghanistan – indeed, the second most extensive use of paramilitary operations in the nation's history, surpassing its emphasis during the Korean War. The Nicaraguan involvement ended in the Iran-Contra scandal in 1986-1987, while, in sharp contrast, the Agency's support of Mujahideen in Afghanistan during the Reagan administration is considered one of the glory moments in the CIA's history.³³ The Agency provided advanced shoulder-held missiles to the Mujahideen, which helped turn the tide of the war and send the Red Army into retreat. Most recently, PM ops have reached a third high-point in emphasis, this time in support of America's overt wars in Iraq and Afghanistan, along with operations directed against al Qaeda and other terrorist organizations, and in support of various liberation movements in North Africa. As displayed in Figure 1, most of the time America's emphasis on CIA/PM operations has been in support of U.S. overt military intervention overseas. The Reagan administration, however, provided the

32. Author's interview with a senior CIA officer, Washington, D.C. (Oct. 10, 1980).

33. On the Iran-Contra Affair, see SENATE SELECT COMMITTEE ON SECRET MILITARY ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION and HOUSE SELECT COMMITTEE TO INVESTIGATE COVERT ARMS TRANSACTIONS WITH IRAN, HEARINGS AND FINAL REPORT, S. REP. NO. 100-216 and H.R. REP. NO. 100-433 (1987); on the PM ops in Afghanistan during the 1980s, see COLL, *supra* note 4; and GEORGE CRILE, CHARLIE WILSON'S WAR (2003).

most conspicuous exception to this rule: during the 1980s, the United States avoided major overt warfare but PM ops enjoyed a period of maximum use – the Golden Age of CIA paramilitary operations – against adversaries in Nicaragua and Afghanistan.

John Deutch, one of President Clinton's DCIs, observed in 1995 that "since the public controversies of the eighties over Iran-Contra and activities in Central America, we have greatly reduced our capability to engage in covert action."³⁴ With the election of George W. Bush, covert action at first remained at a modest level – until the 9/11 attacks. Then, with three wars being fought simultaneously by the United States (in Iraq and Afghanistan, and against global terrorism), PM ops enjoyed a dramatic resurgence, directed chiefly against targets in the Middle East and Southwest Asia. This rejuvenation brought reliance on paramilitary activities up to the levels recorded during the earlier historical high-points, in Korea from 1950 to 1953, and during the Reagan administration's covert involvement in Nicaragua and Afghanistan. President Obama has maintained the high level of emphasis on the PM ops established by the second Bush administration, even escalating the frequency of Predator and Reaper attacks against the Taliban and al Qaeda in Southwest Asia, as well as authorizing covert action in support of rebels attempting to topple the Libyan regime of Colonel Muammar Gadhafi.³⁵

IV. PM OPS AND THE ANALYTIC SIDE OF INTELLIGENCE

The primary mission of the CIA and its companion agencies is not PM activities or any other form of covert action; it is to acquire information about world affairs ("collection," in spy vernacular) and then to make sense of it ("analysis"), so that decision-makers will have a better understanding of the global situations they face.³⁶ Further, decision-makers hope to have accurate, timely information and prescient analysis to enhance the chances for PM successes when this tool of foreign policy is adopted. Paramilitary operations, though, bump up against the same dilemma that confronts every effort to predict how a foreign policy initiative will play out in the world: namely, the inability of anyone – intelligence analyst, academic expert,

34. John Deutch, DCI, *The Future of US Intelligence: Charting a Course for Change*, Address at the National Press Club (Sept. 12, 1995).

35. See, for example, Mark Mazzetti & Eric Schmitt, *C.I.A. Intensifies Drone Campaign Within Pakistan*, N.Y. TIMES, Sept. 28, 2010, at A1; and, with respect to Libya, Mark Mazzetti & Eric Schmitt, *Rebels Are Retreating: C.I.A. Spies Aiding Airstrikes and Assessing Qaddafi's Foes*, N.Y. TIMES, Mar. 31, 2011, at A1. Whether the covert action authority included PM ops in support of the rebels remained unspecified in *The Times* reporting.

36. LOCH K. JOHNSON, *NATIONAL SECURITY INTELLIGENCE* (2011); and MARK M. LOWENTHAL, *INTELLIGENCE: FROM SECRETS TO POLICY* (4th ed. 2009).

think-tank specialist, or media commentator – to forecast the future with confidence.

A. The Limits of Analysis

“[T]he CIA Directorate of Science and Technology has not yet developed a crystal ball[,]” Senator Church observed in 1975, adding that “. . . [t]hough the CIA did give an exact warning of the date last year when Turkey would invade Cyprus [in 1974], such precision will be rare. Simply too many unpredictable factors enter into most situations. The intrinsic element of caprice in the affairs of men and nations is the hair shirt of the intelligence estimator.”³⁷ When it comes to predictions, intelligence scholar Richard K. Betts stresses that “some incidence of failure [is] inevitable.” He urges a higher “tolerance for disaster.”³⁸ The bottom line: accurate, timely information about the activities of America’s adversaries is often scarce or ambiguous, with much more “noise” than “signal” in the mix of gathered intelligence. Further, the situation in question may be fluid and rapidly changing. Advises former intelligence officer Arthur S. Hulnick: “Policy makers may have to accept the fact that all intelligence estimators can really hope to do is to give them guidelines or scenarios to support policy discussion, and not the predictions they so badly want and expect from intelligence.”³⁹

This realistic sense of limitations is distressing news for Presidents and cabinet secretaries who seek clear-cut answers as to whether PM ops will succeed, not just hunches and hypotheses. Nevertheless, such is the reality of intelligence. It bears repeating, though, that having intelligence agencies studying world events and conditions is, however limited the results, still better than operating blindly. As a well regarded CIA analyst has put it: “There is no substitute for the depth, imaginativeness, and ‘feel’ which experienced top estimators can bring to these semi-unknowable questions.”⁴⁰

37. 121 CONG. REC. S35786 (1975) (speech of Sen. Church).

38. Richard K. Betts, *Analysis, War and Decision: Why Intelligence Failures Are Inevitable*, 31 WORLD POLITICS 61, 87, 89 (1978). See also RICHARD K. BETTS, ENEMIES OF INTELLIGENCE: KNOWLEDGE & POWER IN AMERICAN NATIONAL SECURITY (2007).

39. Arthur S. Hulnick, Book Review, 14 CONFLICT QUARTERLY 72, 74 (1994) (reviewing HAROLD P. FORD, ESTIMATIVE INTELLIGENCE: THE PURPOSES AND PROBLEMS OF NATIONAL INTELLIGENCE ESTIMATING (1993)).

40. HAROLD P. FORD, ESTIMATIVE INTELLIGENCE: THE PURPOSES AND PROBLEMS OF NATIONAL INTELLIGENCE ESTIMATING 208 (revised ed. 1993).

B. Mysteries and Secrets

Those who are engaged in the planning of PM ops will sometimes benefit from wise intelligence analysis, but no one can ensure the success of secretive warfare in addressing America's foreign policy challenges abroad. An important distinction made by intelligence practitioners is the difference between "mysteries" and "secrets." Mysteries are subjects that a nation would like to know about in the world, but that are difficult to fathom in light of the limited capacity of human beings to anticipate the course of history - say, the question of who might be the next leader of Germany or Libya, or whether Pakistan will be able to survive the presence of extremist Taliban insurgents and al Qaeda terrorists based inside its borders. In contrast, secrets are more susceptible to discovery and comprehension, although even they may be difficult to uncover, such as the number of nuclear warheads in China, the identity of Russian agents who have infiltrated NATO, or the efficiencies of North Korean rocket fuel.

With the right spy in the right place, with surveillance satellites in the proper orbit, or with reconnaissance aircraft that can penetrate enemy airspace, a nation might be able to unveil secrets; but, in the case of mysteries, leaders must rely largely on the thoughtful assessments of intelligence analysts about the contours of an answer, based on as much empirical evidence as can be found in open sources or through espionage. Prudent nations attempt to ferret out secrets, but they can only ponder mysteries - including how well CIA foreign mercenaries, like the Hmung, will carry out PM operations under conditions of great adversity.

C. Intentions and Capabilities

Vexing, too, is the analytic task of trying to probe the *intentions* of foreign adversaries, not only their military *capabilities*. One can use satellites and reconnaissance aircraft to ascertain the number of enemy soldiers, tanks, and missiles in the field ("bean counting"); however, what are the enemy's plans for the use of these weapons - his intentions? Here the use of human agents ("humint") can trump the value of spy machines. A well-placed agent ("asset") might be in a position to ask a foreign leader: "What will you do if the United States does X?" As former CIA officer John Millis has written: "Humint can shake the intelligence apple from the tree, where other intelligence collection techniques must wait for the apple to fall."⁴¹ Successful PM ops may well depend on good analysis; but,

41. LOCH K. JOHNSON, *THE THREAT ON THE HORIZON: AN INSIDE ACCOUNT OF AMERICA'S SEARCH FOR SECURITY AFTER THE COLD WAR* (2011) (citing John I. Millis, *Why Spy?* 5 (Unpublished Working Paper, June 1995)). See also John I. Millis, Staff Director of the House Permanent Select Committee on Intelligence, Address at the Central Intelligence Retirees Association (Oct. 5, 1998).

beforehand, good analysis requires reliable humint and technical collection capabilities (“techint”).

D. Some Case Examples

A look at a few cases provides a sense of how well, or how poorly, analysis has managed to inform significant CIA paramilitary activities over the years.

1. Korea, 1950

Although Agency analysts reported on the mustering of North Korean troops along the North-South border that belted the Korean Peninsula, they did not predict the North Korean invasion into the South on June 25, 1950. Nor did they anticipate, once war was under way, the duration of the conflict or its eventual stalemate at the 38th parallel.⁴² Whether the CIA warned the U.S. military in Korea that China would intervene remains a controversial matter. The American commander in the theater, the imperious General Douglas MacArthur, claimed that the Agency had reassured him that the Chinese would stay out of the war. In direct contradiction, President Harry Truman said publicly in November 1950 that the CIA had warned of a Chinese march into Korea across the frozen Yalu River.⁴³ Either way, Agency PM operatives were largely on their own in support of overt U.S. fighting during this period, with little reliable strategic analysis from the CIA’s fledgling Directorate of Intelligence (DI, home of the Agency’s analysts).

2. Guatemala, 1954

Analysts in this instance provided reliable insights into the plight faced by the United Fruit Company, an American corporation, in Guatemala. As predicted, it suffered confiscation in 1953 at the hands of a reform-minded, democratically elected president, Jacobo Arbenz. Based on the Agency’s analytic reports and his own hunches, Allen Dulles, the DCI at the time, figured that a paramilitary operation had only about a 40 percent chance of success.⁴⁴ Policymakers in the Eisenhower administration were filled with optimism about the CIA’s capabilities, however, in the wake of the Agency’s bloodless covert action in Iran (sans PM ops) that managed to overthrow the prime minister in 1953, allowing British and U.S. intelligence to install their own choice of leaders, the Shah. Hoping for a

42. RANELAGH, *supra* note 21, at 186-189.

43. *Id.* at 215 (relying on *The New York Times* reporting at the time).

44. *Id.* at 266.

repeat performance, the Administration green-lit the Guatemala operation, despite Dulles's unfavorable betting odds. As it turned out, the regime quickly cratered, as the CIA's covert action staff spread effective propaganda against the Arbenz regime, while its paramilitary branch fielded a limited number of mercenaries to scare the President and killed a few palace resisters.⁴⁵ In the Guatemala case, analysis took a backseat to the reigning brio at the time that favored covert action as a means for ridding the world of left-wing leaders insufficiently subservient to Western anti-communist expectations. The United Fruit Company was no doubt pleased at the outcome at the time – a result also sought by the U.S. Congress; but the impoverished citizens of that nation had to endure repressive regimes after the CIA intervention. As the prominent journalist Anthony Lewis concludes, “The coup began a long national descent into savagery.”⁴⁶

3. Cuba, 1961

A lack of communication between PM operatives and DI analysts left the former with an unrealistic impression of how easy a paramilitary invasion of Cuba would be. The failed Bay of Pigs operation might never have been launched in the first place, had President Kennedy or PM managers been informed about the deep-seated reservations of Agency analysts toward any attempts to oust Castro – so popular in Cuba – by a PM invasion operation. Analysts could have been pivotal in this case, but they were ignored.⁴⁷

4. Vietnam, 1964-1973

During the Vietnam War, CIA analysts warned the Johnson White House about the limited opportunities for military success, overt or covert, in Indochina. The Administration discounted these warnings, however, because the President was unwilling to face the prospect of an American military defeat.⁴⁸ As officials in the Administration shunted aside the perceptive assessments of the CIA's Vietnam analysts in favor of self-delusion, PM operatives found themselves caught in the same downward spiral of defeat that seized America's overt forces.

45. WISE & ROSS, *supra* note 26.

46. Anthony Lewis, *Costs of the C.I.A.*, N.Y. TIMES, Apr. 25, 1997, at A27.

47. THOMAS POWERS, *THE MAN WHO KEPT THE SECRETS: RICHARD HELMS AND THE CIA* 115-116 (1979); WYDEN, *supra* note 28, at 99.

48. Thomas L. Hughes, *The Power To Speak and the Power To Listen: Reflections on Bureaucratic Politics and a Recommendation on Information Flows*, in *SECURITY AND FOREIGN POLICY*, 28-37 (Thomas Franck & Edward Weisband eds., 1974); FORD, *supra* note 40.

5. *Iran-Contra, 1980s*

William J. Casey, DCI for the Reagan administration, cut out Agency analysts from the planning for the highly secretive, extra-governmental Contra operations in Nicaragua. The controversial PM ops went forward without the participation of analysts in the CIA's DI, resulting in the worst paramilitary disgrace in the Agency's history.⁴⁹

6. *Afghanistan, 1980s*

This PM op was successful, over the short term at least; it helped drive the Soviet Red Army out of Afghanistan. Over the long term, however, it led to the rise of the Taliban regime, which gave safe haven to al Qaeda at the time of its 9/11 attacks against the United States. The PM operation against the Red Army was driven chiefly by a senior lawmaker in the House of Representatives, Charlie Wilson, Democrat of Texas, in cahoots with a Special Operations officer who believed it would be possible to drive the Soviet Army out of Afghanistan if only the CIA would vigorously assist the Mujahideen with paramilitary support. Wilson managed to convince DCI Casey and the Reagan White House to back a covert war against the Soviets in Afghanistan, as skeptical analysts from the DI stood by largely on the sidelines.⁵⁰

7. *Afghanistan, 2001-2002*

Two decades later, a PM endeavor to rout the Taliban regime in Afghanistan and capture or kill al Qaeda operatives worked effectively. It was based in part on analyses prepared by the DI and military intelligence units that indicated how a combination of SOG operatives, DoD Special Forces, overt B-52 air support, and the recruitment of indigenous Northern Alliance anti-Taliban forces could result in a routing of the Taliban regime.⁵¹ Here is a model of cooperation between analysts and operatives that led to an excellent outcome – that is, until the second Bush administration shifted its attention to war-making against Iraq rather than concentrating on closing the noose around fleeing Taliban and al Qaeda warriors in Afghanistan.

49. WILLIAM S. COHEN & GEORGE J. MITCHELL, *MEN OF ZEAL: A CANDID INSIDE STORY OF THE IRAN-CONTRA HEARINGS* (1988); *HEARINGS AND FINAL REPORT*, S. REPT. NO. 100-216 and H. R. REPT. NO. 100-433, *supra* note 33.

50. COLL, *supra* note 4; CRILE, *supra* note 33.

51. BOB WOODWARD, *BUSH AT WAR* (2002).

8. *Iraq, 2003*

Paramilitary support for America's overt invasion of Iraq in 2003 helped to bring about a quick battlefield victory for U.S. overt forces, as anticipated by CIA analysts. The Agency's analysts failed, however, to assess correctly how difficult the consolidation of U.S. control in Baghdad would be after the initial success – significantly underestimating the long-lasting opposition of insurgents, whom the Agency's PM officers and assets had to fight in tandem with U.S. uniformed soldiers for the next seven years.⁵²

Even more significantly, most analysts in the intelligence community – with the exceptions of some in Air Force Intelligence, in the State Department's Bureau of Intelligence and Research (INR), and in the intelligence unit inside the Energy Department – wrongly accepted the hypothesis about the existence of Iraqi weapons of mass destruction (WMD). This acceptance contributed to the decision of the second Bush administration to engage in overt and covert warfare against the Saddam Hussein regime in March of 2003.⁵³ Thirteen of the sixteen U.S. intelligence agencies went along with the notion, for example, that aluminum tubing spotted in Iraq was for the construction of a nuclear centrifuge, rather than for the launching of short-range conventional rockets, and that mobile vans were biological-weapons labs, rather than (as it turned out) merely sites where hydrogen was produced for inflating weather balloons.⁵⁴ The Bush administration may well have unleashed the Pentagon and CIA Special Operations officers against Iraq anyway, for a number of reasons beyond the scope of this essay, but the faulty analysis provided the White House with a compelling portrait of consensus among intelligence analysts that Saddam Hussein was in hot pursuit of a WMD program.⁵⁵ The tragedy of these analytic errors is that they fueled the Bush administration's rush to war in Iraq, diverting America's attention from the

52. ROBERT JERVIS, *WHY INTELLIGENCE FAILS: LESSONS FROM THE IRANIAN REVOLUTION AND THE IRAQ WAR* (2010); BOB WOODWARD, *PLAN OF ATTACK* (2004).

53. This is not to say that intelligence analysts alone got it wrong in Iraq; some academics, think tank experts, and media commentators also assumed the existence of a WMD program. Still, the fact that two of America's top allies, Germany and France, opposed a Western invasion until more information could be gathered about the WMD threat in Iraq should have given analysts – inside and outside the government – greater pause.

54. See JERVIS, *supra* note 52; and LOCH K. JOHNSON, *THE THREAT ON THE HORIZON: AN INSIDE ACCOUNT OF AMERICA'S SEARCH FOR SECURITY AFTER THE COLD WAR* (2011).

55. As analyst-in-chief for the intelligence community at the time, DCI George Tenet could have done much more to emphasize to the President the importance of considering the viewpoints of the dissenting agencies – especially the Energy Department's intelligence unit, with its deep expertise on matters related to the construction of nuclear weapons. The Executive Summary of the 2002 National Intelligence Estimate (NIE) on Iraqi WMDs failed even to mention the dissent.

mission of tracking down the al Qaeda perpetrators of the 9/11 attacks against the United States.

9. Assassination Plots, 1959-2011

The CIA's managers banned analysts from deliberations on the assassination plots hatched during the Eisenhower and Kennedy administrations. Later, during the war in Vietnam, DI estimates that underlay the Phoenix Program tended to inflate the significance of eliminating suspected VC leaders and sympathizers. The Program killed thousands of VC, but the war was still lost. In the case of al Qaeda, analysis pointed to opportunities where bin Laden might be killed; but, in the attempts that took place before the May 2011 success, the estimates were either wrong about his location, as in the Khost miss, or the plans for assassination were rejected by either President Clinton or U.S. field commanders under Presidents Clinton and George W. Bush on ethical grounds (a dimension to the plots largely ignored by analysts on the CIA's bin Laden Unit in their eagerness to eliminate the al Qaeda chief). As for the UAV missile attacks in Afghanistan and Pakistan in recent years, collectors and analysts have sometimes wrongly identified targets, leading to the death of noncombatants and a substantial setback in U.S. relations within the region. Improvements in collection and analysis, however, have reportedly diminished the number of targeting mistakes in 2011.⁵⁶

The assassination attempts against bin Laden illustrate the complex relationship between intelligence analysis, on the one hand, and paramilitary operations, on the other hand. In the murky world of counterterrorism where accurate, actionable intelligence is rare, analysts are often divided over what assessments they should pass on to decision-makers. For example, in the lead-up to a 2007 plan aimed at killing bin Laden during an uncommon gathering of al Qaeda leaders in Tora Bora, Afghanistan, CIA and other U.S. intelligence analysts (as well as the Afghanistan intelligence service allied with the United States) were of two minds about whether bin Laden would actually attend the meeting. While the Pentagon readied military force to wipe out the terrorists (including plans for the use of widespread "carpet bombing" of the meeting site by B-2 Stealth aircraft), intelligence analysts continued to debate the likelihood of a bin Laden presence. Some believed he would be too cautious to attend. Others concluded that he would take the chance, since Tora Bora was close to his suspected place of refuge somewhere in the mountains just across the border in Pakistan, and, moreover, here was an irresistible opportunity for bin Laden to rally al Qaeda lieutenants for a new wave of suicide attacks

56. Mazzetti & Schmitt, *C.I.A. Intensifies Drone Campaign*, *supra* note 35.

against the West. As the analysts continued to argue about the possibilities, Admiral William J. Fallon decided to call off the mission out of concern for the risks it posed to civilians in the target area.⁵⁷

The decision to attempt another assassination attempt against bin Laden in 2011 was replete with uncertainty as well. President Obama recalls that the intelligence regarding whether or not the al Qaeda leader was really in the Abbottabad compound – though impressive in many details (an “incredible job,” said the President) – nonetheless remained in the category of “circumstantial evidence.” The President added that on the eve of the commando raid, the intelligence was, at best, “still a 55/45 situation” in favor of finding bin Laden in the compound, and his National Security Adviser provided an even lower figure, saying that the intelligence was in the realm of “50/50.”⁵⁸ The intelligence analysis, based on human and technical sources, proved highly accurate and the mission resulted in America’s greatest success in the struggle against global terrorism since the 9/11 attacks.

A summary of these important cases is presented in Figure 2. The pattern suggests that, in the absence of participation by analysts, PM operations have been prone to failure, as shown by the outcomes in Cuba, the Contra operations in Nicaragua, and the assassination plots of the 1960s – the three most conspicuous PM failures in the CIA’s history. Failure occurred, too, when analysts were allowed to weigh in, but their assessments were dismissed, as with the Vietnam War experience. Failure also occurred, further, when analytic guidance was provided and accepted, as in the case of the Agency’s optimistic estimate about the lack of a lasting insurgency opposition to American uniformed forces after the initial Iraqi invasion in 2003.

57. See Schmitt & Shanker, *supra* note 15.

58. See *60 Minutes*, *supra* note 16; *Meet the Press*, *supra* note 16. Defense Secretary Robert M. Gates, a former Intelligence Director, offered similar testimony on *60 Minutes* on May 15, 2011.

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FIGURE 2: ROLE OF INTELLIGENCE ANALYSIS AND PM OPERATIONAL FAILURE OR SUCCESS, CASE EXAMPLES (1947-2011)

	<u>Provided Guidance</u>	<u>Provided No, or Faulty, Guidance</u>
<u>Operational Successes</u>	Guatemala, 1954 (guidance rejected); Afghanistan, 1980s (guidance rejected); Afghanistan, 2001-2002 (guidance accepted); Iraq invasion plans, 2003 (guidance accepted); UAV attacks in SW Asia, 2010 (as guidance improved, it was accepted); successful assassination of bin Laden, 2011 (guidance accepted, though with considerable analytic uncertainty still present)	Korea, 1950 (no guidance)
<u>Operational Failures</u>	Vietnam, 1965-1973 (guidance rejected); Iraq, 2003: WMDs, as well as post-invasion Invasion insurgents (guidance accepted)	Cuba, 1961 (no guidance); Contras, 1980s (no guidance); assassination plots, Castro/Lumumba (no guidance); Phoenix (faulty guidance); early assassination plots, bin Laden (faculty guidance); UAV attacks in SW Asia, 2001-2009, a case of uneven guidance accepted with some operational successes and some failures – with the failures (civilian casualties) especially harmful in terms of local opinion regarding America’s interventions

On the success side, sometimes PM ops have worked out well despite skepticism from analysts. For example, the CIA’s Special Operations managers rejected cautionary analytic estimates and, nonetheless, PM

operations succeeded in Guatemala in 1954 and in Afghanistan in the 1980s. Some degree of success came in the Korean War – the communists were eventually stopped in their attempt to take over the entire Korean Peninsula – without the benefit of analytic warnings about the invasion intentions of the North Koreans in 1950. On other occasions, analysts and PM operatives have been aligned. Analysis predicted battlefield success, and success came, in Afghanistan during 2001-2002, as well as with the initial Iraqi invasion in 2003 – although analysts were disastrously wrong in suspecting the presence of WMD in Iraq. Further, in the waning months of 2010 and into 2011, analysts have aided PM ops with more accurate UAV targeting of Islamic extremists in Southwest Asia. And, with the pinpointing of bin Laden’s location at the Abbottabad compound in 2011, intelligence collectors and analysts, along with the Navy Seals team that followed their guidance, enjoyed a remarkable success.

The outcomes in this brief survey of key PM cases are mixed; nevertheless, as an overall conclusion, one can say that the incidence of paramilitary failures might well have been lessened with a closer working relationship between intelligence analysts and operatives. The chronic dismissal of analysts from PM deliberations over the decades is cause for concern, even if analysts sometimes produce flawed estimates. Recently, with respect to U.S. intervention in Libya in 2011, the Obama Administration reportedly authorized covert action in support of rebel actions against Colonel Gadhafi, even though CIA analysts had little information about the composition and motivation of the rebellious factions.⁵⁹

V. CO-LOCATION AND OTHER REFORMS

Within the human limitations faced by collectors and analysts, intelligence managers have attempted to make some improvements in the capacity of analysis to inform paramilitary planning. Reformers have long believed that analysis could be enhanced by having a closer working relationship between the Agency’s PM and other CA operatives (the doers) and its analysts (the thinkers). The operatives enjoy “ground truth” about foreign nations, since that is where they serve under official or non-official cover. This gives them a certain inside knowledge, from cafe society to the nuances of local slang. The analysts are experts about foreign countries, too, and they also travel abroad, albeit for shorter periods of time. Their primary knowledge comes from study; they typically have Ph.D.s that reflect advanced book-learning and research on international affairs. Though starkly different in their career paths and daily experiences, both groups bring something to the table when a specific nation or region is the

59. Mazzetti & Schmitt, *Rebels Are Retreating*, *supra* note 35.

focus of U.S. paramilitary attention. Yet, traditionally, operatives on rotation back to Washington and in-house analysts have had offices in separate locations at Agency headquarters, behind doors with combination locks that bar entry to “outsiders.” This internal “stovepiping” at the CIA can have unfortunate consequences.

For example, in the planning that went into the Bay of Pigs invasion, PM operatives were enthusiastic and confident about the chances for overthrowing Castro; the people of Cuba, they calculated, would rise up against the dictator once the Agency landed its paramilitary force on the island beaches. In another part of the CIA, however, analysts with expertise on Cuba understood that an uprising was highly unlikely, given Castro’s tight grip on the nation and his widespread popularity. As the analysts spelled out in a Special National Intelligence Estimate (SNIE) in December of 1960, the people of Cuba venerated their leader and would fight an invasion force door-to-door in Havana and across the island. The PM managers at the CIA could have benefitted significantly from rubbing shoulders with their colleagues in the DI, receiving a stronger dose of realism in their paramilitary planning – or perhaps ending it altogether – but they were not made aware of the DI’s views. Nor was President Kennedy made aware of the DI’s views on the remote chances for a PM success in Cuba. The head of the Bay of Pigs planning, Richard M. Bissell, Jr., had some corridor knowledge of the skeptical SNIE, but did not take it seriously, and he never brought its findings to the attention of the White House. Bissell didn’t want naysayers interrupting his plans to rid President Kennedy of the Castro irritant, nor did he want obstacles in the way of his own personal career ambitions to become Director of Central Intelligence by demonstrating to the President his skill in toppling the Cuban dictator.⁶⁰ Yet, the end result of the operation was to ruin Bissell’s meteoric intelligence career.

Aware of the physical and cultural distance between CA operatives and intelligence analysts, John Deutch took steps as DCI in 1995 to improve their cooperation at Agency headquarters. He moved several officers from both camps into common quarters, where they sat cheek by jowl with one another. This experience in “co-location” has been uneven. Sometimes the doers and the thinkers have displayed personality clashes that get in the way of sharing information. On other occasions, however, the experiment has led to the achievement of its goal of blending in-country experience with library learning to provide intelligence planners and policymakers with deeper insights into world affairs. In 2009, CIA Director Leon Panetta announced that there would be “more co-location of analysts and operators

60. See POWERS, *supra* note 47, at 111, 115-116; ARTHUR M. SCHLESINGER, JR., ROBERT KENNEDY AND HIS TIMES 453 (1978); and, generally, WYDEN, *supra* note 28.

at home and abroad” in the coming years, noting further that greater fusion of the two groups “has been key to victories in counterterrorism and counterproliferation.”⁶¹ In 2010, Panetta unveiled the formation of a CIA Counterproliferation Center to combat the global spread of WMD. In the Center, which would report to Panetta as well as to a director for the National Counterproliferation Center, operatives and analysts would work side by side in the spirit of co-location.⁶²

As a further means for improving intelligence analysis and increasing its usefulness for guiding PM and other covert actions, a wide range of reforms have been introduced at the Agency in recent years. Among them: taking steps to involve analysts throughout the intelligence community in PM planning, not just DI analysts, and employing “blue team” and “red team” drills designed to provide outside critiques of assessments produced by analysts inside the intelligence community.⁶³ Intelligence managers are also aggressively seeking to improve foreign language skills throughout the sixteen agencies, to develop more spy rings in the Middle East and Southwest Asia, and to place more U.S. intelligence officers under non-official cover outside the U.S. embassies overseas in order to gain a better understanding of local cultures and an improved chance of recruiting agents who can infiltrate al Qaeda and other key targets. Most important, though, will be the attitudes of PM managers toward the value of including analysts in their planning stage: a willingness to consult with top intelligence experts on foreign nations and organizations before the launching of a paramilitary operation.

CONCLUSION

Frequently, PM activities have moved forward without much, or any, guidance from intelligence analysts. These operations have sometimes succeeded nonetheless, as in Afghanistan during the 1980s, and sometimes they have failed, as with the Bay of Pigs. On other occasions, analysis has informed PM activities. Again, at times the result has been some degree of short-term success, as with Guatemala in 1954, or failure, as in Vietnam, when policymakers rejected the DI’s guidance. Now and then, analysts and operatives have worked closely together in the spirit of co-location to achieve a smooth blend of thoughtful guidance that has led to stunningly effective results on the battlefield. Afghanistan in 2001-2002 is the classic illustration. Co-location seems to be a promising concept. This experiment

61. Quoted by Greg Miller, *CIA Is Moving More Analysts from Langley to Global Posts*, WASH. POST, Apr. 30, 2010, at A18.

62. Kimberly Dozier, *CIA Forms New Center To Combat Nukes, WMDs*, ASSOCIATED PRESS REPORT, Aug. 18, 2010.

63. See ANALYZING INTELLIGENCE: ORIGINS, OBSTACLES, AND INNOVATIONS (Roger Z. George & James B. Bruce eds., 2008).

is likely to continue, leading to a more frequent melding of mind and muscle whenever the United States turns to the use of PM operations.

Whether the result is success or failure, one thing is certain about PM operations: they come to light at some point. Hoping to avoid potential embarrassments for the United States caused by the disclosure of paramilitary PM, William H. Webster crafted a set of questions that he posed to SOG and other CA managers throughout his tenure as DCI from 1987 to 1991. The objective was to weed out, in advance, activities likely to discredit the United States if revealed. Webster's litmus test for planned PM operations included these questions:

- Is the operation legal (with respect to U.S. law, not necessarily international law)?
- Is the operation consistent with American foreign policy, and, if not, why not?
- Is the operation consistent with American values?
- If the operation becomes public, will it make sense to the American people?⁶⁴

Within these questions are embedded principles that ought to be in the forefront of their thinking as Presidents, national security advisers, and intelligence managers contemplate the adoption of paramilitary operations.

64. Staff interview with Judge William H. Webster, former DCI and FBI Director, led by General Counsel John B. Bellinger III, Aspin-Brown Commission, in Washington, DC (May 10, 1995). Similarly, former national security adviser McGeorge Bundy has said that "if you can't defend a covert action if it goes public, you'd better not do it at all – because it will go public usually within a fairly short time span." Interview with McGeorge Bundy, Athens, Georgia (Oct. 6, 1987). Former DCI Stansfield Turner has also written: "There is one overall test of the ethics of human intelligence activities. That is whether those approving them feel they could defend their decisions before the public if their actions became public." STANSFIELD TURNER, *SECRECY AND DEMOCRACY: THE CIA IN TRANSITION* 178 (1985).