

US–European Intelligence Co-operation on Counter-Terrorism: Low Politics and Compulsion

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Since 9/11, intelligence has been viewed as an integral part of a controversial ‘war on terror’. The acrimonious public arguments over subjects such as Iraqi WMD assessments, secret prisons and the interrogation of detainees suggest intense transatlantic discord. Yet improbably, some of those countries that have expressed strident disagreement in public are privately the closest intelligence partners. It is argued here that we can explain this seeming paradox by viewing intelligence co-operation as a rather specialist kind of ‘low politics’ that is focused on practical arrangements. Intelligence is also a fissiparous activity, allowing countries to work together in one area even while they disagree about something else. Meanwhile, the pressing need to deal with a range of increasingly elusive transnational opponents—including organised crime—compels intelligence agencies to work more closely together, despite their instinctive dislike of multilateral sharing. Therefore, transatlantic intelligence co-operation will continue to deepen, despite the complex problems that it entails.

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Paradoxical Relations?

Intelligence as a subject has moved out of the shadows and under the spotlight. The growing centrality of intelligence to foreign and defence policy has ensured that both politicians and senior policy-makers are commenting publicly on hitherto secret matters in some detail, breaking with the precedents of previous decades. In part this reflects the importance of intelligence to counter-terrorism, since the main problem in dealing with this scourge is finding the opponent. Counter-terrorism has been a vexed issue in transatlantic relations and many scholars have illuminated the high-profile arguments between North America and Europe over post-9/11 security strategies.

Commentators have frequently noted the strategic mismatch between American and European approaches to counter-terrorism. For the Americans, counter-terrorism is primarily an external activity designed to keep the threat away from ‘Fortress America’. Even the Department of Homeland Security is focused on America’s borders and boundaries. This is logical enough since they have fewer internal sources of threat. Europe is the obverse since, there, counter-terrorism is more a domestic question. This is not only because many European states do not wish to join a kinetic ‘war on terror’, but also because the European Union (EU) lacks a coherent foreign policy dimension (Monar 2007; Keohane 2008). However,

generalising about or comparing strategic cultures in this area is not straightforward, since the majority of counter-terrorism activity within the EU remains in the hands of its 27 member states with very different histories, while attitudes around Washington's beltway can also be remarkably diverse (Rees and Aldrich 2005).

There is no clear consensus on the overall texture of Europe's response to terrorism, or indeed whether it is converging with American thinking. After 9/11, the European Council developed a Plan of Action and secured agreement on significant measures, notably: a European Arrest Warrant; expanding Europol and Eurojust; a common EU definition of terrorism; the freezing of terrorist finances; and the sharing of data with allies. However, some argue that these measures fall short of what is required, suffer from an implementation deficit and so represent little more than a 'paper tiger' (Bures 2006). Others have argued that activities such as asset freezing and proposals for data retention contain an element of pre-emption and suggest that the EU is actually closer to American thinking than it would care to admit (De Goede 2008).

What is clear, however, is that transatlantic intelligence activities have constituted some of the most controversial aspects of the 'war on terror'. The separate but related issues of CIA 'secret prisons' and the rendition of suspects from Europe to countries like Egypt, Jordan and Morocco have constituted notorious hot-spots. This is hardly surprising given the centrality of the European Convention on Human Rights (ECHR) to the complexion of the EU and the fundamentally legal nature of many European institutions. Accordingly, in late 2005, the EU's justice minister, Franco Frattini, warned of 'serious consequences', including the suspension of voting rights in the Council, for any EU member state found to have hosted secret CIA detention facilities (Harding 2005). At the national level, some political leaders have also been openly critical of American intelligence activities. In November 2005, the Dutch foreign minister, Ben Bot, stated that the Netherlands' contribution of over 1,000 troops to Afghanistan could be in jeopardy if the United States failed to give adequate reassurances on the matter of CIA secret prisons (Kessler 2005).

The heads of the various intelligence and security services have also been mired in this transatlantic controversy in a way that would have been unheard of a decade ago. Yet despite the public mud-slinging, transatlantic intelligence relations are now closer than ever. A great deal more data are being exchanged, both bilaterally and multilaterally and more joint operations are being conducted. Over the last five years, this joint activity has included the most sensitive activities and a close reading of recent testimony before inquiries and select committees suggests that they were approved by some European leaders. Across Europe, ministers of state—indeed anyone close to the core executive—have been remarkably silent on renditions.

How do we explain the paradox of public criticism and private partnership? Superficially, we might conclude that European political elites have simply wished to 'have their cake and eat it'. European politicians, faced with the classic dilemmas of conducting counter-terrorism in a liberal society, have dealt with this by playing to public opinion with their criticisms of American covert activity; meanwhile they have approved discreet co-operation with the very same programmes. The best example is France. In 2002, the CIA and the French Direction Générale de la

Sécurité Extérieure (DGSE) established a highly secret covert operations centre in Paris called 'Alliance Base' which has helped to conduct renditions in Europe. Moreover, during 2003, even while President Chirac was lambasting George Bush over the issue of Iraq, France had quietly agreed to deploy 200 French special forces to work with the Americans in southern Afghanistan (Priest 2005a).

In April 2007, CIA Director Michael Hayden complained loudly about the hypocrisy of European political leaders who publicly denounce the CIA, but privately enjoy the enhanced security provided by joint intelligence operations. There is no question that in practical terms, the operations of the last five years have degraded al Qa'eda's formal structure, albeit at significant costs in terms of the 'battle for hearts and minds'. Angered by European inquiries into renditions, Hayden spoke at a lunch at the German Embassy in Washington that was attended by many European diplomats. He insisted that inquiries had exaggerated the CIA's activities, adding that fewer than 100 people had been held in secret facilities since spring 2002, and that less than half had been subjected to 'alternative procedures' during their interrogations (Pincus 2007). Simultaneously Congress was inquiring into the impact of renditions on transatlantic co-operation and indeed upon intra-European co-operation (House of Representatives 2007).

Although Hayden spoke of 'bottomless criticism', the phenomenon of European public criticism vs. private co-operation is complex and some of the important structural explanations for this have been ignored. While intelligence now looms larger in public discourse, the realm of grand strategy still remains unfamiliar territory for swollen ranks of the workaday intelligence officers. Unlike ministers and diplomats, theirs is not a world of 'grand normative projects' but instead a realm of individual cases, files and specific operations. Often characterised as sinister, the realm of intelligence is instead perhaps the most human of all aspects of government and consists to a large degree of personal relationships. The universal currency is trust. Achieving congruence on grand counter-terrorism strategy may require common ideals, but joint intelligence operations are driven by a more basic sense of mutual reliance and a track record of competence in the field (Svendsen (forthcoming)).

Indeed, recent history suggests that intelligence co-operation between allies is rarely affected by disagreements over ideals or strategy. This is because the world of intelligence is remarkably fissiparous. Even a simple bilateral intelligence partnership between two countries actually consists of many intelligence relationships. Most countries boast a multiplicity of agencies, which are in turn further compartmentalised for security reasons. Intelligence is also the realm of specialists *par excellence*, whose particular interests, be it financial transfers or biological warfare, tend to insulate them from wider political arguments (Aldrich 1998). This has always been the case, but complexity is increasing as domestic agencies also develop stronger international relationships. French intelligence chiefs have long argued that it is perfectly possible for their operatives to work with allies on political and military targets, while remaining rivals in terms of economic and industrial espionage (Alexander 1998). Rivalry is probably at its most intense in the relatively unknown area of intelligence support to arms sales (Dover 2007).

Other transatlantic phenomena stand in need of explanation, including the cautious growth of multilateral intelligence activity. Traditionally, even the

longest-standing intelligence alliances have been tinged with a cautious bilateralism. Intelligence services have tended to prefer 'need to know' and the recent move towards 'need to share', often with more than one partner, reflects wider pressures that go beyond co-operation against terrorism. Arguably, Europe and the United States have little choice but to work ever more closely since an increasing number of their most troublesome opponents are transnational and are no respecters of boundaries. Intelligence agencies are now seen as the first line of defence against a whole range of illicit actors, be they terrorists, drug smugglers, people traffickers, proliferators or warlords, and seek to achieve the same fluidity as their opponents. This is an underlying trend that stretches back to 1989 and is likely to continue well beyond any termination of the 'war on terror'.

Notwithstanding this, real problems lie ahead. Most obviously, national accountability mechanisms for intelligence, many of which were only created in the 1990s, now work poorly in the context of multinational operations. Nor can oversight committees introspect into intelligence partnerships with the private sector, which are strongly favoured by the United States. As a result, councils and assemblies, recognising that they have little political traction, have increasingly opted for legal remedies. The aftermath of the high-profile inquiries into the CIA by the Council of Europe and the European Parliament begun in 2005 will be of this sort. In particular, their efforts to extend the application of ECHR to joint intelligence operations within Europe's boundaries may have long-term consequences.

New Patterns

Transatlantic intelligence over the last two decades has been a story of diet and binge. Perhaps the greatest intelligence blunder during this period was the failure to appreciate that the intelligence services would become more—not less—important. After 1989, accelerating globalisation did not bring about universal democracy and world peace; instead it spawned many kleptocracies and accelerated a range of violent transnational threats (Schultz and Dew 2006). In the early 1990s, at precisely the time that organised crime, warlordism, proliferation and the 'new terrorism' were on the increase, governments in both Europe and the United States were busy decreasing the budgets of their agencies and loading them down with bureaucratic restrictions. Typically, MI6 suffered a cut of 25 per cent (Davies 2005). Closer regulation of the west European services certainly fitted neatly with a drive to democratise the intelligence services of central and eastern Europe. However, in Europe, the general push to make intelligence more transparent was also a symptom that many now thought the agencies rather unimportant.

Since 9/11, we have seen unparalleled growth among the transatlantic intelligence communities. However, this growth has not been evenly spread across North America and Europe. Predictably, the scale of expansion has tended to reflect perceived threat. Countries such as the United States, Britain, France, Germany, Spain and the Netherlands, which all live unambiguously in the shadow of the suicide bomber, have tended to increase resources. It is mostly the services of these countries that would prefer to see the continuation of the prevailing architecture, characterised by weak EU structures. Conversely, countries like Ireland, Belgium and Austria, that advocated some sort of European FBI in 2002, are now even smaller players in relative terms.

Indeed, if obvious new federal intelligence structures have emerged over the last few years, they have been in the United States, not Europe. Immediately after 9/11, the Bush administration resisted root-and-branch reform of the intelligence community on the grounds that its work was too urgent to allow a period of introspection and reorganisation. However, the creation of the Department of Homeland Security has introduced some changes to security intelligence collection in the United States. Moreover, the inquiries into the intelligence prologue to 9/11 and then the Iraqi weapons of mass destruction (WMD) fiasco increased the demand for change. This manifested itself in 2006 with the creation of a US Director of National Intelligence, which is now extending more control over the important area of foreign liaison.

In Europe, the possibility of creating strong federal intelligence structures was discussed again following the Madrid bombings in 2004, but dismissed. European countries with more capable intelligence services continued to resist this idea, partly out of concern that it might erode their own bilateral relations with the United States. The signals intelligence (sigint) services were the most adamant since most of the product they receive from Washington is non-third party. Meanwhile, senior officials within the EU also recognised that an expanded EU responsibility in this area would involve them in considerable political risk. Accordingly, while the flow of intelligence to the EU's Situation Centre (SitCen) that supports broad counter-terrorism policy has been improved, there is no serious counter-terrorism or intelligence capability at the regional level. SitCen reports to Javier Solana and provides European officials with broad analyses of the terrorist threat, drawing on national resources. Previously, SitCen was receiving much of its intelligence from European foreign services, but since 2005 it has also received more intelligence from internal security services (Walsh 2006).

Instead, after the bombings of 2004 and 2005, the leading European intelligence and security services resolved to accelerate the momentum of pre-existing cross-European organisations that provide a framework for co-operation and also link to the United States. Four substantial multilateral mechanisms exist and are of growing significance. None of them are formal elements of the EU, but they have synchronised their activities with the EU more closely. The first is the 'Club of Berne', a long-standing group which consists of the heads of EU member states' security and intelligence services, together with Norway and Switzerland. This meets on a regular basis to discuss intelligence and security matters of all kinds. After 9/11, the Club of Berne created the Counter Terrorist Group (CTG), a functional body with similar membership (with the Americans also enjoying observer status). Since September 2001, CTG has served as a focus for multilateral exchange and has also provided threat assessments to key EU policy-makers drawing on national resources. CTG provides a forum for experts to develop practical collaboration on particular projects. This has often taken the form of joint training, allowing European countries with more experience of terrorism to share skills and techniques, together with the standardisation of some procedures (Aldrich 2004).

On 21 April 2004, following the attacks in Madrid, the Club of Berne held a meeting in Switzerland to discuss implementation of the objectives of the European Council Declaration on Combating Terrorism. The meeting concluded that the CTG should

act as the interface between the EU and the heads of member states' security and intelligence services on terrorist matters. Since 2004, the CTG has worked increasingly closely with the EU and has played a significant part in implementing the relevant sections of the Declaration. On 1 May 2004, the security and intelligence services of the 10 EU accession states joined the CTG as full members. Although CTG emphasises its independence from EU structures, for reasons of convenience its chairmanship rotates with that of the EU presidency (Swiss Federal Office of Police 2004). CTG has also held high-level meetings in the wake of the bomb attacks in London in July 2005 and the alleged attempts to attack transatlantic passenger aircraft at London Heathrow in August 2006. The primary purpose of these meetings was to disseminate information about the modus operandi of the particular attacks and the background to the plots (Hungarian NBH 2006).

Formed in December 1952, the Special Committee of NATO is the third and most venerable body. This consists of the heads of the security services of the member countries of NATO. In the 1990s, its role was mostly addressing the difficult security problems attendant on sharing sensitive military documents among NATO's growing membership. However, since NATO's arrival in Afghanistan in 2002, NATO intelligence and security activity has developed a wider remit and the foreign intelligence services of member states have seen more engagement. The importance of new member states was confirmed by Hungary's chairmanship of the Special Committee in 2008. The NATO Riga summit of November 2006 also saw the creation of a NATO interim information cell consisting of the representatives of the intelligence services of the member states. Close co-operation between NATO, Supreme Headquarters Allied Powers Europe (SHAPE), Headquarters US European Command (EUCOM) and the French high command has also been important in co-ordinating an energetic programme of special operations in Africa. The lead is now taken by America's new Africa Command (AFRICOM) based in Stuttgart. Since becoming fully autonomous in September 2008 it has taken over the organisation of US clandestine operations in the region. This has mostly focused on training programmes delivered by special forces and on improving the capability of local security agencies together with intelligence exchange (Munoz 2007). A fourth body is the Middle European Conference which has led the modernisation of central and east European services since the 1990s.

By contrast with these four bodies, the EU's own instruments appear weak. The efforts of the EU to designate a counter-terror role for Europol have been unsuccessful. In November 2001, Europol announced the creation of a Counter-Terrorism Task Force. The expressed intention was to collect relevant intelligence, conduct analysis, formulate threat assessment and render assistance to national police forces. This proved to be a hopelessly grandiose list of objectives for a small organisation. After experiencing difficulties engaging with the secretive national security services, the Counter-Terrorism Task Force was quietly absorbed into Europol's Serious Crime Department in 2003. However, following the terrorist bombings in Madrid in 2004, Javier Solana insisted it be re-established as a separate entity. Although there are now some 30 staff assigned to Europol's Counter-Terrorism Task Force, it remains something of a fifth wheel, since it only engages on cases when assistance is requested by a national force (Solana 2004a; Deflem 2006). In 2005, Gijs de Vries, the EU Counter-Terrorism Co-ordinator, made similar noises

about the importance of Europol (De Vries 2005). However, it is hard to avoid the conclusion that Europol's counter-terrorism effort is mostly symbolic.

EU officials have changed their tune. In 2004, they still desired more engagement with the operational substance of intelligence and counter-terrorism. However, since 2005, the pre-eminence of non-EU bodies such as CTG has been increasingly welcomed by EU officials. In part this simply reflects the fact that they have learned to work together better. However, given that the most vocal criticism of American-led intelligence activities in Europe has come from members of the Council of Europe and the European Parliament, a degree of separation was also deemed pragmatic. EU officials seem content to leave the realm of intelligence to others and to focus on more judicial and administrative issues. Solana has expressed his own personal satisfaction with these arrangements, commenting: 'I was recently asked by journalists whether inter-agency co-operation is sufficient and whether European mechanisms for sharing operational intelligence should be created. Later that very day, a joint operation resulted in simultaneous arrests in five European countries' (Solana 2004b).

Periodically, American officials complain about the burden of liaising with 27 European states, each of whom boasts several intelligence and security services. Although the EU has enjoyed a Counter-Terrorism Co-ordinator in the form of Gijs de Vries and, since 2007, Gilles de Kerchove, they are marginal figures. Europe lacks an obvious point of contact for US Homeland Security Secretary, Michael Chertoff (Müller-Wille 2008). Equally, European services might respond that liaising with the American behemoth is also a challenge, with its 18 intelligence agencies. Now a 19th intelligence agency has been created. New York Police Department has developed its own substantial counter-terrorist intelligence capacity that is better resourced than that of some European states. New York has successfully obtained \$100 million of federal funds for counter-terrorism and has chosen David Cohen as its Deputy Commissioner for Intelligence. Cohen is the only person to have led the CIA's clandestine service and also headed the CIA's analytical division. Cohen has been given a licence to build his own intelligence unit away from the bureaucratic restraints of Washington. NYPD has used an unmarked Brooklyn warehouse to house a substantial counter-terrorism centre while a further hidden location in Manhattan provides a base for undercover operations. Cohen's staff boasts some 70 Arabic speakers and numerous foreign nationals who are lent out to the Pentagon when it needs assistance. Cohen has intelligence liaison officers in London, Paris, Tel Aviv and across the Middle East and Africa (Linza 2008). These developments confirm the fact that the architecture of transatlantic intelligence co-operation remains a complex network with few key nodes or hierarchies and not a little duplication.

The Operational Level

A neglected building block of improved transatlantic co-operation has been better intra-state intelligence exchange between the partners within each country. This relates not only to the strategic analysis of, for example, the changing nature of al Qa'eda, but also to operational material on groups, cases and individuals. As a

result, some of the institutions that can claim both newness and genuine success are the national intelligence fusion centres that are dedicated to the analysis of terrorism. These fusion centres are rightly credited with ensuring a joined-up effort at the national level, but their additional role in ensuring better transatlantic co-operation has been overlooked.

Inquiry teams reviewing the prologue to 9/11 soon identified that poor exchange between the CIA, FBI and National Security Agency (NSA) contributed to the lack of warning. This was emphasised by the Joint Congressional Inquiry, which was more thorough than the 9/11 Commission Inquiry. More generally, the so-called 'new terrorism' of the last decade, which has gained momentum from globalisation and deregulation by states, presents a more fluid target than previous manifestations of terrorism. This in turn challenged the traditional configuration of western intelligence agencies that, almost without exception, reflect the divide between domestic and foreign. Although central analytical machines that work across this divide exist, such as the UK's Joint Intelligence Committee, they were thought too cumbersome and in any case tended to focus on more strategic issues.

Accordingly, many countries have responded by creating fusion centres that prioritise operational intelligence from all sources on the functional subject of terrorism. The idea is to ensure that these centres engage, not only with the traditional intelligence and security agencies, but with all aspects of government and in some cases private partners, such as airlines. Washington first developed a Terrorist Threat Integration Center, which later was replaced by the National Counterterrorism Center (NCTC). The Canadians have an Integrated Threat Assessment Centre (ITAC). Similar organisations have sprouted across Europe. In the UK we have seen the creation of the Joint Terrorism Analysis Centre (JTAC) while Spain has created the Centro Nacional de Coordinación Antiterrorista (CNCA). The phenomenon is not merely transatlantic. The Australians have created a National Threat Assessment Centre (NTAC), while New Zealand boasts a Combined Threat Assessment Group (CTAG). The creation of these centres ensures that all these countries are generating a new kind of operational intelligence on terrorism which is held in one place, permitting relatively easy exchange. If there are any nodes in the rather distributed network of transatlantic intelligence exchange then they are probably here.

Ernst Uhrlau, the current head of the German foreign intelligence service (BND) has praised the German fusion centre established in 2004. This is the Joint Counterterrorism Center (GTAZ) situated in Berlin's Treptow district. GTAZ allows good co-operation and more importantly speedy communications across some 36 government agencies at the federal and state level. Uhrlau emphasised: 'we make sure that no agency keeps its information to itself'. It focuses not only on early detection and prevention of attacks, but also supporting criminal prosecutions. Uhrlau credits GTAZ with encouraging greater professionalisation of the German security and intelligence community and also with enhancing international co-operation. He attributes the success in rounding up three terrorists who were storing explosives at the village of Obschledorn in September 2007 to close co-operation between German, Turkish and American intelligence agencies (Pötzl and Bednarz 2008).

These national fusion centres enhance transatlantic links and represent a qualitative improvement. In the past, the majority of intelligence sharing between the

United States and Europe was undertaken by the collection agencies rather than by the analysts. Sharing between the national fusion centres has seen the exchange of a new kind of operational material that is halfway between abstracted analysis and raw data. It has also allowed the sharing of data that have been gathered from elements of government that are not always thought of as being security providers. A diverse range of government departments with responsibilities for infrastructure, transport and resilience are competent parts of these fusion centres. Even entities such as banks and airlines are both intelligence customers and providers of intelligence within these structures which display commendable focus on resilience (Omand 2005).

Notwithstanding this, a great deal of the exchange of raw data remains bilateral and service to service. This process has been enhanced by an increase in liaison officers from domestic security services together with new technical systems. Since 9/11, the FBI has expanded its Legal Attaché offices across Europe. FBI officers in London currently have 20 to 30 meetings with UK intelligence and security officials each week. In 2006, classified files were still being carried from office to office by hand, but now new IT systems permit the exchange of photographs or entire files over a secure network. This has led to a substantial increase in the volume of material exchanged and the ability to do this in real time (Mueller 2008). That said, greater volumes of exchange are not always a panacea, since some European services are not configured to warehouse large quantities of information (Lander 2004). Indeed, intelligence officers claim that the current approach, resembling a distributed network, is more effective than creating central clearing houses or general 'pooling'. However, lurking underneath is also a profound abhorrence at the multilateral sharing of sensitive compartmentalised intelligence.

One of the gradual changes that have occurred in the realm of intelligence since 1989, and especially since 2001, is the move towards more action. These generalisations are difficult to make in the rather heterodox world of intelligence services. Typically, the French foreign service, DGSE, has always maintained a strong 'action' tradition and a close connection with special forces units. However, for other services, the last decade has seen an effort to move beyond the passive gathering of intelligence, which largely characterised the cold war. Confronted with a range of violent transnational actors, most obviously terrorists—but also organised crime, these agencies are increasingly required to undertake fixing, enforcing and disruption. Joint action operations have provided strong evidence of close transatlantic co-operation. Indeed, in 2005, the CIA's Deputy Director of Operations reportedly told a closed committee session on Capitol Hill that 'virtually every capture or killing of a suspected terrorist outside Iraq since the Sept. 11, 2001, attacks—more than 3,000 in all—was a result of foreign intelligence services' work alongside the agency' (Priest 2005b, A01).

Across Europe, we have seen the creation of jointly run Counter Terrorism Intelligence Centres (CTICs) staffed partly by the CIA. In Europe, two of the most important CTICs have been in Romania and France. In France, the main centre for joint operations is reportedly 'Alliance Base' located in the 7e arrondissement of Paris. 'Alliance Base' is the code name for a joint centre set up in 2002 that undertakes counter-terrorist intelligence operations in the field and exemplifies the

more activist nature of intelligence services since 9/11. For political and legal reasons it is directed by a senior military officer attached to the DGSE and the working language is French, but it is largely funded by the CIA. Participating countries include Germany, the UK, Canada and Australia. France was chosen for this operational hub because of its tradition of robust action against terrorism and the strong powers of its anti-terrorist magistrates. The dynamic culture of the French intelligence and security services and their unique political frameworks permit a freedom of action that is not possible elsewhere in Europe. Political oversight of the French intelligence and security services is minimal. Meanwhile, by allocating lead officers from different countries to each operation, problems of access to sensitive intelligence are overcome and legal obstacles surmounted (Priest 2005a). Typically, Germany has strict constitutional laws inhibiting the circulation abroad of material from personal files gathered by German domestic security and police agencies, and indeed even the transfer of material between German police and intelligence agencies (Priest 2005b; *Le Monde*, 13 September 2006).

Christian Ganczarski, a German convert to Islam and Ahmed Medhi, both of whom were suspected of being al Qaeda operatives with links to the 9/11 perpetrators, were arrested and imprisoned as the result of Alliance Base operations. Nicolas Sarkozy, in a guarded reference to Alliance Base, attributed this success to the 'perfect collaboration' of the western intelligence services (Priest 2005b). John E. McLaughlin, former director of the CIA, has claimed that the relationship between the DGSE and the CIA 'is one of the best in the world' (Priest 2005a, A1). Significantly, this relationship developed during the period of angry public and political exchanges over the war in Iraq. Alliance Base underlines the way in which the 'low politics' of intelligence co-operation is often disconnected from the high politics of foreign policy and strategy.

A further key area of successful joint operations has been cyberspace. The Internet is the ultimate symbol of the manner in which terrorists have ridden a global wave of connectivity. It is also an obvious example of an area which demands close US-European co-operation. Intelligence officers frequently assert that the Internet is where operational concepts for terrorist attacks are developed, where plans are shared and, most importantly, where most training is now disseminated. Some of this militant activity is remarkably open and visible, but other aspects take place in well-disguised chat rooms with elaborate shielding. Terrorist use of publicly available encryption is not yet widespread but is growing (Pötzl and Bednarz 2008).

As early as April 2004, MI6 and the Foreign and Commonwealth Office (FCO) were discussing opportunities for engaging in the debates on Islamic websites 'unattributably' and also ways to 'disrupt or impede extremist web sites' (Erhman 2004). It is widely thought that a number of 'militants' who are writing on blogs and posting in chat rooms are government operatives who are engaged in a complex tactical propaganda war in more than a dozen languages (Lettice 2005). Perhaps the most effective operations have involved placing misleading training information on the websites. This exploits the fact that terrorists in Europe rarely have the opportunity to test their devices. Some have speculated that this was the reason that the German suitcase bombers, who downloaded the instructions to make their bombs from the Internet, failed in their attacks against German trains at Koblenz and Dortmund on

31 July 2006 (Ramelsberger 2006; Schwabe 2006). More recently there have been EU efforts to try and remove bomb-making manuals entirely from the web (Charter and Richards 2007). Self-evidently these activities require intricate transatlantic co-ordination.

Doctrinal and Legal Issues

It would be oversimplistic to suggest that transatlantic frictions over intelligence have been limited to the political classes, while all remains sunny at the official level. Senior intelligence personnel have also been outspoken in their criticism of controversial measures, notably rendition. However, it is important to note that professional criticisms are of a subtly different kind. Official discord is less about the dictates of law and morality and more about the pragmatic wisdom of an all-out 'war on terror'. In other words, what will be the effect of tough tactics on the workaday operations of the intelligence services? Should the emphasis be on degrading the leadership structure of al Qa'eda and 'taking people off the street' or is this detrimental to the longer game of intelligence gathering? Is the damage inflicted on al Qa'eda's core structure worth the cost in terms of the struggle for 'hearts and minds' in the wider Islamic world? Some have concluded that the American approach reflects a doctrine that has long favoured paramilitary activity in contrast to Europe's preferred business of agent running.

This was the texture of the comments made in early July 2006 by Sir Richard Dearlove, former chief of MI6, at the Aspen Ideas Festival in Colorado. Dearlove retired in May 2004 and his remarks have resonance in part because he presided over MI6 during the height of renditions. He remarked that the salience of this issue has hampered the ability of western intelligence to recruit moderate Muslims as intelligence agents. Agents who are taking personal risks want to believe they are working in a good cause and many no longer think that the UK is an honourable partner. Dearlove explained that one way of thinking about terrorism was as 'an extreme form of political communication'. He added that the problem with episodes like Abu Ghraib, Guantánamo and renditions was that some responses to terrorism can 'end up amplifying the messages that terrorists are trying to convey' (King and Jeffery 2006). In June 2006, Gijs de Vries, then the serving EU Counter-Terrorism Co-ordinator, made much the same point. He addressed this matter directly in a presentation at the London School of Economics (LSE), insisting that it was only possible to win the battle for hearts and minds if counter-terrorist operations 'respect the rights and values we have pledged to defend'. He added that 'Abu Graib, Guantánamo and CIA renditions have damaged America's standing in the world and have compromised our common struggle against terrorism'. Again, for de Vries this was about western credibility and effectiveness (De Vries 2006).

Credibility is a problem in more than one area. In the 1990s, European intelligence and security services made enthusiastic noises about a new culture of regulation that was sweeping over Europe. Partly the result of cases brought before the European Court of Human Rights, the EU countries rushed to put their services on the statute books and to create accountability committees drawn from parliamentary assemblies. However, these new bodies are now recognising the difficulty of

scrutinising multinational operations. These committees can only inquire into the activities of their own national services. By 'going global' in pursuit of their elusive opponents, the agencies of both Europe and North America have also outpaced the institutional mechanisms that were designed to provide accountability and oversight (Wetzling et al. 2008).

Renditions and secret prisons have illustrated this well. In Italy and Germany, inquiries and court cases have proved irredeemably national and therefore ineffective in the face of joint operations by the Americans and their European partners. The celebrated case of the rendition of Abu Omar (Osama Nasa), an Egyptian cleric seized on the streets of Milan and then moved to Egypt via an American airbase in Germany, has provided the most colourful example. Here, for a period of time, Italian intelligence officers claimed that they knew nothing about the case, while the Americans claimed to have worked with senior Italian officials (the latter version of events proved to be correct). The Milan case is untypical in that the removal of Abu Omar from Milan was mostly effected by a sizeable team from the CIA's Special Activities Division (now known as the Special Services Office) and not by the Italian security services. However, this operation was 'special' only in the sense that the operatives left a dense trail of evidence at almost every turn that has fascinated journalists and lawyers (Aldrich (forthcoming)).

Abu Omar's case also neatly illustrates the doctrinal divergences between Europe and America. Abu Omar was allegedly recruiting foreign fighters for service overseas and had in fact been under technical surveillance by the Italian security service for many years, providing a fount of information. For the Europeans, a continued stream of intelligence was the priority—a view shared by the CIA representative in Milan—but not by his CIA superiors (Popham and Taylor 2007). Although episodes such as Guantánamo, Abu Ghraib and the secret prisons have been closely associated with harsh methods of interrogation, the focus on squeezing for information is in fact rather misleading. Michael Scheuer has argued that in fact the primary purpose of much of this CIA activity in the years immediately after 9/11 was to degrade the al Qa'eda infrastructure by taking people out of circulation. European intelligence services argue that if such people are not in circulation they cannot be good sources of up-to-date intelligence (House of Representatives 2007).

The Council of Europe and the European Parliament carried out two closely connected enquiries into renditions and secret prisons during 2006. From the outset the parliamentarians and lawyers were conscious that they were unlikely to persuade national governments to co-operate fully, still less bring ministers to account. Accordingly, the Council of Europe adopted a twin-track approach. Simultaneous to the inquiries, they asked the Venice Commission to review the application of ECHR to collaborative intelligence activities. Its findings were profound. The Venice Commission asserted that member states have a strong duty to ensure that ECHR is respected by allied intelligence services operating within their own territory. Some legal experts have even gone so far as to suggest that the Venice Commission had come close to imputing ECHR to American intelligence activities much of the time (Hakimi 2007).

Does this matter? In the long term it probably does. Although it is rarely portrayed in espionage film and fiction, secret agencies spend an inordinate amount of time

arguing with their lawyers before conducting a major operation. Mid-level managers are anxious to secure clear instructions from the executive branch before acting. Although political accountability mechanisms have proved to be increasingly toothless since 9/11, legal mechanisms have continued to bite. In the UK, courts have reversed government detention policies regarding the treatment of suspects. While CIA officers are unlikely to be extradited to face the courts in Milan, they have increasingly found themselves required to retain lawyers to defend themselves against their own Inspector-General. Indeed most practitioners agree with Michael Scheuer's assertion that the CIA is increasingly 'palsied by lawyers' (Jones 2006, 36–37). European intelligence officers must now be looking over their shoulder at the provision of ECHR when working with the Americans whatever the location. The European intelligence and security services recognise that their decision to embrace ECHR, which appeared to be permissive and facilitating in the 1990s, may yet prove an impediment to transatlantic intelligence co-operation.

European states are seeking more robust legal safeguards when working with the United States. Typically, on 12 July 2006, the Swiss signed a new agreement with Washington on counter-terrorist co-operation. This agreement, approved by the Swiss parliament in 2007, provided a successor to the temporary Operative Working Arrangement (OWA) with the US created in 2002, directly focused on the 9/11 investigations. The new agreement provides for the activation of joint Swiss and American investigative teams. Given the prominence of Swiss banking, particular attention is paid to terrorist finance. The participation of Swiss officials in shared interrogations and other investigative acts now requires the special approval of the Swiss prosecutor in charge of the proceedings. The new arrangement also provides for tighter restrictions regarding the use of the information obtained. Swiss officials have presented this agreement diplomatically, arguing that 'it is very important that in difficult terrorism cases, the rules for technical co-operation are clear from the start'. However, it appears that the new arrangements provide stronger legal protection to those under investigation and tie co-operation more closely to judicial processes (Swiss FJDP 2006).

Rendition may also have caused some transatlantic convergence on issues of secrecy. Indeed, European intelligence officials have told Washington very firmly that some of the transatlantic intelligence controversies might not have occurred without the energetic efforts of American journalists. The Europeans believed they had signed up to co-operate on secret programmes, only to find that detailed accounts were appearing in the press. In the United States, journalists often seem immune to laws regarding official secrecy. The trigger for the 'secret prisons' controversy in Europe was undoubtedly several celebrated stories in November 2005 by the Pulitzer Prize-winning journalist Dana Priest. Indeed, American constitutional guarantees on free speech extend not only to journalists wishing to expose transatlantic intelligence operations, but also to Internet Service Providers in the United States that host radical Islamic websites. This has also been a vexed issue for the Europeans.

In 2007, the Bush administration declared open season on investigative journalists covering secret matters. The latest journalist to be arraigned is James Risen, a reporter for *The New York Times* who specialises in intelligence affairs. In late 2007

he was subpoenaed by a federal grand jury with regard to stories that he had written uncovering a joint CIA–Mossad operation against Iran’s nuclear programme (Melman 2008). However, the pressure on journalists covering transatlantic intelligence issues is unlikely to persist beyond 2008, since all presidential candidates have committed themselves to a ‘Shield Law’ protecting journalistic whistle-blowing. Journalists and whistle-blowers are undoubtedly a crude instrument for achieving accountability in the realm of intelligence, since they can compromise genuine secrets as well as revealing abuses. Yet given that multinational operations are mostly opaque to national oversight committees, there is little else. In the future, a system of transatlantic inspectors-general whose remit might cover more than one country would be preferable, but this seems a distant prospect.

Technical problems will also cast a shadow over the next five years. The vast expansion of the American intelligence budget is driving important technical changes. In 2007, we saw the grudging extension of Secret Internet Protocol Router Network (SIPRNET) to some European allies. However, this has masked the fact that the United States is developing further systems which the Europeans will have to lobby to achieve access and new categories for security classification. The new American approaches to intelligence distribution, such as A-Space, which owe their inspiration to web-based platforms such as Wikipedia, are certainly innovative. However, their introduction will exacerbate the problem of a transatlantic intelligence community that is operating at different speeds. All these problems are resolvable, but take time, as we have seen in the NATO military context in Afghanistan. The technical problems of fusion are likely to be replayed over the next decade (Nolin 2006).

Transatlantic intelligence co-operation will be slowest where both legal and technical issues are involved. In the wake of 9/11, a range of European security measures were promised to the Americans, but they found the implementation ragged. Various national parliaments dragged their heels over the European Arrest Warrant despite rapid agreement at the EU level. Suggestions for data retention for intelligence have been resisted by Internet providers, civil rights activists, the European Parliament and member states. Agreement on data retention was only secured in 2006 after heavy lobbying by the UK (Bures 2006; Bossong 2008). New controversies are likely to develop as the EU attempts to bring forward a system similar to the US Passenger Name Record System which will retain data on European citizens for 13 years and will also be extended to train and ferry passengers (Verbeet 2008). Such slow and uneven delivery remains perplexing for Washington.

Prospects

In April 2008, FBI Director Robert S. Mueller III visited Europe. His presence underlined continued transatlantic co-operation between intelligence and security services. It also demonstrated the extent to which, in a globalising world, domestic security services have been required to become international actors that are to some degree outward facing. Indeed, with the FBI now boasting some 60 offices overseas we might even speak of the globalisation of domestic security intelligence services. Mueller’s address at Chatham House in London captured some of the current drivers of co-operation:

We never know when a fragment of information uncovered in one country could unearth an entire network of terror in another. And this is true not just for terrorism—the same can be said for all criminal threats, from transnational organized crime rings, to child pornography, to cyber attacks. The intelligence we seek often resides where our adversaries are based, not where we are based. Our enemies live in the seams of our jurisdictions. No single agency or nation can find them and fight them alone. If we are to protect our citizens, working together is not just the best option, it is the only option (Mueller 2008).

Most of this essay has focused on counter-terrorism, but Mueller rightly reminds us that a great deal of intelligence co-operation is focused on serious criminality and its connections to globalisation. Mueller also employed the word ‘jurisdictions’, which would catch the ear of any seasoned intelligence officer, since overlapping jurisdictions have historically led to trouble. Globalisation and jurisdictions do not sit easily together. In other words, while the many intelligence and security services of Europe and North America are compelled to work ever more closely together, it does not follow that these relationships will always be smooth or harmonious (Mueller 2008).

The current transatlantic equation could be put rather differently. For many American intelligence officers, they have no choice but to work with European partners because the Schengen Area is now one of the greatest sources of threat. This reflects the rise of ‘home-grown terrorism’ in Europe. Again, Robert Mueller gently alluded to this in April 2008. He explained that, although the FBI was thought of as a domestic agency, ‘the vast majority of the FBI’s terrorism cases originate from information developed by our partners overseas—even those cases in which the suspected terrorists and the potential targets are all on American soil’. Europe is also a region through which organised crime flows effortlessly from Eurasia towards the United States. In a sense, Europe is simultaneously an intelligence partner and also an intelligence target.

Ernst Uhrlau, president of the German BND, has addressed this problem with equal frankness, stating: ‘We are part of a broad European danger zone’. He was referring to a plot in 2007 by the ‘Oberschledorn Group’ to attack US military bases and major airports in Germany. What astonished the BND and its allies was that two of the three members of this latter group were German converts to Islam—the other was Turkish. Uhrlau added: ‘The Germans were the leaders. They were true fanatics’ (Pötzl and Bednarz 2008). Between 2005 and 2007, the reality of ‘home-grown terrorism’ dawned on European services and their American partners. Some 700 extremists are being tracked by the German intelligence and security agencies (Pötzl and Bednarz 2008). The UK problem is larger. In a speech in November 2007, Jonathan Evans, Director General of MI5, placed the number of suspects at over 2,000 (Evans 2007).

This points the way to an uneasy future. Globalisation has compelled many domestic security intelligence agencies and foreign intelligence agencies to work alongside each other. Having chased their transnational opponents down the rabbit hole of globalisation they have now discovered that their ‘jurisdiction’ is nothing short of the whole world. This, in turn, creates sensitivities and frictions, since American

intelligence and security agencies recognise that they not only need to work with Europe, they also need to work inside Europe. Such efforts are not always conducted with the approval of the host authorities. In 2005, the CIA Chief of Station in The Hague was expelled for mounting an unauthorised surveillance operation against an individual suspected of being involved in proliferation. CIA operatives were caught because they were themselves surveilled by Dutch intelligence officers who were busy watching the same target group! (Haas 2008). Similar incidents have dogged the relationship between the CIA and the German BND in the last few years (Goetz and Rosenbach 2008).

In public, intelligence and security services talk a great deal about globalisation and their co-operation is certainly increasing. However, in private, the intense concerns that they hold about their 'jurisdictions' illuminate their true nature as projections of national sovereignty. Accordingly, while their efforts against the underside of globalisation—whether they be terrorists, criminals, warlords or proliferators—may compel them to work more closely together, and to share intelligence more widely, by definition these relationships can never be entirely comfortable. Perhaps this is one reason why we have seen a range of intelligence functions gradually passing to private security companies and international consultants over the last decade. They—like the transnational opponents and targets that they pursue—look more like true citizens of the world.

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