

# Heritage Lectures

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## Protecting America and Winning the Intelligence War

*General Michael V. Hayden*

**Abstract:** *The war on terrorism, more so than any other war that our nation has fought, is an intelligence war. During the Cold War, the enemy—the Warsaw Pact and the Soviet Union—was easy to find but hard to kill. The war on terrorism has turned that on its head. This enemy is hard to find, and that puts a great premium on intelligence in this war, far more than in any other conflict in which the United States has been involved. America appears to have forced the enemy, who would prefer to hijack four airplanes simultaneously, into new modes of attack that are less sophisticated, less complex, less likely to succeed, and less likely to be catastrophic should they succeed, but that almost certainly are going to be more numerous. The question now for America’s political leadership is: How much do you want American intelligence services to change their style to actually make it more likely that we are going to be able to detect and preempt those attacks?*

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Whatever I have to offer has to come from the perspective of my background, so I’m going to narrow it down from Protect America Month to homeland defense against terrorism and the role of intelligence in that sort of homeland defense.

The first thing I’d like to emphasize is that this is an intelligence war, more so than any other war our nation has fought. Jerry Boykin is a retired three-star Army officer, special operations kind of soldier. Jerry had a wonderful phrase that I shamelessly borrowed from him since he first uttered it. He said that during the Cold War, the enemy—the Warsaw Pact, the Sovi-

### Talking Points

- The war on terrorism, more than any other war in America’s history, is an intelligence war.
- The new modes of attack adopted by al-Qaeda are less sophisticated, less likely to succeed, and less likely to be catastrophic should they succeed—but almost certainly are also going to be more numerous.
- The difficult question now for America’s political leadership is: How much do you want American intelligence services to change their style to make it more likely that we are going to be able to detect and preempt those attacks?
- Rhetoric matters: the reluctance to identify an attack as terrorism; the reluctance to say, “that guy was an al-Qaeda weapon launched at the United States” instead of an isolated extremist; and the reluctance to identify the enemy as Islamic terrorism.

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et Union—was easy to find, and if you think back during that period, something that we called the Group of Soviet Forces in Germany or Southern Group of Forces in Hungary were massive echelon tank armies. We had no problem figuring out where they were. Our challenge was figuring out how to stop them.

Here was an enemy that was easy to find, hard to kill. The war on terror has turned that on its head. If we know where this enemy is, it is easy for us to deal with it. He's just damnably hard to find. So that puts a great premium on intelligence in this war, far more than any other conflict our nation has been involved in.

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***This is an intelligence war. To reduce your intelligence is the moral equivalent of disarmament during the Cold War or earlier conflicts.***

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In the constant debate between security and openness, safety and transparency, what is or is not in your morning newspaper, very frequently I run into the argument that we would never publish real secrets: troop movements, location of forces, and so on. But the press seems free to talk about the terrorist surveillance program or the SWIFT<sup>1</sup> program, which was the tracking of financial data, as if that didn't put Americans at risk in the way that "Loose lips sink ships" put Americans at risk during World War II.

That point of view simply betrays the fact that the owner of that view hasn't internalized the new reality. This is an intelligence war. To reduce your intelligence is the moral equivalent of disarmament during the Cold War or earlier conflicts.

### **Progress in the War on Terrorism**

The first thing I want to say about this war on terror is to answer the question, "So, how are we doing?" I got asked that question in midsummer of 2008 by Joby Warrick, who is a reporter from *The Washington Post*. He said, "Mr. Director, how are we doing?" I said, "Frankly, Joby, not bad," and I listed some achievements. I said, for example, that al-Qae-

da had suffered near strategic defeat in Iraq and, most important, it was near strategic defeat not just at the hands of American arms, but at the hands of Sunni Arab arms in Anbar Province and elsewhere; that in Saudi Arabia, al-Qaeda had taken a serious run at the stability of the kingdom and had been utterly defeated; that in the tribal region of Pakistan, al-Qaeda senior leadership was spending most of every day worrying about their survival rather than worrying about threatening yours.

Then I concluded by saying, fundamentally, globally at a really important level, and that's the level of ideology, in the war of ideas, for the first time really since 2001, authentic voices within Islam—not Americans, not Europeans—were challenging the authenticity of al-Qaeda's vision and tactics. I went on to say it's not time to spike the football and do one of those silly dances in the end zone and to celebrate: that we still had a lot of problems, but that we were making great progress.

The Pakistani Army took on the Taliban in the Swat Valley, took on the Taliban and al-Qaeda in Bajaur, moved into South Waziristan. This is tough fighting, and the Pakistani Army has suffered heavy casualties, and it's not an army that's well geared for this kind of fight. A counterinsurgency fight wants you to be mobile, light, infantry-heavy. By and large, the Pakistani Army is road-bound, heavy, and relying on artillery. Not a good match for the war, but God bless the Pakistanis, they have taken the fight to al-Qaeda in ways that I did not expect.

All full credit, by the way, to Mike Mullen, chairman of the Joint Chiefs. If Mike Mullen was making all of his trips to Islamabad to meet with General Ashfaq Kayani, who is the chief of army staff and used to be my counterpart—he used to be the intel chief—and was getting full frequent flyer mileage credit, he and his family would never have to pay for an airline ticket again when he went into retirement. He has worked very, very hard. That's good news, but this is a learning, adaptive enemy.

You recall the attacks in Mumbai. On U.S. TV, it was the eve of Thanksgiving a couple of years ago. I remember being in my kitchen. I'm still in government; I'm still the Director of the Central Intelli-

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1. Society for Worldwide Interbank Financial Telecommunication.

gence Agency. I'm chopping up the celery to put into the stuffing for the Thanksgiving dinner tomorrow and to pass the time put the news on, and all I can see are flaming hotels in Mumbai.

### New Modes of Terrorist Attack

Mike Hayden and a bunch of folks who worked with Mike Hayden really were disturbed by the Mumbai attack because we were fearful that al-Qaeda would go to school on Mumbai. Al-Qaeda has always geared itself for the spectacular, the multipronged, catastrophic, complex assault against an inherently iconic target, and here were a dozen or so guys with automatic weapons and cell phones as noncomplex as you can imagine, conducting an attack with tremendous global political impact. So our great fear was that al-Qaeda would abandon this old model and see the attractiveness of this new model. The short story is that the new model is infinitely more difficult to detect and prevent.

I'm not sure al-Qaeda went to school on Mumbai the way I just suggested. I'm not sure they huddled up at their equivalent of a senior leadership meeting and said, "We need to change our doctrinal approach to attacks." But operationally, I think they have. Operationally, I think we forced them into it. Look at the two most recent attacks; first of all, the one of Christmas Day. Umar Farouk Abdulmutallab, Northwest flight, Schiphol, Amsterdam, Detroit, underwear bomber—you know all the details.

Step back from that and harvest some of the macro lessons. This is the first attack we know of against the American homeland that was conducted whole and entire by an al-Qaeda franchise.

Prior to that point, certainly while I was director, I could say without fear of contradiction, every known threat to the American homeland has threads that take it back to al-Qaeda central along the Afghanistan–Pakistan border. This attack did not. This attack was directed against us by what we call AQAP, al-Qaeda in the Arabian Peninsula, al-Qaeda in Yemen.

And think of the mode of attack. They send somebody at us: not somebody that *we* barely knew, someone that *they* barely knew. Limited vetting, limited training, limited contact because they knew if they delayed much longer, your intelligence ser-

vice is going to identify him—we came damn close to identifying him anyway—and they sent him at us with a weapon that had an incredibly low probability of success. In the broader scheme of things, that's an American success story, that we have forced this enemy, who really would like to hijack four airplanes simultaneously, into this mode of attack.

Now, with that in mind, fast-forward to a couple of weeks ago. Down the street, you've got a self-radicalized American whose connection to the Taliban is probably there but remains to be thoroughly explored. We are witnessing a witches' brew of low-

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threshold attacks by self-radicalized individuals: not just Abdulmutallab and Faisal Shahzad, but Major Hasan, Najibullah Zazi—remember the fellow who's coming after the subway system here?

These new modes of attack are less sophisticated, less complex, less likely to succeed, and less likely to be catastrophic should they succeed. That all sounds pretty good, but almost certainly, they are going to be more numerous. That's the new flavor of the month, and that's what we're going to have to deal with.

### Discovering the Multiple Threads

Your intelligence services have gotten really good at dealing with that high-end complex attack. These attacks have multiple threads. I think I suggested a training thread, a recruiting thread, a finance thread, a logistics thread, a traveler thread. We come across one of those threads, we start reeling that thread in. Pretty soon, we've got a plot in front of us, and we know what's going on. That summer of 2006 attack that never happened, these half-dozen or so wide-bodies that were intended to go down over the Atlantic from terrorist plotting in Great Britain using hydrogen peroxide, the reason you can't bring the liquids through the Transportation Security Administration checkpoints at LaGuardia

or Kennedy anymore—we own that plot. We had tremendous visibility into it.

The only issue we have with our British counterparts was, when are you going to break it up? With the British quite understandably saying, “Let’s let it run some more; let’s get some more evidence for the eventual court case,” the Americans are saying, “But they bought the hydrogen peroxide.”

You’ve got a wonderful counterterrorism center just a few dozen miles up the Hudson at West Point. They deal entirely in unclassified data. I was up there about a month ago, and I was talking to them about what I’m describing for you that are the franchises. Al-Qaeda main is under great pressure. Please do not think I’m saying al-Qaeda is less dangerous. This is still a dangerous enemy. They could pop up and do something very terrible against our homeland, but on balance they’re far less capable than they were three, six, or nine years ago.

So the question we asked at West Point is, “What’s the new role for al-Qaeda main?” The question they posed to me was, “What is al-Qaeda main’s value proposition?” And they began to suggest thought leadership, consulting services, finance, and media coverage. It’s starting to sound like IBM Solutions: We don’t make the terrorists; we make the terrorists more effective. I don’t mean to make light of it, but you need to know what’s happening inside your enemy. You need to know where the lethal punches are coming from, and you need to know what part of the organization is doing what to you.

Now, if you accept this kind of premise that I’ve been suggesting, it’s lower-threshold, self-radicalized, franchise-oriented, lower probability of success, but far more frequent attacks. What does that mean for your intelligence services? By and large, we’ve got reasonable confidence we can stop those kinds of attacks.

An incredibly difficult question now for America’s political leadership is: How much do you want American intelligence services to change their style to actually make it more likely that we are going to be able to detect and preempt rather than prevent—as the heroic T-shirt seller in Times Square did—those attacks? To use a bit of hyperbole, how much

more do you want to take off going through the TSA line at Kennedy?

Even Mike Hayden as an intelligence professional is not prepared to say, “Oh, no, push that line all the way down.” On the other hand, if we as a nation decide not to push the line all the way down, we as a nation have to decide: Are you willing to accept that risk? That is a high-end political question, and certainly people in my old profession have to demand that our political leadership—and, frankly, you—answer it. Folks are fond of saying it is a false choice between our values and our security. There may be one level at which that’s a true statement, but I don’t know what level that is.

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If you go back to the Founding documents, the reason we organized government among men is life, liberty, and the pursuit of happiness, “life” being the word that describes security. We trade security for those other values all the time, and now the question: What’s the trade you want to make? When somebody says it’s a false choice between our values and our security, anybody in my old profession knows that’s not exactly what the speaker meant. What the speaker meant was, “It’s a hard choice, and I’m not going to make it.”

So, connecting the dots, intelligence is really important, even in this new world. But as I suggested, that policy framework within which we do our professional activity is incredibly defining of how much we can do on your behalf.

## Continuities and Discontinuities

Let me talk a little bit about policy decisions. There are discontinuities between the 43rd and 44th Presidents of the United States in terms of policy, and there are continuities between the 43rd and 44th Presidents. There are far more continuities than there are discontinuities.



Let me begin with the discontinuities. First, close Guantanamo in a year. We have been trying to close Guantanamo for three years. No one objects to the goal of closing Guantanamo.

Second, close the CIA detention and interrogation program. The day that happened, I called Greg Craig, the White House counsel—January 22, 2009, two days after the inauguration. Greg and I get along very well. These have always been very

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adult professional conversations. I said, “Greg, you’re confining us to the Army Field Manual. You could actually buy back almost everything we need if you would simply say that unless otherwise directed by the President, all American interrogation will be conducted in accordance with the Army Field Manual.”

The point I’m trying to suggest to you is that ambiguity in this question is our friend. That didn’t happen. We were confined in the Army Field Manual.

I recommend you go to the CIA Web site, [cia.gov](http://cia.gov), to my announcement to the workforce on January 22, 2009, after the President issued his executive order confining all interrogations in the U.S. government to the Army Field Manual and closing CIA detention sites. You will find that my message to the workforce simply says the President has given us exactly what we expect and need Presidents to give us. He has given us clear policy definition. He has given us a new box within which to work. Now, there are a few sentences in there about the old box and how that worked, but now we’re going to work in the new box, and we’re going to succeed in the new box.

So at one level, I don’t complain about shutting down the detention and interrogation program. At another level, I complain that we did not set up anything in its place. If you look at the American experience in the last few months with people we have

captured, we really have not had a detention and interrogation program in which to place them.

Then, of course, if you’re looking for discontinuities, the one that’s most troubling has been the actions of the Attorney General revealing the details of the former interrogation program, revealing the Inspector General’s report on the interrogation program, and starting to reinvestigate CIA officers for activities that have already been thoroughly investigated by the Department of Justice.

Now, continuities. First of all, you have to understand that President George W. Bush operated along an arc. President Bush made adjustments in his terrorism program over the course of his presidency. I’ve been using the word continuity. It’s probably more precise to say that President Barack Obama in many ways has operated along the continuum that President Bush established, to wit: We are a nation at war. We are at war with al-Qaeda and its affiliates. That’s President Obama in Phoenix at the Veterans of Foreign Wars convention in August of last year. I was there. I heard him say it.

I gave a speech at the German embassy. It would have been the spring of 2007, and the German ambassador had a bunch of European ambassadors for lunch, all the ambassadors from the states of the European Union to the United States of America. I said, “Let’s talk about renditions, detentions, and interrogations.” I had a great staff at CIA; they wrote great speeches. But I did a lot of this one myself.

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***We are a nation at war. We are at war with al-Qaeda and its affiliates. This war is global in scope.***

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On the second page of that speech, I said, “In order that I’m perfectly clear, let me tell you what I believe, my agency believes, my government believes, and what I am certain my nation believes. We are a nation at war. We are at war with al-Qaeda and its affiliates. This war is global in scope, and I can only fulfill my moral and legal responsibilities to the citizens of my republic by taking this fight to this enemy wherever he may be.” I ended that section by saying, “Trust me, this isn’t about Texas; this is about America.”

There was no other nation represented in that room whose government agreed with any of those four sentences. They not only believed they are not at war globally with al-Qaeda. They believed it is illegitimate for us to believe we are at war with al-Qaeda. But my prediction came true. That little flip-pant footnote about it's not about Texas, it's about America came true, because President Obama, President Bush's successor, has fundamentally said the same thing: We are a nation at war. That's the biggest continuity you can get.

What else? Renditions, the extrajudicial movement of a terrorist from country A to country B: American policy has not changed between the two Presidents.

State secrets: The Obama Administration has been as aggressive as the Bush Administration using the state secrets privilege in a variety of lawsuits against the federal government. I might add that, as philosophically pleased as I am with that position, I am personally even more pleased because I am named in several of those lawsuits.

Indefinite detention continues. Fighting against, in the U.S. courts, the extension of the writ of *habeas corpus* to prisoners we are keeping at Bagram Air Base in Afghanistan: consistent, no change. The Obama Administration last week won a three-to-zero decision in the appellate court upholding the Bush Administration position.

Military commissions? Still got them. Relationship with Congress? Congress has attempted to require the President to videotape all interrogations and required the President to tell the full intelligence committees about all covert actions. And President Obama, just like his predecessor, said, "That bill comes to my desk, I'll veto it."

Targeted killings: This is using American power to kill enemies elsewhere in the world. The one example I can give you without coming close to violating any federal statutes is the killing of a fellow named Saleh Nabhan in the Horn of Africa, in Somalia, by American SEALs in September of last year: no warrant, no court, no probable cause. No one thinks we are in a theater of war in Somalia like we are in Iraq or Afghanistan. American SEALs killed him.

About a month ago, Harold Koh, who is Secretary of State Hillary Clinton's lawyer, gave a remarkable speech to a collection of lawyers in Washington about unmanned aerial vehicles and precision weapons and targeted killings. Harold Koh, former dean of the Yale Law School, is probably one of the most internationalist lawyers in the current Administration, and they rolled Harold Koh out to give a ringing defense of these kinds of targeted killings. That's beyond the defense given to it by the Bush Administration, because the Bush Administration generally relied on the AUMF, the authorization for the use of military force: in essence, that declaration of war after 9/11 that we got out of Congress. Koh used that and the inherent right of self-defense, which is a bit more broad than the authorization for the use of military force.

All of this is happening, by the way—the targeted killings; the state secrets; the indefinite detention; no *habeas* at Bagram; yes, we're at war; the military commissions—in the face of European expectations that there would be dramatic left turns in American policy.

Again, step back from the obvious and just think about this with me for a moment. President Obama was awarded the Nobel Peace Prize. He was nominated a week or two after he became President, and the decision was made about six weeks after he became President. He accepted the award about six months after he became President. This is Hayden's theory: He was awarded that based on European expectations. And what did our President do when he went to Scandinavia to accept the award? He lectured the Europeans on just war theory—an incredibly unexpected moment, I'm sure, for the Nobel Prize Committee.

## Reality vs. Political Correctness

So there is, despite my complaining earlier about some things, amazing continuity. When you ask an intel officer what's going on, you generally want him to tell you what the facts are. You've got to stay with the facts. But beyond that, policy customers just don't want me to tell them the facts; they want me to tell them what's the story. What's the dominant narrative? What's really going on here?

I'm from Washington. I actually don't care about the Redskins; I cheer for my Steelers. But when you talk about the Redskins, you say, "What's wrong with the Redskins?" Well, they've got a quarterback that's not an NFL quarterback; they've got a line that can't block; they've got a coach that gets no respect;

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***In matters of security, there is less difference between most Republicans and most Democrats than there are differences between most Americans and most Europeans.***

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and they've got an owner that meddles. All four of those sentences are true, but what's the story? What's the dominant sentence?

So what's the story? I think we agree on the facts. In matters of security, there is less difference between most Republicans and most Democrats than there are differences between most Americans and most Europeans. That's a story.

Or here's a story: The Bush years really were an aberration; America lost its way. Campaign statements were more than rhetoric, and Attorney General Eric Holder's promise of a reckoning is still coming down the pike. Or, moral posturing and campaign rhetoric aside, the actions of the American government are actually fairly predictable, and there are long, well-traveled paths that are created more by our history and by our national character than by the individual personalities and particular actors. Or, everyone's pretty much doing the right thing, far more responding to both the dangers and the menu of capabilities available to them at that particular time than any abstract political construct or theory.

I don't know what the narrative is. I do know the facts create really interesting questions.

The fact that there are questions as to what the narrative really is, is something of more than just passing interest to people with curiosity about American security, something more than academic exercises. The fact that there are questions about the dominant narrative actually affects your security. Some of my friends, many people I was in government with, said, "Hey, look, they're doing most of

the stuff we're doing. Let the rhetoric go. Don't worry about the rhetoric."

But rhetoric sometimes matters. Rhetoric sometimes confuses the permanent government. You know what I mean by the permanent government: the guys who don't swap out after a presidential election. The reluctance to identify an attack as terrorism—that's confusing. The reluctance to say, "Yes, that guy was an al-Qaeda weapon launched at the United States" instead of saying he's an isolated extremist—that confuses. The reluctance to say Major Hasan was a terrorist is confusing. The reluctance to identify our issue as Islamic terrorism is confusing.

I have no facts on which to base what I'm going to tell you now, but I believe it to be true. The reluctance to talk about this reality candidly, and with great respect for one of the world's great religions, and be able to say "Islamic extremism" reflects a harmful political correctness. Let me just frame this in the form of a question: Do you think that affected the judgment of Major Hasan's supervisors at Walter Reed Medical Center?

### **America Is at War**

The area that most comes to mind when it comes to rhetoric and reality has to do with this Miranda thing. Attorney General Holder, now realizing, I think, the limitations of a narrowly defined Miranda, you saw him on the Sunday talk shows—quite surprisingly, again, in my mind—doing the right thing, saying we may want to think about Miranda a little more broadly, to take that public safety exception and begin to stretch it.

Does anyone remember something called Ptolemaic astronomy? Ptolemaic astronomy was the astronomy that came out of the ancient period. It was somewhat fundamentally based on theology: God made the universe. God's highest creation is man. Man lives on Earth. Therefore, it goes without saying the Earth is the center of the universe. We know there are heavenly bodies. We know they're made by God. The perfect shape is a circle. The Earth is in the center of the universe. God made the other heavenly bodies. God's perfect. The circle is perfect. They must move around the Earth in circular orbits.

Until we got a little bit better at grinding glass, and we put telescopes on these heavenly bodies and saw that orbit isn't quite circular. But God's perfect, and so is the circle. So Ptolemaic astronomers then said, "What you really have here is a heavenly body rotating around a circle. And the point itself is rotating in a circle around the Earth."

Until we got a little bit better at grinding glass, and we had a little bit better telescope. "Well, what you have here is a heavenly body rotating around a point in a circle that is rotating around a point in a circle that is rotating—it circles."

Finally, somebody said, "You know something? This circle thing isn't working."

Attorney General Holder's attempt to extend the Miranda exception reminds me a bit of Ptolemaic astronomers trying to make reality fit a preordained theory. Give up the theory. They don't go around in circles.

This isn't a law enforcement question. This is a war. Just say the guy is a prisoner and go ahead and interrogate him as a prisoner. And when you're

done with that, do what you will with regard to the court system, but just bite the bullet, give up the rhetoric, abandon the theology, and just do what the evidence suggests to you. Treat them like a prisoner. So the language matters.

That's my only complaint. I've been quite heartened that the 44th President recognizes that we are a nation at war and for the most part acts like it.

—*General Michael V. Hayden, USAF (Ret.), served as Director of the Central Intelligence Agency and the National Security Agency and was the nation's first Principal Deputy Director of National Intelligence. He retired from the CIA in February 2009 and is now a Principal in the Chertoff Group, a security consultancy cofounded by former Secretary of Homeland Security Michael Chertoff. General Hayden also serves as a Distinguished Visiting Professor at George Mason University School of Public Policy and in an advisory capacity to several organizations focused on national security. He delivered these remarks at a meeting of the New York Area Committee for Heritage as part of The Heritage Foundation's second annual Protect America Month.*