

When the FISA statute was negotiated, the focus was on facilitating FBI efforts to counter the work of foreign intelligence agents, most of them working out of embassies. The FBI rarely prosecuted foreign intelligence agents; it tried to turn them into double agents or simply expelled them. So it made sense to preserve some remnant of the Fourth Amendment standards for criminal investigations, by not letting criminal investigators direct intelligence operations.

But now our chief problem is terrorists. We need intelligence to prevent their crimes from happening, and we want evidence to put them behind bars. And so the impetus is to break down the last remnants of the old Fourth Amendment wall and allow criminal investigations to be as invasive of privacy as intelligence operations.

The FISA court's wall of separation was like the exclusionary evidence rule. It gave the gummy Fourth Amendment a little bite. But the regime in power today, like its conservative judges, has never liked the exclusionary rule. It has never liked the idea that there should be legal limits on how the government obtains the evidence it uses to prosecute "bad guys."

New Name for 'Subversive' Is 'Terrorist'

EIR: But the FISA Review Court ruled that the distinction between intelligence and law enforcement was never intended by Congress—that it was an arbitrary, bureaucratic measure.

Pyle: I testified against the FISA statute precisely because it undermined the distinction between intelligence and law enforcement enshrined in the Fourth Amendment. The resulting law was a compromise between civil libertarians and counter-spies. It allowed the Attorney General to do an end run on the Fourth Amendment's warrant clause, but only when the target of the investigation is a foreign power, or one of its agents.

With all due respect, the three judges on the FISA Review Court have no institutional memory at all. Indeed, they have no institutional existence. They came together once, to decide one case. By contrast, the seven-member FISA court has a long institutional memory. So, too, do some FBI and Justice Department people, who appreciate the need to keep intelligence from watering down the privacy protections of the Fourth Amendment, if only to save the FBI from repeating the abuses of the Hoover era, when domestic intelligence operations gobbled up much time and energy.

But now we are in a new era. Congress, and to a lesser extent the public, wants to start up the old Hoover vacuum cleaner. In Hoover's day the target was "subversives"—people so evil, we were told, that they did not deserve the protections that the Constitution grants us all. Now the target is "terrorists"—people so evil that the President and Attorney General say they don't deserve Constitutional protections.

And so history seems primed to repeat itself. Only later will we discover that the term "terrorist" is as imprecise and political-freighted, as "subversive" was during the Cold War.

Military Transformation

The Future of Warfare, or Recipe for Disaster?

by Carl Osgood

The current direction of U.S. military strategy was signaled by a September 1999 campaign speech that George Bush delivered at The Citadel military school in South Carolina. The Presidential candidate said, "Power is increasingly defined, not by mass or size, but by mobility and swiftness. Influence is measured in information, safety is gained in stealth, and force is projected on the long arc of precision-guided weapons." Armed with what they believe to be the reasons for U.S. military success in Afghanistan, the civilian leadership of Bush's Department of Defense has pressed on with military reform exactly as Bush had indicated in that speech. Reports had it, at the time, that that speech was composed by protégés of Andrew Marshall, the director of the Pentagon's Office of Net Assessment. Marshall, who has been ensconced there since about 1975, is well known as a proponent of the revolution in military affairs.

The progress of the current effort was assessed at the recent annual conference of the Center for Naval Analyses, a government-funded think-tank that works primarily for the U.S. Navy. With one exception, the underlying assumption of most speakers was that the trends since the 1989 invasion of Panama, provide the pattern for future operations. This was explicitly stated by Rear Adm. David McDevitt (ret.), CNA's director of strategic studies. He described the major military operations of the last 13 years as operational successes which "may be a plausible template for trying to forecast future operations." It was left to former NATO commander Gen. Wesley Clark (ret.) to point out that some of these so-called successes were, perhaps, not so successful: Haiti, today, after a U.S. intervention that lasted several years, has no economy; Bosnia is still split between Muslims and radical nationalist Serbs; and violence is still commonplace in Kosovo.

The keynote was given by Vice Adm. Arthur Cebrowski (ret.), the director of the Pentagon's Office of Force Transformation, and a key spokesman for information age warfare. He waxed eloquent on "network-centric warfare," where all of the components—air, land, and sea—are linked to each other and to ground-, air- and space-based sensors, so that everybody has the same picture of "the battlespace." This applies to a world where the threat context has broadened, where enemies can be "non-state, non-nodal," and which can-

not be deterred in the normal sense. The power for meeting these threats comes from information technology.

The crux, for Cebrowski, is, what is the military meant to do? It is, he said, to “provide an element of stability, so that your economic, political, and social tools work.” Stability also means the ability to prevent the use of weapons of mass destruction. In contrast to the Cold War definition, deterrence, he said, “has to be based on prevention,” including that “we move on ambiguous warning, earlier.” In other words, “we have to move from an offensive/punitive force to one that is preventive.” He admitted, however, that there is a surveillance problem. So-called weapons of mass destruction are difficult to detect, hence requiring the development of a “surveillance-based counter-weapons of mass destruction force.”

Fighting War the Wal-Mart Way

The conference also heard from a key critic of the entire transformation effort, Lt. Gen. Paul Van Riper, who retired as head of the Marine Corps Combat Development command in 1997. In his assessment of transformation, the Joint Staff and U.S. Joint Forces Command are focussed on the form and appearance of transformation, but not on substance. He then gave his view of the modern history of military change, defining five periods of history. The first period ran from about 1870 to 1914, from the unification of Germany to the outbreak of the First World War. He said that the military officers of the time studied hard, but got it all wrong. The second period was the inter-war period, from 1920 to 1940, in which we got naval aviation right, but mechanized and air operations wrong. The third period was 1950 to 1965. “We got it absolutely wrong,” he said, as was shown by the Vietnam War. The fourth period ran from 1965 to 1990, which was a result of the lessons of Vietnam. Here, “we got it absolutely right,” he said, as was shown by Desert Storm of 1991. “Today,” he said, “is more analogous to the 1950s.” He called operational net assessment (ONA) one of the key concepts of transformation, “the new systems analysis of today.” When such methods were used in Vietnam, he pointed out, “the computer said we were winning the war.”

Van Riper elaborated on his criticism of operational net assessment, in response to questions. He said that ONA views the enemy as a system of systems, political, economic, social, military and so forth, and then performs what is called a nodal analysis, looking at where those nodes cross each other. “What we’re going to do, is look at the enemy, cut the right node, and have the effect that we want,” he said. “In mechanical systems, that might work,” but no one has ever shown that that has any application in “human systems.”

The job of defending operational net assessment fell to the luncheon speaker, Maj. Gen. Dean Cash, the special assistant to the commander of U.S. Joint Forces Command. Cash began by describing how he went to a “high-altitude thinking clinic,” a group of people who tout infomatics. One of the

companies represented was the giant retailer Wal-Mart. What he said these people were talking about was the ability to manipulate large volumes of information, including subjective data, “to uncover the possibilities. I was watching them discuss investment 10 to 15 years out.” He went on to describe how Wal-Mart was looking at the lessons they learned from Sept. 11, in which they missed the popular run on purchasing U.S. flags in the days after the attacks. He said the goal was to develop the ability to predict possibilities, not necessarily get the answer. “To be predictive in the possibilities,” he said. “I’m very into that.”

Cash admitted that, during the July 15-Aug. 15, 2002 Millennium Challenge joint military experiment, the operational net assessment that was employed, did not work as well as was hoped. The assessment failed to anticipate the actions by the opposing “red force” commander, to bypass the technology advantages of the blue force, or “Americans.” The person playing the opposing force commander was none other than General Van Riper, who did things such as delivering orders to field forces by motorcycle, and through the morning prayer calls. He even was able to overwhelm the blue naval task force and send it to the bottom of the sea by comparable methods. None of those actions were anticipated by the ONA. Cash noted that the ONA put together for Millennium Challenge was a surrogate ONA. “We’re investing in making it much more robust,” he said, but rather than starting from scratch, “let’s tag off of what Wal-Mart is doing.” (It is worth noting that Cash, aside from attempting to answer Van Riper’s criticisms, was also playing up to the Office of Net Assessment’s Marshall, whose presence in the audience had earlier been acknowledged from the dais.)

That kind of thinking will only get people killed. As *EIR* has shown (“Transforming the Military for the Clash of Civilizations,” Aug. 23, 2002), the strategic outlook underlying military transformation is Harvard Prof. Samuel Huntington’s Clash of Civilizations,—i.e., it assumes the end of the nation-state era. Even those among the serving and retired military who question the conceptions of military transformation tend to miss that point. A competent military strategy must, instead, be developed on the basis of defending the sovereign nation-state form of republic, as only *EIR* Founder Lyndon LaRouche has defined this. The foundation of the United States, as a sovereign nation-state republic, is the defense of the general welfare, and so, strategic policy is defined by the need to defend the kind of state that provides for the general welfare, not just the United States, but for the world as a whole. LaRouche, in his “A Boldly Modest U.S. Global Mission” (*EIR*, Oct. 11, 2002), LaRouche noted that the evidence of President Bush’s *U.S. National Security Strategy for the United States of America*, released in September, suggests that Bush “appears to have no conception of the meaning of the term ‘sovereign nation-state republic.’” Apparently, neither do many people participating in the military transformation debate.

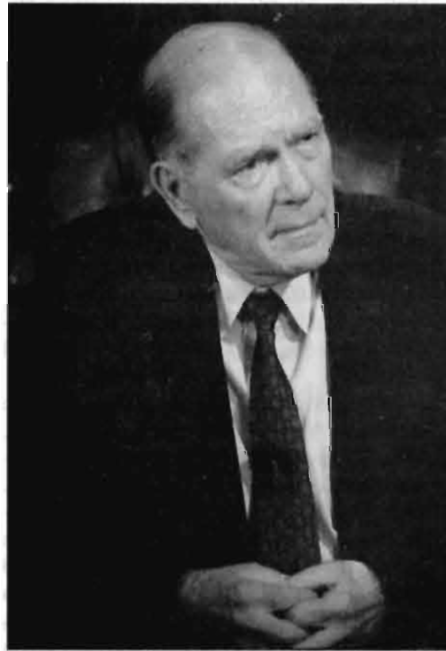
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