

INTELLIGENCE PROJECT

# Intelligence Community Ethical Practice

An Idea Whose Time Has Come

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## **About the Intelligence Project**

The Intelligence Project seeks to build a new generation of intelligence practitioners prepared to serve in a rapidly changing world and to help future policymakers and intelligence consumers understand how best to interact with intelligence to gain a decision advantage. Building on multidisciplinary research being conducted at the Belfer Center, from history to human rights and cyber technologies, the Intelligence Project links intelligence agencies with Belfer researchers, Faculty, and Kennedy School students, to enrich their education and impact public policy.

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## Executive Summary

Ethics will become an increasingly important issue for working-level and senior U.S. national security and intelligence practitioners. Despite a striking record of real or alleged ethical lapses since 9/11 and before, the Intelligence Community (IC) does not appear to have made a deliberate effort to advance the ethical practice and reflection of its workforce to improve professionalism. This situation arguably leads to an IC that is at least incrementally less effective at its missions, and more prone to unwanted errors. The emerging and future threat environment for the United States may be less forgiving of such consequences, implying that now is the time to advance IC ethics professionalization. For IC adaptability to the present and future, improving ethical practice is as important as it is under-appreciated.

This paper provides a framework for a program to advance IC ethics professionalization, to better serve the national interest, avoid ethical lapses or moral pitfalls, and strengthen US national security and the Intelligence Community against the risk of politicization. The program would serve as catalyst for national security intelligence officials to better perceive, reflect on, make judgments about, and potentially act on ethical lapses in the midst, in adjacent units, or higher in the chain of command. The program would provide a means for officials to deliberate on real or hypothetical ethical dilemmas, both as individuals or in groups.

# Introduction

This paper provides a framework for a program to improve IC ethics professionalization among US national security intelligence officials.<sup>1</sup> The paper argues that there is a new imperative for ethics professionalization because of changes in the nature of the threats to US national security, the corresponding evolution of Intelligence Community and related national security missions, and the massively increased importance of non-defense technology.<sup>2</sup> These factors together mean that national security intelligence officials have new kinds of decisions to involving interacting with non-intelligence departments and agencies, and with private sector entities, and corresponding greater freedom of action. The availability of current and emerging technologies and the powers of digital sensing, geolocation, processing, speed, storage, and analytics creates a whole other dimension for decision-making and freedom of action. To the extent that law and policy have arguably not keep pace with either the evolution of new missions or the uses of current and new technologies, the freedom of action in national security is formidable.

A key part of the difficulty of improving ethics professionalization in the Intelligence Community and associated national security organizations is that most work involves at least two frames of reference. There is an internal framing in which organizational missions are pursued within law and policy, and an external framing, involving how decisions and actions might look to a layman. Even actions that are clearly within law and policy, and approved as such by legal experts, might look unethical to a layperson.

The internal view is informed by large volumes and different strata of classified information, so that internal justifications or contexts for actions are not often available to the public.

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1 Although some experts in the field of practical ethics draw nuances between ethics and morality, in this paper they are treated as synonymous.

2 "Ethics and Morality in the U.S. Government and How the Intelligence Community Must Respond on JSTOR," accessed November 13, 2022, <https://www.jstor.org/stable/27066373>.

Moreover, the lay view might well be a composite of perceived ethical lapses, disagreement with the law or policy, or even the notion of having such taxpayer funded national security missions or organizations at all. That said, even within the internal framing, the “can do” spirit and the importance of the national security missions involved can lead to serious ethical lapses and pushing the boundaries of law and policy. The cases since 9/11 that have been made public or the object of investigative scrutiny should be cause for reflection about how the cases and outcomes could have been avoided or challenged early on.

In the context of this paper, improving ethics professionalization in the Intelligence Community and associated national security organizations is not about putting on better appearances to lay audience or the American public. It is about raising the level of understanding and judgment about how ethical lapses can occur in complex, “can do” organizations with often difficult national security missions, especially when on the boundaries of law and policy. The internal framing is primary, but the improvement of understanding and judgment of individual officers must draw from the norms and values in society.

# Part 1: **Intelligence Community Ethical Practice: an Idea Whose Time Has Come**

## **Changes in the environment create an imperative for more attention to ethics**

If the record of real or alleged IC ethical lapses since 9/11 and during the Cold War reflects durable and enduring patterns of behavior, the IC will continue to be challenged going forward. But the world has not stood still, and the IC faces an emerging environment that puts an imperative on greater ethical practice and reflection and ethical professionalism in its workforce. Taking account of the recent past and looking toward the future ethics is an idea whose time has come.

The IC's effectiveness in understanding the growing salience of China will likely mean working deftly across the divide between foreign and domestic intelligence and domestic law enforcement. New missions also will become increasingly salient, including offensive cyber operations, countering foreign malign influence, and maintaining a US comparative advantage in new forms of espionage. All this will occur in a context in which new and advancing technologies come to the forefront, including machine learning and artificial intelligence, advanced mobile communications, drone technologies, and more. These technologies will not only be pursued by potential US adversaries but will be advanced and elaborated by highly-capable US and partner open-source intelligence firms, peopled in part by former IC officials. This entire context forefronts the imperative for greater work to advance IC professionalization.

One way to approach these changes in the environment—changing threats and the role of China, changing missions, new technologies and uses of data, and limited treatment in law or policy—is to seize the opportunities. For example, uses of Artificial Intelligence or 5G communications will certainly improve IC and larger national security capabilities to understand and counter the multifaceted threats posed by China. There are exciting new prospects to use technology to advance intelligence and national security missions are getting extensive attention. And rightly so.

However, the same changes in the environment that provide the new opportunities also provide new kinds of freedom of action and imperatives, and they pose the prospect of wrongful actions and serious ethical lapses. Indeed, it would be surprising if these things did not happen. However, compared to the extent of treatment of the opportunities side, there has been much less official or academic attention to the ways things could go wrong. This includes the treatment of ethics professionalization as affecting the capabilities or inclination of officials to reflect, communicate on, and act on potential or real ethical problems.

Now in some important ways, the first line of defense or prevention of the risks of wrongful actions and ethical lapses is leadership and policy, to include the very top levels of leadership. For example, the magisterial analysis of Joseph Nye on the moral deliberations, actions and consequences in the foreign policies of US presidents from FDR to Trump shows clearly that leadership and policy at the very top matter.<sup>3</sup> Less treated in Nye's book are the actions of officials several levels down from the president—top-level advisors, head of departments and agencies, and other politically appointed officials. With important exceptions, the historical record is much sparser for the actions of this set of officials three or more levels down.

The historical decisions and actions of officials three or more levels down in the national security intelligence establishment are even more sparse. Yet we can be sure that in the cases that Nye covers, the actions and ethics of national security intelligence officials three or more levels down mattered. These officials developed options, provided assessments on feasibility and potential consequences, collaborated with or insulated from other officials and took actions. To the extent policies, actions, and consequences were unethical, lower-level officials enabled what happened. Arguably they were just doing their jobs. But we know cases where ethical lapses were circumvented by the actions of officials three or more levels down.

Even if the historical record of cases where problems occurred or were avoided does not permit detailed understanding of the ethical positions, deliberations or reflections of the lower-level officials, the historical cases do provide important indications of the kinds of ethical dilemmas that could have been confronted. In other cases, hypothetical versions of the ethical dilemmas can be developed, both

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<sup>3</sup> *Do Morals Matter?*, accessed November 13, 2022, <https://global.oup.com/academic/product/do-morals-matter-9780190935962>.

for historical cases and cases in the present and future. Part of the argument of this paper is that more systematic attention is needed to the ethical professionalization of national security intelligence officials, encompassing both historical and hypothetical cases.

To encompass the scope of potential actors involved in current and future ethical dilemmas, we adopt the term “national security intelligence officials”. The reason for this term is to encompass both the organizations and officials in the Intelligence Community itself, but also those sub-organizations and officials that are part of the Department of Defense or other departments or agencies that are deeply involved in decisions, plans, actions on the uses of intelligence, and the effects of those uses, but who are not formally part of the Intelligence Community. (In cases, where the term IC is used, it is intended to denote the larger set of organizations and officials. The term ethical practice and ethics professionalization are used interchangeably.).

## **The ethical imperatives stemming from new technology and new data**

Changes in technology and the new kinds and volume of data provided by technology is a key driver of the current need for ethics professionalization in national security intelligence. New technology, new uses of technology, and new kinds of access to data provide the national security intelligence enterprise with new capabilities, but much of the new elements are being developed and refined outside the IC or government. The new elements provide significant opportunities and freedom of action for new uses of data, as solutions to national security or intelligence problems. They require much closer interaction with the private sector.<sup>4</sup>

Historically, new technologies, new uses of technology and new kinds of access to data have co-evolved with new missions. This occurred in the period after 9/11, with the global war on terror, and countering foreign extremism and radicalization, then a maturation of defensive and offensive cyber missions, support for US economic security, and intelligence support to countering foreign malign influence and disinformation. The mission expansion continues today—with efforts to counter China’s “whole of government” and “whole of society” approaches to its

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<sup>4</sup> “2010 Executive Summary - New Warriors, New Weapons.Pdf,” accessed November 13, 2022, <https://www.usna.edu/Ethics/files/documents/publications/2010%20Executive%20Summary%20-%20New%20Warriors,%20New%20Weapons.pdf>.

own national security. These efforts will require new thinking on uses of technology and data, and new forms of interactions with the private sector.

The intersection of new technology and data with IC ethics professionalization has at least four dimensions:

- Lags in law and policy on the limits of the uses of new technology and new data create openings for many kinds of new activities in the private sector, and in the elements of government and the IC working closely with those private sector firms.<sup>5</sup>
- New technologies, uses, and data and evolving missions introduce a new dimension of horizontality, requiring working across many functional and regional units within the national security intelligence establishment, with government organizations outside the IC itself, including in government, in the private sector, and foreign entities. This interdependence arguably raises the bar for ethical deliberation on joint actions.
- The proliferation of new technologies and new data—in both breadth and penetrative depth into society—provides a new environment for open-source intelligence and commercial data firms. These often involve using the new technologies and new data in new ways, to support IC missions and activities. Again, this interdependence arguably raises the bar for ethical deliberation on joint actions.
- Necessary secrecy and compartmentation insulate many plans and actions involving new technologies, uses of technology, new forms of data, and relationships with private sector entities and formers, also posing risks of ethical lapses.

It is worth emphasizing that the current circumstances are not the first time that changes in technology have changed military and intelligence missions, and driven questions about ethics. The IC shift to digital means of creating, storing, and disseminating highly classified information arguably transformed the possibilities and potential scope of damage of illegal leakers, compared to the era of the Pentagon Papers. After 9/11, significant strides in geospatial technologies made possible remote targeting with advanced drones, raising ethical or just war issues in the process.

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<sup>5</sup> Joshua A. T. Fairfield, “Runaway Technology: Can Law Keep Up?,” Cambridge Core (Cambridge University Press, January 2021), <https://doi.org/10.1017/9781108545839>.

## Don't take intelligence ethics professionalization for granted

Given the historical background of arguable moral lapses in national security intelligence, it should be seen as striking that there seems to have been little attention to either assessing or improving IC ethics as a whole. Just since 2001, issues have arisen involving perceived or real intelligence failures politicization of intelligence analysis, issues related to the conduct of the global war on terror, whistleblowing and illegal leaks, surveillance in the US, and non-sharing of intelligence. While each of these have received extensive scrutiny and examination, the facts and allegations taken together merit a deeper look at IC ethics professionalization and reflective practice..

Official structures and attention to intelligence ethics tend to be focused on compliance with official behaviors, as mandated by the Office of Government Ethics and additional policy for the IC, including required financial disclosure. Civil liberties and privacy protection also tend to be about compliance, and cases of non-compliance, rather than the ethics of intelligence officials. Whistleblower programs and analytic tradecraft standards indirectly address intelligence ethics, but do not seek to address ethical learning or support to the ethical judgments of national security intelligence officials.

The one area of intelligence ethics that has been most addressed in academic writing involves espionage—probably because they involve a much greater dimension of deception, extreme secrecy, potential violent outcomes, and the perceived potential for illegality or operating on the boundaries of law or policy. However, even this area of attention is most often about the ethics of certain policies, with less attention to the ethics of the individual official working in national security ethics.<sup>6</sup> One notable exception is the work of James Olson—the long-serving officer in the Directorate of Operations of the CIA, and now professor of practice at the Bush School of Texas A&M University. Olson masterfully explores the dilemmas of dozens of well-constructed hypothetical spying scenarios, with an emphasis on the individual moral compass, as well as policy.<sup>7</sup>

6 "National Security Intelligence and Ethics | Seumas Miller, Mitt Regan," accessed November 13, 2022, <https://www.taylorfrancis.com/books/oa-edit/10.4324/9781003164197/national-security-intelligence-ethics-seumas-miller-mitt-regan-patrick-walsh>.

7 "9781597971539: Fair Play: The Moral Dilemmas of Spying - Olson, James M.: 1597971537 - AbeBooks," accessed November 13, 2022, <https://www.abebooks.com/9781597971539/Fair-Play-Moral-Dilemmas-Spying-1597971537/plp>.



One explanation of why there has been relatively little explicit attention to professional ethics is that when problems erupt into the public domain and are covered extensively in media, the problems become objects of special, extremely high attention in the intelligence chain of command and higher. This tends to mean that containing the proximate set of issues can tend to take priority. Fixing the proximate problem often becomes the order of the day and beyond, with less reflection on what happened in decisions and actions three levels down in organizations.

A second explanation is that when problems occur, they tend to be binned into categories that then make it difficult to also see the problems as bearing on ethics or ethics professionalization. For example, issues involving the crafting and review of written finished intelligence analyses tend to be covered as either violations or analytic tradecraft or politicization, or both. Analytic tradecraft is a set of norms and procedures that form a subset of intelligence ethics writ large, so the larger issues often are not considered from the ethics perspective.<sup>8</sup> Politicization is most often seen as an issue of analyst partisanship and/or inappropriate partisan or political influence on analysts. Again, the larger ethical issues tend to be occluded. For example, treatment of the NIE on Iraq WMD did not raise ethical issues but tended to be binned by academics as a matter of inappropriate analytic and collection tradecraft or potential politicization.<sup>9 10</sup>

When a given issue involves violations of law or policy, the ethical background of decision-making by official three or more levels down also tend to be deemphasized in favor of who at higher levels directed what and when.

In cases involving illegal leaks of classified information, the focus rightly often tends to be on the underlying motives of the leaker, and process used to perpetuate the leaks, and national security impacts of the leaks. Because illegal leakers often make ethical claims about their motivations, it becomes very difficult in official contexts to address the larger ethical issues: it looks like an endorsement of the leaker's motivation. But because the larger public discourse on the leaker's motivation often does encompass ethics, a wedge is driven between the discourse

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8 Arlene Idol Broadhurst, "Can Governments Learn? American Foreign Policy and Central American Revolutions, Lloyd S. Etheredge New York: Pergamon Press, 1985, Pp. Xii 288," *Canadian Journal of Political Science/Revue Canadienne de Science Politique* 19, no. 4 (December 1986): 850-51, <https://doi.org/10.1017/S0008423900055311>.

9 "National Intelligence Estimates | Belfer Center for Science and International Affairs," accessed November 13, 2022, <https://www.belfercenter.org/publication/national-intelligence-estimates>.

10 "U.S. Intelligence and Iraq WMD," accessed November 13, 2022, <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB254/>.

internally—where discussion is limited--- and discussion among some in the public, media or academia.<sup>11 12 13</sup>

An additional reason not to take IC ethics professionalization for granted is that there is a clear imperative for the IC to work closely with uniformed members of the US armed forces—those both working in intelligence and others. The uniformed US military—comprised by the Services--has has a strong emphasis on ethical training and education as part of professionalization. This includes adherence to the laws of armed conflict, but also the principles, character, and behaviors that comprise moral conduct in peace and war. There is a sense the IC needs to have some emphasis on ethics professionalization commensurate with that of the uniformed military.

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11 "Whistleblowers, Leakers, and Their Networks: From Snowden to Samizdat," accessed November 13, 2022, <https://www.logos.com/product/180921/whistleblowers-leakers-and-their-networks-from-snowden-to-samizdat>.

12 "National Security, Leaks and Freedom of the Press: The Pentagon Papers Fifty Years On," Columbia News, accessed November 13, 2022, <https://news.columbia.edu/content/national-security-leaks-freedom-press>.

13 *Secrets and Leaks*, 2013, <https://press.princeton.edu/books/hardcover/9780691149875/secrets-and-leaks>.

## Part 2: **Advancing ethics learning, understanding and judgment in the IC**

The current approach to IC ethics professionalization—focusing on compliance—is necessary but not sufficient for advancing ethics learning and understanding, and the wider goals of a more professional workforce. The Office of the DNI has published principles of professional ethics in the Intelligence Community, included in this paper as Annex A.<sup>14 15,</sup>

However, the principles alone, or coupled with annual ethics compliance training do not seem catalyze the reflection of IC officials in ways that lead to reflective action.

The seven principles are sound and worth propagating across the IC, and to former IC members, and to new entrants. But alone, without forms of accompanying discourse and reflection, the set of seven principles may not serve as catalyst to help intelligence officials both better perceive ethical problems or dilemmas in the work of the IC and larger national security enterprise and develop their own judgments about how to approach those ethical problems or dilemmas.

### **Some theoretical underpinning to ethics professionalization**

There is an extensive body of academic work on advancing ethics learning, understanding, and judgment for professionals and an accompanying body of research on intelligence ethics. This work could serve as the theoretical underpinning to IC efforts to improve ethics professionalization. Two of the most important themes are the importance of practical judgment and the difficulties of ethical action in a context of “many hands”

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14 The ODNI product specifies seven principles: mission, truth, lawfulness, integrity, stewardship, excellence, and diversity. See Annex B.

15 Office of the Director of National Intelligence and Admin, “INTEL - Ethics,” accessed November 13, 2022, <https://www.intelligence.gov/mission/our-values/336-ethics>.

Close to the beginning of Western theorizing about ethics, Aristotle made the argument that phronesis (practical wisdom or virtue) is a core element of ethical thinking and behavior. It is not enough to know or assert commitment to ethical principles. It also is necessary to have the practical skill to know when and how to apply those principles. The need for practical wisdom to act ethically also is expressed as the need for moral imagination—emphasizing not just principles and strength of character, but also empathy and ability to discern what is relevant in each situation.<sup>16 17</sup> The practical wisdom and emphasis on character also emphasizes the central importance of motivation and the implications for cultivating the virtues of phronesis and courage to take the right course of action.<sup>18</sup>

The precepts of political ethics and public office advanced by political philosopher Denis Thompson responds to the difficulty of discerning and judging moral responsibility of in the context of “many hands” which characterize government organizations.<sup>19</sup> Thompson provides insights on eight kinds of issues: hierarchical responsibility, collective responsibility, personal responsibility, issues of alternative causes, the need to differentiate causing and advising, the relevance of good intentions, the ignorance of officials, and the compulsion of office

Thompson’s treatment of these eight ideas help to unpack the way in which the ostensibly non-ethical issue of following or adhering to the dictates of the chain of command can become an ethical problem. Officials at one level of the chain of command or management will often not recognize, not accept, or not engage on a potential ethical problem—based on the policy, direction, or momentum coming from an even higher level of the chain. To emphasize, the official perceiving the issue or problem might not be approaching it using ethical perspectives. It might involve a looming mistake or a plan or action outside law or policy. In other cases, ethical problems could come to the fore.

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16 “Moral Imagination,” *Ethics Unwrapped* (blog), accessed November 13, 2022, <https://ethicsunwrapped.utexas.edu/glossary/moral-imagination.2022>, <https://ethicsunwrapped.utexas.edu/glossary/moral-imagination.>,”plainCitation”:””Moral Imagination,” *Ethics Unwrapped* (blog)

17 Mark Johnson, “Moral Imagination: Implications of Cognitive Science for Ethics,” 1993, <https://philarchive.org/rec/JOHMIJ>.

18 Malik A, Conroy M, and Turner C, “Phronesis in Medical Ethics: Courage and Motivation to Keep on the Track of Rightness in Decision-Making,” *Health Care Analysis : HCA : Journal of Health Philosophy and Policy* 28, no. 2 (June 2020), <https://doi.org/10.1007/s10728-020-00398-7>.

19 Dennis Thompson and Hugh LaFollette, “Political Ethics,” *International Encyclopedia of Ethics*, 2013, <https://scholar.harvard.edu/dft/publications/political-ethics>.

Ethics learning and reinforcement should provide not just abstract principles, but also settings to advance professionalization and the exercise of moral judgment, using stories, examples, and discussion in internal social contexts. It is important to recognize that professional ethics are individual but also social, requiring a sense of solidarity, as part of the basis of courage. The complexity of intelligence ethical dilemmas and ethics professionalization seem to require more than just reference to a set of core principles.

## Elements of a program for IC ethics professionalization

One approach to a new emphasis on IC ethics professionalization would draw on the above theoretical underpinning of ethical learning and the conditions of ethical judgment. The point of departure would be recognizing the need for more attention to the challenges of the intelligence practitioner in the ethical domain.<sup>20 21 22</sup> Such an approach might have six elements:

- Workshops or lecture series on both historical case studies and hypothetical case studies both internal and with outside experts
- Ombuds-like consultative function, to include interaction with oversight as directed.<sup>23</sup>
- An additional resource for ODNI and other IC officials' interactions with oversight as directed, including the PIAB and with Congress as needed.<sup>24 25</sup>
- Lessons learned analytic papers, in conjunction with department and agency units.

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20 "The Moral-Ethical Domain and the Intelligence Practitioner on JSTOR," accessed November 13, 2022, <https://www.jstor.org/stable/26202165>.

21 "Mired in Gray: Juggling Legality, Lawfulness, and Ethics as an Intelligence Professional on JSTOR," accessed November 13, 2022, <https://www.jstor.org/stable/44327073>.

22 "The Birth of Professional Ethos: Some Comparisons among Medicine, Law, and Intelligence Communities on JSTOR," accessed November 13, 2022, <https://www.jstor.org/stable/44327133>.

23 "Ethics and Standards of Practice | Office of the Ombuds," accessed November 13, 2022, <https://ombuds.stanford.edu/ethics-and-standards-practice>.

24 Amy Zegart and Amy Zegart, "Eyes on Spies: Congress and the United States Intelligence Community," *Hoover Institution Press*, September 1, 2011, [http://cisac.fsi.stanford.edu/publications/eyes\\_on\\_spies\\_congress\\_and\\_the\\_united\\_states\\_intelligence\\_community](http://cisac.fsi.stanford.edu/publications/eyes_on_spies_congress_and_the_united_states_intelligence_community).

25 "THE ROLE OF PFIAB IN AMERICAN INTELLIGENCE | CIA FOIA (Foia.Cia.Gov)," accessed November 13, 2022, <https://www.cia.gov/readingroom/document/cia-rdp85m00364r000300350032-9>.

- Use of films, cases, and works of fiction as catalysts to guided discourse and reflection on specific dilemmas of intelligence ethics.
- Identification of technologies and uses of technologies that are likely to pose ethical dilemmas or pitfalls in their use or the kinds of data generated.

The point of such a program would be to provide a catalyst and set of cognitive sources for national security intelligence officials to better perceive, reflect on, make judgments about, and potentially act on ethical lapses in the midst, in adjacent units, or higher in the chain of command. The program would provide a means for officials to deliberate real or hypothetical ethical dilemmas, both as individuals and in groups. The goals of the program could not be met by compliance-oriented computer-based training (CBT) or by brochures. Instead, the program is intended to be a catalyst for reflection on ethical problems and dilemmas in small groups.

The potential for translation of perception, reflection and judgment into action would be one of the most important parts of the program, but also is a sensitive topic, and could pose one more reason why such a program does not already exist.

The core of the difficulty is that the IC or larger national security establishment cannot positively encourage officials to take actions against the chain of command, but it must have some mechanisms to counter the potential for ethical wrongs. Currently there are three such mechanisms: whistleblower programs, processes and protections, resort to government ethics units, and resort to ombudsmen or inspectors general. All three mechanisms are necessary but not sufficient in the sense that they all address action close to the end phase of the official's ethically motivated action. They do not address the often difficult, individual process of getting to the action or the judgment to act. Here the official is on his or her own. Acting ethically in the world of national security intelligence could be a career-ending move.

That likelihood, and the fact that ethical actions take place in a thick social setting of the official's unit and organization likely means that the current system is skewed toward following the chain of command, not toward sensing, uncovering, and countering unethical plans or action. The proposed program would be one step to balance that skewing.

## Signposts of potential ethical pitfalls

A program on ethics professionalization also could develop a set of signposts indicating when trends seem to be headed in the direction of ethical lapses, based on patterns of experience. These signs of caution would not be intended to trigger investigations, but to provide officials with a better sense of behaviors that could open the door to ethical problems. Signposts for the future could include things like the following:

- Creation of new intelligence cells or entities outside the normal chain of command of the Intelligence Community or national security departments and agencies, charged to create tailored intelligence for leadership.
- Increased use of privatized or open-source intelligence from for-profit firms, for data, collection, data analytics or analysis, without government counterparts active in every loop.
- Signs of blocked learning, based on classification, compartmentation or sensitivity of an issue.
- Waves of illegal leaks of intelligence or series of illegal leaks favoring one political party or political leader.
- New stories reflecting concerns about potential misuse of open-source intelligence firms and commercial data across intelligence functions.

It is critical to emphasize that even when officers are exposed to ethics principles and examples, they still return to and operate in an organizational environment that profoundly shapes what they do and how they act. It is likely that much unethical behavior involves tacit, if not explicit, cooperation of others in the organization, and specifically in management and the chain of command. Intelligence ethics thus becomes as much an organization's culture issue as a personal one, reflecting the values, attitudes, beliefs, and behaviors of the organization's operating environment. Any program for ethics professionalization will have to be locally relevant—reflecting and applicable to the organizational cultures of the parent organizations and its sub-organizations.

## Closing points

In wider society professionals generally are held to a higher standard of ethics and behavior than people outside the profession. Professionals in national security intelligence tend to be acutely aware of the higher standard they are being held to—because of the high stakes in today’s geopolitical environment, the high stakes of their specific mission, and the fact that they are responsible for handling and protecting classified information on a daily basis. They are also reminded of their ethical responsibilities by mandatory training and messaging on compliance with government ethics rules and their status as professionals.

However, despite the high stakes involved in national security intelligence professional thinking and behavior, ways and resources to advance ethics professionalization are mostly absent.<sup>26</sup> There should not be a presumption that once officials have assimilated the compliance rules of the Office of Government Ethics and special intelligence rules, and been exposed to the high-level principles of intelligence ethics, the officials will naturally or organically be equipped to recognize, make judgments on, and act on ethical issues. The ethical norms being conveyed, and the apparatus for reporting and acting on violations in-place, the institutional role is complete. Compliance, and thinking and acting as an intelligence professional is then on the official.

Thinking and acting as a national security intelligence professional turns out to be much more complex. Navigating the constraints and restraints of the IC landscape to be able to recognize, reflect on, communicate about, and act on perceived or real ethical problems is much more difficult. And the landscape is getting even more complex, making thinking and acting ethically even more challenging. Arguably this creates an imperative for improved ethics professionalization in ways tailored to the departments and agencies involved, and to the specific missions of officials.

One way to frame this new imperative is as follows: Based on the record of the period since 9/11 or since the inception of the IC and current national security structure in 1947, future ethical lapses are guaranteed. Once those events are in the spotlight or in the rear-view mirror, any intelligence leader will want to be able to

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<sup>26</sup> Peter Suci, “Ethics in the Intelligence Community - Is There Room for Improvement?,” ClearanceJobs, July 16, 2018, <https://news.clearancejobs.com/2018/07/16/ethics-in-the-intelligence-community-is-there-room-for-improvement/>.



affirm that he or she did everything possible to shape the IC so that those events would not happen, even if they happened anyway. Given the current IC approach to ethics professionalization, such an affirmation does not seem viable or accurate. That creates an opportunity that we ought to seize.

Overall, there is a strong sense that we can do better. Lack of attention to ethical practice and judgment opens a backdoor to all kind of unwanted outcomes, including politicization, intelligence failures, and other bad outcomes for US national security. New means for pursuing national security and intelligence missions--based on technology, new kinds of data and uses of data—pose many new opportunities, and temptations to push the envelope. Future presidents and other top leaders can also be expected to perceive and use these new means. When actions burst upon the public scene—as they very often do—consequences often turn out to be foreseeable. Again, for IC adaptability to the present and future, this issue is as important as it is under-appreciated.

# Annex A: **Principles Of Professional Ethics for the Intelligence Community—Office of the Director of National Intelligence**

## **Office of the Director of National Intelligence**

Principles of Professional Ethics for the Intelligence Community serve public-facing and internally-focused purposes. They reflect the core values common to all elements of the Intelligence Community and distinguish the officers and employees of the IC as “intelligence professionals.”

The principles—Mission, Truth, Lawfulness, Integrity, Stewardship, Excellence and Diversity—reflect the standard of ethical conduct expected of all Intelligence Community personnel, regardless of individual role or agency affiliation. The Director of National Intelligence formally issued the Principles of Professional Ethics for the Intelligence Community in 2014.

The heads of Departments and Agencies to which these Principles apply eagerly concurred in the establishment and issuance of this professional code. The principles serve as a reminder of the tremendous responsibility to which IC members are committed and the high standard of professional and personal conduct to which they must adhere.

The 2014 National Intelligence Strategy recognizes and reinforces the Principles as fundamental to the IC’s Mission and Vision, including the foundational Mission and Enterprise Objectives on which the strategy is built.

## Mission

We serve the American people, and understand that our mission requires selfless dedication to the security of our Nation.

## Truth

We seek the truth; speak truth to power; and obtain, analyze, and provide intelligence objectively.

## Lawfulness

We support and defend the Constitution, and comply with the laws of the United States, ensuring that we carry out our mission in a manner that respects privacy, civil liberties, and human rights obligations.

## Integrity

We demonstrate integrity in our conduct, mindful that all our actions, whether public or not, should reflect positively on the Intelligence Community at large.

## Stewardship

We are responsible stewards of the public trust; we use intelligence authorities and resources prudently, protect intelligence sources and methods diligently, report wrongdoing through appropriate channels; and remain accountable to ourselves, our oversight institutions, and through those institutions, ultimately to the American people.

## Excellence

We seek to improve our performance and our craft continuously, share information responsibly, collaborate with our colleagues, and demonstrate innovation and agility when meeting new challenges.

## Diversity

We embrace the diversity of our Nation, promote diversity and inclusion in our work force, and encourage diversity in our thinking.







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