



GNSI DECISION BRIEF

A Covert Competition and a Competition Over Covert Action

Written by:
Jeff Rogg, JD, PhD

April 3, 2024



UNIVERSITY of
SOUTH FLORIDA
Global and National Security Institute



A Covert Competition and a Competition Over Covert Action

Overview

The U.S. is entering an era of global competition that is drawing comparisons to the Cold War. Similarly, the U.S. is again facing key problems in one of the most secret and sensitive areas of national security: covert action. This decision brief will scrutinize the shortcomings in the existing architecture for covert action and identify questions facing policymakers who would use this crucial, yet controversial, instrument of statecraft to provide an advantage in strategic competition.

The covert Cold War

The U.S. was not prepared for the covert Cold War at the outset. It faced the immediate issue of identifying which organization in the national security establishment would conduct covert action. The 1947 National Security Act gave the CIA the ambiguous authority to “perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.”ⁱⁱ This language became code for covert action.ⁱⁱⁱ

However, there was a struggle to control covert action. George Kennan, who famously framed the parameters of the competition with the Soviet Union in his Long Telegram, was instrumental in the early debate over covert action.ⁱⁱⁱⁱ Under his guidance, National Security Council Directive 10/2 created an entity later known as the Office of Policy Coordination within the CIA to conduct covert action. But authority over the office was ambiguous.^{iv} Kennan would personally coordinate covert action while the State and Defense Departments would exercise supervisory control, with State taking the lead in peacetime and Defense in wartime.^v

The CIA finally asserted control over covert action under the directorship of Walter Bedell Smith from 1950-1953. Ironically, Smith doubted the CIA’s “responsibilities” in “cold war covert activities,” including “guerilla warfare,” “psychological warfare,” and “paramilitary operations.” Smith argued that “[t]hey are not functions essential to the performance by [the CIA] of its intelligence responsibilities” and “[t]hey were placed in this Agency because there was no other Department or Agency of the Government which could undertake them at the time.”^{vi} Despite Smith’s reservations, the CIA became the primary organizational arm for covert action. That could now change depending on how the U.S. frames the current era of competition.

The irregularity of irregular warfare

“What then is to be our war?” the wise king Archidamus asked his fellow Spartans as they debated the decision to go to war with Athens. Today, the DOD is grappling with the question, “What then is to be our irregular war?” Defining the term “irregular warfare” has consequences for covert action.

Accompanying the original debate over organizational responsibility for covert action was a complementary debate over variations of “warfare,” for example, subversive, psychological, economic, and political warfare. It began in the Second World War when General George C. Marshall requested justification for the functions, indeed existence, of the Office of Strategic Services in the context of its responsibility for psychological warfare. In his response, OSS Director William J. “Wild Bill” Donovan, offered a definition of psychological warfare and defense of the OSS.^{vii} Unsatisfied with Donovan’s effort, Admiral Ernest J. King demanded a “clear definition of ‘psychological warfare.’”^{viii}

Psychological warfare—and the responsibility for it—was again a topic of conversation in the second meeting of the National Security Council in November 1947. Marshall, now the Secretary of State, still had not warmed to the idea of psychological warfare or his role in coordinating it, and he requested that it “be changed to eliminate the word ‘warfare.’” Secretary of the Army Kenneth Claiborne Royall “stated that the Military Establishment did not believe that it should have a part in those activities.”^{ix} It was the OSS’s successor, the CIA, that would assume organizational responsibility for covert psychological warfare. Likewise, NSC 10/2 assigned covert economic warfare to the CIA.^x

So, too, would the CIA be responsible for covert political warfare. Kennan defined political warfare as “the employment of all the means at a nation’s command, short of war, to achieve its national objective” and explained there are “two major types of political warfare—one overt and the other covert.” Covert political warfare included “clandestine support of ‘friendly’ foreign elements, ‘black’ psychological warfare and even encouragement of underground resistance in hostile states,” as well as sabotage and counter-sabotage activities aimed at economic and industrial sources of power.^{xi} Political warfare has resurfaced in discussions over strategic competition, risking confusion with the concept of irregular warfare. Relatedly, identifying which organization should take the lead in covert action may depend on the type of “warfare” policymakers believe they are confronting.

The DOD currently defines irregular warfare as “a form of warfare where states and non-state actors campaign to assure or coerce states or other groups through indirect, non-attributable, or asymmetric activities, either as the primary approach or in concert with conventional warfare [emphasis added].”^{xxii} This broad definition allows the DOD to insert itself into areas and activities previously associated with the CIA and covert action during the Cold War. For example, whereas the military recused itself from psychological warfare in 1947, it now enthusiastically engages in information and influence operations.^{xxiii} The U.S. military is now asserting its role in activities that it deliberately left to the OSS in the Second World War and the CIA at the beginning of the Cold War.

Confusion over irregular and political warfare can set the conditions for competition over covert action, including paramilitary covert action by two organizations that both claim the OSS as their forebear, the CIA and Special Operations Command (SOCOM).^{xiv} Writing for the Foreign Policy Research Institute’s new—and revealingly named—Center for Intelligence and Nontraditional Warfare, Philip Wasielewski strikes a conciliatory note between irregular and political warfare, claiming that “the two should be seen as complementary forms of statecraft and not competitive ones.”^{xxv} However, Christopher Maier, the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, acknowledges, “I can tell you firsthand: if you engage in interagency conversations, at almost any level, and you start talking about all the irregular-warfare capabilities of the Department of Defense, people either shut down at most or other departments and agencies become very alarmed, because it sounds to them like it’s DOD looking for more opportunities, or places that we don’t traditionally operate.”^{xxvi} While definitions of irregular and political warfare remain a matter of debate, there is a statutory definition of covert action. However, even this definition is causing more confusion and competition.

Who will guard the shadow guardians?

Title 50 defines covert action as “an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly.”^{xxvii} Notably, covert action does not include “traditional...military activities or routine support to such activities,” which are instead covered under Title 10.^{xxviii} Like the broad definition of irregular warfare, a pliable understanding of traditional military activities, including so-called “operational preparation of the environment” that involves “shaping” or “changing”—one could easily say “influencing”—conditions abroad can create conflicts in the current statutory definition and design of covert action.^{xxix} Moreover, mirroring the language of Title 50, the 2017 National Security Strategy declares, “The United States will respond to the growing political, economic, and military competitions we face around the world.”^{xxx} The old

statutory scheme for covert action faces new challenges in the current era of strategic competition.

The convergence of CIA and military operations during the Global War on Terror highlighted the problems with existing legislative authorities.^{xxxi} For example, officials arguably conflated Title 10 and Title 50 statutory authorities in the raid that killed Osama bin Laden.^{xxiii} Similarly, there was some public debate whether the drone strike that killed Qassem Soleimani was or should have been a Title 10 traditional military activity or Title 50 covert action operation.^{xxiii} Convergence also did not diminish bureaucratic competition between the DOD and CIA. They clashed “over whether disrupting a terrorist Web site overseas was a traditional military activity or a covert activity.”^{xxxiv} Likewise, they variously cooperated or competed over drone activities, in some cases “relying on separate intelligence and lethal authorities,” i.e., Titles 10 and 50.^{xxv} Finally, acts of sabotage, especially cyber-sabotage, present another ambiguous arena for cooperation or competition between the CIA and DOD.^{xxvi} The confusion between Title 10 and Title 50 authorities, activities, and organizations extends to oversight of covert action.

Oversight helps ensure the national security establishment conducts covert action within the bounds and limits of U.S. law and American principles. Crucially, statutory covert action includes reporting requirements to the congressional intelligence committees whereas the congressional armed services committees have oversight of traditional military activities. Thus, confusion between covert action and traditional military activities not only risks interorganizational competition between the CIA and DOD but also intra-congressional competition between committees. As a product of all this confusion and competition, oversight of covert action could suffer, posing consequences for American statecraft in strategic competition.

Covert action and the American way or an American way of covert action?

Covert action was one of the most divisive areas of U.S. national security during the Cold War. Clark Clifford, who argued that the language in the CIA section of the 1947 National Security Act was code for covert action, told the Church Committee during its 1975 investigation into the U.S. Intelligence Community that “these operations have gotten out of hand” and lamented that America’s “reputation has been damaged and our capacity for ethical and moral world leadership has been impaired” as a result.^{xxvii} America’s missteps in covert action during the Cold War affected domestic and international perceptions. Strategic competition requires the support of both audiences.

Even Kennan came to regret the country’s overreliance on covert action. In a decision brief for policymakers, it is fitting that Kennan, one of America’s greatest policymakers, should have the last word. As Kennan explained, at the beginning of the Cold War, he and other officials had been “alarmed at the inroads of

the Russian influence in Western Europe beyond the point where the Russian troops had reached” and therefore “thought that we ought to have some facility for covert operations.” However, he admitted, “[i]t did not work out at all the way I had conceived it.... We had thought that this would be a facility which could be used when and if an occasion arose when it might be needed,” adding that he assumed that “[t]here might be years when we wouldn’t have to do anything like this.”^{xxviii} In the face of the immediate threat posed by Soviet covert action, Kennan had perhaps forgotten his own advice in the conclusion to the Long Telegram:

“Finally, we must have courage and self-confidence to cling to our own methods and conceptions of human society. After all, the greatest danger that can befall us in coping with this problem of Soviet communism, is that we shall allow ourselves to become like those with whom we are coping.”^{xxix}

As the United States prepares for the covert competition ahead, it should heed Kennan’s counsel.

Decision Points

- Which organization should take the lead in covert action? Should the DOD be the primary organization for conducting military, including paramilitary, covert action while the CIA have primary responsibility for political and economic covert action?
- Do irregular warfare and political warfare require statutory definitions that delineate organizational responsibilities, appropriations, and reporting requirements? If not, how can policymakers distinguish between the two in ways that establish identifiable boundaries between organizations, authorities, and operations?
- Do existing statutory authorities adequately define and guide covert action operations? Revisiting a debate during the Cold War, should there even be a statutory definition of covert action?
- How can policymakers ensure effective oversight of covert action, especially given its controversial history?
- How can the U.S. government avoid overusing or over-relying on covert action? How should policymakers incorporate covert action into broader American grand strategy and statecraft?

Jeff Rogg, JD, PhD, Non-Resident Senior Fellow – jeffreyprogg@gmail.com
Global and National Security Institute

Acknowledgments

The author would like to thank Sarah Brown, Jim Cardoso, Arman Mahmoudian, and Heather Ward for their expert review and editing of this manuscript.

Disclaimer:

This document was prepared by the Global and National Security Institute (GNSI) at the University of South Florida (USF). GNSI Decision Briefs aim to inform the reader on a particular policy issue to enhance decision-making while proposing the questions policymakers need to address. The analysis and views presented here belong to the author(s) and do not represent the views of the Department of Defense or its components or the USF administration or its components.

End Notes

- ⁱ [The National Security Act of 1947](#), Pub. L. 253, 80th Congr., 1st sess., July 26, 1947.
- ⁱⁱ There is some debate over congressional intent to delegate covert action to the CIA. For an argument in favor of the CIA's implied legislative authority to conduct covert action, see Clark Clifford with Richard Holbrooke, *Counsel to the President: A Memoir* (New York: Random House, 1991), 169-70. For an argument against, see [Document 241](#). Memorandum from the General Counsel of the Central Intelligence Agency (Houston) to Director of Central Intelligence Hillenkoetter, *Foreign Relations of the United States, 1945-1950, Emergence of the Intelligence Establishment*.
- ⁱⁱⁱ [Document 269](#). Policy Planning Staff Memorandum. *FRUS, Emergence of the Intelligence Establishment*.
- ^{iv} [Document 292](#). National Security Directive on Office of Special Projects NSC 10/2. *FRUS, Emergence of the Intelligence Establishment*.
- ^v [Document 298](#). Memorandum of Conversation and Understanding. *FRUS, Emergence of the Intelligence Establishment*.
- ^{vi} [Document 107](#). Memorandum from Director of Central Intelligence Smith to the National Security Council. *FRUS, 1950-1955, The Intelligence Community*.
- ^{vii} Director of Strategic Services to Joint Psychological Warfare Committee, Response to J.P.W.C. 45/D, October 31, 1942. NACP. Records of the U.S. Joint Chiefs of Staff, Central Decimal File 1942-45, RG 218 Entry UD1, Box 371.
- ^{viii} Memorandum of December 22, 1942. J.P.W.C. 45/D, October 24, 1942. NACP. Records of the U.S. Joint Chiefs of Staff, Central Decimal File 1942-45, RG 218 Entry UD1, Box 371.
- ^{ix} [Document 250](#). Memorandum of Discussion at the 2d Meeting of the National Security Council. *FRUS, Emergence of the Intelligence Establishment*.
- ^x Document 292. See note 4, *supra*.
- ^{xi} Document 269. See note 3, *supra*.
- ^{xii} “[Defense Primer: What is Irregular Warfare](#),” *CRS*, January 8, 2024.
- ^{xiii} Ellen Nakashima, “[Pentagon opens sweeping review of clandestine psychological operations](#),” *The Washington Post*, September 19, 2022.
- ^{xiv} The 9/11 Commission recommended that responsibility for paramilitary covert action shift to the DOD and Special Operations Command. See *The 9/11 Commission Report* (Washington, D.C.: GPO, 2004), 415.
- ^{xv} Philip Wasielewski, “[The Constant Fight: Intelligence Activities, Irregular Warfare, and Political Warfare](#),” *Foreign Policy Research Institute*, June 20, 2023.
- ^{xvi} Patrick Tucker, “[As irregular warfare comes to a crossroads, Congress chips in](#),” *Defense One*, December 17, 2023.
- ^{xvii} [Title 50 § 3093\(e\)](#).
- ^{xviii} Title 50 § 3093(e)(2).
- ^{xix} Joshua Kuyers, “[‘Operational Preparation of the Environment’: Intelligence Activity or ‘Covert Action’ by Any Other Name?](#)” *American University National Security Law Brief* 4:1 (2013): 21-40, 39.
- ^{xx} [The National Security Strategy of the United States of America](#), December 2017.
- ^{xxi} Andru E. Wall, “[Demystifying the Title 10-Title 50 Debate: Distinguishing Military Operations, Intelligence Activities & Covert Action](#),” *Harvard National Security Journal* Vol. 3 (2011); Robert Chesney, “[Military-Intelligence Convergence and the Law of the Title 10/ Title 50 Debate](#),” 5 *Journal of National Security Law & Policy* 539 (2012).
- ^{xxii} Joseph B. Berger III, “Covert Action: Title 10, Title 50, and the Chain of Command,” *Joint Forces Quarterly* 67:4 (2012). Available at: https://ndupress.ndu.edu/Portals/68/Documents/jfq/jfq-67/JFQ-67_32-39_Berger.pdf
- ^{xxiii} See, for example, Mick Mulroy and Eric Oehlerich, “[The killing of Qassem Soleimani: Was there a better way?](#)” *Middle East Institute*, January 13, 2020; Marc Polymeropoulos, “[How to Think About the Soleimani Strike in Four Questions](#),” *Just Security*, January 17, 2020.
- ^{xxiv} Ellen Nakashima, “[List of cyber-weapons developed by Pentagon to streamline computer warfare](#),” *The Washington Post*, May 31, 2011.
- ^{xxv} Greg Miller, “[U.S. launches secret drone campaign to hunt Islamic State leaders in Syria](#),” *The Washington Post*, September 1, 2015.
- ^{xxvi} David E. Sanger and William J. Broad, “[U.S. Revives Secret Program to Sabotage Iranian Missiles and Rockets](#),” *The New York Times*, February 13, 2019; Ellen Nakashima and Paul Sonne, “[U.S. military carried out secret cyberstrike on Iran to prevent it from interfering with shipping](#),” *The Washington Post*, August 28, 2019.
- ^{xxvii} [Statement of Clark M. Clifford](#), Church Committee, Vol. 7, 51
- ^{xxviii} [George F. Kennan testimony](#), Church Committee Book IV, 31.
- ^{xxix} [The Charge in the Soviet Union \(Kennan\) to the Secretary of State](#), February 22, 1946.