

STUDIES IN INTELLIGENCE SERIES

# The Ethics of Intelligence

A new framework

Ross W. Bellaby



# **The Ethics of Intelligence**

A new framework

**Ross W. Bellaby**

First published 2014  
by Routledge  
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

and by Routledge  
711 Third Avenue, New York, NY 10017

*Routledge is an imprint of the Taylor & Francis Group, an informa business*

© 2014 Ross W. Bellaby

The right of Ross W. Bellaby to be identified as author of this work has been asserted by him in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

*Trademark notice:* Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

*British Library Cataloguing in Publication Data*

A catalogue record for this book is available from the British Library

*Library of Congress Cataloging-in-Publication Data*

Bellaby, Ross, 1984–

Ethics and intelligence collection : a new framework / Ross Bellaby.  
pages cm. –(Studies in intelligence)

Includes bibliographical references and index.

1. Intelligence service–Moral and ethical aspects.
  2. Electronic surveillance–Moral and ethical aspects.
  3. Electronic intelligence–Moral and ethical aspects.
  4. Espionage–Moral and ethical aspects.
  5. Military interrogation–Moral and ethical aspects–United States.
  6. Torture–Moral and ethical aspects.
  7. Spies–Professional ethics.
  8. Intelligence service–Moral and ethical aspects–United States.
  9. Terrorism–Prevention–Moral and ethical aspects.
  10. Privacy–Moral and ethical aspects.
- I. Title.

JF1525.I6B45 2014

172'.4–dc23

2013040770

ISBN: 978-0-415-82104-9 (hbk)

ISBN: 978-0-203-38357-5 (ebk)

Typeset in Times New Roman  
by Wearset Ltd, Boldon, Tyne and Wear

# The Ethics of Intelligence

This book starts from the proposition that the field of intelligence lacks any systematic ethical review, and then develops a framework based on the notion of harm and the establishment of Just Intelligence Principles.

As the professional practice of intelligence collection adapts to the changing environment of the twenty-first century, many academic experts and intelligence professionals have called for a coherent ethical framework that outlines exactly when, by what means and to what ends intelligence is justified. Recent controversies, including reports of abuse at Guantanamo Bay and Abu Ghraib, allegations of extraordinary rendition programmes and the ever-increasing pervasiveness of the 'surveillance state', have all raised concerns regarding the role of intelligence in society. As a result, there is increased debate regarding the question of whether or not intelligence collection can be carried out ethically.

*The Ethics of Intelligence* tackles this question by creating an ethical framework specifically designed for intelligence that is capable of outlining under what circumstances, if any, different intelligence collection activities are ethically permissible. The book examines three of the main collection disciplines in the field of intelligence studies: imagery intelligence, signals intelligence and human intelligence. By applying the ethical framework established at the beginning of the book to these three important intelligence collection disciplines, it is possible to better understand the ethical framework while also demonstrating its real-life applicability.

This book will be of much interest to students of intelligence studies, ethics, war and conflict studies, security studies and international relations.

**Ross W. Bellaby** is lecturer in the Department of Politics, University of Sheffield, and has a PhD in International Relations from Aberystwyth University.

## **Studies in Intelligence Series**

General Editors: Richard J. Aldrich and Christopher Andrew

### **British Military Intelligence in the Palestine Campaign, 1914–1918**

*Yigal Sheffy*

### **British Military Intelligence in the Crimean War, 1854–1856**

*Stephen M. Harris*

### **Allied and Axis Signals Intelligence in World War II**

*Edited by David Alvarez*

### **Knowing Your Friends**

Intelligence inside alliances and coalitions from 1914 to the Cold War

*Edited by Martin S. Alexander*

### **Eternal Vigilance**

50 years of the CIA

*Edited by Rhodri Jeffreys-Jones and Christopher Andrew*

### **Nothing Sacred**

Nazi espionage against the Vatican, 1939–1945

*David Alvarez and  
Revd. Robert A. Graham*

### **Intelligence Investigations**

How Ultra changed history

*Ralph Bennett*

### **Intelligence Analysis and Assessment**

*Edited by David A. Charters,  
Stuart Farson and Glenn P. Hastedt*

### **TET 1968**

Understanding the surprise

*Ronnie E. Ford*

### **Intelligence and Imperial Defence**

British intelligence and the defence of the Indian Empire 1904–1924

*Richard J. Popplewell*

### **Espionage**

Past, present, future?

*Edited by Wesley K. Wark*

### **The Australian Security Intelligence Organization**

An unofficial history

*Frank Cain*

### **Policing Politics**

Security intelligence and the liberal democratic state

*Peter Gill*

### **From Information to Intrigue**

Studies in secret service based on the Swedish experience, 1939–1945

*C. G. McKay*

**Dieppe Revisited**

A documentary investigation

*John P. Campbell*

**More Instructions from the Centre**

*Christopher and Oleg Gordievsky*

**Controlling Intelligence**

*Edited by Glenn P. Hastedt*

**Spy Fiction, Spy Films, and Real Intelligence**

*Edited by Wesley K. Wark*

**Security and Intelligence in a Changing World**

New perspectives for the 1990s

*Edited by A. Stuart Farson,  
David Stafford and Wesley K. Wark*

**A Don at War**

*Sir David Hunt K.C.M.G., O.B.E.  
(reprint)*

**Intelligence and Military Operations**

*Edited by Michael I. Handel*

**Leaders and Intelligence**

*Edited by Michael I. Handel*

**War, Strategy and Intelligence**

*Michael I. Handel*

**Strategic and Operational Deception in the Second World War**

*Edited by Michael I. Handel*

**Codebreaker in the Far East**

*Alan Stripp*

**Intelligence for Peace**

*Edited by Hesi Carmel*

**Intelligence Services in the Information Age**

*Michael Herman*

**Espionage and the Roots of the Cold War**

The conspiratorial heritage

*David McKnight*

**Swedish Signal Intelligence 1900–1945**

*C.G. McKay and Bengt Beckman*

**The Norwegian Intelligence Service 1945–1970**

*Olav Riste*

**Secret Intelligence in the Twentieth Century**

*Edited by Heike Bungert,  
Jan G. Heitmann and Michael Wala*

**The CIA, the British Left and the Cold War**

Calling the tune?

*Hugh Wilford*

**Our Man in Yugoslavia**

The story of a Secret Service operative  
*Sebastian Ritchie*

**Understanding Intelligence in the Twenty-First Century**

Journeys in shadows  
*Len Scott and Peter Jackson*

**MI6 and the Machinery of Spying**

*Philip H.J. Davies*

**Twenty-First Century Intelligence**

*Edited by Wesley K. Wark*

**Intelligence and Strategy**

Selected essays

*John Robert Ferris*

**The US Government, Citizen Groups and the Cold War**

The state–private network  
*Edited by Helen Laville and  
Hugh Wilford*

**Peacekeeping Intelligence**

New players, extended boundaries

*Edited by David Carment and  
Martin Rudner*

**Special Operations Executive**

A new instrument of war

*Edited by Mark Seaman*

**Mussolini's Propaganda Abroad**

Subversion in the Mediterranean and  
the Middle East, 1935–1940

*Manuela A. Williams*

**The Politics and Strategy of  
Clandestine War**

Special Operations Executive,  
1940–1946

*Edited by Neville Wylie*

**Britain's Secret War against Japan,  
1937–1945**

*Douglas Ford*

**US Covert Operations and Cold  
War Strategy**

Truman, secret warfare and the CIA,  
1945–53

*Sarah-Jane Corke*

**Stasi**

Shield and sword of the party

*John C. Schmeidel*

**Military Intelligence and the Arab  
Revolt**

The first modern intelligence war

*Polly A. Mohs*

**Exploring Intelligence Archives**

Enquiries into the secret state

*Edited by R. Gerald Hughes,  
Peter Jackson and Len Scott*

**US National Security, Intelligence  
and Democracy**

The Church Committee and the War  
on Terror

*Edited by Russell A. Miller*

**Intelligence Theory**

Key questions and debates

*Edited by Peter Gill, Stephen Marrin  
and Mark Phythian*

**East German Foreign Intelligence**

Myth, reality and controversy

*Edited by Thomas Wegener Friis,  
Kristie Macrakis and  
Helmut Müller-Enbergs*

**Intelligence Cooperation and the  
War on Terror**

Anglo-American security relations  
after 9/11

*Adam D.M. Svendsen*

**A History of the Egyptian  
Intelligence Service**

A history of the *mukhabarat*,  
1910–2009

*Owen L. Sirrs*

**The South African Intelligence  
Services**

From apartheid to democracy,  
1948–2005

*Kevin A. O'Brien*

**International Intelligence  
Cooperation and Accountability**

*Edited by Hans Born, Ian Leigh and  
Aidan Wills*

**Improving Intelligence Analysis**

Bridging the gap between scholarship  
and practice

*Stephen Marrin*

**Russia and the Cult of State  
Security**

The Chekist tradition, from Lenin to  
Putin

*Julie Fedor*

**Understanding the Intelligence  
Cycle**

*Edited by Mark Phythian*

**Propaganda and Intelligence in the  
Cold War**

The NATO information service

*Linda Risso*

**The Future of Intelligence**

Challenges in the 21st century

*Isabelle Duyvesteyn, Ben de Jong and  
Joop van Reijn*

**The Ethics of Intelligence**

A new framework

*Ross W. Bellaby*

**An International History of the  
Cuban Missile Crisis**

A 50-year retrospective

*Edited by David Gioe, Len Scott and  
Christopher Andrew*

**Interrogation in War and Conflict**

A comparative and interdisciplinary  
analysis

*Edited by Christopher Andrew and  
Simona Tobia*



# Figures

1.1	The Ladder of Escalation	32
2.1	The Ladder of Escalation: imagery intelligence	68
3.1	The Ladder of Escalation: signals intelligence	97
4.1	The Ladder of Escalation: human intelligence	131
5.1	The Ladder of Escalation: blackmail and torture	159
6.1	The Ladder of Escalation: the ethics of intelligence collection	171

# Acknowledgements and dedications

This book found its first incarnation as my PhD thesis and was written during my time at the Department of International Politics at Aberystwyth University, and so my first acknowledgments must go to my supervisors, Toni Erskine and Peter Jackson. As a team their meticulous reading of my work, intellectual acuity and all-round support to grow in my own way has not only helped in this immediate piece of work but has also given me skills and confidence to tackle any project. Other members of the department that I would like to extend a special acknowledgement to include Len Scott and Martin Swinburn Alexander, who were a constant supportive force. I would also like to express my gratitude to my examiners, Rhodri Jeffery Jones and Andrew Linklater, whose engagement with my work led to important refinements.

As with any piece of work, some of the most important contributors both intellectually and emotionally are my friends. Sarah, Lisa and Matthew, Andy, Halle, Chris and Alison, thank you for always making me laugh, showing me love and for chasing away Aberystwyth's most persistent grey skies.

Finally, I dedicate this piece of work to my family and loved ones. You have all been there for me over these many years and have only ever wanted me to be happy in anything that I do. You are my unending support, whose voice, humour and love has kept me going through all I have ever tried to do. We are the collective and we will never be broken. Your unconditional love and guidance has made me what I am today and I cannot thank you enough for that.

# List of abbreviations

ASU	Active Service Unit (IRA)
CCTV	Closed circuit television
CIA	Central Intelligence Agency
CONUS	Continental United States Intelligence Program
CPGB	Communist Party of Great Britain
COMINT	Communications intelligence
DARPA	United States' Defense Advanced Research Projects Agency
ECHR	European Convention of Human Rights
ECPA	Electronic Communications Privacy Act
EHRC	Equalities and Human Rights Commission
ELINT	Electronic Intelligence
FBI	Federal Bureau of Investigation
FISA	Foreign Intelligence Surveillance Act
GCHQ	Government Communications Headquarters
HSI	Hyper-spectral imagery
HUMINT	Human intelligence
HVA	<i>Hauptverwaltung Aufklärung</i> (Main Reconnaissance Administration)
IIEA	International Intelligence Ethics Association
IMINT	Imagery intelligence
IAFIS	Integrated Automated Fingerprint Identification System
IP	Internet Protocol
ISP	Internet service provider
MASINT	Measurement signals intelligence
MIS	The Security Service
MSI	Multi-spectral imagery
NDNAD	National DNA Database
IDENT1	National Fingerprint Database
NSA	National Security Agency
PACE	Police and Criminal Evidence Act
PHOTOINT	Optical photographic intelligence
RIPA	Regulation of Investigatory Powers Act
RUC	Royal Ulster Constabulary

SPD	Socialist Democratic Party
SIGINT	Signals intelligence
SIS	Secret Intelligence Service (MI6)
TECHINT	Technology intelligence
TELINT	Telemetry intelligence
TIA	Total Information Awareness

# Contents

<i>List of figures</i>	xi
<i>Acknowledgements and dedications</i>	xii
<i>List of abbreviations</i>	xiii
<b>Introduction</b>	1
 <b>PART I</b>	
<b>THE ETHICAL FRAMEWORK</b>	13
 <b>1 Harm, just war and a Ladder of Escalation</b>	15
<i>Primum non nocere – first, do no harm</i>	16
<i>Just war and just intelligence</i>	24
<i>Ladder of Escalation</i>	30
<i>Conclusion</i>	37
 <b>PART II</b>	
<b>TECHINT</b>	49
 <b>2 Imagery intelligence</b>	51
<i>Harms: control of one’s image and of the home</i>	51
<i>The eyes have it: imagery intelligence and its uses</i>	55
<i>Conclusion</i>	67
 <b>3 Signals intelligence and the information nation</b>	75
<i>Harms: who we talk to and what we say</i>	76
<i>Communication collection and computerised databases</i>	78
<i>Conclusion</i>	96

**PART III**  
**HUMINT**

105

**4 The dark arts**

107

*The harms: people and relationships 109*

*The dark arts: covers, recruitment and broken hearts 113*

*Conclusion 130*

**5 Blackmail and torture**

137

*Blackmail 137*

*Torture 142*

*Conclusion 158*

**Conclusion**

170

*Bibliography*

173

*Index*

187

# Introduction

Everything secret degenerates.

Lord Acton

As the world of intelligence adapts to the changing environment and new threats of the twenty-first century, it has become clear that it is in dire need of an ethical framework that outlines exactly when, by what means, and to what ends its services should be used. Several recent controversies, including the reported abuse at Guantanamo Bay and Abu Ghraib, extraordinary rendition programmes and the ever-increasing pervasiveness of the 'surveillance state', have each raised considerable concerns regarding precisely what our intelligence services should be doing behind the political scene. These events force us to ask: are the actions being carried out by the world's leading intelligence communities ethically justified?

The answer to this question, however, is not always clear. For instance, there are those who argue that intelligence is in no particular need to have its actions ethically evaluated; for is this not a true realm of *realpolitik*?<sup>1</sup> It has, after all, always been a feature of the political scene, though has never before been subjected to any exerted effort to ethically evaluate it. Moreover, as Allen Dulles, once the head of the United States' Central Intelligence Agency (CIA) and principal intelligence advisor to the President and the National Security Council, argued in 1963, any restrictions on the intelligence community would be counterproductive in regards to its overall mission: 'The last thing we can afford to do today is to put our intelligence in chains.'<sup>2</sup> Indeed, there are strong arguments that can be made, especially after the 9/11 terrorist attacks, that intelligence should not be subjected to any framework that restrains its practice lest it allow further damages to occur.

Then there are those who argue that any project that aims to apply ethics to intelligence is essentially an oxymoron.<sup>3</sup> The job of intelligence in many instances is to collect information that other actors wish to keep secret, resulting in a world where intelligence is, by necessity, an unsavoury business: 'Effective espionage requires intelligence officers to deceive, incite, and coerce in ways not acceptable for members of the general public.'<sup>4</sup> It would therefore be both

## 2 Introduction

unhelpful and redundant to attempt to apply ethical considerations to a field such as this. As it is often asked, 'is there such a thing as an ethical spy?'<sup>5</sup>

Claiming that intelligence is an activity that is inherently unethical and so one should not bother trying to evaluate its practices, however, ignores the central role ethics plays in every aspect of political life, whether it is for the individual or group, public or private. No activity can claim an *a priori* right to exist outside the purview of ethical evaluation. Intelligence agencies must be brought out of the shadows, to some extent at least, and be made to respect ethical norms. This is not to say that intelligence should no longer be kept as secret as possible; such an argument would be naive. Intelligence does deal with hidden threats and so its methods and operations must retain their ability to stay, at least in part, secret.<sup>6</sup> It is because of this very secrecy, however, that intelligence needs an explicit ethical framework established: 'the public need perhaps more assurances than it used to need that these activities are being conducted both well in professional terms and justifiable in moral terms.'<sup>7</sup>

Second, to argue that intelligence is just an oxymoron is to ignore the very significant ethical role intelligence can play in the political community. Secret intelligence is needed and depended upon to protect against a range of external and internal threats, including asymmetric threats from international terrorist networks and sub-state actors, domestic crime and social unrest, state aggression, foreign espionage and international instability. As a key tool of the state, it is the duty of the intelligence organisations to detect, locate and prevent any threat to the political community. We can make this argument either on ontological justifications, whereby the right of the individual to defend himself is extrapolated 'up' onto the state, or by the contention that the political community is a moral good in and of itself. For example, Michael Walzer makes the point that the historical willingness to defend one's state is an outgrowth of the natural attachment to our political community. The shared experiences and cooperative activity seen in a political community, he argues, go towards shaping the common life, one that is valuable to its members. For this reason, unless circumstances indicate otherwise,<sup>8</sup> 'when states are attacked, it is its members who are challenged, not only in their lives, but also in the sum of things they value most, including the political association they have made.'<sup>9</sup>

However, this does not mean that intelligence agencies should be allowed free reign. There are important fears that what goes on behind the scenes might not reflect the ethical or social principles of the society that the intelligence community is designed to protect. In the recent history of professional intelligence, for example, the embarrassing failure of the Bay of Pigs invasion in 1961 forced President Kennedy to publicise the event and instigate a number of internal investigations into CIA operations; the Watergate scandal and the resulting Church Committee revealed the potential ease for intelligence actors even in liberal democracies to carry out unwarranted activities against their own; and concerns over the use of extraordinary rendition and torture programs demonstrate the extreme level of harm that they can cause without suitable restrictions.<sup>10</sup> Moreover, in the face of the boom in computerised systems and



surveillance technology, there is significant anxiety regarding the possible threat surveillance practices pose to individual privacy.<sup>11</sup> Most notably, the Prism leak in 2013 regarding the extensive online monitoring system employed by the United States' National Security Agency (NSA) demonstrated not only the capacity to watch what people do in cyberspace but the willingness to do so.<sup>12</sup> Digital surveillance has reached unprecedented levels in its ability to monitor the individual with, it would seem, no matching revolution in the rules limiting its use.

It is also feared that unethical intelligence can or will lead to bad intelligence. Unethical intelligence can cause a brain-drain as individuals leave or feel that they do not want to join an organisation engaging in egregious activities. Richard Dearlove, the former Chief of the UK's Secret Intelligence Service, remarked on how 'potential recruits would come to us because they believed in our cause.... This made our work much easier.'<sup>13</sup> Unethical intelligence is also likely to attract the wrong sort of cooperation from informants. Treating someone in an unethical way runs the risk of annoying, hurting, upsetting or distressing the very people from whom one is trying to get information. Former CIA officer John Hedley notes: 'An agent who hates and fears his case officer is not likely to be reliable or helpful.'<sup>14</sup>

This leaves the debate stuck between the important and indeed ethical role that intelligence can play, and the potential for it to cause harm to others as a result of trying to achieve this aim. It is this tension that is key to the whole debate on intelligence ethics, and it is this tension that this book will seek to reconcile. Indeed, the main argument of this book is that there needs to be a limitation on the activities employed by the intelligence community, but that this limitation must be qualified in relation to the ethical good that intelligence can do in its role as protector of the political community. This book will therefore create an ethical framework made up of two different parts that, when brought together, will be able to reconcile this tension and clearly outline if and when the use of intelligence is ethically permissible. The first part of the ethical framework will argue that the reason why intelligence collection might be considered ethically unacceptable is because of the 'harm' it can cause to the individual targeted, the intelligence operatives themselves and even society as a whole. The second part of the ethical framework will argue for a set of Just Intelligence Principles, based on the just war tradition's principles of just cause, legitimate authority, right intention, last resort, proportionality and discrimination, which can then act as the means for determining if and when these harms are justified.

These two different parts of the ethical framework will then be brought together on a 'Ladder of Escalation'. In practice, intelligence includes a variety of very different activities, each of which have the potential to cause a different level of harm. Moreover, depending on the level of harm caused, the circumstances needed to fulfil the Just Intelligence Principles will change. The Ladder of Escalation represents a metaphorical device that spreads the different intelligence collection activities up along its levels according to the harm caused. As the level of harm goes up, so too must the demands made by the Just Intelligence