

The Political Forum

*A review of social and political trends and events
impacting the world's financial markets*

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THEY SAID IT

“From at least 1994, and continuing into the summer of 2001, the Intelligence Community received information indicating that terrorists were contemplating, among other means of attack, the use of aircraft as weapons. This information did not stimulate any specific Intelligence Community assessment of, or collective U.S. Government reaction to, this form of threat . . .”

“Although relevant information that is significant in retrospect regarding the attacks was available to the Intelligence Community prior to September 11, 2001, the Community too often failed to focus on that information and consider and appreciate its collective significance in terms of a probable terrorist attack. Neither did the Intelligence Community demonstrate sufficient initiative in coming to grips with the new transnational threats.”

From the “Joint Inquiry into the Intelligence Community’s Activities Before and After the Terrorist Attacks of September 11, 2001, released to the public on July 24, 2003.

9/11. INTELLIGENCE FAILURE? OR POLITICAL FAILURE? We read with a great deal of interest much of the report entitled “Joint Inquiry into the Intelligence Community’s Activities Before and After the Terrorist Attacks of September 11, 2001,” which was issued last week by the Joint Congressional Committee on Intelligence. Our immediate thought upon finishing this effort was to borrow a phrase from the report itself, and declare it to be an “intelligence failure.”

In numerous places we find phrases such as: “it did not cause the intelligence community to mobilize, even though it contained apparently significant [redacted] information.” Or, “the intelligence community, *for a variety of reasons* [emphasis added], did not bring together and fully appreciate a range of information that could have greatly enhanced its chances of uncovering and preventing Osama bin Laden’s plan to attack these United States.”

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But no where do we find a cogent explanation as to why these errors and oversights occurred. A variety of reasons? That's it? A "comprehensive" "final" report on this disaster concludes that it happened because those who should have done something didn't, "for a variety of reasons?"

Like maybe, did it occur to the people who were doing this report to attempt to determine what those unspecified reasons were? Were the people in charge stupid? Lazy? Not paid enough? Not motivated? Not convinced that a threat existed? Not equipped with the proper authority? If we rely on this "comprehensive" report, we'll never know the answer to these questions.

The U.S. government had eight years between the first World Trade Center bombing and the second to set up a system that would protect the United States against a bunch of fanatical Arabs who wanted to kill as many Americans as possible. And the system didn't work. So what happened? "Intelligence failures" that occurred for "a variety of reasons?" That's it?

One can only hope that former New Jersey Governor Thomas Kean's independent commission, which was set up last year to conduct a separate investigation into the circumstances surrounding September 11, will do a better job of answering all the questions pertinent to assuring that the United States is better protected today than it was prior to September 11.

In the meantime, we thought we'd provide a little historical background information that the Joint Congressional Committee investigators failed to consider, but which we think might provide some insight into the crucial role that politics played in the "intelligence failure" leading up to the events of September 11.

For starters, to say that the 1970s was a bad period for American intelligence is a pretty dramatic understatement. In 1973, Richard Nixon fired CIA Director Richard Helms, in part because of Helms' refusal to oblige the President's Watergate cover-up, and replaced him with William Colby. Colby, in turn took several initiatives designed, in theory, to reform the CIA, but which, in practice, damaged both its capacity and its credibility.

First, Colby got into a battle of wills with longtime master spy James Jesus Angleton, head of the Agency's counterintelligence staff, in large part over Angleton's contention that there was a mole high up in the agency, similar to the British master mole Kim Philby. This is one of the great real-life stories in the history of the American intelligence community, rivaling anything ever written by even the best spy novelists. The bottom line is that some people thought the mole was Angleton himself; others that it was Colby; and still others that no such mole existed.

Before the battle was over, Angleton was gone, accused of fingering too many of his fellow operatives in his search for the mole; or, according to some people, of deliberately fingering them to protect his own position as "the American Philby."

During this debilitating period in the history of American intelligence gathering, Colby also oversaw the compilation of the so-called "Family Jewels," a nearly 700-page dossier documenting the CIA's domestic operations. The most significant and controversial of these was "Operation Chaos," in which the Agency kept tabs on the antiwar movement in an attempt to assess the influence of foreign (presumably Soviet) governments. The details of Operation

Chaos were revealed to *The New York Times* by Colby himself and became the foundation for Seymour Hersh's celebrated expose on the CIA.

The compilation of the "Family Jewels," and most especially the prominent disclosure of Operation Chaos, severely damaged the credibility of the CIA and led directly to the post-Watergate reforms that, in the opinion of many observers, devastated the nation's intelligence capabilities. According to Mark Riebling, the Editorial Director of the Manhattan Institute and the author of *Wedge: The Secret War Between the FBI and CIA*, the exposure of the "Family Jewels" was a watershed event for the CIA. He wrote:

Though none of the items on the "Family Jewels" list was palpably illegal, their disclosure by Colby fed into, and heightened, the post-Watergate distrust of government secrecy. In the furor which ensued, CIA's legal counsel reminded all employees of their rights under the Miranda decision . . .

The *Times* article marked a turning point in public attitudes toward spying. Overnight the CIA became, in the minds of many Americans, a shadowy, sinister organization. A season of inquiry began.

The initial inquiries were led by Vice President Nelson Rockefeller, who headed a presidential commission, and, more notably, by Frank Church (D-ID), Chairman of the Senate Select Committee to Study Government Operations with Respect to Intelligence, who directed the most high profile and consequential of several Congressional inquiries. The impact of these investigations was both swift and far reaching.

One of the first "reforms," if you can call them that, to spring from the Church/Rockefeller investigations was an attempt to enforce anew the original National Security Act, which in 1947 established the CIA, and purported to draw vivid lines of demarcation between the FBI and CIA, and between domestic and international intelligence concerns. In response to the information revealed in the "Family Jewels," the CIA was, for all intents, expelled from the domestic arena, and the responsibility for domestic intelligence was handed exclusively to the FBI.

In 1976, President Ford's Attorney General, Edward Levi, did his best to ensure that the FBI would not abuse its newly redefined powers, and thus promulgated the first set of Attorney General's Guidelines for domestic investigations, which, as its name suggests, articulated rules for investigating and conducting surveillance of Americans.

The FBI's role was limited severely. The most important of the restrictions placed upon it was the one stating that any expansion of investigations was permitted only where there existed "specific and articulable facts" indicating criminal activity, and all investigations were to be reported directly to the AG himself, who would bear ultimate responsibility for the opening of a full investigation.

The primary legislative result of the Church and Rockefeller inquiries was the Foreign Intelligence Surveillance Act (FISA), signed by President Carter in 1978. Most notably, FISA codified the requirement that any surveillance of "U.S. persons" (taken to mean anyone in the United States, not just citizens) be approved by both the Attorney General and a FISA court.

Thus, for example, when the FBI wanted to look at would-be hijacker Zacarias Moussaoui's laptop, they couldn't do it in the absence of a court order. And when the court denied the Bureau's request under FISA, the information was officially off limits.

Indeed, the FBI and CIA internalized so much of the Watergate-era concern about surveillance of domestic targets that many informed observers believe the intelligence agents became largely paralyzed by fear of scrutinizing too harshly a target that might later be cleared. As Mark Riebling put it:

“[T]he presidentially appointed National Commission on Terrorism lamented in a June 2000 report, [that] both FBI agents and CIA officers are discouraged from watching suspected terrorists in the United States ‘without fear of being sued individually for officially authorized activities.’ Since government representation is not always available, our counterterrorist operatives have been forced to buy personal liability insurance, which provides for private representation. The legal limits on surveillance, the commission warned, have made our intelligence community ‘overly risk averse.’”

Of course, if Carter had stopped at signing FISA, the damage might not have been too terribly severe. But he did not. At the insistence of his Director of Central Intelligence, Admiral Stansfield Turner, and based on some of the suggestions made during the Church hearings, Carter also decided to eschew traditional foreign intelligence techniques, which relied primarily on human intelligence (HUMINT), for less complicated, less intrusive, and less manpower-intensive electronic and signal intelligence (ELINT and SIGINT). Together, Turner and Carter dismissed many of the Agency's longtime and most experienced international agents, who were considered superfluous in the age of electronic espionage.

This dramatic, intentional reduction in human intelligence was compounded by the unintentional loss of human intelligence that resulted from the 1975 publication of *CIA Diary: Inside the Company*, the infamous memoir penned by former agent and defector to the Soviet Union, Philip Agee. Agee's book reportedly cost several agents, including the station chief in Athens and countless others in the Soviet Union, their lives. And in concert with the Turner/Carter reforms, it gravely affected CIA human intelligence and forced the Agency to adapt very quickly to using satellite imaging and electronic eavesdropping as its principal means of gathering information.

Finally, as the decade of the 70s drew mercifully to a close, President Carter signed the Intelligence Oversight Act, which, in an effort to keep the CIA from bending or breaking any of the newly imposed restrictions on its actions, required the Agency to keep respective Congressional oversight committees exhaustively informed of its activities. The CIA was never again supposed to be able to keep its secrets secret.

The cumulative result of the actions of these liberal “reformers” was a disastrous decline in the ability of America's intelligence agencies to perform their primary mission of protecting American lives and interests.

Ronald Reagan attempted to reverse some of the most egregious consequences of these actions, For example, his Attorney General, William French Smith, loosened the above-mentioned AG Guidelines in 1983, but even the “limited preliminary inquiry” Smith established forbade the use

of wiretaps, mail opening, and mail covers without the opening of a full investigation. And in any case, Reagan's decisive victory over Soviet communism effectively took the steam out of conservative arguments that U.S. intelligence gathering capabilities had to be beefed back up.

In fact, the sense of safety and well-being that followed the end of the Cold War allowed President Clinton and his first Director of Central Intelligence, John Deutch, to launch a fresh new attack on America's intelligence gathering capability.

Indeed, despite the first World Trade Center bombing, which occurred in February 1993 and caused some observers to argue that America's intelligence capability should be enhanced, in 1995 Clinton and Deutch promulgated a new set of rules (unsurprisingly enough known as the "Deutch Rules), which effectively forbade the intelligence agencies to recruit foreign operatives and informants with "unsavory" backgrounds, thus eliminating any moles who had criminal records or who had committed "human rights" violations.

And thus, at what proved to be a crucial time in the early war on terror, precisely those individuals who would likely be best suited to infiltrate terrorist organizations were effectively placed off limits for recruitment.

The decreased effectiveness of the intelligence community did not go completely unnoticed in the aftermath of the first World Trade Center bombing. Due largely to the perseverance of Congressional Republicans, in April 1996 Congress passed the Omnibus Counter-Terrorism Act, which, among other things, provided considerable new funding to help beef up federal antiterrorist efforts and added new measures to be used against suspected alien terrorists.

But several provisions that would have established a host of new powers for federal law enforcement agencies were dropped from the bill. Among other things, these would have made it easier for the law enforcement authorities to tap phones and to delve into the personal records of suspected bad guys, all of which would arguably have enhanced the government's ability to have prevented the September 11 attacks.

It should be noted that Bill Clinton supported these provisions. Opposition came from an unusual coalition of ultra-liberals and ultra-conservatives, who argued that the expanded government police powers that the bill's supporters envisioned would usurp fundamental constitutional principles. Never publicly stated during this debate was that much of the ultra conservative opposition to these measures was based on the fear of giving President Clinton any new police powers, given his abuse of those he already had.

For obvious reasons, in the wake of the September 11 attacks, President Bush was able to convince Congress to overcome some of their fears about "usurping" said constitutional privileges. When Congress passed and President Bush signed the Patriot Act, the intelligence agencies were given substantially more leeway than they had prior to the attacks. But the post-Watergate reforms were far from undone; the counter-reforms enabled by the Patriot Act were, to say the least, modest. And the fight goes on over the trade off between liberty and order.

So as you listen to and read the unending and ubiquitous discussions this summer (and presumably this fall) about the "intelligence failures" of the Bush administration, remember that

those failures were not an accident, and nor were they, by any stretch of the imagination, George Bush's fault. Yes, American intelligence was woefully deficient. But that deficiency was, in fact, in great part the product of nearly thirty years of "reform." A monumental failure indeed.

“EXPERT” ADVICE ON NORTH KOREA. Two weeks ago, Bill Clinton's former Defense Secretary William Perry made headlines when he, in his infinite wisdom, declared that Bush administration is “losing control” of the North Korea situation, and that the United States is therefore “drifting” toward war with that nation.

By way of providing readers with a little background on this latest critic of the Bush administration's North Korea policy, *The Washington Post*, in its coverage of the Perry comments, reminded readers that:

“As President Bill Clinton's defense secretary, he oversaw preparation for air strikes on North Korean nuclear facilities in 1994, an attack that was never carried out. He has remained deeply involved in Korean policy issues and is widely respected in national security circles, especially among senior military officers.”

Now, before you start digging the foundation for your new bomb shelter simply because this “widely respected” expert warned that “the nuclear program now underway in North Korea poses an imminent danger of nuclear weapons being detonated in American cities,” allow me to provide a little additional background.

First, the *Post* said that Perry oversaw preparations for a strike in 1994. It failed, though, to mention that the strikes were planned in part with the input of warrior-President extraordinaire, Jimmy Carter, with whom Perry reportedly consulted regularly and deeply as the 1994 North Korea crisis progressed.

The Post also did not mention that the strikes did not occur because Carter, in conjunction with the Clinton administration, decided that it would be better to let the North Koreans continue their program for eight years, while the United States and the rest of the world pretended that the little psychopath who runs that country was doing exactly as he promised he would.

To that end, the Clinton administration negotiated an agreement, called “The 1994 Agreed Framework,” whereby the United States would provide North Korea with light-water nuclear reactors and heavy oil for electricity generation, and North Korea would cease work on its nuclear weapons program. The United States complied. North Korea did not.

The Post noted that after Perry left the administration he “remained deeply involved in Korean policy issues.” In fact, the *Post* did Perry a disservice here. He was not merely “deeply involved” in Korean policy issues, he actually continued to help create Korean policy for several years.

In 1998, when it was learned that North Korea was violating the 1994 agreement, was testing medium and long range missiles, and had perhaps built a second secret reactor site at Kumchangni, Perry was named special envoy to North Korea by Clinton. As such, Perry helped to diffuse that immediate crisis and renegotiated the 1994 “Framework.”

This time, Perry promised that the United States would lift some of its longstanding sanctions against North Korea and would work to normalize some aspects of its relations with Kim Jong Il's regime. In return, all the North Koreans were asked to do was keep the promises they made in 1994 and halt their nuclear weapons program. Again, the United States complied. And, again, North Korea did not.

The Post also reported that Perry thinks the Bush administration should adopt the Clinton team's approach to North Korea and should re-enter into bilateral discussions with Pyongyang. "You have to offer something," Perry advised, though he did concede that "you have to have an iron fist behind your offer." Perry also suggested (in a separate op-ed piece he wrote for *the Post* last week) that any such negotiations should be "predicated on a prior agreement that North Korea will freeze its nuclear activities during the negotiations."

What *the Post* did not report, however, is that Perry, has apparently lost his mind.

Um . . . Mr. Secretary, pardon my brazenness, but what the hell are you talking about? They should freeze nuclear activities during negotiations? But didn't they promise to freeze nuclear activities altogether and permanently, twice now?

And the United States has to offer them something? Really? They've been offered something several times. Indeed, *you've* offered them something personally, at least once. And in return, they've done nothing. Zip. Zero. Squadoosh. They are nine years further along in their pursuit of the nuclear weapons because the United States keeps offering them "something." At what point exactly does it become okay to use that iron fist you mention? After they've lied the third time? The fifth? Twenty-fifth?

Finally, *the Post* noted that Perry thinks that the Bush administration's North Korean policy, or, if you believe him, its lack thereof, is not only completely ineffective, but is apparently derived from the President's inability to understand the nuances of foreign affairs. "My theory," Perry declared, "is the reason we don't have a policy on this, and we aren't negotiating, is the president himself. I think he has come to the conclusion that Kim Jong Il is evil and loathsome and it is immoral to negotiate with him."

What *the Post* did not report is that this comment is so riddled with inaccuracies that it is almost unworthy of comment (almost). First, the Bush administration does, in fact, have a policy on North Korea. Perry, like most other liberals, simply refuses to acknowledge this because the Bush administration policy differs from his. But that does not mean that there is no policy.

Indeed, as Mark and I have written several times, beginning in January with a piece I penned for Lehman Brothers, the administration's policy is to convince the rest of the world, especially North Korea's Asian neighbors, and most especially China, that this is not an exclusively American issue, and should no longer be viewed as such. Perry and North Korea's little Kimmy Ding Dong want bilateral negotiations. Bush wants multilateral (or, at the very least, tri-lateral) negotiations.

Second, Perry is dead wrong about the effectiveness of this policy. While he apparently believes the world is hurtling toward nuclear disaster, the reality of the situation is rather different. Indeed, just two days after Perry made his incredibly prescient comments, the North Koreans dropped their demand for bilateral negotiations and agreed to a Chinese proposal to hold three-way talks. In its coverage of the story, *the Post* noted, among other things, the importance of the “increasingly visible role the Chinese have taken in attempting to resolve the crisis.”

A *Post* editorial yesterday further confirmed that the events of the last couple weeks have shown Perry’s abject gloom to be more than a bit premature. The editors put it thusly:

“[A] couple of encouraging developments have occurred in recent days. One is the increasingly energetic involvement in the crisis of China, which for years ducked responsibility for containing North Korea, even though it has the most leverage over the regime of Kim Jong Il. Beijing this month dispatched a senior diplomat for four days of talks in Pyongyang, then shifted him to Washington for follow-up meetings – *a demonstration that the administration’s strategy of engaging North Korea’s neighbors is showing results.* (emphasis added)”

So I guess the moral of the story here is that you should sit back, take a deep breath, and put the money you have set aside for a bomb shelter back into the market, at least for now. Perry may talk a good game. But on the subject of North Korea, he is flat wrong. And he has been flat wrong for the better part of a decade now.

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