

**Prolegomenon to a Political  
Economy of Intelligence and  
Security:  
Can Microeconomic Analysis  
Explain Success or Failure in  
Intelligence Cooperation?**

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Philosophy

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## Abstract

The governmental functions of security and intelligence require a number of distinct organisations and functions to interact in a symbiotic way. Because the external environment is uncertain and complex, these organisations must constantly negotiate with each other to establish which of them addresses which issue, and with what resources. Coasian principles suggest that if there are no transacting costs and property rights are clear, then such negotiations should lead to an overall maximisation of the benefits gained (in this case better security and intelligence provision), yet this is rarely realised. By coupling the transaction cost theory devised by Oliver Williamson in 1975 with a range of alternate theoretical perspectives that impact on these areas of governance, an institutional costs approach is developed. By increasing the resolution of the analysis whilst still retaining a comprehensive overview, the frictions that hinder negotiated cooperation become apparent.

The two cases of counterterrorism and defence intelligence in both the United Kingdom and the United States are then used to test and refine the institutional costs paradigm that results. These demonstrate that orthodox views of good cooperation in the former and poor cooperation in the latter are overly simplistic, as neither is necessarily more disposed to behave cooperatively than the other; rather, the institutional costs environment that their respective organisational architectures create incentivises different cooperative behaviour in different circumstances.

The analysis also shows that the impact of the various factors that make up the institutional costs paradigm is in fact far more nuanced in these areas than is evident in earlier transaction costs scholarship. Their relevance differs by type as well as degree. Institutional costs analysis therefore provides the beginnings of a political economy for cooperative working in the intelligence and security spheres of governance.

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## **Chapter 1 - Introduction**

### **Section 1: Intelligence and Security as Symbiotic Functions**

The intelligence and security spheres are two overlapping and symbiotic functions of governance, but institutions and people are at the heart of their delivery. The study of intelligence and security therefore requires the same breadth of consideration that Peter Jackson observed to be the essence of any political economic enquiry; whereby no matter how detailed the focus of the enquiry the entire social system on which it is founded needs to be considered.<sup>1</sup>

Given this interconnectivity, the issue becomes one of governance, of managing the disparate objectives and capabilities of those people and institutions to best provide the general utility of a secure environment. This thesis will develop a theory for cooperation both within and between the intelligence and security spheres that is properly cognisant of both internal and external factors. It will argue that, whilst there has been a significant amount of scholarly attention paid to issues of integration and coordination within the intelligence and security spheres, its narrow focus has precluded proper weight being given to wider environmental and social conditions. Examinations of particular cases have tended to be caricatured by either the 'failure' or (less commonly) 'success' of the enterprise or community under review, whereas the intelligence and security functions can more properly be characterised as including an ongoing mix of both.

This has been detrimental to the more holistic analysis that includes a consideration of how internal and external elements and factors interact over time.<sup>2</sup> The theories that can account for particular successes, or those that account for particular failures, whilst useful within the context that they have been developed, are inadequate to fully explain all the alternative outcomes of cooperative success or failure in a comprehensive way. A wider theory that

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<sup>1</sup>Peter McLeod Jackson, *The Political Economy of Bureaucracy*(Philip Allan Oxford, 1982). 11-12

<sup>2</sup> Exceptions in the consideration of other areas of governance can be found in the work of, inter alia, Martha Derthick, which have demonstrated the importance of including the full gamut of factors. See for example Martha Derthick, *Policymaking for Social Security*(Brookings Institution Washington, DC, 1979).

can encapsulate their insights without being constrained by them is thus required, and it is argued that the institutional cost impact framework developed in this thesis offers a suitable architecture for such a theory.

That is not to suggest that the development of a more appropriate explanatory model is commensurate with any kind of fix for the coordination problems inherent in security and intelligence provision. The frictions exposed within and between the two domains during the investigation into the 2009 attempted bombing of Northwest Airlines Flight 253,<sup>3</sup> some eight years after the Sept 11<sup>th</sup> Attacks of 2001, are testament to the difficulties involved and the unlikelihood of any one organisational solution being adequate to the variety of possible threats.

Before proceeding further it is necessary to discuss what is meant by ideas of a 'security community' and an 'intelligence community': The intelligence community is to some extent self defining, and is perhaps more easily delineated than intelligence itself.<sup>4</sup> In the United States there is a formal coalition of seventeen organisations (including the Office of the Director of National Intelligence) that comprise the 'Intelligence Community'.<sup>5</sup> In the United Kingdom the national intelligence machinery consists of a number of collection and analytical organisations that are defined by Cabinet Office.<sup>6</sup> However the position is slightly more complicated than this simple view would suggest: Most analysis in the UK for example is performed within departments not primarily concerned with intelligence matters. In addition there are elements of the security community that are nonetheless intelligence organisations in their own right, and who contribute to the national piece, albeit often at one remove, that are not included in this

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<sup>3</sup> President Barack Obama, "Remarks by the President on Strengthening Intelligence and Aviation Security," Office of the Press Secretary, <http://www.whitehouse.gov/the-press-office/remarks-president-strengthening-intelligence-and-aviation-security>.

<sup>4</sup> The definition of intelligence itself is no easy matter, with opinions ranging across whether it should include only secret information, whether it is the raw product as it is recovered from whatever source it emerges from, or indeed is the final, analysed and contextualised according to decision-makers requirements. It is beyond the purview of this thesis to become embroiled in that debate but see for example Philip H.J. Davies, "Ideas of Intelligence: Divergent National Concepts and Institutions," *Harvard International Review* 14, no. 3 (2002).

<sup>5</sup> "Office of the Director of National Intelligence: Leading Intelligence Integration," Deputy Director Intelligence Integration ODNI, <http://www.dni.gov/index.php/>.

<sup>6</sup> "National Intelligence Machinery," ed. Cabinet Office(2010).

national machinery. These include police intelligence units and tactical level military<sup>7</sup> assets.

The security community under discussion here refers to those organisations that are engaged with protective security functions, including military organizations engaged in defence. Wider, and arguably more naturally competitive fields, such as aspects of economic security or even energy security, where security is a relative position so that achieving more of it for oneself means less of it for another, are not considered here from either the security or intelligence perspective. Protective security functions are nonetheless performed by a wide range of organisations and parts of organisations, as well as by individual actors within organisations with primarily non-security related purposes and private sector contractors. How the protective security community is circumscribed is therefore problematic, and given this thesis' focus on cooperative success and failure between elements of each community the issue is non-trivial and not suited to any arbitrary delineation.

Appropriate definitions may also be required to circumscribe the two communities differently dependent on how they are inter-relating with each other. Definitions may be needed that can incorporate one or other of the security and intelligence communities, or on occasion to both of them in conjunction. The relationship between them can vary depending on circumstances. They may at times be partners in the pursuit of a common purpose such as a national security objective, autonomous communities pursuing distinct objectives, or one may be a subset of the other as it assists it in achieving intelligence or security goals. The nature of the relative definition of each community can thus have consequences for the issues of property rights, shared goals, and other transaction costs discussed later in this thesis.

The British Security Service for example can be regarded as part of both the

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<sup>7</sup> Throughout this thesis the term 'military' will be used in its more American context as a shorthand for all armed forces endeavours, rather than the more British understanding of being army related.

UK's intelligence community, of which it is formerly a member,<sup>8</sup> and of the protective security community with which it is inclined to define itself in its public statements.<sup>9</sup> The United States FBI, who share many of the same functions but who are primarily a law enforcement agency have historically preferred to define themselves as such. According to some commentators this has undermined their protective security and domestic intelligence functions.<sup>10</sup> Such self-definition of role is a non-trivial matter that has significance for the issues considered throughout this thesis.

Because of these complications a more inclusive method of defining the two communities is required. The problem is similar to that observed by Alexander Wendt when trying to apply his social constructivist approach to the international system; as he put it "...constructivist sensibilities encourage us to look at how actors are socially constructed, but they do not tell us which actors to study or where they are constructed..." units, levels of analysis, agents, and structures must therefore all be chosen.<sup>11</sup>

Peter Winch has argued that in the social sciences "... the concepts and criteria according to which the sociologist judges that, in two situations, the same thing has happened, or the same action performed..." must be understood not only within the rules governing what the sociologist is studying but also according to the rules of those engaged in it. Because the object of the investigation is a human activity he states that it is these rules "...rather than those which govern the sociologist's investigation, which specify what is to count as 'doing the same kind of thing' in relation to that kind of activity." In his view even a detailed knowledge of the 'regularities' that might formally delineate an activity will be inadequate, and a deeper understanding of the "considerations which govern the lives of its participants". As he puts it "...A historian of art must have some aesthetic sense if he is to understand the problems confronting the artists of his period;

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<sup>8</sup> "National Intelligence Machinery."

<sup>9</sup> See for example "Mi5 the Security Service," Crown Copyright, <https://www.mi5.gov.uk/>.

<sup>10</sup> The relative weight that the FBI give to their various law enforcement, security and intelligence roles are much debated. See for example Richard A. Posner, *Remaking Domestic Intelligence* (Stanford, Calif.: Hoover Institution Press, 2005).

<sup>11</sup> Alexander Wendt, "Social Theory of International Politics," (Cambridge: Cambridge University Press, 1999).7

and without this he will have left out of his account precisely what would have made it a history of *art*, as opposed to a rather puzzling external account of certain motions which certain people have been perceived to go through.”<sup>12</sup>

Wendt develops this idea. In his view “... the structures of human association are determined primarily by shared ideas rather than material forces and .... the identities and interests of purposive actors are constructed by these shared ideas rather than given by nature.”. As these ideas combine both social ‘idealist’ and ‘structuralist’ perspectives<sup>13</sup> it follows that the security and intelligence communities may be constructed by social practice as much as they are formally defined. Both must be defined, at least in part, by whether actors feel they are involved in either activity, how they are perceived by other members of the community, and the formal position of their organization in the constellation of governmental functional entities.

For example a teacher might be engaged in counter radicalization. He or she may be providing some measure of protective security by dissuading potential extremism and be providing information about grass roots issues that may get incorporated into wider intelligence assessments subsequently. However they are unlikely to consider themselves as within either community despite the fact they are engaged in activities that could be construed as security or intelligence provision. A civil servant whose duties include using that information to compile policy advice or trying to implement a counter radicalization strategy may feel they are a part of the relevant community on some occasions and not others, whilst members of the intelligence agencies or counterterrorism police will invariably feel, and be perceived as, within each of the two communities.

Context and perspective are therefore important elements in defining the security and intelligence communities. The approach here will reflect this fact and both the intelligence and security communities will be defined as including those organisations and actors that are outside the formal communities but nonetheless are engaged in protective security or any

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<sup>12</sup> Peter Winch, *The Idea of a Social Science and Its Relation to Philosophy*, 2nd ed.(London: Routledge, 2008).86-88

<sup>13</sup> Wendt, "Social Theory of International Politics." 1

intelligence function that supports it.

Both intelligence and security concerns are in any event very far from the ideal-typical bureaucracies described by Weber as many of the choices needing to be made relate to quite individual circumstances:<sup>14</sup> In fact organisational choices within the intelligence and security spheres are framed by the same three general conditions that Cohen et al described as representative of an 'organised anarchy'; it is difficult to impute a single set of preferences across the whole, the processes of the organisation are unclear or not standardised, and members address different issues with varying degrees of participation and energy.<sup>15</sup> Under such conditions the institutional difficulties involved in seeking out solutions, agreeing them, and then monitoring their implementation are of paramount importance. The two functions, as well as their many significant sub-functions such as law enforcement, are intimately related in some areas and wholly separate in others. They each suffer from having to be delivered across what are more usually managed as discrete policy areas, which means that conventional hierarchical arrangements are inadequate. Furthermore most of these areas are themselves complex and require high levels of specific expertise from those charged with their delivery at even the lowest levels. This means that the sort of tensions noted by Talcott Parsons,<sup>16</sup> between the authority imbued in each level of a hierarchical construction, and that more informally imbued in the expertise of those delivering it, are at their height. There are thus high levels of what Diane Vaughan dubbed 'structural secrecy' (accentuated in many cases by the necessity for actual secrecy), which hinder mutual understanding and engagement across the community.<sup>17</sup> These structurally distinct edifices must also sit within the most complex areas of governmental

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<sup>14</sup>See inter alia Max Weber, Guenther Roth, and Claus Wittich, *Economy and Society : An Outline of Interpretive Sociology*, 2 vols.(Berkeley: University of California Press, 1978).

<sup>15</sup>Michael D Cohen, James G March, and Johan P Olsen, "A Garbage Can Model of Organizational Choice," *Administrative science quarterly* 17, no. 1 (1972).

<sup>16</sup>Talcott Parsons in his introduction to Max Weber, "The Theory of Economic and Social Organization," *Trans. AM Henderson and Talcott Parsons. New York: Oxford University Press* (1947).

<sup>17</sup>Diane Vaughn, "The Challenger Launch Decision," *U. Chicago, Chicago* (1996). and see Amy Zegart "Implementing Change: Organizational Challenges" in Amy Zegart, "Implementing Change: Organizational Challenges," in *Intelligence Analysis: Behavioral and Social Scientific Foundations*, ed. Baruch Fischhoff and Cherie Chauvin(National Academies Press, 2011).309-329 for a discussion of how this impacts on the intelligence sphere.

business, buffeted by a plethora of influences. This muddies any analysis that relies on a single explanatory framework.<sup>18</sup> The combination of these factors has led to a paucity of overarching explanatory propositions.

Finally the power inherent in the application of some of these functional areas, and the possibility of their abuse, means that high institutional costs provide constraints and balances. They may therefore be consciously tolerated, whether they stem from constitutional, legal or policy instruments.<sup>19</sup> These are often designed to maintain the separation between the areas despite their complimentary nature, and can inevitably act counter to efficiency and efficacy. The intelligence and security spheres are thus rife with the sort of problems that both political scientists and economists must address, and these emanate from the human and organisational contexts in which they are delivered, and the complexity and uncertainty inherent in their environmental setting. Nonetheless theories that cover both intelligence and security as substantive, integrated and symbiotic areas of governance are not well developed.

Practically speaking, the necessity for successfully integrating the different strands of security and intelligence provision has been apparent for some time. This has been particularly true in the post Cold-War, then post 9/11 eras; the combination of which saw a shift in the environment away from a single over-arching threat to a plethora of problems emanating from numerous sources. Cooperative or 'joined-up' working is now regarded as essential. The term 'partnership' has become a catch-all euphemism for best practise in both spheres, and is ubiquitous on both sides of the Atlantic and in

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<sup>18</sup>The classic demonstration of this is Graham T. Allison, *Essence of Decision : Explaining the Cuban Missile Crisis*(Boston: Little, Brown, 1971).174. To demonstrate the influence of complexity Allison uses as his metaphor the data likely to be required by an uninformed analyst wishing to generate propositions around a game of poker. Other authors have discussed the exponential increase in size of the decision tree needed to analyse a chess game but the former has the advantage of paralleling governmental decision making more closely in that it includes personal preferences (such as for winning by bluffing over winning by a stronger hand) and can thus be more closely aligned to governmental activity.

<sup>19</sup> Derthick for example noted that "... the most cherished structural features of American government pose obstacles to good administration". Martha Derthick, *Agency under Stress: The Social Security Administration in American Government*(Washington DC: Brookings Institution Press, 1990).4

almost every public statement on security related topics by public bodies.<sup>20</sup> However, even so general an acknowledgment of the usefulness of collaborative working has to a large extent failed to translate into the sort of genuinely joint efforts advocated. There have of course been significant exceptions, but these, like the failings, were as identifiable during the Cold War years as they were after them, despite the apparent increased push for 'joined-up' public sector functions of all sorts in recent years. The United States Congressional Research Service conclude that the partnership approach in the USA has not clarified what is to be achieved and how resources should therefore be prioritised amongst different partnership activities, nor has it assigned adequately specific responsibilities across government, or provided any assessment of which partnerships are thus successful. The result in the United States is that those involved have returned to a default position that simply builds on already achieved successes and have continued with "... existing patterns of engagement" so that they "... optimize at the sub-systemic level – focusing on the trees rather than on the forest...".<sup>21</sup> Put another way, those involved are still pursuing those options that minimise the personal governance costs they experience because the property rights regime (the ordering of roles and responsibilities) is not sufficiently clear and information is asymmetrically held. Continuing as before, except where this has proved seriously deleterious, is thus the obvious if not the only choice. How then should this difficulty in introducing genuinely cooperative interaction between the various parts of the security and intelligence communities, which persists despite the significant investment of those in power, be best explained?

## **Section 2: Shortfalls and Dichotomies in Existing Intelligence and Security Literature**

Recent years have seen an increased interest in research into intelligence and security functions by practitioners and academics alike, some advocating particular approaches to reform and others looking for explanatory models. In

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<sup>20</sup>See for example William Hague, "F.C.O. Programme Spending 2014-15 Foreign and Commonwealth Affairs," ed. Foreign and Commonwealth Office(Hansard, 10th July 2014).

<sup>21</sup> Catherine Dale, "In Brief: Clarifying the Concept of "Partnership" in National Security," *Report for Congress Congressional Research Service* (2012).



both cases however, as this section makes clear, frameworks that explain one set of circumstances seem flawed when applied to another, and fixes designed for some issues are ill suited to others.

Nowhere are these problems more eloquently show-cased than in Graham Allison's seminal *Essence of Decision*. Allison explicitly draws out the inconsistencies and shortfalls in three explanatory models, but also demonstrates that they have strengths in explaining particular factors even as they struggle with others; a divergence most clearly evident when he considers either the larger external situation or the internal machinations within the United States (US/USA) government. Allison thus begins to establish the need for a model that can incorporate both.<sup>22</sup>

This need is emphasised by the missing dimension in the work of other national security authors, including those who have formerly had to deal with these issues as senior practitioners. In many cases either inconsistencies in the *raison d'être* of particular recommended policy fixes, or a limited applicability that would seem likely to provoke problems at one or another level emerge, often suggesting problems would simply be moved further along the line.<sup>23</sup> The focus on strong hierarchies by figures like the former Director of the National Security Agency (NSA), General William Odom, is at odds with his acknowledgement that even at the highest levels quarrels are inevitable; making one wonder what level of authority could ever be adequate. Problems of perfunctory compliance rather than the complete engagement needed for functions with this level of specialisation are largely ignored in this approach, but are a significant problem within the US community about which he writes. There are similar dichotomies in his argument for autonomy at some levels, and proximity at others, but Odom nonetheless observed the sort of factors that make-up an institutional cost architecture and implicitly acknowledges their import, but does not address them in an holistic way.<sup>24</sup>

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<sup>22</sup> Allison, *Essence of Decision : Explaining the Cuban Missile Crisis*.

<sup>23</sup> These issues are developed in Chapter 3 of this thesis.

<sup>24</sup> See particularly William E. Odom, *Fixing Intelligence for a More Secure America*(New Haven, Conn. ; London: Yale University Press, 2003).

Similarly another senior practitioner turned commentator, General Michael Hayden, who had served variously as the Director of the National Security Agency (1999-2005), the Principal Deputy to the Director of National Intelligence (2005-2006) and as Director of the Central Intelligence Agency (2006-2009), argues for an authoritative head of the community, but cannot balance this with the pre-eminence of the Pentagon, particularly in the post 9/11 era,<sup>25</sup> nor his believe that the authority of the former Director of Central Intelligence (DCI) came not from his legislatively enshrined authority, but from the resources he brought to the table, resources not available to the new Director of National Intelligence (DNI),<sup>26</sup> a view shared by many of his predecessors at the Central Intelligence Agency (CIA).<sup>27</sup> Such contradictions in the work of both former practitioners, neither of who were able to 'fix' the US intelligence community whilst helping to run it, suggest that simple authority (however absolute) is not an adequate answer to the problems they observe in meshing aspects of the security and intelligence communities together.

These inconsistencies are not however unique to the problems noted by US commentators however. Sir David Omand, who like Odom and Hayden was a senior community leader, but in the United Kingdom (UK), writes extensively about environmental change in the modern era being causal to the collaborative reforms needed, but parallels these with earlier similar influences. He too believes in a more commanding presence at the head of the US community, but is nonetheless convinced that better coordination across the communities will serve the UK best.<sup>28</sup> Both arguments are well made and empirically supported so explaining the differences between them clearly requires an increased resolution of examination, and Omand himself acknowledges this when he discusses how 'trust' can act to ease interactions between different aspects of these functions.<sup>29</sup> Other authors who come from a more academically orientated position such as Richard Betts and

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<sup>25</sup> Michael V Hayden, "The State of the Craft: Is Intelligence Reform Working?," *World Affairs* 3(2010).

<sup>26</sup> *Ibid.* 37

<sup>27</sup> Michael Allen, *Blinking Red : Crisis and Compromise in American Intelligence after 9/11*, First edition. ed.(Washington D.C.: Potomac Books, 2013).30-32

<sup>28</sup> David Omand, *Securing the State*(London: Hurst, 2010).

<sup>29</sup> *Ibid.* 300-2

Gregory Treverton have also remarked on the significance of this increasing number of horizontal interactions and the unequal holdings of information across both functions that need to be managed, and the difficulties inherent in the trade-offs these necessitate. However because they acknowledge that a solution that is ideal in one circumstance is unlikely to be so in another, no holistic approach is developed.<sup>30</sup>

Treverton, who is now the National Intelligence Council Chair, makes valid observations about the shift in both the information environment from too little information to too much,<sup>31</sup> and the simultaneous proliferation of end users.<sup>32</sup> He is also aware of the impact of the shift in environmental conditions, which include both complexity<sup>33</sup> and uncertainty, whose effects he describes as cascading in discontinuous ways.<sup>34</sup> However he stops short of explaining why these should have the impact he gives them credit for. As a result his principal organisational recommendation, increased connectivity across what he suggests have previously been separate disciplines,<sup>35</sup> is counter-intuitive. Thus the fluid 'organisational sense-making' he advocates<sup>36</sup> lacks a dimension. It does not yet address how the extant behaviours of actors, generated by the existing organisational structure as it reacts with a changing environment, could or should be adapted to deal with this dichotomy.

One European approach to theorising around the problem of increased complexity and uncertainty in the environment has been to conceive the change in terms of a shift in the threat/risk relationship as the former retracts and the latter increases.<sup>37</sup> Certainly such a change has been evident since the 1990's and the end of the Cold War. It is less clear that the shift has actually introduced any qualitatively unique problems in terms of managing governmental responses to either. Rather, there have been a quantitatively

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<sup>30</sup> Richard K. Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*(New York: Columbia University Press, 2007). and Gregory F. Treverton, *Reshaping National Intelligence for an Age of Information*(New York: Cambridge University Press, 2001).

<sup>31</sup> *Intelligence for an Age of Terror*(Cambridge: Cambridge University Press, 2009).31

<sup>32</sup> Ibid. 28

<sup>33</sup> Ibid. 21-23

<sup>34</sup> Ibid. 25

<sup>35</sup> Ibid. 25 inter alia

<sup>36</sup> Ibid.33-36

<sup>37</sup> Ulrich Beck, *World Risk Society*(Cambridge: Polity, 1999).

larger number of interactions, at evermore levels, across the communities. These have actually engendered 'more of the same' problems.

Authors who have adopted a new institutionalist approach such as Amy Zegart and Richard Posner have produced a comprehensive picture of why inter-agency co-operation and many reforming initiatives break down, but their approach falls short in accounting for those occasions when it works well.

Zegart's use of new institutionalism to develop her 'national security agency model' is a certainly a very important part of a "... theory of bureaucracy" but as she attests herself, it is not yet comprehensive so that dichotomies can become apparent.<sup>38</sup> In *Flawed by Design* for example she makes a persuasive case for (inter alia) the importance of the interest group environment in pushing through reforms or new ideas, noting that it is weak within the national security sphere, so that policy makers are not incentivised to see changes through, and reforms are fatally undermined.<sup>39</sup> However the post 9/11 and WMD era demonstrated a significant shift in interest group activity and yet, as *Spying Blind* demonstrates, very much the same watering down and sub-optimum design formats resulted.<sup>40</sup> To a degree this is a matter of Zegart's 'national security agency model' evolving, but one would nonetheless anticipate a reduction in overall collaborative problems, and a corresponding increase in the degree to which policy makers would commit to a particular course and stay with it. Yet the gradual diminution of the proposed DNI's authority in the run up to the 2004 Intelligence Reform and Terrorism Prevention Act (IRTPA) makes it plain that this is not the case. Clearly there is something more going on. How the different factors identified by Zegart interact is itself a factor, and the calculation of the likely success of the interagency and collaborative endeavours within the community is thus not a simple addition, but rather a more complex multiplication, and the

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<sup>38</sup> Amy B. Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.*(Stanford, Calif.: Stanford University Press, 1999).1-11

<sup>39</sup> Ibid.

<sup>40</sup> *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*(Princeton, N.J.: Princeton University Press, 2007).

problem is not with Zegart's analysis, but with new institutionalism as an explanatory framework.

Richard Posner has also used a new institutionalist approach to critique efforts at reform in the United States intelligence community and inevitably comes to very much the same conclusions as Amy Zegart.<sup>41</sup> Although he also acknowledges the occasional frictionless collaborative endeavour, like her, his narrative largely bypasses any explanation for these. Posner has an obvious appreciation of the breadth of issues that are relevant to security and intelligence delivery. Nor is he naïve regarding potential solutions; at the policymaking level Posner appreciates how the 'probabilistic' nature of counterterrorism intelligence provokes problems for decision makers. He notes the impact of external issues such as the complexity of the security and intelligence problem, and the uncertainty inherent in any proposed solution, acknowledging they make satisfactory negotiations more difficult (and strong advocacy more attractive) in the counterterrorism sphere particularly. He uses both cultural<sup>42</sup> and utilitarian ideas to explain particular observations at particular times, yet he does not provide any theoretical underpinning that could be regarded as a cohesive whole.

At the other end of the spectrum authors like Michael Herman, a former Chair of the Joint Intelligence Committee (JIC) in the UK, discuss how cooperation across security and intelligence endeavours can work, with reference to the UK's intelligence system.<sup>43</sup> Herman is the converse of Zegart and Posner in that where they explain why collaborative endeavours fail, but cannot explain successes, his views of collegiality as what underpins British collaborative success cannot really explain why it sometimes breaks down. Like many of the American authors considered above, Herman's explanation is based on

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<sup>41</sup>Richard A. Posner, *Countering Terrorism : Blurred Focus, Halting Steps*, ed. Hoover Institution on War Revolution and Peace, Hoover Studies in Politics, Economics, and Society (Lanham, Md.: Rowman & Littlefield, 2007).33-69

<sup>42</sup> See for example Culture in the FBI as opposed to that of a domestic security agency. Ibid.105-133 and for a wider discussion of these culture in the security/intelligence context see Philip H.J. Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*(Santa Barbara, Calif. & Oxford: Praeger, 2012).

<sup>43</sup> See particularly Michael Herman, *Intelligence Power in Peace and War*(Cambridge: Cambridge University Press, 1996). and *Intelligence Services in the Information Age : Theory and Practice*, Cass Series--Studies in Intelligence, (London ; Portland, OR: F. Cass, 2001).

sound observations as both senior practitioner and academic,<sup>44</sup> yet his conclusions are diametrically opposed to those who argue for a strong hierarchal architecture to reform communities in response to environmental shifts. Instead he promotes bottom up, evolutionary reforms to ever-changing circumstances.<sup>45</sup> Again, explanation for this difference in policy prescription can only be achieved by increasing the granularity of the analysis, but without losing the comprehensive nature of the examination.

Other authors have discerned a symbiosis between not only different parts of the communities involved, but also between different explanatory frameworks for their behaviour. Philip Davies has evolved his original organisational theory approach to allow for a more complex inter-relationship between the cause and effect of behavioural factors since it was first developed in *Machinery of Spying*.<sup>46</sup> His Special Edition of *Public Administration* linking (inter alia) Martin Smith's core executive theory to the intelligence community has made this clear.<sup>47</sup> In his recent work he demonstrates how the cultural issues brought out by the likes of Zegart and Posner are themselves shaped by structural organisation, which in turn is mutated by cultural pressures that can affect both the formal and informal profile of an organisation, as well as collaborative success.<sup>48</sup> In so doing Davies identifies a circular relationship between the two that can be either vicious or virtuous. The detail of that interaction is thus non-trivial and has significant potential repercussions. However, Davies stops short of developing a model that can incorporate that interaction.

Certainly his explanation of how intelligence assets that belong variously to the MoD and US Department of Defense (DoD) is comprehensive and rooted

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<sup>44</sup> Michael Herman was a senior intelligence officer at GCHQ including service with the Defence Intelligence Staff and in Cabinet Office and was Secretary to the JIC. He has also been a Research Fellow at Nuffield College, Oxford and at Keele.

<sup>45</sup> See for example Herman, *Intelligence Services in the Information Age : Theory and Practice*.

<sup>46</sup> Philip H.J. Davies, *M.I.6 and the Machinery of Spying* (London: Frank Cass, 2004).

<sup>47</sup> "Intelligence and the Machinery of Government: Conceptualizing the Intelligence Community," *Public Policy and Administration* 25, no. 1 (2010). and Martin J Smith, "Intelligence and the Core Executive," *ibid.* See also Philip H.J. Davies, "Special Issue: Intelligence, Governance and the 'Interagency': Of Secrets and Stovepipes: The Quest for 'Joined up' Intelligence," *ibid.* 28, no. 2 (2013).

<sup>48</sup> See inter alia *Intelligence and Government in Britain and the United States : A Comparative Perspective*. and "Intelligence Culture and Intelligence Failure in Britain and the United States," *Cambridge Review of International Affairs* 17, no. 3 (2004).

in organisational problems between different national/civilian and tactical/military requirements and priorities, but has some cultural factors exacerbating these.<sup>49</sup> On the other hand Davies, like many authors, ascribes the consistent failure of the Federal Bureau of Investigation (FBI) to develop a genuine intelligence capability, despite significant exogenous shocks pushing them in that direction, to a combination of their 'law enforcement' culture and substantive organisational bars. But in focusing on organisational arrangements Davies does little to explain why significant and well considered organisational shifts do not translate into genuine shifts in practice.<sup>50</sup> The mechanics of the interactions between the two are not developed, so no reasons for the different impact of each in each case emerges.

Similarly Davies recognition of the 'information costs' problem is treated as a single issue. He cites different understandings of what intelligence itself is in different contexts, identifying variations within and between the US and UK.<sup>51</sup> He also notes how these add to the problem of different holdings of information by actors mandated by both specialisation and secrecy to retain that advantage, and that these combine to add to tensions and produce an apparently insoluble interagency coordination problem.<sup>52</sup> Yet these different holdings and understandings need not be a problem, and can even be used to advantage. Consider for example his persuasive argument that the effectiveness of the JIC is realised not by a chair of 'personal authority' but by a realisation amongst his or her peers that they are engaged in a collective pursuit and to sublimate their own and their departments goals to those of the group (the sense of a shared maximand in this work, where the maximand is

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<sup>49</sup> See variously "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence," *Public Policy and Administration* 28, no. 2 (2013). "Imagery in the UK: Britain's Troubled Imagery Intelligence Architecture," *Review of International Studies* 35, no. 4 (2009). and *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1

<sup>50</sup> See for example *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1 413

<sup>51</sup> See variously "Intelligence Culture and Intelligence Failure in Britain and the United States." "Ideas of Intelligence," *Harvard International Review* 24, no. 3 (2002). and for a civil/military treatise Philip H. J. Davies, Gustafson, Kristian, "B.C.I.S.S. Comments on Jwp 2-00 Re-Write Arising from D.C.D.C. Intelligence Seminar," ed. Concepts and Doctrine Centre. Shrivenham Development(Brunel University Website).

<sup>52</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1 102-155

simply defined as the quantity or thing that actors wish to maximise, whether independently or jointly).<sup>53</sup> This seems to work well enough in the UK, where the culture is inherently collegial, but not in the USA, where the missing interagency coordination problem is "... exacerbated by the tendency to work competitively..."<sup>54</sup>

In sum, Davies comprehensive treatment of so many different factors, left as they are as discrete pressures, struggles to account for why apparently similar circumstances can lead to such different outcomes. Whilst it can be argued that the US is a more competitive culture, and that this is better suited to law enforcement type pursuits than those that require a high degree of intelligence sharing for example, this does not explain why that same US has made such strides in the defence intelligence arena, or why the normally collegial UK has not. It is the contention of this thesis that his various points can be subsumed into an holistic model for intelligence and security using the sort of microeconomic approach developed in chapter two.

These authors are not of course alone, and others have argued persuasively that particular causes are at the root of particular coordination problems. Richard Aldrich for example has used the phenomena of globalisation to set intelligence and security issues within the context of increased complexity, transparency of ethical practises, greater inter-connectedness by terrorists, and a lack of equivalent development in global governance so that collaboration at every level is both more necessary and more difficult.<sup>55</sup> Others such as Peter Hewitt have focused on particular aspects of the problem by relying on key assumptions, in his case the primacy of law enforcement in counterterrorism security provision, so that many of the coordination issues are simplified.<sup>56</sup> In other approaches intelligence and security coordination are the bit-players in broader analyses of issues like strategic culture, with some authors specifically separating behavioural and

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<sup>53</sup> Ibid. Vol.2 318

<sup>54</sup> Ibid. Vol.2 322

<sup>55</sup> Richard J Aldrich, "Beyond the Vigilant State: Globalisation and Intelligence," *Review of International Studies* 35, no. 4 (2009).

<sup>56</sup> Steve Hewitt, *The British War on Terror : Terrorism and Counter-Terrorism on the Home Front since 9/11*(London ; New York: Continuum, 2008).



environmental factors,<sup>57</sup> and others who take a more holistic view. Interestingly that debate too turns on the relevance of the interaction of disparate factors.<sup>58</sup>

All of these authors have advanced a particular theory or world-view which has included points that would seem inconsistent. Yet in each case the different parts of their argument are cogently argued and empirically supported. They are not therefore mutually exclusive, but rather the route by which they can be reconciled has not been detailed. It is the contention of this thesis that an adapted institutional cost approach can fill that gap and the next sections will suggest how this might be achieved.

### **Section 3: Why a Political Economy for Security and Intelligence?**

Emile Durkheim opined that the very existence of social sciences is a result of economists observing that the world had as much need of social laws as physical ones. He argued that these are not a contrivance of man, but rather evolved from the centre of a social order as a natural and irrefutable state of affairs.<sup>59</sup> It therefore seems reasonable that an economic theory of organisational inter-action should be able to explain the commonality of problems, across functions and time, within a social network such as that represented by the intelligence and security communities.

The link between the social sciences and intelligence or security pursuits is well established. Counterinsurgency operations now rely on the totality of 'Human Domain Mapping' within and around the battle-space,<sup>60</sup> and the sort

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<sup>57</sup> See inter alia Alastair Iain Johnston, "Cultural Realism and Strategy in Maoist China," *The culture of national security: Norms and identity in world politics* (1996). "Thinking About Strategic Culture," *International security* 19, no. 4 (1995). and "Strategic Cultures Revisited: Reply to Colin Gray," *Review of International Studies* 25, no. 3 (1999).

<sup>58</sup> Colin S Gray, "Strategic Culture as Context: The First Generation of Theory Strikes Back," *Review of international studies* 25, no. 1 (1999).

<sup>59</sup> Emile Durkheim, "Course in Social Science—Inaugural Lecture," *Organization & Environment* 21, no. 2 (2008). 189-90, in which he stated "that social laws are as necessary as physical laws and to make this axiom the basis of a science. According to them, it is clearly impossible for competition not to gradually level prices, or for the value of goods not to increase with population growth, as for bodies not to fall vertically, or for light rays not to refract when they cross media of unequal density. As for the civil laws made by princes or voted by assemblies, they can only express these natural laws in clear and visible form. But they can neither create nor change them."

<sup>60</sup> See for example "Understanding and Intelligence Support to Joint Operations' Third Edition ", ed. Concepts and Doctrine Centre Development(Shrivenham: Ministry of Defence, 2011).

of deep ethnographic intelligence regarded as essential by Ambassador Henry Crumpton is reliant on a variety of social sciences approaches.<sup>61</sup> Intelligence analysts too have long used social science approaches to provide methodological rigour to both their conclusions and the organisational framework in which they are delivered.<sup>62</sup> Although the use of social science disciplines to further intelligence or security operations remains contentious in areas like counterinsurgency,<sup>63</sup> this is not because of any dispute over their efficacy or applicability.

At the same time scholars using social science approaches have examined specific elements and functions of the two communities as described above. However as that discussion made clear, an overarching and uniformly persuasive model for the intelligence and security function as a whole has remained elusive; whilst each explanation deals well with some aspect, it falls short at another. Apparently similar actors seem to act differently in apparently similar circumstances. An explanation that increases the granularity of the examination to expose the causes of these differences is required; one which can simultaneously deal with both internal manoeuvring of actors and their assessment of and reaction to the external environment in which they are operating.

Such an approach is perhaps best described in Jackson's *The Political Economy of Bureaucracy*.<sup>64</sup> It was of course written to introduce economists to the wider sociological literature that he argued impacted on their field. However implicit in that observation is the equally true fact that political science can benefit from the detailed and rigorous methodology that economics permits, provided the analysis remains adequately holistic and nuanced.

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<sup>61</sup> Henry A Crumpton, *The Art of Intelligence: Lessons from a Life in the C.I.A.'S Clandestine Service* (Penguin, 2012).

<sup>62</sup> See for example Zegart, "Implementing Change: Organizational Challenges." and Stephen Marrin, "Improving C.I.A. Analysis by Overcoming Institutional Obstacles," *Bringing intelligence about: practitioners reflect on best practice. Center for Strategic Intelligence Research, Joint Military Intelligence College, Washington, DC* (2003).

<sup>63</sup> See for example Anthropologists Members of the Network of Concerned, "The Network of Concerned Anthropologists Pledges to Boycott Counterinsurgency," *Anthropology News* 48, no. 9 (2007).

<sup>64</sup> Jackson, *The Political Economy of Bureaucracy*.

A purist's view of bureaucracy more generally is also too limited in these sorts of circumstances. Jackson argues that Weber's analysis is too static, and is over focused on the formal roles and structures that are its overt representation, to the detriment of many of the informal networks of relationships, values and accidental functions.<sup>65</sup> Elements which are the life blood of complex and adaptive organisations such as those in the intelligence and security spheres. By embedding his theoretical reasoning in both historical and comparative assessment, Weber concluded that economic sociology could act as a conduit between the neo-classical theorist's ideal world and the contextual realities that he observed impacting on institutional structure and decision-making.<sup>66</sup> A very particular sort of political economy is nonetheless required.

Like any economic model a political economy for intelligence and security is reliant on the key assumption that the actors within the system act 'rationally'. One of most oft cited problems with any theory that relies on individual rational actors pursuing their own best interest, as any economic explanation would appear to wish it, is that the actors must become what Dunleavy has described as "... disembodied bearers of preferences whose decision making behaviour is strikingly homogenous...".<sup>67</sup> Such a description is hardly adequate to represent the myriad of partialities frequently demonstrated within the intelligence and security spheres. Indeed there is so very little evidence of the automated and pre-programmed responses to given external stimuli that would be anticipated by neoclassical economists (equivalent to, for example, reactions to price fluctuations in the market) that either the model is fundamentally flawed, or there are other non-trivial factors at work.<sup>68</sup> Yet both policy makers and working level personnel in either sphere would find some sympathy with the notion that their functions, like those of conventional economic man, are "... not about choice, but about acting

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<sup>65</sup> Ibid. 6

<sup>66</sup> For a discussion of this see R. Swedberg, "Major Traditions of Economic Sociology," *Annual Review of Sociology* 17(1991). and also Richard Swedberg, "Max Weber's Manifesto in Economic Sociology," *European Journal of Sociology / Archives Européennes de Sociologie* 39, no. 02 (1998).

<sup>67</sup> Patrick Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*(Prentice Hall New York, 1992).6

<sup>68</sup> For a comparison of broader decision making and the neoclassical perspective see Jackson, *The Political Economy of Bureaucracy*.p.86-120

according to necessity” and simply obeying the “... dictates of reason”<sup>69</sup> A resolution to this dichotomy is therefore required.

This thesis will, inter alia, argue that the addition of the political science dimension to the economic model allows for a more nuanced interpretation of ‘rationality’. This will include the complexities and uncertainties that are so much a feature of the security and intelligence environment, the limited cognitive capabilities of the actors in question, and most importantly how their personal perceptions and preferences mean ideas of best outcomes can be very individual. Rationality in the security and intelligence context is therefore less like neoclassical notions and more like the Weberian understanding of it; it is “...a variable, not an assumption”,<sup>70</sup> a very human construct, based on an only partially informed response to a myriad of cultural, organisational and environmental stimuli. Actors are rational, but in an independent, adaptive and reactive way that is a far cry from the perfectly informed economic actor whose utility is solely based on financial recompense.<sup>71</sup>

Once this has been accepted it must be incorporated into a high-resolution political-economic model specific to the intelligence and security arena, and an extension to the microeconomic methodology used by Oliver Williamson can reduce the issues observed to their core features without losing sight of the whole. It can thus be used to generate a general theory of the political economy of intelligence and security, subsuming and improving other sociological approaches:

#### **Section 4: Progression Towards an Institutional Cost Approach**

The twin pursuits of security and intelligence are functions of government: The availability and general accessibility of their benefits, the inseparability of

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<sup>69</sup>George Lennox Sharman Shackle, *Decision Order and Time in Human Affairs*(Cambridge University Press, 2010).272-3

<sup>70</sup>Richard Swedberg, *Max Weber and the Idea of Economic Sociology*(Princeton, NJ ; Chichester: Princeton University Press, 1998).36 paraphrasing an observation in Arthur L. Stinchcombe, *Stratification and Organization : Selected Papers*(Cambridge: Cambridge University Press in collaboration with Maison des Sciences de l’Homme, Paris, 1986).p5 that “... the central trouble with discussions of rationality is that we are taught by economists and decision theorists to treat rationality as an *assumption*... but in the real world rationality is a variable to be explained”. (italics in original).

<sup>71</sup>Thomas C. Schelling, *Micromotives and Macrobehavior*, 1st ed. ed.(New York: Norton, 1978).17-18

both these and the costs of their provision, and the necessity that their provider has the public's authority, inevitably mean that they are necessarily performed by Government, and may thus be defined as 'sovereign transactions'.<sup>72</sup> However there are different parts of an administration involved, and how the symbiotic relationship between them plays out is important to their analysis and their efficacy.

In 1975 the economist Oliver Williamson explored the decision making process of firms as they decided whether to conduct a function within itself or by going to the market, and in so doing developed a theory of transaction costs.<sup>73</sup> There are immediate parallels for the intelligence and security community. Why, for example, do the CIA replicate functions also performed by the NSA or even Special Forces? Why have New York's police (the NYPD) sent what are effectively intelligence liaison officers overseas despite the existence of the FBI's LEGAT program? And why have contractors within the intelligence community become so prevalent that the Government Accountability Office (GAO) are considering whether there are national security implications.<sup>74</sup> In the UK, why have the Foreign and Commonwealth Office (F&CO) contracted out security functions to ArmorGroup and others despite the availability and relative cheapness of the Royal Military Police (RMP) and Protection Command (SO1) units<sup>75</sup>, both of whom are within direct governmental control?

But the usefulness of transaction cost theory in this context goes far beyond these fairly bald questions, just as it did for Williamson in his examination of the firm. The theory can also suggest what sort of organisational arrangement will work best in what circumstances, and how likely

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<sup>72</sup> James Q Wilson, *Bureaucracy: What Government Agencies Do and Why They Do It* (Basic Books, 2000).359

<sup>73</sup> Oliver E. Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization* (New York: Free Press ; London : Collier Macmillan, 1975).

<sup>74</sup> See Timothy J DiNapoli, "Civilian Intelligence Community: Additional Actions Needed to Improve Reporting on and Planning for the Use of Contract Personnel ", ed. Government Accountability Office(2014).

<sup>75</sup> The close protection of government ministers and others worldwide was the function of Special Branch 'A' Squad under the direction of Cabinet Office 'Royal and Ministerial Visits' (RMV) Committee until 2006 when the role passed to Specialist Protection SO1.

collaborative endeavours like security and intelligence are to succeed under different organisational and environmental constraints.

A useful way to begin is to consider the metaphoric parallel of the indivisibility of the owners of beehives and orchards as representative of the relationships within an intelligence and security community. The metaphor was first used to discuss market interventions by the appropriately named J. Meade in 1952, who argued in favour of corrective governmental action,<sup>76</sup> but it can serve more widely.

Just as the orchard owner needs the bee-keeper to pollinate his trees, and the bee-keeper needs the orchard so that his bees are fed, so too do different parts of an intelligence community need each other to cue and support their own activity: In the UK for example, the Government Communications Headquarters (GCHQ) need the Secret Intelligence Service (SIS) or the Security Services (SyS) to point them in the right direction or to act on the leads they provide. Conversely both the Security Services and SIS might receive 'leads' from GCHQ, or each other, or might need their support once operationally engaged. Their individual efficacy is intimately linked to that of the other. Each is heavily reliant on the other to generate 'leads' that go on to produce product and more leads. The same can be said of the relationship of either with, for example, Special Forces or Police units. Both need intelligence to direct their security activities but these in turn often generate new potential seams of intelligence.

However each of these agencies is an independent entity with its own budget and responsibilities. The result of this close relationship is that the organisations involved need to co-operate despite the fact that rendering assistance is often 'unpaid'. If the system is in balance then over time payment will probably be received in kind, but it is an interdependency that will be impacted on by any change: The bee-keeper's wish to expand by 10% would be dependent on the orchard owner doing the same or there would be insufficient food for the extra bees. Similarly an expansion of the orchard

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<sup>76</sup> James E Meade, "External Economies and Diseconomies in a Competitive Situation," *The economic journal* (1952).

would need more bees to fulfil its pollination needs. If on the other hand there is sufficient slack in the system, and the orchard owner unilaterally expanded, the bee-keeper could receive the benefit of more food availability without needing to assist with the investment. In the same way if GCHQ expanded in an area particularly advantageous to SIS the latter will reap some of the benefit without using up its own resources, and vice versa.

One can take this symbiosis a little further. Consider for example the situation if some of the bees do not fly to the orchard, but instead go to a neighbouring garden and pollinate there. The same problem would occur if GCHQ were to be tasked to cover an SIS target likely to assist in the production of strategic foreign intelligence, but instead come across information of tactical use in preventing a domestic terrorist attack. This will be passed to the Security Service even though they have committed no resources to getting it. Essentially this is the 'free-rider' problem identified by Mancur Olson in 1965 who argued that rational individuals would abstain from joining in collective action if they could anyway receive the benefits of it.<sup>77</sup>

More obviously problematic would be the use of pesticides by an orchard owner. It would impact on bees but it is necessary to keep the trees healthy. This is the equivalent to the use of law enforcement or military intervention; either may well harm, or certainly risk, the intelligence seam through which it was generated. The likely harm is suffered by the intelligence element, whereas the gains (at least in the short term) go to the security body.

In both cases one has to then consider the contractual arrangements in place to deal with both benefits and costs. An intelligence lead's end point will be uncertain, so that it may benefit the original organisation with further leads and product, a law enforcement body, or even a foreign equivalent agency. There will be formal intelligence sharing agreements in place, or governmental directives for handing appropriate leads on to police or others, but, like the bee/orchard agreements, these will necessarily be incomplete

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<sup>77</sup> Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* vol. 124 (Harvard University Press, 2009).2

contracts, subject to subjective viewpoints, and needing the support of custom and reciprocity to function effectively.

This argument was originally used by Meade to argue that the interdependence is detrimental, so that intervention by an authoritative figure is needed to either tax or subsidise. One can view US attempts to imbue first the DCI, then the DNI, with genuine authority over the intelligence community as this sort of approach and it is probably not accidental that the biggest block to its success has come from the Department of Defense, which is a significant force in both communities.

However Steven Cheung has subsequently argued that if the reciprocity of the orchard and apiary are reconceived as "... components of a joint product", and that its elements are therefore taken as either positive or negative in any given set of circumstances, then this not only generates a clearer analysis but also presents a truer picture of the potentially mutually advantageous inter-relationship of the actors involved.<sup>78</sup> There exists a technical possibility of maximising the benefits to everyone that is rarely realised.

There are two ways one can consider this: The first can be approximated to the neorealist view, where security and intelligence at the national level can be seen as general, ubiquitous 'goods'. The State is thus viewed as a rational unitary actor dealing with the raft of external problems with which it is presented as it tries to maintain a secure environment for its citizens.<sup>79</sup> Security and intelligence are nonetheless complex pursuits and some division of labour is therefore necessary, but in keeping with the ideas of some US community reformers, the various agencies can be re-conceived as tools to deliver the general utility of security.<sup>80</sup> In this rather utopian view they remain part of a single endeavour and, based on this shared world view, actors agree the most beneficial course of action at whichever level they are working at.

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<sup>78</sup> Steven NS Cheung, "Fable of the Bees: An Economic Investigation, The," *JL & Econ.* 16(1973).

<sup>79</sup> See for example Kenneth Neal Waltz, *Theory of International Politics*(Boston ; London: McGraw-Hill, 2008).

<sup>80</sup> David S Kris, "Law Enforcement as a Counterterrorism Tool," *J. Nat'l Sec. L. & Pol'y* 5(2011).



A second and perhaps more realistic view would have the disparate agencies and elements as possessed of distinct objectives and priorities that, on occasion, come together when their interests coincide. As soon as actors start to conceive some elements of what makes up the overall utility as more important than others, then the first model becomes too mono-dimensional as frictions between the different elements become apparent.<sup>81</sup>

However, whichever view one takes, you cannot get away from the fact that those involved have to enter into some form of negotiation to decide on what the problems are, their priorities within them, and how they are to be addressed. As more factors and detail are included, or the level of uncertainty increases, more contingencies need to be catered for; the number and complexity of those negotiations, and therefore their difficulty, increases. The integration of disparate strands of a national security or intelligence effort is therefore inevitably going to generate what Williamson described as 'frictions';<sup>82</sup> the transaction or institutional costs discussed in subsequent chapters. Whether they are explicit or implicit arrangements, the agreements required across different horizontal levels of responsibility, or vertically between decision makers and delivery agents, can be reasonably conceived as complex contractual issues. It follows therefore that what Kenneth Arrow believed to be the lubricant of any society, trust, will mitigate those costs.<sup>83</sup> The relative levels of frictions and trust engendered between rational actors, all interested in their own policy areas, in seeking out potential solutions to shared problems, agreeing mutually acceptable course of action, and then ensuring that these are adhered to, will naturally define how successful collaborative efforts are. Whether a society is using a basically collegial and cooperative approach like that used in the United Kingdom, or a broadly competitive ethos like that of the United States will thus directly impact on their ability to integrate effectively.<sup>84</sup>

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<sup>81</sup> John Stuart Mill and H. B. Acton, *Utilitarianism. [and] on Liberty. [and] Representative Government* ([S.l.]: Dent, 1972).

<sup>82</sup> Oliver E. Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting* (New York London: Free Press ; Collier Macmillan, 1985).p1-2

<sup>83</sup> Kenneth Joseph Arrow, *The Limits of Organization* (New York: W.W. Norton, 1974).p.23

<sup>84</sup> For a properly nuanced discussion of this view see Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

Having established that negotiations between interested parties must occur, and that the quality and mood of these negotiations is an important element in deciding potential outcomes, the constraints on negotiations must be considered. Ronald Coase demonstrated that as long as private property rights are well defined, and if transaction costs are zero, bargaining will lead to the highest valued use of resources.<sup>85</sup> Sadly of course transacting costs are never zero, and property rights are only very rarely well defined. This is true throughout the public sector as well as in the market, and particularly true of the security and intelligence domains, and so it is transaction cost theory (perhaps more accurately referred to as institutional cost theory in the public sector context), and property rights allocation, that are at the core of this explanatory model.

These two influences on the negotiating experience, and the resultant limitations on possible outcomes, can encapsulate all the potential frictions found in the coordination of security and intelligence provision and, perhaps as importantly, they can provide a language that permits an empirical consideration across policy spheres and approaches.

The nature of institutional costs in this context is discussed in more detail in subsequent chapters. However they can be broadly summarised as any inefficiency or friction that affects the 'contact' i.e. the difficulties of looking for possible solutions, the 'contract', i.e. the negotiating problems in achieving a solution, and the 'control' of the agreed solution i.e. the subsequent monitoring problems the selected option throws up. It was these three areas that Oliver Williamson examined in 1975.<sup>86</sup> It is therefore these experiences which will be examined through the lens of the institutional cost impact framework developed in chapter two of this thesis. In this way this thesis will argue that the framework can allow not only the assessment and comparison of formal organisational forms or culture, but also that it will permit the simultaneous evaluation of the more open and flexible agreements that often

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<sup>85</sup> Ronald Harry Coase, "Problem of Social Cost, The," *JL & Econ.* 3(1960). and Ronald H Coase, "The Nature of the Firm," *economica* 4, no. 16 (1937).

<sup>86</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization.*

evolve alongside them in complex environments like those of the security and intelligence spheres.

### **Section 5: Thesis Overview**

This thesis will be divided into three parts. In the first the theoretical underpinning of the 'political economic' approach used will be developed and examined: Chapter two will argue that Williamson's transaction cost theory, adapted to cater for the 'sovereign' transactions involved in intelligence and security provision, can explain the dichotomies identified above. It will develop an holistic theory of institutional costs for intelligence and security provision. The chapter will thereby demonstrate that the ability of every level to access good quality intelligence, whether analysed product or a technical capability, and to utilise it effectively to support the security function, will depend on the institutional costs involved: Firstly those involved in having it collected and processed in the first place, and secondly the costs of securing its delivery to the right place, at the right time. It will argue that these costs may be generated or alleviated by both internal and external factors, and that it is the interaction of both behavioural and environmental factors that decide collaborative success. Chapter three will place the intelligence and security functions within the wider literature by considering both earlier examinations of security and intelligence problems and wider social science theories that can usefully be applied to the two functions. Chapter four will then develop these ideas by examining how the institutional cost theory developed in Chapter two inter-relates with these prominent schools of thought from the wider social science disciplines, and can extend understanding of security and intelligence provision without violating their central tenets. Its potential contribution can thus be further assessed before more detailed cases are considered in the remaining chapters. The theoretical discussion in Part 1 is arranged around the individual issues that together comprise institutional costs so that the contributions of different authors are dealt with in several different places.

Parts two and three of the thesis will then concern themselves with how this can be applied to particular intelligence and security problems in the US and

UK intelligence and security communities. In order to demonstrate both the rigour and wider applicability of the theory cases of both 'success' and 'failure' that run with, and counter to, the conventional wisdom of cooperative success in the UK and cooperative difficulties in the US will be considered: In Part two it will be shown how institutional cost theory can more elegantly account for the 'normal' case of counterterrorism provision which follows that pattern. Part three will then examine the 'deviant' case of defence intelligence in the recent past, which reverses it in both the UK and US, with poor cooperation in the former and good cooperation in the latter.

Asking why such apparently similar communities experience such different cooperative outcomes will test the effectiveness of institutional cost theory. It will become apparent that the level of granularity is the key. In certain circumstances apparently similar elements within those communities act in wholly divergent ways, but in other circumstances they act very similarly even when the result is detrimental. Why do the elements of one community act to secure greater 'turf' in a manner akin to Niskanen's 'budget maximisers',<sup>87</sup> while the other eschews this, preferring to rely on their colleagues to a far greater extent in a manner more reminiscent of Dunleavy's 'bureau shapers'?<sup>88</sup> The existence of cross-cases indicates it is not simply a cultural pathology. Despite the macro nature of the question it is at the micro level that the answer can be found.

Despite the holistic ambitions of the theory developed space precludes a complete examination of every aspect of security and intelligence provision at every level. A comprehensive examination of the multiple levels of interaction would need to consider those that occur both within and between the various agencies and departments involved, the relationships between them and external communities, police bodies, the media and others, as well as oversight bodies, and to be temporal in nature. Furthermore any specific case is likely to boast unique features and no exact replication is likely in any subsequent case. The treatment of the subject areas examined in Parts two

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<sup>87</sup> William A Niskanen, *Bureaucracy and Representative Government*(Transaction Publishers, 1974). with "Bureaucrats and Politicians," *Journal of law and economics* (1975).

<sup>88</sup> Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.

and three are therefore not an exhaustive account of security and intelligence cooperation in the two nations but rather are illustrative of the variety of issues in question, so that the key concept of the thesis is more clearly outlined.<sup>89</sup> The sheer size of the communities and number of their interactions would anyway preclude any comprehensive treatment, so instead a sampling process has been adopted.<sup>90</sup> In the same way because the interrelationships that are at the heart of this analysis occur at the fracture-lines of the institutions and functional divides that are the traditional loci for comparative analysis in these fields<sup>91</sup> this thesis has pared back its point of departure to the commensurability of the problems faced in the two subject areas selected by both the UK and US.<sup>92</sup>

Firstly the very different approaches of the two nations to managing their counterterrorism effort will be examined. In Chapter 5 the particular challenges of terrorism in the modern era will be discussed from an institutional cost perspective. It will consider the impact of negotiations crossing normally discrete policy areas and the inclusion of an increasing number of actors with very different objectives and cultures, the horizontal as well as vertical nature of these interactions, and the sequential nature of engagement so that relationships and agreements develop according to what preceded them. Chapter 6 will then narrow the examination to look more specifically at vertical coordination of counterterrorism, the two Countries relative ability to counter the threat of terrorism by focusing on how institutional costs have been generated or alleviated in each. By situating the point of comparability at the problem level the reliance of one nation on a strategy delivered through existing institutions can be contrasted with the others reliance on new institutions, so that the interaction between different institutional actors can be best captured and analysed.

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<sup>89</sup> See Christopher Grey, *Decoding Organization: Bletchley Park, Codebreaking and Organization Studies* (Cambridge University Press, 2012).<sup>97</sup> for an explanation of the utility of this sort of approach.

<sup>90</sup> This process is detailed in Chapter 4 Section 9, which also addresses questions of potential bias in case study selection and other issues that might result from this methodology.

<sup>91</sup> See for example Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

<sup>92</sup> Discussion of this approach is extended in Section 10 of Chapter 4.

Part three will follow a similar pattern when examining the provision of defence intelligence in each nation. Defence intelligence provides something of a cross-case as the United Kingdom has, unusually, seemed to struggle to properly organise in this sphere. In contrast, the normally adversarial United States has, since 1988, introduced a regime of low institutional costs and impressive efficiency across the range of its objectives. It should be noted however that even this division is at least slightly artificial, with both the UK and USA labelling their counterinsurgency operations in Iraq and Afghanistan as an integral part of their wider policy for countering terrorism at home, and with Countries such as the Yemen, Somalia and even Pakistan demonstrating a full spectrum of civil and military engagement for much the same reasons. Chapter 7 will detail the particular problems of the functional area from the institutional cost perspective and start to unpick the reasons for the sector developing as a 'deviant' or cross case, with poor cooperation evident in the UK and good cooperation emerging in the US. Chapter 8 will then develop these observations by considering how vertical coordination is managed in each nation, and why it is so problematic in the UK and apparently so greatly improved in the US. Institutional cost theory will be applied in an attempt to describe the different experiences of each more fully than 'national culture' explanations can manage and will provide an explanation for their still divergent, albeit reversed, experiences and for why the much more closely commensurate formal organisational forms found in both nations in the defence intelligence arena do not translate into similar cooperative experiences.

Chapter 9 will then conclude by summarising the findings and demonstrating how the institutional cost impact framework can enhance understanding of different levels of cooperation in the intelligence and security spheres. The findings of parts two and three will be used to advance the idea that, although Oliver Williamson was content to consider transactional costs simply in terms of the levels of friction they engendered, the counterterrorism and defence intelligence cases indicate that individual transactional costs can be further categorised by the way in which they act on overall institutional cost levels. It will argue that some act as catalysts, precipitating changes in overall cost

levels by their action on other transaction cost issues. A second group will be described as pivotal, in that they provide a fulcrum about which other transaction costs can shift as they interact. Finally it will be maintained that a third category are derivative because they only become problematic when acted on by another transactional cost. It will then briefly consider the applicability and ramifications of the model as a whole to wider issues of governance, as well as suggesting profitable avenues of further research that result.

Experienced intelligence scholars have wisely counselled against what Loch Johnson described as “physics envy” and any expectation of a “grand theory of intelligence” or formulaic expression of intelligence in the  $e=mc$  tradition.<sup>93</sup> However the development of the institution cost impact framework for security and intelligence provision is the antithesis of this. Rather, as the development of the model in the next chapter will show, it is concerned with developing a model that can explain how different elements of each impact on the others, how they are integrated, and the effect that the process itself has on outcomes over time.

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<sup>93</sup> Johnson L.k. (2009) ‘A Theory of Strategic Intelligence’ p.51 *Intelligence Theory: Key Questions and Debates* pp.33-53 Editors Gill P. Marrin S. Pythian M. Studies in Intelligence Series Editors Aldrich R.J. Andrew C. Routledge. Taylor & Francis Group. London

# **PART 1**

## **The Development of a Political Economy for Cooperation in Security and Intelligence from a Theoretical Perspective**



## **Chapter 2 - A Microeconomic Approach to the Analysis of Security and Intelligence Provision**

### **Section 1: Introduction**

The previous chapter put forth the argument for considering intelligence and security provision as another core function of government, as has been more fully articulated by authors such as Philip Davies and Michael Herman in the United Kingdom, and Frederick Hitz and Loch Johnson in the United States.<sup>94</sup> The use of microeconomic theory to examine what pressures and considerations influence both pursuits is therefore a useful way to access not only the 'black-box' of their internal organisation and decision-making but also their interaction with the rest of government. Transaction cost economics in particular has proven a useful paradigm for explaining how different organisations arrange themselves and decide on preferences because it factors in both the internal and external costs and benefits exhibited by each potential course of action and organisational mode. Unlike other economic models it additionally has the capacity to include the impact of more esoteric (but still enormously influential) elements on such decisions, such as contextual atmosphere and history, and thus provide a more universal assessment.

Although initially developed as a means to examine whether firms were best served in particular instances via the market or by bringing functions in-house and establishing an internal hierarchy, the transaction cost concept has subsequently proved useful to authors such as Oliver Williamson, Dick Ruiters and Lawrence McDonough in the analysis of the public sector.<sup>95</sup> In such

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<sup>94</sup> Herman, *Intelligence Power in Peace and War*. Davies, "Intelligence and the Machinery of Government: Conceptualizing the Intelligence Community." Frederick Porter Hitz, *Why Spy? Espionage in an Age of Uncertainty*, 1st ed.(New York: Thomas Dunne Books/St. Martin's Press, 2008). Loch K Johnson, *Secret Agencies: Us Intelligence in a Hostile World*(Yale university press, 1996).

<sup>95</sup> See inter alia Oliver E. Williamson, "Transaction Costs and Public Administration," in *Public Priority Setting : Rules and Costs*, ed. P. B. Boorsma, Kees Aarts, and Albert E. Steenge(Dordrecht ; London: Kluwer Academic, 1997). Oliver E Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives," *Journal of Law, Economics, and Organization* 15, no. 1 (1999).p.322 Dick WP Ruiters, "Is Transaction Cost Economics Applicable to Public Governance?," *European Journal of Law and Economics* 20, no. 3 (2005). And in the defence field, Lawrence McDonough, "The Industrial Structure of National Defence and Transaction Costs," *Defence and Peace Economics* 16, no. 3 (2005).

circumstances however the range of transaction costs may be more logically described as 'institutional costs' as advocated by Steven Cheung.<sup>96</sup> Also useful within the public sector is the term 'governance costs', which was originally used by Williamson to capture costs that occurred once an initial contract had been negotiated.<sup>97</sup> Certainly costly frictions within the public sector can be argued to take place either within an existing 'contract'; that is the contract between the State and its citizens whereby the former provide a secure and stable environment for the latter, in exchange for authority over them and related rewards, or within the employment relationship between the State, its parts, and its staff. Furthermore Ruiters argues that governance structures are a key factor in assessing the applicability of transaction cost analysis to the public sector more generally. He concludes that for transaction cost analysis to be properly relevant to public sector functions in this millennium, Williamson's terminology needs to be adapted to capture the different options and constraints within this field,<sup>98</sup> so that the use of either 'governance' or 'institutional' costs would seem more apposite. This thesis will therefore use the more general term of 'institutional costs' for the security and intelligence arena as it clarifies the applicability of what was originally a market-based tool to broader issues of government functionality.

The extension of the original transaction cost theory into a tool for institutional cost analysis suited to the public sector has particular resonance for the intelligence and security communities. It retains the central economic assumption of rational actors, but broadens out their motivations beyond the conventional (monetary) understanding of profits or losses to allow individual, departmental and national level goals to compete for dominance internally, vertically and horizontally. This parallels transaction cost theory's acceptance that sub-goals impact on the decisions and processes within a firm even as it

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<sup>96</sup> In his 1998 address to the Western Economic Association Steven Cheung suggested that the term transaction cost was misleading, and that even the father of the concept, Ronald Coase, had agreed that institution costs should replace it, and would have, except for the by then ubiquitous use of the earlier term. See Steven NS Cheung, "The Transaction Costs Paradigm: 1998 Presidential Address Western Economic Association," *Economic inquiry* 36, no. 4 (1998).515.

<sup>97</sup> See the treatment of the term (with Bureaucratic Costs) throughout Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*. particularly 92-96

<sup>98</sup> Ruiters, "Is Transaction Cost Economics Applicable to Public Governance?."

strives for overall profitability. Thus the organisational failures framework developed by Oliver Williamson,<sup>99</sup> and discussed in detail below, is a useful tool in explaining how particular organisational structures evolve to minimise the negative impact of institutional costs in one set of circumstances, but can then be found to be less than ideal in others.

As a part of the public sector both the intelligence and security communities are embedded in the same complex matrix of peer groups, customers and supervisors as their governmental colleagues. Institutional cost considerations should therefore be no less relevant to them. In fact however an application of the organisational failures framework to the two communities makes it clear that they also have special features that make the institutional cost paradigm an even more useful explanation: These special features vary significantly between the communities of the United Kingdom and United States, regardless of the aspect of intelligence or security provision being considered. This variation is at odds with the standard but often erroneous conception of the two nation's security and intelligence communities being very similar, despite their joint membership of bodies such as the 'Five Eyes' and the North Atlantic Treaty Organization (NATO).<sup>100</sup>

There are of course numerous models designed more deliberately with either intelligence or security provision, or more general public sector concerns in mind. However whilst many are effective as explanatory models when addressing the particular question that they were developed for, they become less convincing when subsequently applied to other, apparently similar, scenarios as the following chapters discuss. This suggests that there must be relevant data that has not been factored in, or has not been given sufficient import in the new situation. The strength of the model derived in this chapter, based on the assumption of rational actors maximising welfare, is that it allows the analysis to factor in all available data relevant to the problem

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<sup>99</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.20-40

<sup>100</sup> For a complete assessment of the similarities and disparities between the United Kingdom and United States intelligence communities see Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

under consideration, whether internal or external, and to assess its relative import in the specific circumstances of that problem. Where discrepancies seem apparent it allows the analyst to increase the resolution used until missing data becomes 'visible'. In reducing the investigation to the micro-level, institutional cost analysis also provides a common lexicon of terms that can be compared across the policy spheres under scrutiny.<sup>101</sup>

This chapter will therefore firstly explain how an analysis of security and intelligence provision using institutional costs and property rights can be derived from the work of early economic theorists despite their primary concerns being market based. It will then consider the usefulness of Oliver Williamson's 1975 'organisational failures framework' in this context. Building on this it will develop a model specific to the security and intelligence functions. Once this is achieved it will consider how the individual elements of that model are applicable to the problems and needs of the two communities. Finally, supporting arguments around some of the other issues thrown up by the use of institutional cost analysis in this sphere of government will be discussed, and some concluding remarks offered.

## **Section 2: From Different Objectives to Coase: The Logic of an Institutional Cost Approach**

In his 1998 synopsis of the usefulness of transaction cost economics in explaining governance methods, Oliver Williamson observed that "Because... each generic form of organisation has both strengths and weaknesses, organisation needs to be studied as both problem and solution".<sup>102</sup> This is particularly true of the security and intelligence domains. As the preceding chapter makes clear, the provision of effective security must necessarily address legal and law enforcement issues, domestic political agenda, national and personal security issues and international political complications, as well as touching upon areas like education and social policy. This is the case in counterterrorism, counter intelligence and more

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<sup>101</sup> A more detailed examination of how institutional cost theory relate to other theories in the field are discussed in the following chapter

<sup>102</sup> Oliver E. Williamson, "The Institutions of Governance," *The American Economic Review* 88, no. 2, Papers and Proceedings of the Hundred and Tenth Annual Meeting of the American Economic Association (1998).

general intelligence activity undertaken to provide policy makers with a decision advantage in any area of government business. Internally, each sphere and undertaking has its own sense of a 'best outcome' that is not wholly representative of the broader national level 'general utility'. The organisational set-up of the intelligence community needs to function in the most complex of environmental settings. This inevitably increases the institutional costs of each agreement, decision and action, with individual actors regularly required to settle for what are, from their perspectives, sub-optimal outcomes to accommodate the preferences of others.

The question then, is how that agreed outcome is arrived at. There are two possible visions of an intelligence and security community: The first may be described as a utopian ideal wherein all the actors are co-operatively engaged in the pursuit of a single Jeremy Bentham-like and uniformly agreed general utility. Within this view various intelligence community reformers, most notably the former US Deputy Attorney General David Kris,<sup>103</sup> have conceived the various parts of the community tools through which this utility might be maximised. Decision making is thus a matter of principal actors agreeing which tool or combination of tools will provide the maximum benefits for the minimum cost. It should however be noted that even within this ideal scenario there will be occasion when a trade-off is still necessary. For example within the counterterrorism sphere an early arrest is likely to reduce intelligence gathering possibilities and even viable evidence, but remove at least the immediate threat, as was the case with the 2006 plot to bring down airliners from the UK over the Atlantic. Bargaining and negotiation will always be necessary, however it is managed, and this will naturally provoke frictions and incur costs.

More realistically, within that idea of utility, decision makers and those that influence them will have pre-ordained preferences for particular types of solution, often as a result of their own background and experience; soldiers will opt for a military approach, police officers for a law enforcement based solution, and so on. Bentham's idea of utility therefore starts to degenerate

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<sup>103</sup> Kris, "Law Enforcement as a Counterterrorism Tool."

into one more like that conceived by John Stuart Mill whereby different types of utility are valued differently.<sup>104</sup> As soon as actors start to regard some elements of the community as more important than others frictions between those elements become more apparent and institutional costs will increase, possible options will be constrained and sub-optimal results will not only ensue but be more acceptable. The negotiations observed within the utopian scenario still need to take place, but will become more susceptible to negative influences.

Most importantly, whether one starts with a conception of the ideal state of a single shared goal, or with the reality of diverse preferences, it is impossible to avoid the fact that those involved have to enter into some form of negotiation to decide on their joint priorities and how they are going to proceed. This is summed-up in Figure 2.1 below,<sup>105</sup> wherein actors can follow a process down either the right or the left hand side, but will inevitably arrive at a bargaining situation as depicted in the bottom right hand corner.

At this point how that process of bargaining is managed becomes central to what outcomes are achievable.<sup>106</sup> In his seminal work 'The Problem of Social Cost', Ronald Coase described how the existence of a maximum achievable net gain across all the parties involved should encourage a process of 'Coasian' bargaining whereby that maximand is achieved amongst them. The division of those spoils amongst the participants is nonetheless still a matter of rational self interest, with each attaining their own personal maximum utility (given the existence of the other parties).<sup>107</sup> Although initially considered as a market problem, the pursuit of an overall maximisation makes Coase's theorem every bit as applicable to negotiations within the public sector, and significantly more useful than the alternative, compensation based, approach

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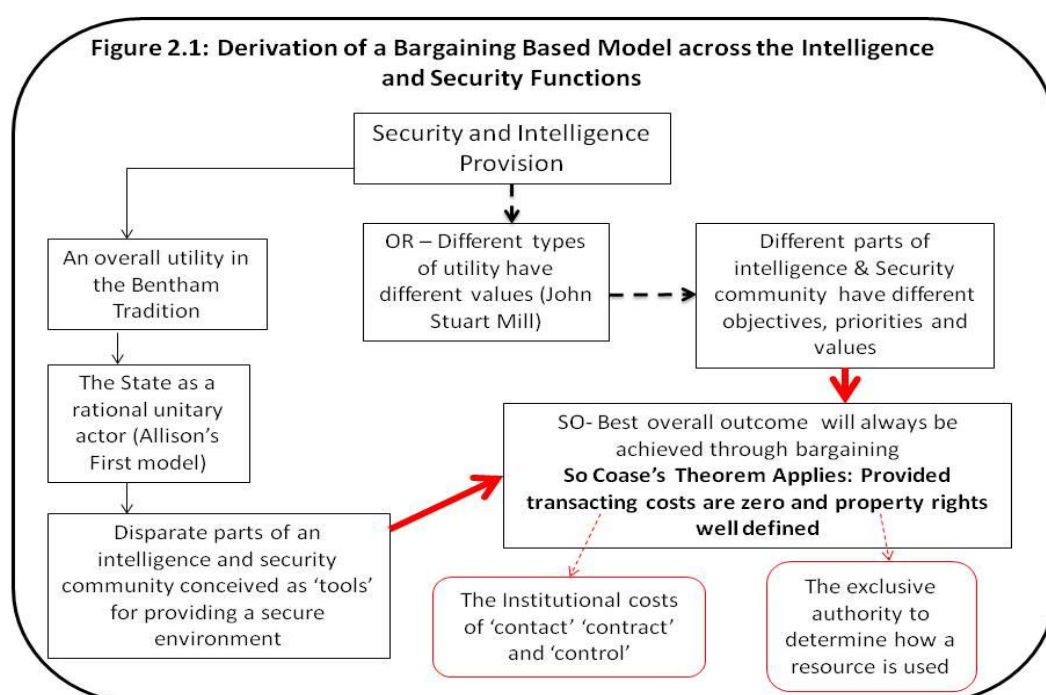
<sup>104</sup> See for example John Stuart Mill, *Utilitarianism [Together with] Liberty [and] Representative Government* ([S.l.] : Dent, 1910 (1968)).

<sup>105</sup> Source of diagram: Own design

<sup>106</sup> for a discussion on the utility of bargaining as a model for intergovernmental policy making see Martha Derthick, *The Influence of Federal Grants: Public Assistance in Massachusetts* (Harvard University Press, 1970). and Tim Conlan, "Administration and Governance in a Compound Republic: Martha Derthick's Contributions to the Study of American Federalism," *Public Administration Review* 70, no. 5 (2010).

<sup>107</sup> Ronald H. Coase, "The Problem of Social Cost," *Journal of Law and Economics* 3(1960).

to externalities laid out by Arthur C. Pigou in '*The Economics of Welfare*'.<sup>108</sup> Critically for this argument, Coase also noted that the possibility of successful bargaining that could achieve the maximum net gain for the actors involved was contingent on two factors; the absence of transaction costs and clearly delineated property rights. Disappointingly, in reality transaction (or institutional) costs are never zero and property rights are only very occasionally well, much less perfectly, defined. This is particularly true in the security and intelligence domains. It is therefore institutional cost theory and property right allocation that are at the root of the explanatory model developed below.



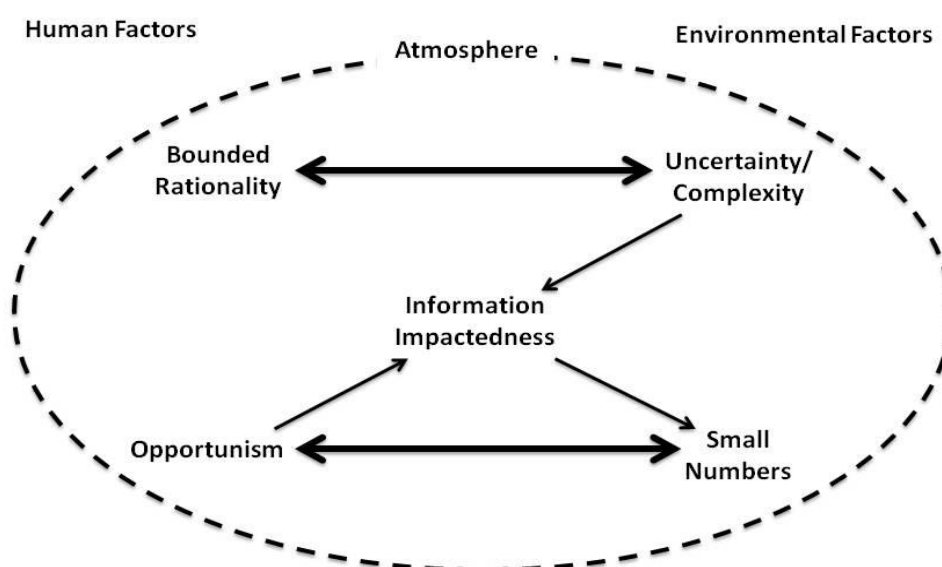
### Section 3: The Derivation of a Institutional Cost Effects Framework for the Security and Intelligence Functions

The significant impact of transaction costs on organisational decisions was first operationalised by Oliver Williamson in 1975. Like Coase before him his initial focus was on the private sector, and in particular the factors that

<sup>108</sup> A. C. Pigou, *The Economics of Welfare ... Fourth Edition*(London: Macmillan & Co., 1932).

influenced a firm's decision to conduct an activity in the market or within its own hierarchy.<sup>109</sup> However the universal applicability of his argument was apparent and made explicit in numerous papers that he either authored or inspired, including several specific to the public sector.<sup>110</sup> As he examined the 'market or hierarchy?' question in detail Williamson managed to reduce the problem to specific elements, divided between behavioural and environmental types, which then interacted. From this he went on to design his 'organisational failures framework' which encapsulated those elements and thus indicated what factors and constraints would impact on the decision making process.

Figure 2.2: Oliver Williamson's Organisational Failures Framework



His diagram is reproduced here (figure 2.2),<sup>111</sup> and demonstrates that although elements are issues in their own right, it is their interaction that aggravates the impact of the frictions that occur. This then increases them

<sup>109</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.

<sup>110</sup> See inter alia McDonough, "The Industrial Structure of National Defence and Transaction Costs." Ruiters, "Is Transaction Cost Economics Applicable to Public Governance?." Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives." and Williamson, "Transaction Costs and Public Administration."

<sup>111</sup> Source of diagram: Reproduced from *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.40



exponentially beyond the mere sum of their parts. This is a significant point and has major repercussions as the model is developed so that institutional costs in the public sector, particularly intelligence and security provision, are able to be assessed.

At their most broad, transaction costs have been defined by Steven Cheung as "... all the costs which do not exist in a Robinson Crusoe economy". He argues that this is an important expression of how such costs can be assessed as they are routinely impossible to separate out as individual costs or benefits.<sup>112</sup> All security and intelligence could of course be regarded as institutional costs experienced by the society that is using them. Some sense of this can be attained through contributors such as David Omand in the United Kingdom, who perceives the primary duty of governments to be the provision of a secure environment so that citizens can go about their business with confidence. Thus to Omand the function of a government security and intelligence apparatus is to provide this confidence, so that market transactions and other aspects of normal society can proceed.<sup>113</sup> However this thesis is concerned with the level and type of institutional costs within the intelligence and security spheres, which vary according to the institutional context being used. Nonetheless the interconnectedness of institutional costs from each such context has a particular resonance within these functions of government.

It is particularly pertinent within the intelligence and security arenas that it is usually some sort of information asymmetry through which behavioural and environmental factors inter-relate. This issue can be still further heightened by the additional information asymmetry typical of the political field in which both tend to play-out. It should also be noted, as the United States Constitutional example indicates, that reducing such costs and increasing efficiency will not always be the desired goal because of some additional dynamic, and a system of high institutional costs may be preferred precisely because they are high, as this might be seen as providing stability or

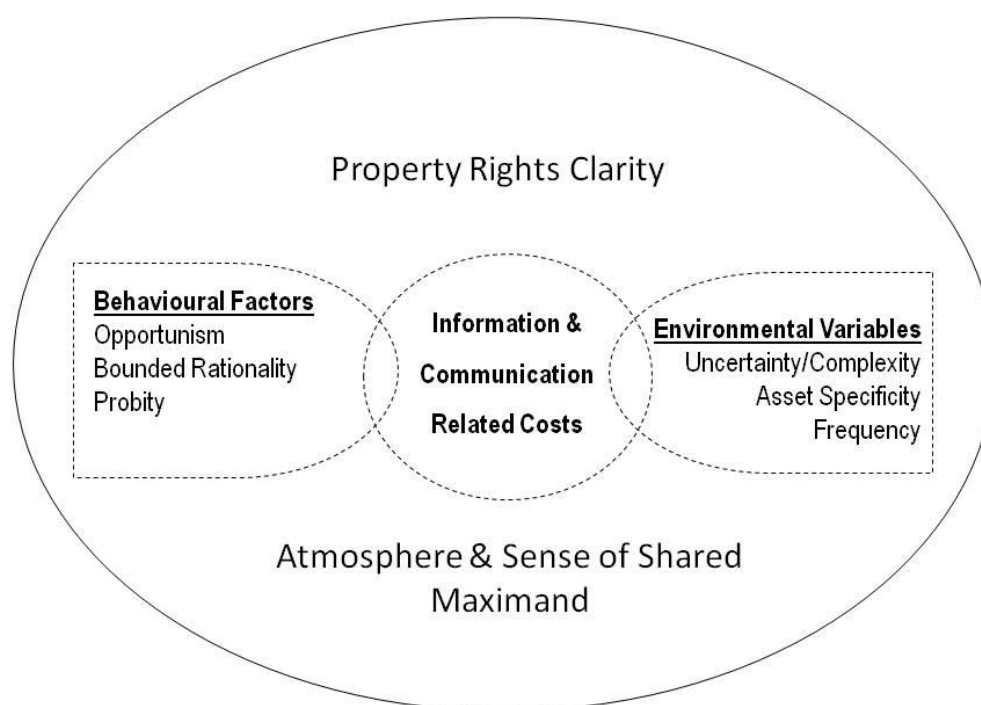
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<sup>112</sup> Cheung, "The Transaction Costs Paradigm: 1998 Presidential Address Western Economic Association." 515.

<sup>113</sup> Omand, *Securing the State*.

protection to parts of the community in question. Overall then the security and intelligence spheres can be better represented via the adapted version of Williamson's 1975 diagram, which is outlined below (Figure 2.3).<sup>114</sup> Subsequent chapters will therefore consider functional elements of security and intelligence provision, as well as their supporting organisational design, using this model.

Figure 2.3: The Institutional Costs Impact Framework for Intelligence & Security Provision



#### Section 4: The Underlying Assumptions of Institutional Cost Theory

An assumption of this work, like the microeconomic analysis from which it comes, is that actors are rational and self-interested. However Parts two and three clearly demonstrate that both assumptions are both *far more nuanced* constructs than simple classical economic analysis allows. In fact it will be argued that this is one of the powers of institutional cost approach that follows. The detail of both these elements therefore needs to be drawn out

<sup>114</sup> Source of diagram: Own design developed from Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.40

slightly: Rational behaviour is a contextual creation, not an absolutely pre-determined response. Rationality in an actor is, as Kenneth Arrow argued, less about the ends he or she pursues, and more about the reasonableness of the methods used to achieve them.<sup>115</sup> The reactions of actors to a particular stimulus will vary according to the environmental setting in which that stimulus is applied, and the factors that make up that environment can be shown to be very broad indeed. However this more realistic interpretation of rationality need not be contrary to fundamental economic thinking: Adam Smith himself took an open view of what motivated economic actors,<sup>116</sup> and in linking economics with the wider social sciences Mark Casson argues for a similarly broad understanding of rationality.<sup>117</sup>

The Weberian understanding of rational behaviour is nonetheless more useful in this context than that found in more purist neo-classical economic theory; to borrow Richard Swedberg's phrase; "... rational behavior is a variable, not an assumption."<sup>118</sup> The simple predictions of an economists supply/demand curve (for example) are not realisable in the more complex context of security or intelligence. The reactions of participants, while still rational, will be chosen in response to numerous stimuli. These might occur simultaneously, be of varying importance, and will not only influence the actor in question, but will also act on each other in a complex pattern of feedback loops. Rather than being based on perfect knowledge, choices are made by individuals and groups suffering bounded rationality in a complex and uncertain environment. The merits of any particular reaction may be rational to one decision maker and wholly irrational to another depending on personal priorities. The personal nature of this rationality is what distinguishes human approaches from those of computers and biological processes: As Thomas

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<sup>115</sup> Arrow, *The Limits of Organization*.17

<sup>116</sup> Adam Smith, *The Theory of Moral Sentiments* (1790), Sixth ed.(MetaLibri, 2005).

<sup>117</sup> See variously Mark Casson and GB Richardson, "Entrepreneurship and Business Culture: Studies in the Economics of Trust, Volume One," *Economic Journal* 107, no. 440 (1997). Mark Casson, *Organization of International Business: Studies in the Economics of Trust Volume Two*(Edward Elgar Publishing, Incorporated, 1995).

<sup>118</sup> Swedberg, *Max Weber and the Idea of Economic Sociology*.36, paraphrasing an observation by Arthur L. Stinchcombe, *Stratification and Organization: Selected Papers*(Cambridge: Cambridge University Press in collaboration with Maison des Sciences de l'Homme, Paris, 1986).5, that "... the central trouble with discussions of rationality is that we are taught by economists and decision theorists to treat rationality as an *assumption*... but in the real world rationality is a variable to be explained". (italics in original).

Schelling succinctly puts it; although a leaf might be observed to turn towards the sun to photosynthesize "... words like purpose and seek are wholly nonascriptive and nonevaluative."<sup>119</sup> People are different. They engage in conscious adaptive and reactive independent thinking. Although this does not mean that their reactions to stimuli cannot be predicted, it does mean that such predictions are of probable or possible reactions, not certainties, and are only broadly based on the "... method of 'vicarious problem solving' that underlies most of microeconomics."<sup>120</sup> Numerous intelligence analysts have discovered this distinction to their cost in areas as diverse as the Russian invasion of Afghanistan in 1979 and the layering of assessments of Saddam Hussein's production of chemical and biological weapons.<sup>121</sup>

The nature of self-interest too needs elaboration. Within the context of individuals and groups of the intelligence and security spheres self-interest is a more complex phenomenon than mere greed. Indeed the multiple levels of sometimes conflicting indicators an actor perceives as in their interest is one of the central tenets of this work, and is elaborated on, inter alia, in the discussion of opportunism in this context. For now it is adequate to note that the issues of self-interest and organisational goals are intimately connected, and each is adapted by the other, but that this can be in a negative as well as a positive way.

As Talcott Parsons observed in his early considerations of social theory, the social norms of an institution will often be designed so that an actor's self-interest is canalised into conformity with them, but this is more than a system of rewards and sanctions. Rather, the actor will see conformity, and the principles embodied by conformity, as a good for their own sake and "... this attitude will prevail in so far as he shares in the system of ultimate common value-attitudes of which the institutional system is a manifestation..."<sup>122</sup> However, where the actor sees a value as incompatible with his or her

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<sup>119</sup> Schelling, *Micromotives and Macrobehavior*.17-18.

<sup>120</sup> Ibid.

<sup>121</sup> Lord Butler of Brockwell, Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors (London: The Stationary Office, 2004), <http://www.archive2.official-documents.co.uk/document/deps/hc/hc898/898.pdf>

<sup>122</sup> Talcott Parsons, "Prolegomena to a Theory of Social Institutions," *American Sociological Review* 55, no. 3 (1990).326

motivations, Parsons suggests a more calculative approach will be taken, and even that non-conformity may be the most advantageous course, depending on the level and type of sanctions it might provoke.<sup>123</sup>

Like the issue of rationality, this issue has major repercussions on consideration of the intelligence and security communities. Problems like sub-goal pursuit and informational asymmetries will be shown here to be much more a by-product of conformity to the goals of the agencies that constitute the community than simple self-advancement would suggest. Particularly in the United States case, the sanctions referred to by Parsons, and available to community level authority figures such as the Director of Central Intelligence in the past, or the Director of National Intelligence now, are not adequate to prevent non-conformity. This is precisely because the authority of the Executive has not been adequate to empower them against sub-group opposition from entities like the Department of Defense, whose own moral concerns lay with maximising their own capabilities.

### **Section 5 – The Institutional Cost Impact Framework for Security & Intelligence Provision**

Although necessarily considered separately below, it is important to note that property rights and institutional costs are intimately linked at every level. Indeed in his 1999 overview of the debate between the neoclassical definition of transaction costs, which is exclusively concerned with the cost of trading across a market, and the broader understanding subsequently developed by scholars such as Williamson, Cheung and Armen Alchian, Douglas Allen explicitly names the property rights approach as the alternate viewpoint.<sup>124</sup> Indeed he formulated a definition of transaction costs as the cost of establishing and maintaining property rights in his earlier 1991 paper.<sup>125</sup> Allen also notes that Alchian's early work on tenure, and subsequent consideration with Reuben Kessel of an individual's utility within a firm, are both dependant on the organisations institutional make-up: Non-profit 'firms' like public bodies

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<sup>123</sup> Ibid.

<sup>124</sup> Douglas W. Allen, "Transaction Costs," in *Microeconomics*, ed. Buford Curtis Eaton, Diane F. Eaton, and Douglas W. Allen (Scarborough, Ontario ; London: Prentice Hall Canada, 1999).

<sup>125</sup> Douglas W Allen, "What Are Transaction Costs," *Research in law and economics* 14, no. 0 (1991).

are able to bear significantly higher institutional costs precisely because they are not profit making,<sup>126</sup> the latter having particular pertinence as an explanatory factor in the variance in organisation and delivery of security and intelligence.

Even within this group, security and intelligence provision are undertakings that necessarily involve high institutional costs, and as Thrainn Eggertsson notes in his 1990 review, such activities require rules to guide resources to the uses that return the highest utility. The economics-of-law literature<sup>127</sup> demonstrates that the State, the property rights it allocates and, crucially, how they are structured, has the potential to be a force for either good or ill: Either they can push the structural production frontier closer to the maximum technically possible, or they can be responsible for organisational failure.<sup>128</sup> As discussed below this impact is not restricted to any prevailing legal framework, but it is nonetheless central to how efficiently security and intelligence can be both performed and interwoven into more general governance.

#### **a. Institutional Costs Overview:**

Just as Alchian had made a conceptual leap with his understanding of property rights a few years earlier (discussed in detail below), so did Steven Cheung's work on share tenancy,<sup>129</sup> and his subsequent reflections on communist Chinese organisations, add definition and breadth to Coase's original (market based) conception of transaction costs. This in turn allowed a re-definition of Pareto optimality within the real world wherein all costs,

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<sup>126</sup> See Armen A. Alchian, "Private Property and the Relative Cost of Tenure," in *The Public Stake in Union Power*, ed. Philip D. Bradley (University of Virginia Press, 1959).

<sup>127</sup> For a discussion on organisational economics see Luis Garicano and Richard A Posner, "Intelligence Failures: An Organizational Economics Perspective," *Journal of economic perspectives* (2005).159 For a critique of new institutionalist approaches see for example Richard A. Posner, "The New Institutional Economics Meets Law and Economics," *Journal of Institutional and Theoretical Economics (JITE) / Zeitschrift für die gesamte Staatswissenschaft* 149, no. 1, The New Institutional Economics Recent Progress; Expanding Frontiers (1993). For a broader view on the different approaches see Ernst-Joachim Mestmäcker, *A Legal Theory without Law: Posner V. Hayek on Economic Analysis of Law*, vol. 174 (Mohr Siebeck, 2007).

<sup>128</sup> See Thrainn Eggertsson, "The Role of Transaction Costs and Property Rights in Economic Analysis," *European Economic Review* 34, no. 2 (1990).

<sup>129</sup> Steven Ng-Sheong Cheung, *The Theory of Share Tenancy. With Special Application to Asian Agriculture and the First Phase of Taiwan Land Reform* (Chicago & London: University of Chicago Press, 1969).

including internal ones, need to be included in the calculus. Individuals might work to reduce transaction costs, but behave so as to increase them. Under different institutional arrangements or circumstances their ability to do either will vary.<sup>130</sup> Cooperative efficiency between actors is thus linked to the level of institutional costs that impact on their relationship

Oliver Williamson describes transaction costs as the economic counterpart of frictions in a machine: Do the gears mesh efficiently, are moving parts oiled, and is there energy-losing slippage anywhere.<sup>131</sup> Intelligence and security communities need to be considered in the same holistic fashion to determine how far the level of institutional costs they are working under undermines their joint effectiveness. Friction in the derivative parts, such as the legal system, can be as detrimental as friction at its core, and the interaction between the parts is both critical and problematic.

As the provision by the State of a secure environment is a necessity for all other social and economic activity, and the State is a near monopoly supplier that is not in competition with others, it might seem reasonable to presume that those involved in its supply would be uniformly and co-operatively committed to reducing these frictions. One would expect all parties to routinely demonstrate Coasian-style bargaining with each other, both horizontally and vertically, in the pursuit of Pareto improvements to the overall security situation. At the very least any Kaldor-Hicks type of advance, that at least offers the theoretical possibility of overall improvement,<sup>132</sup> should be readily accepted and introduced. Yet, as the discussion in subsequent chapters will demonstrate, this is often not the case.

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<sup>130</sup> See for example Cheung's consideration of the service of a buffet dinner where the Pareto condition is apparently violated until the savings on waiting on tables etc. is factored in with the opportunistic and boundedly rational behaviour of customers, at which point the Pareto is satisfied. Cheung, "The Transaction Costs Paradigm: 1998 Presidential Address Western Economic Association."517

<sup>131</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.1-2

<sup>132</sup> By this criterion an outcome is more efficient if the overall level of improvement is such that those that enjoy the fruits of that improvement could, in theory at least, compensate those that are made worse off by it. See Nicholas Kaldor, "Welfare Propositions of Economics and Interpersonal Comparisons of Utility," *The Economic Journal* 49, no. 195 (1939); J. R. Hicks, "The Foundations of Welfare Economics," *ibid.*, no. 196.

Speaking more generally about the public sector, Joseph Stiglitz opined that the failure of governments to deliver Pareto efficient improvements was not a matter of Coasian bargaining being suited only to the private sector, but rather that it was centred on a misalignment of incentives; an argument he extended over four hypotheses demonstrating how this misalignment produced (wilfully or otherwise) high institutional costs that obstructed the implementation of beneficial policy changes.<sup>133</sup> Although primarily focused on the policymaking level in the Clinton administration, Stiglitz's points are as relevant to the working level/decision-making nexus, where similar pressures necessarily increase levels of institutional costs. They are also more generally applicable to security and intelligence provision all the way through to the operational level, particularly where information issues are concerned, and are discussed further below under the relevant factor heading.

More broadly however, Stiglitz identifies the temporal nature of public sector bargaining,<sup>134</sup> which has been shown to apply in the intelligence and security worlds and impacts on the development of organisation within them.<sup>135</sup> This has two effects: Firstly, when coupled with uncertainty as to future developments, there is a tendency to impede apparently positive changes for fear that they might either undermine a group's interests later,<sup>136</sup> or even reduce capability to respond to different, as yet unforeseen, future threats. In the latter case both the bounded rationality of actors and their probity itself can act as impediments to achieving apparently Pareto efficient improvements. Secondly, the dynamic nature of the bargaining process itself can encourage informal coalitions within an intelligence community to form networks based on longer-term support, rather than the merits of a particular issue. In such cases apparently obvious Pareto improvements may seem riskier propositions than they should because they might damage longer-term alliances. As Stiglitz observes, the results are actually dependant on "... what *implicit* property rights people thought they already had" and how an initiative

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<sup>133</sup> Joseph Stiglitz, "Distinguished Lecture on Economics in Government: The Private Uses of Public Interests: Incentives and Institutions," *The Journal of Economic Perspectives* 12, no. 2 (1998).

<sup>134</sup> *Ibid.* 11

<sup>135</sup> Grey, *Decoding Organization: Bletchley Park, Codebreaking and Organization Studies*. 15

<sup>136</sup> Stiglitz, "Distinguished Lecture on Economics in Government: The Private Uses of Public Interests: Incentives and Institutions." 8



might affect these. The bounded rationality of actors is displayed via inefficient signalling during bargaining and because negotiations are not one-shot episodes "...each round affects the fall-back position for the next".<sup>137</sup>

Thus the organisation of the institutions tasked with providing security and intelligence really does matter as it is here that the level and impact of such frictions is decided. A competitive system may encourage innovation and effort, but it may also be destructive in circumstances such as those in the public sector where perfect competition and information are absent. In such cases gains can be achieved by the diminution of one's competitor as well as by self-improvement. Intelligence and security both sit close to the political level. However while politics is a zero sum pursuit, policy is not. On occasion this distinction is observed, as was the case with cross-party co-operation over Northern Ireland during the Major Government in the United Kingdom. More often the lines are blurred, as debates over defence spending when power passed from Brown's Labour Government to Cameron's Conservative one, demonstrate. In the case of northern Ireland an inclusive approach removed a sense of information asymmetry. Without this it is likely that an actor will assume that any proposal from an 'opponent' must be made for the opponent's own benefit, and at their expense.<sup>138</sup>

Furthermore there is a particular factor with governmental transactions. In all other cases government is the primary enforcer of contracts, so where it is one of the contracting parties, who is there (in Stiglitz words) to 'guard the guardians'?<sup>139</sup> The possibility that government will change its mind always exists, particularly in democracies where a new administration with different ideas is possible at any time. Credible commitments are difficult, which can be problematic in itself, but so too are the possible solutions:<sup>140</sup> One of the ways a government can reduce the possibility of reversal of their decisions, and thus demonstrate their commitment, is by building in significant

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<sup>137</sup> Ibid.9&11(italics in original).

<sup>138</sup> Ibid.12-13

<sup>139</sup> Ibid.10

<sup>140</sup> James M Buchanan, *The Limits of Liberty: Between Anarchy and Leviathan*(University of Chicago Press, 1975).p.35-90 and his extended discussion on political choice in *Freedom in Constitutional Contract: Perspectives of a Political Economist*(Texas A & M University Press College Station, 1977). See also James M. Buchanan, *Constitutional Economics*(Oxford: Basil Blackwell, 1991).

institutional costs to changes. In the United States for example altering the Constitution is theoretically possible, but exceptionally difficult in practise, by virtue of the institutional costs that would be incurred by any government disposed to attempt change. This can be a positive thing of course, but the benefits of the status quo may be a subjective matter, and in the face of uncertainty it reduces the flexibility of decision makers to address changes in the environment. The same issues pertain through to the operational level, where existing and rigid 'guidelines' designed for a previous set of circumstances constrains Pareto improvements in the present.<sup>141</sup>

The applicability of the different parts of the institutional costs effects framework outlined above to the governmental functions of both security and intelligence provision will therefore now be considered in turn. Starting with the central position of information issues and the criticality of the interaction of behavioural and environmental factors through them, it will then consider specific parts of the model: First, the behavioural factors of opportunism (including both moral hazard and hold-up problems), bounded rationality, and probity, then the environmental aspects, uncertainty and complexity, asset specificity, and frequency. Finally the surrounding circumstances of property rights clarity, atmosphere and the participants' sense of a shared common goal will be examined before the argument returns to a more general consideration.

#### **b. Information Impactedness and the Interaction of Human and Environmental Factors:**

The complexity of the intelligence and security environments mean that information is routinely held on an asymmetric basis. This multiplies the impact of the environmental and behavioural factors discussed elsewhere. The effects of information impactedness are further exaggerated by two key points: Firstly the secrecy inherent in both pursuits increases the perception of the problem and secondly, because a large proportion of the information involved is also highly idiosyncratic the statistical aggregates used to

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<sup>141</sup> Stiglitz, "Distinguished Lecture on Economics in Government: The Private Uses of Public Interests: Incentives and Institutions."

compensate for a lack of detailed knowledge in more conventional economic activity have a limited utility.

Friedrich Hayek had noted that "... every individual has some advantage over all others in that he possesses unique information of which beneficial use might be made, but of which use can be made only if the decisions depending on it are left to him or are made with his active cooperation" as early as 1945.<sup>142</sup> Nonetheless the central placing of information-related costs by Williamson was prescient. He constantly emphasises that it is the interaction of environmental and behavioural elements that gives rise to transaction costs, and that it is information impactedness that is the central cog dictating how that interaction will play out, as depicted in his organisational failures framework. Because of its overlapping place between the behavioural and the environmental factors the effect of information impactedness and hidden communication costs is mostly dealt with within those sections. However the peculiar import of this factor within intelligence and security provision merits particular mention:

Within the intelligence, and (to a lesser but still significant extent) the security domains, the issue of information impactedness has a special significance because secrecy is essential in some areas and prevalent in almost all. Although David Omand suggests a recent cultural shift from the need to know principal towards a duty to share<sup>143</sup> the alterations required to make this a general reality are substantial, and not yet complete. Secrecy is omnipresent and throws up some particular institutional cost problems.

Perhaps foremost among those is the tendency to aggravate other institutional failures or weaknesses. Secrecy increases both the problem of asymmetric information and, in a culture where it is nearly universal, the perception of its presence. This, as Joseph Stiglitz observes, creates a dynamic that leads to biased and unrealistic information being introduced.<sup>144</sup> Furthermore a credible commitment is less likely because those excluded

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<sup>142</sup> Friedrich August Hayek, "The Use of Knowledge in Society," *The American economic review* (1945). 521-2

<sup>143</sup> Omand, *Securing the State*.

<sup>144</sup> Stiglitz, "Distinguished Lecture on Economics in Government: The Private Uses of Public Interests: Incentives and Institutions." 15-17

from the process that arrived at the decision are unlikely to feel bound by it, but rather that they are fully justified in trying to overturn the conclusion reached when possible.

Secrecy is the most clearly defined technical barrier between different elements of the security and intelligence communities. The necessity to secure information means that an additional tranche of property rights must be allocated and negotiated over. These sit alongside and are largely independent of the property rights that deal with the roles and responsibilities of actors. Almost uniquely, secrecy can provide near-infinite transactional costs between those who are indoctrinated into a secret, and those who are not, with very significant penalties often imposed on those that breach that divide.

Some divisions may be basically hierarchical, such as those based on levels of vetting. Negotiating access is then a matter of established protocols; a developed vetting status gives one routine access to material marked as Secret, and occasional access to top-secret, for example.<sup>145</sup> Negotiations are irregular and relatively friction-less, being based on abstract cases. In these cases property rights are allocated according to when individuals acquire the necessary status.

More problematic are the property rights that need to be negotiated over when compartmentalisation is based on particular projects or work streams. These can operate horizontally as well as vertically and include what in the US are known as Special Access Programs (SAP) and, within them Special Compartmented Information (SCI) such as Talent-Keyhole (TK) product. Even within these, access to individual reports is restricted to those are inducted into the relevant operation at that time, or have a demonstrable need to know, in the judgement of those in charge of them.<sup>146</sup> Negotiating access is thus a sequence of complex one-off bargains, where the actor

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<sup>145</sup> See for example the UK's "Government Security Classifications," ed. Cabinet Office(HM Stationery Office, April 2014).

<sup>146</sup> See for example Barack Obama, "Executive Order 13526 of December 29, 2009 Classified National Security Information," ed. The White House(Washington D.C.2009). "Director of Central Intelligence Directive 1/7: Security Controls on the Dissemination of Intelligence Information," ed. Director of Central Intelligence(Washington D.C.: Federation of American Scientists, 1998).

wishing it is substantially disadvantaged. He or she will be suffering from a significant asymmetry of information holdings from which to advance their argument for access.

The appropriate set of property rights are thus likely to be defined by the holder of information classified in this manner. Even a relatively widely disseminated piece of intelligence might remain the property of the originating organisation, and they can retain the property rights to it. In practise this means that they continue to decide to whom, under what circumstances, and with what detail or 'form of words' it is passed.

There are likely to be a number of different and contradictory pressures on the holders of secret information when they are deciding whether, and when, to share it. Christopher Grey has, for example, described the way in which the being indoctrinated' or 'enwised' into the Ultra secret could provide both technical and cultural separation from co-workers at Bletchley Park,<sup>147</sup> and act as a unifying cultural 'pillar' as actors were linked in their shared understanding of the need for secrecy, and of being in a joint effort to achieve it, even if they are excluded from individual secrets.<sup>148</sup> He notes that the same effects have been observed by Michael Herman in more recent times, with intelligence officers enjoying a shared 'specialness' into which individuals are inducted through specific rituals.<sup>149</sup>

Membership of such a group can facilitate negotiations through the sense of trust it engenders, and the temporal nature of the relationships within it. Such trust is however always fragile, and primary loyalties likely to be to the actors own part of an organisation. Even in the best of circumstances secrecy means that very real technical barriers will need to be routinely negotiated across, and so permits the interaction of other institutional costs described below. The various effects of secrecy thus have non-trivial impacts on the institutional cost landscape.

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<sup>147</sup> Grey, *Decoding Organization: Bletchley Park, Codebreaking and Organization Studies*.159

<sup>148</sup> Ibid.121-132

<sup>149</sup> Herman, *Intelligence Power in Peace and War*.

In addition, because the process must inevitably by-pass normal consensus decision making if arrived at in secret, the decision itself is likely to increase the divergence between winners and losers. As Stiglitz puts it; "... secrecy aggravates the problem of positional goods and destructive competition." A piece of information can thus be a positional good if those holding it can derive status from the secrecy surrounding it. In an environment where secrecy is common, it is likely that actors will constantly suspect an "...interest group is taking advantage of the secrecy to advance their cause over yours". Unfortunately because having information is valuable if others do not, secrecy creates rents, which in turn creates a market (however informally), and thus provides an incentive to the actors involved to promote even an artificial scarcity. Looking at it from the policy making angle, Stiglitz has no time for secrecy at all, believing its only merit is in providing a tactical advantage in the political bargaining game.<sup>150</sup> However in the intelligence and security arena, where an active external opposition will seek to do you harm on the basis of any information obtained, there is, and will remain a need for it despite the institutional costs that it inevitably implies.

Conversely it could be argued that the introduction of various initiatives on open government and transparency that have become policy since the early 1990's have established a new, and often significant monitoring cost every bit as detrimental to security or intelligence provision as secrecy. Whether usefully or not, public debate that takes place in the maelstrom of a diverse media (each aspect of which will have its own ideas on maximising utility) inevitably leads to criticism. That can induce a risk-averse culture in both political and operational levels which can in turn impact on the perceived utility of any given option, or the constraints under which options are available, for example through new laws or guidelines.<sup>151</sup> These constraints can have wider policy implications, as the UK/US spat over intelligence sharing that followed the Binyam Mohammed Court case demonstrates.<sup>152</sup>

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<sup>150</sup> Stiglitz, "Distinguished Lecture on Economics in Government: The Private Uses of Public Interests: Incentives and Institutions." 15-17

<sup>151</sup> For examples of this sort of effect see, for example Philip Anderson, "Complexity Theory and Organization Science," *Organization Science* 10, no. 3 (1999).

<sup>152</sup> See for example "Binyam Mohamed Torture Appeal Lost by Uk Government ", *BBC News Channel*(2010), <http://news.bbc.co.uk/1/hi/uk/8507852.stm> and discussed in MP Chairman The Rt.

Furthermore as different organisations might suffer different levels of criticism, depending on what enters the public domain, new frictions between them that impact on collaborative working can develop. The enthusiasm of the former Special Branch's to undertake Security Service taskings suffered as a result of the former's vulnerability to Freedom of Information Act requests and more accountable public posture than that of the latter, for example.<sup>153</sup>

An organisational set-up will thus have to balance these various pressures, and it is likely that in so complex an environment that the point of equilibrium will be constantly moving. Secrecy, like expertise, is thus one of the drivers for using an organisational design that moves what Stiglitz calls 'critical decision making' (note that 'critical' may be at any level, not necessarily the highest) some distance from political decisionmaking; an area that will be discussed in subsequent chapters.

In his seminal work '*Markets and Hierarchies*' Williamson considers the transaction cost implications of the "inside contracting system", wherein a firm's management provided space, machinery and materials to a second firm to whom they delegated a production function in its entirety, paying a negotiated piece rate for the finished item.<sup>154</sup> Inside contracting presents a useful broad-brush metaphor for a government's use of different agencies to jointly provide security and intelligence by each being responsible for the productions of elements thereof. The advantages enjoyed by firms using inside contracting are those an intelligence and security community would desire. Notably that there is no need for the principal firm to have detailed technical knowledge of the subsidiary functions to direct them, or to have to

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Hon Paul Murphy, "Rendition," ed. The Intelligence and Security Committee of Parliament(HMSO (Crown Copyright), 2007).

<sup>153</sup> The investigation into possible historic abuses of authority by covertly deployed Special Branch officers, stemming from one such targeting of Trotskyite groups on behalf of the Security Service is an example of this difficult juxtaposition. Senior Special Branch Officer(Retired) P4, interview by Author, November, 2012, London. For a wider discussion of the cognitive processes that shape the impact of such divergent vulnerabilities see Pamela S. Barr, Stimpert J. L, and Anne S. Huff, "Cognitive Change, Strategic Action, and Organizational Renewal," *Strategic Management Journal* (1986-1998) 13(1992).

<sup>154</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.<sup>96</sup> using John Buttrick, "The inside Contract System," *The Journal of Economic History* 12, no. 03 (1952).201-202

negotiate contracts with personnel. There are also economies of communication and monopoly powers that might give rise to opportunistic 'hold-up' problems (discussed below) are, theoretically at least, limited. Furthermore incentives to each inside contractor can be set to encourage efficiency and innovation.<sup>155</sup> Information impactedness that might discourage investment is minimised.

Despite these advantages the inside contracting system experienced significant frictions and wastage. Williamson divides these into eight broad categories (summarised below), including three problems still stemming from defective incentives:

1. A bilateral monopoly, albeit restrained, inevitably develops.
2. Periodic renegotiations encourage information hoarding and delay innovation as actors attempt to improve their position.<sup>156</sup>
3. Component flow is hard to regulate.
4. Work in progress inventories were excessive and later stage work could thus prove wasteful of components on which earlier work had been completed. This can manifest itself as duplicated efforts, and correlates to non-collaborative intelligence or security production.
5. Disparate relative incomes can de-stabilise desired changes to organisational patterns.<sup>157</sup>
6. Equipment, being outside a contracting 'firms' responsibility, is not properly used or maintained.
7. Innovation tends to favour labour saving, for which the 'firm' is responsible, over materials, for which it is not.<sup>158</sup>
8. Incentives to innovate the product itself were inadequate, as it can be in the interests of 'contracting firms' to maintain a status quo. They are unlikely to see the rewards of innovation above their level of operation.

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<sup>155</sup> In the modern intelligence context this could be managed via funding devices, such as the Single Intelligence Account in the United Kingdom.

<sup>156</sup> Such periodic renegotiations may be seen to parallel Single Intelligence Account payments and the like.

<sup>157</sup> An equivalent problem was experienced as a result of the mix of police and civil servant salaries in the newly created Serious and Organised Crime Agency in 2006, which caused significant ill-will and hindered the consolidation of the new organisation into a cohesive whole.

<sup>158</sup> In many current security or intelligence activities the pervasiveness of overly specific budget streams has a similar effect.



All of the problems that inside contracting experienced have parallels within the intelligence and security spheres. All occur because of the interaction of behavioural and environmental factors, are immanent to the system itself, and have some element of information asymmetry at their root. The bilateral monopoly is central to the nature of these sovereign transactions,<sup>159</sup> and allows the construction of the 'ring of secrecy' within which they must exist. However it means that a 'small-numbers' condition is equally unavoidable, and that the equivalent of a 'first-mover' advantage will always exist. Strategic delay and other gaming-like behaviour will occur in the absence of full information, and will be joined with group or individual opportunism to improve position and reputation. The regulation of components (or their equivalent) could be improved in the absence of bounded rationality, but each element is assessing optimal flow on the basis of their own requirements and capabilities. Status issues emanating from bounded rationality (with asymmetric information) and skewed incentives encourage attempts to shift contractual relationships towards subordination relationships producing suboptimal outcomes.

The fact that individuals who do not own assets are unlikely to care for them properly, as Williamson suggests, is effectively a 'free-rider' problem. The possibility that one's own organisation will not be able to fully appropriate the gains from any outlay on those assets is likely to be a deterrent to investment and innovation. To quote Williamson in full:

"Given uncertainty, whence the occasion to make coordinated adaptations between successive parts, and bounded rationality, whence the limitations on long-term contracts and the infeasibility of a flat (single stage) hierarchy, the defects listed are manifestations of

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<sup>159</sup>An idea developed by William Niskanen in his earlier work on bureaucratic behaviour, which is discussed further below. See William A. Niskanen, "The Peculiar Economics of Bureaucracy," *The American Economic Review* 58, no. 2 (1968). However, while the bilateral monopoly condition is a reasonable approximation of the UK system, in the US a monopsonic condition can also be argued in some areas of security and intelligence, as the Executive can seek, for example, National Estimates from different suppliers. The options are limited however, and although this distinction can be linked to other institutional costs the argument here is not significantly affected.

small-numbers bargaining relations in which opportunism and information impactedness conditions obtain.”<sup>160</sup>

Although Williamson was referring to a firm using the inside contracting system, the synopsis of the operating conditions quoted above could be applied to an intelligence or security community equally well. It is also a pointed summation of how the outcome of the interaction between human and environmental factors is affected by asymmetric information and the costs of communicating across separate parts of any such endeavour.

### **c. Behavioural Factors:**

#### **i) Opportunism**

When analysing institutional costs and their impact on an institutions organisation and capability, the relevance of opportunistic behaviour as a factor that needs to be reckoned with is contentious even in the private sector where financial gain is the declared purpose. That it should be relevant to an important public service such as the provision of a secure environment is naturally even more so. In fact its impact is the larger because of the extent of information asymmetry widespread throughout this area. However the common-usage definition of ‘self-interest-seeking with guile’,<sup>161</sup> whilst technically accurate, does not fully capture the range and motivation of what is observably ‘opportunistic’ behaviour by actors in this sphere. The ‘self-interest’ is often actually a conviction of the rightness of one’s perspective, or that of one’s agency, over that of others, with at least a conception of the greater good still in mind. Self-interest is of course served by superiors accepting that point of view and the reputational enhancement that comes with success, but not by failure, so the individual or agency will usually have a genuinely held conviction that they are correct. Williamson notes that internal opportunism takes the form of sub-goal pursuit, whether it be of an

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<sup>160</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.97-98

<sup>161</sup> See for example *ibid*.96

individual or collective nature;<sup>162</sup> a seminal problem within the intelligence and security spheres as subsequent chapters will demonstrate.

The 'guile' required is a similarly opaque construct. Information impactedness between actors is an accepted and unalterable fact of life in both the intelligence and security worlds. Secrecy, environmental uncertainty, and bounded rationality implicit in varying specialisations and roles mean that individuals and agencies must select what information is shared, when, and with whom, both vertically and horizontally. Their own sense of what constitutes an optimal outcome is an inevitable bias in this. As it is neither feasible nor useful to attempt to pass all possible information, all the time, any interested party in the chain with a different perspective to the originator will probably conclude there was 'guile' within the decision-making process, even if the original actor believes himself or herself to have been wholly righteous.

That different agencies are aware of their different beliefs is enough to increase institutional costs. The suspicion that others may act opportunistically is enough to ensure that ex ante negotiations and ex post governance become costly as soon as anything less than all the actors have anything less than complete knowledge.<sup>163</sup> Nonetheless, as Williamson observes for the private sector, the fact that actors harbour opportunistic inclinations does not imply a flawed system per se. It is the conjunction of opportunism with the small-numbers issue that is problematic; an issue that is ubiquitous in the intelligence and security spheres as the agencies are near-monopolistic suppliers of their own product.<sup>164</sup> The exchange is thus one between "... bilateral monopolists in stochastic [market] circumstances"

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<sup>162</sup> Ibid.125 note 1

<sup>163</sup> For a discussion of this effect and the impact of bounded rationality see *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting*.66

<sup>164</sup> Although not discussed here it can be argued that this situation is at least reducing with the exponential increase in open source information and the rise of Private Military Companies and security concerns in the delivery of various elements of both intelligence and security even to government consumers, although whether such sub-state actors can genuinely represent the same level of legitimacy is questionable. See for example James Pattison, "The Legitimacy of the Military, Private Military and Security Companies, and Just War Theory," *European Journal of Political Theory* 11, no. 2 (2012). or Kristine A Huskey, "Accountability for Private Military and Security Contractors in the International Legal Regime," *Criminal Justice Ethics* 31, no. 3 (2012). and Daniel Warner, "Establishing Norms for Private Military and Security Companies," *Denv. J. Int'l L. & Pol'y* 40(2012).

and it is in the interests of the parties involved to seek the best terms for themselves via "...opportunistic representations and haggling".<sup>165</sup> Whereas the system would be best served if they could be co-operatively joined to avoid the bargaining and, more seriously, the mal-adaptation costs generated, as subsequent case studies demonstrate.

The term 'moral hazard' should not therefore necessarily mean that agents are acting dishonestly despite the pejorative nature of the term. Alchian and Woodward's contention that the 'moralistic overtones' are justified because "... if everyone would simply agree to undertake a given standard of effort and abide by the promise, a more efficient outcome would result"<sup>166</sup> may be adequate to straightforward contracting but does not deal adequately with issues of varying interpretations and shifting circumstances. Clearly the very fact that hostile governments and bodies are deliberately countering one's efforts or suborning one's personnel are a particular problem within the intelligence or security arenas and costs are therefore certainly incurred in policing them. But there are also well-intentioned and wholly internal deviations that need to be considered, and these can be every bit as significant to the institutional costs incurred, and to the organisational design that results.

In their review of Williamson's '*Institutions of Capitalism*', Alchian and Woodward argue persuasively that the relevance of opportunistic behaviour can be better assessed if it is divided into conduct concerned with moral hazard and that concerned with the problem of hold-up.<sup>167</sup> This separation is also useful to the analysis of the security and intelligence functions and is therefore utilised here.

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<sup>165</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.27 and see earlier note (Section b.) regarding bilateral monopoly/monopsonic conditions.

<sup>166</sup> Armen A. Alchian and Susan Woodward, "The Firm Is Dead; Long Live the Firm a Review of Oliver E. Williamson's the Economic Institutions of Capitalism," *Journal of Economic Literature* 26, no. 1 (1988).68

<sup>167</sup> Ibid.67-69

## ii) Moral hazard

The susceptibility of organisations to moral hazard is dependent on their plasticity; the degree of discretion or legitimate options open to decision makers.<sup>168</sup> The nature of both intelligence and security provision, with their dynamic nature, their distinctive policy, strategic, tactical and operational levels, and their variable tools and objectives make them very plastic indeed. The impact of this on property rights is discussed later, but here the issue is that the necessary freedom of action enjoyed by agents will inevitably allow them to bias their decisions away from the primary wishes of their principals towards their own agenda. On occasion this may be an advantageous state of affairs, but it will also allow re-interpretation of policy to best suit one's own beliefs and world view. Consider for example a recent statement by the then head of the United Kingdom's Secret Intelligence Service to the Intelligence and Security Committee, wherein he stated that did not feel bound by the requirements and priorities laid out by the Joint Intelligence Organisation (JIO) in Cabinet Office.<sup>169</sup> The passage of time between requirements edicts whilst new threats emerge, and the run-in time for any successful recruitments of human sources mean that some flexibility at this level is beneficial. However for the most part it is likely that new threats and opportunities,<sup>170</sup> as well as their tie-in to forthcoming government policy, will be best understood within Cabinet Office machinery that has access to pan-governmental analysis and needs. Diversions from their established 'requirements and priorities' process may therefore not be helpful.<sup>171</sup> The number of vertical and horizontal levels within an intelligence community means that monitoring compliance with these is always going to be a significant institutional cost, and unlikely to ever be comprehensive, even

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<sup>168</sup> Ibid.69

<sup>169</sup> Oral Evidence of Head Of Secret Intelligence Service on 27<sup>th</sup> Jan. 2009 to Intelligence and Security Committee. See Chair Rt Hon Kim Howells Intelligence and Security Committee, "Annual Report 2008-2009," (London: Intelligence and Security Committee ISC, 2009).32

<sup>170</sup> For a discussion on the longer term problems for requirements and priorities see Kristian Gustafson, "Strategic Horizons: Futures Forecasting and the British Intelligence Community," *Intelligence and National Security* 25, no. 5 (2010).

<sup>171</sup> At the time the then head of SIS made his observation the National Security Council was in its infancy. The inter-relationship of the two bodies, and how policy advice and requirements and priorities are managed remains nascent. There are however significant property rights issues with the system at the time of writing, which will be further discussed in subsequent chapters.

where there is no malicious intent but only a marginally different view of the overall 'good'.<sup>172</sup>

Joseph Stiglitz, discussing insurance provision, defines moral hazard as arising "...when neither the state of nature nor individuals actions are observable to the insurer", and goes on to say that this form of moral hazard is pervasive in the economy including when insurance is provided by governments via social institutions.<sup>173</sup> Investment in (defensive) intelligence provision and target hardening measures are themselves a form of insurance against a possible, rather than certain, event although the 'insurer' and the 'insured' are both contained within government. This makes actions more observable, but not completely so, due to the disparate functions and the distinct levels that comprise them.

On the other hand, the extent and complexity of the 'state of nature' that needs to be observed is far larger than any that conventional insurance might need to consider. Even when discoverable it will be imperfectly observable due to surrounding noise. The principal-agent relationship is thus characterised by limited or asymmetric information and monitoring difficulties. These allow the latter to use their discretionary latitude to deviate from the formers implicit wishes, and the fact of the 'insurance' existing will itself produce an incentive for agents to take risks they might not otherwise contemplate when deciding how to allocate scarce resources.<sup>174</sup> Knowing that the Security Service had primary responsibility for intelligence on terrorism has, for example, allowed the Metropolitan Police to cease intelligence coverage of possible terrorists and their support groups unless it was directly linked to an active investigation. This had been a role performed by their Special Branch until its dissolution in 2006.<sup>175</sup>

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<sup>172</sup> The JIO and the tensions in central requirements processes are discussed in more detail Philip H.J. Davies, "Twilight of Britain's Joint Intelligence Committee?," *International Journal of Intelligence and CounterIntelligence* 24, no. 3 (2011).

<sup>173</sup> Richard J. Arnott and Joseph E. Stiglitz, "The Basic Analytics of Moral Hazard," *The Scandinavian Journal of Economics* 90, no. 3, Information and Incentives. Vol. 1: Organizations and Markets (1988).383

<sup>174</sup> Stiglitz, "Distinguished Lecture on Economics in Government: The Private Uses of Public Interests: Incentives and Institutions."383 and footnotes

<sup>175</sup> Senior Special Branch Officer P1, interview by Author, August, 2011, London.

Additional or unexpected funds can also produce the sort of moral hazard that raises institutional costs; they may thus be every bit as detrimental. Subsequent chapters will discuss the United States intelligence community as a whole, but even in the usually frugal United Kingdom's security environment the shift of resources to a newly created and centrally allocated Counter-Terrorism fund allowed opportunistic behaviour by agents. Here various projects that would normally have been funded from conventional policing budgets, and in many cases had struggled to realise resources on that basis, were slightly re-written so that community based elements acquired a counter-terror angle.<sup>176</sup> The apparently critical nature of the time constraints made proper monitoring expensive and limited, so that the costs of genuine delivery were heightened by these more opportunistic projects.<sup>177</sup> The situation here is akin to that observed by Williamson (and then later Frederic Scherer, in relation to defence contracts). Unless intrusive monitoring can establish and therefore disallow unwarranted expenditure, it is actually in the interest of firms (or in this case agencies or parts thereof) to incur excessive costs.<sup>178</sup> This is due to the misaligned incentives that the equivalent of cost-plus contracts and difficult to penetrate 'cost sharing' contracts promotes.<sup>179</sup>

Stiglitz' (with Rothschild) subsequent analysis shows how an individual's marginal private benefit, achieved through expending a given level of effort on accident prevention, falls as more insurance is provided, until preventative effort will theoretically reach zero.<sup>180</sup> There is thus a substitution effect, and the trade off between incentives and risk bearing needs to be considered alongside any anticipated trade-off needed to allocate scarce resources.

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<sup>176</sup> Ibid.

<sup>177</sup> Senior Police Officer P2, interview by Author, October, 2011, London.

<sup>178</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.242 and "Hierarchical Control and Optimum Firm Size," *Journal of Political Economy* 75, no. 2 (1967). and for defence specific observations Frederic. M. Scherer, "The Theory of Contractual Incentives for Cost Reduction," *The Quarterly Journal of Economics* 78, no. 2 (1964).

<sup>179</sup> Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting*.336

<sup>180</sup> See the argument developed in Michael Rothschild and Joseph Stiglitz, "Equilibrium in Competitive Insurance Markets: An Essay on the Economics of Imperfect Information," *The Quarterly Journal of Economics* 90, no. 4 (1976).

An insurance provider may be reasonably paralleled with government provision of defensive intelligence and security. The effort towards accident prevention by individuals is then a parallel of agency activities that they perceive as marginal to their core functions. Thus a government, having invested heavily in physical security measures to counter a known threat, is likely to feel more protected from attack (or at least to the type of attack most recently suffered) and invest less heavily in intelligence gathering, leaving itself vulnerable to new threats. This was the position in the 1990's, on both sides of the Atlantic, when a peace dividend was anticipated from the investment made against the Soviet threat.<sup>181</sup> Conversely, but perhaps more reasonably, as observable criteria and thus the level of certainty increases, the augmented intelligence picture should allow a reduction in physical security measures.

Misaligned incentives, or a lack of clarity around them, can therefore be critical to the effectiveness and efficiency of security or intelligence delivery. If a principal could perfectly align the incentivisation of his agents with his or her wishes then the rational self interest of each agent, whether inclined to use guile or not, would perfectly accord with them. The plasticity of the two spheres under examination, their dynamic nature and complexity all make incentive schemes much more general than this ideal however; a type of incomplete contracting in itself. Significant ex post monitoring costs should therefore be expected if the moral hazard that results is to be alleviated.<sup>182</sup> This has been the case even in a relatively well regarded controlling organisation, the UK Home Office's 'Office for Security and Counter Terrorism' (OSCT), which is required to monitor and direct police and

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<sup>181</sup>See for example Professor the Lord Peter Hennessy in "Oral Evidence to the Defence Select Committee Preparing the Next Strategic Security and Defence Review (Chair: James Arbuthnot)," ed. Defence Select Committee(24th April 2013). quoting Michael Quinlan, formerly one of the United Kingdom's foremost nuclear strategists; "... the expected, precisely because it is expected, is not to be expected. Rationale: What we expect, we plan and provide for, what we plan and provide for, we thereby deter, what we deter does not happen. What does happen is what we did not deter, because we did not plan and provide for it"

<sup>182</sup>Niclas Berggren and Nils Karlson, "Constitutionalism, Division of Power and Transaction Costs," *Public Choice* 117, no. 1/2 (2003).



Security Service counter terrorism activity even though both are, nominally at least, under the Home Office.<sup>183</sup>

### iii) Hold Up

The second type of opportunistic conduct identified by Alchian and Woodward is that associated with 'hold-up', a behaviour intimately associated with the environmental condition of asset specificity discussed elsewhere. Using Alfred Marshall's idea of a composite quasi-rent that is dependent on continued association with a separate, but currently associated resource,<sup>184</sup> Alchian and Woodward describe hold-up as the amount that those providing those currently associated resources "... could attempt to expropriate by refusing to pay or serve". Either an agency or policy-maker might be vulnerable to hold-up, as each are reliant on the services of others to maintain their particular type of production. Furthermore the appearance of hold-up type behaviour, and even its possibility, can be as detrimental as its actual occurrence.<sup>185</sup> Taking an holistic view of an intelligence and security community one would anticipate the problem to be minor; all parts are after all 'owned' through some mechanism or other by the executive branch of government. However many such functions are very asset specific, particularly in respect of their personnel. Asymmetric information (including this functional expertise), set within a complex and uncertain environment, have caused individual agencies to behave as distinct entities that are co-reliant in much the same way as Alchian and Woodward's private firms.

The possibility of hold-up has two consequences within the security and intelligence spheres: Firstly institutional costs are raised as ex ante

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<sup>183</sup> Senior Specialist Operations Officer P3, interview by Author, September, 2012, London. The OSCT is discussed in greater depth in Chapter 6.

<sup>184</sup> Alchian and Woodward paraphrase Marshall to explain that "A quasi-rent is the excess above the return necessary to maintain a resource's current service flow, which may be the means to recover sunk costs. Composite quasi-rent is that portion of the quasi-rent of resources that depends on continued association with some other specific, currently associated resources." Alchian and Woodward, "The Firm Is Dead; Long Live the Firm a Review of Oliver E. Williamson's *The Economic Institutions of Capitalism*." 67 using Alfred Marshall, *Principles of Economics* (Digireads. com Publishing, 2004). 453-4 and 626

<sup>185</sup> Some political scientists have even argued that hold-up tactics by a lower body can be beneficial on the higher one as it ensures the latter remain properly grounded. See for example Martha Derthick, "The Enduring Features of American Federalism," *The Brookings Review* 7, no. 3 (1989). 36-37 on the relationship between congress and the individual States.

negotiations and contracting (whether formal or informal), then ex post monitoring, are increased to mitigate this hazard. Secondly, and perhaps more seriously, it can affect major structural decision-making. As Alchian and Woodward note, having to buy in services exposes the purchaser to a hold up risk, making outright ownership or even rental for self-use more attractive. This decision will be informed by the monitorability, in this case linked to the perceived reliability of the supplier agency, and degree of dependency involved.<sup>186</sup> Thus the overall nature of the community and its participants becomes important again. A collegial, co-operative venture such as that found in the United Kingdom will concern itself far less with hold-up (but, as subsequent chapters make clear, will still do so when property rights are blurred) than will a more competitive, adversarial system such as that found in the United States. Consider respectively for example the Central Intelligence Agency's ownership of an internal SIGINT capability,<sup>187</sup> arguably a response to a vulnerability to hold-up by the Department of Defense, and the development of individual counterterrorism capabilities by local Police Departments in US cities as a response to a perceived vulnerability to hold-up by the Federal Bureau of Investigation.<sup>188</sup> In both cases the supplier agency have also been seen as competitors, making the threat of opportunistic behaviour by them enough of a concern to influence preferred institutional organisation at significant cost.

The indivisibility of large-scale units also permits opportunistic behaviour by some actors. The example cited by Williamson is applicable in the intelligence or security cases, where information specialisation is a permanent feature of the organisational landscape, and large, usually monopolistic suppliers are the norm. In his footnote he describes a situation where a reliable information specialist deviates from optimal behaviour by

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<sup>186</sup> Alchian and Woodward, "The Firm Is Dead; Long Live the Firm a Review of Oliver E. Williamson's the Economic Institutions of Capitalism."68

<sup>187</sup> Jeffrey Richelson, *The U.S. Intelligence Community*, 6th ed. ed.(Boulder, CO: Westview Press, 2012).23

<sup>188</sup> Robert Block, "Miffed at Washington, Police Develop Own Antiterror Plans," *The Wall Street Journal* 10th October 2005. See Garrett M. Graff, *The Threat Matrix : The F.B.I. At War*, 1st Back Bay pbk. ed. ed.(New York: Back Bay Books, 2012).157-158 for early FBI/NYPD relationships and Richard A. Posner, *Uncertain Shield : The U.S. Intelligence System in the Throes of Reform*(Lanham, Md.: Rowman & Littlefield ; Distributed by National Book Network, 2006).116, 120-122

erroneously informing most recipients that the state of things is  $y$ , and only truly informing his preferred recipient that it is in fact  $x$ , and then capitalises with him/her using the advantage that pertains. In the intelligence context this might be through improving the standing of, for example, the US Department of Defense elements over civilian agencies in the eyes of the Executive by the judicious use of some details or by using slightly different phrasing concerning product from its satellites. This need only be a matter of very slight differentiation on how intelligence is reported. Williamson makes the point that whilst in most circumstances, equivalent behaviour is regulated against, the initial state of information asymmetry and inevitable element of assumption as to future developments make the likelihood of successful sanction minimal.<sup>189</sup>

In the intelligence sphere the situation is thus still less clear cut in that the opportunistic behaviour need not be of the deliberate or malicious type envisaged by Williamson in his analysis. Rather it is a natural result of circumstances: The information as final product is likely to contain a higher percentage of analysis over irrefutable fact than would be the norm in more conventional circumstances, so that where it is produced will matter. This is particularly the case where possible future events are being predicted. The host agency of the information specialist will certainly be more fully sighted on the detail and how particular conclusions were reached, as well as their strength against other possible interpretations, and are thus already advantaged. This will matter less if the collection and analytic parts of the process are housed within separate agencies (as for example is the case between the United Kingdom's Secret Intelligence Service and Foreign & Commonwealth Office) than when a part of the same undertaking (as is the case with the Central Intelligence Agency in the United States). Organisational form will thus affect the level of institutional costs from the outset. More importantly however the information specialist will almost certainly suffer from a pre-formed bias fashioned during any career within a parent agency or department. At the extreme these parent bodies have been

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<sup>189</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.42

described by Paul Flynn as "... a series of fiefdoms that are not particularly focused on any set of national aims and objectives"<sup>190</sup> so these residual loyalties will have impact. As Abraham Maslow's maxim would have it; "it is tempting, if the only tool you have is a hammer, to treat every problem as if it were a nail".<sup>191</sup> The synopsis then produced by the information specialist will inexorably be drawn to viewing the problem through the prism of their personal and organisational perspective. A soldier is more likely to see a military issue, a police officer a law enforcement one, and so forth.

Thereafter more demonstrably opportunistic behaviour is likely. Most 'central service' type postings, where a lot of information specialisation takes place, are of a temporary nature (on both sides of the Atlantic), with personnel being drawn from, and returned to, their original units. For reasons closely linked to the pursuit of their own rational self-interest, there is an innate tendency on the part of any information specialist to favour their parent body over the central service one.<sup>192</sup>

To return to Williamson's analogy, it is hard for all users of the specialist information to discern, *ex ante*, whether x or y is the true case – indeed if they could they would have little need of the information specialist's services – especially when the observable information in either case is similar and minimal. Even in the event of clearly (post event) false reporting it is likely to be impossible, as Williamson suggests, to establish what was produced through opportunistic behaviour and what was a genuine mistake. In the intelligence sphere this difficulty is magnified across several levels, as subsequent consideration of the Iraqi threat in 2003 on both sides of the

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<sup>190</sup> Paul Flynn in "Who Does Uk National Strategy? Oral Evidence Taken before the Public Administration Committee on Thursday 9th September 2010 (Chair Bernard Jenkin)," ed. House of Commons Public Administration Select Committee(London: The Stationery Office, 18th October 2010).

<sup>191</sup> Abraham H Maslow, *The Psychology of Science: A Reconnaissance*(Maurice Bassett, 2004).

<sup>192</sup> Although this problem is recognised, and proposals to obviate have been made such as those contained in "Who Does Uk National Strategy? Oral Evidence Taken before the Public Administration Committee on Thursday 9th September 2010 (Chair Bernard Jenkin)." solutions remain elusive. Nonetheless the gains from employing professionals with diverse experiences, gained from a variety of parent agencies, have proved substantial at the operational level, as the case of the UK's Joint Terrorism Analysis Centre (JTAC) and at the strategic level the past successes of the Joint Intelligence Committee (JIC) Assessments staff has demonstrated. See Chair Rt Hon Kim Howells Intelligence and Security Committee, "Annual Report 2007-2008,"(London: Intelligence and Security Committee ISC, 2008). and Davies, "Twilight of Britain's Joint Intelligence Committee?."

Atlantic makes clear.<sup>193</sup> In fact the term opportunism may be something of a misnomer as an individual may well have a genuinely held belief that their interpretation and resultant policy preference is best for all. Their world view will have been informed by a nontrivial 'learning by doing' experience (to which Williamson refers) within their own organisation which will be an integral part of this. The lack of mischievous intent however does nothing to lessen the potential damage that such behaviour might cause, or the higher institutional costs that its possibility must engender. Organisational design can however reduce this problem significantly, as the success of the United Kingdom's Joint Terrorism Analysis Centre (JTAC) demonstrates.<sup>194</sup>

#### iv) Bounded Rationality

In his 1945 study, Friedrich Hayek concluded that if organisational issues are to be properly addressed in an operational way, it was essential that the bounded rationality of human actors be centrally featured.<sup>195</sup> Williams went further by dividing his examination of the problem into two distinct spheres: The limits imposed by neurophysiological/computational capacity, and the limits that language creates, where the term language is used idiosyncratically to include the range of communication devices used, such as shared social norms and concepts, which are inevitably developed within a group as its members pursue economies of communication.<sup>196</sup> This can have very real implications for institutional costs between communities with different understandings of a particular term. The term intelligence itself for example is a particular type of information in the UK, whilst in the US information is a 'component of intelligence', yet the two nations work together

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<sup>193</sup> See for example the United States Senate report discussion of where failures occurred; whether within the underlying intelligence (or lack of it), the analysis of it, or policymakers statements based around it: Select Committee on Intelligence (Chair Senator Pat Roberts), "Report of the Select Committee on Intelligence on Postwar Findings About Iraq's Wmd Programs and Links to Terrorism and How They Compare with Pre-War Assessments Together with Additional Views," ed. Select Committee on Intelligence (8th September 2006). compared to the Senates more aggressive Press Release U.S. Senate Select Committee on Intelligence, "Press Release of Intelligence Committee: Senate Intelligence Committee Unveils Final Phase Ii Reports on Prewar Iraq Intelligence (Chair Senator John D. Rockefeller) " news release, 5th June 2008, <http://www.intelligence.senate.gov/press/record.cfm?id=298775>.(which did not consider the policy making level).

<sup>194</sup> Mid Level JTAC Officer J1, interview by Author, January, 2011, London.

<sup>195</sup> Hayek, "The Use of Knowledge in Society."519,527

<sup>196</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.21 and 254-255

constantly in the intelligence sphere.<sup>197</sup> Although he does not explicitly describe them as such, for Williamson language costs are an issue of social constructivism, and it is in this sense that the term is used throughout this thesis. Both the computational and language aspects of bounded rationality have substantial relevance to the intelligence and security spheres.

Computational limitations will pertain in any circumstance where complexity exists. Williamson quotes Herbert Simon's summation that "The capacity of the human mind for formulating and solving complex problems is very small compared to the size of the problems whose solution is required for objectively rational behaviour in the real world".<sup>198</sup> The problems experienced due to this neurophysiological constraint will be magnified exponentially in the face of uncertainty, where numerous factors will interact, so that in both the security and intelligence areas bargaining will never achieve anything like a complete contract. Bounded rationality in these cases thus ensures that appropriate adaptations cannot be feasibly included in contracts.<sup>199</sup> Fully clear property rights will therefore be similarly elusive, and actors vulnerable to not only ex ante, but also ex post opportunistic behaviour.

The effect of the language form of bounded rationality is a factor of the level and type of information impactedness, a condition prevalent within both the intelligence and security fields. This can involve an inability for the various elements to a negotiation to communicate successfully in a mutually understood language due to differing codes or norms, or even a requirement for more technical jargon. Further to this it can also mean that the parties understand something different without realising the discrepancy, for example where different agencies are pursuing slightly different optimal outcomes but assume their colleagues are of the same mind. Ironically two of the primary purposes of an organisational hierarchy are to extend the bounds of rationality through specialisation of decision making without needing complete information, and to

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<sup>197</sup> Davies, "Intelligence Culture and Intelligence Failure in Britain and the United States."500

<sup>198</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.9 quoting Herbert A. Simon, *Models of Man: Social and Rational; Mathematical Essays on Rational Human Behavior in a Social Setting*(New York,: Wiley, 1957).198

<sup>199</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.17

economise on communication related expenses,<sup>200</sup> but language issues will inevitably undermine this pursuit. Although the contract to provide a particular aspect of security is not re-negotiated in the same way a contractor bids to fulfil a contract, issues such as primacy for a particular operation may be regarded as parallel, and the same small-numbers problem is observable.<sup>201</sup> Thus the fact that the United Kingdom's Senior National Coordinator for Counter Terrorism operations is a police officer offers the possibility that police bids for primacy will be better understood and more sympathetically considered because they are couched in language he or she understands.<sup>202</sup>

One of the organisational problems involved in overcoming bounded rationality is ironically that it is a combination of information asymmetry and bounded rationality that makes it impossible for leaders to distinguish necessary fundamental structural change proposals from opportunistic ones. An inability or very high cost attached to communicating and assessing such change mean that there is a tendency to water-down proposals and then see how the consequences manifest themselves via performance. However, as Williamson warns, performance is a function of many factors, not all within one's organisational domain, so that sorting out what is attributable to structure is difficult.<sup>203</sup> Nor are the obvious solutions any sort of perfect response; Williamson demonstrates that leaving gaps in agreements, and adopting a process of adaptive sequential decision making, prevents new hazards,<sup>204</sup> re-emphasising his contention that there is no perfect organisational form.

#### v) Probity

Probity, or trust between actors, has institutional cost implications for the intelligence and security fields because although the particular circumstances of any one issue might be unique, the relationship of those involved in addressing it will not be. The impact of temporality to the range of possible

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<sup>200</sup> Ibid.257

<sup>201</sup> Ibid.35

<sup>202</sup> P1.

<sup>203</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.193

<sup>204</sup> Ibid.75

paths and forms an organisation might take (including those dedicated to intelligence or security provision) has been described in detail by Grey in his examination of the disputes, agreements and eventual evolution of the Bletchley Park decoding organisation.<sup>205</sup> In that case as in others, there exists an ongoing, sequential set of negotiations and actions that beget further bargains and actions. In each of these negotiations not only does information have to be shared, it must also be believed to be true.<sup>206</sup> This, coupled with the vulnerabilities the subject matter engenders, means that trust between participants is a prerequisite. Whilst this can produce negative effects if individual actors or agencies go unchecked, without it cooperative success would be impossible. Indeed Casson argues that trust is the fundamental basis of cooperation and how managers engender such trust can define them as leaders.<sup>207</sup>

The probity of actors that will create conditions of mutual trust then has a particular value within an intelligence community beyond that originally described by Williamson,<sup>208</sup> and in his subsequent work on the public sector and foreign affairs in particular the importance of probity is more directly acknowledged.<sup>209</sup> It impacts at the inter and intra-agency level, and between the intelligence communities and their consumers. These then are Williamson's three parts of public sector probity: The vertical, horizontal and internal,<sup>210</sup> and his diagram is adapted below with an intelligence agency made central, security agencies as his 'counterpart agencies', and to include the distinct bodies charged with oversight as an additional vertical responsibility (Figure 2.4):<sup>211</sup>

As can be seen the inter-relationships are two-way. It is of course important that the policy maker or the governmental machinery that represents him has

<sup>205</sup> Grey, *Decoding Organization: Bletchley Park, Codebreaking and Organization Studies*.

<sup>206</sup> Mark Casson and Marina Delia Giusta, "The Costly Business of Trust," *Development Policy Review* 22, no. 3 (2004).322

<sup>207</sup> Mark Casson, *Entrepreneurship and Business Culture*(Aldershot: Edward Elgar, 1995). and *The Economics of Business Culture: Game Theory, Transaction Costs, and Economic Performance*, Oup Catalogue (Oxford: Clarendon Press, 1991).

<sup>208</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.106-108

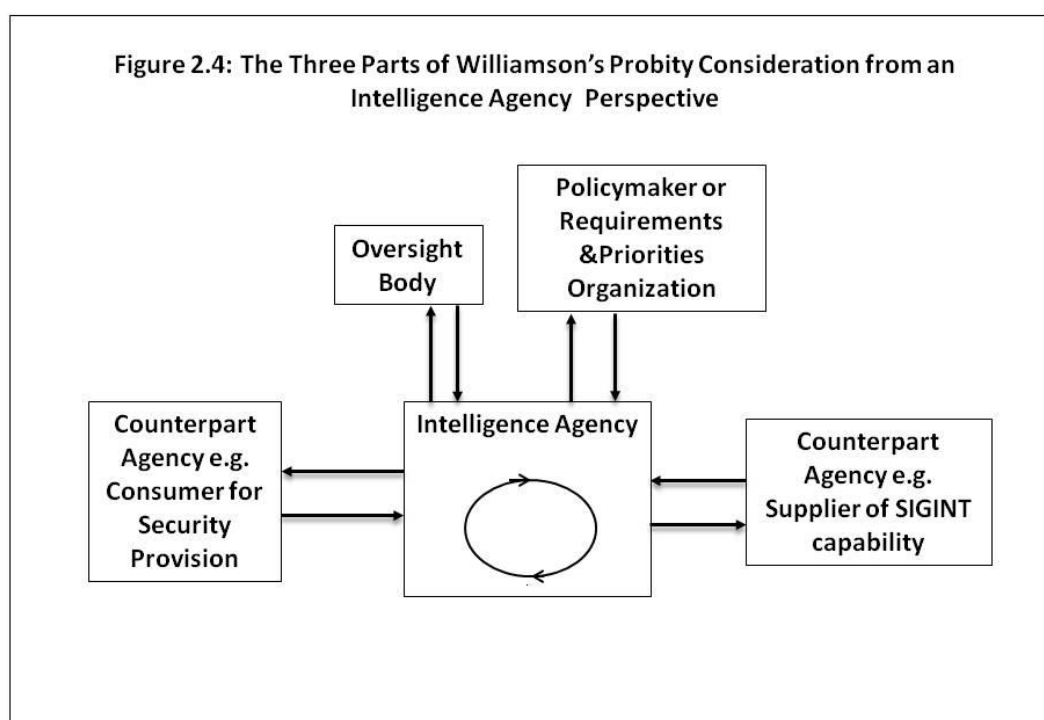
<sup>209</sup> Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives."

<sup>210</sup> Ibid.322-324

<sup>211</sup> Source of diagram: Own design developed from ibid.323



confidence that the agencies goals are congruent with their own, that compliance is timely and efficient, that the quality of the information and where applicable, and its analysis is adequate (or, at the minimum, shortfalls in knowledge are clearly indicated as such).<sup>212</sup> However it is also important that the agency maintains a trust in their political or working level masters, and believes that it will handle the intelligence provided appropriately and use it for proper purposes.



Like any large-scale complex task, a Nation's intelligence and security effort is necessarily a co-operative affair between a number of agencies divided into discrete functions that must then be re-integrated into what Davies describes as "...a single, coherent unified effort". Re-integration is crucial if security is to be maintained or proper policy decisions made, so that "The effectiveness of each individual agency rests on the effectiveness of interagency management in intelligence more acutely than in many, and

<sup>212</sup> See inter alia Allen Dulles, *The Craft of Intelligence : America's Legendary Spy Master on the Fundamentals of Intelligence Gathering for a Free World*(Guilford, Conn.: The Lyons Press, 2006). Hitz, *Why Spy? Espionage in an Age of Uncertainty*.

probably most, areas of national government.”<sup>213</sup> Trust between them is therefore essential and obvious. Less obvious is that different sub-goals from agency to agency may establish differing ideas of probity within each, which can undermine that trust if appropriate inter agency organisation is absent.

This difficulty is extenuated because of the need for a commonly understood sense of probity at an intra-agency level. Philip Selznick observes that the “The chief virtue of integrity is fidelity to self-defining principles” and that “each type of institution ... has a distinctive set”.<sup>214</sup> Thus there is an inherent tension between effective intra-agency and inter-agency cooperation that is based in both social conditioning and procedural constraints. It follows therefore that hazards arising through the interaction of asset specificity and probity will, as Williamson states, be best mitigated within a governance structure that “supports a presumption of, or predisposition toward, cooperativeness...”<sup>215</sup>

There is, then, a symbiotic relationship between the level of trust between individuals and organisations, and the institutional costs that are incurred during their interactions. Williamson observes that “Co-operation is jointly determined by social factors and incentive alignment” so that “... efficiency depends in part on the distributive process in the co-operative system.”<sup>216</sup> The clarity of property rights and boundaries will matter much less if all parties have faith in the others sense of probity. In spheres where complete contracting is impossible as future situations cannot be fully known but only hypothesised (as is currently the case with the growing cyber security field for example) a belief that others will deliver what is required of them, and not act to exclude other actors from subsequent negotiations, will reduce costs in ex ante policy implementation and post event monitoring.

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<sup>213</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1, 1

<sup>214</sup> Philip Selznick, *The Moral Commonwealth : Social Theory and the Promise of Community*(Berkeley: University of California Press, 1992).p.322 and quoted by Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives."323

<sup>215</sup> "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives."324

<sup>216</sup> Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting*.6 and quoting Chester Irving Barnard, *The Functions of the Executive*, Fifteenth Printing ed.(Cambridge University Press, 1962).58

Nonetheless there is a dichotomy within the transactions cost literature between a relationship reliant on probity, and a more calculative approach whereby possible outcomes are assessed and met with a range of cost-effective actions based on mitigating threats while maximising benefits.<sup>217</sup> Any such deterministic approach to trust will be unsuitable in the highly uncertain environment inhabited by security and intelligence actors, where calculations of reciprocity are anyway rarely based on any kind of like-for-like exchange. Where transaction costs would suggest a hierarchical form of organisation for exchanges that are essentially idiosyncratic, trust in the probity of other actors allows for both less formal control systems and the formation of deeper cooperative inter-organisational relationships that can provide the necessary temporal dimension, although the nature of each type of trust is subtly different.<sup>218</sup> Thus while transaction costs analysis does allow that trust can improve the resilience and adaptability of contracts,<sup>219</sup> this facet of probity is of greater significance when issues of governance like security and intelligence are considered.

Williamson states that the general rubric for transaction cost analysis is that of risk mitigation through ex-post governance, necessary because as all complex contracts are incomplete and thus "... the contracting fiction of ex ante incentive alignment is untenable."<sup>220</sup> However his conclusions on incentive alignment for sovereign transactions, which include security or intelligence activity, are that the necessity for probity (in conjunction with the asset specificity of the human assets involved) dictates a Weberian type bureaucracy with very low powered incentives. In this view, the now superseded ideals of a well recognised hierarchical authority, fixed administrative methods and an absolute distinction between private and business assets<sup>221</sup> are favoured over the high powered incentives where

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<sup>217</sup> Oliver E Williamson, *The Mechanisms of Governance* (Oxford, New York: Oxford University Press, 1996). discussed in Casson and Giusta, "The Costly Business of Trust." 323

<sup>218</sup> Described as 'fragile' and 'resilient' trust in Peter Smith Ring, "Fragile and Resilient Trust and Their Roles in Economic Exchange," *Business & Society* 35, no. 2 (1996). and Peter S Ring, "Processes Facilitating Reliance on Trust in Inter-Organizational Networks," *The Formation of Inter-Organizational Networks* (1997).

<sup>219</sup> Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting*. 63

<sup>220</sup> Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives." 322

<sup>221</sup> Weber, Roth, and Wittich, *Economy and Society : An Outline of Interpretive Sociology*. 956-959

personnel can "... appropriate streams of net receipts", as these are likely to "... place the fidelity of the system at risk".<sup>222</sup> In such circumstance ex post governance structures will necessarily need to be very high to compensate.

The reliance on ex post governance structures promote innovation and improved efficiency. When coupled with the trust based, co-operative requirements described above, cultural factors can thus be seen to have economic implications. The competitive nature of American business life is reflected in their public bodies, including providers of security, law enforcement, and intelligence whereas in the United Kingdom the more co-operative approaches found in most working environments filters into these spheres too.<sup>223</sup> Clearly faith in the probity of one's fellows will reduce institutional costs, and it will be much easier to achieve with someone seen as part of the same undertaking than with someone with whom one has to compete. Competition may encourage innovation, but it will also discourage sharing and trust. As subsequent chapters will demonstrate there are thus significant differences between the level of United States and United Kingdom institutional costs because of this probity problem. Even within the Federal Bureau of Investigation for example, managers regard it as advantageous to have different agents compete with each other for recognition and advancement to keep them focused.<sup>224</sup> This may have some advantages where individual instances of crime are being investigated, but it has pushed the institutional costs generated during activities such as intelligence, which requires information sharing and co-operation, beyond a proportionate level. As Barnard concluded as early as 1938, informal organisation matters every bit as much as formal organisation,<sup>225</sup> and the frictions which are institutional costs can be introduced via either.

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<sup>222</sup> Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives." 325

<sup>223</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

<sup>224</sup> Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*. p.114,149-150 Posner, *Remaking Domestic Intelligence*.15

<sup>225</sup> Barnard, *The Functions of the Executive*. quoted in Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting*.6

#### d. Environmental Variables and Factors:

##### i) Uncertainty and Complexity

As subsequent chapters will make clear, the issues of complexity and uncertainty pervade the intelligence and security domains. The problems that decision makers need to address are frequently based on 'possible futures' that are hard to predict given the complexity of possible interactions that could affect the scenario in question,<sup>226</sup> and the organisational apparatus needed to deal with them effectively is necessarily little simpler.

For Williamson uncertainty is inextricably associated with bounded rationality. The co-relation between them may be likened to that between the 'mysteries' and 'secrets' (respectively) of the intelligence world, and the same problems of predicting outcome, whether at policy or operational level, pertains.<sup>227</sup>

In his 1950 paper considering the evolutionary aspects of firms in the face of uncertainty, Armen Alchian advances the model offered by Gerhard Tintner who also considered the effect of subjective uncertainty on decision-making.<sup>228</sup> Tintner demonstrates that, critically, under conditions of uncertainty any possible action (in our case on the part of security or intelligence personnel) has not one, but a range of potential outcomes. Although only one actual outcome will occur, decision makers cannot know which that will be. Under such circumstances there is a spectrum of potential outcomes. Within these there will be, for example, an action offering a higher mean but greater spread of the possible utility to be achieved, and another with a smaller mean but smaller spread. In such circumstances there is no useful maximum utility guaranteed as a result of the action selected (except in unusual cases where the actions in question could generate wholly

<sup>226</sup> Daniel Javorsek II and John G Schwitz, "Probing Uncertainty, Complexity, and Human Agency in Intelligence," *Intelligence and National Security*, no. ahead-of-print (2013).

<sup>227</sup> There exists a longstanding distinction between secrets and mysteries in the intelligence community, described in Butler of Brockwell, *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors* 14 "A hidden limitation of intelligence is its inability to transform a mystery into a secret. In principle, intelligence can be expected to uncover secrets. The enemy's order of battle may not be known, but it is knowable. The enemy's intentions may not be known, but they too are knowable. But mysteries are essentially unknowable: what a leader truly believes, or what his reaction would be in certain circumstances, cannot be known, but can only be judged."

<sup>228</sup> Gerhard Tintner, "The Theory of Choice under Subjective Risk and Uncertainty," (1941).

distinct, non-overlapping possible outcomes), but rather a choice between different distributions of possible results; a very different calculation.<sup>229</sup>

Even within the relatively straightforward arena of profit and loss this is a complex problem, but at least the distribution of utilities potentially achievable can be compared like for like. In the security sphere the issue is further affected by the distinction of type, as well as scale, between potential outcomes. At the extremes decision-making may be simplified by an overwhelming 'distaste' for some outcomes. In the counterterrorism sphere this may, for instance, be a significant loss of life. Or, in the counter intelligence world the possible loss of a nuclear secret or serious harm to the State. The avoidance of even their possible occurrence will limit the actions available. Bounded rationality may however make even these circumstances difficult to recognise. More routine situations will offer a combination of uncertainty as to both the exact circumstances faced and the possible outcomes, and bounded rationality, which will prevent proper computation of them and the utility to be achieved. The degrees of distaste for outcomes to be avoided cannot of course be given an accurate ordinal value, but they can at least be rank ordered. An examination of the United Kingdom's protective marking system, and how items are ascribed a classification of, for example, secret rather than top secret, indicates the seriousness that the State places on each type of harm that loss might provoke.<sup>230</sup> So too can other levels of protection such as limiting circulation to favoured or trusted allies. Similarly 'Standard Operating Procedures' can be indicative of the value individual agencies place on particular benefits and harms. This is synonymous with Alchian's 'preference function' and may be based on both negative outcomes preferably avoided and positive outcomes sought, but as he observes, this does not in itself provide a "criterion of rationality or choice" in the face of uncertainty.<sup>231</sup>

The implementation of any such preference function necessitates the introduction of standardised rules for given sets of circumstances. Whether

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<sup>229</sup> Armen A Alchian, "Uncertainty, Evolution, and Economic Theory," *The Journal of Political Economy* (1950).

<sup>230</sup> "Government Security Classifications."

<sup>231</sup> "Uncertainty, Evolution, and Economic Theory." 212-213

they are framed as 'Standard Operating Procedures' (SOP's) or 'doctrine' these are intended to ensure that the actions of junior levels reflect the preferences of more senior ones. However they are rarely duplicated across different organisations unless based in law,<sup>232</sup> even where different organisations will find themselves working alongside one another. Put into institutional cost terms, in the general case categorisation of problems reduces costs by treating issues within designated criteria as the same, so that new solutions need not be sought (and in more individualistic cases the costs of searching outside normal procedures has the additionally desirable effect of restraining any ill considered "... passage of "impulse into action").<sup>233</sup>

However the very precision and reliability of bureaucratic responses discussed as a positive by Weber, that is as a method of reducing frictions, thus increasing efficiency, can in only slightly more uncertain circumstances have the polar opposite effect as a result of "trained incapacity" and "occupational psychosis".<sup>234</sup> Both of these can corrupt Weber's efficiency effect and increase costs. At the extreme the original goals of an organisation could even be displaced by the increasing rigidity of the regulatory framework intended to support them; "... an instrumental value becomes a terminal value". This in turn means the bureaucracy can no longer adjust readily, and indeed may exhibit a defensive tendency when required to do so. Entrenched interests and internal loyalties to the status quo can outweigh broader organisational goals.<sup>235</sup> These rigidities are of course synonymous with the institutional costs associated with asset specificity (as discussed below). Thus an attempt to lower the institutional costs caused by one environmental condition can increase those associated with another.

The opaqueness around best outcomes in the face of uncertainty impacts on decision making across all levels of security or intelligence delivery. In the

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<sup>232</sup> Even this is not a hard and fast rule: For example then Director of National Intelligence Dennis Blair gave two speeches in 2010. The first related to the work of both the Police and intelligence, the second did not. See Dennis C. Blair, "Road Rules for the Intelligence Community," *Vital speeches of the day* 76, no. 4 (2010); "It's up to You, to Think Creatively, and...Do What's Right for the Entire Intelligence Community, and for the Count," *Vital speeches of the day* 76, no. 9 (2010). respectively.

<sup>233</sup> Robert K Merton, "Bureaucratic Structure and Personality," *Soc. F.* 18(1939).560 citing Harold Lasswell, "Politics: Who Gets, What, When, How?," 1936," *New York* (1965).120-1

<sup>234</sup> Merton, "Bureaucratic Structure and Personality." 562

<sup>235</sup> *Ibid.* 563-5

private sector of course a firm need only be better than its rivals to survive, rather than some imaginary perfect competitor. Although public sector bodies do not 'perish' in the way firms can, and do not therefore evolve via selection in quite the same way, successful strategies and elements of agencies will be favoured over those that fail, which will naturally atrophy;<sup>236</sup> Alchian reasonably suggests that "The economic counterparts of genetic heredity, mutations, and natural selection are imitation, innovation and positive profits" (the last of which is arguably akin to success in public sector bodies<sup>237</sup>). However uncertainty ensures that this need not be related to positive adaption or decision. Chance becomes an element of success, but as Alchian notes the strategy that brought success is likely to be adopted as good no matter how randomly selected.<sup>238</sup> Thus under uncertainty the tendency to imitate rather than innovate increases exponentially.

Alchian identifies six factors that motivate the imitation of past successes in preference to freshly informed decision making; and all are present in both the security and intelligence environments where uncertainty is conjoined with bounded rationality. These factors are: An absence of clear criterion for decisions, a shifting environment, too numerous a variety of factors relevant to decisions, uncertainty within each of them, the absolute imperative of superiority over the 'competition', and no trial and error option. Imitation thus allows under-pressure officials or policy makers to avoid real decision making in favour of creating conventions, social norms, or 'standard operating procedures' based on previously observed success.

Certainly a successful genuine innovation would reap dividends, but these would be limited under the low-powered incentives usually found in the public sector pursuant to the needs of probity discussed elsewhere. The risks of a failed innovative approach are significant, and often more personally felt, so the bar defining 'success' is likely to be far higher. Identifying when, and when not, to break with these conventions is difficult as in complex and dynamic environments such as these no two instances will ever actually be

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<sup>236</sup> For a full discussion of different views of evolutionary adaption in organisations see Christiane Demers, *Organizational Change Theories: A Synthesis*(Sage Publications, 2007).

<sup>237</sup> Discussed further in Chapters 3 and 4.

<sup>238</sup> Alchian, "Uncertainty, Evolution, and Economic Theory."214-220



the same. However deciding whether the degree and type of difference observed is such as to require a wholly innovative responses is nigh on impossible. Convergence to an optimum is not a possibility due this lack of repetition as well as the seriousness of failure (equating to the death of a firm), so that the maximand needed to allow Coasian bargaining is obscured and an ability to determine the “..... goodness of actions in anything except a tolerable-intolerable sense is lost”.<sup>239</sup> Where a threat is of an immediate and serious nature, such as during an active terrorist operation, this may be adequate but for longer term and more mundane issues uncertainty over outcome will alter the tenor of debate and the possibilities considered.

Interwoven with this uncertainty is the complexity of most security or intelligence scenarios, which generally involve multiple actors and need to be considered over various time-frames. Again, the bounded rationality of actors is the principal behavioural issue magnifying complexity problems, but the risk of opportunistic behaviour is also significant. Damon Coletta has argued for example that the increasing complexity of the military sphere has increased levels of 'principal-agent' frictions between governments and their armed forces, as well as with actors in their wider operating environment.<sup>240</sup> It is also pertinent to note that complexity and uncertainty create their own dynamic at an organisational as well as operational level.

The systems that provide intelligence or security at a national level are necessarily complex and exhibit the characteristics of complex systems discussed below, as summarised by Calvin Andrus in his exhortation to the United States intelligence community to be more adaptive.<sup>241</sup> All have institutional cost implications, whether positive or negative:

1. Self-Organisation – Individual actors in proximity to each other act in the same way without necessarily increasing efficiency (in keeping with earlier notions of the isomorphic tendencies observed by Walter Powell

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<sup>239</sup> Ibid.219

<sup>240</sup> Damon Coletta, "Principal-Agent Theory in Complex Operations," *Small Wars & Insurgencies* 24, no. 2 (2013).

<sup>241</sup> D Calvin Andrus, "The Wiki and the Blog: Toward a Complex Adaptive Intelligence Community," *Studies in Intelligence* 49, no. 3 (2005).

and Paul Di Maggio).<sup>242</sup> At an organisational level this creates costs. Senior executives must try to manage the costs and benefits of maintaining a broad repertoire of intelligence or security options, whilst still attempting to keep the agencies involved engaged with a single strategy. At an operational level isomorphism causes problems in terms of analytic product, with costs incurred to prevent groupthink.<sup>243</sup>

2. Emergence – The successful creation of a genuinely inter-operable intelligence or security community will allow it to produce benefits beyond those anticipated by the simple sum of its parts. Conversely the introduction of a discordant element can have disproportionate costs, as was the case after the introduction of the Department of Homeland Security to the United States intelligence community. The same positive and negative trends can be observed at every level; even for example in the efficiency of a single surveillance team or during equivalent operational level activity.
3. Relationships – Relationships matter in the security and intelligence fields, but can be costly to maintain in a complex environment. Most obviously the productivity of an agent will be determined by the quality of his or her relationship with their handler or case-officer, but the case-officers loyalty is to his or her employer and their multi-faceted goals. Similarly the type of relationship experienced between departments or agencies (whether collegial or competitive for example) will also affect costs and outcomes. These costs will be increased exponentially as actors are required to trade-off advantage now for goodwill later within an

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<sup>242</sup> Paul J. DiMaggio and Walter W. Powell, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields," *American Sociological Review* 48, no. 2 (1983):65 Writing in Walter W Powell, *The New Institutionalism in Organizational Analysis*(University of Chicago Press, 1991). the authors argue that a discrete field can "only exist to the extent that they are institutionally defined and that the process of institutional definition, or structuration, consists of four parts: An increase in the extent of interaction among organisations in the field; the emergence of sharply defined inter-organisational structures of domination and patterns of coalition; an increase in the information load with which organisations in a field must contend; and the development of a mutual awareness amongst participants in a set of organisations that they are involved in a common enterprise".

<sup>243</sup> See inter alia Stephen Marrin, *Improving Intelligence Analysis: Bridging the Gap between Scholarship and Practice*(Routledge, 2012). "Improving C.I.A. Analysis by Overcoming Institutional Obstacles." For a broader view see Rob Johnston, "Analytic Culture in the Us Intelligence Community: An Ethnographic Study,"(DTIC Document, 2005). and in the military sphere "Quick Wins for Busy Analysts," ed. Defence Intelligence Futures and Analytical Methods Team(Ministry of Defence, July 2012).

increasingly complex community. The subsequent tendency to assess situations based on the existing assessment of those with whom one is allied can have either cost-saving benefits or negative outcomes as the 2003 Iraq assessments made clear.<sup>244</sup>

4. Feedback and Adaptability – With information being so central to the efficient operation of both security and intelligence activity the manner in which it is adjusted as it works its way around the system and back to the originator is critical. In a successful system the original data will be enhanced with additional information that benefits the final product and thus the resultant decision making in excess of the costs of circulation. However in both spheres information is invariably incomplete and unproven, and both are open to new information from the external environment. Divergent opinions and tangential issues can all play both positively or negatively as information moves through the system. White noise can obscure and even corrupt the original message so that either the wrong degree or direction of damping or amplifying occurs within the feedback loop. The more complex the system through which information needs to pass is, the more likely this becomes. It results in both the data and the system itself adapting, but always to the last situation, so that inefficiency costs accrue due to its imperfection for the next situation. For example, considered within the context of the internationalisation of counterterrorism intelligence, such complexity and the costs associated with it are obviously on the increase. However the more routine phenomena of circular reporting has always been a problem, whether in counterterrorism or counter-intelligence operations.<sup>245</sup>
5. Non-linearity – The complexity and the quantity of influences constantly acting on any issue within either the intelligence or security sphere mean

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<sup>244</sup> "Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors," in *The Butler Report* (London, United Kingdom: House of Commons Library, 14th July 2004). and Hon. Laurence Silberman and Hon. Charles S. Robb, "The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction," (Washington DC 31st March 2005).

<sup>245</sup> Circular reporting is prevalent where the original source of a piece of information is necessarily obscured, but then different actors share the information without specifying its point of origin, so that when it feeds back to the originator via a removed channel it appears as new, and therefore corroborative, data. This is a cost that inevitably increases as the intelligence ethos shifts towards a duty to share from the previous need to know, and managing it can impose significant institutional costs of its own.

that consequences are likely to be out of proportion to the original environmental change, and unpredictable in their nature. Both increase institutional costs and make pre-emptive adaptation to minimise them difficult.

## ii) Asset specificity

As has already been discussed asset specificity has been associated with the hazard of hold-up by Alchian and Woodward, but Williamson has also associated it with the probity needed within sovereign transactions such as intelligence and security provision.

Although Terry Moe regards asset specificity as less relevant to the public sector,<sup>246</sup> Williamson successfully counters that this is to miss the specificity of human assets, where sunk costs include significant non-transferable training and social conditioning. Sovereign transactions are particularly susceptible to this sort of asset specificity. Williamson discusses Foreign Service officers, but those involved in either intelligence gathering or security provision are likely to be no less particular. So too will the “..... requisite deep knowledge of protocols and procedures” be imbued into personnel, especially where secrecy is involved.<sup>247</sup> The asset specificity of personnel has two distinct transaction cost effects: First, that these are incurred in mitigating it as a hazard through security of employment (which may include continuing payment to ineffective personnel), maintaining internal dispute resolution machinery, and related conventional incentives. Second that the asset specificity of staff will significantly increase the consequence of the behavioural hazard of probity (discussed previously).

The problems resulting from asset specificity extend beyond the immediate resources being used on a particular intelligence pursuit or security risk. They can also be seen permeating through the formal and cultural institutional configurations of agencies and communities, affecting their ability to function within their current environment, and to adapt to changes in it. Because

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<sup>246</sup> Terry M Moe, "The Politics of Structural Choice: Toward a Theory of Public Bureaucracy," *Organization theory: From Chester Barnard to the present and beyond* (1990).123

<sup>247</sup> Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives." 322

culture is "...related to the total organization (and is) not regarded as phenomena solely vested in the hands of management"<sup>248</sup> it is not necessarily amenable to direction from management. As the property rights discussion below concludes, the impossibility of fully predicting and contracting for all potential circumstances in spheres as uncertain and complex as these results in a significant proportion of what might be required of individuals and agencies being embedded in social norms and an organisations "culture".<sup>249</sup> These less formal and implicit requirements are nonetheless binding on all parties. For the most part this is an advantageous arrangement that allows not only management of minor changes in the environment but also more efficient communication within groups using the "... codes and other shared human capital" referred to by Richard Posner and Luis Garicano<sup>250</sup> (building on the work of Jacques Crémer<sup>251</sup> ). However Kenneth Arrow has shown how agents may be rationally disinclined to change these norms and codes even when faced with changes in their environment.<sup>252</sup>

The use of such informal arrangements reduces the contracting costs between policy makers and agencies, and between agencies and their staff, to realistic levels and provide an efficient means of communication at both the inter and intra agency level using these shared values and understandings. They are nonetheless, as Posner/Garicano observe, a substantial sunk investment.<sup>253</sup> A sunk investment, furthermore that, unlike its contractual equivalent, does not have a pre-designated method of being re-negotiated (however expensive an option that might be in the case of legal contracting). Although they allow minor shifts and flexibility by setting such modifications in a larger cultural understanding around purpose. When more

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<sup>248</sup> Richard M. Cyert, Herbert A. Simon, and Donald B. Trow, "Observation of a Business Decision," *The Journal of Business* 29, no. 4, Human Aspects of Management (1956).458

<sup>249</sup> For a fuller discussion of corporate culture and contingency management using game theory see David M Kreps, "Corporate Culture and Economic Theory," *Firms, Organizations and Contracts*, Oxford University Press, Oxford (1996).

<sup>250</sup> Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective."158

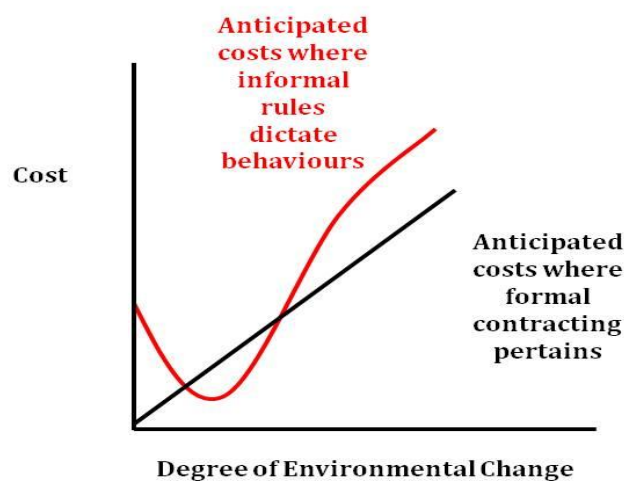
<sup>251</sup> See variously Jacques Crémer, "Corporate Culture and Shared Knowledge," *Industrial and Corporate Change* 2, no. 3 (1993). Jacques Crémer, Luis Garicano, and Andrea Prat, "Codes in Organizations," (2004). Jacques Cremer, Luis Garicano, and Andrea Prat, "Language and the Theory of the Firm," *The Quarterly Journal of Economics* 122, no. 1 (2007).

<sup>252</sup> Arrow, *The Limits of Organization*.13-29 48-59

<sup>253</sup> Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective."158

major re-alignment is required that necessitates a re-evaluation of the culture itself, the extent of the sunk investment in these social norms and codes becomes aligned with the degree of difficulty in altering them in the manner described below (Figure 2.5):<sup>254</sup>

**Figure 2.5: Cost differentials in Formal and Informal Contracting Arrangements**



The fact that an organisation's supporting culture and codes are optimal to an existing external operating environment at a given point in time, but may not be at another, make them an asset that is specific to that environment. This in turn means that cultural factors, and the investment an organisation puts into them whether consciously or not, are hostage to the same vulnerabilities as their other sunken investments. Within the intelligence and security functions, the unusually large degree of risk of change that the complexity and uncertainty of the environment create mean that this problem is exacerbated. Just as an investment in a particular human or technical source may be rendered less valuable than anticipated when events move on; so too will an agencies cultural condition. However in the latter case money alone is unlikely to alleviate the problem as the United States intelligence community has repeatedly found. The most cited case of this problem is the post Cold War adaption from a single, overarching and absolute threat to the plethora

<sup>254</sup> Source of diagram: Own design

that subsequently emerged.<sup>255</sup> However more minor instances abound on both sides of the Atlantic; examples include the United Kingdom's Special Branch reaction to the Security Service being put on a statutory footing,<sup>256</sup> or the Federal Bureau of Investigation's failure to integrate its own intelligence apparatus.<sup>257</sup>

The informal contracting methods embodied in these cultural understandings and organisational codes thus have a dual nature that can be either beneficial or deleterious. Certainly, effective organisation is made easier if, as Luther Gulick argued, there is an 'homogeneity of function' amongst those involved.<sup>258</sup> This is particularly clear when one considers how the asset specific nature of such traditions impacts on another behavioural element of institutional costs; that of probity. As Williamson makes clear in his consideration of the United States Department of State, it is essential to good governance that what he terms 'sovereign transactions' are completed by staff committed not only to the policies of the current Executive, but also the longer term good of the Nation. This requires not only a low-powered incentive scheme to discourage adventurous behaviour, but also a positive investment in human capital.<sup>259</sup> In coming to this conclusion, Williamson is building upon the work of Donald Warwick, who states that the United States foreign service is comprised of an elite that "... places great emphasis on the intellectual and social superiority" of its staff, recruits them from the bottom rather than laterally, thus ensuring that standing values are fully inculcated into them before they become decision makers, and is content that they boast "little in the way of marketable skills".<sup>260</sup> The asset specificity of the resultant workforce is clear. So too is the trade-off that must be made. The often-laudable certainties that this specificity brings are inevitably contrasted

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<sup>255</sup> Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective." 159

<sup>256</sup> Christopher Andrew, *The Defence of the Realm: The Authorized History of M.I.5* (London: Allen Lane Penguin Group, 2009). 776

<sup>257</sup> Posner, *Countering Terrorism : Blurred Focus, Halting Steps*. 135-167

<sup>258</sup> Luther Gulick, "Notes on a Theory of Organization," in *Papers on the Science of Administration*, ed. Luther Gulick and Lyndall Urwick (New York: Institute of Public Administration, Columbia University., 1937). 9-10 Discussed further in chapter 5.

<sup>259</sup> Oliver E Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspective," *Journal of Law, Economics, and Organization* 15, no. 1 (1999).

<sup>260</sup> Donald P Warwick, *A Theory of Public Bureaucracy: Politics, Personality, and Organization in the State Department* (Harvard University Press, 1979). 30-106, quoted in Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspective." 329

with a consequential lack of responsiveness. Williamson suggests that the frustrations with an apparent inefficiency are actually no more than "...a predictable consequence of the syndrome of attributes that define the sovereign bureau (hence should be interpreted as part of the design trade-off)."<sup>261</sup>; an idea with important ramifications for the organisation of an intelligence or security capability.

When the assets inherent in an organisation's personnel become too specific for their, often more immediate, requirements, policy makers are likely to attempt to adapt into a different organisation less weighed down with cultural and formal regulations, or to simply create a different organisation with different assets. Williamson's (somewhat flawed) implication that the creation of the Office of Strategic Services (subsequently the Central Intelligence Agency) was because the State Department proved unwilling to take on tasks that might compromise its core responsibilities for diplomatic missions, and to adapt to the new environment of hostilities, is an example of this.<sup>262</sup> The merits of such moves are of course subject to the individual circumstances of each case, and often subjective: Consider for example the US use of different organisations to achieve very similar policy objectives in Chile in the 1970's. While 'Track 1' was an expansive, whole of government strategy, the more secret 'Track 2' of the Whitehouse and CIA specifically excluded both the State Department and Department of Defence (and thereby both the Ambassador and Defence Attaché).<sup>263</sup> Yet cooperation between these organisations was entirely possible, as the meeting in late 1972 to decide on their joint approach to any potential coup demonstrates.<sup>264</sup>

Different organisational cultures can therefore provide decision makers with a greater range of policy options in the face of asset specificity in any one of them, even as it presents property rights problems. This is demonstrated by

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<sup>261</sup> "Public and Private Bureaucracies: A Transaction Cost Economics Perspective."330

<sup>262</sup> "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives."330 However, although State Department limitations may have been a factor, Williamsons implication is at odds with the accepted history of the formation of the OSS. See for example Bradley F Smith, *The Shadow Warriors: O.S.S. And the Origins of the C.I.A.*(New York: Basic Books, 1983).

<sup>263</sup> Kristian Gustafson, "C.I.A. Machinations in Chile in 1970," *Studies in Intelligence* 47, no. 3 (2007).5

<sup>264</sup> *Hostile Intent: U.S. Covert Operations in Chile, 1964-1974*(Washington D.C.: Potomac Books, Inc., 2007).216



the way different Presidents have utilised the National Security Council as an alternative, shorter term version of the State Department,<sup>265</sup> or as an organ to avoid Congressional oversight as in the Iran-Contra debacle.<sup>266</sup> On that occasion formal rules deliberately increased the asset specificity of the governments 'factors of production' for security, in that case by prohibiting both the Central Intelligence Agency and Department of Defense from funding combatants in Central America. This was in fact done to prevent exactly the sort of unwanted consequences that were eventually experienced. The result was that an alternative, less suitable organisation – The National Security Council – that was very much an animal of the (then current) administration, and had a much smaller sunken investment in the broader United States system of governance that included the legislature, was used instead.<sup>267</sup> Even more gentle evolutionary changes within an intelligence system can be balked by the specificity of the culture or intelligence "theology" as Marrin and Davies consideration of the intelligence/policy interface embodied within the national intelligence estimates system makes clear.<sup>268</sup>

Curiously, even between bodies engaged solely with 'sovereign' transactions, altering an asset so that it becomes more specific to a particular task, and is thus a hostage to the endeavour, can be used to signal to others involved in a joint undertaking that one is genuinely committed to a course of action. In this respect the asset specificity of resources is linked to the probity of those using them, and it can be advantageous despite the additional institutional costs likely to accrue.<sup>269</sup> Asset specificity can therefore mean that organisations are locked into a particular role. This may mean that property rights are clarified, even if flexibility is reduced.

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<sup>265</sup> Bert A Rockman, "America's Departments of State: Irregular and Regular Syndromes of Policy Making," *The American Political Science Review* (1981).911-927

<sup>266</sup> David J. Rothkopf, *Running the World : The inside Story of the National Security Council and the Architects of American Power*, 1st ed.(New York: Public Affairs ; Oxford, 2005).248

<sup>267</sup> See for example *ibid.*242-250

<sup>268</sup> Stephen Marrin and Philip HJ Davies, "National Assessment by the National Security Council Staff 1968–80: An American Experiment in a British Style of Analysis?," *Intelligence and National Security* 24, no. 5 (2009).

<sup>269</sup> Oliver E Williamson, "Credible Commitments: Using Hostages to Support Exchange," (1983).537

The multifaceted nature of what Posner and Garicano refer to as the “lock-in” issue is further exemplified by their conclusion that the United States intelligence community at large actually benefits from the disparity of such norms from agency to agency, so that at least one agency might be well structured to deal with any new threat.<sup>270</sup> The reality of that will be discussed in subsequent chapters; at present it is enough to say that such an arrangement incurs institutional costs through other imperfections. These have included overlapping property rights leading to a lack of clarity of role, notwithstanding the point made at the end of the paragraph above. Indeed a difference in culture both within and between agencies has more often been cited as a key problem<sup>271</sup> and, ironically, is one of the drivers behind Posner’s own advocacy for a new domestic intelligence agency outside the Bureau.<sup>272</sup>

Even at the operational level within the intelligence sphere the product itself can become something of a sunk-investment to those that have advocated a particular interpretation of even very limited core data. The science of analysis,<sup>273</sup> and the particular pathologies that can afflict it and its effective usage, have been examined by academics and practitioners alike,<sup>274</sup> and will inevitably form part of the argument in the following chapters. Suffice it to say here that analysed product is asset specific in that it is particular to the available data and environmental conditions at the time it is produced, including relationships with policymakers, and these are varying constantly. Nonetheless an analyst is inevitably going to be associated with his or her

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<sup>270</sup> Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective." 159

<sup>271</sup> See variously Zegart, *Spying Blind: The C.I.A., the F.B.I., and the Origins of 9/11*. and "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States," (Washington, DC: US Government 2004).

<sup>272</sup> Posner, *Remaking Domestic Intelligence*. 51-79

<sup>273</sup> A wide body of literature exists discussing the science and/or the art of intelligence analysis. The preeminent scholar currently writing on the subject is Stephen Marrin. See for example Marrin, *Improving Intelligence Analysis: Bridging the Gap between Scholarship and Practice*.

<sup>274</sup> See inter alia the discussion of anchoring and other cognitive biases in Warren Fishbein and Gregory Traverton, "Making Sense of Transnational Threats," (DTIC Document, 2004). the organisational pathologies in Zegart, "Implementing Change: Organizational Challenges." Sherman Kent, *Strategic Intelligence for American World Policy* (Princeton University Press Princeton, NJ, 1949). the communication frictions described in "Words of Estimative Probability," *Studies in Intelligence* 8, no. 4 (1964). or policy interface frictions described in Paul R Pillar, "Good Literature and Bad History: The 9/11 Commission's Tale of Strategic Intelligence," *Intelligence and National Security* 21, no. 6 (2006). plus for a consideration of the organisational repercussions of such asset specificity see Stephen Marrin and Philip HJ Davies, "National Assessment by the National Security Council Staff 1968–80: An American Experiment in a British Style of Analysis?," *ibid.* 24, no. 5 (2009).

published thoughts on any particular issue. This in turn can either encourage equivocation and overly timid assessments, or alternatively a reluctance to abandon previously articulated views. Both have institutional costs implications as additional tiers of review, each potentially subject to the same conditions (although not necessarily at the same time) are required, and bring further issues of blurred responsibilities and more complex information exchange.

Overall then the importance of asset specificity to the provision of security and intelligence may be summarised in the words of Oliver Williamson who stated; " The organization of economic activity is massively influenced by the degree to which the transactions under examination are supported by assets that are specific to the parties." So that "... governance structures need to be matched to the underlying attributes of transactions in a discriminating way if the efficiency purposes of economic organisation are to be realised."<sup>275</sup>

### iii) Frequency

The frequency with which identifiably similar issues occur in the intelligence and security spheres impact on institutional costs when conjoined with opportunistic behaviour to an even greater degree than in the private sector areas discussed by Williamson. He discusses the impact of small numbers bargaining, and how some circumstances within larger number bargains can act as small number bargains to increase institutional costs. In the same way the limited number of potential providers of a security 'good', or of a type of intelligence, and the unique facets of most security problems can allow a public sector manifestation of the same problems. This can be exacerbated by the mixture of stochastic circumstances and monopolistic relationships prevalent in the intelligence and security spheres.<sup>276</sup>

The unique nature of any security or intelligence issue, whether at the strategic, tactical or operational level, mean that what may at first appear as large number transactions within the day-to-day provision of intelligence

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<sup>275</sup> Williamson, "Credible Commitments: Using Hostages to Support Exchange." 537

<sup>276</sup> Already discussed in relation to opportunism above. See this Chapter section c.i (The theoretical support can be found in Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization.*27)

could well be anything but. The homogeneity required for large number circumstances to pertain, and thus neuter opportunistic behaviour, is illusory in this context. Similarly the 'learning by doing' and information impactedness advantages realised by incumbents will provide substantial advantages over alternate providers or strategies in dealing with a problem at the equivalent of contract renewal stage: In both cases institutional costs rise in terms of both bargaining costs and mal-adaption. The problem is as Williamson described it in the private sector, but magnified; the interests of the actors encourage opportunistic haggling and misrepresentation, whereas the interests of the system require bargaining to be based on an overarching maximisation of utility.<sup>277</sup>

Both the intelligence and the security functions are made up of numerous non-standard transactions. In his synopsis on transaction cost economics in 1985 Oliver Williamson noted that a specialised governance structure would be "...more sensitively attuned" to such atypical transactions; but that such a structure would come at great cost. The frequency problem with respect to governance structures in these spheres is thus whether these costs can be justified, which will vary depending on both their benefits and utilisation. Costs will be more easily recovered from large, recurrent transactions of course, but are more likely to be incurred during infrequent and even unique situations. As Williamson continues, where nuanced governance is required, some type of aggregation of similar cases or other factor is likely.<sup>278</sup> Perfection is unlikely to be achieved but the resultant organisation may be more appropriate than any other realisable option, and further informal adaption of specific elements can minimise the underperformance. For example intelligence elements of larger concerns, such as the United Kingdom's military's Intelligence Corps or police's Special Branch, both developed flatter and less hierarchal governance structures informally whilst nominally still maintaining the formal rank structure of their parent body.<sup>279</sup> The frequency issue can thus impact on both operational and organisational capability.

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<sup>277</sup> Ibid.26-28

<sup>278</sup> *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting*.60

<sup>279</sup> P1., Senior Military Intelligence Officer M3, interview by Author, March, 2013, London.

## e. Surrounding Variables

### i) Property Rights

Coase was thinking primarily of market-based transactions when he first developed his theorem on transaction costs, property rights and the possibility of a mutually beneficial bargaining process. Central to this theorem is that "... the delimitation of rights is an essential prelude to market transactions."<sup>280</sup> However the usefulness of the theory as a paradigm for security and intelligence organisation developed here is as dependent on the subsequent conceptual leaps of other scholars: With respect to the understanding of property rights that point of departure came when Armen Alchian re-conceived them not solely as legal rights, but also as economic rights so that they can be viewed as the right to the use of a resource;<sup>281</sup> a much broader idea and one that more readily allows degrees of ownership, and for some uses to be permitted whilst others are not. An inevitable extension to this concept is that property rights are not therefore restricted to formal laws but must include social norms and ideology or, as Eggertsson describes it; peoples taste for a good society.<sup>282</sup>

This reinforces Coase's point of the importance of private ordering as against legal centralism,<sup>283</sup> and importantly for this argument when the United Kingdom and United States are compared, allows the conclusion that a strict legal framework can in fact be inimical to clear property right allocation because, as Galanter observes; "... participants can devise more satisfactory solutions to their disputes than can professionals constrained to apply general rules on the basis of limited knowledge..."<sup>284</sup> In other words, in complex areas the necessary flexibility can be better achieved if property

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<sup>280</sup> Ronald H Coase, "The Federal Communications Commission," *Journal of law and economics* (1959).

<sup>281</sup> See both Armen A Alchian and Harold Demsetz, "The Property Right Paradigm," *The journal of economic history* 33, no. 01 (1973). and Armen A Alchian, "Some Economics of Property Rights," *Economic forces at work* (1965).817

<sup>282</sup> Eggertsson, "The Role of Transaction Costs and Property Rights in Economic Analysis."454

<sup>283</sup> See for example Williamson Oliver E, "Some Uneasiness with the Coase Theorem: Comment," *Japan and the World Economy* 7, no. 1 (1995).

<sup>284</sup> Marc Galanter, "Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law," *The Journal of Legal Pluralism and Unofficial Law* 13, no. 19 (1981).

rights are situated in informal norms, rather than in cumbersome regulatory frameworks.

Alchian's conclusion was that property rights are not reliant solely on the State for delineation and enforcement, and he concurs with Williamson that a plethora of other governance structures are involved, with varying degrees of formality and explicitness. Different transactions will have different governance needs and these needs will be recognised and adapted to in an efficient system.<sup>285</sup> The extent that an actor can demonstrate their property rights is thus bound up with issues of reciprocity. These might affect their freedom to use the resources exactly as they would wish, their ability to make credible commitments, and what additional costs might need to be incurred in order for them to do so (such as the equivalent of providing economic hostages, as discussed by Williamson).

Informal systems of governance can thus supplant legal or other formal solutions, and in reality often do. More frequently still, particularly in sovereign transactions such as intelligence and security delivery, the two systems sit side-by-side. The relative importance of legal constraints to customs, social norms, and the way a society or group is informally ordered in deciding how property rights are allocated and disputes resolved has a significant impact on the resultant institutional costs, as grey areas are protected and contested. As the subsequent comparative chapters will demonstrate, this is particularly pertinent in examining the relative responsiveness to both external and internal stimuli of the respective intelligence communities of the United Kingdom and United States.

In order to prove the real world importance of informal norms in dispute resolution, and challenge Coase's assumption that the legal framework would be the starting point for dispute resolution in his seminal rancher/farmer parable, Robert Ellickson conducted a field study in exactly that environment. He demonstrates how the particularities of a given groups social norms dictated their preference for a non-legal resolution. Legal redress was seen as "costly and politicised". It was regarded as producing higher institutional

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<sup>285</sup> Williamson, "Credible Commitments: Using Hostages to Support Exchange."537

costs by using “sovereign authority” in the pursuit of property rights clarity when compared to a “good neighbours” approach. Interestingly however in other circumstances a legal resolution might be preferred, despite the higher costs, simply because of the environment in which the ‘dispute’ was set; in Ellickson’s work the case of a cow being hit by a vehicle rather than straying into a field is cited.<sup>286</sup> Thus how property rights are decided is dependent on context as well as the minimisation of institutional costs, although this is itself a factor in defining the context. This has implications for the management of security and intelligence provision at every level. In fact Ellickson develops a model of five “controllers” employed in the pursuit of social-order.<sup>287</sup> Using these he demonstrates how the twin human factors of potentially opportunistic behaviour and bounded rationality (whereby an overall utility cannot be clearly grasped by all the relevant actors) both need to be managed by a combination set within the five ‘controllers’. These controllers include, but are not a sub-set of, regulatory frameworks.

The security and intelligence facets of governance, like any economic undertaking, have both a technical and structural production frontier, and the latter will be determined (as in the case of the Eggertsson’s larger economy) by the “... country’s prevailing structure of property rights, which determines the set of feasible organizations”. Furthermore the structural production frontier will always be inside the technical one because, although rational participants are assumed to want to maximise wealth, (and therefore ensure a property rights allocation that allows this) they are unable to do so as the bargaining costs are sufficiently high as to prevent the evolution of perfect property rights arrangements.<sup>288</sup> Eggertsson further notes that “For any branch of production, and given the set of known production technologies, alternative forms of contracts among the owners of the inputs (alternative ownership structures) are associated with different types of incentives,

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<sup>286</sup> Robert C. Ellickson, "The Aim of Order without Law," *Journal of Institutional and Theoretical Economics (JITE) / Zeitschrift für die gesamte Staatswissenschaft* 150, no. 1, Symposium on The New Institutional Economics Bounded Rationality and the Analysis of State and Society (1994).97-98

<sup>287</sup> Ibid.97-100 from his original work Robert C Ellickson, *Order without Law: How Neighbors Settle Disputes*(Harvard University Press, 2009).

<sup>288</sup> Eggertsson, "The Role of Transaction Costs and Property Rights in Economic Analysis."p.454

leading to different costs of production.”<sup>289</sup> How each branch is situated within the whole is thus of importance.

The property rights alluded to by Eggertsson can define incentives within a narrower band of activity more completely than any appreciation of a national level of utility could hope to do. This in turn can be inimical to greater collusion between branches within an intelligence community. At the other end of the spectrum, too broad a set of incentives can lead to an inappropriate structure and leadership remaining in existence. For example the Federal Bureau of Investigation has historically been organised with its incentives supporting law enforcement activity. At the community level these incentives have been too narrow and unsuited to the larger focus of those with intelligence responsibilities as a whole. This has led to a cultural wall between the FBI and (inter alia) the Central Intelligence Agency.<sup>290</sup> At the same time within the organisation the same incentives are too broad for all its functions. This has resulted in an inability for its increasingly large domestic intelligence unit to assimilate itself into its parent body.<sup>291</sup> Vague property rights can therefore cause increases in institutional costs not only horizontally but also vertically. In the FBI case, imperfect ‘contracting’ at an individual level leads to imperfect allocations of property rights and incentives, which in turn have shaped not only the status of analysts within the FBI, but also its place within the United States Intelligence Community, and indeed the community's resultant capability to perform.<sup>292</sup>

Just as property rights shape the incentive schemes and resultant costs of production, so too can different institutional arrangements affect the way they do so. The particular vulnerability of the security and intelligence spheres to ‘moral hazard’ is discussed with other opportunistic behaviours above. However from the property rights perspective it should be noted that both

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<sup>289</sup> Ibid.452

<sup>290</sup> See for example Mark Riebling, *Wedge : The Secret War between the F.B.I. And C.I.A.*(New York: A.A. Knopf, 1994).

<sup>291</sup> Posner, *Countering Terrorism : Blurred Focus, Halting Steps*.135-143 Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.126, 131-132

<sup>292</sup> "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States." *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.131-136 on failure of 1998 strategic plan for counter terrorism and intelligence collection and analysis



endeavours are based on resources that are, as Alchian and Woodward describe it, subject to a wide range of “... discretionary, legitimate decisions within which the user may choose”. They therefore exhibit a high degree of ‘plasticity’ with the attendant monitoring costs. This plasticity is unavoidable in pursuits where there is a high requirement for discretionary behaviour but inevitably leads to a blurring of property rights. Alchian and Woodward describe how even within a simple firm this can allow different operational levels to bias their actions towards their own stage of production, which can be “... to some degree inconsistent with the interests of the principal”,<sup>293</sup> a tendency that can be exaggerated over a complex and multi-tiered institution like an intelligence community.

Preferences for different property right allocations will also affect the level of institutional costs as different institutional arrangements are selected horizontally. At the national level a comparison can be made between those observed in the United Kingdom and the United States; where the former’s collegial approach is contrasted by an intentionally adversarial one in the latter. At this level the democratic nature of the systems in which both Nations intelligence and security apparatus must operate impacts on the property rights framework that is preferred. This will not necessarily be the one that brings the structural production frontier closest to the technical production frontier, and thus maximises the overall utility that can be realised. Rather it is that which is acceptable to the majority of participants and observers within their own cultural context.<sup>294</sup>

As the subsequent consideration of the United States intelligence community makes especially clear, there are instances when the property rights around a particular issue are deliberately blurred, notwithstanding the increase in institutional costs that this must incur. This is precisely to avoid any concentration of power in any particular hands. For example although the President is invariably perceived as the top of the decision making pyramid for security and intelligence affairs the Constitution ensures he is in fact

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<sup>293</sup> Alchian and Woodward, "The Firm Is Dead; Long Live the Firm a Review of Oliver E. Williamson's *The Economic Institutions of Capitalism*." 68-69

<sup>294</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

merely the top of one of the pyramids. Congressional budgetary control, State level responsibilities, and Judicial challenges ensure that authority is in fact diluted. Furthermore changing technology, threats and priorities ensure that no clear demarcation between each body's responsibilities and authority is tenable for any great period of time. This apparently deliberate lack of clarity around property rights, despite the resultant inefficiencies and costs it imposes, is then reflected down through the rest of the community. While not entirely unique to the public sector this deliberate pursuit of high costs is rare outside it, ensuring that the use of transaction cost economic analysis of the public sector is of particular value.

Even outside of these constraints the efficient allocation of property rights and concomitant reduction in institutional costs is not a matter of inexorable improvements being made over time. The structural production frontier does not simply move closer to the technical one as advances are made. As Williamson and others have noted, there is no one perfect organisational arrangement which will be ideal in all circumstances, even if it is likely to be faced with only a modest range of problems. Complex contracting is necessarily incomplete and less than one hundred percent specific so the resultant organisational structure it produces cannot be ideal in all situations. Instead it needs to be flexible enough to deal with most of them adequately.<sup>295</sup> The temporally wide and infinitely complex requirements on an intelligence or security infrastructure at any level will therefore always be particularly problematic.

Even Richard Posner, an unabashed advocate of organisational reform in the United States intelligence community,<sup>296</sup> when examining it from an economic perspective (as he has successfully done with U.S. law), acknowledges that while the US community has systemic obstacles, the costs of radical reform would outweigh the benefits. In particular he notes that increased centralisation (in other words strengthening property rights) will improve information sharing and minimise 'turf wars' but would reduce

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<sup>295</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.1-40

<sup>296</sup> Posner, *Remaking Domestic Intelligence. Uncertain Shield : The U.S. Intelligence System in the Throes of Reform*.

the quality of the intelligence produced through 'herding' and related pathologies becoming more prevalent<sup>297</sup> so that only 'modest' prescriptions can realistically be offered. Even within a single agency, the Federal Bureau of Investigation, Posner concludes that there cannot be a single organisational structure suited to both law enforcement and domestic intelligence. The property rights embedded in social norms are distinctly different between the two functions and the de-centralised (field office) system that proved so calamitous in the run-up to the 9/11 attacks is nonetheless well suited to crime fighting.<sup>298</sup>

There is therefore a link between property rights allocation and what type of an institution actors believe an organisation is. A shift in organisational type at Bletchley Park, as previously diverse skill sets were merged, and functional capability shifted towards those of a full-blown intelligence organisation, lead to exactly the same sort of frictions over contested property rights observable in the US intelligence community this century.<sup>299</sup> When one then also considers the added complexities inherent in strategic level intelligence and security activities the inexorable increase and significant scale of costs that result in lack of property rights clarity the importance of the issue becomes clear.

Another risk of weak property rights is that it allows actors to potentially threaten 'hold-up' (see above). However the property rights dimension is important. Security and intelligence communities are like firms in that, as Alchian notes, they; "... involve ownership in common of the coalition specific resources" But the use of those resources also remains within the control of specific agencies or even individuals. Property rights are thus divided and unclear. In ideal conditions the utility to be achieved by 'joint action' will exceed that achievable by the sum of separate results that specific parts of

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<sup>297</sup> Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective." 163

<sup>298</sup> Ibid. 163-167

<sup>299</sup> Grey, *Decoding Organization: Bletchley Park, Codebreaking and Organization Studies*. particularly 85

the community could achieve. Reward will then, as Alchian continues, be a portion of the whole.<sup>300</sup>

It is however unlikely that members of the coalition will know in advance with any certainty what, if any, utility is to be gained by a particular action. The mutually held property rights, in conjunction with a high degree of inter-specificity, allow for actors to easily and convincingly threaten hold-up if they are unhappy with a proposed course of action. They can thus extract what Marshall called "composite quasi rent"<sup>301</sup> either explicitly, or more likely within the public sector context, implicitly. The protective measures required to limit these problems, such as increased vertical integration, longer term agreements that reduce flexibility, regulation and even legislation,<sup>302</sup> all increase the institutional costs involved in the joint effort and thus reduce the overall utility gained by not only all the actors, but also the policy makers and public.

A linked problem with multiple interested parties having an interest in the resources of a security or intelligence endeavour is how the inevitable variations in that resources' value are managed. The merits of a particular resource in any given circumstance will of course vary from one type of operation or pursuit to another. This need not be particularly problematic if, over time, all are used adequately enough to secure their relevance while not being overburdened relative to the others. Indeed, in such conditions the fact that "all components of property rights to a resource need not be held in common"<sup>303</sup> can be a positive advantage, with joint owners working co-operatively to spread the load, and maximise the gains from specialisation. Rather, a problem arises where one input is superseded by another, and one of the group has a greater interest in it than his/her peers. As Alchian states,

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<sup>300</sup> Armen A Alchian, "Specificity, Specialization, and Coalitions," *Journal of Institutional and Theoretical Economics* 140, no. 1 (1984).34-35

<sup>301</sup> Alfred Marshall, *Principles of Economics: An Introductory Volume*(Macmillan Publishing, 1920).453-455

<sup>302</sup> See for example Victor P. Goldberg, "Regulation and Administered Contracts," *The Bell Journal of Economics* 7, no. 2 (1976).

<sup>303</sup> Alchian, "Specificity, Specialization, and Coalitions."34

variation in value is inevitable, even where the intrinsic worth of an input is unchanged, and someone has to bear this.<sup>304</sup>

New technologies might mean that a particular type of intelligence input, while still theoretically usable, is less cost effective than a more recently developed one which becomes the equivalent of a new joiner in a market environment. Alternatively, one agency recruiting a new human intelligence source with improved access against a particular target may mean the agency with the existing source being relegated in importance. In either case there will be a tendency for those with a heavy investment in the original 'factor of production' to provide perfunctory rather than consummate co-operation<sup>305</sup> in supporting the shift (in what are very idiosyncratic roles). They will be incentivised to use their inter-specific rights to conduct hold-up tactics as described above, and to question the validity and value of the newer input. Unfortunately within these two spheres of security and intelligence it may even be that, whatever their motives, they are right to do so. In any event it is likely to be a long time before the veracity of their position can be properly assessed.

The property rights issue is then central to the level and type of institutional costs intelligence or security endeavours will be faced with, and will define the realistic options available to it. The relationship between the two is symbiotic, so that the right institutional framework will allow a re-allocation of rights and reduced institutional costs. For example the United Kingdom's Armed Forces 'Joint Doctrine of Intelligence and Understanding' describes how intelligence activity has two possible approaches:<sup>306</sup> The first it terms the conventional approach, which has "... fixed lines and boundaries between departments which include rules for inter-agency co-operation" – a system with clear but inflexible property rights firmly established and well suited to some, but not all, defence related problems. Traditionally the use of a military solutions has boasted the most unequivocal objectives, but this is no longer the case in the Twenty-First Century.

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<sup>304</sup> Ibid.

<sup>305</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.57-81

<sup>306</sup> "Understanding and Intelligence Support to Joint Operations' Third Edition ".

The alternate approach is one where property rights are based in a more flexible and open system. This allows actors to pursue easier and more adaptive inter-agency co-operation, which is more an improvisation on a theme (the overarching strategy of commanders) in the same way that jazz musicians might interpret a piece.<sup>307</sup> As the Joint Doctrine publication itself suggests, clarity around property rights (the rules between agencies) will remain an essential part of the mix. A system that incorporates both this clarity and the "flexible and creative" rules the doctrine advocates, with authority for sharing at the lowest possible level,<sup>308</sup> will not be an easy one to develop.

In all these cases property rights include not only legal, but also economic rights to the use of particular resources. These can be delineated not only by sovereign authority, but also by social norms, patterns of reciprocity and informal contracting, but are no less valid for this. Subsequent chapters will demonstrate how the intelligence communities of both the United Kingdom and United States are thus influenced by the same 'controllers' of society observed by Ellickson, and that they also operate at the tactical and operational levels of the intelligence and security functions. They affect the allocation of property rights in different ways in different circumstances, but always impact on the resultant level and type of institutional costs experienced.

As later examination of attempts to reform the intelligence and security communities will show, it is not simply a matter of tightening up the property right ownership patterns. Different allocations have both different strengths and different weaknesses in the intelligence and security context. There is no perfect organisational form to cover all eventualities in any but the simplest repetitive spot transactions,<sup>309</sup> and these spheres are situated in an infinitely

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<sup>307</sup> Steven Hardest and Lt Col McDaniel, "Countering Irregular Threats: A Comprehensive Approach," ed. United States Marine Corps Concepts and Plans Division (United States Marine Corps (USMC), Marine Warfighting Laboratory, electronically published pamphlet, 2006).5

<sup>308</sup>"Understanding and Intelligence Support to Joint Operations' Third Edition ".1-8 Note that Joint Doctrine publications draw a distinction between 'intelligence' and 'understanding'. See also "Joint Doctrine Publication 04: Understanding," ed. Concepts and Doctrine Centre Development (Shrivenham: Ministry of Defence, 2010).

<sup>309</sup> Merton, "Bureaucratic Structure and Personality."

complex and uncertain world. Clarity must sit alongside flexibility, centrality with localised independence of action. A property rights system that can deliver all of these will be hard to design and harder still to define in such a way as to be clear to all the relevant actors. The inevitable imperfections, when coupled with the other behavioural and environmental factors, are likely to be taken advantage of by individual (or sub-group) level actors, in pursuit of their own utility over that of the whole. This will be a particular problem where actors have a different conception of what the maximand actually is. The conscious 'taste' for the higher institutional costs that a disperse allocation of property rights brings is a particular public sector problem. Firms (under the added evolutionary pressure of being likely to 'die', a fate only very rarely suffered by public bodies) almost invariably prefer an efficient concentration of decision making capability over the wilful neutering of its authority figures. Public bodies, on the other hand, need not give this much consideration.

For efficient bargaining to occur, geared towards maximising overall utility, Coase offered that property rights must be clear. Despite the difficult circumstances of the security and intelligence sphere, that general principle holds. Decision makers will be more efficient when able to bargain with clarity amongst themselves, towards a maximisation of their joint utility. Expenditure on securing and protecting property rights due to imperfections in initial allocation and overlap within the communities should ordinarily be minimised. More utility from the security and intelligence communities will be preferred to less, *ceteris paribus*, and this can be best achieved when all institutional costs are as low as possible.

## ii) Atmosphere

Williamson's original conception of the organisational failures framework reproduced above incorporates what he refers to as 'atmosphere'. This concept allows that the nature of an interaction itself may have value to the participants in it, and thus broadens the understanding of net benefits that is required. The low powered incentives required for actors working at 'sovereign transactions' (see the discussion of probity) mean that intelligence

and security interactions are particularly affected by considerations of atmosphere. Within each sphere there are various types of exchange relations operating vertically and, equally importantly for the actors, horizontally. As Williamson observes "... these relations themselves are valued" so that they must be included in any calculus of efficiency.<sup>310</sup> Furthermore these atmospheric factors may be non-separable, even where a technological separation is discernible. Attitudinal factors such as job satisfaction will be intrinsically linked to productive efficiency. In many areas of the public service sector atmospheric benefits replace the type and level of those achievable in the private sector, and are seen as an inherent (albeit implicit) part of the remuneration package. Changes to them can thus have far reaching effects. Atmospheric considerations then provide the backdrop to the interactions between behavioural and environmental factors whereby institutional costs are generated or reduced. They are of particular relevance in fields such as intelligence and security that are heavily reliant on the personnel involved, rather than whatever technology may support them. Although difficult to measure or predict they can have far reaching and unintended consequences as Williamson's example of blood donors being dissuaded from attending when a fee is introduced amply demonstrates.<sup>311</sup>

Subsequent chapters will demonstrate how the effectiveness of very similar organisational forms was variable when situated in different situations. Contrast for example, the 1990's, when a peace dividend was expected and intelligence and security requirements seemed to be on wane, and the post 9/11 period, when budgets increased substantially but the reputation of many agencies was at a very low ebb. This was not only because of the degree of technical frictions experienced against newly prioritised targets, but also because of the effect of atmosphere on encouraging what Williamson calls consummate (over perfunctory) completion of tasks.<sup>312</sup> Similarly there can be a reciprocal effect on the effectiveness of agencies and individuals depending on their self-perceived relevance to policy making or other

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<sup>310</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.38

<sup>311</sup> Ibid.37-39

<sup>312</sup> Ibid.37-39



functions. In the United States context for example the same institutional set-up can be used or by-passed by particular Presidents depending on their personal preferences, as demonstrated by President G. W. Bush's transfer of primacy in the fight against terrorism from the Federal Bureau of Investigation to the Central Intelligence Agency (and thence, arguably, to the Department of Defense).<sup>313</sup> The same sort of demoralisation occurred in the Metropolitan Police's Special Branch when the Security Service were made lead agency in countering the Irish Republican threat on the mainland in 1991.<sup>314</sup> Atmospheric effects operate at all levels, from the individual to the national, and include the general health of agencies and communities. The usefulness of incorporating 'atmosphere' effects into the calculation, despite the risk of criticism from pure-rationalists, is that it ensures the focus remains holistic.<sup>315</sup>

### iii) The Degree of a Shared Sense of a Single Maximand

Closely related to the concept of atmosphere and its effects on institutional costs is the extent to which the various actors and their agencies share a sense of what the optimal outcome actually should be, and can therefore be expected to act co-operatively in trying to achieve it. However such a maximand is not a simple construct and cannot realistically be created through managerial constructs like 'mission statements' or announcements of 'shared values'. Rather it is a complex mix of cultural values,<sup>316</sup> aligned incentives and actors understandings of their roles and responsibilities. It is therefore also closely associated with both property rights and the asset specificity of those involved.

The sense of shared purpose (across whatever organisational form is used) will determine the degree disparate elements are motivated to collaborate. Conversely the type of organisational form adopted, the and the resultant

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<sup>313</sup> Ron Suskind, *One Percent Doctrine: Deep inside America's Pursuit of Its Enemies since 9/11* (Simon and Schuster, 2006).

<sup>314</sup> David L. Carter and Jeremy G. Carter, "Intelligence-Led Policing: Conceptual and Functional Considerations for Public Policy," *Criminal Justice Policy Review* 20, no. 3 (2009).

<sup>315</sup> Williamson cites the example of President Kennedy et al's mistaken approach to Vietnam to exactly this problem within the rationalist mind-set. See Williamson, *Markets and Hierarchies: Analysis and Antitrust Implications: A Study in the Economics of Internal Organization*.<sup>256</sup> footnotes

<sup>316</sup> For an insight on the realities of constructing shared cultural values (and thus a genuine shared maximand) see Coase, "The Problem of Social Cost." and Cyert, Simon, and Trow, "Observation of a Business Decision."

levels of other institutional costs, can make a shared maximand more or less likely. The United States, which organises its intelligence community sub-units predominantly according to their individual objectives, has a long history of trying to implement community wide reforms with only very limited success. The combination of different views as to what represented the national good, within its increasingly diverse elements, coupled with different ideas on how it might be achieved, has undermined suggested reforms throughout its history. Different bodies and agencies have had different objectives, which they each conceived as the true expression of the national good, and have then pursued to the detriment of their partner agencies and even their own managers. Despite Director Robert Mueller's advocacy for an emphasis on intelligence and more collaborative working<sup>317</sup> the FBI has consistently struggled to extend their sense of a positive outcome beyond the conviction of offenders.<sup>318</sup> The rational behaviour of actors has been bounded by their limited sense of overall utility. This has then been coupled with the inescapable uncertainty of the environment. Institutional costs have thus escalated whilst reform has failed to clarify the property rights situation.

The United Kingdom on the other hand, which primarily organised its community by collection discipline, leaving assessment to others,<sup>319</sup> has historically demonstrated a greater cohesion around the objectives espoused through its central machinery and a more pronounced adaptability to these. It is of course smaller and therefore more wieldy, but the principle of a joint objective handed down from on high has certainly meant that agencies have not had to interpret where utility was to be found, but merely to maximise it. The existence or lack of a shared maximand is not a nation-centric phenomenon however: It is pertinent to note that even during World War II different understandings of organisational purpose created significant frictions even in the success story of Bletchley Park,<sup>320</sup> and very recent

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<sup>317</sup> Steven N. S. Cheung, "The Fable of the Bees: An Economic Investigation," *Journal of Law and Economics* 16, no. 1 (1973).

<sup>318</sup> Posner, *Countering Terrorism : Blurred Focus, Halting Steps*.

<sup>319</sup> The exceptions to this are the Security Service and Defence Intelligence, both of which do boast an analytic capability. These will be discussed in detail in subsequent chapters which will demonstrate that how the function is delineated in each case has significant repercussions on their respective capabilities.

<sup>320</sup> Grey, *Decoding Organization: Bletchley Park, Codebreaking and Organization Studies*.85

changes in central government machinery, which have led to the increased direct exposure of the United Kingdom's community to political and other exogenous factors have significantly reduced the sense of shared purpose previously felt as a result of more opaque property rights, in a manner more reminiscent of the United States' experience.<sup>321</sup>

The degree to which disparate actors subscribe to a mutually understood and genuinely shared sense of a best outcome at a level appropriate to their role is thus part of a circle with other elements of the institutional costs impact framework that can be either vicious or virtuous, and can substantially effect cooperative efficiency.

## **Section 6: Supporting argument for a Micro-economic Approach**

### **a. The Reality of a Single Shared Maximand in Intelligence and Security Provision:**

For Coasian bargaining to be feasible there must be a maximand made up of the same constituent parts for each actor involved. In his original, market based, example Coase could use a dollar based system to make clear the reciprocal nature of the issue and how it must be considered both "... in total *and* at the margin" (emphasis from original).<sup>322</sup> Like other public sector and governance issues however the provision of intelligence to decision makers and a secure environment are not reducible to simple pounds or dollars. They are both, like their subset defence, public or collective goods,<sup>323</sup> so that their usage by one actor need not reduce the amount available to others. Nor would it be true to say that simply because monies have been spent on their provision, that the actual amount of each that is available has been increased. Simple quantitative analysis is therefore problematic.

Furthermore, both the United Kingdom and the United States have adopted very broad conceptions of their national security.<sup>324</sup> These cover not only

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<sup>321</sup> Davies, "Twilight of Britain's Joint Intelligence Committee?."

<sup>322</sup> Coase, "The Problem of Social Cost."

<sup>323</sup> See for example Zycher Benjamin, "Defense," in *The Concise Encyclopedia of Economics* (Library of Economics and Liberty 2008).

<sup>324</sup> See for example Barack Obama, "National Security Strategy of the United States (2010)," (Washington D.C.: DIANE Publishing, 2010). and Prime Minister Cameron's "Securing

traditional conceptions of security from foreign invasion (perhaps regarded as the oldest duty of any governing body)<sup>325</sup> and physical attack, but also ideas of economic well being, environmental and virtual threats, and even each Nation's sense of itself as it is integrated into the wider world. The tentacles of each Country's national security are thus intricately involved with almost every sphere of governmental activity, exponentially increasing the interactions and trade-offs likely to be required from decision makers. Indeed the agenda outlined in each Nation's 'National Security' planning could more easily be described as an attempt to capture the authors' view of the 'National good'.<sup>326</sup> This inherent complexity makes any attempt to reduce the maximand to a specific value for the purposes of quantitative analysis fraught.

Nonetheless security and intelligence provision are, in general, ideally suited to examination using Pareto's famous simplification of the economic problem into the division between "tastes" and "obstacles", and the resultant shifts around equilibrium between the two.<sup>327</sup> In both spheres the obstacles to increasing overall utility are both internal and external: Technical obstacles such as finite resources limit the total possible productivity, as in conventional cases. However so too will the fact that, as Hicks observes; "... so much of total production is at the disposal of persons other than himself" and that this truism will hold good for any group that is less than "... the totality of a closed community".<sup>328</sup> This then includes the activities of either the foreign intelligence service or terrorist cell, whose utility is obviously at odds with one's own. But more importantly for this argument, it also includes the alternate sub-units on one's own side, situated within (variously) opposing political factions, other parts of the intelligence community, or even the narrow managerial parts of one's own unit, where different opinions will always exist.

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Britain in an Age of Uncertainty: The Strategic Defence and Security Review," ed. Cabinet Office(HM Stationery Office, 2010).

<sup>325</sup> Omand, *Securing the State*.

<sup>326</sup> Obama, "National Security Strategy of the United States (2010)." "Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review."

<sup>327</sup> See Vilfredo Pareto, "Manual of Political Economy,"(New York: Augustus M. Kelley, 1927; reprint, 1971 translation of 1927 edition).106

<sup>328</sup> Hicks, "The Foundations of Welfare Economics."698

The aggregation of such disparate “tastes” is not therefore a simple matter, as Pareto himself found. However within the context of a broad national level defence against external hostility and the pursuit of national welfare (including disparate strands such as economic and energy security) it can at least be understood in a qualitative sense. In both the United Kingdom and United States there is without question a shared sense of national security and public safety as a universal ‘good’. A vague conception perhaps, which inevitably frays at the edges when examined in detail from any one perspective, although the United Kingdom’s and the United States national security Strategies may be regarded as attempts to encapsulate exactly this.<sup>329</sup>

Just as when Nicholas Kaldor concluded in 1939 that “... the economist should not be concerned with “prescriptions” at all, but with the relative advantages of carrying out certain political ends” because “it is quite impossible to decide on economic grounds what particular pattern of income-distribution maximises social welfare”,<sup>330</sup> so too is it more useful to consider this particular problem at the macro level despite the use of micro-economic theory as the paradigm. A broad conception of national security means that it can be envisaged as a national level general utility, in the same way as the profits earned by a firm is regarded as its utility. Indeed the former is a much nearer approximation of utility as originally outlined by Jeremy Bentham in 1780.<sup>331</sup>

In formulating a doctrine whereby individual endeavour within a social group should be directed towards maximising “.... the greatest happiness for the greatest number of people” and advocating authoritarian intervention to achieve this, Bentham encapsulated the real purpose of each element of a social network such as an intelligence community. Of course, in the case of a firm, utility is maximised when those within it are most broadly and fully rewarded, whereas in an intelligence or security community the benefits are

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<sup>329</sup> Obama, "National Security Strategy of the United States (2010)." "Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review."

<sup>330</sup> Kaldor, "Welfare Propositions of Economics and Interpersonal Comparisons of Utility." 551 (parenthesis added)

<sup>331</sup> Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*(Clarendon Press, 1879).

to be bestowed on both those within and those outside. This only emphasises the necessity for such bodies, their sub-units, and the individuals within them, to adopt an expansive vision of their purpose. The inevitable problems in achieving this utopian ideal are a central tenet of this thesis, but the beauty of Bentham's starting point is its very simplicity; the reduction of options to a two-dimensional continuum between pleasure and pain.<sup>332</sup>

It follows therefore that the admittedly almost infinitely complex and nuanced concept of utility offered by an expansive vision of national security (notwithstanding that it must allow different timescales and aspects of itself to take precedence in any given circumstance) can nonetheless be collated into a single conception of the national good. The success or otherwise of this collation must then impact on the level of institutional costs and clarity of property rights experienced within the intelligence or security sphere under consideration, and thus its ability to efficiently adapt itself and deliver the required product.

Inevitably then, *anything less than a perfectly uniform conception of an ideal solution to whatever issues are addressed generates some amount of institutional cost*. Opinions do not need to be diametrically opposed; only imperfectly aligned. The position is similar to that discussed by John Stuart Mill as he built on Bentham's work, in that some tastes deserve preference over others.<sup>333</sup> However in deciding which 'taste' deserves preference decision makers need to bargain and trade-off the different merits of, for example, law enforcement over intelligence collection and contract amongst themselves. They will then need to monitor the outcome for both internal non-compliance and for external shifts in the situation being addressed. All of which involve incurring institutional costs.

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<sup>332</sup> Ibid. Bentham states "An action then may be said to be conformable to the principle of utility, or for shortness sake, to utility, (meaning with respect to the community at large) when the tendency it has to augment the happiness of the community is greater than any it has to diminish it." And therefore: "A measure of government (which is but a particular kind of action, performed by a particular person or persons) may be said to be conformable to or dictated by the principle of utility, when in like manner the tendency it has to augment the happiness of the community is greater than any it has to diminish it"

<sup>333</sup> John Stuart Mill and Colin Heydt, *Utilitarianism*, New ed. / edited by Colin Heydt. ed.(Peterborough, Ont.: Broadview ; London : Eurospan [distributor], 2011).

## b. Intelligence and Security – Distinct Pursuits Conjoined:

Whilst each is a wholly different pursuit, the costs and benefits of intelligence or security are inseparable from those of the other. Intelligence agencies create a product, whilst security organisations deliver a service so that both are delivery agencies within the Dunleavy definition.<sup>334</sup> They are however controlled by different regulatory bodies. This dichotomy has consequences for their ability to agree, or their enthusiasm for, any negotiated agreement despite their inseparability.<sup>335</sup> Acquiring a particular piece of information may have usefulness in decision-making around potential physical threats and in the pursuit of economic advantage. The institutional costs involved in obtaining the information cannot be separated into those paid out for each, in the same way that the costs of Cheung's toll collector provides both a policing and revenue service.<sup>336</sup> The ensuing benefits, though they cross disparate spheres, are universal and mutually dependant so that they may be regarded in the same way as the 'indivisibilities' discussed by Williamson despite the organisational difficulties in aligning the agencies delivering them. The economic benefits will only accrue in a secure environment, and security is dependent on economic well-being. Any mathematical division of the resulting benefits, like those of the initial costs, is therefore likely to be subjective and misleading. Information is unusual as a 'good' in that once acquired its use does not diminish it in quantity or (necessarily) value, and neither is the set-up cost or resources required for its acquisition dependent on the "... scale of the production process in which the information is

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<sup>334</sup> Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.183-188

<sup>335</sup> The inseparability of individual inputs to a group's overall production, or at least the measurability of that input, was at the heart of the dispute between Alchian and Demsetz (see for example Armen A. Alchian and Harold Demsetz, "Production, Information Costs, and Economic Organization," *The American Economic Review* 62, no. 5 (1972).) and Williamson (See for example Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.). However this was largely settled by Demsetz in his 1988 paper Harold Demsetz, "The Theory of the Firm Revisited," *Journal of Law, Economics, & Organization* 4, no. 1 (1988). That debate is only engaged with tangentially here. Generally in complex tasks like security or intelligence provision inputs and outputs are easy to ascribe to particular organisations or even individuals. In a few cases however, such as which body should get credit when no security breach occurs, this may be more difficult. On these occasions property rights, probity and atmosphere will become more important in ensuring a fair dispersal of rewards over time, as discussed elsewhere in this chapter.

<sup>336</sup> Cheung, "The Transaction Costs Paradigm: 1998 Presidential Address Western Economic Association."

used".<sup>337</sup> The formation of a community, in either the formal or informal sense, to manage the provision of intelligence and security has its foundation here, and the institutional design of that community will be dependent on the institutional cost context of the environment in which it will need to operate.

The different evolutionary paths and current forms of the United Kingdom's and United States intelligence and security apparatus' can be divined within this paradigm. As Williamson observes; "...there is no technological bar that prevents one individual from assuming the information gathering and dissemination function.... all parties, suppliers and users,... could be independent ..... yet scale economies of both types could be fully realized".<sup>338</sup> In the case of the United Kingdom, which boasts not only a collegial attitude to such matters but significant treasury constraints, this style of monopolistic provider is evident. Levels of substitutability between intelligence providers are, for example, much lower than in the US case. The primary division amongst agencies in the UK is by collection discipline, with the use of their product or service being disseminated to 'customers' as needed. This approach is demonstrated by the division and directing of the Government Communications Head Quarters (GCHQ's) capability, and, for example, the increased percentage of its work undertaken at the request of the Security Service.<sup>339</sup> However the more adversarial position of the United States and their fundamental belief in the separation of power<sup>340</sup> (linked to their ability to resource a more expensive organisational framework) has resulted in a division based on function, and mutually beneficial pursuits have been artificially cleaved. The transactional difficulties in re-amalgamating these, as discussed in later chapters, are such that much of the United States intelligence community's evolutionary history has been concerned with overcoming them so that the natural advantages of these indivisibilities can

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<sup>337</sup> Roy Radner, "Problems in the Theory of Markets under Uncertainty," *American Economic Review* 60, no. 2 (1970).457

<sup>338</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.42

<sup>339</sup> See for example Chair Rt Hon Sir Malcolm Rifkind Intelligence Security Committee, "Annual Report 2010–2011," in *London*(London: Intelligence and Security Committee ISC, 2011).

<sup>340</sup> For a comprehensive treatment of the two intelligence communities from a cultural perspective see Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.



be captured. To return to Williamson “....the incentive to collectivize activities for which indivisibilities are large.... are transactional in origin.”<sup>341</sup>

When institutional structure supports this natural state of indivisibility between different elements of the security and intelligence, it need not be a problematic issue, and may even be a positive force for good. However it is worth reiterating that indivisibility can present problems when actors indulge in opportunistic behaviour in the presence of sometimes substantial elements of information specialisation, as can often be the case in these spheres.

### **c. The Reciprocal Nature of the Security and Intelligence Bargains:**

Reciprocity has been described as “...the vital principle of society”<sup>342</sup> and may be regarded as central to analyses of stability and instability within a society. Functionalists make reciprocity central to the interpretation of data by establishing its consequences for the larger structures within which it sits.<sup>343</sup> This is no less the case within the security and intelligence communities. As such degrees of reciprocity are closely linked with both coalition forming behaviour, and the effect of information impactedness across and within agencies. The relevance of reciprocity for institutional costs is affected by several factors that must therefore become part of the calculus.

Despite the ubiquitous nature of the phenomenon Gouldner counsels against an assumption of its presence, or that the receipt of a benefit will necessarily mean a return, and argues that the existence of such a relationship needs to be empirically demonstrated.<sup>344</sup> A collegial type intelligence community such as the United Kingdom’s is more likely to demonstrate reciprocal behaviour than one based on a power relation, and therefore exhibit lower institutional costs generally. Attempts have been made by the United States to ‘force’ reciprocal behaviour on the various parts of a diverse community through, variously, a Director of Central Intelligence, a Director for Homeland Security

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<sup>341</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.42

<sup>342</sup> Leonard Trelawny Hobhouse, *Morals in Evolution: A Study in Comparative Ethics*(H. Holt, 1915).p.12 and quoted by Alvin W. Gouldner, "The Norm of Reciprocity: A Preliminary Statement," *American Sociological Review* 25, no. 2 (1960).161

<sup>343</sup> "The Norm of Reciprocity: A Preliminary Statement." 162

<sup>344</sup> *Ibid.* 164

and most recently a Director of National Intelligence (whose real authority is open to question and in any case varies by type and degree from agency to agency). but these attempts have only tended to increase institutional costs, whereas bottom-up reciprocity has tended to lower them, as subsequent chapters will demonstrate.

Where reciprocal behaviour is being assessed between parties to transactions, it should be understood that it need not be either 'wholly absent' or 'wholly present' but is quantitatively as well as qualitatively variable, with extremes from 'equal benefits returned' to 'no benefits returned'. In fact Gouldner suggests that the case where one party gives more or less than the other is probably the most common case. In any event what reciprocity does entail is a mutual dependence between the actors that is "...the complement to and fulfilment of the division of labor",<sup>345</sup> where the mutual gratification is in the long-run as well as part of the immediate exchange.

It follows then that institutional design will be affected by the degree and type of reciprocity common in the society in which it is set, and that the institutional cost position will vary accordingly. Gouldner's observations that reciprocity is not part of the American dominant cultural profile, but rather inhabits a latent or substitute cultural structure within institutional sectors,<sup>346</sup> suggests that the United States was always destined to promote a very different looking intelligence community to that emanating from the United Kingdom.<sup>347</sup> Indeed in the UK, reciprocity amongst intelligence actors leading to patterns of probity between them, and the eventual development of a shared maximand can be traced back to 1924 and the establishment of Cryptography and Interception Committee (and its standing Y Sub-Committee). This was composed of the Single Services, the Government Code and Cypher School (GC&CS, which provided code-breaking functions), and later the Service Intelligence Directorates. Because, for example, The Army could more easily intercept communications useful to the Air Force,

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<sup>345</sup> Ibid.164, 169-170 quoting Bronislaw Malinowski, *Crime and Custom in Savage Society*(Transaction Publishers, 2013).55

<sup>346</sup>Gouldner, "The Norm of Reciprocity: A Preliminary Statement." 171

<sup>347</sup> For a comprehensive comparative of the two that includes the cultural perspective see Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

and the Navy could do the same for the Army the Y Sub Committee was needed to coordinate the role of each as an 'honest broker', and to link them to GC&CS and even the Post Office (GPO). Their mutual reliance was thus clear, and bound them to collective goals.<sup>348</sup> This initiative pre-dates even the Joint Intelligence Committee (JIC), which is often cited as a long-standing example of integration in an intelligence community, and demonstrates the enduring nature of collegiality in the British intelligence system.

It must however be kept in mind that whether the presence of reciprocity is a force for good or ill will depend on the particular circumstances pertaining. Unofficial reciprocity can undermine a bureaucracy, as Gouldner suggests occurs in the Philippines where it pervades all spheres of life and is an integral part of their corruption problem. But it can also enhance information sharing and co-operative behaviour. Gouldner therefore argues persuasively that a distinction needs to be made between 'complementarity'; which denotes that one's rights are another's obligations and 'reciprocity'; wherein each party has both rights and duties, so that the latter has an impact at a systemic level.<sup>349</sup>

The act of reciprocation is itself a part of a transaction. Gouldner discusses the case where groups whose needs are met by the political machine reciprocate by paying the machine for the services received and notes that there are two necessary assumptions: That the reciprocation actually occurs, and that the performance of positive functions by the one are contingent upon the performance of positive functions by the other.<sup>350</sup> Whether the machine is negatively corrupted, or not realistic in its ambitions will depend on the detail of this inter-play, but in any event the degree and manner of reciprocity will have institutional cost consequences.

## **Section 7: Concluding Remarks**

As the discussion above makes clear, the conflicting pressures within the government functions of both intelligence and security, sitting as they do in

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<sup>348</sup> Ibid. Vol.2.85 and Francis Harry Hinsley et al., *British Intelligence in the Second World War*, vol. 1 (HMSO, 1993).23-24

<sup>349</sup> Gouldner, "The Norm of Reciprocity: A Preliminary Statement." 171 & 169

<sup>350</sup> Ibid. 163

the most complex and uncertain of environments, means that no single organisational design will be ideal in all circumstances or to all agencies and departments. As the new institutional economists of the last few decades have concluded in other spheres, there will inevitably need to be a trade off between the different sorts of institutional costs that might be incurred. This will be influenced by the different sorts of utility that decision makers will wish to attain, and the parallel tradeoffs between these.

Nonetheless the level of these institutional costs will be affected by the capacity for the organisational system in place to conduct Coasian style bargaining efficiently. A shared idea of what constitutes a maximum possible utility to be achieved in any given circumstance needs to be shared by those involved within and across agencies. This must be by both type and quantity, and should be clearly delineated and understood within a shared sense of national security, so that the products of the various departments and agencies are visualised as factors of production or tools to that end, rather than ends in themselves. In reality however the type and amount of benefits that actors can achieve are limited by the frictions inherent in delivering the possible options. These will in turn be resultant on the institutional costs incurred in selecting and delivering each possibility.

Additionally, the work of Alchian and Demsetz demonstrates how, for such bargaining to work well, the participants also need to all have a clear (and shared) sense of the property rights involved. Within the security or intelligence spheres this means clarity around responsibilities as well as ownership of resources. In most cases boundaries between different areas of responsibility will be crossed, and most security or intelligence issues will likely have some element of uniqueness about them, so that this is not an easy undertaking. The institutional design is therefore of paramount importance to how such problems are handled (as subsequent chapters will demonstrate) because this is how the property rights and responsibilities of participants are made clear.

The institutional costs described are not unique to any particular aspect of intelligence or security delivery, but rather will occur internally, horizontally

and vertically in each so that the institutional cost impact framework must address issues of organisation, decision-making and even international relations at large. It is therefore argued that the institutional costs based approach developed above can significantly add to understanding of variations of cooperative success in the security and intelligence spheres.

The next two chapters will examine existing approaches, and how institutional cost analysis sits within them. Because the institutional cost methodology developed in this chapter is an holistic model that includes a wider variety of behavioural and environmental concerns a number of different theoretical perspectives must be considered. These have each been concerned with one or more of the elements of cooperation identified above, whether or not the scholars in question have applied their thinking to either the intelligence or security functions. To make the discussion manageable it is divided across two chapters. Chapter 3 will consider how issues of cooperation within the security and intelligence functions can be located within existing scholarship on different aspects of cooperation and collaboration. Chapter 4 will build on these insights to properly examine how the institutional costs approach developed here inter-relates with the prominent schools of thought in these disciplines.

Between them, the two chapters will thus assist in further detailing the potential contribution an institutional cost approach can make to the analysis of cooperation in the intelligence and security spheres, before the specific cases of counterterrorism and defence intelligence provision are considered in Parts' two and three.

## **Chapter 3 - Intelligence & Security, Existing Theories and Scholarship**

### **Section 1: Introduction**

Having derived an institutional cost impact framework for cooperation across the security and intelligence functions in Chapter 2, this Chapter will now examine the relationship between those same functional areas and existing scholarship that either has been or could be usefully applied to them, before Chapter 4 places them in the institutional cost context. Chapter 2 described how an institutional cost paradigm could be usefully employed to further explain the intelligence and security spheres; how they function as a part of more general governance, and how some specific features can be accounted for. The setting may be distinct, and the resultant issues therefore apparently more significant or, on occasion, critical, none of the issues described are unique to the intelligence or security domains. They have in fact been observed in other areas by social scientists for some years; only the mix and points of emphasis varies to any great degree.

Security and intelligence communities have, since their inception, existed in a complex and interconnected environment, although (as Part 3 will demonstrate) the shift towards greater threats from non-State actors, and the ensuing rise in multi-faceted alliances, has certainly lead to an increase in what Emile Durkheim described as the moral or dynamic density of a society: Intra-social relations have "... become more numerous, since they extend, on all sides, beyond their original limits."<sup>351</sup> There are inevitable side effects to this increase in the number of "... individuals sufficiently in contact to be able to act and react upon one another." and the development of the division of labour that results, both vertically and horizontally.<sup>352</sup> This chapter will therefore consider the extent to which existing theoretical approaches have successfully addressed this inter-connectivity in a manner that can explain the particular experiences observed in the intelligence and security spheres as the requirements made of them have fluctuated.

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<sup>351</sup> Émile Durkheim, *The Division of Labor in Society*, trans. George Simpson, Free Press Paperbacks (New York: Free Press of Glencoe, 1964). 257

<sup>352</sup> Ibid.

Any tranche of theories considering societal action, interaction or development must necessarily be selective. Ever since the rationality of earlier 'enlightenment' thinkers, such as Descartes and Newton, has been tempered by notions of complexity and then feedback in the late nineteenth and early twentieth centuries, some idea of contemporaneous action and being acted upon has been acknowledged. This is the case even where particular issues, such as culture or agency, have been the principle point of focus. A huge body of work therefore exists in these areas.<sup>353</sup> In order for this to be manageable, some selectivity must occur. As the intelligence and security communities are embedded in wider governance, and it is how those interactions play-out that is at the heart of this thesis, then the scholarship that has most closely addressed these issues, but that nonetheless represents a broad swath of perspectives, will be prioritised. It is however worth noting at the outset that any theoretical distinction used to sub-divide an analysis of the organisational make-up of the intelligence and security function, or the way the two communities are organised is slightly arbitrary. There are significant cross-over's between the observations and thoughts of scholars working in the various schools, as well as notable disagreements within each tradition, as Richard Scott discovered when trying to develop an analytic framework across the whole body of institutional and organisational study using a division based on sociological, political and economic paradigms.<sup>354</sup>

Firstly Section 2 will examine the conclusions of academics and practitioners that have framed their work not on any particular theoretical approach but on the cooperation needed for intelligence and security reform. Section 3 will then pick up on how new institutionalist thinkers have viewed reform in the United States, contrasting their ideas with the more collegial views of British adaption. Next Sections 4 and 5 will examine how behavioural then bureaucratic understandings of collaboration can be usefully applied to the security and intelligence functions, and what it is that limits each approach.

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<sup>353</sup> Robert Geyer, "Beyond the Third Way: The Science of Complexity and the Politics of Choice," *The British Journal of Politics & International Relations* 5, no. 2 (2003). 237-257.

<sup>354</sup> W. Richard Scott, *Institutions and Organizations : Ideas and Interests*, 3rd ed.(London: SAGE, 2008).1.

Section 6 will then consider the relationship between cooperation and decision making, whilst Section 7 will utilise theories of complexity to further unpack the difficulties inherent in the two spheres. Finally Section 8 will examine the extent to which more standard theories of international relations and the uncertainty of that level of analysis can explain cooperative difficulties in intelligence and security delivery. The whole will then be concluded in Section 9 before Chapter 4 examines each in turn to see how they interrelate with the institutional cost approach developed in this thesis.

## **Section 2: Intelligence and Security Scholarship, Reform and Collaborative Working**

Security and intelligence scholarship has included both academics and senior practitioners. Many of these have identified that any holistic picture needs to be generated by an examination with a much higher degree of resolution. The resultant reforms they so often advocate are intimately bound up with cooperative working between actors and the necessary organisational shifts to deliver it.

Even senior figures like the late William Odom, whose long career included senior posts in the military, in intelligence and in policy making,<sup>355</sup> focuses not on simple fixes or increased cooperation, but rather on providing an in depth study of the entire bureaucracy, including both organisational and behavioural factors like the commitment of any government to see reforms through. However, in trying to operationalise this approach the difficulties in generating a single methodology applicable to the whole of so complex and integrated an undertaking become apparent and inconsistencies appear. General Odom was, for example, a keen advocate of a clear line of command.<sup>356</sup> Subsequently though, in his discussion of the National Security Agency (NSA) and their unique technical ability, he also promotes stovepipes, so that different commands have to 'come to the same well' to obtain intelligence. He argues that the NSA is a national resource by default,

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<sup>355</sup> General Odom was a career soldier, Director of the N.S.A. between 1985 and 1988, and was the Military assistant to Zbigniew Brzezinski, President Carter's assistant for national security affairs, between 1977 and 1981.

<sup>356</sup> Odom, *Fixing Intelligence for a More Secure America*.14



and also that it is 'a combat support agency' and should be the only provider of tactical level signals intelligence (SIGINT), despite acknowledging the problems this has caused in the past.<sup>357</sup> To Odom, the NSA is both a unified command in the DoD, and a military service in its own right.<sup>358</sup> Given these contradictions a clear line of command seems improbable.

The same thinking can be seen in his approach to the intelligence-policy interface. Odom argues that autonomy for an intelligence agency is usually a detrimental organisational form. Proximity between the consumers and their requirements and priorities are what direct a collection program most effectively, and ensure the real needs of the consumer are met. He suggests that the contrary argument is based on the problem of biases towards existing policy choices or decisions, but that autonomy does not really address this problem.<sup>359</sup> However he also argues that in some discrete areas a central provider is best, and that autonomous 'stovepipes' are of benefit. Odom links this to specialised knowledge, and even argues that it may be the way to address the existing problems between national and tactical level within the military<sup>360</sup> (an issue discussed at length in Chapter 5 of this thesis). In particular Odom cites the admittedly very specialist skills of cryptanalysts<sup>361</sup> and the work of both the NSA and the then National Imagery and Mapping Agency (NIMA),<sup>362</sup> arguing quite reasonably that such skill sets cannot and should not be replicated at lower levels, but that lower levels should be able to access the intelligence they need from central providers. In this respect he seems to reflect Luther Gulick's preference for uniformity of function within an organisational unit.<sup>363</sup> Yet there is a similar specific skill-set and technical requirement in the comprehensive analysis of a particular functional or even geographic area that can include everything from contextual cultural factors to detailed knowledge about access to weapons and their capabilities. It is therefore somewhat disingenuous to suggest this is a lower type of specialism and can be handled at a tactical level.

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<sup>357</sup> See inter alia *ibid.* 40-41, 116-121

<sup>358</sup> *Ibid.* 116

<sup>359</sup> *Ibid.* 38-40

<sup>360</sup> *Ibid.* 99

<sup>361</sup> *Ibid.* 40

<sup>362</sup> *Ibid.* 111. NIMA is now the National Geospatial Intelligence Agency (NGA)

<sup>363</sup> Gulick, "Notes on a Theory of Organization." 9-10 Discussed further in chapter 5

At the strategic level, Odom argues that net assessments should be a wholly military function, yet allows that the single services and joint chiefs have never (and probably will never) agree on them because of vested interests in particular programs. However his solution is effectively a re-working of the idea of an external body taking on this function, albeit based in the office of the Secretary of Defense because they would have access to information. His rationale is that while the service chiefs "might quarrel..." they "...could hardly object".<sup>364</sup> However the same might be said for having a Presidential directive ordering co-operation with the CIA: It is the difference between perfunctory and full compliance that matters.<sup>365</sup> Odom's reliance on the authority of command, an inevitable predisposition in a former senior military officer, does not answer this. Indeed Zegart has argued persuasively that the authoritarian approach suited to the military function is contraindicated in the intelligence arena.<sup>366</sup> In each case therefore, there must be other factors at work.

The General's examination of budget management is similarly instructive: Odom notes the discontinuity between the (then) Director of Central Intelligence's (DCI's) role of preparing and submitting the National Foreign Intelligence Program (NFIP) for congressional approval and his lack of relevance to the resultant appropriations being spent. Despite his intuitive liking for an imposed top-down solution it is, he admits impractical in this case for both behavioural ("turf disputes") and environmental ("complexity") reasons.<sup>367</sup> He discusses the separation of the NFIP and various tactical level budget streams (Tactical Intelligence Related Activities (TIARA), the Joint Military Intelligence Program (JMIP), and the Defense Airborne Reconnaissance Office (DARO)), and suggests they will only be integrated 'by chance'.<sup>368</sup> He makes the point that for the effective use of budget inputs they must be linked to outputs; the 'collection of usable intelligence'. Odom does however acknowledge that in the military sphere it is difficult to separate

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<sup>364</sup> Odom, *Fixing Intelligence for a More Secure America*.113

<sup>365</sup> See Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*. 71-74

<sup>366</sup> Amy B. Zegart, "Focus on Officers, Not the Media," in *New York Times*(7th January 2013).

<sup>367</sup> Odom, *Fixing Intelligence for a More Secure America*.30

<sup>368</sup> *Ibid*.31. The JMIP and TIARA are now integrated into the Military Intelligence Program (MIP)

operational and intelligence activity, so the problem is actually only being moved along the line. He only truly begins to get to the root of the problem when he elaborates on how budgets are broken down into the three categories of 'operation and maintenance', 'procurement' and 'research, development, testing and evaluation'. The problem is that intelligence outputs depend on all three, with different agencies and departments involved with any or all streams. Odom observes that the fixed total approved at the outset, and resultant zero sum game, cause bureaucratic pathologies, including budget maximising behaviour, as observed in the National Reconnaissance Office (NRO), but he is unable to fully account for it. Instead he reverts to his preference for single management across the three budget streams as far as is possible, despite it being at odds with his alternative view that some agencies should be stove-piped.<sup>369</sup>

General Odom is obviously keenly aware of the issues of both complexity and uncertainty. Indeed part of his rationale for SIGINT functions being managed at the national level alone, and removed from single services, is the complex and interactive nature of the technology, the targets, and varying priorities at different levels of command, and in that context his argument is convincing. At the same time he is clear that in his view reform should be directed from the top.<sup>370</sup> This is contrary to orthodox thinking on the nature of a complex adaptive systems, which are generally held to adapt from the bottom up.<sup>371</sup> Ironically, the development of 'Intellipedia', precisely the sort of shared 'well' of intelligence advocated by Odom in his discussion of the NSA, relied on precisely this sort of 'bottom-up' evolutionary pressure.<sup>372</sup>

Like William Odom, General Michael Hayden uses his own experience as a senior member of the US intelligence community to inform his observations on how it should function and deliver national security objectives.<sup>373</sup> Despite much of Hayden's senior tenure being in the very different strategic environment of the post 9/11 era the two find many of the same difficulties.

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<sup>369</sup> Ibid.28-37

<sup>370</sup> Ibid.89

<sup>371</sup> Andrus, "The Wiki and the Blog: Toward a Complex Adaptive Intelligence Community."

<sup>372</sup> Robert Hinck, "Intellipedia," (2010), <http://csis.org/print/21093>.

<sup>373</sup> General Hayden headed both the NSA and CIA, as well as being Principal Deputy Director of National Intelligence.

Hayden, like Odom, is disposed towards an authoritarian solution, although in this case based on comprehensive legislative authority to support the Director of National Intelligence as a genuine head of the intelligence element of the community. Yet he is also cognisant of the pre-eminence of the Pentagon because the Country is effectively at war, and their resultant claim on many of the national level resources. This dominance can be to the detriment of not only civilian needs but also tactical military requests as resources are tasked to acquire militarily useful 'communications externals' such as links and geo-locators, rather than the more tactically useful intelligence often found within the communication itself.<sup>374</sup> More profoundly at odds with his general conviction in the utility of a hierarchy, Hayden believes that the authority of DCI George Tenet, prior to the 'Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004, stemmed not from his legislatively enshrined position as head of the community or the 200 strong coordinating staff that came with it, but rather because he was head of the Central Intelligence Agency itself. As such he brought a distinct function that was needed and useful, which in turn granted him a strong voice (a voice that the new DNI post has probably lost),<sup>375</sup> a view shared by a number of earlier DCI's.<sup>376</sup> More recently it has been argued that the CIA's control over covert operations, under the direct supervision of the White House rather than its Directors line manager, the DNI, has effectively left the latter 'impotent'.<sup>377</sup> *Bargaining power rather than formal authority is the more important element here.*

Hayden is also aware of the tension between integrated and autonomous operating in any complex undertaking; either of which can be virtues in particular circumstances, but vices in others. Too much central control leads to inflexibility and lost opportunities, too little means that individual excellence

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<sup>374</sup> Hayden, "The State of the Craft: Is Intelligence Reform Working?." 41

<sup>375</sup> Ibid. 37

<sup>376</sup> Allen, *Blinking Red : Crisis and Compromise in American Intelligence after 9/11*. 31

<sup>377</sup> Yochi Dreazen and Sean Naylor, "Mission Unstoppable," *Foreign Policy* (2015), [http://foreignpolicy.com/2015/05/18/mission-unstoppable-cia-obama-brennan-middle-east-torture-report-drones/?utm\\_source=Sailthru&utm\\_medium=email&utm\\_term=%2AEditors%20Picks&utm\\_campaign=2014\\_EditorsPicksRS5%2F18](http://foreignpolicy.com/2015/05/18/mission-unstoppable-cia-obama-brennan-middle-east-torture-report-drones/?utm_source=Sailthru&utm_medium=email&utm_term=%2AEditors%20Picks&utm_campaign=2014_EditorsPicksRS5%2F18).

cannot be 'leveraged' or 'harmonized'.<sup>378</sup> However to Hayden it is simply a matter of striking the right balance.<sup>379</sup> This may be adequate in considering strategic shifts such as the end of the Cold War, but can hardly accommodate the different but simultaneous needs of tactical war-fighters and national level strategists that he himself identifies, so that a more complete model of cooperative working is required.

Similar inconsistencies arise with strategic thinkers on this side of the Atlantic. Throughout his book *'Securing the State'*<sup>380</sup> Sir David Omand<sup>381</sup> discusses the changes needed to the intelligence and security regimes of the United States and United Kingdom as a result of the increased complexity and uncertainty of the wider environment. Yet each lesson is referenced by an earlier historical context, suggesting the situation, or at least particular elements of it, are not as unique as one might think.

Like his American colleagues, Omand argues for stronger leadership of the intelligence community, citing the US case. He notes the previous difficulties of the formerly double-hatted DCI. Then, with apparent approval, the creation of the DNI as a single head of the intelligence community charged with creating a "... unified, collaborative and coordinated enterprise", and that extensive coordinating machinery has been established to support that aim.<sup>382</sup> However he also notes that the lack of a clear and unambiguous authority will make the task most difficult.<sup>383</sup> In his parallel discussion of the UK agencies, he instead seems to invest his hopes in an improvement in coordination, with the agencies best left as independent entities aware of the needs of the others, and engaged with them in a joint enterprise. His concern

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<sup>378</sup> Hayden, "The State of the Craft: Is Intelligence Reform Working?." 36-37

<sup>379</sup> *The Future Security Environment* podcast audio, Rethinking Seminar Series: Rethinking U.S. Enduring Strengths, Challenges and Opportunities 2011, <https://dnnpro.outr.jhuapl.edu/rethinking/VideoArchives/GENMichaelHaydenPresentationVideo.aspx>.

<sup>380</sup> Omand, *Securing the State*.

<sup>381</sup> Sir David Omand has also straddled the intelligence/security/policy making divide as a former Director of GCHQ, Permanent Secretary at the Home Office and the UK's Security and Intelligence Coordinator.

<sup>382</sup> David Omand, "Creating Intelligence Communities," *Public Policy and Administration* 25, no. 1 (2010).107

<sup>383</sup> *Ibid.* 107 drawing on the work of Helen Fessenden, "The Limits of Intelligence Reform," *Foreign Affairs*. 84(2005). who examines particularly the lack of budgetary authority of the DNI over the community he or she is supposed to govern.

for the UK is for the loss of the Permanent Secretary level coordinator.<sup>384</sup> Although he equates the role to that of the DNI because both have responsibility for community health and product quality, the organisational and cultural networks in which each sat were very different. This, as well as the relative performance of each, needs to be accounted for in any theoretical model used to compare the two.

Omand's enthusiasm for strong leadership is supported by his take on the early history of the Joint Intelligence Committee (JIC), and in particular its Chair. Though it is at least debatable whether the post boasted the 'visible authority' Omand credits them with. Indeed Omand himself cites Dick White as having brought the strong community leadership he suggests<sup>385</sup> through his appointment as 'a very senior Coordinator'.<sup>386</sup> It seems likely that his authority stemmed from his unique position as a former chief of both SIS and SyS, just at DCI Tenet's was rooted in his role as head of the functional Central Intelligence Agency, not his community management role.<sup>387</sup> Certainly the JIC, as the executive of the Permanent Secretaries' Committee on the Intelligence Services (PSIS), was an important element in setting the requirements and priorities (particularly at the strategic level) for the agencies, and this vested some authority within them, but it ran concurrently with other points of authority, such as the relevant Secretary of State. Yet the system worked, which cannot be fully explained by any reliance on a simple hierarchical architecture.

It seems clear therefore that efforts at reforming as well as understanding the intelligence and security communities on either side of the Atlantic are plagued by apparently contradictory evidence, even when undertaken by those with such a wealth of practical experience.

Other reformist authors, such as Betts and Treverton are more focused on the practicalities of the coordination issue. They have a clear view of the

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<sup>384</sup> Omand, "Creating Intelligence Communities." 114

<sup>385</sup> *Securing the State*. 302-304

<sup>386</sup> "Creating Intelligence Communities." 105

<sup>387</sup> Hayden, "The State of the Craft: Is Intelligence Reform Working?."

difficulties, and what they would like a reformed intelligence community to look like, but struggle to account for why it has not been 'fixed'.

Gregory Treverton's work focuses on the problems of increasing complexity as a result of environmental shifts that include the post Cold War impact of globalisation<sup>388</sup> and the increased interaction between different types of security and intelligence provider with the advent of the 'war on terror'.<sup>389</sup> He is keenly aware of the need for horizontal as well as vertical integration and bemoans the existence of stovepipes as an 'institutional legacy'.<sup>390</sup> Amongst his prescribed solutions however is that organisation shifts from being by agency, to being by 'issue'. Seeing the problem solely from an organisational perspective, Treverton does not address in any depth why he feels these issue based divisions would not simply inspire new stovepipes, albeit based on different divisions, and a repetition of the same sub-goal behaviours he implicitly observes as making the current ones into what he describes as 'baronies'.

Treverton, centres his reforming argument on the disparities between cold war and post cold war intelligence in its societal setting. He argues that the FBI and CIA failed to co-operate effectively "... because we, the American people, didn't want them to". He notes the dichotomy between the desire for personal freedom and for security that resulted in the 'raggedy' cooperation between the two whilst each sat on either side of 'intelligence and law-enforcement' and 'home and abroad' divisions.<sup>391</sup> In Europe, on the other hand, some scholars saw the same increased complexity as an environmental shift in 'risk'. The shift away from globally dominant centres of power, and the threat that they presented, towards the cauldron of multiple State and sub-State (or more accurately perhaps trans-State) level hazards that now need to be addressed. In part this is because although less serious than the potential nuclear holocaust of the Cold War years, the threat had become more amorphous. Ulrich Beck went further and argued that the world had changed from one "dominated by threat" to one "permeated by risk" so

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<sup>388</sup>Treverton, *Reshaping National Intelligence for an Age of Information*.

<sup>389</sup> *Intelligence for an Age of Terror*.

<sup>390</sup> *Ibid.* 57

<sup>391</sup> *Ibid.* 49

that the "... fixed norms of calculability, connecting means and ends or causes and effects...(were) rendered invalid. "<sup>392</sup> He went so far as to connect this admittedly dystopian view with both the administrative and technical decision-making process, but crucially saw them now couched in a more complex environment so that uncertainty of outcome was suddenly omnipresent.

While both Treverton and Beck have certainly observed significant environmental shifts it is less clear that these have introduced any genuinely new, qualitatively distinct problems. There have always been trade-offs required between different options, and some level of discord between agencies has existed since the environment became complex enough to need them. Rather, recent decades have seen a quantitative increase in the need for integration of different national security and intelligence tools, and for this to occur at ever increasing levels of decision making. Frictions in organisational ordering, which could previously be dealt with on a case-by-case basis, are now daily issues. If the shift in risk was a principal explanatory factor in cooperative success one would expect to see good cooperation on both sides of the Atlantic, worsening through the 1990's and into the modern era, as opposed to poor integration of US community parts (in most cases) and better cooperation in the UK. Thus environmental changes can not alone account for the interactions observed, and can be no more than part of the answer.

In his seminal work 'Enemies of Intelligence',<sup>393</sup> Richard Betts acknowledges the substantial amount of empirical work into intelligence and security issues, but notes that that they mostly deal with intelligence failures, and that there is no overarching normative theory that encapsulates them. He goes on to describe three distinct but overlapping issues that impact on efforts to coordinate the community:

The first are failures of perspective, and he suggests here that the record of failure is not as bad as it is often regarded. This view is linked to the problem

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<sup>392</sup>Beck, *World Risk Society*.3-4 and further discussed in Mark Phythian, "Policing Uncertainty: Intelligence, Security and Risk," *Intelligence and National Security* 27, no. 2 (2012).

<sup>393</sup>Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*.



advanced by Mark Lowenthal of not being able to empirically show what one gets for each pound or dollar spent on intelligence or security; unlike in the military sphere where there is a demonstrable 'bang for one's buck'. Comparisons can be made between competing items of equipment, in intelligence the utility of any particular intelligence stream is hard to define, and harder still to predict at the outset.<sup>394</sup> If nothing surprising happens, then the decision maker can never be sure if it did not happen because the risk was known and steps to avoid it happening were successful, or because it was never actually going to happen anyway, and the investment was unnecessary.<sup>395</sup> Betts links this to the related problem for intelligence that while successes may be opaque, failures are clear and often serious. The point is certainly a fair one. It fails however to disaggregate unavoidable failures and failures that could have been prevented, given the status of relevant intelligence capability across the board. For example the non-prediction of the Arab Spring, where the tensions in each of the four Arab states involved were well reported, as was the increasing influence of social media, but that the self immolation of a Tunisian fruit seller would or could act as the catalyst was not and could never have been predicated. This is clearly an unavoidable failure, and can be compared with such failures as not linking information separately held by the CIA and FBI prior to the 9/11 attacks, or the misinterpretation of information before the Argentinean invasion of the Falklands. The difference between 'secrets and mysteries'<sup>396</sup>, in other words. The net result however is that reforming impetus is often misdirected, a

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<sup>394</sup>Mark Lowenthal, *Declining National Security Spending - Implications for Intelligence*, podcast audio, Rethinking Seminar Series: Rethinking U.S. Enduring Strengths, Challenges and Opportunities 2012,

<https://dnpro.outer.jhuapl.edu/rethinking/VideoArchives/LowenthalPresentationVideo.aspx>.

<sup>395</sup> Often thought of in the UK as Quinlan's Law. See for example Professor the Lord Peter Hennessy in oral evidence to the Defence Select Committee preparing the next Strategic Security and Defence Review (24th April 2013) quoting Michael Quinlan, formerly one of the United Kingdom's foremost nuclear strategists; "... the expected, precisely because it is expected, is not to be expected. Rationale: What we expect, we plan and provide for, what we plan and provide for, we thereby deter, what we deter does not happen. What does happen is what we did not deter, because we did not plan and provide for it" "Towards the Next Defence and Security Review," (House of Commons: Defence Committee Minutes of Evidence, 2013).

<sup>396</sup> The fundamental difference between secrets and mysteries, often quoted in intelligence literature, is from an unknown original source although it has, according to Omand, been 'popularised' by R. V. Jones. Secrets refer to information that exists but is hidden, and can therefore be discovered (at least in theory). Mysteries on the other hand refer to intentions not yet crystallized into decisions, which are not therefore knowable however desirable the information might be. See Omand, *Securing the State*.46

practical problem based upon repeated failures to comprehend the issue as a whole.

Betts second area of concern is around the processing and communication of information in a timely and manageable way, an information cost of the sort discussed in Chapter 2 and throughout the case studies to this thesis, particularly Chapter 5. Finally and perhaps most tellingly he suggests the “... roots of failure lie in unresolvable trade-offs and dilemmas” so that “... curing some pathologies with organisational reforms often creates new pathologies or resurrects old ones”;<sup>397</sup> very much the pattern empirically observed and the root of the new institutionalist approach discussed immediately below. Although he laments the lack of any normative theory of intelligence, Betts does not however attempt to link these three issues in a single cohesive framework.

Intelligence and security scholarship that examines cooperation in the fields can therefore be seen to be limited in its explanatory power, often to the particular issue or instance under consideration. The review of the same authors in Section 2 of Chapter 4 will argue that institutional cost analysis can provide a more comprehensive explanation.

### **Section 3: The Dichotomy of Collegiality and New Institutionalism in Intelligence and Security Cooperation**

New institutionalist authors have also found inconsistencies emerging when examining the problem from a more theoretically grounded position. This approach, which is utilised explicitly by US reformers such as Amy Zegart and implicitly by the likes of Richard Posner, can explain how collaboration can break down, but struggles to account for the many occasions when it works well (despite being at least partially rooted in transaction cost economics,<sup>398</sup> an issue explored in Section 3 of Chapter 4 when new intuitionism and institutional cost analysis are examined together). Although it is concerned with the behaviour of actors, new institutionalism is rooted in microeconomic theories. It therefore seeks to explain apparently irrational

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<sup>397</sup> Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*.21

<sup>398</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.*19

macro level outcomes from a rationalist starting point by focusing on micro level issues (such as the very personal preferences and bounded rationality of individual actors). These are set within a strong cultural framework. Any such notion must be tempered by an acknowledgment that culture itself is a mosaic of what in Grey's conception are 'pillars' or overarching and widely shared values and norms, and 'splinters' associated with different groupings to the one under analysis but that are no less strong for that.<sup>399</sup> The impact of culture on the personal utility of key actors is thus a product of different cultural memberships, and which is prevalent in any particular set of circumstances is not necessarily easy to deduce. The cultural affiliations of being a member of a small operational team, such as the one working under the US Ambassador in Sarajevo in the 1990's that saw State, CIA and DoD officials create the Diplomatic Intelligence Support Center (DISC), may trounce those associated with membership of one of the parent organisations under one set of circumstances, but the latter might re-emerge as dominant as these diminish.<sup>400</sup> The assumptions of a dominant culture informing new institutionalist approaches thus provide a useful means of making cultural impact manageable (and have been used for that same purpose within this thesis), but viewed in isolation from other factors they can skew analysis.

In Zegart's view the rationality of the institutions of national security and intelligence is nonetheless socially constructed. The behaviour of actors is in the context of the values, norms and traditions of their own organisations. These thus both constrain the behaviour of their members, and are reinforced by it. In an extensive examination Zegart thus argues persuasively that the failure of the US intelligence and security community, and the elements within it, to adapt successfully<sup>401</sup> to the new circumstances of the

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<sup>399</sup> Grey, *Decoding Organization: Bletchley Park, Codebreaking and Organization Studies*. 107-172

<sup>400</sup> See Jennifer E Sims, "Understanding Ourselves," in *Transforming Us Intelligence*, ed. Jennifer E Sims and Burton L Gerber (Washington: Georgetown University Press, 2005). 51-53. Future 'DISC's were obstructed by the CIA once the Balkan crisis receded.

<sup>401</sup> Between 1991 and 2001 no less than twelve influential reports around US governance generated 340 (out of 514) recommendations that focused on improving the national intelligence capability. Of these, despite a declared intention dating back to 1947, 94 were focused on the need to improve coordination in some way. Clearly the issue was not mired in complacency, nor was there a lack of will to address acknowledged problems. Yet, the influential make-up of the report's authors notwithstanding, of the 340 recommendations a mere 35 were fully implemented, and some 268 were not implemented to any degree. Despite exogenous pressure, and an acknowledgement of the

post Cold War world was because of the frictions and difficulties such issues imposed to counter evolutionary pressure. Zegart argues that it is the difficulties in cooperative behaviour between actors who are operating within the parameters of their individual organisational environments that are the causal factors in poor adaption.<sup>402</sup> Intelligence and security agencies exhibit similar characteristics to, and are subject to the same budgetary pressures as, other organisations,<sup>403</sup> the fact that they exist in a largely monopsonistic relationship with their paymasters means that the governance more generally must be included in their analysis. Zegart's view is thus one of a very interdependent set of organisations.

Where domestic policy issues are normally the province of a discrete department, foreign policy can be affected by a variety of disparate voices. These can include State Department, the military, or the intelligence community, with overlapping interests. Yet Zegart (writing prior to the September 2001 attacks) found that organisational structure was not an issue to those foreign policy interest groups that did exist, despite it being relevant to their opposite numbers in the domestic arena, so that evolutionary pressure for adaption was restricted to internal actors with particular and overly parochial interests.<sup>404</sup> In fact She found that foreign policy in general, and the intelligence and securities spheres in particular, demonstrate an asymmetry of information between those within the policy process and those

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changing threat post Cold War, the changes that a realist model would have anticipated failed to materialize. For a full list of the reports considered and further discussion thereof see Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*. 27-35 and 199-202 (Appendix - Intelligence Reform Catalog Methodology).

<sup>402</sup> See both *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* And *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*. 15-42. The former deals with the formation of agencies and the organisational 'birthmarks' that endure as a result, while the latter examines the poor levels of adaption observed. Zegart's theoretical approach has also evolved between the two books, and it is the more recent that makes this point most forcefully.

<sup>403</sup> See for example Anthony Glees, Philip H. J. Davies, and John N. L. Morrison, *The Open Side of Secrecy : Britain's Intelligence and Security Committee* (London: The Social Affairs Unit, 2006). 61-64. The authors demonstrate that Intelligence Agencies operate under similar economic constraints to organisations outside the community. Most importantly agencies are subject to pressures from complimentary/substitute costs of alternative sources. Fundamentally an institutions success or failure is dependant both on a need from the demand side, and an ability to satisfy it from the supply side. At an operational level 'requirements' may be paralleled with the goods and services required of any firm or institution. The subsequent processes of budgeting and resourcing, authorization and even eventual supply of the product and an assimilation of market feedback are not unique to the Intelligence community.

<sup>404</sup> For a discussion of the impact of the distinct interest group environment in this sphere see Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* 22-27.

outside it. Information is more likely to be classified as well as being hard to obtain. This is at variance to domestic policy areas where the situation can even be reversed, so that external interest groups 'brief' policy makers in Congress. Bureaucrats thus have an 'insider's' information advantage over 'outsiders' in interest groups or other public bodies, who would incur substantial costs in generating their own sources of information.

Congress is in any event incentivised to concentrate on the domestic policy arena which provides a more demonstrable (electoral) benefit. Secrecy combines with the high level of uncertainty in the intelligence and security spheres to dis-incentivise members of the legislature, who have little to gain by success and a lot to lose by failures in the security or intelligence fields. As Zegart notes, even after the Iran-Contra scandal, the 'Tower Report' emphasised that foreign policy was, and should be, in the Executive domain and thus minimised the negative impact that the relative uncertainty of the foreign policy arena might have on congress.<sup>405</sup> The ambivalent position of Congress was further demonstrated by their muted acquiescence of the fact that the administration refused to share the results of its review of the US nuclear posture, Presidential Policy Directive 11 (PPD 11), with the Congress despite their being the organisation required to perform "due diligence" around implementation of the 2010 'Start Treaty'.<sup>406</sup> Despite Senator Lugar's longstanding interest in nuclear deterrence his only censure was a polite observation that "... I simply would say that our country is strongest and our diplomacy is most effective when nuclear policy is made by deliberate decisions in which both the legislative and executive branches fully participate." and even then reaffirmed that "... This process should begin with the President of the United States." even adding that the President should be more involved in funding decisions despite funding being one of the principle tools of Congress exercises any authority over the Executive.<sup>407</sup>

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<sup>405</sup> Ibid.30.

<sup>406</sup> PPD-11 were the terms of reference for Nuclear Posture Review implementation study which included information such as numbers of missiles and warheads and was therefore necessarily classified. See Committee on Foreign Relations, *Implementation of the New Start Treaty, and Related Matters: Hearing before the Committee on Foreign Relations United States Senate 112th Congress, Second Session, 21 June 2012.* 43.

<sup>407</sup> Ibid.

Zegart thus argues that the fundamental problems in the intelligence and security communities are likely to be 'sticky' because of micro level factors like the incentives of different actors. She could draw on a number of empirical reviews that have come to a similar conclusion. The Silberman Robb Commission's overview for example stated; "..... Indeed, Commission after Commission has identified some of the same fundamental failings we see in the Intelligence Community, usually to little effect. The Intelligence Community is a closed world, and many insiders admitted to us that it has an almost perfect record of resisting external recommendations."<sup>408</sup> Even more routine reviews, such as those undertaken by congressionally constituted bodies such as the Aspin-Brown Commission,<sup>409</sup> or independent bodies such as the Council on Foreign Relations,<sup>410</sup> (both of which considered the US intelligence community at large in the post Cold-War period), do, while varying in the specifics of their recommendations, tend to recommend similar broad changes. This is echoed by congressional reviews of progress made following criticism and recommendations, such as those considering the FBI's development towards an intelligence based domestic national security capability.<sup>411</sup> Yet, as the new institutionalist model predicts, these recommendations consistently fail to be enacted in any meaningful way. A purist new institutionalist model would suggest that the bureaucracies of private firms should be similarly 'sticky' but, unlike government agencies, private firms adapt at a population level.<sup>412</sup> As soon as they fail to modify

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<sup>408</sup> See Laurence H Silberman and Charles S Robb, "Report to the President of the United States - 31 March 2005," (Washington DC: Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, 2005). 6.

<sup>409</sup> See United States Congress, "Preparing for the 21st Century: An Appraisal of Us Intelligence," (US Government Printing Office, Washington DC: Commission on the Roles and Capabilities of the United States Intelligence Community - 104th Congress, 1996). Chair L. Aspin (until May 1995), Dr. H. Brown (from July 1995).

<sup>410</sup> See for example Maurice R. Greenberg and Richard N. Haass, *Making Intelligence Smarter: The Future of U.S. Intelligence - Report of an Independent Task Force* (New York: Council on Foreign Relations, 1996).

<sup>411</sup> See for example A. Cumming and T. Masse, *Fbi Intelligence Reform since September 11, 2001: Issues and Options for Congress*, (Washington DC: Library of Congress, 2004), [http://www.law.umaryland.edu/marshall/crsreports/crsdocuments/RL32336\\_04062004.pdf](http://www.law.umaryland.edu/marshall/crsreports/crsdocuments/RL32336_04062004.pdf).

<sup>412</sup> Population level adaption is discussed in Michael T Hannan and John Freeman, "The Population Ecology of Organizations," *American Journal of Sociology* 82, no. 5 (1977).

after exogenous shocks they perish and are replaced by new firms, whereas most government agencies have been around for some fifty years.<sup>413</sup>

Zegart therefore demonstrates that “organizations are never neutral”, so that the nature of government organisation seriously impacts on its policy output.<sup>414</sup> She also establishes that there is no one perfect structure to address the problem because of the complexity of the inter-relationships and the uncertainty of the environment in which they must work. Her work very successfully accounts for failures in collaboration that in turn undermine reforms and overall efficacy. However Zegart, whose emphasis is on reform, does not account for instances where different actors have cooperated successfully.

New institutionalisms inability to deal with cooperative success is not however rooted in Zegart’s analysis but in new institutionalism itself when it is applied to cooperation right across the intelligence and security regimes. Its emphasis on behaviours being acted out in rigid organisational pathways cannot account for why the same agencies sometimes successfully cooperate, and sometimes do not. As a CIA officer attached to the FBI Henry Crumpton found good informal and tactical level cooperation, but poor collaboration above that, a fairly common experience.<sup>415</sup> At the same time the UK’s community faces qualitatively similar external problems to that of the USA, but manages to cooperate fairly efficiently in most (but not all) areas as Part 2 and 3 to this thesis make clear.<sup>416</sup> If collaboration works at a tactical level but breaks down at a policy or strategic level, or works in one area but not another, then there must be something more going on than simple national or cultural approaches can explain.

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<sup>413</sup> Only 438 new agencies were created in the USA between 1946 and 1997. Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*. 46-7. In contrast in 1957 alone some 398000 new businesses were created with similar numbers being transferred or failing. See Howard Aldrich, *Organizations and Environments*(Englewood Cliffs, N.J.: Prentice-Hall, 1979). 36.

<sup>414</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C*. 1

<sup>415</sup> Crumpton, *The Art of Intelligence: Lessons from a Life in the C.I.A.'S Clandestine Service*. p.105-120 but see also Op. Courtship (between the FBI and CIA) and the 'Special Collection Service' (SCS) (between the CIA and NSA) Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.280-281 and 111-112 respectively.

<sup>416</sup> Also see for example Herman, *Intelligence Power in Peace and War*. or for a wider comparative Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

Richard Posner has also used a new institutionalist approach to critique efforts at reform in the United States intelligence community and inevitably comes to very much the same conclusions as Amy Zegart.<sup>417</sup> Although he also acknowledges the occasional successful collaborative endeavour, like her, his narrative offers little explanation for these. Posner notes the impact of external issues such as the complexity of the security and intelligence problem and the uncertainty inherent in any proposed solution, acknowledging that they make satisfactory negotiations more difficult and strong advocacy more attractive, particularly in the counterterrorism sphere. He adds both cultural<sup>418</sup> and utilitarian ideas to make sense of the difficulties he observes across the intelligence and security endeavour.<sup>419</sup> Despite this implicit use of what is essentially a new institutionalist paradigm, Posner is largely concerned with advocating change. He has therefore limited his explicit attempts in providing a theoretical architecture to providing (with Garicano) an 'organisational economics' perspective for some aspects of intelligence provision. This perspective nonetheless included some of the facets of the model developed in Chapter 2. They note for example that while an examination of a specific case might indicate that a particular piece of information should have been passed internally or from agency to agency, the organisational realities in delivering this involve a more complex trade-off. A more centralised, hierarchical organisation is likely to improve appropriate information sharing both within and between agencies. It will foster the adoption of common codes, data networks and even cultural practises. However it will also encourage group-think and 'herding'.<sup>420</sup> The suitability of each structure, and the optimum point of balance between centralised and decentralised arrangements, will thus vary according to the problem faced. The net result is that in using an organisational economics paradigm more

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<sup>417</sup> Posner, *Countering Terrorism : Blurred Focus, Halting Steps*.33-69

<sup>418</sup> See for example Culture in the FBI as opposed to that of a domestic security agency. Ibid.105-133 and for a wider discussion of these culture in the security/intelligence context see Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

<sup>419</sup> See variously Posner, *Countering Terrorism : Blurred Focus, Halting Steps. Uncertain Shield : The U.S. Intelligence System in the Throes of Reform. Remaking Domestic Intelligence*.

<sup>420</sup> Luis Garicano and Richard A. Posner, "Intelligence Failures: An Organizational Economics Perspective," *Centre for Economic Policy Research Discussion Paper Series* No. 5186 (2005). 3 & 13.



directly, Posner is led to question the likely effectiveness of the sort of radical reforms he argues for elsewhere.<sup>421</sup>

Posner's understanding of the breadth of the security and intelligence function is nonetheless comprehensive, and includes broader intra-agency organisational issues such as the incongruence of having a (pre-2004) Director of Central Intelligence positioned as head of an agency specifically barred from domestic matters or, as is still the case, having national level assets that would also have domestic counterterrorism functionality situated in the Department of Defense. Posner considers that Law enforcement is one tool, intelligence another, and 'target hardening' a third and sees integration of these as critical. He highlights the linkage between flawed organisational forms, inappropriate incentives, sub-goal pursuits, territorial behaviours and, ultimately, sub-optimal performance. He is not therefore naïve in assessing possible solutions. Posner also appreciates how the 'probabilistic' nature of counterterrorism intelligence provokes problems for decision makers at the policy level, so that some work up to a certainty, others down to a 'zero chance' because both are easier to deal with.<sup>422</sup> Yet Posner also realises that the real probability of an attack is a factor of capabilities, intentions, personalities and a myriad of other circumstances. Developing future policies when so much is unknown or even unknowable is thus no simple task, provoking behaviour where decision makers indulge in 'satisficing', or produce policy based on lines of least resistance.

Within both Zegart and Posner the seeds of a fuller explanation that could explain the full range of outcomes are apparent but are not fully developed, as the discussion that contrasts their approaches to the use of institutional cost analysis in Section 3 Chapter 4 will discuss. In his work with Garicano Posner has recognised the importance of both environmental and behavioural factors and has even used microeconomic tools to compare the utility of different organisational forms for teams doing intelligence analysis.<sup>423</sup> However because the relevance and even type of impact that

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<sup>421</sup> Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective."

<sup>422</sup> Posner, *Countering Terrorism : Blurred Focus, Halting Steps*.1-14

<sup>423</sup> Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective."

different issues provoke varies in different circumstances Posner stops short of offering a more far-reaching theory, and concentrates on particular reforming 'fixes' like the creation of a domestic security agency for the US akin to the UK's Security Service.

Conversely authors like Michael Herman discuss how cooperation across security and intelligence endeavours can work, with reference to the UK's intelligence system.<sup>424</sup> Where Zegart and Posner explain why cooperative workings fails, but cannot explain the occasions on which it succeeds, his argument that the collegiality endemic to the British system is at the root of its collaborative success cannot really explain why it sometimes breaks down.

Herman's explanation is based on sound observations as both senior practitioner and academic,<sup>425</sup> yet his conclusions are diametrically opposed to those who argue for a strong hierarchal architecture to reform communities in response to environmental shifts. Rather, Herman has observed a deliberately induced tension in the UK between a centralising tendency and a strong enthusiasm for the benefits of independence.<sup>426</sup> Furthermore he states that reform in the UK has been more successful than in the US precisely because it is gentle and evolutionary rather than 'root and branch' (with the exception of the Trend Reforms and the move of the Joint Intelligence Committee (JIC) into Cabinet Office). It is, for the most part, internally generated from the bottom up as need arises.<sup>427</sup>

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<sup>424</sup> See particularly Herman, *Intelligence Power in Peace and War*. and *Intelligence Services in the Information Age : Theory and Practice*.

<sup>425</sup> Michael Herman was a senior intelligence officer at GCHQ including service with the Defence Intelligence Staff and in Cabinet Office and was Secretary to the JIC. He has also been a Research Fellow at Nuffield College, Oxford and at Keele.

<sup>426</sup> Michael Herman, "Parallels between Government Intelligence and Statistics," in *Understanding and Improving Intelligence Analysis: Learning from Other Disciplines* (Brunel University, London, 2012).

<sup>427</sup> *Intelligence Services in the Information Age : Theory and Practice*. However it is possible that changes in the central machinery during Gordon Brown's premiership, discussed in Davies, "Twilight of Britain's Joint Intelligence Committee?." coupled with the advent of the National Security Council during the early days of David Cameron's coalition government, may be equally radical but it is as yet too soon to reliably judge.

Yet Herman is neither insular nor conservative in his outlook.<sup>428</sup> His views are not because of any limited view on the role of intelligence or of the complexity of the environment in which it needs to operate,<sup>429</sup> nor even its need to adapt to changing circumstances. For example in a prescient piece in 2002 Herman argued that the refocusing of resources on non-State and rogue State entities post 9/11 should be linked to a diminution in the targeting of 'friendly' States if the diplomatic consensus it required was to be maintained.<sup>430</sup> Herman's views on oversight seem equally at odds with the US authors: He notes with approval that in the UK self censorship is the norm and supervisory bodies rather weak. This requires a collegial rather than adversarial relationship that supports mutually agreed and better considered change to occur; a view strongly at variance with both Amy Zegart and Jennifer Kibbe. Zegart argues empirically that a lack of proper incentives creates a weakness in oversight architecture that in turn makes it ineffective,<sup>431</sup> whilst Kibbe,<sup>432</sup> focuses instead on the information disadvantages of the oversight bodies and their partisan nature to account for their failings. Both positions are empirically based, but no theoretical template that account for their divergence is offered.

Philip Davies has used a more internal point of focus to examine coordination and efficacy in the intelligence sphere. His use of organisational theory has incorporated both bureaucratic and behavioural issues, and allows that in different circumstances different factors will carry different weight.<sup>433</sup> Although Davies explanations remain rooted in cultural factors (exacerbated

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<sup>428</sup>Robert David Steele et al., "An Intelligence Response," *Foreign Policy* (2002). and Michael Herman, "Counter-Terrorism, Information Technology and Intelligence Change," *Intelligence and National Security* 18, no. 4 (2003).

<sup>429</sup> "Intelligence as Threats and Reassurance," *Intelligence and National Security* 26, no. 6 (2011).

<sup>430</sup> "11 September: Legitimizing Intelligence?," *International Relations* 16, no. 2 (2002).

<sup>431</sup> Amy B. Zegart, *Eyes on Spies : Congress and the United States Intelligence Community*, Hoover Institution Press Publication (Stanford, Calif.: Hoover Institution Press/Stanford University, 2011). See also Amy Zegart and Julie Quinn, "Congressional Intelligence Oversight: The Electoral Disconnection," *Intelligence and National Security* 25, no. 6 (2010).

<sup>432</sup> Jennifer Kibbe, "Congressional Oversight of Intelligence: Is the Solution Part of the Problem?," *ibid.*, no. 1.

<sup>433</sup> Compare for example Davies, *M.I.6 and the Machinery of Spying*. with his editing of "Intelligence and the Machinery of Government: Conceptualizing the Intelligence Community." and use of the 'core executive theory' (see Martin J Smith, "Intelligence and the Core Executive," *ibid.*).

by different understandings), and the social norms that result,<sup>434</sup> like General Odom he suggests that these cultural issues are themselves the product of organisational factors. In this account organisational changes are in part the result of cultural perceptions as the two journeys of the UK and USA intelligence communities as detailed in his two volumes of 'Intelligence and Government in Britain and the United States' make clear.<sup>435</sup> For Davies there is therefore a circular relationship between the two that can be either vicious or virtuous. It is not therefore simply an issue of national character leaving US actors predisposed against cooperative working, as the success of US operations like Courtship (between the FBI and CIA) and the 'Special Collection Service' (SCS) (between the CIA and NSA) make clear.<sup>436</sup> The mechanics of how behaviour and bureaucracy interrelate are thus non-trivial, with substantive potential repercussions, as Davies rather depressing summation of the 'National Commission on Terrorist Attacks Upon the United States' (the 9/11 Commission) stated views of the potential formation of a Security Service equivalent for the USA indicate.<sup>437</sup> Yet they are still not fully accounted for.

In Davies account, it is the quality of accepted interagency coordination that makes the difference, and by extension its effective operation that will allow appropriate adaption or reform as required,<sup>438</sup> and he produces significant evidence to attest to that fact. However, he also argues persuasively that this is realised not by a chair of 'personal authority' but by a realisation amongst his or her peers that they are engaged in a collective pursuit so that they sublimate their own and their departments goals to those of the group.<sup>439</sup> These goals thus become a shared maximand. This seems to work well enough in the UK, where the culture is inherently collegial, but not in the

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<sup>434</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1. 155

<sup>435</sup> Ibid. Volumes 1 and 2.

<sup>436</sup> Ibid. Vol.2. 319 The SCS was so successful that it evolved to incorporate more modern SIGINT programs like Project STATEROOM and was still running in 2013 when exposed by Edward Snowden. See Ian Allen, "American Spies Use Nz Embassies to Collect Intelligence," *Intelnews.org*(2014), <http://intelnews.org/2014/10/13/01-1572/>.

<sup>437</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol. 1.365-367

<sup>438</sup> Ibid. Vol.2 .321-2

<sup>439</sup> Ibid. Vol.2 .318

USA, where the missing interagency coordination problem is "... exacerbated by the tendency to work competitively..."<sup>440</sup> so we return once again to cultural factors influencing outcomes. Cultural competitiveness can however be rooted in organisational minutiae, such as how budgets are decided and spent<sup>441</sup> as his examination of the UK's imagery intelligence demonstrated.<sup>442</sup> So the wheel turns full circle; the two factors of culture and organisation are clearly intimately interrelated.

As a result as soon as a community divides its component parts into specialisations that can more efficiently and accurately handle policy areas or threats, they will inevitably overlap and as they or the environment alters will cease to exhibit the same clearly defined borders that the division of the community had originally anticipated. Divergence, as Davies continues, is thus inevitable and the question becomes one of managing both the regularisation of cooperation and the resulting distinctive departmental objectives.<sup>443</sup> However, in concluding that the effectiveness of collegiality over competitive approaches to community management can be ascribed to the cultural circumstances in which each is applied, Davies account stops short of deriving a 'general model' that incorporates the various micro factors he has unearthed during his detailed observations. It therefore remains unclear why, for example, General Soyster could leverage horizontal control across the stovepipes inherent in the Department of Defense intelligence enterprise, whereas no DCI ever could achieve the same in even the civilian arena that they nominally controlled, or indeed why, in the UK context, the Chief of Defence Intelligence struggles to manage this sort of control whilst the civilian JIC can.

Other authors have also argued persuasively that specific causes are at the heart of given problems of cooperation.<sup>444</sup> Yet in each case whilst the particular instances under discussion can empirically validate the arguments advanced, a more complete selection of cases shows that they are either

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<sup>440</sup> Ibid. Vol.2 .322

<sup>441</sup> Ibid. Vol.2 .326

<sup>442</sup> "Imagery in the UK: Britain's Troubled Imagery Intelligence Architecture."

<sup>443</sup> *Intelligence and Government in Britain and the United States : A Comparative Perspective.*7

<sup>444</sup> Summarised in the introduction Section 2.

inconsistent or incomplete. Examples of collegiality clash with new institutionalist perspectives, and vice versa, but both can be evidenced. Section 3 of Chapter 4 will develop the argument that this dichotomy can be addressed by the use of institutional cost analysis. The next sections of this chapter will instead consider how more general theories might explain the different phenomena observed in security and intelligence cooperation.

#### **Section 4: Security and Intelligence Cooperation and the Relevance of the Behaviouralist Perspective**

Uncertainty is a key element of both the security and intelligence functions. It is also a central platform of the predominant international relations school of structural realism or neo-realism. This has led one of its scholars to observe, albeit anonymously, that intelligence is irrelevant because it deals with intentions which are unknowable.<sup>445</sup> The leading proponent of neorealist thought, Kenneth Waltz has gone even further and argued that the complexity of international relations (which is intimately linked with the uncertainty of the international environment) means that they cannot be reduced to "autonomous realms" and are thus beyond theoretical explanation;<sup>446</sup> a very unsatisfactory state of affairs. The importance of an approach that can address environmental complexity and uncertainty with the myriad of other factors at a useful level is therefore clear.

Despite this apparent divergence between structural realism and intelligence, a behaviouralist approach can allow the two to mesh: Using a definition of intelligence as "the collection, analysis, and dissemination of information for decision-makers engaged in a *competitive* enterprise" Jennifer Sims puts the behaviour of actors relative to each other onto the agenda as they negotiate and manoeuvre for advantage.<sup>447</sup> The degree and method by which these activities are conducted as a competitive game within the intelligence and

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<sup>445</sup> Quoted by J.E Sims, "Defending Adaptive Realism: Intelligence Theory Comes of Age " in *Intelligence Theory : Key Questions and Debates*, ed. Peter Gill, Stephen Marrin, and Mark Phythian, *Studies in Intelligence Series* (London: Routledge, 2009).151.

<sup>446</sup> Kenneth Neal Waltz, *Theory of International Politics*(Reading, Mass. ; London: Addison-Wesley, 1979).71-72 Kenneth N. Waltz as discussed by Gideon Rose, "Neoclassical Realism and Theories of Foreign Policy," *World politics* 51, no. 01 (1998).145.

<sup>447</sup> Sims, "Defending Adaptive Realism: Intelligence Theory Comes of Age ".154 italics added.

security communities is elaborated on in the following paragraphs, and when discussing other models, so for now it is enough to note that although Sims developed her definition and subsequent theory for the international arena, it has application at every level. Advantage is sought via information asymmetry both externally and internally.

There are four key elements to Sims approach; collection, transmission, anticipation and leveraged manipulation. The latter being a euphemism for the counter intelligence function that emphasises the relevance of achieving a relative advantage rather than any absolute acquisition of knowledge or power. She argues that a principle feature of successful transmission and anticipation, which represent a significant proportion of the internal element of intelligence provision, are bound up with 'trust'. As has been noted in Chapter 2 this has been referred to as the lubricant of a social system, and the antonym of the frictions captured within institutional costs.<sup>448</sup> In the case of transmission Sims states that the more intelligence functions must be delegated to enhance collection the more important trust becomes. In this she is supported by Lawrence and Lorsch's definition of an organisation as "... a system of interrelated behaviors of people who are performing a task that has been differentiated into several distinct sub-systems, each sub-system performing a portion of the task, and the efforts of each being integrated to achieve effective performance of the system".<sup>449</sup> Thus capturing the fundamental features of a security and intelligence community in the complex modern environment. Because both the break-down of different sub-functions and their re-integration are encapsulated the importance of probity amongst actors is highlighted. However increased distance between intelligence providers and intelligence users makes trust more difficult as institutional blocks increase. Conversely too great a proximity can hinder anticipation as collectors merely react to current policy favourites.<sup>450</sup> This contradiction is at the heart of not only the merits of 'push or pull'

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<sup>448</sup> Arrow, *The Limits of Organization*.23.

<sup>449</sup> Paul R. Lawrence and Jay W. Lorsch, "Differentiation and Integration in Complex Organizations," *Administrative Science Quarterly* 12, no. 1 (1967).3.

<sup>450</sup> Sims, "Defending Adaptive Realism: Intelligence Theory Comes of Age ".155-156.

organisational architecture,<sup>451</sup> but also the root of the current debates on both sides of the Atlantic about how close intelligence providers and political classes should be in the wake of the 2003 invasion of Iraq.<sup>452</sup> Chapter 4 will argue that the discussion of probity in the institutional costs context can provide increased clarity around this dichotomy.

There are strong parallels between a large commercial organisation and an intelligence and security community. It follows that when Cyert and March introduce their seminal '*A Behavioral Theory of the Firm*' by describing the "... modern representative firm" as a "large complex organization..." with its major functions "...performed by different divisions more or less coordinated by a set of control procedures,"<sup>453</sup> they could as easily be describing the modern security and intelligence community. An intelligence body generates a product, the intelligence, in exchange for resources, its funding. Whilst the price mechanism is not immediately apparent it is nonetheless the case that the customer, in this case a government department involved in the provision of security, needs the information to assist in its decision making on a particular issue. It will only continue to agree to a particular level of resources (which are then no longer available to itself) being passed to the intelligence community if it feels it gets the right level of value in return. This necessitates the product being accurate, relevant and timely to the issue at hand.<sup>454</sup> In the United Kingdom the process can be clearly paralleled through the process of agreeing the Single Intelligence Account, wherein it is the customers who decide on the appropriate level of future funding for the agencies.<sup>455</sup> In the United States the linkage is a little less clear because of their predilection for a separation of power:<sup>456</sup> It is Congress who agree funding, as they do for

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<sup>451</sup> Discussed later in the chapter but see Davies, *M.I.6 and the Machinery of Spying*. 341.

<sup>452</sup> See for example for the USA Stephen Marrin, "The 9/11 Terrorist Attacks: A Failure of Policy Not Strategic Intelligence Analysis," *Intelligence and National Security* 26, no. 2-3 (2011).182-202, and for the UK Anthony Glees and Philip H. J. Davies, *Spinning the Spies : Intelligence, Open Government and the Hutton Enquiry*(London: Social Affairs Unit, 2004).

<sup>453</sup> Richard M Cyert and James G March, *A Behavioral Theory of the Firm*, 2nd ed., (Oxford UK: Blackwell Publishers, 1992).1

<sup>454</sup> See inter alia Loch K. Johnson, "Sketches for a Theory of Strategic Intelligence " in *Intelligence Theory : Key Questions and Debates*, ed. Peter Gill, Stephen Marrin, and Mark Phythian, *Studies in Intelligence Series* (London: Routledge, 2009).46.

<sup>455</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.2. 57-60, gives an account of 'Security Service' funding in the UK.

<sup>456</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C*.19



most governmental functions, and then provide at least some degree of oversight, but the intelligence community is very much a tool of the Executive. There are thus similarities between this arrangement and that of a firm that might have to answer to a board of directors and to their shareholders.

It follows that Cyert and March's observations are then equally apposite: Like a firm, a nation's intelligence and security community produces diverse and numerous products, 'buying and selling' in many different 'markets', it generates and processes a significant amount of information, then makes decisions and adapts as a result. Perhaps most telling in their analysis is the observation that if the external market was the sole determinant of a firm's behaviour little of the above would be particularly relevant, but in fact the market is "...neither so pervasive nor so straightforward. The modern firm has some control over the market; it has discretion within the market; it sees the market through an organization filter."<sup>457</sup> The modern firm then exists within the same sort of complex environment already observed by Davies to apply to an intelligence agency (The United Kingdom's Secret Intelligence Service) which has adapted to pressures from two distinct environments: One extra-governmental and shaped by the operational situation, akin to a firm's production issues, the other intra-governmental and shaped by the political and administrative circumstances of its consumers and its relationship with them; similar to the need for a firm to inter-relate and service a changing market and group of consumers.<sup>458</sup>

Cyert and March observed that firms pro-actively examine their environment to decide which issues are deserving of organisational attention. They have to examine options with a much broader perspective than classic economic modelling allowed, and subsequently assess the potential consequences of each. As Williamson later noted, each part of the process has non-trivial costs associated with it.<sup>459</sup> As importantly for this parallel, comparison of the utility each option might provide is rarely even a matter of pitting like against

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<sup>457</sup> Cyert and March, *A Behavioral Theory of the Firm*.1.

<sup>458</sup> Davies, *M.I.6 and the Machinery of Spying*.318.

<sup>459</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.

like, but tends to include tangential issues and intangible but important factors, often measured in wholly distinct ways.<sup>460</sup> One of the results was that profit maximisation, a central tenet of classic economic theory, was not necessarily actually pursued. Instead the decision maker tended to opt for a satisfactory alternative that seemed to "... satisfy a number of auxiliary conditions".<sup>461</sup> Their behaviouralist approach can therefore be seen to advance understanding of the difficulties inherent in security and intelligence provision and their pursuit of a shared maximand.

Their conclusions on the subject of the organisational goals of firms are equally instructive in the examination of intelligence and security, and may also be further explained by a consideration of the institutional costs in each situation.<sup>462</sup> A firm's goals are described as "... a series of more or less independent constraints imposed on the organisation through a process of bargaining among potential coalition members and elaborated over time in response to short-run pressures."<sup>463</sup> This analysis can be seen to be very similar to that discovered by Derthick in her descriptions of intergovernmental bargaining as an ongoing business of shifting perceptions of utility by some leading actors who react to external pressures,<sup>464</sup> but whose options are nonetheless circumscribed by others who set their agenda ex ante, and direct implementation post ante as the internal and external environment evolve.<sup>465</sup>

One would anticipate the goals of a firm to be much simpler than those of most governmental functions, with profit a clearly dominant factor to the near exclusion of all others. Cyert and March instead see the same sort of interaction of environment and behavioural factors as one would expect in

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<sup>460</sup> See for example John Child, "Organization: A Choice for Man," in *Man and Organization: The Search for Explanation and Social Relevance*, ed. John Child, *Routledge Revivals* (London: Routledge, 2012).

<sup>461</sup> Richard M Cyert, Herbert A Simon, and Donald B Trow, "Observation of a Business Decision," *The Journal of Business* 29, no. 4 (1956).237.

<sup>462</sup> Cyert and March, *A Behavioral Theory of the Firm*.30-51.

<sup>463</sup> *Ibid.*50.

<sup>464</sup> See for example Derthick, *The Influence of Federal Grants: Public Assistance in Massachusetts*.

<sup>465</sup> See for example *Policymaking for Social Security*. Derthick was not of course examining security or intelligence provision per se, but has found substantial evidence of these issues in several aspects of US governance so that it is not unreasonable to assume they might also present in these areas, and there are numerous examples cited of similar issues within this thesis.

the more complex spheres of intelligence or security (discussed in institutional cost terms in Section 4 Chapter 4), and their view of both the process and the resultant potential outcomes is more reminiscent of a governmental bureaucracy operating rather like that described by Martin Smith as a 'core executive'; with bargaining amongst key players more relevant than an application of neoclassical economic modelling would predict for a firm apparently wholly dedicated to profit maximising.<sup>466</sup> Their conclusion that goals develop in this way precisely because even a firm is a "... coalition of participants with disparate demands, changing foci of attention, and limited ability to attend to all organizational problems simultaneously"<sup>467</sup> increase the strength of the parallel with an intelligence or security community. Indeed one of Cyert and March's primary questions in 'The Behavioural Theory of the Firm'; "what is the effect of departmental structure on the goals actually pursued in an organization?" and the resultant "differentiation of subunit goals and the identification of individuals with the goals of the subunits, independently of the contribution of that goal to the organisation as a whole."<sup>468</sup> could be regarded as the critical question for community integration in the security and intelligence spheres.

Two further points arise from their conclusions on firms' organisational goals: Firstly the distinction between their long-run and short-run goals.<sup>469</sup> The former may be paralleled with strategic level goals and the latter with tactical or operational goals. Thus, because long-run goals are constantly altered through shifts in coalition structure and the bargaining positions of its members, institutional costs are likely to be higher and prediction more difficult. Secondly, the success of a particular organisational make-up of a firm is peculiar to the specific circumstances in which it finds itself at a given point in time. There is no ideal in the firm's case anymore than in that of a governmental function. Therefore what would seem to be weaknesses can paradoxically be advantageous if the environment shifts appropriately. Cyert and March note that "... the decentralization of decision making (and goal

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<sup>466</sup> Smith, "Intelligence and the Core Executive."11-18.

<sup>467</sup> Cyert and March, *A Behavioral Theory of the Firm*.50.

<sup>468</sup> Ibid.19-20.

<sup>469</sup> Ibid.50.

attention), the sequential attention to goals, and the adjustment in organisational slack permit the business firm to make decisions with inconsistent goals under many (and perhaps most) conditions."<sup>470</sup>

The uncertainty prevalent in the intelligence, the security, and the commercial environments also has effects on both types of organisation that impacts on how decision-making is managed and what organisational architecture is used to support it. Intuitively one might expect that a higher level of uncertainty would lead to actors maximising both their predictive capability and their flexibility; ensuring that any choices were as rooted in the specific circumstances of a case as was possible, and that pre-commitment should be minimised as far as possible to guarantee that flexibility. In fact, in their consideration of a firm's organisational choices in the face of uncertainty Cyert and March concluded that this was achieved by becoming more reactive and less predictive.<sup>471</sup> Such a shift may be tenable within a security providers organisational structure it has critical importance for an intelligence agency, whose primary purpose is providing information, the usefulness of which may hang on its predictive qualities.<sup>472</sup>

Cyert and March identify four key characteristic of organisational choice and control:<sup>473</sup>

1. Multiple and varying goals where the "... criterion of choice is that the alternative selected meet all of the demands (goals) of the coalition". (parenthesis in original).
2. Only a vague and sequential examination of alternatives that is concluded when the first viable solution is found.
3. Uncertainty is avoided rather than incorporated into the process by the use of set procedures and reaction to resultant feedback over attempts at prediction.
4. Standardised procedures and standards are used to make and apply decisions.

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<sup>470</sup> Ibid.50.

<sup>471</sup> Ibid.134.

<sup>472</sup> Discussed in Gustafson, "Strategic Horizons: Futures Forecasting and the British Intelligence Community."

<sup>473</sup> Cyert and March, *A Behavioral Theory of the Firm*.134

These are the result of both long term adaption and are the response to short term control and decision making needs, and can be found within the case studies which follow this chapter, so that although identified through the prism of the firm they may be regarded as applicable to the public sector in general and intelligence and security bodies in particular.<sup>474</sup> It might reasonably be expected that security providers might act in the manner predicted by Cyert and March, as security is intrinsically a reactive function to the combination of threat and risk,<sup>475</sup> but an important part of intelligence provision is predictive, so that the type of solutions summarised in the four elements above should be an anathema to them, and certainly the national security strategies of both the UK and US emphasise the extent to which they rely on predictive intelligence.<sup>476</sup> However recent assessment of the United Kingdom's longer term 'horizon scanning' capability by Kristian Gustafson, and earlier work on the analytic function in the United States suggest that this need not be the case and in fact there are organisational pressures for even intelligence providers to adhere to Cyert and March's dictum, particularly in the 'Requirements' field.<sup>477</sup>

Yet the inclination to apply a standard operating procedure, which can be precisely why a large organisation is usually efficient in performing a core or routine function can paradoxically be why an institution acting in an area of high uncertainty fails to adapt.<sup>478</sup> This dilemma lead Weber to re-think the concept of rationality as a simple linear condition and develop the idea of formal and substantive rationality (of economic action) to capture the

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<sup>474</sup> Ibid.134.

<sup>475</sup> see for example Michael Hough, Anton Du Plessis, and George PH Kruys, *Threat and Risk Analysis in the Context of Strategic Forecasting*, vol. 45(Institute for Strategic Studies, University of Pretoria, 2008).

<sup>476</sup> See inter alia "Contest: The United Kingdom's Strategy for Countering Terrorism," ed. Office of Security and Counter Terrorism at the Home Department(London: Her Majesty's Stationery Office Limited, July 2011). "Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review.", Obama, "National Security Strategy of the United States (2010)."

<sup>477</sup> Gustafson, "Strategic Horizons: Futures Forecasting and the British Intelligence Community." 589-610. Also see for example: Jeffrey R Cooper, *Curing Analytic Pathologies: Pathways to Improved Intelligence Analysis*, (Washington DC: Center for Study of Intelligence,Central Intelligence Agency, 2005), [https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/curing-analytic-pathologies-pathways-to-improved-intelligence-analysis-1/analytic\\_pathologies\\_report.pdf](https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/curing-analytic-pathologies-pathways-to-improved-intelligence-analysis-1/analytic_pathologies_report.pdf) . 16-21, 21-26 and 32.

<sup>478</sup> See inter alia Herbert A. Simon, *Administrative Behavior : A Study of Decision-Making Rrocesses in Administrative Organizations*, 4th. ed.(New York ; London: Free Press, 1997).266-267. And as noted by Cooper, *Curing Analytic Pathologies: Pathways to Improved Intelligence Analysis*.25.

distinction between the application of an accepted and existing logic, and more ambiguous and open approaches based on ultimate ends.<sup>479</sup> It has long been recognised as a factor in the effective management of intelligence in both the United Kingdom and United States. Within the intelligence and security spheres one can note informal solutions being overlaid on to particularly rigid institutions, such as the flexible and loose approaches adopted by both Special Branches' within the Police and the Intelligence Corps in the British Army.<sup>480</sup> A successful integration of the two approaches can mean lower institutional costs, so that the advantages of each might be realised.

Cyert and March thus develop three core ideas that have significance for cooperative working across the intelligence and security domains; the bounded rationality of those involved, imperfect environmental matching, and the dynamic character of processes within them, each of which can be recognised as an aspect of the model developed in Chapter 2.

Thomas Schelling on the other hand, like his fellow economist Williamson, focused on the micro level, considering overall outcomes as an almost inadvertent result of the sub-level pursuit of actors' rational self-interest. To him economics is based on transactions in which "everyone affected is a voluntary participant",<sup>481</sup> and again a parallel can be drawn with the intelligence and security function in a democracy. Like most government functions those affected are voluntary participants, albeit to a greater or lesser degree. They are funded via taxes and are responsive in the short term/operational area via the wishes of a politically appointed decision maker, in the medium term via their budget, and in the longer term through the electoral vulnerability of that decision maker. So, like the examples quoted by Schelling, an examination of the impact of externalities and 'market failure' is likely to be instructive.

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<sup>479</sup> Max Weber, *Economy and Society : An Outline of Interpretive Sociology*, ed. Guenther Roth and Claus Wittich, trans. Ephraim Fischoff et al., 4 vols., vol. 2(Berkeley: University of California Press, 1978).85-86.

<sup>480</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.76-77.

<sup>481</sup> Schelling, *Micromotives and Macrobehavior*.28.Italics in original.

In including the complexities and more nuanced aspects of behaviour in his modelling, Schelling captures other key features of the intelligence and security spheres that must form part of any holistic examination. Firstly, it allows for the dynamic and ongoing nature of the spheres. Decisions do not simply exist in a moment of time but are informed by the past, the actual and anticipated behaviour of others, and then continue impacting into the future. This paves the way for the feed-back loops and unintended consequences discussed under 'complexity' below. Behaviour is purposive, but over a period of time that might exceed the issue under analysis. Secondly, although equilibrium is a useful theoretical tool it is less relevant in the shifting and complex environment that is reality. It is not necessarily a desirable state, nor routinely part of a participants' calculation. Thirdly, the rational pursuit of goals is not predicated in the way neo-classical models would have it: They may be misguided or not fully articulated and humans can deceive themselves as to the goals they are actually pursuing, or the benefits they will in reality bestow. They may be motivated by emotional 'self-interest' rather than more obvious gain, and actors are often content to enjoy a reasonable success and do not then fully pursue maximum utility.<sup>482</sup> These factors, taken together, fundamentally alter the dynamic of microeconomic considerations of individuals pursuing their own self-interest, with an invisible hand arranging an aggregate common good, without in any way contradicting it.

Based on the factors above, Schelling allowed that rational actors, whilst intentionally pursuing their own interests, were capable of forming coalitions with others who were pursuing different interests; even where this meant that they achieved a sub-optimal outcome, on the particular occasion in question. This is a clear point of similarity with actors in the intelligence and security communities. It permitted him to alter the probable outcomes of game theory to more closely reflect observable outcomes in reality.<sup>483</sup> Rather than being

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<sup>482</sup> Ibid. 11-34.

<sup>483</sup> Royal Swedish Academy of Sciences, "The Bank of Sweden Prize in Economic Sciences in Memory of Alfred Nobel 2005," *Scandinavian Journal of Economics* 108, no. 2 (2006). 183-184, In 2005 Schelling was (jointly with Robert Aumann) awarded the Nobel Prize for Economics for his work in this area of game theory and used his conclusions to consider international security in 'The Strategy of Conflict' and to demonstrate that, as the citation says "... that a party can strengthen its

doomed to an undesirable aggregate outcome through the pursuit of their own micro-motives, actors could be seen to cooperate to improve the result for all, even where this was not the best outcome for them as individual agents. Game theory thus becomes a part-bargaining model. This has implications for its explanatory power concerning cooperation in the intelligence and security spheres, as discussed in this chapter, and thus for the importance of the negotiating costs detailed in the next.

Schelling's argument may be summarised thus: Where  $n$  people have a binary choice with the same preferred option and pay-off, and are better off whichever choice they make as more amongst the 'others' choose the less desirable option, then there is some number ( $k$ ), which is greater than 1, such that if all individuals numbering  $k$  or more choose their un-preferred option and the rest do not, then those that do are actually better off than if they had all chosen their preferred choice (see the hypothetical case represented in Figure 3.1).<sup>484</sup>

This is still the case despite the fact that free riders (choosing their own personal preferences) still benefit to a greater extent. Schelling is therefore implicitly linking Coase's ideas<sup>485</sup> with Cyert and March's consideration of coalitions.<sup>486</sup>  $k$  is thus the minimum size of a viable coalition (the red line represents the total or average values corresponding to the numbers choosing the preferred or less desirable option). However its relationship to  $n$  is not uniform or easily predictable. It will vary from situation to situation and is a second important factor in probable outcomes.<sup>487</sup> Schelling's work therefore suggests that the viability of cooperative working in the security and intelligence spheres will be subject to the same strictures.

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position by overtly worsening its own options, that the capability to retaliate can be more useful than the ability to resist an attack, and that uncertain retaliation is more credible and more efficient than certain retaliation."

<sup>484</sup> Source of diagram: Own design

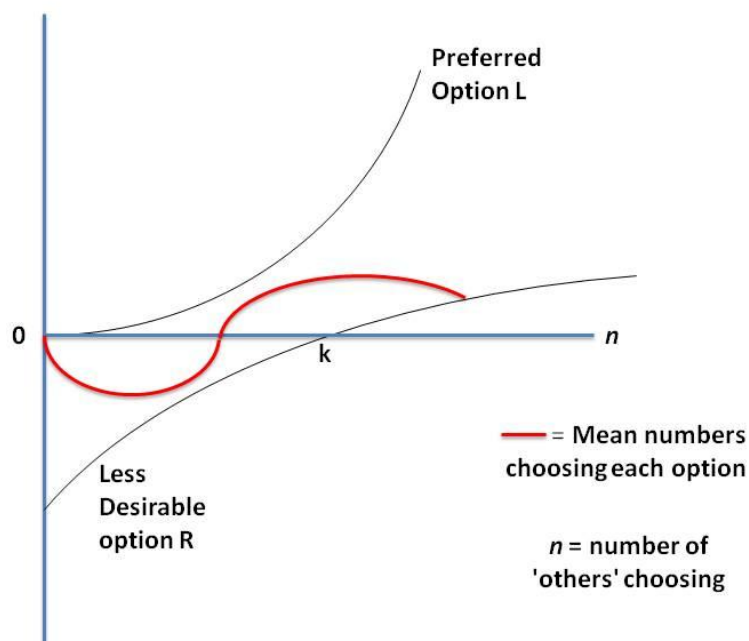
<sup>485</sup> Discussed in Chapter 1 Sec.4 and Chapter 2 Sec.2)

<sup>486</sup> Cyert and March, *A Behavioral Theory of the Firm*.35-37

<sup>487</sup> For a fuller explanation and consideration of all the alternative possibilities see Schelling, *Micromotives and Macrobehavior*. 213-243



Figure 3.1: Pay-off curves in a two option game in the Intelligence and Security Communities



Paralleling an intelligence community with a large firm and the behaviour of actors within it can thus be instructive, provided that the parallel is used to examine the community at the right level of resolution. The simplicity of neoclassical economic theory is both inadequate and misleading as it too closely links cause with effect. Like Allison's consideration of complex problems from the perspective of a unitary rational actor (discussed later) the very process of pairing back to fundamental elements risks ignoring apparently minor factors that actually combine to great effect and, as the conclusion in Chapter 9 makes clear, in very different ways.

### **Section 5: Security and Intelligence Cooperation and the Bureaucratic Perspective**

Having examined the applicability of behavioural theories to the security and intelligence spheres, this section will consider how far bureaucratic theory can usefully add to that understanding, so that the equivalent section in Chapter 4 can then demonstrate the usefulness of applying institutional cost analysis to bureaucratic explanations of cooperation in them. Max Weber's

view of bureaucracy was as a technically superior means of organising the division of labour, boasting a "... "rational" character, with rules, means-ends calculus, and matter-of-factness predominating", supported by a system of the sort of low-powered incentives still recognisable in first Robert Merton and then Oliver Williamson's later work.<sup>488</sup> In this view the importance of individual behaviour is diminished: The bureaucrat is "...a small cog in a ceaselessly moving mechanism..." and above all "... forged to the common interest of all the functionaries in the perpetuation of the apparatus and the persistence of its rationally organised domination." so that "increasingly the material fate of the masses depends upon the continuous and correct functioning..." of the bureaucracies that support the capitalist system.<sup>489</sup> The development of fixed forms and responses to prevent their collapse and the chaos that would result is thus inevitable. However the rigidity of the structure that naturally results introduces costs when a more flexible approach is needed, particularly in a notoriously uncertain area like security. The question then is under what circumstances are those costs worth paying, and what organisational forms will minimise the trade off required. This is the dilemma with all organisational 'standard operating procedures', but its relevance increases exponentially with increasing uncertainty, and uncertainty is the prominent characteristic of both intelligence and security provision.

One of the most constant criticisms of the United States intelligence and security communities, although they are not alone in this, is that they routinely fail to adapt to either implicit need or explicit instruction. Bureaucracy simply does not manage the unexpected or unique well, yet these are the pre-eminent circumstances of both the security and intelligence worlds.<sup>490</sup> This is an issue that will be discussed further in subsequent chapters, but it is worth noting that this stickiness is typical of any institution that becomes sufficiently complex to become a bureaucracy. Indeed so fundamental is this process that the very title of institution is derived from the

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<sup>488</sup> Weber, *Economy and Society : An Outline of Interpretive Sociology*, 2. 973, 1002 (quotation marks in the original) and for example see Robert K Merton, "Bureaucratic Structure and Personality," *Social Forces* 18, no. 4 (1940).561.

<sup>489</sup> Weber, *Economy and Society : An Outline of Interpretive Sociology*, 2. 998.

<sup>490</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.2.8

process whereby actors fix or “institute” previously fluid or ad hoc arrangements, as noted by Emile Durkheim.<sup>491</sup> Durkheim identified that the shared belief systems, social mores and norms of a group engaged in some shared endeavour, although subjectively formed around a particular objective, become “crystallized”.<sup>492</sup> For example the same constraining frameworks that ensured the Central Intelligence Agency could not pass funds to the contras in El Salvador (much to the chagrin of some very senior actors) and therefore kept them from too active an involvement in what would become the National Security Council's ‘arms for hostages’ debacle also prevented quick adaption to the post-Cold War environment and the emergence of the asymmetric non-state terrorist threat.<sup>493</sup>

The ideas of Weber and Durkheim were developed by Talcott Parsons, who linked the entwined arenas of social and cultural frameworks with the personality traits of the actor to add an additional dimension to any analysis. He saw social action as a largely voluntaristic result of norms and values, which allowed the introduction of ideas of sub-goal pursuit and opportunistic behaviour. Parsons thus argued that the function of an institution was to regulate action “...in conformity with... common values”. This has important consequences for efficiency as far as the original purpose of an organisation is concerned,<sup>494</sup> and even more important consequences for sort of integration of disparate agencies required to make a modern day intelligence or security apparatus function properly.

Parsons regarded systems as either functional or normative; the former consisting of “... a plurality of interdependent variables” but the latter is something more, an interrelationship “... of entities which, once the basic principles or assumptions on which it rests are given, constitutes a “*harmonious whole...*” with a relationship of “mutual requiredness” evident

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<sup>491</sup> Discussed by Jeffrey C. Alexander, *Theoretical Logic in Sociology. The Antimonies of Classical Thought: Marx and Durkheim*, 4 vols., vol. 2(London: Routledge & Kegan Paul, 1983).259.

<sup>492</sup> See ‘inter alia’ Émile Durkheim, *The Rules of Sociological Method : And Selected Texts on Sociology and Its Method* ed. Steven Lukes, trans. W.D. Halls, 1982 ed.(London: Macmillan, 1895).50-59.

<sup>493</sup> See for example Rothkopf, *Running the World : The inside Story of the National Security Council and the Architects of American Power*.248. For a comprehensive discussion on evolutionary bars in this period see for example Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.*

<sup>494</sup> Parsons, "Prolegomena to a Theory of Social Institutions." 331.

throughout.<sup>495</sup> A distinction that, according to conventional wisdom, also seems to summarise the US and UK communities respectively.

Normative rules lead to structural integration by virtue of their "... regulatory relation to action" established by the basic assumptions alluded to by Parsons, and the use of sanctions indicates a weakening of integration.<sup>496</sup> As well as this internal constraint, a set of organisations will be similarly constrained in the means they might use by the ultimate 'common-ends' they seek or even the "... ultimate common value-system" in use, so that the most efficient means-ends calculus will not necessarily be adopted.<sup>497</sup> A common phenomenon in communities of organisations such as those found across an intelligence and security function. In a legally bound democratic entity like the United States for example the Executive incurred significant institutional costs throughout 2002/3 by having the future invasion of Iraq established as both legally and morally justified through the concept of a 'war on terror' and the apparent existence of weapons of mass destruction.

Merton went further and argued that, over time, the very purpose of an organisation can be displaced by the lower level objectives that emerge from the regulatory framework that is supposed to support it. The impact of this on their capacity to share a maximand or single goal will be expanded on in Chapter 4 in the course of the institutional cost discussion there. Here it is enough to note that as a result the bureaucracy itself becomes less flexible and more defensive when adaption is required, with internal loyalties predominant over those focused on the wider good.<sup>498</sup> The same issue can occur when specific professionalism encourages actors to develop "...special preferences, antipathies, discriminations and emphases"; a condition of 'occupational psychosis' that can lead to what Merton called a pride of craft that leads to a resistance to change.<sup>499</sup>

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<sup>495</sup> Ibid. 332, italics in original.

<sup>496</sup> Ibid.

<sup>497</sup> Ibid. 324.

<sup>498</sup> The impact of this tendency is discussed in Chapter 2 Section 4. But see Merton, "Bureaucratic Structure and Personality." 563-5.

<sup>499</sup> Ibid. 565, citing Harold D. Lasswell, *Politics. Who Gets What, When, How* (New York ; London: McGraw-Hill Book Co., 1936).120-121.

Given the condition of structural secrecy that pervades the sectors under discussion, such inflexibility can lead to principal-agent problems,<sup>500</sup> and a lack of adaptability, so that they will exhibit a punctuated equilibrium, permitting only minor evolutionary change that acts as a release of pressure, until some major external occurrence forces sudden adaption. Even then the degree of adaption will be constrained by how high the institutional barriers had become when compared to the force for change.<sup>501</sup> This condition is not specific to intelligence and security provision, as an examination of social security in the United States has made clear,<sup>502</sup> and the rigidities that are at the root of the phenomena are prevalent in both functions of government. If it were possible to provide a meaningful empirical measurement of organisational change occurring within the intelligence and security communities one would therefore expect a severely leptokurtic distribution for the United States, similar to that found by Jones et al in the social security case.

At the extreme, events such as the Pearl Harbor or 9/11 attacks certainly generated a massive desire for significant adaption within the United States intelligence apparatus and a great deal did indeed change. However after the initial pressure slackened, and the more immediate crisis was passed institutional blockages and the sub-goal pursuits of elements like the Department of Defence and Federal Bureau of Investigation began to once again provide frictions to the efficacy of (in the latter case) the new Director of National Intelligence.<sup>503</sup>

In the British case, as the case studies that follow indicate, one would expect a more normal distribution as institutional friction is generally lower so gradual adaption more deliverable. It is however still a factor: The controlling

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<sup>500</sup> Weber regarded bureaucracy as "... a power instrument of the first order...". see Weber, *Economy and Society : An Outline of Interpretive Sociology*, 2. 987, Central to this concept is the idea of what Weber describes as 'Administrative Secrecy' (bureaucratic secrecy in Robert Merton's work), Merton, "Bureaucratic Structure and Personality." 56. which in turn become the 'information asymmetries' of institutional cost theory.

<sup>501</sup> See for example Bryan D. Jones, Tracy Sulkin, and Heather A. Larsen, "Policy Punctuations in American Political Institutions," *The American Political Science Review* 97, no. 1 (2003). 152.

<sup>502</sup> Ibid.

<sup>503</sup> For a good overview see Odom, *Fixing Intelligence for a More Secure America*. For a more specific analysis see the more recent Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1

nexus for intelligence (prior to 2010), the Joint Intelligence Committee, has for example adapted in only very minor ways throughout its long history, except for two significant changes that occurred in the wake of crises. In the first case chairmanship shifted from the Foreign and Commonwealth Office in the light of the Franks Report into the Argentinean invasion of the Falklands.<sup>504</sup> In the other case the fall-out from the *Review of Intelligence on Weapons of Mass Destruction* by Lord Butler also ensured that a tipping point was reached.<sup>505</sup> On that occasion the crisis of confidence that resulted permitted the Brown government to introduce a more confused raft of changes whose usefulness is still debateable.<sup>506</sup>

Merton also considers outcomes, and the degree of 'causal imputation' between action and outcome. He starts by dividing those that are actually intended from those that are not, noting that those that are intended are at least 'relatively' desirable to the actor, even if they seem not to be; even when negative they will at least be "the lesser of two evils"<sup>507</sup> This is the means-ends of the rational actor. More often however the anticipated consequences of the purposive action considered by Merton are conjectural; there is some stochastic element to the outcome. This too has particular implications for the intelligence and security functions. For example as uncertainty increases the further away the time horizon is, the more an actor will concern themselves with the "...imperious immediacy of interest"<sup>508</sup> to the exclusion of both the more distant consequences of action and indeed less apparent threats or opportunities. This is a pathology particularly prevalent in defensive security operations, but can also be observed in longer term intelligence functions.<sup>509</sup> Uncertainty can thus also impact on the 'variability'

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<sup>504</sup> See Lord Franks, *Falkland Islands Review: Report of a Committee of Privy Counsellors*, (London: HM Stationery Office, 1983), <http://www.margarethatcher.org/document/E415E0802DAA482297D889B9B43B70DE.pdf>.

<sup>505</sup> See Butler of Brockwell, *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors*

<sup>506</sup> Davies, "Twilight of Britain's Joint Intelligence Committee?." 427-446.

<sup>507</sup> It is worth noting that the empirical question of assessing causal imputation is difficult due to both external factors affecting outcomes, and actors "post event rationalisation". See Robert K Merton, "The Unanticipated Consequences of Purposive Social Action," *American sociological review* 1, no. 6 (1936).895-7

<sup>508</sup> *Ibid.* 901.

<sup>509</sup> See for example Stella Rimington, "British Intelligence Past and Present - Interview by Peter Earnest " Podcast audio, International Spy Museum, Spycast , 27 Jan 2009,

of rationality as discussed earlier. Rational pursuit of immediate interests can be irrational in terms of longer term or more nebulous issues like values.<sup>510</sup> There are on-going discussions on both sides of the Atlantic as to whether the (largely successful) prosecution of the 'war on terror' has undermined democratic values but even more modest issues, like the United Kingdoms' 'Freedom of Information Act' can have the opposite of its intended outcome, with some operators committing less of their activity to permanent record on the assumption that it may subsequently be released, even at the risk of compromising terrorism prosecutions.<sup>511</sup>

In bureaucratic terms, the Intelligence and security interface can either be managed by a 'pull' architecture, whereby consumers task agencies with discovering what information they feel they need, or by a 'push' architecture in which the producing agencies collect that they feel is appropriate or possible then push it on the consumer (or some mix of the two). The former is of course intuitively more appealing but actually both present both costs and benefits.<sup>512</sup>

The centrally set 'requirements and priorities' of the United Kingdom's national intelligence machinery make it essentially a 'pull' orientated system. This emphasis persists down through the operational and tactical levels, with the security end seeking an assessment from, for example, the 'joint Terrorism Analysis Centre' or a military J2 cell on a given functional or geographical area when the need presents itself.<sup>513</sup> Consumers may be unaware that they need intelligence on a given issue, or even that it is an issue at all until it is too late; re-targeting intelligence collection, particularly human intelligence (HUMINT), can require a very long lead-in time before it is useful, and the dangers of relying on untried sources have been recently re-

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<http://castroller.com/Podcasts/TheInternationalSpy/948384> , accessed 8th Nov. 2012 and Gustafson, "Strategic Horizons: Futures Forecasting and the British Intelligence Community." 589-610.

<sup>510</sup> Merton, "The Unanticipated Consequences of Purposive Social Action." 902.

<sup>511</sup> Mid-Senior Level Special Branch Officer P5, interview by Author, June, 2014, London.

<sup>512</sup> For a discussion of push/pull architecture in the United Kingdom see Davies, *M.I.6 and the Machinery of Spying*. 340-346.

<sup>513</sup> But note developments highlighted by "A Critical Look at Britain's Spy Machinery: Collection and Analysis on Iraq," *Studies in Intelligence* 49, no. 4 (2005).

emphasised by the 'Curveball' debacle prior to the 2003 invasion of Iraq.<sup>514</sup> There is a dichotomy between the bounded rationality of department heads, their short term requirements, and the needs of the rest of their department, much less the wider governmental community in which they sit.<sup>515</sup> In a 'pull' system it is difficult to limit what and how much intelligence is requested by the security consumer (amongst others) for whom more will always be preferable. Even then collection may not be feasible at all.<sup>516</sup>

On the other hand, an over reliance on the suppliers pushing intelligence upwards has its own glut of potential pitfalls to contend with. The rational self interest of the producers will encourage them to perform well from their home agencies perspective, which may not be entirely in tune with the preferences of the consumer. Technical collection agencies particularly can thus flood a consumer with tangential or irrelevant information leading to information overload, and are rationally inclined to continue producing at the very limit of their resources.<sup>517</sup> The same can occur in human intelligence collection at the operational level, as the Security Service's short lived experiments with performance related pay tied to numerical factors (number of reports for example) in the 1990's, or the Metropolitan Police Special Branch's attempt at devolved budgets at the same time, which denied managers the flexibility to move resources to particular areas of operation as they peaked in interest, demonstrated. In both cases frenetic activity continued in areas of marginal interest, to the detriment of others in which the consumers had a far greater interest.<sup>518</sup>

Ideas of how bureaucrats demonstrate their rationality, the type of utility they are motivated to pursue, and how they pursue it, are central to both cooperation in the intelligence and security spheres and bureaucratic explanations of organisation more generally. This is not least because of the

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<sup>514</sup>Butler of Brockwell, *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors*

<sup>515</sup> See for example Herman, *Intelligence Power in Peace and War*.289, citing the then future Director of Central Intelligence Robert Gates.

<sup>516</sup> For a discussion of these issues see Walter Laqueur, *The Uses and Limits of Intelligence*(New Brunswick and London: Transaction Publishers, 1993).

<sup>517</sup> See for example Davies, *M.I.6 and the Machinery of Spying*.

<sup>518</sup> Senior Security Service Officer (Retired) SyS1, interview by Author, February, 2013, London. and P4.



expectation that rational actors will behave similarly in similar circumstances. The apparent contradictions between the budget maximising model developed by William Niskanen (who as considering bureaucratic behaviour in the United States)<sup>519</sup> and the bureau shaping model of Patrick Dunleavy (who was focused on the UK)<sup>520</sup> are therefore especially useful in defining the missing link in bureaucratic analysis.

Dunleavy observed British senior staffs trying to narrow down their responsibilities to a core function, contracting other responsibilities and parts of their budget out to sub-contractors to reduce their vulnerability to criticism. Niskanen on the other hand found their American equivalents inclined to maximise their responsibilities and budgetary authority as this maximised their powerbase. Amy Zegart subsequently found exactly this sort of behaviour as one of the root causes of turf wars in the US intelligence and security apparatus.<sup>521</sup> Both Dunleavy in the United Kingdom and Niskanen in the United States supported their theories with a substantial amount of empirical research. However the disparity is not nation specific; Zegart also noticed the United States congress were disinclined to maximise responsibilities in connection with the intelligence community as there are poor incentives for extending involvement.<sup>522</sup> The question then is how such diverse conclusions could be reached when considering government functions in at least broadly similar environments? If one accepts the assumption of rationality, then one needs a way to explain the distinct outcomes observed by each of them.

Niskanen's enormously influential 'Bureaucracy and Representative Government' was published in 1971 following years of observation of the American bureaucracy as an insider in Robert McNamara's Defense Department. In it he argued persuasively that bureaucrats are rationally motivated to maximise their budgets as this is how success is defined, with larger areas of budgetary control both a survival technique and a proxy for

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<sup>519</sup> William A. Niskanen, *Bureaucracy and Representative Government*(Chicago,; Aldine, 1971).

<sup>520</sup> Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.

<sup>521</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.*

<sup>522</sup> *Ibid.* 34.

greater utility from "... salary, perquisites of office, public reputation, power, patronage, output of the bureau, ease of making changes and ease of managing the bureau." <sup>523</sup>

The theory rests on two fundamental premises: That bureaucrats are rationally motivated to seek larger (discretionary) budgets, and that their relationship with their sponsor is one of bilateral monopoly. The bureau are the sole suppliers of a service to a sponsor (the government), which in turn is their sole source of revenue, normally managed as a one off payment rather than per unit of output. Niskanen therefore argues that the issue is one of asymmetric information, as the bureau can control information on both "costs and capabilities"<sup>524</sup> and can either oversupply the service or supply it at an inefficient rate. In the United Kingdom the 'Single Intelligence Account' is precisely this sort of one-off payment. In the United States the issue is more complicated, but as Amy Zegart has demonstrated, the likelihood of genuine line by line funding through Congress is limited by their own misaligned incentives.<sup>525</sup> As a fully informed sponsor would be likely to insist on the maximum output at minimum cost, then the bargaining power of the bureau chief depends on his or her ability to "... distort or conceal information from the sponsor". But like any other manager dealing with a potential issue of sub-goal pursuit by a junior, the sponsor has several options to control this tendency; monitoring, competition and the securing of detailed information from alternate sources for example. The important point for the analysis is that all these measures come at a cost.<sup>526</sup>

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<sup>523</sup> In the face some successful critiques of this position by (inter alia) the likes of Dunleavy and Breton & Wintrobe (discussed herein) Niskanen refined this idea to argue that bureaucrats are actually motivated to maximise their 'discretionary' budget – that is the difference between the total budget and the minimum cost of producing the good or service in question. See William A Niskanen, "Bureaucrats and Politicians," *Journal of Law and Economics* 18, no. 3 (1975).618-9; William M. Landes, ed. *Economic Analysis of Political Behavior : Proceedings of a Conference, April 11-12, 1975*, Universities-National Bureau Conference Series (Chicago: University of Chicago Law School, 1975).;Niskanen, *Bureaucracy and Representative Government*.38,

<sup>524</sup> *Bureaucracy and Representative Government*. as summarised by François Simard, "Self-Interest in Public Administration: Niskanen and the Budget -Maximizing Bureaucrat," *Canadian Public Administration* 47, no. 3 (2004). 408.

<sup>525</sup> Amy B Zegart, "The Domestic Politics of Irrational Intelligence Oversight," *Political Science Quarterly* 126, no. 1 (2011).

<sup>526</sup> See Albert Breton and Ronald Wintrobe, "The Equilibrium Size of a Budget-Maximizing Bureau: A Note on Niskanen's Theory of Bureaucracy," *The Journal of Political Economy* 83, no. 1 (1975). 199.

Patrick Dunleavy challenged Niskanen's view by looking at British central government and re-conceiving how it should be examined by distinguishing both different types of budget and different types of links with the centre. Writing in the mid 1980's he saw a prospective "hiving-off of three quarters of the existing Whitehall personnel to separate agencies" as incompatible with Niskanen's conclusions from the United States.<sup>527</sup> In his view the problem was that "... these new right views make none of the distinctions between types of budget and types of agency.." that he included.<sup>528</sup> Although comprehensive in his overview of British central governance at the time, Dunleavy was writing before the secret intelligence agencies were officially acknowledged as even existing, and when both the Metropolitan Police and Royal Ulster Constabulary were controlled in a very different way to how they are today. So it is worth looking at his categorisations of both budget and agency type and thus the extent to which the intelligence and security functions might be incorporated, so that their likely level of institutional costs in given circumstances might be more easily paralleled.

Firstly, Dunleavy differentiates between the type of budget an agency head will be dealing with. He uses four broad categories:

- a) The core budget, used for its own running costs and operations.
- b) The bureau budget, which is the core budget plus monies paid out to the private sector through contracts etc.
- c) The program budget which includes a. and b. plus monies an agency passes to other public sector bodies for them to spend but over which it maintains some supervision or control.
- d) Finally the super-programme budget which consists of all those above, plus spending by other bureaus over which the agency nonetheless has some supervision.<sup>529</sup>

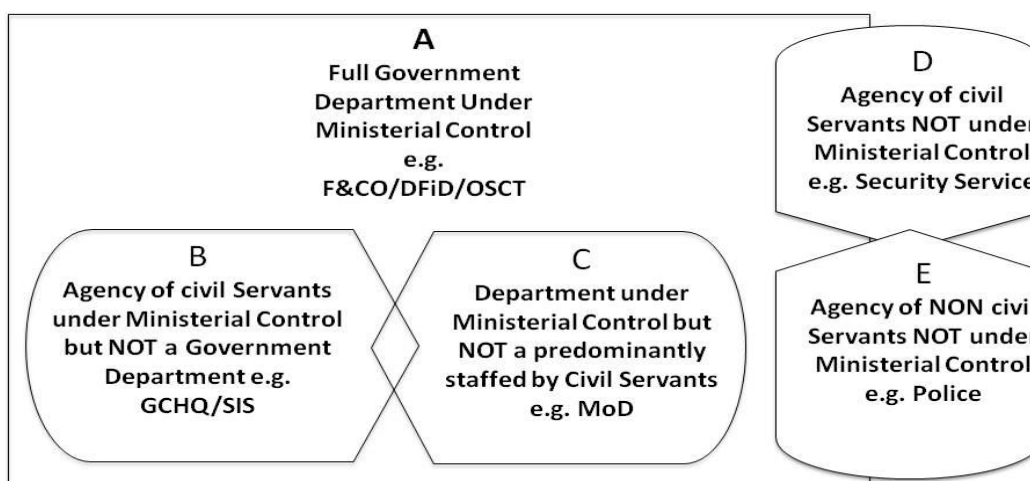
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<sup>527</sup> Patrick Dunleavy, "The Architecture of the British Central State, Part I: Framework for Analysis," *Public Administration* 67, no. 3 (1989).249

<sup>528</sup> Ibid.268

<sup>529</sup> Ibid. 253

Figure 3.2: Inter-relationship of Classes of Public Sector Organisation in the Intelligence and Security Communities



Dunleavy also believed that the organisational choices of leading bureaucrats would be affected by their relationship with the centre. As the adapted version of his 1989 diagram (Figure 3.2)<sup>530</sup> demonstrates, these can be divided them into five categories (A to E) on this basis. Although not discussed by Dunleavy,<sup>531</sup> the secret intelligence agencies (Secret Intelligence Service, Security Service and Government Communications Headquarters) would fit into category C, as agencies staffed by civil servants but not directly controlled by Ministers (that control being once removed through the Foreign and Home Office's to their Secretaries of State). Defence Intelligence on the other hand is directly under the Secretary of State for Defence, but staffed by both civil servants and military personnel (plus some private contractors) but as an integral part of the Ministry of Defence can be located in A, lowering internal institutional costs but making its external relationships more difficult.<sup>532</sup> Other areas of security and intelligence provision have become more complicated since Dunleavy's observations. For example the Royal Ulster Constabulary has become the Police Service of Northern Ireland and is under the Northern Ireland Assembly's control rather than that of the Northern Ireland Office in Whitehall, but with parts funded via

<sup>530</sup> Source; Own design developed from *ibid.* 259.

<sup>531</sup> The 'agencies' had yet to be formally admitted to by government at the time of Dunleavy's work.

<sup>532</sup> See for example see Butler of Brockwell, *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors* 158-159.

Whitehall that include counterterrorist functions. More complicated still, the Metropolitan Police is now under the Mayor's office, but with some elements still funded by and responsive to the Home Office, and in particular the Office of Security and Counter Terrorism within it, depending on how the function in question is related to the Home Office's CONTEST strategy. This has led to a position where even individual post holders can be (for example) one third the responsibility of the Mayor's Office, and two thirds under the Home Office (albeit both via Police managers), leaving them partly in D and partly outside central control altogether, and introducing a whole new level of institutional costs to be inculcated by managers beyond those observed by Dunleavy when he categorised them in 1989.<sup>533</sup>

The juxtaposition of the theories of Dunleavy and Niskanen is the classic demonstration of the difference between the United Kingdom and United States outlook, and is perhaps best exemplified by is the progress of the UK's Joint Intelligence Committee from a military co-ordination body to a civilian one, as opposed to the USA's attempt to create a civilian intelligence supremacy that was mutated (on several occasions) by an engorged and recalcitrant Department of Defense.<sup>534</sup> However the relatively recent development (both qualitatively and quantitatively) of the threat to various sorts of electronic communications has also led to the same very different organisational reactions in the two Countries. In the United States the same cultural rigidities that were suited to the Cold War environment have proven ill-suited to the additional complexities (not least the fact that both the offensive and defensive aspects are co-located) and heightened levels of white-noise in the cyber world.<sup>535</sup>

In the United Kingdom, on the other hand, the reaction of the Security Service, despite their mandate to protect such infrastructure, is to seek a co-operative arrangement with the Communications-Electronics Security Group (CESG), a sub unit of Government Communications Head-Quarters (GCHQ).

<sup>533</sup> Dunleavy, "The Architecture of the British Central State, Part I: Framework for Analysis." 261.

<sup>534</sup> See for example Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.2.315-317.

<sup>535</sup> See for example James R. Gosler, "The Digital Dimension," in *Transforming U.S. Intelligence*, ed. Jennifer E. Sims and Burton L. Gerber (Washington, D.C.: Georgetown University Press, 2005). 32-39.

Furthermore, like the wider security and intelligence communities, coordination and funding is managed via the Cabinet Office through the National Cyber Security Program (NCSP) to ensure the same holistic approach.<sup>536</sup> As Davies has described, the United Kingdom's intelligence community members are inclined to seek expertise in their co-members rather than seek to duplicate it in-house (the trait observable throughout the United States community). He suggests reasonably that this is due in part to the limited Treasury funds available to each, so that having the task done elsewhere is the cost effective and obvious choice, with all intelligence activity coming out of the same pot anyway. In the United States funding has historically been easier, and individual community members appear before Congress to secure their own program budgets, so that such projects would only increase their chances of a large settlement.<sup>537</sup>

The conflicting findings of Niskanen and Dunleavy are thus reflected in the security and intelligence spheres of the US and UK respectively. Section 5 of Chapter 4 will therefore use the institutional cost framework developed in Chapter 2 to articulate why this is the case despite the similarity of the environments each must work in using. This explanation will then be extrapolated into the counterterrorism and defence intelligence provision case studies that follow in Parts' two and three.

## **Section 6: Security, Intelligence and the Usefulness of Theories of Cooperative Decision-Making**

A recurring theme in many examinations of intelligence or security is the link between intelligence and the provision of a decision making advantage of some sort. Some authors from the structural realist tradition emphasise the competitive nature of decision making in the international arena: When looking at the intelligence function specifically, Jennifer Sims constructed her theory of adaptive realism based on how intelligence informs decision making

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<sup>536</sup> "The Uk Cyber Security Strategy: Protecting and Promoting the Uk in a Digital World," ed. Cabinet Office(Crown Copyright, 2011).Although it should be noted that this overarching approach was not formally instituted until 2010.

<sup>537</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.2.58.

as a competitive function of government.<sup>538</sup> The process by which governments make decisions, and how intelligence can be capitalised on, is therefore a key driver of not only how intelligence but also security is, or should be, organised. The degree to which the two systems are integrated at the point of decision making will therefore have significant impact on outcome.

The same form of organisation will be more or less effective depending on how decision makers go about their business. Nowhere has this been better demonstrated than through the mismatch of the British intelligence's formal committee based structure that had evolved over decades, and the informal style of governance known colloquially a sofa-government<sup>539</sup> utilised during Tony Blair's Government during the run up to the invasion of Iraq in 2003, and the consideration of Saddam Hussein's weapons of mass destruction.<sup>540</sup> How decision makers include or dismiss information and then act and react amongst themselves as a result, is therefore a necessary consideration.

The need for breadth in conceptual thinking on decision making around intelligence and security issues was most eloquently highlighted by Graham Allison, one of the preeminent authors on national security during the Cold War. In the seminal *Essence of Decision* Allison specifically drew out not only the strengths but also the inconsistencies of three explanatory models as applied to the Cuban missile crisis;<sup>541</sup> His unitary actor model uses the neo-realist approach to simplify decision-making, but requires a comprehensive and single rationality and set of preferences by all the actors concerned, as well as a full knowledge of all alternatives and consequences. Although a useful macro level tool for some tasks, it cannot offer a realistic analysis of

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<sup>538</sup> See for example Waltz, *Theory of International Politics*, and Sims, "Defending Adaptive Realism: Intelligence Theory Comes of Age". 151-165.

<sup>539</sup> The description 'sofa government' was Lord Butler of Brockwell in Max Hastings, "The Sofa Government of Blairism Has Been an Unmitigated Disaster", *The Guardian*(2006), <http://www.theguardian.com/commentisfree/2006/may/16/comment.labour>.

<sup>540</sup> Although the failures of intelligence in the United Kingdom were considered in depth during the Butler Enquiry (see Butler of Brockwell, *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors* the failures of policy were excluded, however how the nexus between the two functioned was central to the flawed eventual outcome. See for example Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.2.273-291.

<sup>541</sup> Allison, *Essence of Decision : Explaining the Cuban Missile Crisis*.

the whole situation in reality. On the other hand his organisational process model provides an embryonic description of the sort of frictions that are at the heart of the explanation developed in this thesis, and his political bargaining model captures some of the sub-goal pursuit issues and behavioural factors that result. However neither theory can capture the whole picture in isolation so that something more holistic is needed.

In his rational unitary actor model Allison uses version of the configurational ideal developed by Weber.<sup>542</sup> It relies on a Hobbesian idea of "... consistent, value-maximizing *reckoning* or adaption within specified constraints".<sup>543</sup> The strength of this model is that it allows analysis of specific problems at a manageable level, as it reduces even entities like the United States and the Union of Soviet Socialist Republics to single actors competing only with each other. But in doing so, as Allison demonstrated, it obscures more comprehensive understanding. Not only can it hide internal divisions and processes, but in assuming a unified and rational actor progressing as best as it may in a linear fashion towards a desired objective, it can be deceptive as to the complexity of that objective as well as the environment in which it is pursued.<sup>544</sup>

More particularly in this context, it tends to assume an enemy will also act rationally by the same standards as one's own, which has often lead to the analysis breakdown known as mirror imaging, and has caused predictive failures in circumstances like Yom Kippur and the Russian invasion of Afghanistan.<sup>545</sup> The model also fails to cope with diverse pursuits within an apparently unified government; Allison cites Chinese simultaneously wanting national superiority and Marxist-Leninist goals.<sup>546</sup> As Allison himself notes, the model relies on 'comprehensive rationality', which incorporates full knowledge of all alternatives and all consequences, which is simply not

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<sup>542</sup> *Essence of Decision: Explaining the Cuban Missile Crisis*(Boston Mass.: Little, Brown and Company, 1971; repr., 18th Reprint Ed.). 10-38.

<sup>543</sup> Ibid. 29, italics in original.

<sup>544</sup> The point is illustrated by Allison (quoting Halperin & Perkins) by using the twin classes of goal of Communist China in pursuing both its own national interest and the broader Marxist-Leninist cause; interests which need not always be exactly synchronized. See *ibid.* 23.

<sup>545</sup> Ibid. 18.

<sup>546</sup> Ibid. 22-23.



realistic in situations of any complexity.<sup>547</sup> The procedural ruts that Allison considers as part of his organisational process model<sup>548</sup> are precisely the 'rigidities' conceptualised by Merton above, but also demonstrate how the behavioural ideas developed by Simon impact on outcomes.<sup>549</sup> In the Cuban missile case the established organisational processes' and cultural norms detailed by Allison preclude some possible policy responses and encourage others, and are therefore significant.

In his third model Allison, like Williamson, argues that outcomes are not so much a result of governmental decision making, but rather a 'resultant' of numerous bargaining games involving national, organisational and personal goals, all interconnected and affecting each other over time. He aligns the model with earlier work by Charles Lindblom arguing that consideration of what outcomes are desired cannot be separated from what means are to be used, they are considered simultaneously and as one, so means-ends analysis is very limited, and alternative options and even other possible consequences are often overlooked. Rather decision makers proceed incrementally according to their last output.<sup>550</sup>

The public choice theorist Martin Smith has developed these ideas to generate an explanation of the UK's Westminster governance he calls 'core executive theory', and he has applied this to the interface between intelligence and government particularly.<sup>551</sup> In this view governance and decision making are a process wherein key but mutually dependant actors exchange resources. Power is thus based on dependency rather than command. However access to intelligence can shift the balance of power relations through what former Foreign Secretary Douglas Hurd described as the "...cache of the double envelope".<sup>552</sup>

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<sup>547</sup> Ibid. 31-32.

<sup>548</sup> Ibid. 67-100.

<sup>549</sup> Simon, *Administrative Behavior : A Study of Decision-Making Rrocesses in Administrative Organizations*.266-267

<sup>550</sup> Allison, *Essence of Decision: Explaining the Cuban Missile Crisis*.154. citing inter alia Charles E. Lindblom, "The Science of "Muddling Through", *Public Administration Review* 19, no. 2 (1959).

<sup>551</sup> Smith, "Intelligence and the Core Executive."

<sup>552</sup> Douglas Hurd, "Interviewed by Gordon Corera in *Mi6: A Century in the Shadows: Part 3*," in *New Enemies First* (BBC Radio 4: , 10th August 2009).

Smith argues convincingly that it was the shift of general policy organisation closer into Downing Street, in pursuit of the generally laudable goal of 'joined up government' across departmental boundaries, the apparently inoffensive use of 'task forces', and even the use of (often derided) issue specific 'Czars' that all combined to allow the Blair government to bring intelligence further into his fiefdom. The information advantage this generated in turn allowed a small clique to manage the intelligence on Iraqi weapons of mass destruction so that more general and critical discussion was limited (incredibly, there was no Defence and Overseas Policy Committee meeting during the twelve months that preceded the invasion of Iraq)<sup>553</sup> so that the Prime Minister achieved substantial autonomy over national security issues.<sup>554</sup>

However, this does not mean that he achieved, or ever could achieve, unalloyed domination. A Prime Minister or a President is still only the most powerful actor within a group of slightly less powerful actors and is thus vulnerable to coalitions. The very different constitutional positions of each affect how and when authority will wax or wane, and how dramatically, but not the fact that it will. Authority will vary from issue to issue.<sup>555</sup> In different circumstances for example Treasury officials may use their particular knowledge as a power resource simply by their ability to generate statistical information over massive data sets, and that too can provide a significant bargaining advantage; as the Brown Chancellorship under Prime Minister Blair indicated. In such a case (economic) intelligence on rival nations may be requested by, and supplied to, the Treasury by the agencies horizontally, and need not go via Downing Street. Even if it does it may lack the context that drove the original tasking. Conversely, as Smith argues, the core executive can widen the understanding of 'national security' so that normally discrete policy areas such as immigration or anti-social behaviour are incorporated into it, moving the intelligence advantage back again, and

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<sup>553</sup> Presenter Speaking Under Chatham House Rules CH1, (MoD London 2014). and obliquely referred to in Butler of Brockwell, *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors* 146-147

<sup>554</sup> Smith, "Intelligence and the Core Executive." 24-25. citing Butler of Brockwell, *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors*

<sup>555</sup> Smith, "Intelligence and the Core Executive." 13

legitimising decisions that would otherwise be intolerable, as has occurred on both sides of the Atlantic in the post 9/11 era.<sup>556</sup>

Both Allison and Smith therefore demonstrate how important the relationships and motivations between different actors in the security and intelligence spheres can be, so that Section 6 in Chapter 4 can next examine the increased resolution that institutional costs analysis can offer of these. However the external environment is also significant so that theories that address it specifically must also be addressed.

### **Section 7: Complexity and Cooperation in Security and Intelligence**

Globalisation and the accelerating rise of a post-traditional social order have increased complexity exponentially. The deliberate intrusion by societies into their own environments has, according to Anthony Giddens, made internal what had previously been the external issues of risk and uncertainty.<sup>557</sup> This has meant that rather than a linear cause-effect relationship between intelligence or security goals and outcomes a reflexive relationship prevails.<sup>558</sup> The difficulties this entails can be most clearly seen in attempts at strategic warning following the move from State-centric threats to those that are globally networked.<sup>559</sup> However complexity theory by its very nature resists methods of analysis that require some elements to be abstracted away from others; its interconnectedness and feedback loops are central to how it operates. Simple reductionist approaches to analysis are likely to be inadequate because multiple levels of analysis are the only way to account

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<sup>556</sup> Ibid. 17,15.

<sup>557</sup> Anthony Giddens, *Beyond Left and Right : The Future of Radical Politics*(Cambridge: Polity Press, 1994). 78.

<sup>558</sup> Weber deduced that such complex interactions would produce uncertainty themselves, so that as well as whatever outcome was intended, actors would experience secondary outcomes that may be positive or negative, but were at least anticipated, and also truly unintended consequences that would then have to be dealt with. Like Williamson in subsequent years, Weber therefore concluded that bureaucrats would prefer to follow strategies that would merely provide an adequate return, but minimise their exposure to such an uncertain future ('satisficing' as it came to be known). See Richard Swedberg, "Max Weber's Interpretive Economic Sociology," *American Behavioral Scientist* 50, no. 8 (2007). 1043.

<sup>559</sup> Myriam Dunn Cavelty and Victor Mauer, "Postmodern Intelligence: Strategic Warning in an Age of Reflexive Intelligence," *Security Dialogue* 40, no. 2 (2009).

for emergent properties.<sup>560</sup> Too expansive a view on the other hand renders the analysis useless.

There are two aspects to complexity that must be considered; those that are internal and those that are external to (in this case) the intelligence and security communities in question. The former can be assessed along three axes where vertical complexity is represented by the number of hierarchical levels, horizontal complexity by the number of different departments, agencies, 'job titles' and the like, and spatial complexity by the number of different geographical locations involved. The latter can be summarised as the number of different exogenous issues that impact on or must be dealt with by the organisation in question.<sup>561</sup> Each aspect is a force multiplier on the others, and internal complexity will be designed to adequately address the complexity of the external environment with which it must deal. The provision of intelligence and security to any nation state engaged with the wider World will necessarily be extraordinarily complex.

According to complexity theory complex adaptive systems such as intelligence and security communities boast four aspects that are relevant here: Firstly they are made up of agents with schemata. Where system level outcomes are the aggregate of many such schemata, each of which is delineated by the perception and limits of the agent in question. Sub-level actors have flexibility and some limited degree of autonomy, so that their strategies and tactics both compete and reinforce each other. Secondly they are self-organising networks sustained by importing energy (information). For a complex system to function well its individual parts need to be partially, but not fully connected, and there is an upper and lower number of 'connections' that each unit can usefully have. The energy that needs to be imported into the system will, for any particular part of the system, come from the same few near neighbours. As Herbert Simon argued, too great an inter-connectedness means that either the system decays as change is constantly dampened out, or it becomes utterly chaotic as every alteration is magnified as it continues

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<sup>560</sup> Philip Anderson, "Perspective: Complexity Theory and Organization Science," *Organization Science* 10, no. 3 (1999). 217, quoting Yaneer Bar-Yam, *Dynamics of Complex Systems*(Reading, Mass.: Advanced Book Program, 1997).

<sup>561</sup> See for example Anderson, "Perspective: Complexity Theory and Organization Science." 216.

to bounce around the system.<sup>562</sup> The evolutionary aspects of complex adaptive systems are to be found here, so that thirdly they display co-evolution to the edge of chaos. Finally the fourth aspect is that they recombine and evolve during and after each cycle. Parts of the outcomes from one round of activity become the input to the next round.

As a consequence patterns emerge without the input of a central controller. Indeed attempts at hierarchical ordering, which must be made on the basis of limited situational awareness and high uncertainty as to the future, are likely to be problematic if they run counter to these more evolutionary forms of order.<sup>563</sup> That is not to say such interventionism is always wrong, merely difficult to successfully achieve.

Ironically in the United Kingdom it was the acceptance of Anthony Giddens view of the complexity of the international environment that led to the Blair then Brown governments adopting the Third-Way approach to policy: An outlook which was in turn applied to the organisation of central governance<sup>564</sup> and proved so significant to the effective functioning of the Joint Intelligence Committee. The sort of partial intervention described above had a very different result to the more informal evolution exhibited by the Committee throughout most of its history.<sup>565</sup> Robert Geyer argues persuasively that the difficulties exhibited across the Third-Way project were precisely because there was not just a third way, but a fourth, fifth and probably many more beyond that; the full extent of the complexity had not been fully factored in.<sup>566</sup>

One of the distinguishing strengths of complexity theory is that it includes temporal as well as spatial breadth. Despite the problems engendered by complexity described above, there is a more positive longer term outcome from the tendency to self-organise; agents and sub-systems within the whole

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<sup>562</sup> See for example Herbert A. Simon, *The Sciences of the Artificial*, 3rd ed. ed.(Cambridge, Mass. ; London: MIT Press, 1996). 176-179. Simon also discusses the limits imposed by bounded rationality in terms of the limitations to 'information in' that can be processed. 143-4.

<sup>563</sup> See for example Karl E. Weick, *The Social Psychology of Organizing*, 2d ed., Topics in Social Psychology (Reading, Mass.: Addison-Wesley Pub. Co., 1979). 8.

<sup>564</sup> See for example Geyer, "Beyond the Third Way: The Science of Complexity and the Politics of Choice." 251

<sup>565</sup> For a discussion of these developments in the Joint Intelligence Committee see Davies, "Twilight of Britain's Joint Intelligence Committee?."

<sup>566</sup> Geyer, "Beyond the Third Way: The Science of Complexity and the Politics of Choice." 238-242.

will co-evolve. Changes by any one of these need to be reacted upon by its near neighbours, and in turn this will be reacted on by theirs. This adaptation will eventually be fed back to the originator of the change so that they can then refine what they are doing in the light of the new information on the activities of its fellows, and so the component parts of a complex system are in a constant state of co-evolution. A mix of small and large changes are inevitable during this co-evolution of interacting systems, even if the process is essentially stochastic. If an increasingly 'long-run' of change was plotted, it would show an increasingly clean line.<sup>567</sup> This in turn means a lack of concern with points of equilibrium. The history and future of a complex system are more than mere fluctuations around a fixed point of balance, so that high fitness peaks cannot be sustained in an uncertain and shifting environment. Nonetheless a balance between flexibility and stability must be achieved for any organisation to survive at the macro level.<sup>568</sup>

Despite complexity theory's position that the least fit sub-system or agent will be replaced, assumptions of natural selection within intelligence or security communities must be approached with some caution. Public bodies of any sort rarely 'die', so that Darwinesque notions of evolution via natural selection would seem flawed.<sup>569</sup> Yet evolution per se has certainly occurred, and the very roots of intelligence evolution are biological: "... every animal, even a protozoan, must have a mechanism to perceive stimuli..."<sup>570</sup> to organise its survival. The application of an organic explanatory paradigm to the complexities of intelligence and security concerns therefore retains an intuitive appeal. Recent years, and the advent of qualitatively different threats have for example necessitated that both the US and UK develop new bureaucratic entities that cross conventional departmental responsibilities. To

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<sup>567</sup> Benoit Morel and Rangaraj Ramanujam, "Through the Looking Glass of Complexity: The Dynamics of Organizations as Adaptive and Evolving Systems," *Organization Science* 10, no. 3 (1999). 286.

<sup>568</sup> See for example Shona L. Brown and Kathleen M. Eisenhardt, *Competing on the Edge : Strategy as Structured Chaos*(Boston, Mass.: Harvard Business School Press, 1998). and quoted by Anderson, "Perspective: Complexity Theory and Organization Science." 224

<sup>569</sup> See for example Christiane Demers, *Organizational Change Theories : A Synthesis*(Thousand Oaks, CA ; London: SAGE Publications, 2007). 25-28.

<sup>570</sup> Kahn. David, "An Historical Theory of Intelligence," in *Intelligence Theory : Key Questions and Debates*, ed. Peter Gill, Stephen Marrin, and Mark Phythian, *Studies in Intelligence Series* (London: Routledge, 2009). 4.

return to the organic metaphor, a successful complex system will have “influence over the great sympathetic, but it permits the latter great autonomy”.<sup>571</sup>

Complexity also has impacts on the allocation of resources. Most levels of decision maker naturally prefer to deal with things that can be understood. This not only means that managers are inclined to let the urgent drown out the important and that short term issues are dealt with at the expense of the more uncertain long term problems,<sup>572</sup> but also that budgets are harder to secure for items where the return is hard to visualise. This includes intelligence generally, but also affects how resources are allocated between disciplines or agencies. Initiating human intelligence operations, which are always very uncertain of success, is harder to fund than a geospatial imagery operation where a hard-copy photograph can be handed to the customer. This has most recently been found to apply to the new cyber threat, where politicians have found it harder to allocate resources in austere times to projects that are expensive, but do not have an easily and publicly demonstrable benefit. A senior minister has paralleled the situation to that observed in the Sacha Baren Cohen film 'The Dictator' where funds are more easily won for defence procurement that involves "pointy hurty shiny things" than for computer based, more nebulous projects.<sup>573</sup>

The CIA's Calvin Andrus has argued persuasively that in order to have any hope of 'keeping-up' with the unpredictable environmental changes faced by intelligence practitioners in a complex and uncertain world they would need to be similarly adaptive and unpredictable.<sup>574</sup> Andrus rationalised this conclusion by paralleling the intelligence community with successful adaption in an even more traditionally hierarchical body; the United States military. In that case information technology has allowed ever lower levels of command to assume increasingly greater autonomy in their decision making, but this

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<sup>571</sup> Durkheim, *The Division of Labor in Society*. 223 using the cerebro-spinal system as a metaphor for complex systems.

<sup>572</sup> For a fuller discussion see Gustafson, "Strategic Horizons: Futures Forecasting and the British Intelligence Community." 589-610.

<sup>573</sup> Senior British Political Figure Speaking Under Chatham House Rules CH2, interview by Author, April, 2012, London.

<sup>574</sup> Andrus, "The Wiki and the Blog: Toward a Complex Adaptive Intelligence Community."

could only be countenanced because junior officers were fully aware of strategic as well as tactical objectives, then supplied with real-time information of the battle space near them. Feedback loops of information became as important horizontally as vertically (whether up or down) as the situation changed.

He thus advocated the use of self-organising technologies such as 'wikis' to spread and share intelligence and information, and 'blogs' to add points of view and promulgate more effective feedback loops. Environmental complexity and the internal complexity needed to meet it clearly have ramifications for cooperative working across the intelligence and security spheres, and for their interface with policy makers. However the temporal nature of complexity means that any comprehensive assessment of its impact must also include the effects of the behavioural traits of the relevant actors. To accommodate this Section 7 of Chapter 4 will therefore consider the complexity issue from the new institutionalist perspective. Before that however the next section will consider how the features described above can be factored into perceptions of national security and intelligence functions in the international sphere.

## **Section 8: Security and Intelligence Cooperation and Theories of The International Environment**

The international arena in which intelligence and security issues are increasingly predominantly situated are inevitably complex. This is as a result of both historical/future complications and the sheer number of interested actors both within and external to the body addressing them. The problems in operationalising complexity theory have been touched on above but it is pertinent to note that as a result even such auspicious neorealist thinkers as Kenneth Waltz have concluded that although a theory of international politics "...can describe the likely outcomes of the actions and interactions of states..." in general theories of international politics bear on "... the foreign policies of nations while claiming to explain only certain aspects of them."<sup>575</sup> In arguing that international theory must deal with "autonomous realms" he concludes

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<sup>575</sup> Waltz, *Theory of International Politics*. 71-72.



that it cannot deal with both internal and external factors simultaneously. One is left, according to Waltz, with analysis of events.<sup>576</sup> This means that any such theory will fall well short of providing a complete explanation.

Various attempts have been made to bridge this gap. Some, like 'Innenpolitik' theories, stress the domestic angle over the external issues, others, such as 'aggressive realist' theory, regards the environmental pressures as most significant. Alternatively defensive realism allows for some flexibility between the two.<sup>577</sup> They are nonetheless still variations on a theme, dependant on the preferred point of emphasis. Most theories "take as their dependent variable not the pattern of outcomes of State interactions, but rather the behavior of individual states"<sup>578</sup> so that a full understanding of the impact of both complexity in outcome and uncertainty in decision making is difficult to achieve. What seems to work effectively in one case is less so in another. As Allison so convincingly demonstrated states cannot be understood simply as rational and unitary entities,<sup>579</sup> but on the other hand domestic centred explanations cannot account for why, as Gideon Rose puts it; "... states with similar domestic systems often act differently in the foreign policy sphere and why dissimilar states in similar situations often act alike".<sup>580</sup>

More intuitively appealing in a complex security environment is the neoclassical approach to realism, which addresses both internal and external factors: Foreign policy, to this way of thinking, is a product of a nation's power relations within the international system (the realism), but that that policy is not delivered by anything resembling Allison's unitary actor. Rather it is adapted and 'translated' as it passes through various levels of governance (the neoclassical element).<sup>581</sup> Neoclassical realism is a theory of foreign policy rather than of intelligence and security per se but the two are closely aligned. Although it regards the various tiers involved in a foreign policy

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<sup>576</sup> Kenneth N Waltz, "International Politics Is Not Foreign Policy," *Security Studies* 6, no. 1 (1996). 54-55.

<sup>577</sup> Rose, "Neoclassical Realism and Theories of Foreign Policy." 148-150.

<sup>578</sup> Ibid. 145.

<sup>579</sup> Allison, *Essence of Decision: Explaining the Cuban Missile Crisis*. Graham T. Allison (1971) 10-38.

<sup>580</sup> Rose, "Neoclassical Realism and Theories of Foreign Policy." 148.

<sup>581</sup> Ibid. 146.

decision as differentiated, and can increase or reduce the granularity to include any level that can impact on the final decision (including the level of the general population, which has become increasingly relevant),<sup>582</sup> the systemic pressures are what remain paramount. It is on these that the explanation focuses. Unlike structural (neo)realism discussed above, which is more concerned with foreign policy outcomes and considers the State itself to be a black box, neoclassical realism reverts to classical realism's concern with the policies that produce these outcomes, and is thus additionally concerned with the internal power relations.<sup>583</sup> It can therefore include some of the issues incorporated into the approaches discussed above, from simple behavioural considerations to the machinations of a core executive.

When addressing a security concern more directly, Dyson finds a disparity between successful tactical and operational level adaption and failed strategic level adjustment to a changing military threat environment. This is despite the neorealist assumption of an 'invisible hand' in national security that replicates that found in the markets.<sup>584</sup> He uses this disparity to demonstrate how neorealist theory's assumption of high executive level autonomy within this sphere fails to explain the persistence of strategic drift in the United Kingdom's defence posture, and the apparent inability of the core executive to deliver strategic improvement, despite its dynamism at lower levels. This failure is despite the fact that the same three potential responses frame all three policy levels; inertia (the failure to adapt), emulation (the adoption of recognised best practise) and innovation (a potentially riskier approach offering the possibility of higher pay-offs), so that a government's pursuit of one should translate across the different policy levels.<sup>585</sup>

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<sup>582</sup> See for example the discussion of why and how governments need to 'deceive' their own populations to manage foreign policy in John Kurt Jacobsen, "Why Do States Bother to Deceive? Managing Trust at Home and Abroad," *Review of International Studies* 34, no. 2 (2008)..

<sup>583</sup> Steven E Lobell, Norrin M Ripsman, and Jeffrey W Taliaferro, "Introduction: Neoclassical Realism, the State, and Foreign Policy," in *Neoclassical Realism, the State, and Foreign Policy*, ed. Steven E Lobell, Norrin M Ripsman, and Jeffrey W Taliaferro (New York: Cambridge University Press, 2009). 22.

<sup>584</sup> Waltz, *Theory of International Politics*. 89-93.

<sup>585</sup> See Tom Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia," *The British Journal of Politics & International Relations* 13, no. 2 (2011).220, 213-214.

Taliaferro on the other hand argues that a State's power is found in their relative ability to "... extract or mobilize societal resources as determined by the institutions of the state, as well as by nationalism and ideology" and that it is these that shape the policy options available.<sup>586</sup> Any democratic system will have constraints imposed on decision makers of course, but how they organise will dictate both their degree and type. The United Kingdom's core executive will for example need to engage in the sort of horse trading described by Martin Smith,<sup>587</sup> with costs and results varying depending on a multiplicity of factors that will include the level of initial consensus and the historical position of 'favours owed'. In the United States on the other hand, the executive's capability to mobilise resources is more explicitly linked, through the Constitution, to its ability to bargain. In both cases however democracy itself tempers the states autonomy and introduces further actors into the bargaining process.<sup>588</sup> Although described by Taliaferro at the national level, the same pattern is observable at other levels. An agency or department would naturally prefer to retain its resources for its own designated purposes. Yet, as the subsequent case studies show, whilst the United States intelligence and security communities exhibits this trend regularly, the United Kingdom's do so only occasionally. An explanation that can transcend this dichotomy is therefore required, and the more nuanced explanation of these preferences that the more holistic institutional costs impact framework can provide will therefore be described in Section 8 of the following chapter.

## **Section 9: Conclusion**

Intelligence and security organisations are no more and no less than institutions of governance, and like any other governmental institution they adapt according to a range of stimuli.<sup>589</sup> This means that, like any other

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<sup>586</sup> Jeffrey W Taliaferro, "Neoclassical Realism and Resource Extraction: State Building for Future War," in *Neoclassical Realism, the State, and Foreign Policy*, ed. Steven E Lobell, Norrin M Ripsman, and Jeffrey W Taliaferro (New York: Cambridge University Press 2009). 197.

<sup>587</sup> Smith, "Intelligence and the Core Executive." 11-28.

<sup>588</sup> Taliaferro, "Neoclassical Realism and Resource Extraction: State Building for Future War." 204.

<sup>589</sup> The capacity of organisations to use knowledge to adapt was developed in Harold L Wilensky, *Organizational Intelligence: Knowledge and Policy in Government and Industry*, vol. 19 (Quid Pro Books, 2015).

organisation, a wide variety of approaches can usefully explain various aspects of cooperative success and failure amongst the actors and agencies engaged in their delivery. Each approach has acknowledged however, (whether explicitly or implicitly) that whatever its particular point of emphasis or focus, any analysis of collaborative working in those communities must have regard to a wide range of factors that can be internal or external to them. Furthermore these are often only apparent when the granularity of the analysis is at the micro level because they are a product of how disparate elements interact. Different situations and perspectives appear to lend weight to one point of view or another, only for it to then appear flawed in subsequent circumstances. A range of apparently shared goals and interests become distinct as the examination increases in resolution. Existing general theories are peppered with ideas that are applicable to some parts of the intelligence and security cooperation issue, but are never comprehensively explanatory:

The analysis of US reformists and new institutionalist scholars discussed in Sections 2 and 3 for example could provide a very persuasive account of collaborative failure and its detrimental impact on both reform and efficacy. But despite their inclusion of both process and behavioural driven frictions they could not address those occasions when cooperation between different actors with distinct preferences was successful. When separated out, both behavioural and bureaucratic accounts provided convincing explanations for specific actions but were less engaged with the environmental conditions that necessitated them. Accounts that credibly described the nature and impact of cooperation amongst actors that influenced decision making demonstrated the same limitation. Conversely approaches that focused external issues such as complexity or international relations seemed limited in their cognisance of how internal negotiating and positioning impacted on those processes.

Having developed what this thesis argues is a more comprehensive explanatory architecture for collaborative success or failure across the security and intelligence spheres in Chapter 2, and then examined how far

existing approaches explain different aspects of that collaboration in this chapter, Chapter 4 will next investigate the relationship between institutional costs analysis and the various approaches to cooperation that have been considered here. In this way they will be used both as a critique to the theory, and to assess the degree to which the various alternative approaches may be utilised to add depth to the institutional costs approach.

## **Chapter 4 - The Interrelationship of Existing Theories and Institutional Cost Analysis, and the Methodological Approach Used**

### **Section 1: Introduction:**

This chapter will examine how institutional cost analysis 'talks' to the existing theories of social interaction that were applied to the security and intelligence sphere in Chapter 3, and by also describing some of the issues that the approaches described in the previous chapter into institutional cost language, demonstrate how its particular strengths better explain cooperative success and failure in those functional areas. In particular the Chapter will show that although the institutional cost paradigm develops many of the key points of emphasis in other approaches, it is not simply a synthesis of existing theories. It is instead a method of considering the myriad of relevant factors as a set of interacting 'lowest common denominators' without having to treat them as autonomous, so that their inter-relationship can be examined.

In this respect institutional cost theory relies on the same sort of duality identified by Anthony Giddens and his ideas of structuration; the interaction of agency and structure.<sup>590</sup> At the heart of the institutional cost impact framework is the interaction of environmental and behavioural factors. Indeed there are obvious parallels between that work, the organisational failures framework of Williamson,<sup>591</sup> and the model derived to examine collaboration in the intelligence and security spheres in Chapter 2. The impact of actors equates to Williamson's behavioural elements, and the relevance of structure to his environmental and surrounding concerns, including the clarity of property rights.

In the same way the broad bodies of theories discussed in Chapter 3 will now be examined to assess the extent to which analysis of the institutional costs involved can usefully add to their ability to explain the sort of complex

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<sup>590</sup> See inter alia Anthony Giddens, *Central Problems in Social Theory : Action, Structure, and Contradiction in Social Analysis*(Berkeley: University of California Press, 1979).45-48 and additionally on his ideas of how social structures are "both the medium and the outcome" of social activity see: *The Constitution of Society : Introduction of the Theory of Structuration*(Berkeley: University of California Press, 1984). 25.

<sup>591</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.

interactions that define intelligence and security provision. It will argue that institutional costs rise, and will probably continue to do so exponentially, as increases in intra-community communications and bargaining interact with increased complexity. In the same way shifts leading to new uncertainties around the property rights of the actors are bound to arise. It will also engage with the extent to which the intelligence and security spheres are enmeshed in the wider world, and the impact of this on their ability to co-ordinate internally. Nonetheless it will suggest that recent shifts are problems of degree, not of a wholly new typology. This chapter will instead argue that by increasing the resolution at which these issues are considered, institutional cost analysis can add depth to the approaches discussed in Chapter 3, and explain why they appear to fail in some circumstances while being strong in very similar ones, so that a more comprehensive and inclusive explanation is possible.

The first half of the Chapter will proceed in a manner that parallels that of Chapter 3. Sections 2 and 3 will consider how institutional cost analysis can inform ideas of intelligence and security scholarship generally, and the new institutionalist approach more specifically. Next the behaviouralist and bureaucratic approaches will be contrasted with institutional cost theory. Cooperative decision making, complexity and then theories of the international environment itself are the examined through the same institutional cost prism.

The second half of the chapter will then be given over to a discussion of the methodology and case study selection used in Parts 2 and 3 to engender the widest possible trial of institutional cost analysis as an explanation for cooperative success and failure in the security and intelligence spheres given the limited space available. The whole will then be concluded in Section 11 before Parts 2 and 3 move on to examine the specific cases.

## Section 2: Intelligence and Security Scholarship and Institutional Cost Analysis

In many of the reforms advocated by the intelligence and security scholars and practitioners that were discussed in Chapter 3, the identification of cooperative working was an essential element of many of the reforms advocated. When coupled with the subsequent divergence in their various policy prescriptions, this suggested that a theoretical framework that can account for interactive success and failure between actors, such as that of institutional cost analysis, could have wider application.

The apparently contradictory policy fixes advocated by Odom and dilemmas examined by Betts that were discussed in Chapter 3 for example can be explained by considering the institutional costs experienced by those involved. Odom has in fact observed many of the sort of factors that make-up an institutional cost architecture, but as a senior practitioner, has not extended his narrative to provide an overarching framework. He is however implicitly clear that property rights matter, and that frictions in negotiation count. For example he argues that the DIA should cease its collection activities and pass them on to the appropriate 'expert' collection agency,<sup>592</sup> and that the CIA should become the HUMINT lead, with defence HUMINT under the operational control of the DCI. He even goes so far as to suggest that overt collection through Defense Attaches, debriefing programs and even interrogation should be managed by the DCI, because this would clarify HUMINT ownership at large. Yet he does not address the negotiating problems this would cause in terms of the property rights around tasking and product ownership.<sup>593</sup> The lack of a more holistic framework that can deal with these issues thus leads to inconsistencies in his approach.

More generally his dual advocacy of both clear lines of command and stovepipes of technical expertise make practical sense individually but are contradictory. Whilst it is inconceivable for example that each tactical level command could have the resources or expertise to manage the collection,

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<sup>592</sup> William E. Odom, *Fixing Intelligence : For a More Secure America*(New Haven, Conn. ; London: Yale University Press, 2003).104-110

<sup>593</sup> Ibid. 108-110



decryption and analysis necessary to have their own SIGINT capability,<sup>594</sup> without clarifying the property rights of those tactical level units to a national level resource difficulties and friction will necessarily ensue.<sup>595</sup> This clarity need not be vested in ownership or direct control however, so long as rights of access are agreed and understood. This is shown by the arrangements of property rights to the intelligence product of the UK's Government Security Head-Quarters' (GCHQ) by the Secret Intelligence Service (SIS or MI6) and the Security Service (SyS or MI5) and even more conventional areas of government.<sup>596</sup> Hayden's contention that the DCI's authority emanates not from his formal position as the head of the intelligence community, but rather from his position as head of an individual part of it can also be explained by a consideration of the property rights involved: The DCI had clear and unequivocal rights to the CIA's own directorates, but only a vague authority over the rest of the community that overlapped that of other actors.<sup>597</sup> As long as property rights are clear, they do not need to be mono-linear or formalised. The tension between integrated and autonomous operating identified by Hayden can then be considered not simply as a shifting point of balance, but in a more nuanced way as actors with a clear sense of the property rights of other participants at each functional level will be able to vary between the two as circumstances demand without further complex negotiations.

There is a paradox between the two intelligence communities on each side of the Atlantic: The United States has had a legally enshrined 'intelligence community' since its inception in 1947, but has resisted the reality with individual agencies co-operating with others only fitfully, whereas the United

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<sup>594</sup> Ibid.97-101

<sup>595</sup> Consider for example how the November 2004 debate over the creation of a 'National Intelligence Director' (NID) was turned by the then Chairman of the Armed Services Committee, Duncan Hunter's emotive assertion that a powerful NID would undermine tactical level access to imagery intelligence (IMINT). Allen, *Blinking Red : Crisis and Compromise in American Intelligence after 9/11*.3-4 and compare this to General Soyster's regeneration of the Military Intelligence board to achieve the strategic to operational level linkage required Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.309-310 and General Flynn's development of this down to the tactical level. Michael T Flynn, Rich Juergens, and Thomas L Cantrell, "Employing I.S.R. S.O.F. Best Practices," *Joint Forces Quarterly JFQ*, no. 50. 3rd Quarter (2008).This theme is developed in Part 3 to this thesis.

<sup>596</sup> "National Intelligence Machinery."

<sup>597</sup> Hayden, "The State of the Craft: Is Intelligence Reform Working?."37

Kingdom has resisted the term, emphasised the individual independence of each element (even when legal recognition finally arrived during the late 1980's and 1990's), yet has managed enviable levels of collaborative working over the same period.<sup>598</sup> This has been noted by Sir David Omand and leads him to conclude that there can be no 'right' organisational model and is content to note instead some 'general characteristics' that they might share. He highlights the necessity for trust, not hierarchy, as a lubricant to ease the inevitable increase in interactions required as he lays out a model of four concentric circles of functionaries.<sup>599</sup> Despite its centrality however, the way trust might offset the negotiating frictions involved in linking different aspects of the intelligence and security function is still not an idea that is developed. In a similar fashion Treverton acknowledges the importance of sub-goal pursuits by actors within agencies, implicitly suggesting this is important to how different organisational forms play-out.<sup>600</sup> Although unstated it is nonetheless clear that in both their views the property rights of actors and how they behave together is as important as how they are organised.

Both Treverton and Betts are also concerned by the increased levels of horizontal engagement between intelligence providers and security delivery, as well as the need for public and political support.<sup>601</sup> Information costs are thus key to them both. There is a shift from too little information to an excess of it,<sup>602</sup> a quantitative increase in the number of communications, a qualitative difficulty of having them understood across the varied 'languages' used by different actors.<sup>603</sup> There is also an inbuilt asymmetry of information holdings between intelligence providers and consumers, as well as between both of them and the 'end-consumers' of security, the public, that can hinder agreements. Bett's discussion of unwelcome strategic estimates, and the different analysis that is likely from either military or civilian intelligence

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<sup>598</sup> Omand, *Securing the State*. 299

<sup>599</sup> Ibid. 300-2

<sup>600</sup> Treverton, *Intelligence for an Age of Terror*.

<sup>601</sup> *Reshaping National Intelligence for an Age of Information*. and Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*. respectively

<sup>602</sup> Treverton, *Intelligence for an Age of Terror*.31

<sup>603</sup> The term 'Languages' is used idiosyncratically in the way that Williamson uses it as a form of bounded rationality. Costs occur as a result of different cultural or social norms between actors that must converse, as well. Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.21

professionals can evidence this disparity.<sup>604</sup> Information costs must therefore be treated not only as a matter of efficiency, but also as part of the negotiating problem, as it is in the institutional costs impact framework. Treverton, like Odom, implicitly seeks a low institutional route to managing the dramatic increases in information and consumers by avoiding stovepipes, and putting consumers, analysts and sources all together.<sup>605</sup> However this leads to an unresolved tension with the increased complexity that results.

Treverton is nonetheless concerned with the environmental conditions of both complexity<sup>606</sup> and uncertainty (his discontinuous cascades of effects).<sup>607</sup> A principle advantage of his approach is that it (implicitly) lowers institutional costs by removing vested interest in a pre-decided judgment, and of frictions at the intelligence and policy interface. Yet the "... unified, explanatory, consensual understanding about the world..." that "organizational sense-making" theory demands<sup>608</sup> is at odds with the sub-goal pursuit of most agencies and actors, just as his solution to the information problem is at odds with his views on complexity. In each case although Treverton et al identify the same issues that constitute the institutional they do not address their interaction, so that contradictions emerge.

Davies also recognises the problem of information costs in a complex environment, citing different understandings of what intelligence itself is within the United States community context. This adds to the problem of different holdings of information by actors, mandated by both specialisation and secrecy, that result in an apparently insoluble interagency coordination problem that is too complex to be properly addressed.<sup>609</sup> He also shares the concern with 'language' costs observed in US scholars. In their open letter to the UK's 'Development, Concepts and Doctrine Centre' (DCDC), Davies and Gustafson cite the mismatch between civil and military understandings of

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<sup>604</sup> Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*.24

<sup>605</sup> Treverton, *Intelligence for an Age of Terror*. 61

<sup>606</sup> Ibid. 21-23

<sup>607</sup> Ibid. 25

<sup>608</sup> Ibid. 35

<sup>609</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1 p.102-155

such critical areas as the nature of the 'strategic' realm, and whether it is geographically or temporally delineated.<sup>610</sup> In their view, different understandings as well as different information holdings impact on how successfully different elements of a community can interrelate, complicating negotiations between them.

Despite such complications Davies is clear that such negotiations must occur for any intelligence and security system to be coordinated. In the UK (which is generally better at holistic collaboration) the unfortunate history of imagery intelligence is used by Davies to show how hard it is for an agency such as JARIC<sup>611</sup> to serve two masters, in this case the national community and its military paymasters.<sup>612</sup> In the United States he demonstrates that the problem is more prevalent, with similar problems over DoD assets that are part of the national system, as well as organisations like the FBI, whose loyalties are strained across their dual requirement to be both law enforcers and intelligence gatherers.<sup>613</sup> Although unstated Davies is clear that in both cases the use of resources must be negotiated whatever organisational form is actually used, and property rights clarity will be central to its efficacy.

Nonetheless Davies is unambiguous in his view that national intelligence resources on both sides of the Atlantic must be handled by national entities, not sublimated into lower level or parallel pursuits, implicitly arguing that this produces a sub-goal orientation by actors suffering a toxic combination of bounded rationality and self-serving bias in an uncertain environment, which is deleterious to the national role. Yet he also argues persuasively that the CIA could usefully be broken up into an SIS style National Clandestine Service, with its analytic functions passing to, for example, the State Department in the same way the UK's F&CO fulfil the bulk of the analytic function for SIS.<sup>614</sup> At the same time he is aware that no reform initiative

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<sup>610</sup> Davies, "B.C.I.S.S. Comments on Jwp 2-00 Re-Write Arising from D.C.D.C. Intelligence Seminar." 2009

<sup>611</sup> Formerly the 'Joint Air Reconnaissance Intelligence Centre', now the 'Defence Geospatial Intelligence Fusion Centre' (DGIFC) but still referred to as JARIC.

<sup>612</sup> Davies, "Imagery in the UK: Britain's Troubled Imagery Intelligence Architecture."

<sup>613</sup> *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.2 321-6

<sup>614</sup> *Ibid.* Vol.2 323-4

based on direction from a 'monocratic hierarchy' can achieve more than perfunctory compliance.<sup>615</sup> Like the scholars discussed above, Davies has identified many of the constituent parts of the institutional costs impact framework as impacting on particular aspects or instances of coordination and cooperation in the intelligence and security communities of each nation but has not gone so far as to develop an overarching theoretical framework to contain them.

### **Section 3: Institutional Costs, Intelligence and Security Cooperation, and the Problem of Collegiality and New Institutionalism**

The new institutionalist approach also incorporates many of the individual elements developed as Williamson's original transaction cost organisational failures model so there is significant overlap between new Institutionalism and microeconomic conclusions.<sup>616</sup> Indeed, as Chapter 3 observed, Zegart sees transaction cost economics and classic new institutional theory as almost synonymous, although her treatment of this is only superficial.<sup>617</sup> For Zegart, it is nonetheless these same factors that are the root cause of poor community design and adaption in the United States.<sup>618</sup>

However, just as Williamson's organisational failures framework needs to be adapted to the institutional cost impact framework for the use in the intelligence and security sphere, Zegart has found that conventional new institutionalist theory was inadequate to the foreign policy realm in which most intelligence or security questions lie, being better suited to the domestic policy sphere.<sup>619</sup> This shortfall can be addressed by the analysis developed here because it links the internal issues on which she concentrates with wider environmental aspects.

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<sup>615</sup> Ibid. Vol.2 317

<sup>616</sup> See Powell, *The New Institutionalism in Organizational Analysis* and Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*. These are dealt with as both individual and cumulative factors in the previous chapter so will not be examined in detail again here.

<sup>617</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* 6.

<sup>618</sup> See both *ibid.* and *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.15-42.

<sup>619</sup> Zegart observes that the new ideas of 'transaction cost' theory were only ever applied to the old 'domestic' agencies that bureaucratic theory had focused on. *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.220.

It is external uncertainties that ensure there can be no one perfect structure to address all circumstances. The different transaction costs inherent in each mean that the contracting issues which are the heart of institutional costs are significantly different for those trying to influence foreign, rather than domestic, policy. Zegart is concerned by the one-sided nature of information holdings of the President over Congress, for example, but is also aware they give the Executive much more freedom to act unilaterally.<sup>620</sup> Institutional costs from negotiating and implementing policies are therefore much lower and action potentially much quicker, which is often of great advantage as the pace of decision making required during the Cuban missile crisis amply demonstrates.<sup>621</sup> Conversely the resultant lack of effective oversight can lead to foreign policy disasters like the Iran-Contra affair where, arguably, external scrutiny would have moderated Executive branch activity.<sup>622</sup> However she also observes that it is the incentive schemes for members of Congress that make intrusive oversight a costly pursuit with little obvious return (aside from in exceptional cases<sup>623</sup>). Property rights around foreign policy responsibilities are also more opaque than even Zegart demonstrates. A 1992 report by the General Accounting Office for the House of Representatives concluded that National Security Directives contain foreign or military policy making guidance not specific instructions but "... do not appear to be issued under statutory authority" so that even the legal positions are unclear.<sup>624</sup> This combines with the inherent secrecy in intelligence and security activity and impacts on the institutional cost in the more immediate external environment. The imbalance of information ensures foreign policy interest groups are few and relatively recent. Even within the operational

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<sup>620</sup> *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* 27-28.

<sup>621</sup> See for example the operational scope and pace demonstrated by Kennedy's ExCom, a sub-group of the National Security Council because even that was too unwieldy for the circumstances of the crisis. See Allison, *Essence of Decision: Explaining the Cuban Missile Crisis*. 57.

<sup>622</sup> See John Tower, Edmund S Muskie, and Brent Scowcroft, *The Tower Commission Report: The Full Text of the President's Special Review Board* (Bantam Books New York, 1987).

<sup>623</sup> Zegart cites those with Presidential aspirations as likely to achieve a return on their investment in foreign policy matters, but involvement in a high profile issue such as the post 9/11 hearings would of course also produce a degree of benefit amongst a legislators electorate. Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* 32

<sup>624</sup> See John Conyers, "National Security: The Use of Presidential Directives to Make and Implement Us Policy: Report to the Chairman, Legislation and National Security Subcommittee, Committee on Government Operations, House of Representatives.," (Washington DC: United States General Accounting Office, 1992).1

agencies charged with providing intelligence and security information costs are a perennial problem: almost every major review, particularly those initiated to examine the causes of an intelligence failures,<sup>625</sup> have concluded that information sharing has been an issue and needed addressing in some way or other. Given the cachet that comes with having secret information when others do not, this seems unlikely to change.<sup>626</sup> Even the FBI's own strategic review, in typically understated fashion noted that "...historically, the challenge has been to share this information effectively within and outside the FBI".<sup>627</sup> In the intelligence and security spheres information costs are thus not isolated as a friction in their own right, but rather are fulcrum about which other issues play as the diagrammatic model developed in Chapter 2 demonstrated.

In Zegart's view, national security and intelligence bodies must exist with other departments, agencies and bodies in a more 'tightly knit' way than their domestic counterparts. Asset specificity produces institutional costs through the degree of "asset cospecialization" so that the utility of one agencies work depends on that of another, which can produce hold-up problems.<sup>628</sup> One agency may be hostage to the machinations or inefficiencies of another. These costs have to be assessed against those introduced by overlapping capabilities and the resultant duplication of effort and loss of property rights clarity if an agency chooses to become less asset specific and bring a function in-house.

It is here that Zegart departs from Williamson's transaction costs model. She argues that the avoidance strategies suited to the private sector that offset the hold-up problem, such as vertical integration, more complete contracts and signalling commitment, are not applicable to the security and intelligence

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<sup>625</sup> See for example Randy I. Bellows, "Attorney General's Review Team on the Handling of the Los Alamos National Laboratory Investigation" (Washington DC: United States Department of Justice, 2000). Chapter 20 and Thomas H. Kean and Lee H. Hamilton, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States*, Authorized ed. (New York ; London: W. W. Norton, 2004). Particularly chapters 6,7,8 &11.

<sup>626</sup> see for example Grey, *Decoding Organization: Bletchley Park, Codebreaking and Organization Studies*.159-160

<sup>627</sup> See US Federal Bureau of Investigation, Federal Bureau of Investigation Strategic Plan 2004-2009 - Counterterrorism, (2004), <https://www.hsdl.org/?view&did=466149>.

<sup>628</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.*37-38.

spheres.<sup>629</sup> The State Department cannot, for example, buy-out the Central Intelligence Agency if unhappy with its product, and certainly most attempts at this sort of vertical integration within the community have been problematic.<sup>630</sup> Nonetheless agencies and departments do bring functions in house when they feel the need. This has been demonstrated by the New York Police's (NYPD's) paralleling of FBI's programs post 9/11.<sup>631</sup> Furthermore contracting is often as complete as the uncertainties of the environment allow, indeed overly rigid contracting is as often the problem in the US case. The establishing of probity, and signalling commitment to a course of action once it has been agreed, are also very much part of the UK's strategy for security and intelligence cooperative working (as Part 2 to this thesis discusses) even if it is less evident in the US case examined by Zegart. Despite the domestic/foreign division that Zegart notes, the model does still have general applicability to those spheres if applied holistically. That vertical integration has failed does not, for example, detract from the fact that it has been attempted, or explain the motivations of those introducing it.

The rigour of this aspect of the new institutionalist model and its relationship with transaction cost approaches has been established in the private sector. Jane Lu contrasted the usefulness of Walter Powell and Paul DiMaggio's theory against the Transaction Cost model in predicting the entry mode choices of over one thousand Japanese companies as they sought to invest into Western Countries. It concluded that the two models complimented each other and that the empirical data supported the hypothesis that both intra and inter mimetic isomorphism were strong factors in entry mode choice.<sup>632</sup> This study is useful not only for the extent of its quantitative data but also because the Japanese companies were, like their security sector equivalent the

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<sup>629</sup> Ibid.p.37 Citing Paul Milgrom and John Roberts, "Economics, Organization and Management,"(Prentice-Hall, London, 1992).

<sup>630</sup> See for example the disaggregated nature of the US's IMINT community described in "Ic21: The Intelligence Community in the 21st Century," ed. Staff Study Permanent Select Committee on Intelligence, Featured House Publications (Government Printing Office, 1996).VI IMINT: Imagery Intelligence

<sup>631</sup> Craig Horowitz, "The Nypd's War on Terror," *New York News and Politics*(2003), [http://nymag.com/nymetro/news/features/n\\_8286/](http://nymag.com/nymetro/news/features/n_8286/)

<sup>632</sup> Jane W Lu, "Intra-and Inter-Organizational Imitative Behavior: Institutional Influences on Japanese Firms' Entry Mode Choice," *Journal of International Business Studies* (2002).31



Department for Homeland Security which is examined in Chapter 6, cultural and institutional outsiders at the outset so that parallels can be drawn.<sup>633</sup>

Where property rights overlap there is an 'opportunity cost' to the tasks undertaken so that any function ascribed to one agency will reduce the functionality of its 'competitor' agencies. This was the case in the creation of the Department for homeland Security which was conceived to be "revenue-neutral", so that financing became a 'zero sum' competition.<sup>634</sup> In such circumstances it is no surprise that established organisations behave as Zegart's model predicts. Despite being staffed by talented people, they did not manage, as the Silberman Robb Commission put it "... to escape the iron laws of bureaucratic behaviour" but instead have developed "... self-reinforcing, risk averse cultures that take outside advice badly".<sup>635</sup> This is the 'iron cage' of isomorphic behaviour described by Powell and DiMaggio that develops in the face of "... resource centralisation, goal ambiguity and technical uncertainty".<sup>636</sup> Despite the twin exogenous shocks of 9/11 and the invasion of Iraq based on flawed intelligence assessments, the Silberman Robb Commission found bureaucratic adaption hard to implement, and the high institutional costs involved in that adaption can be seen to be a root cause of that difficulty.

Although Zegart is concentrating on the United States community, the factors She identifies also have relevance in the United Kingdom. It is how the factors play-out that can be distinct. Most importantly she demonstrates how the new Institutional theory can address the problem of intelligence and security issues falling in the gap between previous theories of either foreign or domestic policy analysis. Indeed She notes that although transaction cost analysis has been usefully employed in the domestic arena it has not been used in areas that fall under foreign policy.<sup>637</sup> Just as neoclassical realism

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<sup>633</sup> For a discussion of how the same factors impacted on the DHS see Chapter 6 to this thesis.

<sup>634</sup> Richard A. Clarke, *Against All Enemies: Inside America's War on Terror* (New York ; London: Free Press, 2004). 253.

<sup>635</sup> See Silberman and Robb, "Report to the President of the United States - 31 March 2005."

<sup>636</sup> Paul J DiMaggio and Walter W Powell, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields," *American Sociological Review* (1983).147.

<sup>637</sup> Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.220. More recently Defence and related issues have been subject to transaction cost analysis. See for example Moritz Weiss, "Transaction Costs and the Establishment of the European Security and Defense Policy," *Security*

incorporates both the internal and external factors whose interactions are at the centre of institutional cost theory, but emphasises the external environment, so new institutional does the same but emphasises the internal dynamics. Yet different factors will rise or fall in importance in specific circumstances and this needs to be accounted for.

#### **Section 4: The Behaviouralist Perspective and Institutional Cost Analysis**

The behaviouralist tradition examined in the previous chapter, and its identification of the limitations in neoclassical economics was, in many ways the forerunner to Williamson's transactional cost theory, and thus the institutional costs impact framework for security and intelligence. In particular Cyert, Simon and Trow questioned the ability of classical economics to properly describe decision making in a large organisation in a complex environment; arguing that the assumption of a given problem that boasts a given set of alternate reactive courses of action, each with a particular set of consequences, is too simplistic. Nor did they accept that the decision maker could then choose amongst them based on a simple process of utility maximisation, even in a firm where monetary profit would generally be regarded as the purpose of all activity.<sup>638</sup> It is Williamson's transaction cost analysis that can provide the linkage between the methodological divergence between the 'maximisers' of economists and the 'satisficers' of the behaviouralist tradition.<sup>639</sup>

It was Williamson's use of microeconomic theory, and his inclusion of factors such as complexity uncertainty and atmosphere, that not only explained why the behaviour they observed occurred, but also allowed the factors to be simultaneously modelled to the extent that some degree of predictive power around such interactions resulted. Indeed the distinction that Cyert et al make between *programmed* (that is repetitive and pre-defined) and *non-programmed* (strategic, future based and ill-defined) decision making

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*Studies* 21, no. 4 (2012).; and McDonough, "The Industrial Structure of National Defence and Transaction Costs."

<sup>638</sup> Cyert, Simon, and Trow, "Observation of a Business Decision."237..

<sup>639</sup> Oliver E. Williamson, "The Economics of Organization: The Transaction Cost Approach," *American Journal of Sociology* 87, no. 3 (1981).574

requirements, and the resultant applicability or otherwise of conventional economic modelling to each, is implicitly based on the transactional costs involved in each case, although they refer to the degree of 'search' a particular decision will require.<sup>640</sup> Where Cyert, Simon et al finished by highlighting the question, transaction cost economics provided the answer; an answer well suited to the decision making and organisational make-up of intelligence and security provision in a complex environment of asymmetric information.<sup>641</sup> These are the *non-programmed* areas that boast high and thus very relevant institutional costs.

The rationality that drives these non-programmed decisions, where further negotiating will be required, is a central assumption of the economic model, and an intimate element of any behavioural explanation, but it can vary across different levels and around different conceptions of 'self-interest'. Police officers like to make arrests, soldiers to win battles, and diplomats to reach an understanding. Yet a collective goal or maximand, to which each are rationally inclined, is usually taken as understood, and as importantly in the intelligence and security spheres, as shared. This perception, and how it is managed, is in fact a non-trivial variable.<sup>642</sup>

There are implications too from behaviouralist conclusions on firms' organisational goals. Cyert and March differentiate between their long-run and short-run findings.<sup>643</sup> There are therefore different maximands associated with each. Long-run goals are constantly altered through shifts in coalition structure and the bargaining positions of its members, institutional costs are likely to be higher and prediction more difficult. On the other hand, the short-run or operational level has more clearly identifiable goals available to participants so that their pursuit is easier because institutional costs are lower. There are clear parallels with the different cooperative experiences across the same agencies but at different levels, and one can find examples of good cooperation in the short-run (or operational tactical levels) even

<sup>640</sup> Cyert, Simon, and Trow, "Observation of a Business Decision." 238. Italics in original

<sup>641</sup> Ibid.248.

<sup>642</sup> See for example the discussion around the different Discounted Marginal Utility and Marginal Advocacy Costs between top tier and lower level bureaucrats in the same organisation in Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.199

<sup>643</sup> Cyert and March, *A Behavioral Theory of the Firm*.50.

between elements of the United States intelligence community that are apparently renowned rivals: The eventual success of the operation that led to the killing of Osama Bin Laden and a significant haul of intelligence was as a result of successful co-operation between the National Security Agency monitoring communications, Central Intelligence Agency assets collecting and developing intelligence, Federal Bureau of Investigation officers passing on intelligence retrieval techniques to the marines on the ground, and the Department of Defense's Navy Seals team that actually conducted the raid and seized the intelligence.<sup>644</sup> Each element performed a specific and clear role according to their actual expertise. This allowed a lower level of institutional frictions thanks to clear goals and distinctive property right allocations amongst the actors involved, leading to a successful joint-working.

Recent analysis of defence reform in the United Kingdom supports this contention; tactical and operational reform has been dynamic and guided by observed need rather than path dependency, but strategic level reform has "... reached a state of organisational, bureaucratic and intellectual decay".<sup>645</sup> In the former institutional costs are relatively low but in the latter both negotiating costs and uncertainty ensure they are significantly higher. Even the major shift in requirements from the defence sector has been inadequate to make incurring the costs worthwhile. At the same time the success of a particular organisational make-up of a firm in achieving any institutional goal is peculiar to the specific circumstances in which it finds itself at a given point in time. The crucial factor is therefore the level of friction interfering with any adjustments required. High levels of friction may prevent flawed decisions just as easily as low ones might permit good ones.

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<sup>644</sup> See inter alia Frederick P Hitz, "Us Intelligence in the Wake of September 11: The Rise of the Spy Commando and Reorganized Operational Capabilities," *Harvard Journal of Law & Public Policy* 35(2012).245-248.

<sup>645</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia."206-229 and quoting Paul Cornish and Andrew Dorman, "Blair's Wars and Brown's Budgets: From Strategic Defence Review to Strategic Decay in Less Than a Decade," *International affairs* 85, no. 2 (2009).247-261.

This is evidenced by Cyert and March's own key characteristics of organisational choice and control.<sup>646</sup> The first is essentially an acknowledgement of the central relevance of bargaining and all four implicitly involve the frictions and difficulties within the process itself. One can recognise in them Williamson's concern with 'contact' costs, the cost of negotiating new 'contracts' and how these encourage the use of near-fit existing solutions, particularly around the machinery for 'control'.<sup>647</sup> It follows that these frictions could be further unpacked for security or intelligence organisations by reference to the institutional cost impact framework developed here.

This increased explanatory power may be made clear by a cursory examination of the three ideas that Cyert and March concluded were at the core of a behavioural theory of a firm. The first, the bounded rationality of actors, is central to both Williamson's organisational failures framework and the institutional cost impact framework developed here. It arguably represents the greatest flaw of neoclassical economics, with its assumptions of perfect information and calculation, in explaining real behaviour. However by considering bounded rationality not only as an issue in its own right, but also in conjunction with environmental factors such as uncertainty, complexity, or the specificity or frequency attending a particular problem. Viewing these combinations through the prism of not only a dearth of information, but also an inequality of its distribution, this sort of microeconomic consideration can take behavioural considerations much further.

Their second core feature is imperfect environmental matching. Like bounded rationality, this admits the imperfections excluded by neoclassical theory, wherein form follows requirement perfectly and near instantaneously, with less well evolved approaches dying out through competitive pressure. It acknowledges that the form chosen will in fact be shaped by history as much as efficiency, and subject to numerous internal and external influences.

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<sup>646</sup> Discussed in Chapter 3, Section 4 but see Richard M Cyert and James G March, "A Behavioral Theory of the Firm," *Englewood Cliffs, NJ* 2(1963).134

<sup>647</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.

Institutional cost analysis can not only include all these factors holistically, but will allow their interaction to be regarded with finer granularity. Finally, Cyert and March note the importance of the dynamic nature of the processes involved: These include unresolved conflict between multiple actors with conflicting interests, within firms as well as between them, that cannot be fully settled through 'complete' contracting (an unachievable ambition in the face of either uncertainty or complexity). Furthermore these conflicts do not exist in a moment of time, or ever achieve a state of equilibrium. Rather the negotiated settlement of one issue will have repercussions (in terms of favours owed or 'precedent') for future negotiations.<sup>648</sup> Property rights clarity, atmosphere, and the degree to which the actors involved share a sense of the same maximand will all inform outcomes in this area.

The focus by Thomas Schelling on micro level behaviour as a determinant in economic and social action outcomes that were discussed in the previous chapter means that there is a significant cross-over between his and Williamson's approaches. Both use a high level of resolution to explain complex phenomena, although Schelling focuses on numerical aggregation whereas Williamson is more concerned with the different type of factors that conjoin to form macro level outcomes.

Schelling identifies the same sorts of problems as Williamson; the bounded rationality of some actors, the asymmetry of information holdings, and the mis-incentivisation of actors. He also concludes that any solution would need to be based at an organisational level, in formal and informal structure and constraints.<sup>649</sup> Ironically he thus provides a strong argument for the use of microeconomic theory to deconstruct the sort of social phenomenon observed in a governments aggregate production of a good, apparently contradicting his own believe that economics is "... a large and important special case rather than a model for all social phenomena".<sup>650</sup> In demonstrating that individual motives could be subsumed into cooperative approaches that improved utility overall, even when actors were simply

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<sup>648</sup> Cyert and March, *A Behavioral Theory of the Firm*.214-216

<sup>649</sup> Schelling, *Micromotives and Macrobehavior*.37-41

<sup>650</sup> *Ibid.* 27.

rational as in game theory, Schelling also implied that the factors affecting the efficacy of that cooperation, the institutional costs, will be critical. The ease and reliability through which individual actors can form coalitions will have a direct bearing on whether decisions emanating from a collective body like an intelligence and security community act to maximise their overall utility, or that instead they are incentivised to act by disparate elements pursuing individual goal maximisation to the detriment of the whole.

As Section 4 of Chapter 3 explained, implicit in this is the idea that the merits of forming coalitions should be the same for both the United States and United Kingdom's intelligence and security communities. Schelling's theory stops short of predicting in what circumstances a viable coalition is achievable ( $k$  in Figure 3.1), although he does suggest some issues that will effect it anecdotally. This is the point of entry for institutional cost analysis. The ease of the actors' ability to contact, contract with, and control each other will decide whether a coalition is viable. In the United Kingdom the clarity of property rights and the low institutional costs that result from the use of a system of committees provide an environment where trust, the lubricant of coalitions and agreement, can thrive.<sup>651</sup> In the United States however, overlapping property rights and difficulties with community level orchestration generate frictions that create the competitive culture observed by Davies,<sup>652</sup> making coalitions significantly harder to create or sustain. Furthermore, just as the successful history of coalition assists British officials negotiate the next; every failed attempt to form one in the United States will bequeath higher institutional costs for the next attempt. This creates a vicious circle that negatively affects attempts at re-organisation within the community. Institutional cost analysis can therefore provide an explanation for the factors observed by Schelling.

The behaviouralist approach thus provides a useful insight into some of the elements that inform cooperative success and failure, and indicate that although intelligence communities work at the national level it is not macro

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<sup>651</sup> See for example Herman, *Intelligence Power in Peace and War*.268-273.

<sup>652</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1

but micro economics, and a consideration of the detail of exchanges, which provide the most insight. However the introduction of the additional factors that inform transaction cost modelling, and in particular the effects of their interaction as described by the institutional costs impact framework developed for application to an intelligence community, is required if a complete explanation is to be achieved.

### **Section 5: The Bureaucratic Perspective and Institutional Cost Analysis**

Section 5 of Chapter 3 examined how the rigidity of bureaucratic structures interacts with a notoriously uncertain function like the security and intelligence provision. This section will go on to consider how institutional cost analysis can add depth to a bureaucratic analysis of collaboration within those functions.

John Marini noted that “In a constitutional system, the powers of the state are thought to be limited; in the administrative state only resources are limited. In a constitutional regime, the most important political questions are those of principle or public right; in the administrative state they revolve around money and finance.”<sup>653</sup> The interactions within that 'administrative state' will therefore define the extent to which the bureaucracy adapts (or not) to the will of its political masters, and thus define its organisational fitness. Indeed it was the gradual but inevitable decrease in adaptability that lead to Durkheim shifting his focus from the sort of individualistic activity described in the section above to a preoccupation with “the noncontractual elements of contract”,<sup>654</sup> another constituent part of institutional cost analysis.

This progression towards more fixed routines and a regulatory framework is the same process that establishes the institutional costs that are often first a safeguard, but later become a problem as circumstances change during subsequent transactions. As has been demonstrated in the previous two chapters, in the face of uncertainty and complexity the point of balance

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<sup>653</sup> John Marini, *The Politics of Budget Control : Congress, the Presidency, and the Growth of the Administrative State* (New York ; London: Crane Russak, 1992).xiii.

<sup>654</sup> Durkheim, *The Division of Labor in Society*. 200-229. For a synopsis of this shift in Durkheim’s approach and its effect on institutional study more generally see Scott, *Institutions and Organizations : Ideas and Interests*.11-12.



between the two is neither fixed nor mono-dimensional. In fixing an objective at one point in time, the crystallisation of the bureaucracy can ensure that opportunistic and self-interested actors within it are unable to manipulate its purpose to their own advantage. Unfortunately these same costs can also prevent necessary adaption to new threats in the external environment, and often the difference is entirely subjective.

In the previous chapter Robert Merton's argument that the very efficiency of the bureaucracy could be counter-productive. Put into institutional cost terms, in the general case categorisation of problems reduces costs by treating issues within designated criteria as the same so that new solutions need not be sought. In more individualistic cases the costs of searching outside normal procedures has the additionally desirable effect of restraining an ill-considered "... passage of "impulse into action".<sup>655</sup> However the very precision and reliability of bureaucratic response discussed as a positive by Weber as a method of reducing frictions and costs, thus increasing efficiency, can in only slightly different circumstances have the polar opposite effect. This is a result of both "trained incapacity" and "occupational psychosis", both of which corrupt Weber's efficiency effect and increase costs.

The rigidities of Merton are of course synonymous with the institutional costs associated with asset specificity. This has long been one of the problems in integrating the United States agencies into a genuine community, with elements exhibiting exactly the sort of informal defensive activity predicted by Merton.<sup>656</sup> However rapid environmental changes in the United Kingdom have been known to have the same affect. For example through the Cabinet Office requirement for Special Branch (later Specialist Protection) officer's to conduct an increasing number of 'high risk low infrastructure' (HiRLI) security operations overseas, to support the government's national security strategy in the post 9/11 era. These operations could not be properly accommodated within existing police guidelines. Left without any clear recourse, self-interested elements of the bureaucracy turned to internal discipline

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<sup>655</sup> Merton, "Bureaucratic Structure and Personality." 560, citing Lasswell, *Politics. Who Gets What, When, How.*120-1.

<sup>656</sup> See inter alia Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* and Posner, *Uncertain Shield : The U.S. Intelligence System in the Throes of Reform.*

mechanisms so that the entire strategic leadership and much of the operational element were neutered for some three years while the issue was examined. No discipline cases resulted but, in the manner described as “trained incapacity” by Merton, the ability to deliver on the original (core) goals of the organisation was substantially damaged.<sup>657</sup> The 'vested interests' on each side were not however based in the 'differential advantage' of each that change might force, but were rooted in the different cultural identities with which they were associated, as Merton had predicted.<sup>658</sup>

Perhaps the most important aspect of Merton's work with respect to cooperation in intelligence and security is that he linked the environmental issues of complexity and uncertainty with the behavioural element of bounded rationality. Unintended consequences were caused "...by the interplay of forces and circumstances which are so complex and numerous that prediction of them is quite beyond our reach" which has further repercussions for intelligence or security delivery: Firstly, that the realities of life require confident action despite incomplete information, so that not all consequences can be predicted.<sup>659</sup> The classic example of this phenomena is the Central Intelligence Agency's arming of the Afghanistan Mujahedeen (via the Pakistani intelligence service) in the 1980's to subvert Russian expansion, but it is no less prevalent in simpler tactical scenarios. Moreover, because costs rise in a complex and uncertain environment, the pursuit of ever-more information has a diminishing return.

This can be represented diagrammatically (Figure 4.1)<sup>660</sup> for even a simple 'either/or' choice. In the worst case the pursuit of certainty, which in a complex and uncertain world can never be achieved, precludes any action at all. More usually a bureaucracy will become 'risk-averse' in the face of actual or potential criticism to some degree, as was experienced within the Central

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<sup>657</sup> P3.(Regarding ‘Operation Shobusa’).

<sup>658</sup> Merton, "Bureaucratic Structure and Personality." 565

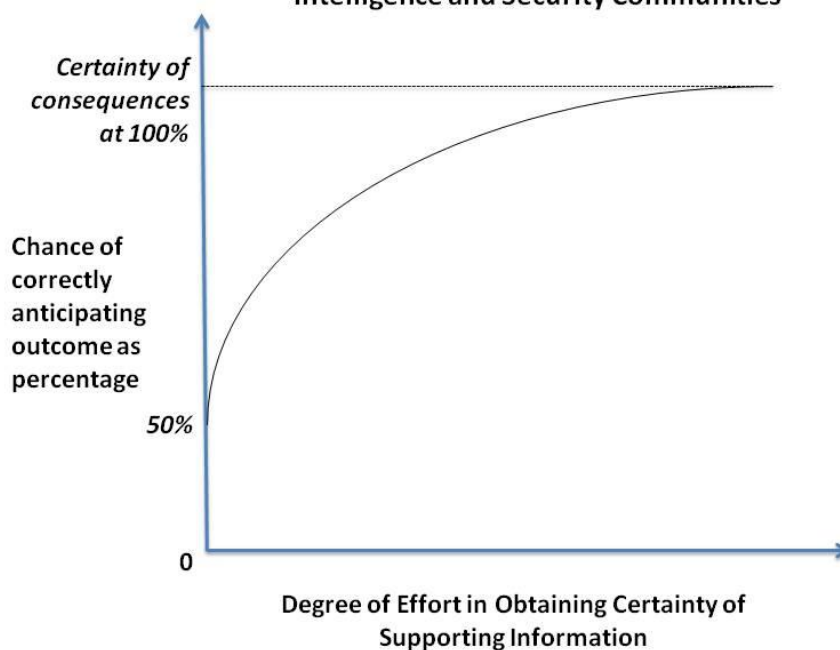
<sup>659</sup> "The Unanticipated Consequences of Purposive Social Action." 900.

<sup>660</sup> Source of diagram: Own design.

Intelligence Agency in the post 'Church Committee' era.<sup>661</sup> Behaviour and environment are therefore inter-related and should be considered as such.

Uncertainty can also reinforce the problem of rigidity of habit previously discussed. A good outcome on the first time a stratagem is used does not mean that this will be the case on subsequent occasions, in similar (but never identical) situations. Uncertainty makes it very hard for an actor to recognise when this might be the case.

**Figure 4.1: Diminishing Returns on Pursuit of Information in the Intelligence and Security Communities**



Despite what amounts to an extensive list of issues that impact on outcomes neither Parsons nor Merton address these interactions as a holistic problem in any operable way. Merton himself states "... that a frequent source of misunderstanding will be eliminated at the outset if it is realised that the factors involved in unanticipated consequences are no more than that, so that "... none... serves by itself to explain any concrete case."<sup>662</sup> He thus makes it clear that uncertainty, with all its many facets, does not alone

<sup>661</sup> For a discussion of risk aversion in the Central Intelligence Agency see Todd Stiefler, "Cia's Leadership and Major Covert Operations: Rogue Elephants or Risk-Averse Bureaucrats?," *Intelligence & National Security* 19, no. 4 (2004).

<sup>662</sup> Merton, "The Unanticipated Consequences of Purposive Social Action."898

explain the outcomes observed, so that other 'factors' must be included. This gauntlet is subsequently picked up by Williamson and the transaction cost school. The rigidity, formalism and ritualism referred to by Merton, whether designed to offset uncertainty or not, are all realised in higher institutional costs. They will be lowest where the circumstances are closest to 'routine' in that they most closely replicate those that first informed the organisational design, and become higher as the disparity from that 'routine' increases. It is for this reason that changes to the bureaucracy, or to its modus operandi, only occur when the need to do so is so great that it outweighs these obstructive tendencies, and a tipping point is reached.

Institutional costs analysis predicts that the nature of information holdings will be decisive in establishing the nature and efficacy of the organisational form used. There is a tension between the merits and problems of both 'push' and 'pull' systems. In a push system the operational side is encouraged to use its better knowledge of what intelligence is actually available, and what security problems are emerging, to act in an entrepreneurial fashion and 'push' aspects of its services on policy makers (who may be ill-informed about both).<sup>663</sup> Conversely policy and decision makers may prefer a pull architecture which allows them to use their better knowledge of what is actually required for the agenda on which they are working.<sup>664</sup>

There are costs associated with both. In the former case an intelligence or security supplier may be motivated to use their relatively high information holdings and the bounded rationality of their consumer to both oversupply product and over emphasise the need for it in the same way as the bureau maximiser discussed below.<sup>665</sup> They may as a result be incentivised to supply greater quantities of less useful information.<sup>666</sup> However there are costs engendered by a 'pull' system too. It may lead to types and levels of

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<sup>663</sup> Davies, *M.I.6 and the Machinery of Spying*.p.344 citing both Herman, *Intelligence Power in Peace and War*.p.295 and Laqueur, *The Uses and Limits of Intelligence*. (originally published as *A World of Secrets: The Uses and Limits of Intelligence*(Basic Books New York, 1985).

<sup>664</sup> See for example Peter Sharfman, "Intelligence Analysis in an Age of Electronic Dissemination," *Intelligence and National Security* 10, no. 4 (1995).

<sup>665</sup> Herman, *Intelligence Power in Peace and War*.296

<sup>666</sup> *Ibid*.296 citing Jeffrey McCausland, *The Gulf Conflict: A Military Analysis*(Brassey's London, 1993).57

demand that cannot be properly met; the "British intelligence cacophony" referred to by Davies, with different departments also pursuing sub-goals as they try to get their own issues prioritised.<sup>667</sup> The problem of opportunistic actors using an information advantage is therefore not avoided, but only moved, and because of the number of potential consumers this can potentially lead to a 'tragedy of the commons' scenario where no consumer is properly serviced.<sup>668</sup> Furthermore requirements imposed from above on collection operations have a tendency to lead to much higher institutional costs as a "... 'bureaucratic nightmare' of additional and redundant administrative steps.." are introduced.<sup>669</sup> The institutional costs inherent in each approach have led the UK to adopt a pragmatic compromise that tries to maximise the information holdings of each group. For example there exists a formal requirements system for intelligence providers, laid down by the JIC and approved by ministers which provides strategic direction<sup>670</sup> and legitimacy.<sup>671</sup> In addition however an informal process of 'interpretation' exists within the agencies themselves intended to allow utilisation of their superior information holdings in the operational sphere. Interpretation may however be very broad indeed. In the case of SIS Davies has suggested that this can extend beyond the simple use of subject matter expertise, so that 'Requirements Officers' have acted on behalf of consumers in areas they (the consumers) "... cannot go".<sup>672</sup> The comments of the then head of SIS to the ISC that he did not feel bound by the requirements issued by the JIC may be regarded as symptomatic of that freedom.<sup>673</sup> In this way the UK has attempted to maximise specialisation whilst minimising the risk of actors using their asymmetric information holdings to their own advantage by lowering other negotiating costs, but at the risk of diminishing their control.

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<sup>667</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.2.19.

<sup>668</sup> Garrett Hardin, "The Tragedy of the Commons," *Science* 162, no. 3859 (1968).

<sup>669</sup> Davies, *M.I.6 and the Machinery of Spying*. 341.

<sup>670</sup> "National Intelligence Machinery."

<sup>671</sup> Herman, *Intelligence Power in Peace and War*.295

<sup>672</sup> Davies, *M.I.6 and the Machinery of Spying*.345

<sup>673</sup> Oral Evidence of Head Of Secret Intelligence Service on 27<sup>th</sup> Jan. 2009 to Intelligence and Security Committee. See Intelligence and Security Committee, "Annual Report 2008-2009."32

Elements of the debate between 'push' and 'pull' organisational forms are apparent in the dichotomy (observed in Section 5 of Chapter 3) between the budget maximising model developed by William Niskanen in the US and the bureau shaping model of Patrick Dunleavy in the UK: Like institutional costs analysis, Niskanen's argument regards asymmetric information as central. Because the bureau is in a bilateral monopoly situation it can control knowledge on "costs and capabilities"<sup>674</sup> from its governmental sponsor. However, although the bureau may indeed be in a strong monopolist's position, the same need not necessarily be true of the bureaucrat who leads it. He or she is vulnerable to replacement in the event of unsatisfactory performance. The macro approach of Niskanen therefore needs to be tempered by the sort of micro-level considerations of individual utility discussed by behaviouralists, but because they impact on each other they must be assessed in conjunction with each other.

Consider again the oversupply problem of a 'push' architecture: Breton and Wintrobe show that although it is theoretically possible for the bureau to oversupply if it is a genuine monopoly, the disequilibrium that results would ensure political consequences. These would make the position untenable so that oversupply is not a realistic strategy. They argue that it is not the monopoly of supply, but the loss of control due to asymmetry of information between the two parties that actually effects outcomes.<sup>675</sup> However the counter strategies available to a consumer to offset this problem all come at a cost. It is the cost of those control measures (the institutional costs) relative to the costs of the inefficiencies of the bureau that will therefore be crucial.<sup>676</sup>

In the hypothetical case depicted in Figure 4.2,<sup>677</sup> the marginal benefit an agency's governmental sponsor or consumer will achieve by operating control mechanisms at different levels (so that resources are either deployed

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<sup>674</sup> Simard, "Self-Interest in Public Administration: Niskanen and the Budget -Maximizing Bureaucrat." 408. Discussing Niskanen, *Bureaucracy and Representative Government*. As noted previously, some bureaus are in a monopsonic rather than bilateral monopoly relationship, however the knowledge is retained, albeit possibly to a lesser extent.

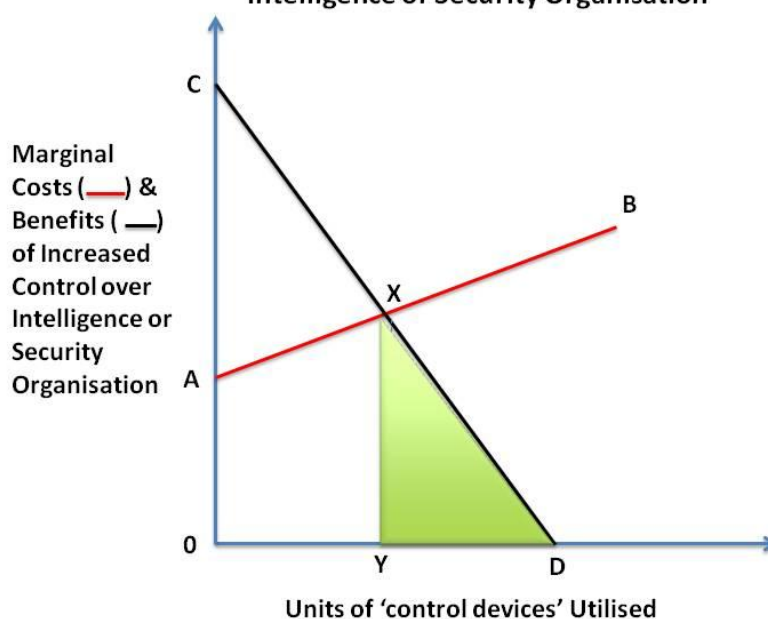
<sup>675</sup> Breton and Wintrobe, "The Equilibrium Size of a Budget-Maximizing Bureau: A Note on Niskanen's Theory of Bureaucracy." 196-198.

<sup>676</sup> Ibid. 201-202

<sup>677</sup> Source of diagram: Own design derived from *ibid.* 200.

exclusively in their best interest, or do not need to be passed onto the agency at all) is represented by the line CD. AB represents the costs of employing those controls, so a governing body will have an interest in controlling their bureaucrats only up until the costs and benefits are equal, at point Y. The institutional costs around deploying the control measures mean that there is an area XYD (shown here in green) that it is in the interests of the bureau to maximise their budget within, whilst it is not in the interests of the governing body to control them.

**Figure 4.2: Decision Makers Utility From Increasing Levels of Control Over Intelligence or Security Organisation**



How those institutional costs are arrived at is thus the missing dimension to Niskanen's model. Breton and Wintrobe conclude that, as the government body can know the bureaus actual costs but not how efficient it is, then the best strategy for the bureau would be to not operate efficiently but rather to shift their actual cost curve upwards until it is identical to the sponsors marginal valuation curve.<sup>678</sup>

Breton and Wintrobe draw two further conclusions from their analysis that are particularly pertinent to the intelligence and security spheres: Firstly that

<sup>678</sup> Ibid. 202.

complexity is an issue that affects the sponsor's enthusiasm for control measures. Complex, non-routine, tasks like intelligence and security provision will attract higher levels of control than routine ones, because the sponsors needs from such an organisation would be greater.<sup>679</sup> This does not however undermine the argument above, it merely shifts the curves. Secondly that a bureaucrats opportunistic behaviour in pursuing budget maximisation is more likely to be a factor in areas where the substitutability of leading bureaucrats is limited; those perceived by sponsors as unresponsive cannot be easily moved on. They cite military organisations but of course the same would apply in any of the specialised and rarefied areas of intelligence, where very particular knowledge and security clearances limit a bureaucrat's vulnerability to being easily replaced.<sup>680</sup> Both are thus issues that are based on the relative levels of institutional costs sponsors and bureaucrats are likely to experience.

It is worth noting that one of Niskanen's resulting policy prescriptions, that more competition should be introduced into public sector delivery, is of course at odds with the institutional cost argument because such competition is likely to obscure the clarity of property rights. Experience has shown that where competition has been introduced within the security and intelligence domains it has either failed, as in the case of the Department of Homeland Security's Office of Intelligence and Analysis, which now exists as a mere conduit of information rather than as the central pillar of domestic security envisaged in President George W. Bush's Executive Order 13228, or has resulted in constant 'turf-wars' as each side try to enforce their supremacy, as has been the case with the competition between Department of Defence's Human intelligence collection and the Central Intelligence Agencies Clandestine Service. Competition in the in provision of analysed intelligence, according to General Odom, generates "... more heat than light".<sup>681</sup> The former for example extended the definition of "preparation of the battlefield" to "preparation of the environment" to massively increase the breadth of their 'legitimate' operations far outside what are conventionally regarded as war

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<sup>679</sup> Ibid.203

<sup>680</sup> Ibid.206.

<sup>681</sup> Odom, *Fixing Intelligence for a More Secure America*.39



zones.<sup>682</sup> Competition can thus motivate bureaucrats to try and enlarge their relative authority, so that additional institutional costs are incurred in negotiating new settlements. Whether this actually occurs will be decided by whether this is worth their while when the benefits are compared with the institutional costs.

In his response to the Breton and Wintrobe critique Niskanen also used what can be regarded as a derivative of the institutional cost argument, extending their analysis to include the fact that legislators (in the United States case) could not be relied upon to reflect the majority of voters simple preference for the optimum output and the lowest cost, but would be influenced by their own sub-goal pursuits. As legislators are inclined to sit on committees that reflect their constituency interests (and are normally successful in achieving their preferred option), it need not necessarily follow that their own goals would be for control measures at the level of efficiency represented by point Y above, but could be to the right or left of that depending on how they perceive their own rational self-interest is best served.<sup>683</sup> In the United States case numerous distinct budget lines within the security and intelligence areas have to be approved independently of each other by different committees, depending on the subject matter. This introduces an extra tier of transactions, and therefore transaction costs, which exacerbates the potential for opportunistic behaviour.<sup>684</sup> Institutional costs of various sorts are thus a central tenet of how Niskanen's budget maximising model actually functions, and can add insight into why the model can be less successful in some circumstances than others.

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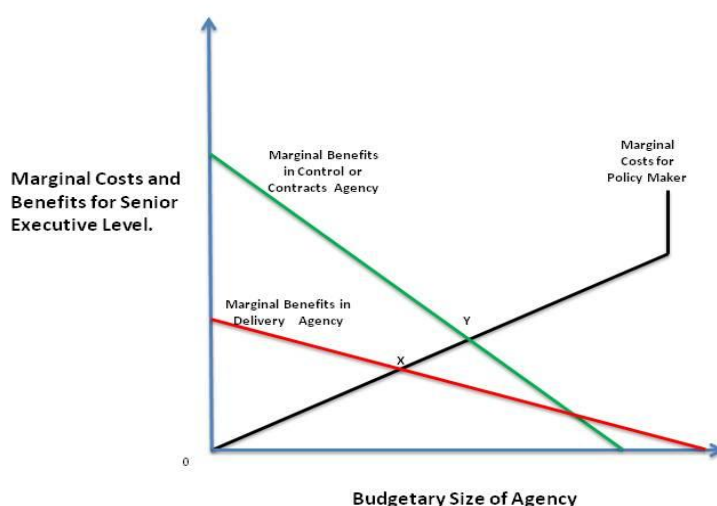
<sup>682</sup> See GW Bush, "Executive Order 13228—Establishing the Office of Homeland Security and the Homeland Security Council," *Federal Register* 66, no. 196 (2001), <http://www.gpo.gov/fdsys/pkg/FR-2001-10-10/pdf/01-25677.pdf>; and John MacGaffin, "Clandestine Human Intelligence: Spies, Counterspies, and Covert Action," in *Transforming U.S. Intelligence*, ed. Jennifer E. Sims and Burton L. Gerber (Washington, D.C.: Georgetown University Press, 2005). 89-90. respectively

<sup>683</sup> Niskanen, "Bureaucrats and Politicians." 623-632; Landes, *Economic Analysis of Political Behavior: Proceedings of a Conference, April 11-12, 1975*. and using (inter alia) David W Rohde and Kenneth A Shepsle, "Democratic Committee Assignments in the House of Representatives: Strategic Aspects of a Social Choice Process," *The American Political Science Review* 67, no. 3 (1973).

<sup>684</sup> See for example Zegart and Quinn, "Congressional Intelligence Oversight: The Electoral Disconnection." 744-766.

Implicit in Dunleavy's rejection of the bureau maximising model in the United Kingdom is an understanding of how the head of a bureau's utility maximisation is inextricably linked to the level of institutional costs he or she faces. In turn these are linked to the organisational make-up of his or her sphere of responsibility; in particular the clarity of the property rights that variously impact on how effectively they can administer those responsibilities.

Figure 4.3: The Different Levels of Utility Experienced by Agency Heads Under Different Organisational Forms



To demonstrate how this might work in practise, a diagrammatic representation (Figure 4.3) of a bureaucrats marginal costs and benefits in two different organisational set-ups that is a development of Dunleavy's may be used.<sup>685</sup> In the first example, given as a delivery agency configuration (depicted by the red line), the marginal benefits to the bureaucrat slope gradually away as the agency budget increases, in the second, the curve for a control or contracts agency (and depicted by the green line), the slope is steeper as the benefits the bureaucrat accrues fall-away more sharply under this organisational configuration. For the purposes of this argument it is the fact of the distinction that matters, rather than its detail, which is developed further in the case studies. Meanwhile, the marginal costs (represented by

<sup>685</sup>Source of diagram: Own design developed from Dunleavy, "The Architecture of the British Central State, Part I: Framework for Analysis." 269.

the black line) to the bureaucrat rise steadily as his or her programme budget increases (up to the point where no further increase is feasible, at which point the costs rise vertically).<sup>686</sup>

*The net result is that there are different points of equilibrium for each configuration, at X and Y respectively.* In this case the senior executive will be incentivised to try and increase the budgetary size of his or her agency if it currently lies to the left, but not if it is to the right of these points. However as Parts 2 and 3 will show, the same logic can be applied to other choices, including the degree to which they are motivated to implement organisational reforms.

In his counter to the Niskanen approach, Dunleavy picked up on this point and extended it. In differentiating between types of agency in the manner discussed in Chapter 3 he recognised that the leading bureaucrats of each were faced with different ways in which their personal utility would be maximised, and (implicitly) that this distinction would be a function of the institutional costs each faced in pursuing the various strategies open to them, assuming that "... these costs (in terms of the time and effort taken justifying a budgetary increment to sponsors, and the political and administrative risks attached) rise as the agency's existing budget gets larger..".<sup>687</sup> His distinguishing between different budget types and the resultant shifts in the utility that senior bureaucrats experience as costs change has a particular resonance for modern security and intelligence cooperation: The need for program and super-programme budgets<sup>688</sup> are endemic as resources move between different agencies during joint operations. In the UK therefore the issue of primacy has an impact on a senior bureaucrat's expected utility relative to the resources they must expend. Yet domestic security operations often mean they must work on one side of the divide or the other. Mutual

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<sup>686</sup>This may be the point where institutional costs are so high that further expansion under the sort of organisational configuration then in use is counter-productive, so that a new and radically different approach needs to be adopted. This phenomenon is discussed further using leptokurtic curves above.

<sup>687</sup>Dunleavy, "The Architecture of the British Central State, Part I: Framework for Analysis." 268

<sup>688</sup> Program budgets include an agencies core and bureau budgets, together with any monies they pass to other agencies, whereas a super program budgets include all these and in addition any funding raised by other agencies over which they have control. Discussed in *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.182-200

tasking by all of the agencies has long been an essential part of both intelligence and security operations by virtue of how the communities are organised by discipline rather than any end product.<sup>689</sup> Efforts to ensure that credit for successful operations is spread amongst them is thus an attempt to ensure the utility they receive is even. Because working relationships are temporally spread, and today's winner might be tomorrow's loser, both sponsors and senior bureaucrats are incentivised to ensure this is the case.<sup>690</sup>

Chapter 3 described how Dunleavy demonstrates that a rational bureau leader will be motivated by the ease with which he or she can deliver whatever function their bureau is charged with. Minimising issues of contact, contract and control through clear roles and responsibilities and straightforward negotiations with others who are mutually interested in their success (lowering other institutional costs) will be the preferred option in every case. However Dunleavy adds that the welfare implications for senior officials cannot be known a priori.<sup>691</sup> This is in fact only partly true as a detailed analysis of the institutional costs likely to be experienced by the bureaucrat under any particular organisational framework would provide some degree of predictive capability.

The importance of property rights' clarity in deciding these relative levels of net utility will be demonstrated through the use of cross-cases in subsequent chapters, but an example from the United Kingdom can briefly make the point

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<sup>689</sup> See for example, the complex collection of primacies involved in protecting against Northern Irish Republican Terrorism, with police primacy in the province the published position, (Colin McInnes and Caroline Kennedy-Pipe, "The British Army and the Peace Process in Ireland," *Journal of Conflict Studies* 21, no. 1 (2001). but different levels of Military support required according to the status of the area being 'policed' as either 'black' 'grey' or 'white' (see inter alia Michael Dewar, *The British Army in Northern Ireland*, Rev. ed.(London: Arms and Armour, 1996).), and intelligence leads being divided both functionally (between the Army, RUCSB and Security Service) in the province, and geographically (until 1992) between the Security Service and Metropolitan Police Special Branch who had primacy in the Province and on the mainland respectively, but would routinely need to task each other's assets (such as surveillance teams, enquiry teams or source handlers). More recently the potential threat to life has meant that primacy in a terrorist case can shift from the security service to the police as the need for interdiction shifts, agreed through the ELG mechanism, but with both committing budgetary resources throughout. See for example "Could 7/7 Have Been Prevented? Review of the Intelligence on the London Terrorist Attacks on 7th July 2005," ed. Kim Howells(Crown Copyright: Intelligence and Security Committee, 2009).

<sup>690</sup> See for example Omand, "Creating Intelligence Communities." 104

<sup>691</sup> Dunleavy, "The Architecture of the British Central State, Part I: Framework for Analysis." 270.

here. This is because where institutional costs rise in the United Kingdom the same frictions that are observable in the US appear. Consider the confused property rights around the provision of imagery intelligence in the United Kingdom, where an unusually proprietary approach by the Ministry of Defence, which acts more like its trans-Atlantic counterpart in this case, has consistently ensured that the discipline is junior to civilian signals and human intelligence collection, and have declined 'single intelligence account' funding to ensure it remained within their bailiwick. Nonetheless imagery intelligence is required to inform not just defence, but also national assessments as well as national future requirements and priorities so that, unlike most other aspects of the intelligence community in Britain, poor definition of property rights have caused high institutional costs.<sup>692</sup>

The use of a micro-level examination through institutional cost analysis can therefore demonstrate that the Niskanen/Dunleavy dichotomy detailed in Chapter 3 is not a matter of separate and competing theories, *but rather of separate situations*. The use of this micro-level consideration over a comprehensive range of internal and external factors allow institutional cost analysis to add depth to bureaucratic approaches by examining the factors that would influence a rational economic actor to react to environmental stimuli in any particular way. This examination can now be extended to consider cooperative decision making.

## **Section 6: Theories of Cooperative Decision-Making and Institutional Cost Analysis**

Chapter 3 described how cooperation and the difficulties of negotiating the equivalent of a contract between two superpowers is at the root of Graham Allison's *Essence of Decision*,<sup>693</sup> so it is unsurprising that elements of the institutional costs framework for security and intelligence provision are central to many of his arguments. Even Allison's simplest model, the conception of the state as a 'rational unitary actor', implicitly introduces 'costs' as a factor as

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<sup>692</sup> See Philip H.J. Davies, "Imagery in the UK: Britain's Troubled Imagery Intelligence Architecture," *Review of International Studies* 35, no. 4 (2009):957-969. and *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.2.25-27.

<sup>693</sup> Allison, *Essence of Decision : Explaining the Cuban Missile Crisis*.

it discusses the usefulness of a current crisis group. In this case what was to become the Executive Committee of the National Security Council, (ExCom) was formed to reduce information costs so that the pace of the crisis could be managed: Incorporating the notion that an increase in 'costs' of an alternative will make it less likely to be chosen.<sup>694</sup> However it is his subsequent models, that between them represent nascent versions of different parts of the institutional cost paradigm. They introduce the idea that the monoliths responsible for major national security decisions are actually made of numerous internal and differentiated 'gears and levers' so that large acts are the result of innumerable smaller actions conducted at various levels "... in the service of a variety of only partially compatible conceptions of national goals...".<sup>695</sup> They can thereby be seen as introducing Williamson's conception of economic outcomes to international relations.

The procedural ruts of Allison's organisational process model<sup>696</sup> can be readily re-conceived as the sort of asset specific sunk costs incorporated into the transaction cost framework developed by Williamson. Allison's foremost example was the United States Air Force belief that a 'surgical strike was impossible because it was outside normal procedure.'<sup>697</sup> In this case the asset specificity of their existing plans, coupled with an asymmetry of information between the air force and ExCom, can be interpreted from an institutional cost perspective. In this view, the inherently high costs incorporated in doing anything different to that which they had always done, and everything they had modeled their plans and enemy reaction on, meant that they did not even seriously contemplate the possibility of a new type of action until left with no choice by their political leaders.

Essentially Allison is arguing that the complexity of the issue, coupled with the bounded rationality of actors, leads to it being divided so that different aspects can be attended to in sequence. However this and the high search costs involved in seeking out solutions (linked to time constraints), means that any satisfactory option is accepted, rather than the best resolution being

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<sup>694</sup> *Essence of Decision: Explaining the Cuban Missile Crisis*. 57,34.

<sup>695</sup> *Ibid.* 5-6.

<sup>696</sup> *Ibid.* 67-100.

<sup>697</sup> *Ibid.* 124-125,205.

sought out. Uncertainties are side-stepped by an emphasis on both short-run feedback and repertoires of actions. He therefore concludes that although organisations adapt, the costs of doing so ensure it occurs only over an extended period of time.<sup>698</sup> As the former Director of the Central Intelligence Agency has observed when reviewing the much-later War on Terror this leads to a tendency to "... let the urgent drown out the important".<sup>699</sup> Property rights difficulties also impact on organisational process in Allison's account: Deciding who was to control the U2 flight over Cuba caused a ten day delay in operations as both the Central Intelligence Agency and Air Force both had processes in place for doing so which appeared to apply to the circumstances in question, and both advanced their legitimate claims to the exclusion of the others.<sup>700</sup> In the same way the time taken for information to arrive at ExCom, and for decisions to be made, was a result of the processes in place for less time sensitive problems, but had very real impacts during the crisis. The rigidity of each organisations processes impacted on time frames, but it also minimised other costs by ensuring the safety of "... sub-agents, agents and communications networks", and that analysis of data was done to an appropriately high standard.<sup>701</sup>

Allison's third model, 'political bargaining', is very much centred on how contracts are negotiated, agreed and enforced at the level of the actors involved: It therefore also boasts key points of similarity with transaction costs analysis.<sup>702</sup> However like institutional costs framework for security and intelligence, Allison feels the need to reconsider the nature of an actor's 'self-seeking interest with guile' so that it includes; "... responsible men (are) obliged to fight for what they are convinced is right".<sup>703</sup> The view may be less bleak than that espoused by both classical economists and neo-

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<sup>698</sup> Ibid. 71-72,76.

<sup>699</sup> General Michael Hayden in interview Noah Shachtman, "Post-Petraeus Cia Should Kill Less and Spy More, Former Chief Says," *Wired*(2012), <http://www.wired.com/dangerroom/2012/11/post-petraeus-cia/>. Accessed 17th Nov. 2012. Other authors have observed the "... tyranny of current intelligence" over longer term concerns. See Cooper, *Curing Analytic Pathologies: Pathways to Improved Intelligence Analysis*. which builds on the work of Jack Davis, "Improving Cia Analytic Performance: Strategic Warning," ed. Central Intelligence Agency, Occasional Papers (Washington D.C.: The Sherman Kent Center for Intelligence Analysis, 2002).

<sup>700</sup> Allison, *Essence of Decision: Explaining the Cuban Missile Crisis*. 123.

<sup>701</sup> Ibid. 118-121.

<sup>702</sup> Ibid. 144-184.

<sup>703</sup> Ibid. 144-145.

institutionalist observers of the intelligence and security world's (like Amy Zegart), but the result is just the same.<sup>704</sup> In fact Allison notes that tensions can exist even within a single actor: The position of an individual on any given issue is itself a result of their bounded rationality coupled with the complexity of their own position. They have a multitude of roles; as a member of a collective body such as ExCom, as leader of a particular department (which is why he sits in the body), as a private citizen and so forth. All are held simultaneously so that which is dominant in addressing a particular issue will depend on the actor's perception of the relative importance of each on any particular occasion.

The issue has implication for downward negotiation as well as upward. A senior bureaucrat may well believe that the wellbeing of their own organisation is synonymous with the national good, but the interests that support him or her will vary.<sup>705</sup> If sub-levels are not convinced their leader acted with the correct role dominant in his or her approach then constant re-contracting and ongoing governance costs may result. Not only will domestic political opposition following an announcement change the cost of a decision; but as decisions are in fact only way-stations to action, there are also significant opportunities for slippage or even reversal by sub-level actors. The costs of constant intrusive monitoring have to be weighed against other newer business, and sub-level actors can use asymmetric information holdings to set the costs around particular policy options in which they may have personal investment.<sup>706</sup> Curiously, because perfect knowledge is not possible, the misperception of actors can actually lower some costs. They might for example erroneously perceive themselves as having agreed a policy that they think will do quite different things to those subsequently achieved. Indeed Allison suggests that many compromises are based on these misperceptions and that they can (like trust) act as a lubricant against the frictions that provoke high costs.<sup>707</sup>

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<sup>704</sup> Interestingly from a methodological perspective, Allison notes that because national security issues are supposed to be above petty political considerations most records and memoirs avoid mention of this sort of bartering, and it has to be inferred. *Ibid.* 146-147.

<sup>705</sup> *Ibid.* 166-167.

<sup>706</sup> *Ibid.* 172, 177.

<sup>707</sup> *Ibid.* 178.



Finally there are the costs of transmitting the information during bargaining. These apply internally and externally of course, but in both cases the problem of white noise obscuring the key message is significant. This is particularly the case in security cases such as the Cuban missile crisis, where different messages were put-out intended for different audiences (the American public as against the Politburo for example) but received by all. Each side had to not only interpret or create them with this in mind, but also predict what repercussions the opposition would suffer as a result of the wider audience. The necessity of reducing these sorts of costs resulted in the establishment of the 'hotline' between Chairman and President.<sup>708</sup>

The net result is that Presidential power, or that of any other authority figure by extension, is viewed on a 'primus inter pares' basis. It is merely the power to persuade, whilst other actors "... are bound to judge his preferences in the light of their own responsibilities, not his".<sup>709</sup> Complexity creates differences of opinion, and consensus building is therefore required. The factors involved in establishing such a consensus are also where core executive theory and institutional costs analysis overlap. For core executive theory an asymmetric holding of information becomes a power resource. Because of this rather than intelligence being a flow of information to be quickly transmitted to those who need, it is a bargaining tool to be eked out in exchange for some other advantage.<sup>710</sup> The plasticity of intelligence information is therefore a factor in how bargaining and power relations play out, and secret information is more vulnerable to flexible interpretation than that which is openly available.<sup>711</sup>

Core executive theory, as applied to the provision of intelligence and security, can thus be seen as an implicit version of institutional cost theory. Like the impact framework developed in Chapter 2 it sees uneven information holdings as a critical tool in the bargaining process on which outcomes are

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<sup>708</sup> Ibid. 216.

<sup>709</sup> *Essence of Decision : Explaining the Cuban Missile Crisis*.p.148

<sup>710</sup> Smith, "Intelligence and the Core Executive." 11-14.

<sup>711</sup> Armen A Alchian and Susan Woodward, "The Firm Is Dead; Long Live the Firm a Review of Oliver E. Williamson's *The Economic Institutions of Capitalism*,"(JSTOR, 1988).69. For examples see Butler of Brockwell, *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Councillors* or Richard Norton-Taylor and Mark Lloyd, *Truth Is a Difficult Concept: Inside the Scott Inquiry*(Fourth Estate, 1995).

based. The different experience when trying to integrate the United States' intelligence community and that of the United Kingdom is rooted not in the fact of its diversity, as they are both diverse and share a similar range of potential sub-goals, but in the way interdependency and coordination is pursued. The 'adversarial nature' of United States intelligence management has thus best been summarised through a neo-institutionalist lens, whereas for the most part a more successful version of core executive activity can be used to represent the United Kingdom's community.<sup>712</sup> It is the lack of clarity around overlapping roles and the difficulty of negotiating a way around that which makes the difference.

Martin Smith focuses on internal processes so that the behavioural elements of the institutional cost model are writ large, and the inter-temporal aspect of negotiations are captured. This is however to the detriment of uncertainty and external complex factors. The next two sections will therefore continue to parallel those of Chapter 3 by focusing on the institutional cost issues surrounding approaches that concentrate on external complexity and uncertainty.

### **Section 7: Complexity, Complex Adaptive Systems, and Institutional Cost Analysis**

The management and minimisation of institutional costs is critical to outcomes where integration of different elements of any community is required, and the complexity involved is thus a key aspect of the environmental considerations used in the impact framework developed in Chapter 2. Indeed the disparity in size between the United Kingdom and United States intelligence and security communities, and how this effects their usefulness in any comparative analyses,<sup>713</sup> can be re-conceived as an issue not of relative size but of relative complexity. Complexity theory does not try and explain outcomes by investigating the level at which they are observed, but rather assumes they will be the result of activity at multiple and

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<sup>712</sup> Philip H. J Davies, "Intelligence and the Machinery of Government Conceptualizing the Intelligence Community," *Public Policy and Administration* 25, no. 1 (2010).38-39.

<sup>713</sup> See Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.4-10

often lower levels. Just as institutional cost analysis accepts that its different individual elements have to be combined to produce a meaningful analysis, so complexity theory regards these sub-levels of activity as reacting to changes in their more local environment. Overall 'order' is therefore an almost accidental, at best no more than partly planned, outcome.

Complexity and uncertainty mean that standardised responses or the simple application of a blueprint plan will be inadequate, so that the lower level agents develop their own schemata which determine their actions based on their personal perception of a situation at any given point.<sup>714</sup> These may be constrained by rules that can be more or less defined, but are nonetheless the product of the cognition of the agent in question. Because actors have autonomy "... roles and rules are negotiations and gambits...".<sup>715</sup> With so much about which to negotiate, the costs of bargaining and the property rights of actors become critical factors in deciding how the aggregation of their various plans will actually play-out.

It follows that the bounded rationality by managers mean that adjustments aimed at a small part of any given problem in a system will inevitably have unforeseen consequences for other parts of the system or over time. To paraphrase Augustus Comte the increasing specialisation of functionaries, or their specificity to use transaction cost terminology, will inevitably be negatively affected by the bounded rationality of those involved, when set within an increasingly complex undertaking, so that they lose touch with the primary goals.<sup>716</sup> If managerial intervention is always based on rational but

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<sup>714</sup> This is at odds with the more traditional Weberian view that more complexity will actually increase the need for fixed regimes as the need for objective and increasingly specific areas of expertise increases. According to this argument, a decision maker will reduce operational frictions by replacing the more medieval system of groups of courtiers with a bureaucracy divided by functional or other discrete area of expertise, with further levels of division needed as the environment becomes more complex. See Weber, *Economy and Society : An Outline of Interpretive Sociology*, 2. This of course, leads to the introduction of information asymmetry, a problem tacitly acknowledged by Weber and developed by Williamson for transaction cost analysis. Interestingly when one considers the different paths the United Kingdom and United States' intelligence and security communities have followed in the decades that have followed, Weber predicts that "with the qualitative extension of administrative tasks and therewith the indispensability of expert knowledge" a decision maker will naturally need to surround himself with some form of "... collegiate body" which the leader can exploit.

<sup>715</sup> Anderson, "Perspective: Complexity Theory and Organization Science." 221.

<sup>716</sup> Intelligence agencies, like other government departments and indeed social bodies more generally, can be observed to reach a point where the very specialisation that was originally intended to improve the efficiency of the whole pushes them towards isolation from that pursuit. The phenomenon was

bounded predictions focused on those managers own position or agency, the assets it already has available, and its relationship to a few near neighbours at best, then it is inevitable that short-term localised advantage will be sought and more opportunistic behaviour observed. That a system may self-organise more effectively than managers can decree is in any event an unpalatable possibility to them. The futility of attempting to predict outcomes when engaging with the wider environment is likely to encourage middle level managers to instead focus on easier and more personal or localised gains, using the information asymmetries between them, to indulge in internal political gaming. They can therefore self-impose higher institutional costs on the larger pursuit.<sup>717</sup> However the bottom-up pressures that a complex system engenders mean that over time a system should achieve very high levels of fitness, and institutional costs should be constantly being minimised for every state of the environment with which the system has to deal.<sup>718</sup>

In this view the system will be constantly adapting at the edge of chaos and this is the point at which it is most fit for the circumstances in which it is functioning. This is adaption is not random and is generated by variations in the degree different elements attract or repel each other; the level of costs experienced during inter-operation. However this is an unstable position and shifts can leave the system ill-suited to a new reality. Many organisations, including some of those in the intelligence and security domain, therefore remain some distance from any such high level of fitness. Complexity theory cannot however convincingly indicate whether that is because, as Anderson suggests, the “adaptive landscape metaphor... must not be pushed too far”<sup>719</sup> or because of ill-conceived interventionist actions of boundedly rational managers.

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first identified at an individual level by Auguste Comte who observed that “all such decomposition necessarily has the tendency to determine a corresponding dispersion” that “... cannot avoid evoking, in a proportionate degree, individual divergences, both intellectual and moral” to the extent that the subject, although constantly engaged with his or her own rational self-interest from their own perspective, but “... whose true relation with the public interest he perceives but very vaguely” . A. Comte, *Cours De Philosophie Positive*(Bachelier, 1839). 429 Durkheim, *The Division of Labor in Society*.357-358.

<sup>717</sup> Anderson, "Perspective: Complexity Theory and Organization Science." 223.

<sup>718</sup> Ibid.

<sup>719</sup> Ibid. 225

Economists' ideas of a fixed point of equilibrium is replaced by a shifting self-organised criticality, referred to as dynamic equilibrium. This captures the notion that this point is not simply on the route to a stable position, but is both a result in itself and the platform for the next move. This is very much the case in the security and intelligence world.<sup>720</sup> This leads to an apparent dichotomy. Where complexity theory suggests constant, albeit stochastic, evolution some of the explanatory power of institutional cost analysis is derived from its ability to explain uneven patterns of some facets of governmental activity, and the leptokurtic distribution that results. High institutional costs encourage an inertia that is only surpassed when other costs are so significant, and the misfit between requirement and capability so marked, that action must be taken. The first seems representative of the UK's security and intelligence effort, the second more representative of the US. In fact rather than being problematic it is a further example of how the higher resolution of institutional cost analysis can add a further tier of explanation.

Complexity theory does not invalidate the relevance of inertia,<sup>721</sup> but nor does it concern itself with why shifts occur because of its assumption of selective pressure driving evolution.<sup>722</sup> By examining how inertia and evolutionary pressure interact and are operationalised, an institutional costs approach can explain the more complex patterns of cooperative adaption that are observable. For the smooth and gradual adaption predicted by complexity theory to occur in any society complicated enough to have a division of labour, relationships would need to be managed through contractual undertakings that are spontaneously agreed, infinitely flexible and open, short lived, and based wholly on self-interested consent. The inevitable institutional costs make such a situation wholly unrealistic even in employment contracting using low powered incentives. However it follows

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<sup>720</sup> See for example Anthony Giddens comments on the Blair government and the war in Iraq that capture both the problems of intervention and the reflexive nature of this approach at A Giddens, "Did They Foul up My Third Way," *New Statesman* 133, no. 4691 (2004), <http://www.newstatesman.com/node/148130>. ,24-25.

<sup>721</sup> Anderson, "Perspective: Complexity Theory and Organization Science." 224.

<sup>722</sup> Alchian and Woodward, "The Firm Is Dead; Long Live the Firm a Review of Oliver E. Williamson's the Economic Institutions of Capitalism." 224.

that the lower institutional costs are, the more adaptive a network of actors can be, and the closer to that ideal they can get.<sup>723</sup>

This facet of institutional costs may account in part for the different experiences of newly created intelligence or security bodies in the United Kingdom and the United States: As demonstrated in later chapters, the most cooperatively successful of these, such as the United Kingdom's 'Joint Terrorism Analysis Centre' and the United States 'Diplomatic Intelligence Support Centre' in the Balkans, have evolved at an operational level where low institutional costs have allowed interaction with the environment to direct co-evolution with it. The autonomy allowed both to adapt its products to meet the needs of the situation, and gradually clarify their 'property rights' to the general satisfaction of all, so that they are seen as a government-wide resource.<sup>724</sup> Conversely in the United States a Presidential Executive Order,<sup>725</sup> attempting to enforce the status of the Department for Homeland Security within the intelligence and security sphere was met with antipathy and resistance, even from those placed within it. Indeed even some of its component organisations simply did not engage with the new parent body in any meaningful way, instead emphasising the property rights of the redundant organisational form that had gone before.<sup>726</sup>

The relevance of the interaction between complexity and institutional costs to cooperative working in the intelligence and security communities can be demonstrated by the impact of the work of the CIA's Calvin Andrus. He explicitly discounted reorganisation per se in favour of significant changes in management style that amounted to the implementation of a wholly new culture across the intelligence community; arguably a far more ambitious

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<sup>723</sup> See the various perspectives of Herbert Spencer and Stanislav Andreski, *Principles of Sociology*. Edited by Stanislav Andreski. (Abridged Edition.) (London, etc.: Macmillan, 1969). 643-781, and Durkheim, *The Division of Labor in Society*. 200. Spencer develops a rather oppressive contractual vision and Durkheim regarded the contract as no more than a temporary truce between competing parties, and thus inadequate to act as an instrument of cohesion. Yet the implicit and explicit agreements in contractual relationships are the bedrock of Williamson's transaction cost theories.

<sup>724</sup> J1. and Mid Senior Level Diplomatic Security Officer US State Dept SD1, interview by Author, May, 2011, Virginia U.S. respectively. See also Sims, "Understanding Ourselves." 51-53

<sup>725</sup> GW Bush, "Executive Order 13228--Establishing the Office of Homeland Security and the Homeland Security Council," in *Weekly Compilation of Presidential Documents* (2001).

<sup>726</sup> U.S. Secret Service Intelligence Officer SS1, interview by Author, August, 2011, London. discussing, the US Treasury, the USSS, and their shift to the new DHS. London, Aug 2011

undertaking.<sup>727</sup> His work led to the introduction of the 'Intellipedia' intelligence sharing platform across the US community,<sup>728</sup> but different levels of acceptance have meant that its usage varies.<sup>729</sup> In Andrus's opinion information holdings are an integral part of both the problem and the solution, just as it is in the institutional costs paradigm. His argument is that by minimising information asymmetry across the community both vertically and horizontally, and within and between agencies, the costs associated with uncertainty and complexity (an inherent aspect of both intelligence and security work) can be mitigated. Ironically of course it is the behavioural side of the institutional cost impact framework that is likely to hinder implementation of any such approach. The probity, bounded rationality and opportunistic tendencies of rationally self-interested tiers of management are likely to balk at the apparent loss of control that complex adaptive solutions imply.<sup>730</sup>

Tellingly complexity in the new international environment after World War 2 was a primary driver in leading the United States to form the National Security Council and its staff, concluding that the existing regime of creative chaos and ad hoc management was no longer adequate. However other drivers included co-ordination problems between the (then) departments of the Army, Navy and State, and the increasing inter-departmental resentments from those excluded from any particular discussion, as well as a personal difference in style between President's Roosevelt and Truman.<sup>731</sup> Clearly complexity alone does not explain every aspect of such developments, and the more internal considerations additionally permitted by institutional cost analysis are also needed. However the interaction of

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<sup>727</sup> Calvin Andrus, "Toward a Complex Adaptive Intelligence Community: The Wiki and the Blog," *Studies in Intelligence* 49, no. 3 (2005), [https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol49no3/html\\_files/Wik\\_and\\_%20Blog\\_7.htm](https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol49no3/html_files/Wik_and_%20Blog_7.htm) Accessed 11 Jan 2013.

<sup>728</sup> Hinck, "Intellipedia".

<sup>729</sup> Bridget Rose Nolan, "Information Sharing and Collaboration in the United States Intelligence Community: An Ethnographic Study of the National Counterterrorism Center" (Princeton University, 2013).

<sup>730</sup> See for a further example Russell M Linden, *Leading across Boundaries: Creating Collaborative Agencies in a Networked World* (John Wiley & Sons, 2010).157-161

<sup>731</sup> Katrin Katz, "The National Security Council: Decisions in National Security " Podcast, Albright Institute for Global Affairs, Wellesley College, <https://itunes.apple.com/gb/itunes-u/albright-institute-for-global/id389606993> , Accessed 12 Jan 2013. Katz was Director of Japan, Korea and Oceanic Affairs on Staff of White house NSC 2007-2008.

institutional costs and more top-down views of the international environment must also be examined for their impact on collaboration and these will be engaged with in the next section.

## **Section 8: Institutional Costs, Security and Intelligence Cooperation and Theories of The International Environment**

Chapter 3 to this thesis established how neoclassical realism opened the black-box of structural realism and gave it a wider utility for questions of security and intelligence by also considering internal actions and motivations. The issues of uncertainty and bounded rationality that are also used for institutional costs analysis have particular impact. There are however clear limitations: Lobell et al. consider four combinations of possible 'worlds'; clear or unclear information on the external threat, combined in turn with clear or unclear information on potential policy responses. Where both are clear neoclassical realism is only useful to explain 'dysfunctional behaviour'. Where information on the external threats is unclear, they conclude that it is not particularly useful, and if policy response information is also poor, then innenpolitik explanations will be more productive in any event. It is only when there is clear information on the external threat environment, and poor information on the policy responses that neoclassical explanations come into their own.<sup>732</sup> Clearly something more is required.

Institutional cost theory can be regarded as having a mutually complimentary relationship with neoclassical realism in this regard; the former provides the insights into the drivers on policy from an anarchic international environment with which a state must deal, and the latter the insights into how those drivers are translated into a particular policy response. The different responses to apparently similar external stimuli noted by Gideon Rose are due to different cooperative experiences between influential actors that lead him to conclude internal factors were affecting policy responses.<sup>733</sup>

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<sup>732</sup> Steven E Lobell, Norrin M Ripsman, and Jeffrey W Taliaferro, *Neoclassical Realism, the State, and Foreign Policy*(Cambridge University Press, 2009).

<sup>733</sup> Rose, "Neoclassical Realism and Theories of Foreign Policy."146-148



Institutional costs analysis can clarify the dynamics of the processes involved. An examination by Tom Dyson of one aspect of protective security provision, defence reform in a changing threat environment, from a neoclassical realist perspective has demonstrated how different effects operate at different levels, to provoke different outcomes.<sup>734</sup> He notes that strategy is increasingly civil servant heavy to insulate it from single service agendas; with the military increasingly focused on specialist areas such as 'troops to task' decision making. The increasing use of military/civilian partnership approaches during the Effects Based Approach to Operations (EBAO) that comprise the majority of current security initiatives in which the military are involved have added an additional dimension to the property rights tapestry. It is interesting to note that thus far the British army at least have functioned in a Dunleavy-esque way, preferring to have 'Foreign Office' or 'Department for International Development' personnel solely responsible for infrastructure projects and the like, and concentrate on simply providing adequate environmental security to permit them to operate. Nonetheless where overlap occurs and property rights become opaque, such as over issues like civilian governance in geographical areas that are enduring armed conflict, relationships are more strained and policy making more confused.<sup>735</sup>

Although focused on the significant impact of one source of institutional costs (the British electoral cycle)<sup>736</sup> Dyson's article makes it clear that other frictions added to the difficulties experienced in trying to emulate the United States 'Revolution in Military Affairs' (RMA) initiative, and not all were related to a declining executive autonomy. Throughout the late 1990's the implications of the RMA and the new unipolar world with which the United Kingdom now had to deal produced a pervasive environmental uncertainty. By 2006/7 the Iraq and Afghanistan conflicts had helped to answer these questions but produced new ones. Dyson suggests that it was the conjunction of these external environmental problems with those in the

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<sup>734</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia."

<sup>735</sup> Mid Senior Level British Army Officer M1, interview by Author2012, Afghanistan.

<sup>736</sup> Dyson quotes one senior MoD official thus "... no government would be in a position to implement a resource-driven SDR process at any point other than the first two years of a new parliament" Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia."222.

internal environment; the forthcoming election,<sup>737</sup> that undermined the production of a 'Strategic Defence Review' which could have provided the necessary strategic direction.<sup>738</sup> This is however only part of the story. Why and how the existence of an electoral cycle might shift a government's response from emulation to inertia are rooted in the behavioural factors identified in the institutional cost impact framework such as opportunism, bounded rationality and probity. Its relevance is decided by the costs of establishing 'contracts' with those that can smooth a policy through. Conversely at the operational end Dyson notes that deliberate strategies to reduce institutional costs in the face of different adaptive necessities have been regularly introduced. In the post Cold War era the 'Directorate of Operational Capability' was established to "...sift out organisational politics..."<sup>739</sup> as the United Kingdom sought to match military planning assumptions and capabilities.

More recently, and as a direct result of being engaged in an on-going 'shooting war', the Ministry of Defence and Treasury have agreed the 'Urgent Operational Requirements' scheme specifically to reduce the institutional costs involved in procurement. These often manifest themselves in the form of temporal, as well as financial costs. Interestingly the incentives within the scheme are themselves arranged to minimise institutional costs around auditing, with a self-policing approach supported by the risk of a loss of a fast-time revenue stream and a joint service balance being ensured via the Permanent Joint Headquarters (PJHQ) who manage the scheme with the help of treasury officials.<sup>740</sup> Political level approval remains at the strategic level, supported by a 'dip-sampling' (often post-spend) approach that provides some level of institutional cover without introducing new levels of potential bottleneck or friction.<sup>741</sup> At the tactical end, traditional hierarchical

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<sup>737</sup> This is not a uniquely British problem as Richard Clarke's comment that "...the final push to craft a Middle East peace settlement, and the proximity of the upcoming Presidential election resulted in unwillingness by most of the administration's foreign policy principals to adopt any of the measures (that Clarke had recommended to fight Al Qaeda)". Clarke, *Against All Enemies: Inside America's War on Terror*.385.

<sup>738</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia." 221.

<sup>739</sup> Ibid.219

<sup>740</sup> Ibid. 219.

<sup>741</sup> Senior MoD Official M2, interview by Author, August, 2012, London.

control (and therefore ownership of an operation) was replaced by an increased autonomy for more junior, but better networked and briefed, officers on the ground, constantly updated by their own intelligence feed.<sup>742</sup>

Such major cultural shifts were supported by organisational learning that was managed with careful attention to the property rights of those involved: Initial collation of potential lessons is firmly located in the relevant 'Single Service Warfare Centres' so that their objectivity was not compromised by the acknowledged problem of inter-service rivalry. This is then assessed by the joint training (J7) division of PJHQ, who act as both a 'service agnostic node' and referee. Anything with implications for all the services is amalgamated by the Development, Concepts and Doctrine Centre and the United Kingdom Defence Academy into the military equivalent of an all-source assessed product and implemented as appropriate. Those lessons deemed single service issue only remain the property of the originating service and are inculcated into tactical level doctrine by them.<sup>743</sup>

Two further aspects of neoclassic realism theory that were alluded to in the previous chapter deserve consideration with regard to its utility with institutional cost analysis in the security and intelligence sphere. Neoclassical realism argues that the first filter through which an international policy decision must pass is that of perception on the part of the decision maker. Where structural realism regards rational calculation as being based on good information delivered on a smoothly functioning transmission belt,<sup>744</sup> neoclassical realism argues that information is imperfect and delivery involves obstacles. However despite implicitly acknowledging the importance of language costs and information asymmetry, neoclassical realism is silent on the influence of information channels generally, and intelligence feeds in particular. Yet how intelligence is managed and presented, and the institutional costs incurred in so doing, can fundamentally shift that perception. This is made clear in Marrin's analysis of how intelligence

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<sup>742</sup> M1.

<sup>743</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia." 218.

<sup>744</sup> See the structural realist's calculative model, as developed in Aaron L. Friedberg, *The Weary Titan : Britain and the Experience of Relative Decline, 1895-1905*(Princeton, N.J.: Princeton University Press, 1988).13-14.

professionals and policy makers interacted on the Al Qaeda threat during the 1990's.<sup>745</sup>

Although threats and opportunities present themselves to policy makers at the international, regional, or domestic level, each is addressed in conjunction with the potential effects on the other.<sup>746</sup> All of this complexity is filtered through the perception of a few key decision makers; To revert to Dyson's discussion above, if a decision maker views an internal domestic election as more urgent than a strategic defence review (even when the latter is acknowledged as more important) it will determine when the strategic review is addressed.<sup>747</sup> However a lack of appropriate policy options can also shift situational perception to better reflect actual the capability to respond, as the British response to indications of Argentinean aggression in the South Atlantic in the early 1980's demonstrated.<sup>748</sup> The bounded rationality of actors in a complex and uncertain environment was allowed to produce friction in the information transmission belt.

This problem can be further unpacked by considering the second issue: The dynamic between external vulnerabilities and possible adaptive strategies requires the state to extract resources with which to counter threats. To do so requires bargaining or coercion,<sup>749</sup> although the latter is not practicable over time in a democracy. This means that the institutional costs of bargaining are central to implementing any solution.

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<sup>745</sup> For a discussion of one example of this sort of filter See (inter alia) Marrin, "The 9/11 Terrorist Attacks: A Failure of Policy Not Strategic Intelligence Analysis."

<sup>746</sup> Steven E Lobell, "Threat Assessment, the State, and Foreign Policy: A Neoclassical Realist Model," in *Neoclassical Realism, the State, and Foreign Policy*, ed. Steven E Lobell, Norrin M Ripsman, and Jeffrey W Taliaferro (New York: Cambridge University Press 2009).42-47.

<sup>747</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia.",220-222. However it is worth adding that to the neoclassical realist policy options must be based on the capabilities of a potential adversary, not their intentions which are too easily changed. See Taliaferro, "Neoclassical Realism and Resource Extraction: State Building for Future War." 206.

<sup>748</sup> A prescient report by the Defence Attaché in Buenos Aires was casually disregarded by a Foreign & Commonwealth Office minute "Nothing we don't already know" scrawled in the margin demonstrates how their view was established and suffered the same rigidities cautioned against by Robert Merton above. See for example John Hughes-Wilson, *Military Intelligence Blunders and Cover-Ups* (London: Constable & Robinson, 2004). 260-307. for a fuller discussion see Lawrence Freedman, *The Official History of the Falklands Campaign Vol.1: The Origins of the Falklands War* (New York: Routledge Taylor & Francis, 2005). And Lord Franks, *Falkland Islands Review: Report of a Committee of Privy Counsellors*.

<sup>749</sup> Taliaferro, "Neoclassical Realism and Resource Extraction: State Building for Future War."

In both cases however there is a tension between the State wanting to extract resources, whether by taxation, requisition or expropriation, and society wishing to retain them; something must be offered in return and institutional costs are incurred. Similarly mobilisation incurs costs whether direct, through the need for an administrative tier, or indirect, through inducements to, and negotiations with, external actors.<sup>750</sup> Indeed it has been argued that different States have different organisational forms precisely because of this tension and their attempts at negotiating an efficient solution while maximising their own utility.<sup>751</sup>

Overall then neoclassical realism and institutional cost analysis can be seen as mutually complimentary, but while the former prioritises the foreign policy environment, but allows that how response capabilities are managed produces significant constraints, the latter regards the internal and environmental aspects as of potentially equal importance, with their actual dynamic varying from circumstance to circumstance. This dynamic will be drawn out in the case studies that follow in parts 2 and 3 to this thesis. First however, there follows a brief discussion about their usage and selection, before this chapter concludes.

## **Section 9: Methodology, Data and Case Study Selection**

Having developed the theory of institutional costs for cooperation within and across the security and intelligence spheres in Chapter 2, and then examined the relationship between alternative theoretical constructs and scholarship that might usefully be applied to this area in Chapter 3, this Chapter has so far considered how those existing theories and institutional cost analysis interrelate. Parts 2 and 3 to this thesis will next apply the institutional cost paradigm to particular case studies of collaborative working within the security and intelligence domain, testing the rigor and applicability of the

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<sup>750</sup> Ibid.

<sup>751</sup> See for example Jennifer Anne Sterling-Folker, *Theories of International Cooperation and the Primacy of Anarchy: Explaining Us International Monetary Policy Making after Bretton-Woods* (Albany: State University of New York Press, 2002).85. Sterling-Folker further argues that despite the anarchic state of the international environment States are free to choose what structure they will, see Jennifer Sterling-Folker, "Realist Environment, Liberal Process, and Domestic-Level Variables," *International Studies Quarterly* 41, no. 1 (1997).19, a choice this thesis contends will inevitably be informed by the institutional frictions arising from each option.

model. This next section will therefore describe the methodology used and the rationale behind it and discuss the selection of the particular cases used.

This thesis is an empirical inquiry that investigates the contemporary phenomenon of collaborative working within the intelligence and security function within a real-life context, where the boundaries between the two are less than obvious. It has therefore been designed to deal with technically distinctive situations where there are more variables of interest than fixed data points. The methodology used is thus designed to overcome the problems of what might initially seem to be inconsistent and overly complex results amongst the cases selected.<sup>752</sup> The complexity of the theory being tested, the communities of interest, and the policy problems they are required to deal with, means that they would not be responsive to either a quantitative or survey based approach (which would also be overly limited by the secrecy issue that would restrict the numbers of returns), or to any kind of experimental reproduction. A multiple qualitative case study approach has therefore been selected, and the theory developed in Chapter 2 is then examined to assess the extent to which it can provide a causal pathway that accounts for all the different collaborative experiences observed across the cases selected, even where other theoretical accounts have failed or proven inadequate to describe the whole range of outcomes.

Essentially, the process used is one of a pattern matching analysis using a process tracing methodology. The outcomes actually observed across the cases are compared to those that would be predicted if the model is sound. Each case is managed as an analytical narrative within the context of the theory developed in the earlier chapters. Where apparent anomalies occur they are further investigated to see if an increased granularity of examination tends to prove or disprove the theory. Each case will thus be used to demonstrate that alternative patterns either do not arise, or can be explained by reference back to the model with improved data, so that a causal mechanism can be inferred.

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<sup>752</sup> Thomas Kuhn for example observes that such findings were ignored in the Eighteenth Century examination of electrical attraction because they could not be utilised to articulate the paradigm from which they derived. Thomas S Kuhn, *The Structure of Scientific Revolutions*, Third ed.(University of Chicago Press, 2012).35

The communities of the US and UK have been selected because of their overall similarity in terms of the societies in which they operate and the problems with which they are faced (discussed further below). However the high degree of resolution required for this style of process tracing research to be useful nonetheless means that the more detailed analysis must allow for the non-comparability of various pieces of evidence. As John Gerring has noted, "... the observational world does not usually provide cases with both temporal variation (making possible 'pre' and 'post' tests) and spatial variation ('treatment' and 'control' cases) across variables of theoretical interest, while holding all else constant." so that contextual evidence and deductive logic must be relied upon. Multiple types of evidence must therefore be used to combat this.<sup>753</sup> The cases and evidence selected are not therefore random but rather selected to be relevant to the central argument (the process of case study selection, and the mitigation of any bias affects, is discussed further below) and each piece of evidence must to some extent be seen as "...a series of N=1 (one-shot) observations." However, the inferences that can be drawn from such a series of non-comparable observations can be demonstrated to boast the same scientific rigor as those that are sample based,<sup>754</sup> so that the difference in commensurability between the counterterrorism and defence intelligence cases can be turned to advantage.

In each case the dependent variable is the levels of success in cooperation that can be observed between key actors. Such successful cooperation may or may not then be translated into operational success, but the important point for the purposes of this study is the level of cooperation itself.

The independent variables are then the various elements of the institutional cost impact framework for security and intelligence provision developed in Chapter 2. Their application however is complicated by the importance of their interaction with each other, so that they cannot usefully be isolated and examined sequentially, but rather have to be individually identified as a factor in each case, but then have their impact analysed as factors of the whole.

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<sup>753</sup> John Gerring, "Case Study Research," *Principles and Practices*. Cambridge (2007).172

<sup>754</sup> Ibid.178

The other variables that would, in a simple experiment, be 'controlled' are held constant as far as possible by the similarities across the cases selected in these areas. They must however be acknowledged to be a broad collection of potentially impactful issues, and are continuous rather than discrete or dichotomous (across the two nations of interest), so that the dependent and independent variables cannot be entirely isolated. However the use of the cross case technique adopted, considering 'typical' cases that seem to demonstrate a strong and relatively direct linkage between the level of collaborative behaviour amongst actors, so that a causal mechanism between the former and the latter may be reasonably inferred.<sup>755</sup>

The vast number of potentially relevant communities and cases that could be utilised to test the causal links between the institutional cost theory developed herein and collaborative success or failure mandate that some form of selection must take place. Randomly selected cases would be unlikely to provide the leverage into the research question, however representative they might be, and small sample sizes so chosen are more likely to generate a problem of precision in that they might produce too much variation in results to be useful, or be wholly unrepresentative anyway.<sup>756</sup> Instead, cases have been selected as being 'typical' within their major group (Counterterrorism or defence in the UK or in the US) but 'diverse' across them (as further described below) to most fully test the hypothesis. Nonetheless the cases selected for study at each level have been selected from a much larger population, of which they are representative in their fundamental features, so that findings can most reasonably be extrapolated out to a wider universe of cases that exhibit similar features.

In order to make sense of that selection procedure this section will next discuss the usefulness of analysing the security and intelligence communities of the UK and US. Then it will explain use of their respective counterterrorism and defence organisations as the next tier of analysis, arguing that their utility in this regard is because together they provide the cross cases that challenge the accepted wisdom of good cooperation being the norm in the UK, and bad

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<sup>755</sup> Ibid.126

<sup>756</sup> Ibid.87



the norm in the US. Thereafter the rationale for the selection of particular instances of collaborative success and failure will be outlined. This will be followed by a brief discussion of the sources of information available, their triangulation and usage, and how potential biases were addressed. Finally there is a short note on the ethical considerations involved.

The security and intelligence communities of the United Kingdom and the United States have been selected for a combination of logistical and purely academic reasons. Despite some degree of secrecy being inherent in the subject being studied, both belong in relatively open social settings that are inclined towards self-examination and largely tolerant of external assessment. There is therefore a significant amount of data and analysis from a variety of perspectives available in each case that can inform this work. On a less pragmatic note, the two security and intelligence communities of the US and UK are embedded in broadly similar societal settings. Whilst any comprehensive comparison is beyond the purview of this thesis, it is worthy of note that both are required to function in liberal democracies, wedded to a rule of law that acts as a curb on executive authority (albeit to varying degrees over time), that are internally open and externally engaged with the rest of the world. It may be further assumed within the context of this thesis that both communities are required to produce broadly similar 'outputs' that include (but are not limited to) the maintenance of a largely secure environment that permits that sort of society, and the capitalist style of economy that underpins it, to flourish.

Figure 4.4:

US/UK Societal Setting	US/UK Community Organisation	US/UK Preferred Outcomes at Macro Level
<b>Mostly Similar</b>	<b>Mostly Different</b>	<b>Mostly Similar</b>

Despite these environmental and goal similarities however, the way in which each nation sets about achieving these goals from an organisational

standpoint are very different, as depicted in Figure 4.4 below.<sup>757</sup> It is this divergence that provides the point of departure for this investigation into collaborative working within each.

It should however be stated at the outset that the use of both the UK and US communities does not amount to a comparison.<sup>758</sup> It is rather that relevant facets of each are examined to based upon the divergence of their relative experiences despite their similar starting positions and overall goals. However the usefulness of the juxtaposition of the two communities must be briefly considered. In his far more wide-reaching comparison of the evolutionary trajectories of the intelligence communities of the United Kingdom and United States, Davies divides the potential criticisms of the comparison into four strands: That the difference in their respective sizes make any joint evaluation of their coordination unrealistic, that their respective budgets are too divergent to then contrast different behaviours around them, that Prime Ministerial and Presidential levels of authority (and the existence of a professional rather than political administration to support each respectively), and finally that the existence of the 'Whitehall Village' from which governance in the UK is largely managed means that probity between actors is significantly easier to develop than in more widely dispersed US community.<sup>759</sup> Each is however dismissed in turn.

To begin with the latter, the notion that geographic proximity is enough to provoke the sort of probity discussed in Chapter 2 is discounted by noting the actual similarities in traveling time between the different agencies in each case, particularly as more of the UK's community have been displaced from London to home county bases such as RAF Wyton.<sup>760</sup>

To deal with the most oft-cited argument against parity, Davies counters persuasively that once those aspects of the UK's community that are

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<sup>757</sup> Source of diagram: Own design. It should be noted that this simple diagram hides a number of points of divergence/similarity in each category that will be explored in the following chapters. Its purpose here is only to capture the relationships at the broadest level.

<sup>758</sup> For a fuller comparative work, see Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.

<sup>759</sup> Ibid.4-5

<sup>760</sup> Ibid.6

ostensibly part of wider governance, such as the analytic elements of the Foreign and Commonwealth Office, or Defence Intelligence are included in the calculation (functions that are automatically a part of the US intelligence community) then something like proportionality exists when one considers the size of the intelligence community relative to the two countries populations. More directly significant when one is considering issues of coordination, he notes that in the key executive level areas where synchronisation should occur the numerical levels of actors are very similar. Each nation boasts a similar number of agencies so that although the US might deploy a larger number of junior staff, at the executive level there are clear parallels, with both general coordination and the production of collaborative assessments being managed by similar numbers of people in both cases. In the UK for example the 2004 Joint Intelligence Committee had twelve members, while the US's National Foreign Intelligence Board had thirteen. The UK's 'Assessments staff' and the US's National Intelligence Council (NIC) both comprised some thirty staff. Yet is at this level, rather than the more sharply differentiated (by size) operational and tactical levels that most of the frictions between agencies are to be found.<sup>761</sup>

In the same way he rejects the idea that the relative size of the US community budget is reason enough for actors to contend their share of it more intensely by demonstrating that its National Intelligence Program (NIP) budget and the UK's Single Intelligence Account (SIA) are not commensurate as types. The broad function of the former, to produce all-source fully analyzed intelligence product, and the narrow function of the latter; to produce predominantly raw intelligence to be analysed and incorporated into wider policy documents elsewhere, are too divergent for budgetary size to be a relevant comparator.<sup>762</sup>

Davies also successfully counters the idea that the difference between Prime

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<sup>761</sup> Ibid.9 and quoting Herman, *Intelligence Services in the Information Age : Theory and Practice*.and Harold P Ford, *Estimative Intelligence: The Purposes and Problems of National Intelligence Estimating*(University Press of America Lanham, MD, 1993).Note also that Davies cites the Canadian community as an exemplar of similar size to that of the UK, but with a similar record on collaborative working to that of the US, further undermining the argument that it is an issue of scale.

<sup>762</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.7

Ministerial and Presidential authority is adequate to distinguish their relative experiences of coordination, demonstrating that both must necessarily engage in coalition building and negotiation to achieve their goals.<sup>763</sup> When comparing the structures that support each he notes both the similarities of two heavily departmentalised structures, but also the distinction between an apolitical civil service and a politically appointed one,<sup>764</sup> contenting himself with outlining the organisational politics arguments that define the experiences of both.<sup>765</sup> It is however the contention of this thesis that it is how these sorts of negotiations and agreements play-out distinctly in different cases that defines cooperative success or failure. The very broad similarities between the two systems thus provide a useful shared base-plate from which the more specific differences can be best observed. The US and UK provide good exemplars because they exhibit fundamental distinctions in the way they are organised, despite the similarities described.

Moving on to the selection of appropriate areas for examination within each nation, two principal areas of the security and intelligence spheres have been selected; those of counterterrorism and defence intelligence. Both require significant levels of inter and intra agency collaboration to function effectively, and thus provide rich seams of examples that can be examined. Because the subject matter of interest is the success or failure of cooperation rather than any wider assessment of the overall success or failure of the communities under discussion the causal hypothesis is sufficiently specific for a set of relevant cases to be identifiable.<sup>766</sup> As space precluded an examination of the institutional costs approach to every aspect of intelligence and security provision these two had to be chosen over other possible areas of analysis.

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<sup>763</sup> Allison, *Essence of Decision : Explaining the Cuban Missile Crisis*. and Smith, "Intelligence and the Core Executive." in the US and UK respectively support this contention.

<sup>764</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.10 quoting Richard Neustadt, "White House and Whitehall," *Public Interest* 2(1966). who describes how while each Country has counterpart roles, they are not necessarily found in the same place because of the professional/political distinction observed by Davies.

<sup>765</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.10-11 and citing the pessimistic tradition of argument that ran from Cyert and March (Cyert and March, "A Behavioral Theory of the Firm." through March and Olsen's 'Garbage Can' theory (Cohen, March, and Olsen, "A Garbage Can Model of Organizational Choice.") to Allison (Allison, *Essence of Decision : Explaining the Cuban Missile Crisis*.) and ultimately Zegart's neo-institutionalist polemic on the flawed evolutionary path of the US community (Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.*

<sup>766</sup> Gerring, "Case Study Research."72

In addition the institutional costs environments for counterterrorism and defence intelligence have also progressed very differently. Institutional frictions in counterterrorism have remained constantly high or low (in the US and UK respectively) despite major organisational reforms whilst in the defence intelligence sphere very specific threshold moments and shifts are observable, offering the possibility that this divergence would also produce further lines of enquiry.

Defence intelligence and counterterrorism both boast high degrees of technical separation between the different functional areas that comprise their delivery. These exceed those of other areas of national security provision: The provision of national estimates or assessments of threats to the nation for example can involve several agencies who produce individual versions that are subsequently compared (as in the US case), or high degrees of collaborative working between actors engaged in the same activity and to an established shared purpose (as in the UK case). Traffic however tends to be in one direction so that the tensions and frictions exposed in the defence intelligence and counterterrorism cases are less observable. Counterintelligence on the other hand demonstrates some of the same overlaps found in counterterrorism provision, for example between law enforcement and intelligence gathering. However it has not been subject to the same conflicting policy pressures that the upsurge in international terrorism has engendered in recent years,<sup>767</sup> nor is it played out under the public gaze to the same extent, so that data less prevalent and conflicts are likely to be less pronounced.<sup>768</sup> For these reasons the two very different subject areas of counterterrorism and defence intelligence provision were selected as the best approach to testing the validity of the theory, whilst also suggesting its possible range of applications.

There are however very distinct differences in the commensurability of the UK and US approaches to the two functional areas selected. There is a high degree of comparability in the defence sphere juxtaposed by much lower

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<sup>767</sup> Discussed further in Parts 2 and 3 to this thesis.

<sup>768</sup> It should be added that the authors access to key actors and data in the cases selected was far better than for either national estimates or counterintelligence functions, which also influenced the decision.

comparability in that of counterterrorism. In the latter case the similarity of the terrorism problem and of overall objective is not replicated by a similarity in how the issue is dealt with. Although certain roles and responsibilities appear to be comparable they do not exist within similar networks. Given that it is the interactions between actors within these networks, and how they manage cooperation across the fracture lines between them, that this thesis focuses on. It therefore follows that a traditional like-for-like comparison of units or actors will be inadequate. Although any such comparison might appear to allow the cancelling out of apparently similar variables from each country, it would actually skew the findings based upon a flawed assumption of system wide commensurability that cannot be supported; a cognitive bias would thus be encouraged based on that assumption. In the counterterrorism case a like-for-like comparative case study approach is not the most manageable solution to examine cooperative working.

This thesis will therefore break with prior precedent and instead move the point of departure between the two nations back to how the terrorism problem is primarily addressed. This is in fact only an extension of the methodology used by Davies, who addressed the commensurability problem by moving the point of comparison one step back by examining areas of functional equivalence rather than particular posts or institutions.<sup>769</sup> This was adequate in that case, as Davies interest was specifically in the intelligence function. This thesis however needs to go further because it is concerned with the use of intelligence in the wider policy arena; and in particular how it is enmeshed with the security function. It therefore utilises a non-standard derivation of a standard model of comparison. In moving the loci of the comparison back to how the terrorism problem is primarily perceived by each nation one finds that they put their faith in very different organisational frameworks. The contrast is therefore not between how a single US or UK institution pursues intelligence and security cooperation. Rather it is between what is essentially a government 'program' on the United Kingdom's side (the CONTEST strategy) and the more clearly defined hierarchal structures that

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<sup>769</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.37-39

have been created in the United States (the Department for Homeland Security and the Director of National Intelligence). Nonetheless if there is to be any comparability of how collaborative working across the whole of the counterterrorism piece is managed in each nation then it is at this level that the analysis must thus proceed. The use of apparently similar entities more usual in traditional comparative studies of these areas is inadequate for capturing the very different multiplicity of interactions found in each Countries' counterterrorism response.<sup>770</sup> They diverge too completely between comparable problems at one end, and similar broad objectives at the other, so that an overly narrow focus on points of apparent commensurability must be sacrificed in favour of a more holistic consideration of how each nation approaches the terrorism problem.

In the defence intelligence part of this thesis the two nations are far more easily compared like for like. Both have defence departments that 'own' intelligence assets with both national and military responsibilities. Both have had to deal with very similar issues, are members of the North Atlantic Treaty Organization (NATO), and have worked together regularly with interoperability between them a key goal.<sup>771</sup> Yet as Part 3 demonstrates they have had very different experiences with cooperative working in recent years so that in the defence intelligence case the usefulness of the comparison is in explaining that divergence even within wider structures that are far more similar than in the counterterrorism case.

The efficacy of the cross-case approach is thus further enhanced by the difference in commensurability in the counterterrorism and defence intelligence spheres, and the usefulness of the institutional costs framework can be more widely tested than if they were equally comparable between the US and UK. The use of the two areas in conjunction with each other allows an analysis that counters the conventional wisdom that the United Kingdom

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<sup>770</sup> See for example the dichotomy of view expressed by Posner, who advocates the creation of a US Security Service independent of the FBI in Posner, *Uncertain Shield : The U.S. Intelligence System in the Throes of Reform*. 119-139, but has grave reservations about radical changes in Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective.", and thus (with Garicano) seeks to minimise the impact of any such change.

<sup>771</sup> "North Atlantic Treaty Organization - Allied Command Transformation ", North Atlantic Treaty Organization, [http://www.nato.int/cps/en/natohq/topics\\_52092.htm?selectedLocale=en](http://www.nato.int/cps/en/natohq/topics_52092.htm?selectedLocale=en).

manages cooperative working well, while the United States does not. Whilst the counterterrorism function does broadly exhibit these traits, the defence intelligence function transposes them; it demonstrates a history of poor cooperation in the UK contrasted with increasingly effective collaboration in the US since the re-establishment of the Military Intelligence Board (MIB) by General Soyster and the first Gulf War on the early 1990's. The inclusion of both spheres thus provide a response to notions that the different cooperative experiences found on each side of the Atlantic are rooted in national cultural factors. They therefore suggest the hypothesis depicted figuratively (Figure 4.5) below.<sup>772</sup> This in turn permits a cross case analysis of examples that are both diverse and atypical across the sectors and Countries, but that nonetheless uses typical cases within the functional area they are found. In this way a covariational typology that demonstrates spatial as well as temporal variation is developed, and a higher degree of reliability can be inferred:

Figure 4.5:

Collaborative Working in:	Counterterrorism	Defence Intelligence & Security
United Kingdom	<b>Mostly Successful</b>	<b>Mostly Poor</b>
United States	<b>Mostly Poor</b>	<b>Mostly Successful</b>

Beyond this each also exhibit very specific institutional costs problems that are different in each case<sup>773</sup> so that they present very different issues against which the institutional cost impact framework may be tested. As a result when an increased granularity of examination is conducted on particular aspects of each quadrant, atypical results can still be observed. For example,

<sup>772</sup> Source of diagram: Own design. As with Figure 4.4 this very simple diagram disguises more nuanced levels and types of cooperation, as well as some counter cases in each category that will be examined later.

<sup>773</sup> Dealt with in Parts, 2 (counterterrorism) and 3 (defence intelligence).



with instances of poor cooperation occurring even within an area where the whole is successful, and vice versa: The rigor of the model can thus be further tested at different levels of functionality and with increasingly detailed data being used until an explanation emerges.

The very complexity of both functional areas in itself precludes a genuinely holistic examination of each and every collaborative aspect they offer, so some degree of considered selection must necessarily occur (the unsuitability of using a genuinely random selection process has been addressed above). The possibility of selection bias and related threats to validity must therefore be addressed.<sup>774</sup>

Internal validity is retained through the use of established criteria in each case. Most importantly cases have been selected for their degree of relevance to the research question rather than for any particular outcome. They must therefore demonstrate the need for significant degrees of cooperative working at the level being examined, be it inter or intra organisation. Outcomes are assessed solely on the success or failure of the cooperative element, rather than on any particular operational outcome. For example although the July 7th bombings of 2005 were a significant breach of London's security regime the fact that the attacks were undertaken by terrorists that were colloquially known as clean-skins, meaning they had not come to the notice of the security or intelligence agencies in any substantive way. This meant that no liaison between the intelligence and security elements of the UK counterterrorism architecture could have occurred.<sup>775</sup> This example therefore has little utility within the context of this thesis. The importance of the cooperative element to this work means that a more direct comparison between specific parts of the US and UK communities is forgone in favour of a consideration of how coordination and collaboration are

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<sup>774</sup> The different aspects of validity in research design are discussed in Robert K Yin, *Case Study Research: Design and Methods*, Fourth ed., Applied Social Research Methods Series (Sage publications, 2009).40-45

<sup>775</sup> In fact the Security Service had come across both Mohammed Siddique Khan and Shazad Tanweer in connection with earlier investigations, and both had minor police records but the Intelligence and Security Committee concluded that given the state of knowledge prior to the 7/7 bombings, inaction was understandable. See "Could 7/7 Have Been Prevented? Review of the Intelligence on the London Terrorist Attacks on 7th July 2005."

managed. In Chapter 6 for example the use of the CONTEST strategy in the UK is contrasted with efforts to achieve the same goal through particular agencies and posts in the US. It is the success or failure of the cooperative endeavour that is the test of the theory, not the similarities of the methods being examined. In this respect this thesis is not a comparative study per se, but rather uses the two nations differing experiences to draw out the ways in which the discrete elements of the model interact and thus impact on collaborative success, and to demonstrate the reliability of its application.

Because the institutional cost impact framework is an holistic theory of organisational cooperation examples are chosen to most widely assess that universality in each functional area, which also improves the external validity of the results observed. The fact that much of what is done in intelligence and security spheres remains secret means that ensuring constructional validity is of particular importance. The cases used have therefore been selected because they can be examined using multiple sources of data, and thus follow the normal process tracing methodology.<sup>776</sup> Each offers a variety of primary and secondary source material, often from several distinct and distinctly opinionated resources, that can be triangulated.

The issues and cases analysed have all been considered by various parts of the two governments themselves, either to inform future policy or as post event reviews. This has lead to a substantial amount of government documentation, reports and speeches and even legal proceedings from both sides of the Atlantic, and in most cases this is openly available. Whilst for the most part such documents are essentially reliable two caveats should be recorded: First the often secret nature of the subject matter largely precludes the existence of an 'opposition' point of view. Although such documents are published as the wholly objective report or findings of government it must be accepted that any government has some vested interests in what they say, or at the very least how it is said. Where possible such publications have been analysed in parallel with the reporting of oversight bodies like the Intelligence and Security Committee to provide some balance. For example the UK's

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<sup>776</sup> Gerring, "Case Study Research." 173

National Security Strategy was criticised by the parliamentary Joint Committee on the National Security Strategy for being "almost unrelentingly positive" and providing no details of problem areas even where the government had already published them.<sup>777</sup>

Secondly in a few cases official reporting can become partisan, particularly where things have gone wrong. The post event investigations into the September 11th 2012 attacks on the US Special Mission compound in Benghazi lead to a series of spats that variously involved Congress, the State Department, the CIA and Department of Defense as different actors briefed against each other, so that it became increasingly difficult to ascertain precisely what had actually occurred when.<sup>778</sup> To some extent of course such inter agency disagreements are an integral part of the analysis because of their impact on future cooperative behaviour, so that they cannot be ignored. Particular pronouncements therefore have to be situated within that wider context as far as possible.

The widest possible use of sources and the narrow nature of the enquiry into cooperative success or failure also offsets the third often experienced problem; that it is usually only failures in the intelligence and security spheres that enter the public domain so that available data tends to support a perhaps overly bleak view.<sup>779</sup> Case study selection in this thesis is therefore geared towards instances of collaboration within the functional areas used, rather than particular operations, so that potential bias due to operational outcomes that were actually in part forced by issues that are extraneous to this examination are avoided.

Usefully given these caveats both nations also boast an extensive body of

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<sup>777</sup> "Joint Committee on the National Security Strategy: First Review of the National Security Strategy 2010 (Report Together with Formal Minutes)," (London: House of Lords. House of Commons: Joint Committee on the National Security Strategy, 2012).

<sup>778</sup> "Report of the U.S. Senate Select Committee on Intelligence Review of the Terrorist Attacks on U.S. Facilities in Benghazi, Libya, September 11-12, 2012," (Washington D.C.: U.S. Senate Select Committee on Intelligence, 2014). See inter alia Clare Lopez, "Benghazi and the Politicization of Intelligence," *Accuracy in Media*(2014), [http://www.aim.org/aim-column/benghazi-and-the-politicization-of-intelligence/?utm\\_source=AIM](http://www.aim.org/aim-column/benghazi-and-the-politicization-of-intelligence/?utm_source=AIM).

<sup>779</sup> See for example the post 9/11 work of authors like Zegart (Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11.*), Posner (Posner, *Remaking Domestic Intelligence.*) Allen (Allen, *Blinking Red : Crisis and Compromise in American Intelligence after 9/11.*) and even Betts (Betts, *Enemies of Intelligence : Knowledge and Power in American National Security.*

peer reviewed work on issues that are directly applicable to the areas under discussion, or that can provide useful parallels that can lend predictive support to particular arguments and offer further points of triangulation. In addition although considering very specific areas of governance (those of intelligence and security), as this thesis considers issues of cooperation and is developed from a wide breadth of theoretical perspectives, research into other areas that considers similar themes can also provide some degree of reassurance.

These documentary sources were then further examined through a number of qualitative interviews with actors from different levels in the organisations being examined with two intentions. Firstly to provide points of triangulation or challenge of key features so that any biases in, for example, governmental documentation, could be tested and secondly to permit a deeper level of analysis. Interviews were semi-structured, with the framework adapted slightly to suit the particular experience or role of the interviewee. Although it should be noted that an organic approach to this was taken, as in most instances interviewees had additional experiences of which the author was not cognisant until the interview began. It was decided to separate the interview structure from the 'impact framework' and only return the focus back to that during the subsequent analysis of the interviews so that the interviewers bias did not lead interviewees. Interviews were thus divided into different sections.

Firstly specific experiences of positive and negative cooperative working either within the interviewees own organisation or between it and others were discussed in a factual way to establish chronology and the interviewees role and access. Then more personal observations were solicited including, where relevant, how the interviewee believed cooperation was either achieved or harmed in the instances cited.

Next more general perceptions and impressions on cooperation within and between the interviewee's own organisation and others were sought. A cross examination was conducted in an attempt to expose any inherent assumptions (by either side) and to draw the interviewee into explicitly

describing anything relevant that had been left implicit.<sup>780</sup> Finally the whole was re-capped to verify that a clear understanding had been achieved and to ensure that nothing that was either privileged or that the interviewee did not want included was in the interviewer's record. The same privileged access that allowed the interviews to occur also meant that Kvale's observation that interviews are not collected but 'co-authored' between the interviewer and interviewee has a particular resonance in this case, as both sides shared some common interests and understandings.<sup>781</sup> The semi-structured and directed nature of the questions employed within each of these sections were thus designed to mitigate any impact from this association. This mitigation was then improved through the analysis methodology used. Once the interviews had been conducted the approach was reversed so that their analysis was managed through the prism of the institutional costs impact framework developed in Chapter 2. This included consideration of individual elements and their mutual interaction and both positive and negative influences were sought out and examined.

The results from the interviews were then applied to and compared with the wider results found during the analysis of documental evidence. In this way each source of information was used to corroborate or challenge the others so that an appropriate level of confidence could be imputed.

### **Ethical Considerations:**

This research was conducted in accordance with the Brunel University Code of Ethics.<sup>782</sup> Ethical approval for the methodology described above was granted by Brunel University on 22nd September 2014 and is attached as Appendix 2 to this thesis.

All the information within the thesis is openly available and no classified data or intelligence has been used or referred to. The privileged access of the author and of those persons interviewed in the course of this research was

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<sup>780</sup> In the manner advocated by Steinar Kvale and Svend Brinkmann, *Interviews: Learning the Craft of Qualitative Research Interviewing*, 2nd ed.(Sage, 2009).159

<sup>781</sup> Ibid.191-192

<sup>782</sup> (Chair Research Ethics Committee) David Anderson-Ford, "Code of Research Ethics," (2013), [http://www.brunel.ac.uk/\\_\\_data/assets/pdf\\_file/0009/259074/CoEv8.pdf](http://www.brunel.ac.uk/__data/assets/pdf_file/0009/259074/CoEv8.pdf).

used only to direct enquiries towards open source information where it existed. Where it did not, no use of the information has been made and alternate, published, examples that could make the same point were found. As the issues under consideration were ones of governance and internal cooperation, rather than of sources or methods, and both the UK and US governments are committed to as transparent an approach to governance as possible this proved less problematic than might have been anticipated.<sup>783</sup>

Because published accounts were often compared to the personal recollections and observations of interviewees the same process was undergone with each to insure that not only was this thesis conducted ethically, but also that none of the interviewees were presented with any ethical dilemmas from their own professional standpoint. None of those interviewed, or approached as potential interviewees, were vulnerable persons. However all were, or had been, in roles that were bound by the Official Secrets Act (in the UK) or by some equivalent US/NATO constraint so that particular care was needed in utilising this data source. Each of the individuals that accepted the invitation was approached and presented with a list of the subject areas that the author wished to address during the interview that they could then amend or adjust as they (and on occasion their managers) felt appropriate given the peculiarities of their role prior to commencement of the interviews. In addition it was made clear that they could stop a line of questioning at any time, and that in the event they had said anything they regretted or believed would be in violation of the codes and rules by which they were bound these remarks would of course be disregarded. In the event this proved a positive effect as it allowed some interviewees to discuss particular instances that provided valuable contextual information, knowing they would not be cited on this, so that it became a valuable source of background information from knowledgeable sources that could help steer open source research.

The provision of the degree and type of anonymity preferred was discussed with each interviewee individually, with a spectrum of possibilities offered to

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<sup>783</sup> But see the caveats on 'government documents' noted in this section.

each of them. A further discussion was then had to discuss how those that agreed to be directly cited were to be referred to so that they (or in some cases their unit) could not be identified. The resultant agreements have of course been honoured. The twin drivers of interviewees not wanting to be identified as part of the intelligence or security communities and the culture of secrecy with which most live meant that all bar the high profile political level interviewees opted for anonymity despite the subject area of the thesis. However this seemed to allow interviewees a degree of criticality around management issues that might otherwise have been absent. In addition the authors own vetted status permitted a more probing style than might otherwise have been the case, and perhaps went some way to off-setting any assumptions by either him or his interviewees that might have resulted.<sup>784</sup> As a result and once the interviews began some surprisingly frank observations were made and subsequently allowed to stand.

## **Section 10: Conclusion**

Chapter 3 demonstrated how the complexity and uncertainty prevalent in the security and intelligence domain meant that the communities needed to provide these functions must be constantly interacting and adapting if they are reach adequate levels of fitness. It also considered the usefulness of a number of theoretical approaches in explaining the cooperative outcomes that have resulted. This chapter has extended that analysis to show how conceiving these changing patterns of interactions as a series of contracting arrangements between relevant actors, and then considering the levels of friction that are likely to be experienced in the form of institutional costs, can permit a comprehensive analysis that nonetheless incorporates an appropriate level of detail.

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<sup>784</sup> That the author was from a similar culture of secrecy permitted a trust to develop quite simply that provoked a more open discourse, but also meant that there was a risk of a similarity of view being assumed between interviewer and interviewee that needed to be guarded against, so that the opinions of the interviewee were explicitly stated. The tension between ethical considerations and the need to probe as deeply as possible is discussed in Richard Sennett, *Respect: The Formation of Character in an Age of Inequality* (Penguin UK, 2004).37-38 and quoted by Kvale and Brinkmann, *Interviews: Learning the Craft of Qualitative Research Interviewing*.16

Because security and intelligence provision crosses not only the foreign and domestic divide, but also the strategic and operational spheres, so that a variety of agencies and departments will necessarily be involved in its delivery. Any explanatory paradigm that can assess the nature of the cooperative interactions between them will consequently have merit. However this chapter has demonstrated how many of the existing explanations, while providing a strong account in some instances seems weaker in slightly different circumstances, or can be contradicted by alternate empirical evidence. This chapter has demonstrated that the strength of institutional cost analysis in an area of governance like the security and intelligence functions is not that it supplants or corrects previous approaches but that it incorporates their insights, allowing different aspects to come to the fore or recede as individual circumstances dictate, while still generating an holistic analysis.

The diverse observations on collaborative working by various intelligence and security scholars from both sides of the Atlantic was contextualised by considering the surrounding institutional cost environment in which cooperation was required. This allowed the rather bleak view of new institutionalist thinkers to be contrasted with the more optimistic outlook of scholars who have concentrated on collegiality. It has also demonstrated how the level of costs experienced in any set of circumstances could determine cooperative outcomes. In this way the failure of each group of scholars to adequately explain the outcomes observed by the other could be dealt with within the same theoretical architecture.

In the same way the limited applicability of theoretical of narrowly focused approaches that concentrated on particular behaviours or features of the organisational processes in use were considered from an institutional costs perspective. This showed how their undoubted strengths in examining the areas with which they were principally concerned needed to be considered in conjunction with other issues if a comprehensive explanation of cooperative success and failure is to be achieved. Furthermore the range of issues are each 'factors' of that explanation; it is their mutual interaction that is



conclusive. For example the temporal nature of the environment, or its complexity, might each mean that when an agency or department wishes to modify itself to lessen either internal or external frictions (and so improve the efficiency of any particular function), further frictions are likely to be generated in another functional area. Because functions like intelligence and security exist in an extremely complex and uncertain environment this is likely to be a recurring problem: Simply considering a particular behaviour or inefficient bureaucratic process will not provide the depth needed.

Conversely approaches that emanated from a more external viewpoint suffered from the alternate limitation in that they did not provide sufficient granularity to wholly account for all of the empirical observations made. Even where some allowance was made for the internal situation in which decision makers found themselves (so that the range of an actor's viable options could be seen to be constrained), it did not fully account for the nature of the cooperation between actors. However the consideration of institutional costs between actors, and between actors and their environment, ensured that not only were these internal factors included, but that they could be given the appropriate weighting in the particular circumstances being considered. This was as true in top-down models of the international environment as it was for bottom-up ideas of complexity and evolutionary pressures.

Having established the applicability of institutional cost analysis to the intelligence and security spheres of governance, and how the theory can add to the explanatory power of earlier social theories within that context; particular cases from both sides of the Atlantic will now be considered using the institutional cost paradigm to demonstrate how these interactions play out.

## **PART 2**

# **The Counterterrorism Function as a Case Study of Cooperative Success and Failure in the Intelligence and Security Spheres**

## **Chapter 5 - Counterterrorism Collaboration and the Particular Relevance of Institutional Costs**

### **Section 1: Introduction**

The counter terrorism sphere of intelligence and security provides a useful area of research into cooperative working because its provision boasts some of the most complex mixes of goals, actors and organisations. It requires that those normally required to operate at a strategic level need deal with tactical level quandaries, whilst the impact of the actions of operational personnel often subsequently generate strategic level outcomes. Interactions between different elements of the counterterrorism effort take place over both very short and very long time-scales, further complicating any individuals assessment of desired outcome. Most importantly terrorism, as has been established, crosses normally discrete policy areas to a far greater extent than most other policy problems; it involves horizontal cooperation between agencies and even departments that are usually independent, and vertical cooperation between local and national levels of governance and political input. Counterterrorism therefore boasts substantial and quite particular institutional cost issues and this chapter will provide an overview of these before the next two consider more specific examples of vertical and horizontal collaboration respectively.

Despite the inherent institutional difficulties posed by the terrorism problem, the US and UK experiences are very different. In the US institutional costs have remained endemically high. The attempts to alter that discussed in Chapter 6 after this discussion, by creating first a Department of Homeland Security (DHS) and then a Director of National Intelligence (DNI), have had very little impact on them. In the UK on the other hand the institutional costs have historically been endemically low, and the introduction of the CONTEST strategy and Office of Security and Counter Terrorism (OSCT) examined in Chapter 6 merely facilitated the continuation of these low friction relationships. It is worth noting that this is a very different experience to the defence intelligence case considered in Part 3, wherein very specific

threshold points of change in the institutional cost environment can be identified.

The view that existing collaborative arrangements were inadequate to deal with a more sophisticated terrorist threat in the new millennium has forced significant developments in the intelligence machinery in both the United States and United Kingdom in recent years. Attempts to improve cooperation across the whole of both the intelligence and security communities, and thus actually realise the totality of their respective capabilities, have been at the heart of both approaches. They have been variously driven by the attacks of September 2001 in the US and July 2005 in the UK, and a continuing perception by both nations that they are centrally involved in what the US has termed a 'war on terror' domestically and as a result of economic interests and military engagements overseas.

Both nations have also increased the importance they place on counterterrorism security as a policy responsibility. In the United States terrorism was regarded as a simple policing function like many others until September 2001, with only occasional shifts up to national level policy making or military action when nation-state support for particular attacks became apparent, as was the case in Libya in the 1980's and Sudan in the 1990's. This perception of terrorism as an issue for law enforcement, occasionally supported by other government assets, rather than as a problem of governance more generally, influenced US counterterrorism activity throughout the 1990's as Al Qaeda increased its influence in Africa, Asia and the Middle East.<sup>785</sup> The idea that law enforcement was simply one tool that could be used against it, as subsequently advocated by the former US Deputy Attorney General David Kris in 2011,<sup>786</sup> was not a part of any policy response. Terrorism did not even feature as an issue in the 2000 election campaign of President George W. Bush, and his first National Security Advisor, Condoleezza Rice did not initially see it as an issue for the NSC at

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<sup>785</sup> For a demonstration of how this perception influenced US counterterrorism activity throughout the 1990's as Al Qaeda increased its influence see Leslie Woodward, "The Hunt for Bin Laden," (Brook Lapping/Ten Alps Production for the Smithsonian Channel, 2012).

<sup>786</sup> Kris, "Law Enforcement as a Counterterrorism Tool."

all, ironically believing it to be too operational and too domestic an area for a body She regarded as for foreign policy coordination.<sup>787</sup>

In the United Kingdom of course the experience of Northern Ireland meant that a 'whole of government' approach managed via an applicable Cabinet committee was more the norm,<sup>788</sup> and the solution eventually arrived at (albeit not a complete solution) involved not only the police, the agencies and military, but also foreign policy and domestic political elements. There is also a recognition that its maintenance will also involve long term economic and educational initiatives. The usefulness of that experience is however limited: The use of terrorism by the Provisional Irish Republican Army (PIRA) was only part of a strategy designed within a hierarchical organisation to improve their negotiating position, for Al Qaeda violence "... is the end itself" that has only the most opaque form of leadership, so that no negotiations are feasible.<sup>789</sup> Furthermore the PIRA problem was domestic, and only occasionally became international, whereas the various forms of Islamic extremist terrorism that threaten the UK and its interests is international with domestic repercussions. Despite the fact that the UK's gradual blurring of the domestic and international arenas had begun in the post Cold War vacuum,<sup>790</sup> the threat from international terrorism however, was still regarded as existing 'over there' until as late as 2003; the UK seeing itself as a "... net exporter of terrorism".<sup>791</sup>

The domestic problem seemed limited to dissident Republican activity (including some limited internecine violence and public order issues), and funding and propaganda activity that was tolerated up to the point laws were broken. Like the US the primary approach to counter terrorism was as a law enforcement problem, but in the UK this was often managed by the police services being cued by the agencies. The converse could often occur too,

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<sup>787</sup> Richard A. Clarke, *Against All Enemies : Inside America's War on Terror*(New York ; London: Free, 2004).227-230

<sup>788</sup> Prime Minister Harold Wilson's MISC 238 for example was created in February 1969. Peter Hennessy, "From Secret State to Protective State," *The New Protective State: Government, Intelligence and Terrorism* (2007).26

<sup>789</sup> Ibid.25

<sup>790</sup> Omand, *Securing the State*.10

<sup>791</sup> Peter Clarke, *Learning from Experience : Counter-Terrorism in the Uk since 9/11*(London: Policy Exchange, 2007).21

with the agencies being fed potential leads from within the dissident communities that existed in London by Special Branch.<sup>792</sup> What the UK had established, that the US had not, was a rapport and trust between actors in different agencies that were mutually reliant. Although the quantitative aspect of the rise in terrorism was new and took some time to adapt to,<sup>793</sup> a collaborative infrastructure and matching habits existed. Existing probity and a shared maximand were thus linked by lower communication costs than in the US case, as systems of negotiation and the reciprocity that resulted were already in use. The established arrangements could become the genesis of the more formalised low institutional cost arrangements that were then developed.

Despite this difference by the end of the first decade of the new millennium both nations had decided that terrorism, particularly international terrorism, was a key threat and that counteracting it was a central function of government. Both had conceived a definition of national security that was broad and outward looking, with threats best addressed at their source by holistic policies that leveraged the totality of government resources.<sup>794</sup> The US and UK then both faced a similar problem, framed in within broadly similar world views and policy preferences, and were largely constrained by similar legal systems and societies. A degree of change was allowed; but any actions that did not fit with their views of themselves as liberal democracies operating within a generally accepted rule of law would be resisted. In the UK the failure of Prime Minister Tony Blair's government to persuade Parliament of the need for a raft of new measures that included much longer detention periods for terrorist subjects set the first limits on what changes to the law were to be deemed acceptable.<sup>795</sup> In the US the much disputed technical legality of holding some terror suspects without trial in Guantanamo Bay

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<sup>792</sup> Interview Senior Security Service Officer (Retired). London 2013

<sup>793</sup> Intelligence and Security Committee of Parliament, *Unorrected Transcript of Evidence Given by Sir Iain Lobban Director Government Communications Headquarters, Mr Andrew Parker Director General Security Service, Sir John Sawers Secret Intelligence Service*, 7th November 2013.

<sup>794</sup> See for example Obama, "National Security Strategy of the United States (2010)." and "Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review."

<sup>795</sup> See for example Hewitt, *The British War on Terror : Terrorism and Counter-Terrorism on the Home Front since 9/11*.51-55

remains a running sore for the Obama administration.<sup>796</sup> Given that what each nation wanted to achieve, and the position from which they were attempting to achieve it, were so similar, it is perhaps surprising that the methods each chose to deliver improved cooperative capability across their respective communities, and the outcomes of those efforts, were so very different.

Section 2 of this chapter will therefore examine the external issues that impact on an intelligence and security communities ability to work cooperatively in the counterterrorism sphere from an institutional cost perspective. It will consider shifting environmental conditions like the need to focus on public protection rather than national security, then the peculiar effects of uncertainty and complexity in this area. Property rights and asset specificity within the communities will then be assessed, followed by the impact of globalisation. Section 3 will then look at behavioural problems in the counterterrorism field, such as the additional need for probity between actors and how the wide variety of specialisations involved can allow behaviours that affect institutional costs. Section 4 will continue looking at the variety of specialisations, but from the perspective of information holdings and the structural secrecy created through them. It will then briefly examine how the more modern issue of transparency in government more generally has impacted on the institutional costs incurred when addressing terrorism before the chapter is concluded in section 5.

## **Section 2: External and Environmental Issues in Counterterrorism Provision**

### **a. Counterterrorism and the Shift in Function from ‘National Security’ to ‘Public Protection’**

The last two decades have seen substantive shifts in the environment in which the intelligence and security organisations on both sides of the Atlantic

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<sup>796</sup> See for inter alia Peter. Finn and Anne Kornblut, "Guantanamo Bay: Why Obama Hasn't Fulfilled His Promise to Close the Facility," *The Washington Post* 24th April 2011. For a legal perspective see variously Linda A Malone, "The Legal Dilemma of Guantánamo Detainees from Bush to Obama," *Criminal Law Forum* 23, no. 4 (2012). and Fiona De Londras, "Guantánamo Bay: Towards Legality?," *The Modern Law Review* 71, no. 1 (2008).

have to work, and the quantitative and qualitative changes in the terrorism threat have been one of the most significant pivot points of that shift. The terrorist attacks on the East coast of the United States in September 2001, and the London bombings of July 2005 (in conjunction with numerous other attempted terrorist attacks in the same period)<sup>797</sup> demonstrated in the most tragic way that the preeminent threat to American and British security no longer came from hostile governments, but from terrorist organisations, and that these boasted not only foreign groups opposed to some elements of western policy, but also domestic extremists every bit as alienated from the societies from which they emerged.<sup>798</sup> Yet the relative ability of the different parts of the two nations security and intelligence communities to act cooperatively, and the level of institutional costs each experience when doing so, have remained remarkably fixed.

The dangers of the terrorist threat, and of the possible reactions to it, have meant that the intelligence agencies have had to make counter-terrorism rather than counterintelligence or even espionage their primary concern.<sup>799</sup> National security has therefore come to be much more closely aligned with public protection.<sup>800</sup> The seriousness of the nuclear threat during the Cold War, from which little could be done to protect the public in the unlikely event of an attack,<sup>801</sup> was replaced by an expectation that government would be able to protect its citizens from the less serious but more dispersed and more likely threat from terrorism.<sup>802</sup> Their operating environment thus became far more uncertain as the threat from a hierarchical organisation with a generally understood strategic goal was replaced by hazards emanating from a raft of disparate actors whose motivations ranged from the global grand strategic to the personal. Even within an apparently single group like Al Qaeda motives,

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<sup>797</sup> See inter alia "Terrorism 2002-2005," (Washington D.C.: Federal Bureau of Investigation Counterterrorism Division, 2006).

<sup>798</sup> Chairman Intelligence and Security Committee of Parliament Sir Malcolm Rifkind MP, "Intelligence Agencies in the Internet Age - Public Servants or Public Threat?" (Wadham College, Oxford, 8th May 2014).

<sup>799</sup> Ibid.

<sup>800</sup> See Peter Hennessy, *The New Protective State : Government, Intelligence and Terrorism*(London: Continuum, 2007).

<sup>801</sup> Duncan Sandys, "Defence: Outline of Future Policy," ed. Ministry of Defence(H.M. Stationery Office, 1957).

<sup>802</sup> Hennessy, "From Secret State to Protective State."



links between the strategic and operational levels, and even what sort of organisation it believes itself to be, have become less clear.<sup>803</sup> Uncertainty pervades both the threat and the perception of the threat. This in turn also meant that the complexity of both those who presented the threat, and the range of actors needed to counter it, rose concomitantly. Cooperation between them however is not necessarily assured, as Sir Stephen Lander observed, "Collaboration is not an end in itself. It is utility that drives collaboration".<sup>804</sup> Therefore that utility needs to be apparent to those involved.

The shift in challenge from a single dominant threat to a an environment "permeated by risk"<sup>805</sup> had to be matched by an equally substantive increase in the principle purposes of the intelligence and security infrastructure on both sides of the Atlantic. Moreover it also demanded an end to their isolation if intelligence was to be useful in promulgating security across a range of governmental responsibilities that now included, inter alia, things like civilian resilience to attacks<sup>806</sup> and counter radicalisation initiatives.<sup>807</sup> The result has been a considerable increase in the number and types of organisations that need to be involved, and the level and quantity of the interaction required between them.

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<sup>803</sup> See variously Mary Habeck, *Future of Terrorism and Counter-Terrorism in an Age of Limited Budgets*, podcast audio, 2011-2012 Rethinking Seminar Series, accessed 14th May 2015, 2012, <https://dnnpro.outr.jhuapl.edu/rethinking/PastSeries/20112012.aspx>, Jason Burke, *Al-Qaeda : The True Story of Radical Islam*, Updated ed. ed.(London: Penguin, 2004). and Jane Corbin, *The Base : Al-Qaeda and the Changing Face of Global Terror*, Updated ed. ed.(London: Pocket Books, 2003). For a detailed study of the rise and evolution of Al Qaeda in Saudi Arabia as an example of this phenomenon see Thomas Hegghammer, *Jihad in Saudi Arabia: Violence and Pan-Islamism since 1979*, vol. 33(Cambridge England: Cambridge University Press, 2010).

<sup>804</sup> Sir Stephen Lander, "International Intelligence Cooperation: An inside Perspective," *Cambridge Review of International Affairs* 17, no. 3 (2004).

<sup>805</sup> Beck, *World Risk Society*.3-4

<sup>806</sup> Richard Mottram, until 2007 the Permanent Secretary for Intelligence, Security and Resilience in the Cabinet Office has argued that the realities of any nuclear conflict meant that such resilience was never a realistic policy option, but became a central tenet of counter terrorism planning. See Richard Mottram, "Protecting the Citizen in the Twenty-First Century: Issues and Challenges," in *The New Protective State : Government, Intelligence and Terrorism*, ed. Peter Hennessy(London: Continuum, 2007).

<sup>807</sup> See variously Hewitt, *The British War on Terror : Terrorism and Counter-Terrorism on the Home Front since 9/11*. Robert Lambert, *Countering Al Qaeda in London : Police and Muslims in Partnership*(London: Hurst, 2011). and Eliza Manningham-Buller, "The International Terrorist Threat to the United Kingdom," in *The New Protective State: Government, Intelligence and Terrorism*, ed. Peter Hennessy(Continuum Intl Pub Group, 2007).

At the same time intelligence agencies particularly had to change from being "... institutions that manage stocks of information..." to being "... managers of fused flows of relevant information where timeliness is essential".<sup>808</sup> Similar increases in inter-connectedness had to be managed in other organisations, such as those responsible for policing or civilian contingency planning, that had not previously boasted information as any kind of prime commodity. The transition has had to be managed while many of those same agencies are busier than ever before, and when not just terrorism, but also an 'information revolution' is changing the world in which they work. In such circumstances frictions between new and old, or between winning and losing elements of the intelligence and security apparatus are inevitable. Given that context it is perhaps more surprising how quickly both the UK and US communities have adapted, than that each have struggled in some areas.<sup>809</sup> Institutional costs are bound to be high when such frictions emerge. Separate organisations are contesting new property right allocations around the contemporary goal of 'public protection' based on skills and procedures evolved for their roles the previous 'national security' environment.

### **b. Counterterrorism and Increased Uncertainty & Complexity**

Countering terrorism in a liberal democratic state is a complex task. As soon as any task becomes even slightly complex it will of course need dividing into specialisms, which will in turn need to be successfully re-amalgamated once the individual tasks have been completed is to be addressed at the level which generated the tasks in the first place. Coordination is therefore mandatory in any complex task to off-set the limited spans of control at each level of authority because of the limits on time, energy and knowledge that any individual can provide.<sup>810</sup> In institutional cost terms this is the problem of bounded rationality in the actors involved. The number of levels of delegation will reflect the complexity of the task, and at the same time increase the

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<sup>808</sup> Omand, *Securing the State*.292

<sup>809</sup> For a discussion of the difficulties of using secret intelligence to counter publicly debated issues like terrorism see "The Dilemmas of Using Secret Intelligence for Public Security," in *The New Protective State : Government, Intelligence and Terrorism*, ed. Peter Hennessy(London: Continuum, 2007).142-169

<sup>810</sup> Luther; Urwick Gulick, L; Mooney, James D; Fayol, Henri "Papers on the Science of Administration (1937)," *International Journal of Public Administration* 21, no. 2-4 (1998).

complexity of the re-integration needed to manage it. This is particularly true of the counter terrorism function as it has evolved over the last decade.

The twin drivers of increasing uncertainty about the threat faced, and the evolution of an increasingly sophisticated and multi-faceted set of responses to it have generated a requirement for a far more complex and better integrated community. Not only were new vertical connections needed, but so too were horizontal interactions suddenly required so that tactical and operational level synergies could be achieved. The inevitable result is that the problems of having disparate functions within the intelligence and security communities cooperate, while not new,<sup>811</sup> have also increased. As the degree of difficulty will be to some extent a factor of the number of interactions involved, then the number of nodes involved will become a critical factor in collaborative success or failure if institutional costs are not managed.

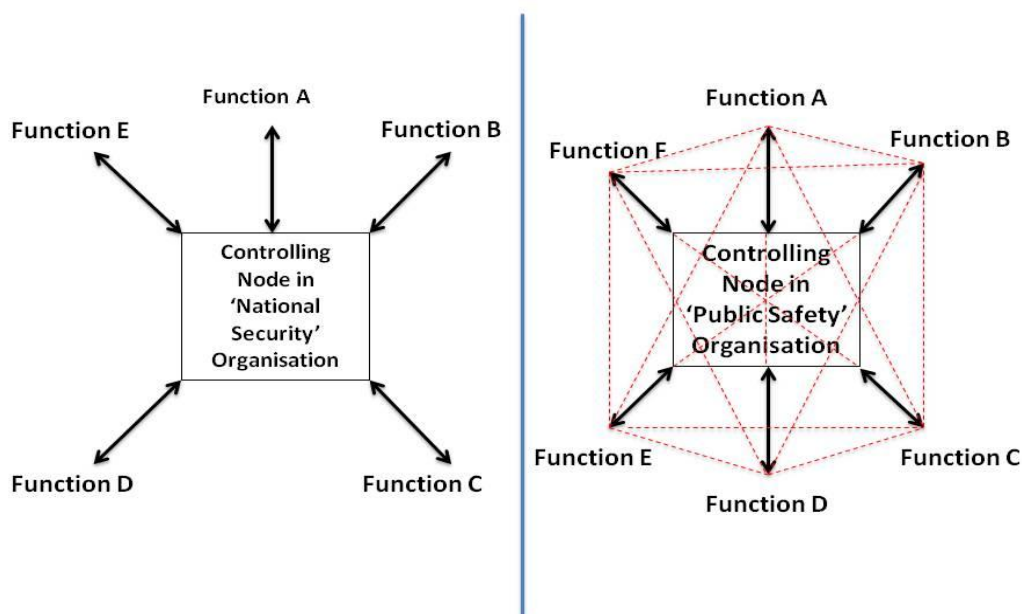
Consider for example the simple shift depicted in Figure 5.1,<sup>812</sup> wherein a centralised national security apparatus not dissimilar to those required during the Cold War is represented on the left, and on the right the increasingly decentralised organisational form more useful in providing public security against a much broader terrorist threat is symbolised, so that the dotted red lines represent new lines of communication that need to be established and run, assuming the need for increased information flow and cooperative working between the functions needed. In this very simple example only one additional function has been added, but each member is connected to one another.

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<sup>811</sup> For historical examples in the US see Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* Riebling, *Wedge : The Secret War between the F.B.I. And C.I.A.* In the UK Davies, "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence." "Imagery in the UK: Britain's Troubled Imagery Intelligence Architecture." More generally see Hughes-Wilson, *Military Intelligence Blunders and Cover-Ups.*

<sup>812</sup> Source of diagram: Own design, developed from Williamson's depiction of the limitations of peer groups. See Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization.*46

Figure 5.1: Complexity in National Security and Public Safety Organisation



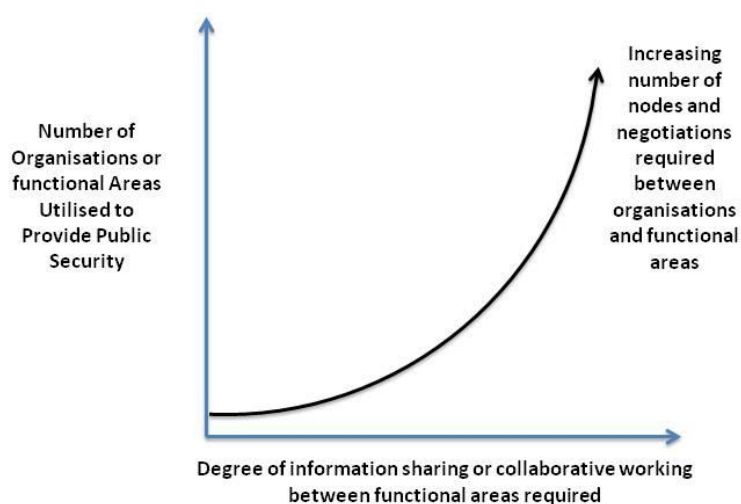
Not only have the communication costs risen significantly, as Williamson demonstrated when contrasting pin-wheel and all-channel methods of organisation,<sup>813</sup> but also by that simple shift, the addition of a single extra actor and with each now interconnected so that the appropriate level of transaction can be handled at the correct level, the potential for institutional cost problems has risen exponentially. Furthermore in this heuristic model, and Williamson's original, only a single cycle is being considered. A more realistic model would need to factor in the inclusion of sub-groups and internal networks that will each incur further rounds of communication costs at the least, and might each need some degree of re-negotiation in many cases, as well the sequential nature of less than perfectly similar transactions over time. The true level of institutional costs that result is thus more akin to a factorial of a factorial, and will be non-trivial even in the least contentious cases.

The net outcome is that the two factors; an increase in the number of relevant departments or agencies and an increase in the need for them to

<sup>813</sup> The specific issue of information costs in the counterterrorism sphere that result from this and other peculiarities are developed further in section 4 of this chapter. Williamson originally developed the diagram from which this figure is derived to demonstrate the higher communication costs in a peer-grouped organisation than in one based on a simple 'pin-wheel' form. See *ibid.*46

engage horizontally, actually cause an exponential increase in the number of times different elements will need to contract with each other to either share information or agree which will provide particular aspects of any proposed solution to a perceived problem. There is thus an inevitable increase in the transaction costs involved in the whole enterprise, as represented in Figure 5.2.<sup>814</sup>

Figure 5.2: Effect on Number of 'Contracts' Required in Public Safety Centred Organisation as Number of Organisations and Interconnectivity Increases



None of the alternative organisational forms can perfectly address this problem.<sup>815</sup> If a centralised control either directly manages each negotiation

<sup>814</sup> Source of diagram: Own design

<sup>815</sup> Williamson uses the problems of spans of control as a polemic to counter the arguments for scale economies and so does little to engage with mitigating ideas. Potential partial solutions such as the development of hybrid organisations, that utilise a combination of peer group and pin-wheel organisational forms at various levels to try and leverage the advantages of each, are thus overlooked (see Demsetz, "The Theory of the Firm Revisited," 147-148 for a discussion of information costs and a critique of Williamson's interpretation of transaction costs more generally. Such organisational hybrids are however in common usage in the intelligence and security spheres, particularly where both activities are conducted together such as within Special Branch's in the United Kingdom. The higher information content in a networked part of an organisation may offset the higher governance costs in such circumstances. Beyond this the work of John Padgett and his examination of network institutionalism has demonstrated how networks themselves can adapt to optimize their strengths or in response to the requirements made of them (See for example John F Padgett, Doowan Lee, and Nick Collier, "Economic Production as Chemistry," *Industrial and Corporate Change* 12, no. 4 (2003).), with some elements gaining in importance over others. There are therefore both formal and informal means by which the costs of each organisational form can at least be mitigated.

between any of its sub-units, then its own bounded rationality and the constraints on executive time will create asymmetric information holdings between levels and encourage the sort of opportunistic behaviours discussed elsewhere in this thesis. It is thus hardly surprising that the possibility of hold-up tactics, and the sheer limits of capability that channel capacity produce, have encouraged the National Counter Terrorism Center (NCTC) to retreat away from the more time sensitive operational decision making and towards the strategic and policy making levels.<sup>816</sup>

On the other hand an alternative approach whereby the centre initiates a series of sequential negotiations that are delegated down and then along the outer rim of the sort of complex community represented on the right hand side of figure 5.1 will be wholly reliant on a clear and shared understanding of what the centre wants to achieve. But will in any event it will be increasingly hostage to the particular agendas of lower levels as the distance from the centre increases and the number of principal-agent style interactions increases. Adam Smith's consideration of pin-making as such a series of technologically distinct but mutually interdependent functions<sup>817</sup> may be regarded as a useful parallel here. As Williamson points out, it is transaction costs "... that militate against such an organisation of tasks". This is partly because explicitly contracting in advance for even the limited functional elements of pin-making involves a degree of complexity, but more importantly that even if drafted such explicit contracts cannot provide even the limited adaptability necessary for such a simple task.<sup>818</sup> The likelihood of opportunistic behaviour by sub-levels with their own understanding of what the maximand is are significantly higher in a problem as complex as counterterrorism.

Institutional cost problems are therefore magnified to a significant degree in an uncertain and complex environment like counter terrorism. This is especially true when time sensitive transactions must occur and any threat of

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<sup>816</sup> See for example Nolan, "Information Sharing and Collaboration in the United States Intelligence Community: An Ethnographic Study of the National Counterterrorism Center."

<sup>817</sup> Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. Jim Manis, Electronic Classics Series (Pennsylvania State University, 1937).11-12

<sup>818</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.50

hold-up risks catastrophic failure. The particular nature of counter terrorism activity inevitably engenders considerably increased cooperative problems, and organisational forms will necessarily have to adapt to deal with them,<sup>819</sup> but the usefulness of these alternatives is a function of the interplay of the different institutional costs with which they must deal.

Small differences in the institutional cost environment within a particular intelligence and security community will thus translate into much larger differences in cooperative outcomes than would otherwise be the case. This has been the relative experience of the respective counter terrorism communities in the United Kingdom's and United States.

The UK's history left it better placed to deal with this shift. It was after all a relatively simple matter to have organisations that were well used to working with each other and to negotiating over which came to the fore to achieve any given objective at any given point, to simply shift their (already) joint sense of what the maximand was from national security to public safety. The property rights of each remained largely unchanged. The Security Service, who had no powers of arrest or even search of their own, were used to having to hand over lead position to Special Branch officers whenever a real possibility of an imminent risk to the public emerged, and Special Branch every bit as used to handing over leads that could more usefully be developed for intelligence purposes than as arrests.<sup>820</sup>

Indeed some operations during the 1990s this 'lead' could be passed back and forth several times as assessments of the situation changed. In 1992 primacy for Irish Republican intelligence on the UK mainland was passed to the Security Service, although RUC-SB retained it in Northern Ireland. The Metropolitan Police's Special Branch (MPSB) and the Police more generally provided and still had decision making authority over the type and scale of deployment of any executive capability. This could realistically mean that if a PIRA active service unit (ASU) travelled to London for example, the intelligence lead on those directing their activities would be with the 'Royal

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<sup>819</sup> As would any other type of organisation in similarly shifting circumstances. See *ibid.* 46

<sup>820</sup> David Blakey, "A Need to Know: H.M.I.C. Thematic Inspection of Special Branch and Ports Policing," (2003).

Ulster Constabulary's Special Branch' (RUC-SB), while the lead on the ASU itself with the Security Service. Meanwhile ongoing surveillance of them, and of any 'quartermaster' or other actors that might be contacted by them, would very likely be within the bailiwick of MPSB, who also provided the local and community level intelligence,<sup>821</sup> but could be managed by the Security Service, or even both simultaneously as an operation grew. Mainland interdiction could threaten RUC-SB sources in the province and vice-versa, and would usually need police assets. At various points in such an operation therefore primacy might pass back and forth between senior bureaucrats in each organisation, but at any such point the formal lead would be cognisant of the possibility of future shifts and other operations, and thus of the need to be mindful of the priorities of their sister organisations throughout. The temporal nature of primacy and these exchanges thus lowered institutional costs as reciprocity increased probity.

Assessments were made at an operational level by actors who knew each other personally, were aware of the needs of the others organisation and could realistically expect an equal consideration of their own drivers. Meetings were regular, and during critical stages of operations the decision makers would be co-located adjacent to the same operations room. All that needed to change was the point at which the acceptable level of threat to public safety was passed; little more than a tactical recalculation given the absence of coded warnings and different objectives of the terrorists, coupled with a formalisation of ad hoc procedures already in existence so that the increase in the numbers of potential plots could be better managed.<sup>822</sup> Clear property rights and the resultant mutual interdependence meant the shift was easier.

That such easy cooperation was based on both clear property rights and established trust over time that facilitated negotiations was made clear during

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<sup>821</sup> Ibid.

<sup>822</sup> For example the development of a 'R.A.G.' (Red-Amber-Green), or traffic lights system so that previously agreed parameters could be used to decide levels of monitoring over a large number and variety of different cases, and the use of the 'Executive Liaison Group' (ELG) to manage decision making during live operations are examples of this trend.



the most turbulent years of the Northern Ireland crisis; when organisational relationships varied dependent on the following factors.

After the establishment of direct rule in 1972 until 1984 the Security Service and Secret Intelligence Service cooperated through the machinery of the 'Irish Joint Section' (IJS) based on their established property rights over the domestic and foreign spheres without any great friction. The relationship between the Security Service and RUC-SB was also largely harmonious, with agent running being divided along much the same lines as it was on the mainland. RUC-SB handled the majority as they originated within the communities they policed, and the Security Service focusing on more politically useful targets, so that the relationship could be described by one insider as "... fairly seamless". Both organisations for example had a shared interest in having the Northern Ireland Office (NIO) and wider government clarify rules on agent handling so could bond over a common cause. The Army on the other hand did not regard themselves as bound by Home Office guidelines in any event. Where property rights overlapped however, and the temporal dimension needed to establish low friction relationships was absent, the situation was very different, so that the relationship between the Army and RUC-SB was more fractious as the former sought to run agents in the same pool as the latter, a situation made worse by their rationale, that the RUC-SB were perceived as biased against the Catholic community. Tellingly, despite the plethora of committees operating at various levels of policy and tactical decision making, as late as 1988 the Prime Minister's Office observed that coordination (of the intelligence agencies in Northern Ireland) was "... not an organisational matter, but a question of trust between those concerned, which can only be gained by working together".<sup>823</sup> Overall however the British had an established low institutional cost means of integrating different elements informally, which only needed to be slightly re-ordered and formalised to meet the new operating environment.

On the other hand the different elements that contributed to the United States intelligence and security effort that could be applied to the terrorist threat had

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<sup>823</sup> The varying levels of cooperative working in Northern Ireland during the period are described in; Sir Desmond De Silva, "*The Report of the Patrick Finucane Review*,"(London2012).59-93

not changed substantially since 1947, and were orchestrated on much the same premise as they had been when counteracting the threat of espionage and subversion during the Cold War. The number of types of policy response involved was limited, and it was not necessarily seen as a priority by many of them who had broader national security responsibilities, so that their utility was best served in other policy areas.

The CIA who were responsible for developing intelligence on terrorist threats overseas were, for example, primarily focused on nation-state to nation-state level threats to the US. The FBI, who had domestic responsibility, were focused on crime fighting, of which there was a lot, and happened to include terrorism, of which there was very little. Each organisation was an asset that was specific to a different problem. In some cases, crucially, high institutional costs were tolerated because they appeared to protect ideas of personal liberty.<sup>824</sup> The classic case of this is the creation, and subsequent development of, the 'wall' between domestic law enforcement and foreign intelligence gathering, where rulings from the 'Foreign Intelligence Surveillance Court' (FISC) on the Foreign Intelligence Surveillance Act of 1978 (FISA), and constant re-interpretations by risk averse bureaucrats in the intervening years lead to the situation described in the 9/11 Commission Report where CIA and FBI elements felt legally barred from sharing information, to tragic effect. The different parts of each organisation were arranged so that individuals were unlikely to see notable returns in terms of additional utility by concentrating on terror, and could suffer sanction if seen to be helping the other agency.<sup>825</sup>

Even when engaging with the terrorism issue the end goals of each were so disparate, with one concerned to prosecute offenders and the other to produce intelligence, that no shared maximand was apparent even when both were nominally part of the same unit.<sup>826</sup> The sort of existing informal

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<sup>824</sup> See for example "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States."271. The issue is further discussed in Chapter 7, but for a good general overview see for example Richard A. Best, "Sharing Law Enforcement and Intelligence Information: The Congressional Role," ed. Congressional Research Service(2007).

<sup>825</sup> Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.101-168

<sup>826</sup> See for example the comments of FBI officers working on the CIA's CTC after the bombing of the U.S.S. Cole in Woodward, "The Hunt for Bin Laden."

nodes for communication, and the social norms that encouraged it in the British system were thus absent in the United States.

Rather than being an exclusively cultural issue however, the contrasting approaches can be seen to reflect the different rationalities exhibited by players during sequential rounds of the 'Iterated Prisoners Dilemma Game': In the UK case the sequential nature of the contracting by the same players encourages the same sort of cooperation the Rapoport and Dale observed in players mid sequence, whereas the less routine nature of interaction across organisations in the US encourages the sort of brinkmanship they found at the end of a cycle of play,<sup>827</sup> suggesting that as well as culture the respective clarity of the actors property rights in the counterterrorism field in each nation are a factor.

The sort of horizontal interaction needed to counter terrorist activity was an historical and cultural anathema in the United States. Information tended to be passed up the chain for assessment, from Agent to Agent in Charge for example, and only if it reached a certain level, and presented very clear external dimensions, would it move across to another agency, as was demonstrated by the respective retention of information on the Malaysian conspirators and the Phoenix memorandum by the CIA and FBI.<sup>828</sup> The number of nodes in such a situation are of course increased vertically before ever making the necessary horizontal leaps, and the institutional costs increase because of the numerical increase in relevant actors, and because of the additional behavioural factors that are introduced. This can exacerbate the potential for structural failings that can in any event occur according to different organisational forms that must edit specific intelligence in or out to

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<sup>827</sup> Anatol Rapoport and Phillip S. Dale, "The "End" and "Start" Effects in Iterated Prisoner's Dilemma," *The Journal of Conflict Resolution (pre-1986)* 10, no. 3 (1966). See also Anatol Rapoport, "Prisoner's Dilemma: Reflections and Recollections," *Simulation & Gaming* 26, no. 4 (1995). for a discussion of the development of cooperation amongst 'selfish' rational actors from the prisoners dilemma perspective. The two volumes (US and UK) of Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. describe these behaviours in the counterterrorism context.

<sup>828</sup> "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States."266-273

reporting as it progresses up a hierarchy, as so clearly described by Bendor and Hammond.<sup>829</sup>

The net result is that the American communities have proven more rigid than their British counterparts, and were thus badly positioned to adapt to the increased terrorism threat. However the increased number of cooperative contracts that need to be managed is only part of the problem that the environmental shift towards a focus on terrorism generates. Where those nodes are actually situated is equally problematic if they are not aligned to the new policy requirements thrown up by the emerging threat. Uncertain intelligence or security environments and the resultant shifting types of task will always mean adapting existing organisational forms to meet them as no form will be perfect in every case.<sup>830</sup> Clarity of property rights is therefore an issue of central importance in deciding success or failure during the collaborative endeavours needed to counter terrorism.

### **c. Property Rights Problems and the Issue of Redundancy in Counterterrorism**

Property rights in the counter terrorism sphere are more problematic than in most areas of governance. Not only are there a large number of aspects to the problem that need to be addressed, as discussed above, but also they do not parallel the traditional departmental divides that have evolved in both the United Kingdom and United States. The flexibility of any complex bureaucracy cannot hope to match the rapid adaptive capability of an organic organisation such as Al Qaeda, who have managed to alter their targeting strategy, their methods of recruitment and radicalisation, and even their command and control methodology in response to western attempts to undermine them.<sup>831</sup> Robert Mueller, the Director of the FBI between 4th September 2001 and 4th September 2013, observed that "Our enemies live

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<sup>829</sup> Jonathan Bendor and Thomas H. Hammond, "Choice Theoretic Approaches to Bureaucratic Structure," in *The Oxford Handbook of American Bureaucracy*, ed. Robert F. Durant (Oxford: Oxford University Press, 2010).

<sup>830</sup> See for example Rupert Smith, *The Utility of Force: The Art of War in the Modern World* (Random House LLC, 2008).p.6 for a reflection on this problem from a military perspective.

<sup>831</sup> See for example Corbin, *The Base : Al-Qaeda and the Changing Face of Global Terror*. For a discussion on the opaque nature of Al Qaeda as an organisation see Burke, *Al-Qaeda : The True Story of Radical Islam*.

in the seams of our jurisdictions. No single agency or nation can find them and fight them alone. If we are to protect our citizens, working together is not just the best option, it is the only option.”<sup>832</sup>

A particular issue is as likely to fall midway along the axis between the two hypothetical functional areas A and B described in the diagram above (Figure 5.1) as within them, and will shift along it over time. Responsibility may thus be shared and will also shift. This fact has non-trivial institutional cost implications. Even within the intelligence sphere alone for example levels of organisation need to be divided according to different requirements. If the most senior working level is separated thematically,<sup>833</sup> between for example issues like terrorism, proliferation and economic intelligence, then as Hammond concluded, the next level down will probably need to be divided according to another, such as geographical location. A third sub-unit is likely to need yet another separation, such as who the customer for that intelligence is, and so forth. No general rule is discernible, only that sub-units will necessarily have to utilise a different approach to that of superior levels.<sup>834</sup> This of course presents property rights problems.

Consider for example a hypothetical human intelligence source reporting from a nation that could subsequently present a terrorist threat. If function A in Figure 5.3<sup>835</sup> is counterterrorism intelligence, then the senior official level (denoted 1), may have strategic responsibilities that are delineated thematically around a particular ideology prevalent in that Country, and wish to task the source accordingly. At the same time an operational level analyst in a division concerned with weapon proliferation might also have responsibilities that include the country in question, and wish to task the source against that requirement. Although theoretically junior the analyst at 2a is not in the same line-management as the senior official in 1. His or her

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<sup>832</sup> Robert S. Mueller, "From 9/11 to 7/7: Global Terrorism Today and the Challenges of Tomorrow," (Chatham House London April 7th 2008).

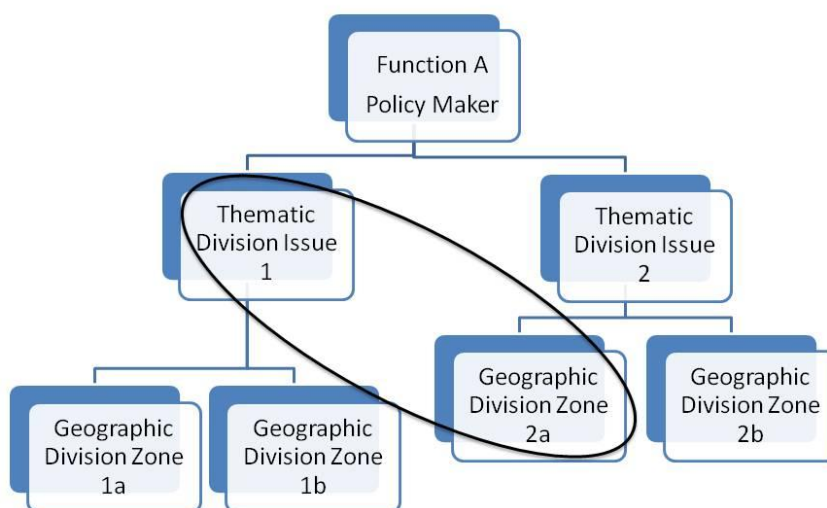
<sup>833</sup> Thematic divisions refer to those between subject areas rather than those based on geographic boundaries.

<sup>834</sup> Thomas H. Hammond, "Why Is the Intelligence Community So Difficult to Redesign? Smart Practices, Conflicting Goals, and the Creation of Purpose-Based Organizations," *Governance* 20, no. 3 (2007).416

<sup>835</sup> Source of diagram: Own design

interest will then be vested in pleasing the senior official at 2. Given that any targeting of such a source presents a risk to it, then both sides will be incentivised to limit the source's exposure to their own area of interest.

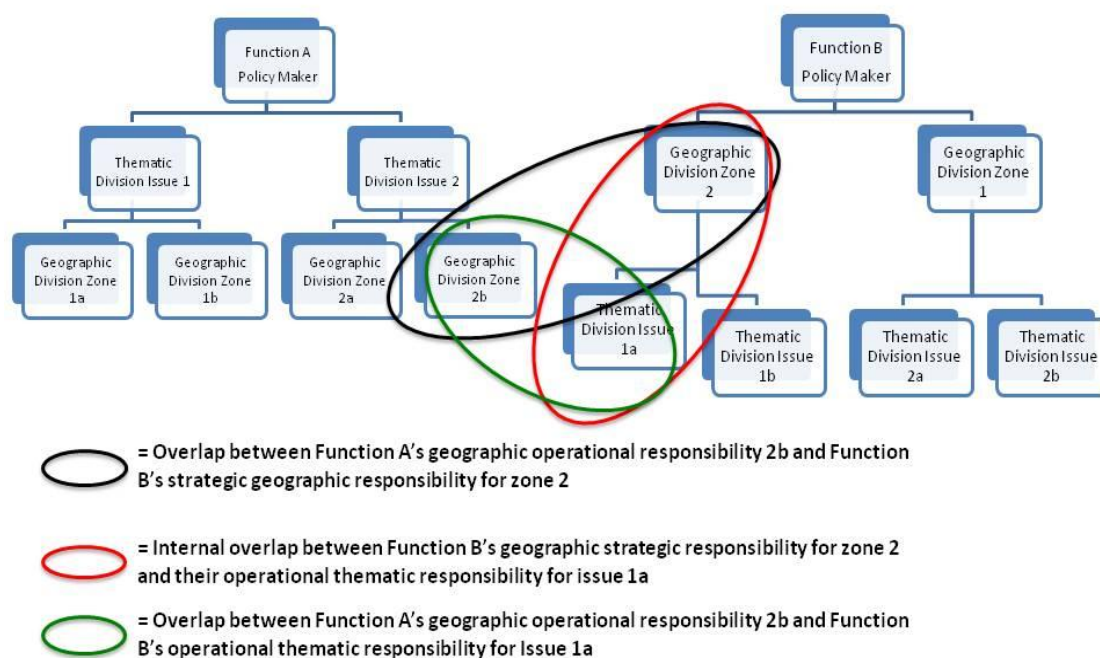
Figure 5.3: Multi Level Organisational Overlap



If the strategic and operational level property rights are well defined (or a clear requirements and priorities regime can provide the same), and if negotiations between the two thematic divisions take place in an atmosphere of shared knowledge and trust, then the two elements could be mutually complimentary. If the source is well placed it may even be encouraged to generate its own sub-level sources that can address the extant issues. However if it is less clear who responsible for what, or indeed what the key problems are, or if incentives are skewed to promote sub-goal pursuits by actors, then opportunistic behaviour may occur, with one side using asymmetric information holdings about the source to obscure their capability in the others area for example.

Nonetheless negotiating will likely be towards a shared sense of the same maximand when those involved are engaged in the same functional area. One of the particular problems of the counter terrorism sphere is however that actors from a variety of functional areas need to be engaged in any holistic response, some of whom are not traditional players in security issues.

Figure 5.4: Multi Level Organisational Overlap in Dual Function Community



If one then extends the example above by a single functional area, as depicted in Figure 5.4<sup>836</sup> then even a simple case demonstrates how the potential for overlapping property rights and negotiating complexity increase exponentially. This happens at the same time as the likelihood of the participants feeling any sense of shared end-goal decreases, because of loyalties and incentives being orientated towards their own functional area and the responsibilities that go with it. There is a dichotomy between the need for hierarchical control to avoid 'dilatatory and time consuming' negotiations in time sensitive areas and the necessity for coordinating devices that can link the disparate elements into a cohesive program.

Coordination however, far more than a hierarchy, needs a 'dominant idea' as "... the foundation of action and self-coordination in the daily operation of all the parts of the enterprise".<sup>837</sup> Combating terrorism therefore needs both a shared maximand, and the means through which it can be inculcated into the

<sup>836</sup> Source of diagram: Own design

<sup>837</sup> Gulick, "Notes on a Theory of Organization." 37

more specific goals and ambitions of sub-units if the full capacity of a government is to be utilised. Counter terrorism is thus a field where the existence of interdepartmental committees are essential to manage these sorts of coordination issues, for which hierarchical structures are ill-suited. They are better able to manage 'abnormal' situations and 'matters of policy';<sup>838</sup> both of which are repeated features within the terrorism sphere.

It is for this reason that the UK's long history of an approach that combined a committee system at the senior level supporting more hierarchal arrangements at the operational level, where matters impacting at a tactical level could be dealt with in a timely manner, has so often proved more successful in collaborative working against terrorism than the US community (despite numerous edicts from authoritative figures in the latter case). It is also why the US military was suddenly able to demonstrate the same sort of cooperative efficiency once General Soyster reenergised the Military Intelligence Board as a cross cutting committee within it, as discussed in Part 3 of this thesis.

There is however another aspect to this issue. Any counter terrorism activity is likely to be very serious in nature, so that failure as a result of system malfunction is unlikely to be acceptable to any degree. In a complex and operationally integrated system there is a risk of minor errors becoming "... amplified along the chain", particularly if the environment is uncertain.<sup>839</sup> Contrary to conventional public sector pressures to avoid any duplication of effort (and thus any duplication of costs) there is therefore a strong case to be made for accepting the institutional costs involved so that there is adequate redundancy in the system to avoid surprise attacks. Tom Fingar, who was chosen<sup>840</sup> by DNI Negraponte to lead the development of a

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<sup>838</sup> Hammond, "Why Is the Intelligence Community So Difficult to Redesign? Smart Practices, Conflicting Goals, and the Creation of Purpose-Based Organizations."408 quoting Gulick, "Papers on the Science of Administration (1937)."

<sup>839</sup> Martin Landau, "Redundancy, Rationality, and the Problem of Duplication and Overlap," *Public Administration Review* 29, no. 4 (1969).350

<sup>840</sup> Fingar was himself was a low institutional cost candidate, acceptable to the community at large as an insider with whom they could deal, and without political baggage having served in Republican and Democratic administrations at the State Department. See Thomas Fingar, "Thomas Fingar Cv: Oksenberg-Rohlen Distinguished Fellow. Stanford University," Stanford University, [http://fsi.stanford.edu/sites/default/files/staff/3922/Thomas\\_Fingar-CV.pdf](http://fsi.stanford.edu/sites/default/files/staff/3922/Thomas_Fingar-CV.pdf).



genuinely integrated information environment in the US intelligence community as a Deputy Director (Intelligence Analysis) in the newly formed Office of the Director of National Intelligence (ODNI) came to the same conclusion, and determined to leave some degree of overlap in critical areas to provoke more rounded assessments than any single agency might produce, and as part of the systems of checks and balances.<sup>841</sup>

As we have seen, Richard Betts acknowledges these trade-offs. He argues that redundancy prevents too simple a consensus taking root, then goes further and links these trade-offs with those for and against multiple advocacy at the executive level, echoing Luther Gulick's concerns about spans of control being limited by executive time and energy<sup>842</sup> on the analytic front. Betts argues that this will lead to bounded rationality in the decision maker, however well intentioned he or she might be. In the end he does not reach a conclusion, reinforcing the idea that no organisational form will be perfect in every circumstance. He does however warn that in a community of finite resources there is a tension between a system with redundancy built into it, and one with adequate breadth to warn of emerging threats in non-priority areas.<sup>843</sup> This tension is essentially an issue of the asset specificity of the organisational form selected, and it has a special resonance in the terrorism field. Property rights are allocated along existing departmental and functional responsibilities, but the terrorism problem crosses them in constantly shifting ways. As a result new negotiations, that may be subject to opportunistic behaviour and high institutional costs for all of the reasons described elsewhere in this chapter, are regularly required.

#### **d. Asset Specificity in Counterterrorism Organisation:**

In addition to the tension observed by Betts in the allocation of scarce resources against a plethora of potential threats, there is also a similarly difficult structural choice to be made. Any degree of specialisation has the effect of making the more specialised asset increasingly specific to the

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<sup>841</sup> "Office of the Director of National Intelligence: Promising Start Despite Ambiguity, Ambivalence, and Animosity," in *The National Security Enterprise: Navigating the Labyrinth*, ed. Roger Z George and Harvey Rishikof (Washington D.C.: Georgetown University Press, 2011).149

<sup>842</sup> Gulick, "Papers on the Science of Administration (1937)."12

<sup>843</sup> Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*.39-40

problem with which it is designed to deal. However terrorism is a broad and adaptive phenomenon, particularly in the modern era. In the biological world too great a degree of specialisation is prevented through equipotentiality; the tendency of neural networks to avoid becoming too specialised so that they can take over each other's functions in the event of damage to the system, albeit less efficiently. A comparable amount of caution in public sector endeavours has been recommended by Landau.<sup>844</sup> Put into institutional cost terms, too great a degree of asset specificity in an agency means that it will be less able to adapt smoothly to environmental shifts.

Certainly in counterterrorism activity a balance must be struck: The military for example took over an increasing number of protective security functions from the police in Northern Ireland as the level of violence intensified. There were problems certainly,<sup>845</sup> but the system as a whole coped where it might not have done had the military been inflexible and capable only of using the levels of lethal force necessary in war.<sup>846</sup> Conversely, as we saw in chapter 3, too precise a remit for the USAF during the Cuban missile crisis limited the policy responses open to the President.<sup>847</sup> The point of balance will however continually shift in the uncertain counterterrorism environment. Integration reliant on adaptive collegial systems with established patterns of trust are therefore more likely to succeed in cooperating over a period of time than a more rigid hierarchal one. Property rights clarity too can be more reliably inured against environmental shifts if they are based on internal responsibilities that can be re-targeted by the same organisation as circumstances dictate, as is the case with the British 'Agencies', rather than being delineated by the target, which may shift at any time.

Shifting that point of balance is however no easy task, as other institutional costs conspire to hold to a status quo. Zegart has convincingly described a dual faceted problem where organisational form is victim to not only to the machinations of current actors (discussed elsewhere throughout this thesis),

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<sup>844</sup> Landau, "Redundancy, Rationality, and the Problem of Duplication and Overlap."351

<sup>845</sup> See for example Mark L. Urban, *Big Boys' Rules : The Secret Struggle against the I.R.A.*(London: Faber, 1992).

<sup>846</sup> See for example *ibid.* and Tim Collins, *Rules of Engagement : A Life in Conflict*(London: Headline, 2005).45-90

<sup>847</sup> Allison, *Essence of Decision : Explaining the Cuban Missile Crisis*.205

but also of those involved in the initial shaping of that form. Zegart thus argues that the agencies are, at least in part, path dependent.<sup>848</sup> To use her notable simile, agency birthmarks endure so that “Initial agency design makes possible certain paths and rules out others”.<sup>849</sup>

The inter-play of rational self-interested Congressional and bureaucrat actors, at one point in time, thus dictates agency organisation and capability far beyond that point. Whatever the motivations of those involved they were designing a system to deal with a threat landscape very different to the one now faced, their appreciation of potential changes inevitably bounded by their own experiences and cognitive limitations; it is not reasonable to expect the seismic shifts in environment to have been foreseeable over so many decades. More immediately apparent would have been the threat to their work in the near future by other actors invested in alternative solutions. As Zegart continues: “...today’s winners may be tomorrows losers...” those ‘birthmarks’ are designed to ensure that the agencies are beyond future political control by enveloping them in “...counterproductive detailed rules, regulations, and requirements”.<sup>850</sup> The relative lack of importance of terrorism as a policy problem then therefore informs the ability of intelligence and security communities to deal with it now. They are asset specific to a different world.

Zegart was of course describing (a lack of) developments in the United States, but Michael Herman has described a British community that adapts in an evolutionary rather than revolutionary style,<sup>851</sup> despite his acknowledgement of the importance of environmental changes such as the information revolution to counterterrorism practises, and the 'Revolution in

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<sup>848</sup> For an examination of the importance of path dependency in the political environment see Paul Pierson, "Increasing Returns, Path Dependence, and the Study of Politics," *The American Political Science Review* 94, no. 2 (2000). For a more economics based consideration of the phenomenon see Paul A. David, "Path Dependence: A Foundational Concept for Historical Social Science," *Cliometrica* 1, no. 2 (2007).

<sup>849</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* 7

<sup>850</sup> *Ibid.* 18

<sup>851</sup> See for example Herman, *Intelligence Power in Peace and War*.

Military Affairs' (RMA) that it also initiated.<sup>852</sup> Sir Michael Quinlan, examining the community in 1993, also observed that if the UK community was starting from scratch it would create different sorts of agencies",<sup>853</sup> suggesting at least a degree of the same 'stickiness'. The different experiences of the two may thus be rooted in their different approaches to power more generally; the UK favouring a Cabinet based consensual system of government over the USA's belief in greater personal power and responsibility initiating a system headed by a committee, the Joint Intelligence Committee (JIC), rather than an individual, which came to be responsible for both national level assessments and community management "... almost by accident".<sup>854</sup>

Ironically the US preference for individual authority is tempered by a political system based on a constitution framed in 1787 more to extol liberal ideals designed to limit power than to promote either efficiency or even democracy.<sup>855</sup> Concepts like the separation of powers and limited tenures percolate down to agency structure and capability in parallel to the rigidity that hierarchical systems imbue. The British system was therefore historically organised to be less asset specific, to be able to adapt to the developing terrorism threat and to the evolving risks from it, and to leverage a 'whole of government' response to its many levels. Institutional costs between the different elements negotiating between themselves to see how each adaption could be managed were thus lower.

#### **e. Counterterrorism and Globalisation**

Globalisation was initially perceived as an overall 'good' from a security perspective, in anticipation of a world where an increasing number of liberal democracies would compete on an economic basis and become ever further

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<sup>852</sup> See "Counter-Terrorism, Information Technology and Intelligence Change." and "Where Hath Our Intelligence Been? The Revolution in Military Affairs," *The RUSI Journal* 143, no. 6 (1998). respectively.

<sup>853</sup> Aldrich, "Beyond the Vigilant State: Globalisation and Intelligence." 893

<sup>854</sup> Herman, *Intelligence Services in the Information Age : Theory and Practice*. 133

<sup>855</sup> See for example Richard Maidment 'Democratization: Democracy in the USA since 1945'. 121. Edited by Potter, Goldblatt, Kiloh and Lewis. Polity Press. 1997. For a discussion on the bureaucratic implications see Terry M Moe, "The Politics of Bureaucratic Structure," *Can the Government Govern* 267(1989).

entwined and mutually reliant through trade.<sup>856</sup> The evolution of terrorism in particular has always provided an alternative narrative, whether through links between predominantly nationalist groups like the Provisional Irish Republican Army (PIRA) and rogue states such as Libya even as they engaged with the Irish Diaspora in the US,<sup>857</sup> or the links between ideologically driven left wing terrorists and the Soviet Union during the Cold War.<sup>858</sup> The increase in both uncertainty and complexity that globalisation has produced over the last decade or so, as the threat from abroad and that at home have merged still further, has been described by the Chair of the Intelligence and Security Committee, Sir Malcolm Rifkind. He has argued that a greater degree of intrusion into private spaces might be required to counter it.<sup>859</sup> This in turn requires the negotiation of a new mandate and new forms of oversight to match. What is clear is that domestic public safety in both the US and UK is now inseparable from their security posture and intelligence capabilities overseas.<sup>860</sup>

Richard Aldrich has argued that the problems of a more globalised world have fundamentally changed the very purposes of the intelligence organisations in both the UK and US. He describes how the twin drivers of counter terrorism and support to military operations have meant that rather than simply being involved in information acquisition or analysis they have become increasingly engaged in the use of that information for 'fixing, enforcing and disrupting' activities.<sup>861</sup> This has ramifications for both internal and external organisation, and as a result the institutional cost environment within and between them: Internally different capabilities and different types of management are required of course. But still more significant are the

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<sup>856</sup> Richard J. Aldrich, "'A Profoundly Disruptive Force': The Cia, Historiography and the Perils of Globalization," *Intelligence and National Security* 26, no. 2-3 (2011).148

<sup>857</sup> See for example Mark Devenport, "The 38-Year Connection between Irish Republicans and Gaddafi," *BBC News Northern Ireland*(23rd February 2011), <http://www.bbc.co.uk/news/uk-northern-ireland-12539372>.

<sup>858</sup> See for example Richard H. Shultz, *The Soviet Union and Revolutionary Warfare : Principles, Practices, and Regional Comparisons*, Hoover Press Publication (Stanford, Calif.: Hoover Institution Press, Stanford University, 1988).

<sup>859</sup> Sir Malcolm Rifkind MP, "Intelligence Agencies in the Internet Age - Public Servants or Public Threat?."

<sup>860</sup> "Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review." Obama, "National Security Strategy of the United States (2010)."

<sup>861</sup> Aldrich, "Beyond the Vigilant State: Globalisation and Intelligence."891, 894

external shifts required. Not only will new points of intersection be required horizontally with other agencies, departments and foreign partners, all of which will need to be coordinated and some of which will provoke new oversight issues;<sup>862</sup> but also in becoming their own customers for information the relationship with central governmental machinery, especially through the requirements and priorities process, is fundamentally altered.

The relationships between the security elements involved are also altered. These are now more routinely proximate to not only their own intelligence apparatus, but also to those within the intelligence community itself. Property rights around both the intelligence and security aspects must therefore be realigned and agreed as both sides have capacity in both areas, and chains of command must be re-examined. Consider for example the different authorisations needed for a drone strike by the USA. If it is to be performed by the CIA then they are authorised by the Executive under Title 50, and Congress must be informed of their use through the Senate Select Committee on Intelligence (SSCI), but US involvement is not admitted. If however the strike is by the military then it can be authorised internally within the DoD and need only be reported to Congress (the Armed Services Committees not the SSCI) if the strike is defined as counterterrorism - and that is only since March 2012.<sup>863</sup> As both avenues might be open to the same decision maker, who might then use the level and type of supervision he or she wished to engage with as a deciding factor.

Clearly the environmental shifts have left maladapted processes that were designed for different functional entities in place. Organisational adaption is therefore required to deal with this sort of problem. Yet rather than managers adapting organisational forms to deal with these new issues, Aldrich suggests they 'side-stepped' the difficulties and acted opportunistically in

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<sup>862</sup> Aldrich cites the issue of rendition as an example of the shift from information extraction to a special action program intended to degrade Al Qaeda. Ibid.897

<sup>863</sup> Micah Zenko and Douglas Dillon-Fellow, "Transferring Cia Drone Strikes to the Pentagon " *Policy Innovation Memorandum* April 2013.

letting the 'urgent' imperatives of pursuing tactical threats drown out the 'important' but far more complex requirement for reorganisation.<sup>864</sup>

At the same time globalisation has added to the profusion of points of contact between different groups or organisations with which counterterrorism must deal. The impact of the additional points of contact needed to address the different policy aspects of terrorism were outlined above, and globalisation adds another dimension to this problem. Not only did it increase exponentially the number of transactions that had to go through the 'contact', 'contract' and 'control' process, it also increased the range of different and potentially difficult negotiations that might be required. Within a nation's intelligence and security community it can act as a catalyst for improved cooperative working as 'home' and 'foreign' responsibilities merge.<sup>865</sup>

But globalisation also necessitates more external negotiations, outside the nation state.<sup>866</sup> These can then have repercussions for it in its wider external relations and for its domestic policy environment, but a government or agency may have only a finite control over their direction and outcome. Issues like the treatment of captives during interrogation by nations with different values, and the use or non-use of that information provoke negotiations with liaison partners and with a range of internal actors with a variety of perspectives that can be hard to align.

The difficult balancing act that this requires from those at the point of intersection has been outlined by the Secret Intelligence Service Chief Sir John Sawers, in answer to questions put by the Intelligence and Security Committee in 2013. He drew attention to the importance of countries with very different legal and cultural frameworks to current intelligence priorities, the legal framework in which SIS operate, whilst at the same time

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<sup>864</sup> Aldrich, "Beyond the Vigilant State: Globalisation and Intelligence." 894

<sup>865</sup> See for example *Unorrected Transcript of Evidence Given by Sir Iain Lobban Director Government Communications Headquarters, Mr Andrew Parker Director General Security Service, Sir John Sawers Secret Intelligence Service.*

<sup>866</sup> See for example Stéphane Lefebvre, "The Difficulties and Dilemmas of International Intelligence Cooperation," *International Journal of Intelligence and Counterintelligence* 16, no. 4 (2003). Jennifer E. Sims, "Foreign Intelligence Liaison: Devils, Deals, and Details," *International Journal of Intelligence and Counterintelligence* 19, no. 2 (2006); Lander, "International Intelligence Cooperation: An inside Perspective."

establishing that "... there are sometimes fine balances to be drawn".<sup>867</sup> As if to demonstrate the point, in the US case the complex new dynamic between the overseas and domestic environments has resulted in an attempt to create a new space between them at the Guantanamo Camp in Cuba that avoids the difficult legal and moral questions the shift threw-up in its wake, but the on-going legal negotiations and political and reputational debates this has initiated have only brought the problem into sharper relief, and made tangentially linked agreements more fraught.<sup>868</sup> A US attempt to address the problem through a provision of the Foreign Services Act that makes Ambassadors and Heads of Mission responsible has been only partly successful due to their asymmetric holdings of information when compared to the intelligence Head of Station.<sup>869</sup>

Globalisation thus has significant institutional cost implications at a structural level that can be captured within the environmental variables of the institutional costs impact framework. These in turn can impact on the behaviours required from and provoked in different actors as they find themselves in new situations and the next section will consider the relevance of these in the terrorism context.

### **Section 3: Behavioural Issues and Counterterrorism Provision**

The last section described how shifts in the extent and pattern of global and organisational interconnectivity have undermined earlier clean departmental divisions between types of work, and in particular around the intelligence and security spheres. Governance in the UK is no different to that of the US in this respect. Nonetheless matters that are entwined in terms of both cause and effect still have to be divided amongst particular departments to be manageable because of the bounded rationality of the officials involved. The divisions are however often false.<sup>870</sup>

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<sup>867</sup> *Unorrected Transcript of Evidence Given by Sir Iain Lobban Director Government Communications Headquarters, Mr Andrew Parker Director General Security Service, Sir John Sawers Secret Intelligence Service.*5

<sup>868</sup> See inter alia Amy Kaplan, "Where Is Guantánamo?," *American Quarterly* 57, no. 3 (2005).

<sup>869</sup> Sims, "Foreign Intelligence Liaison: Devils, Deals, and Details."207-208

<sup>870</sup> Liam Fox, *Rising Tides : Dealing with the New Global Reality*(London: Heron Books, 2013).23



Nowhere is this more true than in the counter terrorism context. Terrorism, as Paul Pillar noted "... is an epiphenomenon of broader political and social developments" and must be addressed as such.<sup>871</sup> Not only does this mean that forecasting it requires a deep contextual knowledge of these areas that cannot be served by the short range policy support that emerged in the US in the wake of 9/11,<sup>872</sup> but also that combating it is not solely a policing or security function, but a far a wider undertaking that needs to address it at these levels too. It must therefore cross normally discrete political departments and operational entities, different arms of governance that are not usually linked to the intelligence and security domains, and include wider policy questions about housing, education and cultural identity. Institutional frictions between diverse groups of actors with a number of different organisational ethos's will necessarily be involved.

Some, like those in the secret world, will necessarily develop very close internal ties to deal with the unique pressures of their work that will foment tensions with those outside.<sup>873</sup> Others will be employed in more conventional parts of the wider civil service such as in a department responsible for education, or even in the public sector, and more closely represent the public at large.<sup>874</sup> Some of the tactics and objectives of the former group may even be anathema to actors in the latter. In countering terrorism, and particularly terrorism that spans the domestic and international environments, in an holistic way they will nonetheless all have a part to play and will need to work cooperatively to some degree.

At the same time each part of a security and intelligence community must attend to its own responsibilities. The problems of sub-goal pursuit that this results in are not only linked to the specified purpose of any given organisation, they are an integral part of its DNA. From the outset recruiters will look for particular character traits in those they hire and train, and thereafter the character of the organisation will be ingrained into them. This

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<sup>871</sup> Paul R Pillar, *Terrorism and U.S. Foreign Policy*(Brookings Institution Press, 2001).231

<sup>872</sup> Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*.156

<sup>873</sup> Omand, "Creating Intelligence Communities."100

<sup>874</sup> Jack Spence, "A Decade of Change?," Royal United Services Institute, <https://www.rusi.org/go.php?structureID=commentary&ref=C4E60FE6E743B7#.U-8TSE10yUk>.

promulgates a vicious or virtuous circle, depending on the environmental conditions in which those actors must then operate. Authors such as Zegart and Posner have described in some detail the deleterious effects of any mismatch between the cultural identity of an organisation and that required for an emerging role in the counterterrorism sphere, as well as the difficulties of altering such an identity even when a great deal of effort is applied.<sup>875</sup> All that needs to be added here is that the cultural and social norms of an organisation represent one of the preeminent examples of asset specificity and is one of the least adaptive but most important elements of any community member. As Omand has observed, to ignore these cultural holdings is to invite failure in any change program.<sup>876</sup>

Even within the more limited intelligence and security communities different characteristics are in any event required because of the unique difficulties that terrorism throws up. Michael Herman has described the different behaviours required to deal with both longer term requirements through forward looking analysis and well considered future-orientated source recruitment on the one hand, and timely reaction to events on the other, the need for the patient disposition required for counterintelligence and detective work as well as the intense 'quick response' approach needed for military or law-enforcement action.<sup>877</sup> There is therefore a temporal nature to the problem of sub-goal pursuit, with different parts of any intelligence and security community likely to prefer an outcome divided by type (for instance a disruption as against arrests to foil a terrorist plot) but also by time, with some taking a much longer term view than others. The problem thus goes beyond the merely practical one of the urgent drowning out the important, which can be solved by the judicious balancing of resource allocation.<sup>878</sup> Different parts of an intelligence and security community, even at a quite senior level, will

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<sup>875</sup> See variously Zegart, *Spying Blind: The C.I.A., the F.B.I., and the Origins of 9/11*. and more recently *Eyes on Spies: Congress and the United States Intelligence Community*. and Posner, *Remaking Domestic Intelligence. Uncertain Shield: The U.S. Intelligence System in the Throes of Reform. Countering Terrorism: Blurred Focus, Halting Steps*.

<sup>876</sup> See Omand, "Creating Intelligence Communities." 111 quoting Daniel P Gosselin and Howard G Coombs, "The Storm over Unification of the Armed Forces: A Crisis of Canadian Civil-Military Relations," *The insubordinate and the noncompliant: Case studies of Canadian mutiny and disobedience* (1920).

<sup>877</sup> Herman, "Counter-Terrorism, Information Technology and Intelligence Change." 42-43

<sup>878</sup> Omand, "Creating Intelligence Communities." 109

realise different utility returns from solutions timed for the near or more distant futures. These preferences will be deeply ingrained into their organisational and personal psyche so that negotiations between different preferences may be heartfelt and difficult.

At the operational level the constant mutating of terrorism itself can provoke similar problems. Herman for example argues that counterterrorism action is distinct to counterterrorism intelligence, however closely they are aligned operationally, and needs to remain so because of the distinct cultures each requires.<sup>879</sup> Yet Omand has described a post 9/11 World where intelligence 'gatherers' have had to become 'hunters',<sup>880</sup> a shift replicated in many intelligence organisations around the world.<sup>881</sup> Conversely within the law enforcement community the role of intelligence in directing operational decision-making has increased significantly.<sup>882</sup> As well as the necessity for external integration of disparate organisations and intentions, terrorism thus provokes a need for internal cultural shifts that encourage collaborative working with new actors with different skill-sets. Given the 'structural secrecy' advantages that specialisations bestow the potential for actors to act opportunistically if they disapprove of such shifts are large, and behavioural factors may well determine how successful new collaborative arrangements are.

How disposed actors are to use this power may however turn on other factors that can be every bit as intangible as the behaviour itself, but are significant in an uncertain and complex sphere like counterterrorism. These can be captured within the institutional costs impact framework: Firstly senior actors will need to generate a genuinely shared maximand that is applicable across all the relevant organisations and at all levels of them and develop what Sir David Omand describes as a 'convincing narrative' of its merits and

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<sup>879</sup> Herman, "Counter-Terrorism, Information Technology and Intelligence Change."43,50

<sup>880</sup> David Omand, "How the Uk Managed Counter-Terrorism after 9/11," *9/11 Retrospectives*(2nd September 2011),

<https://www.rusi.org/go.php?structureID=commentary&ref=C4E60F78A0E3A4#.U-8gzU10yUk>.

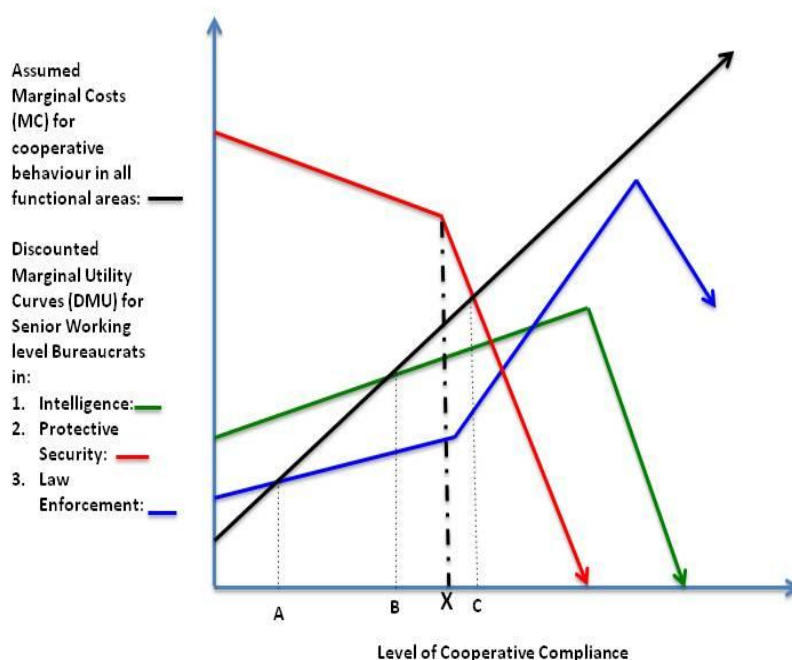
<sup>881</sup> Martin Rudner, "Hunters and Gatherers: The Intelligence Coalition against Islamic Terrorism," *International Journal of Intelligence and CounterIntelligence* 17, no. 2 (2004).

<sup>882</sup> Clarke, *Learning from Experience : Counter-Terrorism in the Uk since 9/11*.

of the need to adapt to achieve it.<sup>883</sup> Secondly the 'atmosphere' within an organisation must be robust enough for it, and the individual actors within it, to be confident enough to take on new tasks. In this respect an organisations established ethos is as likely to be a disadvantage as an advantage in informing behaviours.<sup>884</sup>

Whilst the specific institutional cost issues that occur at the intra and inter-organisational level are beyond the scope of this chapter, it is worth noting that the fact that sub-organisations will, by definition, have sub-level goals has implications for vertical coordination. Whether the approach is authoritative or collegial if a 'principal' is to achieve cooperation amongst the range of 'agents' in an intelligence and security community despite their information disadvantage then these disparate goals must be as closely aligned as possible without losing property rights clarity over actual roles.

Figure 5.5: Counter Terrorism Marginal Utilities for Discrete Functional Areas



<sup>883</sup> Omand, "Creating Intelligence Communities." 100

<sup>884</sup> Ibid. 113

Consider the relatively simple counterterrorism situation represented in Figure 5.5,<sup>885</sup> where it is assumed for the sake of clarity that the marginal costs of each of the three functional areas described are the same (although this will rarely be the case). The line X represents a hypothetical point at which a successful attack becomes inevitable, which is included as it has different implications for the benefits each function are receiving from cooperating.

In this hypothetical case the benefits law enforcement receive start low as the intelligence function is likely to be the lead agency. Credit for an early intervention, when a plot is in its infancy and any charges likely to be less substantial, is limited and more likely to go to the intelligence organisation. However once the attack occurs and becomes a 'crime'<sup>886</sup> the utility they receive from cooperation rises sharply as they become the lead organisation and receive much of the kudos for solving it. They nonetheless need intelligence from the intelligence bodies to assist them. The utility an intelligence organisation gains from cooperation might also start low because of both competition and other responsibilities other than terrorism that mean an opportunity cost limits their relative utility, but rise smoothly throughout because of the current political and media interest in counterterrorism, until some point where it drop sharply due as no further benefits are realised.<sup>887</sup> Protective security on the other hand begin by receiving a large amount of utility from cooperation as intelligence can allow them to function more efficiently and law enforcement help can provide 'free' assistance. However this will fall rapidly once an attack occurs as the relevance of this function diminishes.

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<sup>885</sup> Source of diagram: Own design developed from Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.199

<sup>886</sup> This representation ignores recent shifts in legislation that have encouraged earlier intervention in the interests of public safety so that 'conspiracy' and 'preparation' of acts of terror are substantial offences at an earlier stage or through quasi judicial means such as control orders.. Such shifts will however have their own impact on the various cost and utility curves of actors involved. See for example "Prevention of Terrorism Act 2005 Chapter 2," ed. Houses of Parliament(London: The Stationery Office. the Queens Printer of Acts of Parliament., 2005).

<sup>887</sup> Although not dealt with here, intelligence 'costs' might vary sharply at some point to if, for example, they risk losing an asset through a Court case or similar.

The result however is that the point of equilibrium; the maximum degree to which each will be incentivised to cooperate, is different in each case. This in turn will limit the potential size of any shared maximand. Furthermore it will vary with the particular circumstances of any given case so that sequential negotiations between them will be necessary and have distinct features on each occasion. The tone of those negotiations is thus non-trivial, but more importantly to this argument the ability for any poorly sighted higher organisation or role-holder to harness the joint capabilities of all their sub-level functional entities is potentially quite limited. The nature of their organisational and even personal relationships with lower echelons will therefore be of importance.

There is accordingly a tension between the sorts of principal-agent problems an ingrained functionally related cultural identity has thrown up in parts of the US system, and the flexibility the same sort of professional ethos has permitted in the UK. How, for example, does one account for the different experiences of the FBI, who have excelled in some investigative areas of counterterrorism but whose compliance with other cooperative mandates has been perfunctory at best? This can be compared to the very different experience of the British Security Service, who have adapted to cooperative working almost painlessly, formalising new processes with existing partner agencies and supporting the creation of wholly new bodies like the Joint Terrorism Analysis Centre (JTAC) and Centre for the Protection of National Infrastructure (CPNI), despite a resultant loss of 'turf', without any great contention?

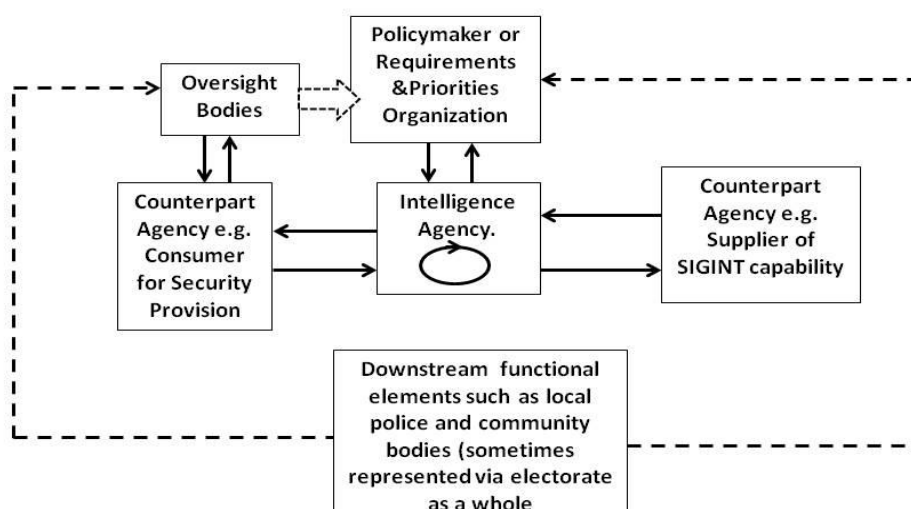
The external threat each was required to address was similar, but the internal change narrative much less convincing in the former, but this is not a problem of national characteristics. Consider for example the sort of gaming behaviour and lack of support that lead to the 2008 resignation of the reforming Sir Ian Blair as Commissioner of the Metropolitan Police following (inter alia) the De Menezes shooting in 2005.<sup>888</sup> In that case the absence of

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<sup>888</sup> See for example Andy Hayman and Margaret Gilmore, *The Terrorist Hunters* (London: Bantam, 2009), p.113-114, 190-196 and James Sturcke, Penny Percival, and Helene Mulholland, "Sir Ian Blair Resigns as Met Police Commissioner," *The Guardian* 2nd October 2008.

any shared maximand and poor working relationships (or 'atmosphere' in Williamson's transaction cost language<sup>889</sup>) encouraged some lower tiers to use information advantages to undermine Commissioner Blair. Expertise garnered in previous years needs to be utilised, but often in new ways so there are behavioural as well as organisational advantages to maintaining specialisation, but there are also imperatives for more integrated working. A difficult balance must be struck and Blair's running difficulties with his Specialist Operations leadership is indicative of how difficult that balance is to achieve.<sup>890</sup> Different functional responsibilities will need to be kept distinct at one level but to be meshed together at another.<sup>891</sup>

**Figure 5.6: The Probity Considerations Of The Intelligence Function for the Counter Terrorism Function**



Nonetheless the UK's different experience in managing this balance is founded on the fact that the organisational architecture encouraged probity between, as well as within, organisations. In the US however the emphasis

<sup>889</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.37-39

<sup>890</sup> Amongst other changes, Blair oversaw the formation of the new Counter Terrorism Command formed from the Special Branch (SO12) and Anti-Terrorist Branch (SO13) to form a more investigative and less intelligence focused entity that has taken a significant amount of time to establish itself. The frictions between elements of SO leadership are outlined in Hayman and Gilmore, *The Terrorist Hunters*.

<sup>891</sup> Omand, "Creating Intelligence Communities."111,114

has historically been on probity along the chain of command. The probity considerations that apply to counterterrorism integration are particularly complex, and intimately related to the property rights clarity of each functional area, and the probity considerations described in chapter 2 need to be extended as depicted in Figure 5.6<sup>892</sup> to include a much wider array of actors that now include those downstream (and outside) of the national intelligence function.

As has been noted above, there are two parts to managing a complex task like counterterrorism; one is in organising the division of labour, but the other, which is no less important, is in re-integrating the results. This need not be any kind of mirror image of the division of labour, and may usefully be in a significantly different form, but how these two are interrelated can impact on the probity of the actors involved, and thus affect their cooperative behaviour. As Professor R.V. Jones noted back in 1989, the organisation of the Agencies in the United Kingdom is by their type of input but their output is by subject.<sup>893</sup> At the same time analysis is done, for the most part,<sup>894</sup> outside the collection agencies, so that a more 'pull' architecture pertains, and routine engagement with multiple departmental consumers must occur, not only at the higher policy making level but also with lower tiers of analysts and advisers.<sup>895</sup> They have therefore been inherently more integrated than their US equivalents, whatever the policy problem, and have established trusting relationships like those illustrated in figure 5.6, that are both vertical and horizontal, and which already boast a temporal dimension. The required behavioural shift needed to address the terrorism problem is therefore less.

In the United States the more hierarchical structural form means that the fact that direction comes down through regimented tiers of line-management within organisations designed to address a particular policy problem in total,

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<sup>892</sup> Source of diagram: Own design developed from Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives." 323

<sup>893</sup> See Reginald Victor Jones, *Reflections on Intelligence* (Heinemann London, 1989). 156 quoted by Omand, "Creating Intelligence Communities." 110

<sup>894</sup> The Security Service and a proportion of military intelligence are exceptions to this. The former has however always been necessarily integrated into its consumers because of its lack of executive capability. The latter has struggled with balancing national and internal priorities as Part 3 discusses.

<sup>895</sup> Davies, *M.I.6 and the Machinery of Spying*. 14-18. See also Sharfman, "Intelligence Analysis in an Age of Electronic Dissemination."



making it more usual for output to simply reverse that process, with direction and then results passing up and down the same chain. The CIA for example was designed to address the clandestine national security issues of the Cold War, from collection, through analysis to covert action without reference to others below the highest policy making level.<sup>896</sup> This may be an effective organisational form if both the problem and organisation can be accurately delineated and paralleled,<sup>897</sup> but a sixty plus year history of such self-contained working will inevitably instil an appropriately self-reliant organisational ethos that is hard to undo. The more collegial form that the UK was thus better suited to the cross-cutting activity needed for counterterrorism purposes as the probity considerations were already met, making the rationale for cooperative working easier to include in a shared maximand and reducing the likelihood of opportunistic behaviour.

The breadth of the terrorism problem also leads to an apparent dichotomy between Coase's ideas on clear property right allocation, and Gulick's contention that homogeneity of function is central to efficient organisation.<sup>898</sup> Furthermore it reflects the criticism of Gulick's principles of organisation by Simon, in that he too suggested that they were inherently contradictory so that behavioural explanations are required.<sup>899</sup> In fact Hammond's extension of the debate more realistically parallels the counter terrorism community issue as it emphasises the pragmatic nature of the problem.<sup>900</sup> What are treated as separate issues, specialisation and unity of command, are in fact different sides of the same coin. Certainly if work is homogenous across the criterion Gulick uses then those conducting it can be more simply jointly supervised. If it is not and any degree of complexity involving different

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<sup>896</sup> For a more nuanced discussion of this simplified view see Tim Weiner, *Legacy of Ashes: The History of the Cia* (New York: Anchor Books, Random House, 2008).

<sup>897</sup> Zegart contrasts work on domestic regulatory agencies like the Federal Trade Commission [See Barry R Weingast and Mark J Moran, "Bureaucratic Discretion or Congressional Control? Regulatory Policymaking by the Federal Trade Commission," *The Journal of Political Economy* (1983).] with 'national security agencies' to demonstrate the impact of different environments on behaviours from the new institutionalist. See Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* 6

<sup>898</sup> Gulick, "Notes on a Theory of Organization." 9-10

<sup>899</sup> C Barnard and Herbert A Simon, *Administrative Behavior. A Study of Decision-Making Processes in Administrative Organization*, 2nd ed. (Macmillan, New York, 1947). 20

<sup>900</sup> Thomas H Hammond, "In Defence of Luther Gulick's 'Notes on the Theory of Organization'," *Public Administration* 68, no. 2 (1990).

specialisations exists, then, as Simon observed; 'decision premises' may be required from multiple expert sources not necessarily in a simple hierarchal relationship with each other.<sup>901</sup>

The issue is thus actually one of property rights, and the organisational issue less one of supervision, but rather one of coordination. A different chain of command for the different function will be needed so that the different functions are managed separately, and then re-integrated. Gulick's own ideas on reconciling the impacts of bounded rationality problems ('spans of control' operating from the top down) and the potential for opportunistic behaviour if principles of homogeneity were ignored (coming from the bottom up) are themselves an implicit early recognition of property right constraints as they act across different levels of organisation.<sup>902</sup>

The debate between the relative merits of unity of command as against specialisation is therefore a false one as the benefits of each can be realised if clear property rights are maintained between managerial sub-units, and the behavioural problems and gaming behaviour between them is thus minimised. The difficulty is rather that arranging those property rights in a manner ideal for one threat environment will mean they are less well adapted in another, and organising an intelligence or security community intended to deal with the full spectrum of risks and threats will be impossible without major overlaps.<sup>903</sup> This will include, but not be limited to, the terrorism issue which covers a number of significantly different concerns.

Consider for example the difficult recent history of the Special Branch (later the intelligence element of the Counter Terrorism Command (CTC-SO15)) within London's Metropolitan Police. It managed itself, largely without major problems, as an independent entity throughout the 1980's. At that time it boasted an informal rank structure that operated with only a nod to the more formal version, which it paralleled in its parent body. Engagement with that parent only really occurred horizontally, with very limited direction at the

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<sup>901</sup> Discussed in *ibid.* 155

<sup>902</sup> Gulick, "Notes on a Theory of Organization." 12

<sup>903</sup> See for example Hammond, "Why Is the Intelligence Community So Difficult to Redesign? Smart Practices, Conflicting Goals, and the Creation of Purpose-Based Organizations." 407

highest level. Clear roles and responsibilities as the executive arm of the Security Service and the provider of intelligence on politically motivated issues to the police existed and relationships with both were largely straightforward. Property rights concerning both management and roles were clear despite being largely informal.

However, during the late 1990's there was an increasing executive capability within the newly legitimated Security Service, particularly against terrorism targets.<sup>904</sup> At the same time there was a gradual integration of Special Branch into the wider police service through new collective processes and senior officers, and an emergent enthusiasm for a shared 'corporate identity'. All of this confused the Special Branch's role and chain of command, so that as it entered the new millennium it exhibited the same sort of cultural frictions and organisational pathologies exhibited by their nearest US equivalent, the national security intelligence elements within the FBI.<sup>905</sup> These problems have continued even after its eventual dismantling in 2006. Despite its reinvention as the new CTC-SO15, a body which in theory at least amalgamated London's Special Branch (SO12) and its prosecutions focused Anti-Terrorist Branch (SO13), it continues to struggle with the internal intelligence capability. Ironically the new command is finding it much less difficult to manage a successful collaborative relationship with the external Security Service.<sup>906</sup>

The terrorism problem thus requires a difficult blending of clear roles and responsibilities that are nonetheless adaptive, a dichotomy that can only really be managed by constant negotiations among a shifting constellation of actors that are encouraged to display probity in their dealings with each other. Put in institutional cost terms, clear property rights must be matched with the ability to adapt smoothly towards a shared maximand by actors whose levels of asset specificity allow them to negotiate with each other without friction. Such levels of trust are more easily achieved if those actors

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<sup>904</sup> Executive capability here refers to the Security Service's increased ability to not only gather intelligence, as per their traditional role, but also to collect evidence and use it in judicial proceedings. They did not receive any powers of arrest (beyond those held by any citizen).

<sup>905</sup> See for example Posner, *Remaking Domestic Intelligence*.

<sup>906</sup> SyS1 and P1, respectively.

share a common understanding of the problem and their collective capabilities over which to manage those negotiations, and the next section will therefore consider the particular problems of the information environment in counterterrorism.

#### **Section 4: Information Issues and Counterterrorism Provision**

The information costs that affect counterterrorism are entirely consistent with the institutional cost impact framework as a whole as they include both an external and internal dimension, and these operate across asymmetric holdings of information by the unusually large range of actors described above. Because of this range the problems of information exchange can be increased through what Williamson referred to as 'language limitations'.<sup>907</sup> This is a sub-set of bounded rationality that in this case impedes communication between different parts of the counterterrorism community because of different understandings of specialist terms and the capabilities they imply.

More significant to terrorism however are the three issues of information asymmetry across the wide variety of organisations that are engaged in some aspect of countering it. That is to say the sheer diversity of information that needs to be handled, its quantity, and the need for those both inside and outside the communities involved to share some sorts of information, whilst being excluded from others due to the need for secrecy. These three areas will therefore now be considered in turn from the institutional cost perspective.

The exacerbation of environmental and behavioural institutional costs across uneven holdings of information, and the language and computational limits that make these hard to redress were described in some detail in Part 1 of this thesis. Due to its diffused nature terrorism presents very particular examples of this: The various aspects of the counterterrorism function boasts some very small pockets of expertise about what can be low impact issues that can suddenly become the centre of media interest or of unexpected

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<sup>907</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.22

strategic significance. This could be because of a single attack, a new alliance, or even an unconnected external development such as the development of an energy source in an otherwise strategically irrelevant area.

For example in North Africa Al Qaeda in the Islamic Maghreb (AQIM) would have been the subject of substantial analytic effort, whereas the al-Mulathamun Battalion and Moktar Belmokhtar, who split from it in 2012, might have been the responsibility of very few analysts prior to their attack on the In Amenas gas plant in 2013 that had political and energy related strategic implications.<sup>908</sup> In the same way low intensity counter-radicalisation programs were abruptly pushed into the limelight following the killing of Lee Rigby and suddenly attracted high profile political interest,<sup>909</sup> and a commensurate degree of high profile contention.<sup>910</sup> In any such case both structural and actual secrecy ensures that relevant detailed information is asymmetrically held by a limited number of specialist but sometimes low-level actors. Conversely managerial or 'bigger picture' type information will be in the hands of a different set of middle level actors. The fact that each have different but unique holdings incentivises each of them to behave opportunistically to preserve their position.

A managers interests are therefore linked to their continuing relevance; to being in-the-loop in colloquial terms. To return to Figure 5.3 above, a manager of Thematic Division Issue 2, for example, would best serve his or her individual level utility by arranging institutional costs so that the lowest friction route between their own Geographic Division Zone 2a and the manager of Thematic Division Issue 1 is through themselves. However this can be achieved by introducing artificially high costs between them as easily as by lowering the horizontal frictions between the two managers and simultaneously, those between themselves and their own staff. There may even be sound operational as well as bureaucratic reasons for doing so:

<sup>908</sup> Zachary Laub and Jonathan Masters, "Al-Qaeda in the Islamic Maghreb (A.Q.I.M.)," (Council on Foreign Relations, January 8th 2014).

<sup>909</sup> "Tackling Extremism in the UK: Report from the Prime Minister's task Force on Tackling Radicalisation and Extremism," ed. Cabinet Office (December 2013).

<sup>910</sup> "Michael Gove Apologises over 'Trojan Horse' Row with Theresa May," *BBC News Politics* (8th June 2014), <http://www.bbc.co.uk/news/uk-politics-27750921>.

Direct communication between the two might mean that issues of interest to both thematic divisions, but that are being dealt with Thematic Division 1, fail to register on Division 2's agenda, and Bendor and Hammond have demonstrated how such an oversight can impact on wider awareness and strategic decision making even when one part of a community is aware of an issue.<sup>911</sup>

On the other hand too much sharing can lead to overload, and undermines the purpose of sub-dividing a function in the first place. A counterterrorism community as a whole would thus have to be arranged so that the rewards for successful, well-considered cooperative behaviour outweigh the utility gained through more localised prestige if it is to off-set this tendency and achieve a balance between these conflicting tendencies.

At the same time the very significant powers that countering terrorism can require dictates that high institutional costs between separate elements, such as between the political and the official/operational parts, can be desirable. Independent holdings of information can be an easy way to manage the distinction between strategic direction by the former and operational independence by the latter for example. However, the sort of very high levels of trust between each exhibited by the then Home Secretary and his Security Service and Police chiefs during Operation Overt<sup>912</sup> are then needed if this is to be managed successfully.

In the UK this necessitates a difficult balance as the political level remains responsible for the operational actions of their staff and is duty bound to question them and represent the wider public interest, and can even request that a particular course be adopted. Processes exist for appeal to the Prime Minister in extremis, whose decision could theoretically still be ignored. A weak official might of course regard such a request as an order of course, but in practice however such procedures are rarely invoked, and the more likely course if a proposed course of action is potentially contentious is that the official level will argue the points and describe the risks of a particular case

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<sup>911</sup> Bendor and Hammond, "Choice Theoretic Approaches to Bureaucratic Structure."

<sup>912</sup> Ben Chanan, "The Plot to Bring Down Britain's Planes,"(National Geographic Channels and Channel 4, 2011).

as fully as possible using their specialist knowledge. This specific discussion will however be based on the broad subject area briefings that are routinely delivered so that the political level can fulfil their more general public interest role. If the matter is particularly contentious or has political implications at home or abroad an official can seek specific authorisation from the political level as required.<sup>913</sup> The UK's system is thus more reliant on trusting negotiations across the different types of information holdings than on any rigid delineation of knowledge or responsibility. The British tendency to 'muddle through' is thus actually well suited to the constantly adapting terrorist problem.

The second information issue particularly pertinent to the terrorism problem is the amount and type of information it includes, and for the organisations involved there are both external and internal dimensions to this. Both impact on their ability to cooperate with each other.

Externally, the shift in the information environment generally has exponentially increased the amount of potentially useful information and the places where it might be found.<sup>914</sup> For counterterrorism cooperation this has brought some specific problems. During the Cold War the preeminent intelligence problem was in the collection of a small amount of well concealed information. The combination of the rise in the importance of terrorism as a national security problem with the information revolution has meant that that the difficulty has shifted to difficulties in aggregating, sifting and analysing a great deal of information so that the resultant product is both timely and accurate despite the increased amount of apparently contradictory data that might be available. Beyond that however, it must also be analysed in such a way as to supply the right conclusions to the right level and type of decision maker because it must also be actionable.<sup>915</sup> This is an especial problem in counterterrorism where the same information can have strategic, operational and tactical relevance and which is evident might depend on the perspective

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<sup>913</sup> Lord John Reid of Cardowan, interview by Author 19th July 2012, House of Lords.

<sup>914</sup> Thomas Fingar, *Reducing Uncertainty: Intelligence Analysis and National Security* (Stanford University Press, 2011).

<sup>915</sup> See for example Erik J Dahl, *Intelligence and Surprise Attack: Failure and Success from Pearl Harbor to 9/11 and Beyond* (Washington D.C.: Georgetown University Press, 2013).2

of the observer, which in turn will inform which interactions amongst community members occur in the first place.

Perhaps as importantly, information in the terrorism sphere is an integral part of how each side combats the other. Information is transmitted to secure a propaganda advantage as well as to provide a decision making one. Terrorism has of course always been a means to shift political discourse in a particular direction, and support groups have always been needed to manage the messages received by engaging with the media and so on. The information revolution has however permitted a step-change in the amount and nature of this activity. The Chair of the Intelligence and Security Committee has described a world in which terrorists disseminate propaganda and instructions globally, and can radicalise and organise followers in another country without ever even having to meet them.<sup>916</sup> The additional utility of information for propaganda purposes by either side provides an additional complication to straightforward communication and the need for yet another 'language', which may well be anathema to some elements of an intelligence and security community.

The increased availability and different type of information needed for counterterrorism has also shifted the nature of the information advantage enjoyed by those providing intelligence. It used to be that the acquisition of information was a resource intensive undertaking; thus the preserve of large bureaucracies or organisations that had a significant competitive advantage over less well resourced actors. With information now much more freely available to poorly resourced actors as well only either a significant qualitative increment through competent analysis, or access to secret information such as that achieved through modern signals intelligence operations can restore that advantage back to national agencies. The need to adjust to such shifts in the information environment can however also encourage the sort of gaming behaviour Williamson noticed with the near

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<sup>916</sup> Sir Malcolm Rifkind MP, "Intelligence Agencies in the Internet Age - Public Servants or Public Threat?".<sup>3</sup>



equivalent 'inside contracting system'.<sup>917</sup> Actors, for example, can be incentivised to hold onto information until its release is most opportune to their standing, such as shortly before contracts are re-negotiated.

Internally the increase in information moving around the system in the counterterrorism arena also impacts on the nature of collaboration and the institutional costs it involves. Landau has described large scale organisation as "... a vast and complicated information system ... necessarily and continuously engaged in the transmission and reception of messages", but adds that any such system is noisy and ambiguous, and messages are not transmitted in any "... consistent or constant way" in terms of either content or routing.<sup>918</sup> Under such conditions too rigid an architecture seems more likely to induce a failure than an adaptive one reliant on human agency, as new and different types of messages evolve and need transmission to whichever recipient is most able to deal with that functional area.

Yet in the United States terrorism drove the establishment of a formally constituted 'Information Sharing Environment' (ISE) that mandated a freer flow of information. This included across the previous 'wall' between foreign and domestic issues. The removal of the distinction between the internal and external spaces became a central tenet of this drive, so that the National Foreign Intelligence Program became the National Intelligence Program (NIP) and the new Director of National Intelligence (DNI) was given responsibilities in both areas. The very definition of national intelligence became associated with "...information that pertains to more than one agency..." and almost all encompassing in that it included a catch-all "... any other matter bearing on national or homeland security..." element.<sup>919</sup> Inevitably this means an exponential increase in both the number and type of messages being transmitted between two or several actors. The plethora of

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<sup>917</sup> The parallels between the inside contracting system and an intelligence and security community are discussed in chapter 2. see also Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.<sup>97</sup>

<sup>918</sup> Landau, "Redundancy, Rationality, and the Problem of Duplication and Overlap." 349

<sup>919</sup> Susan M. Collins, "Summary of Intelligence Reform and Terrorism Prevention Act of 2004," ed. United States Senate Committee on Governmental Affairs(2004). For a fuller discussion on the definition (and difficulties of defining) national intelligence see Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol. 1 23-27

departments with an interest in counterterrorism described above means there is a parallel increase on the demands made on the intelligence community particularly, because it has historically been a provider of a 'free good', so that for most of those recipients 'more' will always be 'better'.<sup>920</sup>

Moreover, because these relationships are new the established codes and language used by the much smaller circle of those previously engaged in national security will either be unknown to them or unsuitable for the new usage, increasing the bounded rationality problem as information flows increase. The British Foreign and commonwealth would be well used to providing their own analysis of product from the Secret Intelligence Service (SIS) for example, and understand its limitations, and the limitations of what could reasonably be requested during negotiations with them. The same need not be true of a Home Office organisation more used to the UK's operating conditions. Jervis quotes Dean Acheson as saying that a National Security Council document should be "clearer than truth" to indicate how the political level not only needs intelligence to assist with decision making, but also to help in the advocacy for a policy. The inherent uncertainties of much intelligence are thus unhelpful.<sup>921</sup> The same is true of those on the security side of the communities trying to make tactical level decisions of the 'go' 'don't go' sort. In both cases the disparity of type of information between what can realistically be provided and that preferred by the recipient means a disconnect between them that will inevitably increase negotiating costs.

A similar disconnect can occur where different parts of the community are used to different sorts of information handling: Just as different countries might have different collection philosophies, as Sir Stephen Lander observed, so might different agencies within a country. To extend his metaphor; an agency used to dealing only with the occasional 'needle' of data will be swamped if suddenly provided with a 'haystack', and have little chance of

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<sup>920</sup> Thomas Fingar, "Analysis in the Us Intelligence Community: Missions, Masters, and Methods," in *Intelligence Analysis: Behavioral and Social Scientific Foundations*, ed. B Fischhoff and C Chauvin(2011).7

<sup>921</sup> Robert Jervis, "Why Intelligence and Policymakers Clash," *Political Science Quarterly* 125, no. 2 (2010).187

distinguishing (much less utilising) the 'needle' within it.<sup>922</sup> The nature of the search costs are therefore changed. The fact that the provider of all that data has done so does not necessarily alleviate the problems of the recipient in such a case, who may have to put as much effort into searching through the larger quantities of data that they hold as they used to put into getting it in the first place. New (and potentially fractious) negotiations might be needed to have information supplied in a more usable form.

Recent developments in the terrorism and information fields have thus jointly engendered significant and varied institutional costs that act on the intelligence and security communities from both the outside and the inside, and impacted on how cooperation can be managed. At the same time (in part because of those same shifts) social expectations of the communities have also shifted and these will now be considered.

Since the turn of the century terrorism has driven what the second US Director of National Intelligence, Mike McConnell, described as a shift from the old Cold War ethos of the 'need to know' to a more cooperative requirement, a 'responsibility to provide'.<sup>923</sup> This is in keeping with the parallel shift from a national security focus to that of public safety.<sup>924</sup> The cultural shift that has resulted is significant; since the attacks on New York, Madrid and London the emphasis on trying to keep secrets has mutated into an organisational level phobia of being the 'one who knew' in the event of a further successful attack, a concern that is often proved justified: The Security Service's prior knowledge of Siddeque Khan and Shazad Tanweer has caused them significant public embarrassment notwithstanding that the subsequent (less newsworthy) inquiry has accepted that with the information available to them their decisions were entirely reasonable.<sup>925</sup>

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<sup>922</sup> Lander, "International Intelligence Cooperation: An inside Perspective."493

<sup>923</sup> United States Senate Select Committee on Intelligence, *Opening Remarks by Mike McConnell Director of National Intelligence Nominee* February 1st 2007.

<sup>924</sup> Discussed in Section 2a above. For further perspectives see Hennessy, *The New Protective State : Government, Intelligence and Terrorism*. and Omand, *Securing the State*.

<sup>925</sup> See for example Paul Murphy, "Report into the London Terrorist Attacks on 7th July 2005," ed. Intelligence and Security Committee(HMSO., May 2006).

As well as producing the sort of new challenges to managing operational security that the ongoing Snowden allegations have demonstrated so acutely,<sup>926</sup> there are thus twin pressures on organisations. They must distinguish themselves against others in the counter terror sphere and thus win access to scarce resources despite being risk averse to not having disseminated leads (leads that represent their competitive advantage) to their competitors. This view has a certain resonance with the American experience. Confused and contradictory impulses lead to confused protocols being developed to service contradictory demands, and in turn promote opportunistic behaviour, as following chapters will demonstrate. Yet there is a clear understanding that this is at odds with what is required; the then Director of the FBI, Robert Mueller was clear that collaboration at every level was "... the future of counterterrorism".<sup>927</sup>

In Britain the organisational arrangements are such that no one agency can realistically progress a counterterrorism operation without reference to the others, so that that competitive spirit is largely absent, and the shift to sharing consequently less dramatic. There could nonetheless still be a concern that an agency providing information might find themselves unacknowledged when any subsequent credit is awarded. In spite of this the temporal nature of relationships mean that to do so might provide utility at the time, but any longer term assessment would show the consequences are likely to be negative. Collaboration commitment is instead demonstrated externally, through devices like ensuring all relevant organisation's crests or logos are on reports,<sup>928</sup> or by the police (often the public face of a counterterrorist operation) ensuring they routinely 'cite' agency assistance during press conferences. Existing property rights clarity, the 'good fences make good

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<sup>926</sup> See for example Michael Jacobs and Tony Wright, "Making Sense of Snowden," *The Political Quarterly* 84, no. 4 (2013). Susan Landau, "Highlights from Making Sense of Snowden, Part 2: What's Significant in the Nsa Revelations," *Security & Privacy, IEEE* 12, no. 1 (2014).

<sup>927</sup> Mueller was referring to a American suspect (Abu Jihaad) arrested for sending information on his own battle fleet in the Persian Gulf to an extremist website that lead to a London link, which had to be dealt with by New Scotland Yard, which in turn lead to a further suspect planning to use grenades at a shopping mall in Chicago. See Mueller, "From 9/11 to 7/7: Global Terrorism Today and the Challenges of Tomorrow."

<sup>928</sup> Omand, "Creating Intelligence Communities." 104

neighbours' approach typified by the UK intelligence community,<sup>929</sup> have thus counter intuitively assisted in maintaining low institutional costs between organisations despite the environmental shift that the 'duty to share' provoked.

That same duty however has also extended beyond the intelligence and security communities and into the public domain, with pressures for open government and transparency impacting most on those areas of government most used to working in secret,<sup>930</sup> who have to operate simultaneously with different sorts of information at the extreme ends of the spectrum. The fact that some is necessarily placed in the public domain and is often of substantive media interest, whilst most operational information must remain secret can lead to tensions and very different ideas of a maximand between actors. This is especially the case between those who collect secret information and those who would use it to progress arrests and prosecutions. A very close relationship and clear understanding of the motivations of the other is therefore necessary if the sequential negotiations this problem engenders are to be managed effectively.

The fact that intelligence has been intimately associated with political advocacy (as discussed previously) produces a similar divide between the public and officials as well as politicians. For the latter the problem is one of confidence, but for the former, who need public trust to gather information, it has an impact on capability. The former Security and Intelligence Coordinator Sir David Omand has observed that "intelligence assessment and policy advocacy do not comfortably co-exist" but that all sorts of actors must routinely manage that co-existence.<sup>931</sup> Specialised officials from the police or security agencies have always given advice to political decision makers as they try to formulate policies, but because transparency is now a much sought after commodity they must necessarily do so in a more public way. This can easily give rise to allegations of policy interference, and has the

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<sup>929</sup> Ibid.p.104 quoting the poet Robert Frost. See Robert Frost, "Mending Wall," in *Robert Frost's Poems*(Macmillan, 2002).

<sup>930</sup> Hennessy, "From Secret State to Protective State."9

<sup>931</sup> Omand, "The Dilemmas of Using Secret Intelligence for Public Security."147

potential to back-fire, as the Head of the Metropolitan police's Specialist Operations found when he supported ninety day detention in terror cases.<sup>932</sup>

The problem can also extend beyond the immediate issue at hand. Davies has observed that intelligence agencies are likely to indulge in bureaucratic behaviour by overplaying the need for their services,<sup>933</sup> in accordance of Niskanen's predictions of bureaucrats more generally.<sup>934</sup> If they, or indeed a security or defence official, are associated with a particular policy preference then it, like the competition for resources, may be seen as motive for any public announcement. The relatively recent tendency for senior officials and ex-officials to detail current threats<sup>935</sup> may thus be received with more scepticism than it warrants.

In the same way open discourse on counterterrorism lays bare the contrary pressures from those who want effective measures and those who want a more liberal approach. This is of course an essentially political problem, and traditionally community members have been insulated from the debate, which occurs at the political level. However Richard Aldrich has vividly described how they are increasingly stretched between the two positions as they are increasingly monitored and examined.<sup>936</sup> Ironically transparency itself can thus act as an institutional cost between the public and the intelligence and security communities with whom they must negotiate to maintain their support by increasing the number of actors that can impact on negotiations and amplify monitoring costs.

*Countering terrorism therefore boasts unique information related costs.* The diversity and number of repositories of specialist information, coupled with the secret nature of much of the work, give the usual institutional cost problems of information impactedness through structural (and actual) secrecy a particular emphasis. Secondly the volume of information that is relevant or

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<sup>932</sup> Hayman and Gilmore, *The Terrorist Hunters*.p.127-134

<sup>933</sup> Davies, "Intelligence and the Machinery of Government: Conceptualizing the Intelligence Community."40

<sup>934</sup> Discussed in chapter 3 section 5 and chapter 4 section 5.

<sup>935</sup> For example Andrew Parker, "Address by the Director General of the Security Service, Andrew Parker, to the Royal United Services Institute (Rusi), Whitehall," ed. Security Service(mi5.gov.uk8th October 2013). Manningham-Buller, "The International Terrorist Threat to the United Kingdom."

<sup>936</sup> Aldrich, "Beyond the Vigilant State: Globalisation and Intelligence."892

potentially relevant is vast, provoking problems of overload and 'signal-noise' ratios, and exacerbating the problems of complexity and uncertainty. At the same time cultural shifts around the internal sharing of information and for public engagement have varied from organisation to organisation and made the establishment of a shared maximand harder, and opportunistic behaviour more likely.

## **Section 5: Conclusion**

This chapter has highlighted the particular difficulties of, and simultaneous necessity for, collaborative working to counter modern terrorism using the institutional cost framework developed in Part 1. It first demonstrated how the shift in governmental responsibility from providing national security to maximising public safety, coupled with an unprecedented degree of complexity in both the terrorism problem and the type of responses it required magnified some tensions between different actors. The argument was then extended to examine how the property rights regimes and asset specificity of existing organisational structures could help or hinder efforts to address these different ambitions, before the impact of increasing globalisation across the range of issues was considered.

The next section then analysed how that complexity could translate into behaviours that might heighten or lower institutional frictions between actors with different policy responsibilities depending on the degree to which a shared maximand was generated, and probity could be established between actors through the temporal nature of sequential negotiations and mutual need. The different natures of the US and UK communities in this regard was highlighted. Finally the heightened importance of institutional costs relating to shifts in the information environment both within and outside the communities was examined. Information issues as a pivotal factor in deciding success or failure in cooperative working across the counterterrorism sphere was described in the light of the environmental and behavioural issues discovered. The very specific applicability of the institutional cost impact framework in this area was thus outlined, and the core of the explanation for

the different experiences in the UK and US developed in preparation for more detailed analysis of specific examples.

Chapter 6 will now consider the different arrangements that have been adopted to manage and indeed encourage collaborative working in the United States and Great Britain as a response to the issues described above from an institutional cost perspective to test what impact relatively high or low costs have on success rates in each.



## **Chapter 6 - Counterterrorism, Collaboration and Vertical Direction and Oversight**

### **Section 1: Introduction**

As has been noted elsewhere, the United Kingdom and United States are often regarded as broadly similar political systems, and yet they have elected to follow very different patterns of management to deal with the evolving threat from terrorism. As noted at the beginning of the last chapter, the US has demonstrated endemically high levels of institutional costs that the measures discussed in the following sections have largely failed to lower, whilst the UK has managed to maintain a relatively lower level throughout, and the substantive shifts in the institutional costs environment observable in the defence intelligence sphere (and examined in Part 3) do not occur in counterterrorism despite significant organisational changes in both the US and UK cases.

Yet the nature of the terrorist threat they face, and their possible range of policy responses to it are nonetheless remarkably similar. In both cases policy options are constrained by the democratic underpinnings of their respective societies, their believe in the primacy of law, and their inherent distrust of any intelligence gathering or operational activity that is not tied to, or at least orientated towards, some form of criminal prosecution. This remains the case despite the various oversight mechanisms that are in place, and both Countries are prepared to put up with a degree of inefficiency and some institutional difficulties in order to be seen to honour these principles.<sup>937</sup>

This is particularly true in the domestic arena despite the increased risk to the polity themselves when the threat arrives 'over here'. Of course, whilst the UK has had long experience of dealing with an endogenous terrorist threat, the US has not had the same type of experience to fall back on. Some differences in evolution are thus to be expected. Nonetheless both have had to deal with a similar sea-change in the threat environment they face since

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<sup>937</sup> See for example the debate around the NSA's collection of mass data leaked by Edward Snowden and President Obama's policy response, summarized in Raf Sanchez, "Barack Obama to Announce Reforms to Us Surveillance Revealed by Edward Snowden," *The Telegraph* 17th January 2014.

the turn of the millennium, and have had to re-cast the national level machinery to meet this new shared threat. Each has experienced the same sort of shifts in the acceptable balance between civil liberties and intelligence collection over time, and the 'policy pendulum' swinging back and forth over time.<sup>938</sup> Yet each decided on a very different top-tier system for coordinating and directing that effort. This chapter will therefore focus on how institutional costs impacted differently on these two approaches by considering their core constituents.

The levels of specialisation and expertise inherent in the security and intelligence functions of counterterrorism delivery limit control by principals of their agents. Labour is necessarily divided to overcome the scale of the task, and the complexity of the problem inevitably begets a complex organisational form to address it. Thus a condition of structural secrecy is inevitable if expertise is to be available, by virtue of the breadth of possible issues that a policy or senior decision maker would have to have expertise in if even the few most likely terrorism contingencies are to be covered.<sup>939</sup> The bounded rationality of any individual actor would always limit their ability to hold a current and complete picture of all issues or regions, as well as the possible impact of its complex interactions with other issues at one or more remove. These are the twin environmental conditions of uncertainty and complexity. The nature of the contract between those who direct security or intelligence and activity and those who deliver it, as well as the extent to which it is honoured, will therefore effect counter-terror outcomes. However the sort of 'resilient' trust needed for effective cooperation over time in a functional area like counterterrorism<sup>940</sup> is most usually developed through patterns of horizontal, not vertical, cooperation. It is along this dimension that actors can produce the sort of norms of probity that in turn increase trust still further.<sup>941</sup> Achieving vertical cooperation is thus particularly problematic in this area.

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<sup>938</sup> See for example for US Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*.p.159-182, for UK Omand, "The Dilemmas of Using Secret Intelligence for Public Security."p.142-169

<sup>939</sup> For a discussion on 'structural secrecy' see Vaughn, "The Challenger Launch Decision."

<sup>940</sup> Discussed in Chapter 2 Section 4(c.v) but see Ring, "Fragile and Resilient Trust and Their Roles in Economic Exchange."

<sup>941</sup> Robert D Putnam, Robert Leonardi, and Raffaella Y Nanetti, *Making Democracy Work: Civic Traditions in Modern Italy*(Princeton University Press, 1994).

Whilst there is obviously a general 'distaste' against any further attacks that all actors share, any lack of trust will translate into differences of opinion as to how that is best achieved, disaggregating any shared maximand developed. Vertical coordination and the sort of leadership that can engender cooperation<sup>942</sup> is therefore more difficult to achieve, particularly as spending or investment of time moves into the medium or longer term, when actions by sub-levels become increasingly difficult to monitor.

In the UK coordination was to be achieved through improved collaboration set within a single strategic architecture; the CONTEST strategy, coordinated through an executive directorate within the Home Office, the Office for Security and Counter-Terrorism (OSCT).<sup>943</sup> The strategy was geared towards creating a shared goal that could encompass the long and the short term elements of the challenge, the strategic and the tactical; so that what the Director of the Security Service described as the 'duality' issue could be addressed. (Duality is the simultaneous responsibilities of "...keeping the country safe today, and ensuring we remain able to do so tomorrow... doing all we can to tackle the threats the country faces today, while also positioning ourselves and developing the capabilities we need to be able to protect the UK against future threats.").<sup>944</sup> Beneath this overarching objective however the 'means' were tied to the strategic intelligence available from the Joint Intelligence Committee (JIC) in Cabinet Office, and the tactical intelligence produced by Joint Terrorism Analytic Centre (JTAC), both of which could provide analysed product specifically geared to the terrorism problem based on intelligence from the widest possible range of sources. These intelligence inputs are then aligned to four strands of work within OSCT – Pursue, Prevent, Protect and Prepare – that clarifies the responsibilities roles and thus the property rights of the various departments and agencies involved, but simultaneously sets these within the same single strategy. In this way a visible shared maximand that describes what type of security is preferred, and how it is to be achieved, is developed.

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<sup>942</sup> Leadership as a means of achieving cooperation across different sub groups is discussed by Casson, *Entrepreneurship and Business Culture*.

<sup>943</sup> "Contest: The United Kingdom's Strategy for Countering Terrorism."

<sup>944</sup> Parker, "Address by the Director General of the Security Service, Andrew Parker, to the Royal United Services Institute (Rusi), Whitehall."

The USA on the other hand, pursued improved coordination by trying to create a genuinely authoritative, responsible and accountable head of the entire homeland security and later intelligence communities, through the creation of a Secretary level head of a new government department, the Department of Homeland Security (DHS) in 2002, and the Director of National Intelligence (DNI) in 2005 respectively.<sup>945</sup> In their view coordination of what had historically proven to be recalcitrant independent agencies needed enforcing through a clear hierarchy that would clarify the roles and responsibilities of each part of the community, towards both the terrorism threat and each other, by fiat. An equivalent to the UK's JTAC was established as the National Counter Terrorism Centre (NCTC) in 2004.

Unlike JTAC however, the NCTC remained a stand-alone agency for only a few months, becoming part of the Office of the Director of National Intelligence (ODNI) once this had been established to support the DNI in the following year.<sup>946</sup> In a further departure from the JTAC model, the NCTC was burdened with a second reporting line direct to the President on "Executive Branch-wide counterterrorism planning", so that it can "assign roles and responsibilities to departments and agencies as part of its strategic planning duties" and can prepare "... more granular, targeted action plans to ensure integration and coordination..." and yet does not "direct the execution of any resulting operations".<sup>947</sup> The NCTC therefore boasts some of the policy functions performed by the OSCT in the UK, as well as the counterterrorism intelligence roles performed by the British JTAC. Although in keeping with the idea of a hierarchical authority over counterterrorism the property rights of the NCTC thus overlap many of those of other agencies and departments, and property rights over it by the ODNI are at odds with the claims of the

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<sup>945</sup> Also referred to as a National Intelligence Director or NID during early discussions, an idea first broached in 1955. See for example "Office of the Director of National Intelligence: Leading Intelligence Integration". and the statement of Jane Harman, ranking Democrat on the House Intelligence Committee. Siobhan Gorman, "Wanted: Spy Chief," *National Journal* 36, no. 24 (2004).

<sup>946</sup> Although the ODNI was constituted as the personal staff of the DNI, in whom the statutory authority was invested, the inclusion of a number of 'offices' and 'centers' such as NCTC and the National Counterintelligence and Security Center (NCSC) have meant that it increasingly resembles an agency and uses that description of itself and its centres on its own website. See "Office of the Director of National Intelligence: Leading Intelligence Integration".

<sup>947</sup> "National Counterterrorism Center: A Counterterrorism Center of Gravity. Overview," Office of the Director of National Intelligence, <http://www.nctc.gov/overview.html>.

President, allowing the possibility that other interested actors might be motivated to contest them. There are therefore clear organisational distinctions between NCTC and the UK's stand-alone JTAC, which is limited to collating terrorism intelligence and producing then disseminating all-source assessments to the other agencies or departments that need it. The placing of the NCTC within the ODNI is therefore not necessarily advantageous to either organisation, despite the formers production of terrorism intelligence for a wide range of users.

The results of both the DHS and DNI endeavours, although still evolving, are rather less well defined than in the UK case, and very far from genuinely authoritative across the community. Some degree of a shared maximand, originally under the auspices of a 'war on terror' was achieved but this was largely a cultural phenomena, oft stated but only distilled down into organisational reality on particular and specific occasions. Disparate ideas about how that 'war' was best prosecuted remained, and which part was the responsibility of whom continued to be contentious.

Although the use of predictive intelligence is at the heart of both nations' security strategies<sup>948</sup> the two approaches cannot of course be directly compared 'like-for-like'. CONTEST is a policy framework entirely devoted to the terrorism problem; including the use of tactical, operational and strategic intelligence to inform decision making in a range of policy areas. The Secretary of the DHS and the DNI lead specific organisations. The first is charged with coordinating the response to every type of security issue, and the second to coordinating the whole of the intelligence community. Both organisations include terrorism in their various responsibilities, but are not limited to it. Nor do either have responsibility for the full gamut of terrorism related issues. This distinguishes them from the Office for Security and Counter-Terrorism (OSCT) which is concerned solely with (every aspect of) the terrorism issue, as the body responsible for delivering the CONTEST strategy.

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<sup>948</sup> See "A Strong Britain in an Age of Uncertainty: The National Security Strategy," ed. Cabinet Office(HM Stationery Office, 2010).34 and Obama, "National Security Strategy of the United States (2010)."15

Nonetheless, one could reasonably expect them to share similar relationships with the agencies and departments that they rely on to deliver the counterterrorism function. In providing governance and direction they must all interact with a range of very different bodies with very distinct roles and ambitions. This should be equally problematic to them all. As Anderson has noted; "Organizations that perform well on the criterion preferred by one constituency tend to do poorly on a criterion favoured by another" so that "... conflicting expectations...create a payoff function too difficult to assess and optimize".<sup>949</sup> The CONTEST strategy requires engagement with twenty-two different governmental bodies (one of which is actually comprised of forty-eight police forces around the UK),<sup>950</sup> the DHS comprises sixteen departmental components of substantial variety.<sup>951</sup> Furthermore the DNI must coordinate the sixteen members of the intelligence community,<sup>952</sup> so that each may be regarded as having a similar hurdle to surmount in this regard. The trajectory that has been followed in each case is however very different because each boasts very different approaches to organising coordination, and it is this divergence that are the focus of this chapter.

In the UK case established linkages to consumers were already in place because the intelligence organisations historically had little ability to act on their own findings, but were instead simply an element of the larger governmental machine. All that was required was that these existing nodes be consolidated into a more coherent strategic vision and become better organised to serve that. No major new organisations were needed and the property rights to particular functional areas did not need any significant alteration. Instead the Home office simply re-arranged a part of itself to become terrorism specific, creating the OSCT in 2007. The OSCT then orchestrated a general 'scaling-up' to deal with the sheer size of the new challenge, and allocated different aspects of newer tasks such as countering radicalisation to those bodies it regarded as best able to take them on. In the

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<sup>949</sup> Anderson, "Perspective: Complexity Theory and Organization Science." 225.

<sup>950</sup> "Contest: The United Kingdom's Strategy for Countering Terrorism." Annex A.

<sup>951</sup> "Official Website of the Department of Homeland Security," DHS, <http://www.dhs.gov>.

<sup>952</sup> "Office of the Director of National Intelligence: Leading Intelligence Integration". As a matter of statute the DNI coordinates the 16 members of the Intelligence Community, although the ODNI coordinates some parts at the senior working level.

same way no new laws were required to initiate the strategy, it was no more than a government organising a primary function of governance in the way it saw fit given the prevailing environmental conditions. The re-negotiating across different agencies and departments that was required was thus relatively limited.

In the US case both the establishment of the DHS in the immediate aftermath of 9/11, and the later creation of the DNI after the failure to properly assess Iraq's weapons of mass destruction (WMD) capability re-focused attention on the intelligence community, followed recognition by different parts of the US leadership that a properly coordinated intelligence function had to be integrated into the whole of the nation's security capability. The former, a direct consequence of the terrorist attacks of 2001, was a Presidential initiative and put the intelligence function within a security organisation, arguably in an attempt to prioritise its usage.<sup>953</sup> The latter, which was driven by a congressional leadership concerned with not only terrorism but also the wider intelligence failure demonstrated by the Iraq WMD issue,<sup>954</sup> remained focused on the information itself so that integration with the security community was for the most part a matter of ensuring intelligence was passed to the right people in a timely manner. There was nonetheless scope for significant overlap between them, and both have evolved to address these and other confused property rights. In both cases however this has been to the detriment of their original mandate.

When President George W. Bush issued Executive order 13228 establishing both the Office of Homeland Security and the Homeland Security Council on 8<sup>th</sup> October 2001 he prefaced his order with a mission statement that was a tacit acknowledgement that its position in the intelligence community would be central to its success in protecting the American public. He gave the new office strategic responsibility to ensure that the US intelligence machine as a whole was adequate to “detecting..., preventing, protecting against.... terrorist threats and attacks” and a responsibility to “prioritise and co-ordinate

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<sup>953</sup> George. W. Bush, "The Department of Homeland Security,"(Washington D.C. : The President of the United States, 2002).

<sup>954</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1 404

efforts for collection and analysis” of information that related to both terrorist activity within the USA, and any activity outside the country that could lead to a threat of terrorism within it.<sup>955</sup>

The DHS as originally envisaged was to be not only central to, but also to have a domestic lead function within the US intelligence community. It was thus intended to provide the intelligence link to its security responsibilities. These were similar to those that comprised the UK's CONTEST strategy; functions like protection, preparedness and incident management.

However by October 2005 the Department had been relegated to little more than an intelligence customer, similar to law enforcement officers and other peripheral agencies, and was essentially dismissed even as a necessary conduit to its own security components by the then DNI, even though the DHS's 'Intelligence and Analysis Division' was legally still in the intelligence community over which he presided. As a result the DHS retreated from the intelligence domain and the role originally envisaged for it there, and instead turned to its security and operational coordination roles to provide its *raison d'être*.<sup>956</sup>

The creation of the DNI on the other hand followed a very different track that impacted on its ability to counter terrorism in a distinct way. Whilst the maelstrom that followed the 9/11 terror attacks, and the failure of the elements of the intelligence and security communities to function holistically on that occasion, had renewed calls for a National Intelligence Director (equivalent to the eventual DNI role, albeit with slightly different authorities),<sup>957</sup> it was the intelligence communities' poor performance around estimating weapons of mass destruction in Iraq that eventually provided the impetus for its creation in 2004; a very different sort of issue.<sup>958</sup> The result

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<sup>955</sup> George W (President) Bush, "Executive Order 13228 of October 8 2001 Establishing the Office of Homeland Security and the Homeland Security Council," ed. The White House(federal Register2001).

<sup>956</sup> See for example the treatment of the DHS by the first DNI; John D Negroponte, "The National Intelligence Strategy of the United States of America, Transformation through Integration and Innovation," in *Director of National Intelligence, Washington DC, The Pentagon*(2005).1-6

<sup>957</sup> "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States."399

<sup>958</sup> Silberman and Robb, "The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction."



was that the role of the DNI and supporting staff was to provide an organisational infrastructure devoted to the intelligence issue whose responsibilities include but are not limited to the terrorism issue. This problem was exacerbated by a similar lack of clarity over the policy as against the operational aspects of the new DNI role. The DNI's new NCTC for example overlapped the CIA's Counter Terrorism Center (CTC) as well as the FBI's Terrorist Threat Integration Center (TTIC - whose functions it then subsumed<sup>959</sup>) whilst also having the policy advisory role described above. This introduced a tension between national level responsibilities and tactical capabilities that undermined the authority of the both the DNI and NCTC from the start.<sup>960</sup>

Thus although each approach was designed to integrate different strands of work to counter the same terrorist threat, and turn a number of discrete capabilities into a cohesive whole they have had very different experiences. They can therefore usefully be considered together. Each provides a useful key in describing how the policy makers of each nation believed control over existing departments and policy tools could best be managed so that the principal-agent problem, and institutional frictions between the centre and them, are minimised.

This chapter will therefore consider how the institutional costs inherent in the provision of counterterrorism that were discussed in the previous chapter impacted on first the DHS (in Section 2), then the DNI (in Section 3) as they attempted to ensure cooperative working across different parts of the intelligence and security communities. Section 4 will then consider the very different approach of the UK and its much lower institutional cost environment. The whole will then be concluded in Section 5 which will contrast the impact of the different institutional costs on cooperative behaviour between levels.

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<sup>959</sup> "Intelligence Reform and Terrorism Prevention Act of 2004," *Public Law* 458(2004).Sec.1092

<sup>960</sup> Discussed further in Section 3but see for example Allen, *Blinking Red : Crisis and Compromise in American Intelligence after 9/11*.171-172

## Section 2: Hierarchical Cooperation and The United States Department for Homeland Security

As discussed in the introduction to this chapter, the Department for Homeland Security was originally intended (inter alia) to bridge the gap between the significant but foreign orientated intelligence capabilities of the United States and their domestic security organisations. In institutional cost terms the organisation was supposed to provide a low governance costs route between the two sides of the wall between foreign intelligence and domestic law enforcement discussed in Chapter 5, Section 2b above. It is worth noting again however the wall created the single biggest negotiating cost problems, with genuine and perceived legal obstructions to cooperation being reinforced by institutional and jurisdictional precedent, a complex set of rulings that further obscured property rights (the domestic sphere can, for example, include an attack on a US citizen anywhere in the world<sup>961</sup>) and encouraged cautious interpretations by risk adverse bureaucrats, each addressed in a variety of ways by different actors and organisations.<sup>962</sup> For the DHS to secure a low friction route between the two sides was therefore no small undertaking. However linking the two functional areas in so direct a manner meant a potentially dual identity for the new organisation as both a security and an intelligence entity, and required it to engage in substantive negotiations with existing organisations over which it was to be superimposed in both areas. This section will therefore focus on the institutional costs that prevented its access into the existing intelligence community.

This duality provided the nascent organisation with divergent evolutionary pressures: According to the ideas developed by Powell and DiMaggio,<sup>963</sup> membership of either community could have seen it adjust its institutional form through processes of isomorphism so that it more closely represented

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<sup>961</sup> See William Clinton, "Presidential Decision Directive 39 U.S. Policy on Counterterrorism," in *PDD39*(Washington D.C.: The White House, 1995).

<sup>962</sup> See for example Cedric Logan, "The Fisa Wall and Federal Investigations," *NYUJL & Liberty* 4(2009). and the discussion in Richard Henry Seamon and William Dylan Gardner, "The Patriot Act and the Wall between Foreign Intelligence and Law Enforcement," *Harv. JL & Pub. Pol'y* 28(2004).

<sup>963</sup> DiMaggio and Powell, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields."

the organisational fields of intelligence and/or security. However one of the principle reasons the organisation was deemed necessary was that they are very distinct functions, with very distinct identities. In trying to establish a new organisation that was 'of' both communities (rather than simply a link between them as in the UK case discussed below) the United States provoked a tension rooted in overlapping property rights with each. The utility of senior bureaucrats is the net value of the benefits successful integration into each brings, less the institutional costs involved in pursuing it, but in this case an additional dimension was added in that there was a choice. The degree they were incentivised to pursue acceptance into either the security or intelligence communities was thus a matter of the relative net utility each could offer. In the event the DHS became a security focused body with only a very minor acknowledgement of the intelligence function for which it had also been originally intended.

To achieve that access over time Powell and DiMaggio predict that the new organisation would have had to demonstrate an institutional definition or structuration of its function in four ways: "An increase the extent of interaction among organisations in the field; the emergence of well defined inter-organisational structures of domination and patterns of coalition; an increase in the information load with which organisations in a field must contend; and the development of a mutual awareness amongst participants in a set of organisations that they are involved in a common enterprise".<sup>964</sup> Each is intimately associated with aspects of the institutional costs impact framework. Improving levels of interaction is dependent on negotiating costs overall: Patterns of domination and coalition rely on property rights arrangements. The movement of a greater information load on bounded rationality, language costs, and structural as well as specific secrecy issues. The common enterprise requirement is synonymous with creating a shared maximand.

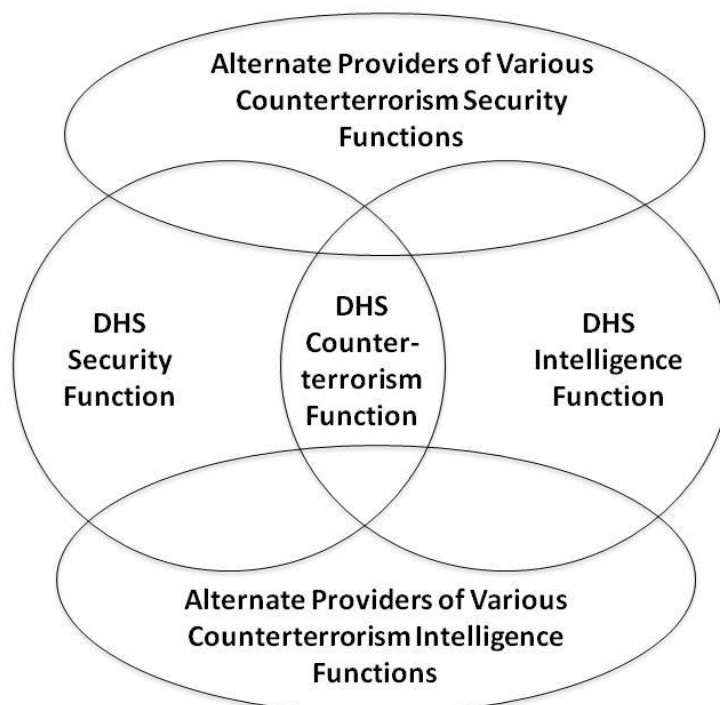
The ability of the DHS to act with first the DCI, and then after 2004 with the DNI, to coordinate counter terrorism intelligence, and thus provide the link between the intelligence providers and the security providers is therefore

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<sup>964</sup> Ibid.148

bound up with the reality of its membership of each. The complicated overlaps in property rights this duality provoke are be represented diagrammatically in figure 6.1.<sup>965</sup>

**Figure 6.1 : Overlapping Property Rights of the Department for Homeland Security Counterterrorism Function**



Yet according to Dunleavy's categorisation, it can be conceived as a 'regulatory' agency with respect to its intended intelligence function, but as a 'delivery' agency for some of its security functions.<sup>966</sup> Agencies are a product of the laws of supply and demand; they "... Do not appear ex nihilo but are established to serve a particular purpose and provide a product or service that establishes them."<sup>967</sup> and certainly the need for an intelligence organisation that breached the US 'wall' between foreign intelligence and domestic law enforcement had been clearly demonstrated by the intelligence failures that contributed to the 9/11 attacks.<sup>968</sup> This section argues that it was

<sup>965</sup> Source of diagram: Own design. Note that the simplicity of the diagram masks an even more complex of property rights holdings that are described in more detail in the text..

<sup>966</sup> Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.184

<sup>967</sup> Glee, Davies, and Morrison, *The Open Side of Secrecy : Britain's Intelligence and Security Committee*.62

<sup>968</sup> Steven Strasser and Craig R Whitney, *The 9/11 Investigations: Staff Reports of the 9/11 Commission: Excerpts from the House-Senate Joint Inquiry Report on 9/11: Testimony from Fourteen*

the high institutional cost environment that existed between the DHS and each community that prevented them fulfilling that need to the extent originally intended.

The DHS Intelligence and Analysis Centre would have been expected to be an additional asset to the existing domestic intelligence landscape given its links to the plethora of different types of state, local and tribal agencies. The development of should have provided a much needed 'requirements and priorities' template for collection capabilities within them.<sup>969</sup> Its ability to collate large quantities of diverse intelligence and to analyse them from the homeland security perspective,<sup>970</sup> as well as their broad access to (for example) passenger information, that complimented emerging data mining capabilities,<sup>971</sup> should have been able to satisfy the supply and demand requirement.

However, the laws of supply and demand coexist with other economic imperatives: The DHS are in a monopsonic relationship with their paymasters, but share that status with the intelligence agencies and other bodies they were intended to coordinate, so there are 'opportunity costs' to the tasks undertaken. Any function ascribed to a new agency will reduce the resources available to its 'competitor' agencies.<sup>972</sup> This is particularly relevant to the DHS case as the original Department was conceived to be "revenue-neutral"<sup>973</sup> so that financing it became a 'zero sum' competitive game between it and the various intelligence capabilities it had to manage. In addition to the inevitable biases and frictions this introduces when the disbursement of resources is being negotiated, it also incentives self-interested senior bureaucrats in the wider intelligence community to act opportunistically to undermine their own coordinating machinery.

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*Key Witnesses, Including Richard Clarke, George Tenet, and Condoleezza Rice* (PublicAffairs, 2004).511-525

<sup>969</sup> See "Department of Homeland Security - More About the Office of Intelligence and Analysis Mission," <http://www.dhs.gov/more-about-office-intelligence-and-analysis-mission#1>.

<sup>970</sup> Richard A Best Jr, "Homeland Security: Intelligence Support," in *CRS Report for Congress* (Washington DC: Congressional Research Service, 2003).3

<sup>971</sup> Jeffrey W Seifert, "C.R.S. Report for Congress: Data Mining and Homeland Security: An Overview" (2007).

<sup>972</sup> Glees, Davies, and Morrison, *The Open Side of Secrecy : Britain's Intelligence and Security Committee*.62-63

<sup>973</sup> Clarke, *Against All Enemies : Inside America's War on Terror*.249, 253

Richard Clarke observes that it takes years for any new Government bureaucracy to 'jell' and become effective, even when much smaller in scale than the (then) proposed DHS, pointing to the mergers that created the Energy and Transportation Department's. He therefore advocated the use of existing White House coordinating machinery rather than the creation of a new department because he did not believe that any new bureaucracy would have time to negotiate its place in the constellation of existing organisations.<sup>974</sup> To do so would have necessitated establishing respective roles and responsibilities with each of the other agencies. However, existing 'suppliers' could not be sure whether the DHS was a provider of complimentary or of substitute goods. Because the respective property rights of the new and established departments were not clear, it was not apparent to the established actors if this new entity was an ally or a threat to them. They were therefore dis-incentivised to initiate negotiations to establish them, creating a vicious circle of disengagement, until the DHS was so weakened as to no longer represent a potential threat.<sup>975</sup>

Given that those other organisations were motivated to exclude the DHS, and had the means at hand because the complexity of the institutional architecture and the uncertainty of the terrorism threat environment, it is little wonder that the new joiner could not achieve any purchase within them and that Clarke's concerns were so prescient.

Nonetheless the Homeland Security Act of 2002 unequivocally makes the DHS information analysis element a de facto member of the US 'Intelligence Community' on a legislative basis.<sup>976</sup> This gives DHS representatives a formal role in discussions on intelligence priorities and on the disbursement of limited resources and their allocations amongst other agencies.<sup>977</sup> As long ago as 1965 Sherman Kent had observed that "A very great many of the arbitrarily defined branches of intelligence are interdependent. Each may have its well defined primary target which it makes its primary concern but

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<sup>974</sup> Ibid.249

<sup>975</sup> In 2004 Clarke describes the DHS as an "... object of ridicule within the Washington beltway".  
Ibid.253

<sup>976</sup> "Homeland Security Act," (Washington DC2002).Sec 201

<sup>977</sup> Best Jr, "Homeland Security: Intelligence Support."4

both the pursuit of this target and the by-products of pursuing it bring most of the independent branches into some sort of relationship with the others.”<sup>978</sup> so that the DHS's dealings with terrorist related information should have provided an evolutionary pressure that gradually integrated the DHS into the intelligence community on a practical level as well.

The very fact that the 2002 National Strategy for Homeland Security specifically describes its intelligence and information analysis effort “not as a stand-alone activity but rather an integral component of our Nation’s overall effort....”<sup>979</sup> actually acts counter-intuitively to further cloud property rights. Even within this early document there are ominous signs of a lack of clear property right allocations that could in turn have produced the sharply defined patterns of domination and coalition required by Powell and DiMaggio<sup>980</sup> if ingress to the intelligence community was to be achieved. Firstly rather than establishing the lead position of the DHS in providing either strategic or tactical threat analysis, or even supporting it on a 'primus inter pares' basis as the British might have done, the document shows the lead for both functions as being shared with the (then) DCI and FBI, and the lead for strategic response on the policy side still held by the White House.<sup>981</sup> A manifestly unworkable proposition at either level, but particularly problematic at the tactical level, defined as the “immediate” and “near-term”. In attempting to define property rights too prescriptively in an uncertain and shifting environment the National Strategy actually made them more debateable, increasing negotiating costs overall.

Because of the way that the US intelligence community is organised, tactical level threats were dealt with within the CIA or FBI depending on whether they were regarded as foreign or domestic, no matter whether the particular case involved a threat warning or an active disruption. Each already had claims on the property rights over one or other sphere, and would be disinclined to pass them over to a new department. To do so would only introduce an additional

<sup>978</sup> Kent, *Strategic Intelligence for American World Policy*.220

<sup>979</sup> "National Strategy for Homeland Security," ed. Office of Homeland Security - The White House(Washington DC2002).16

<sup>980</sup> DiMaggio and Powell, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields."148

<sup>981</sup> "National Strategy for Homeland Security."16

friction to their operational independence without any commensurate return. Any remaining tactical level property rights claims were further blurred by the lead for any preventative action quickly passing to the national 'Joint Terrorism Task Force' (JTTF) in 2002, a multi agency construct within the FBI that subsequently relocated to the National Counterterrorism Center (NCTC)<sup>982</sup> to work alongside the ODNI's national centre there. This meant that both the counter terror intelligence function, and the policing response to its leads were located at a single site that was not the DHS. The DHS would therefore not be offering much more than a message switching service to the wider security communities, without allowing the originator the luxury of deciding who and how much should be transmitted to whom. This would undermine any information advantage the originator had within the community, as well as possibly risking external security.

Then, in January 2003, the property rights over even this function were obscured when the DHS Intelligence and Analysis Division was put in direct competition with the then still new TTIC (which later became the NCTC as mentioned above). President Bush created the TTIC to “integrate terrorist-related information collected domestically and abroad” and to provide “Terrorist threat assessments for our National Leadership”.<sup>983</sup> There were thus clear overlaps in the roles and responsibilities of each, although the Homeland security Act was not amended. However when it came to competing over those property rights, the TTIC was given clear advantages in that it could provide a lower institutional cost negotiating framework within which some of the principle external organisations with an intelligence function could work.

Where the DHS was initially headed by a political figure – the former Governor of Pennsylvania Tom Ridge, an acknowledged Intelligence professional John O. Brennan fronted the TTIC. The TTIC included intelligence professionals from the CIA's Counterterrorist Center (CTC), FBI's

<sup>982</sup> See George W (President) Bush, "Executive Order 13354 - National Counterterrorism Center," ed. The White House (Washington DC 2004). The National JTTF is still however run by a Special Agent from the FBI. See "Protecting America: National Task Force Wages War on Terror," Federal Bureau of Investigation, [http://www.fbi.gov/news/stories/2008/august/njttf\\_081908](http://www.fbi.gov/news/stories/2008/august/njttf_081908).

<sup>983</sup> "White House Fact Sheet, "Strengthening Intelligence to Better Protect America", " ed. The White House (Washington DC: Office of the Press Secretary - The White House, 2003).



Counterterrorism Division plus parts of DOD and even the DHS itself attached to it.<sup>984</sup> Whilst the TTIC thus had a ready-made pool of (relatively) experienced counterterrorism intelligence analysts, the DHS, in its formative years, had to utilise computer analysts from General Services Administration and the Energy Department, as well as generalists from the DOD and FBI who did not have the skill set for counterterrorism.<sup>985</sup> In this case the DHS lack of asset specificity to the terrorism problem contrasted poorly with a body that was better suited to it.

This problem was exacerbated by the bounded rationality of those analysts being challenged by the sheer volume of data involved. The DHS Intelligence and Analysis Division employed less than 200 analysts, yet the department it served was vast. There were 22 different Agencies and some 180,000 employees cobbled together into the DHS, along with 'information sharing partners' throughout law enforcement, State, local and even tribal bodies (amounting to some 1500 different organisations),<sup>986</sup> as well as some 40 State 'fusion centres' and countless private sector actors, all intruding into the time of these few analysts. Some of the product reaching them would have been sorted, validated and analysed but a great deal would not be, and with no general standard or system it would be impossible to judge the quality of that analysis. It would therefore need to be revisited anyway, and in the post 9/11 climate very little terrorism related intelligence was discarded early. Because the suppliers had all developed independently there was no one system or method for feeding product, in any state, through to the DHS itself.<sup>987</sup> Rather than overcoming the costs created by the wall, the DHS instead faced significant additional information related costs in searching for, filtering and evaluating information that might be useful to the counterterrorism effort.

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<sup>984</sup> Best Jr, "Homeland Security: Intelligence Support."5-6

<sup>985</sup> James Hansen, "Us Intelligence Confronts the Future," *International Journal of Intelligence and CounterIntelligence* 17, no. 4 (2004).687

<sup>986</sup> Tom Ridge, "Remarks to House Select Committee on Homeland Security on 14th September 2004," ed. Department of Homeland Security(Washington DC2004).

<sup>987</sup> Norman J. Rabkin, "Statement of Norman J. Rabkin. Overview of Department of Homeland Security Management Challenges: Testimony before the Subcommittee on Management, Integration, and Oversight," in *Committee on Homeland Security, House of Representatives*(Washington DC: Government Accountability Office, 2005).

It seems impossible therefore that the DHS can do justice to even this element of their intelligence role, or are that they likely to be taken seriously by the intelligence community members with whom they must negotiate.<sup>988</sup> Indeed the CIA flatly refused to provide them raw data, and George Tenet even testified to this effect to the House Senate Joint Enquiry into 9/11 when he must have been under enormous pressure to at least appear conciliatory.<sup>989</sup> Although they were obliged to provide any sanitised product DHS requested, the CIA were fully aware that it could only be requested if it was known about. Without it DHS analysts could not even provide the "second opinion" the Bush Administration had sought.<sup>990</sup> Conversely the TTIC's internal position allowed them ready access to both sensitive and highly classified intelligence and the established asset specificity of their officers to the terrorism problem validated their expertise. These provided the TTIC with the mainstays of credibility in any Intelligence Community and the pre-requisites to any complete analysis.

The DHS claim to property rights over the authoritative role was eroded in the same way as their functional role: Two further Executive Orders, EO13355 and EO13356 reiterated the DCI's authority for managing the intelligence community and established an 'Information Systems Council' to develop and operate terrorism information sharing systems respectively.<sup>991</sup> Then the Intelligence Reform and Terrorism Prevention Act of 2004<sup>992</sup> established the DNI post and created the Joint Intelligence Community Council on which the Secretary of Homeland Security (with his equivalents) was required to sit under the chair of the DNI and provide advice.<sup>993</sup> Certainly the fact that a Cabinet level council was legislatively mandated to provide advice to the DNI

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<sup>988</sup> Clarke, *Against All Enemies : Inside America's War on Terror*.251

<sup>989</sup> Strasser and Whitney, *The 9/11 Investigations: Staff Reports of the 9/11 Commission: Excerpts from the House-Senate Joint Inquiry Report on 9/11: Testimony from Fourteen Key Witnesses, Including Richard Clarke, George Tenet, and Condoleezza Rice*.498

<sup>990</sup> Clarke, *Against All Enemies : Inside America's War on Terror*.252 It is worth noting however that when raw secret intelligence indicated a change in security arrangements was required, as was the case with the discovery of 'liquid bombs' during Operation Overt in London, then the DHS would be included in discussions, but only at so very high a level that their efficacy was sharply reduced. See Chanan, "The Plot to Bring Down Britain's Planes."

<sup>991</sup> Michael A Turner, "Intelligence Reform and the Politics of Entrenchment," *International Journal of Intelligence and Counterintelligence* 18, no. 3 (2005).385

<sup>992</sup> "Intelligence Reform and Terrorism Prevention Act of 2004."

<sup>993</sup> *Ibid.* Subtitle C and Sec.102A

would have been intended to increase the authority and legitimacy of that post to the intelligence community, but in doing so it further diminished the status of the DHS. The turf-war that surrounded these moves principally concerned the DCI and DOD, but it is telling that DHS authority was already so eroded that the establishment of a further tier of bureaucracy over it passed with barely a murmur.

Internal structural issues also impact on the institutional cost environment from which the DHS must contract with its external intelligence functions. Even its own elements are organised so that they do not report directly through the Intelligence and Analysis Division but direct to the Secretary and Deputy Secretary.<sup>994</sup> This has meant many of the constituent parts of DHS have maintained their own, independent intelligence capability, which in turn allows what are effectively intelligence competitors like the NCTC (see below) to bypass the DHS Intelligence and Analysis Division and go direct to the source organisation. For example the Secret Service have retained their links with the Treasury's Office of Terrorism and Financial Intelligence. The Coastguard on the other hand have used their inclusion into the DHS to push ahead with a more serious intelligence infrastructure, with its own career path, that attempts to bridge the wall through a formalised taskings process that can come direct from CIA (rather than DHS). It is the Coastguard rather than its parent DHS that now boasts a counterintelligence division,<sup>995</sup> and retains a separate "Intelligence Authorization".<sup>996</sup> Both effectively usurp their new parent organisation and ensure that the increased interaction required in Powell and DiMaggio's model occurs beyond DHS purview. Institutional costs are lowered between the Coastguards and other intelligence bodies, but raised between them and the DHS, who do not have the visibility over either the actions of these sub-organisations by virtue of their (the DHS's) bounded rationality relative to the size of their responsibilities, or of the immediate

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<sup>994</sup> "Official Website of the Department for Homeland Security - Organizational Chart," DHS, <http://www.dhs.gov/organizational-chart>.

<sup>995</sup> Michael E Bennett, "The U.S. Coast Guard Joins the Intelligence Community," in *Bringing Intelligence About: Practitioners Reflect on Best Practices*, ed. Russell Swenson (Washington DC: Center for Strategic Intelligence Research - Joint Military Intelligence College, 2003).136-137

<sup>996</sup> *Intelligence Authorization Act for Fiscal Year 2007*, 2007.Sec.101

environments in which their sub-organisations are working, to be able to reduce moral hazard.<sup>997</sup>

Furthermore although a Homeland Security Intelligence Community (HSIC) has been argued to exist in effect, it does not parallel the DHS internal structure as a management construct.<sup>998</sup> A substantial percentage of intelligence relating to homeland security is actually from agencies outside the DHS, such as Law enforcement, DOD or Foreign Intelligence, which do not primarily report to the DHS but to their own line management.<sup>999</sup> Therefore any holistic view of an HSIC must include some established parts of the intelligence community that are outside the DHS, other organisations that are neither part of the intelligence community nor the DHS, Fusion Centres, as well as the DHS Intelligence and Analysis Division itself. When stacked against the much lower institutional costs involved in linkages with established bodies responsible for protection and crisis reaction, so confused a collection of associated organisations and property rights will inevitably incentivise bureaucrats to focus on the security side of the business, and internalise the intelligence function as far as possible, as Secretary Chertoff did in 2005.<sup>1000</sup>

On the face of it the much-vaunted 'war on terror' should provide for the "... development of a mutual awareness among participants in a set of organisations that they are involved in a common enterprise" that Powell and DiMaggio give as the fourth element of structuration; the shared maximand of institutional costs analysis. However once again the way the established community is organised introduced frictions that worked to counter that impetus:

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<sup>997</sup> Discussed in Chapter 2 but see Stiglitz, "Distinguished Lecture on Economics in Government: The Private Uses of Public Interests: Incentives and Institutions."383 and footnotes

<sup>998</sup> Mark A Randol, "Homeland Security Intelligence: Perceptions, Statutory Definitions, and Approaches,"(Washington DC: Congressional Research Service, 2009).

<sup>999</sup> Todd Masse, "Homeland Security Intelligence: Perceptions, Statutory Definitions, and Approaches,"(Washington DC: Congressional Research Service, 2006).21-22 (an earlier iteration of the Randol CRS report cited above).

<sup>1000</sup> see for example Merle Kellerhals, "Homeland Security Agency Plans Major Reorganization," *U.S. Department of State - Washington File*(2005), <http://www.iwar.org.uk/news-archive/2005/07-13.htm>.

The different collection disciplines of, for example, SIGINT, MASINT, IMINT (now referred to as geospatial intelligence) or even HUMINT are still seen as discrete specialisations that require a purpose-trained and recruited group of practitioners. Those practitioners would perceive themselves as engaged in the collection of intelligence (including its analysis) to support national security decision making or as engaged in tactical military or law enforcement at a local level. However the environmental shift that meant domestic terrorism became a national security threat blurred those divisions even as it increased the sense of shared maximand.<sup>1001</sup> The creation of a further discipline of Homeland Security Intelligence (HSINT) which would then be the province of the DHS Intelligence and Analysis Division, appears at first a natural and even quite an elegant solution to bridging that gap.<sup>1002</sup> It could after all be expected to provide the DHS with their own intelligence discipline; the property rights to which might grant them an entree into the established community.

In fact the addition of HSINT as a collection discipline has proved problematic precisely because it creates overlapping property rights and introduces language costs between the boundedly rational actors in different organisations. Rather than being a collection discipline HSINT is a substantive area of enquiry. The other collection disciplines are source-specific and operate using an identifiable platform, managed within a given agency and producing intelligence to support the functions of that agency.<sup>1003</sup> HSINT however is more comfortably visualised as the purpose of collecting the Intelligence rather than as a unique collection method, so there is a language cost. This is exacerbated because HSINT is only nebulously defined, with some believing it to be a Federally led 'Top-down' model that provides information to the State and local actors, and other seeing it as a 'Bottom-up' network that allows local product to be assimilated into the 'big-picture'.<sup>1004</sup> This lack of definition confuses contracting between the DHS and

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<sup>1001</sup> Randol, "Homeland Security Intelligence: Perceptions, Statutory Definitions, and Approaches." 1

<sup>1002</sup> HSINT was a term coined by Masse, then Randol, for the Congressional Research Service report. see Masse, "Homeland Security Intelligence: Perceptions, Statutory Definitions, and Approaches."

<sup>1003</sup> Ibid. Summary

<sup>1004</sup> Ibid. 4, 13

its consumers/suppliers, so that its implementation of the Homeland Security Information Network (HSIN) was piecemeal and unsuitable for most external users.<sup>1005</sup>

Whether the DHS is focused on one or the other further obscures property rights that already overlap: Four statutory members of the US Intelligence Community are specifically engaged in the domestic security mission (The intelligence elements of the FBI, US Coast Guard, Treasury and the DHS itself)<sup>1006</sup> although none is primarily an intelligence agency, with the others devoting some of their resources to it, and responsibilities in both the analytic and coordination functions have become more complex and confused at every level.<sup>1007</sup> The tactical level threat of terrorism becoming a national security issue thus means that any DHS claims over HSINT will be contested because resources are finite.

Another structural problem that produces negotiating frictions between the DHS intelligence effort and its potential partner agencies is that they are not configured in the same way. Negotiating costs are higher because appropriate points of contact are indistinct which produces barriers to peer to peer cooperation, and clear equivalents to practices and organisational forms are not apparent to DHS officers. The sub-level organisations that might offer an independent collection capability of HSINT to the DHS do not report to its 'Intelligence and Analysis' element, but rather to the Deputy Secretary, who is also responsible for their wider security functions. Any coordination below that remains within the sub-level organisations gift.<sup>1008</sup> In the established intelligence agencies intelligence-product travels up the same chain of command under which officers operate. The different types of organisational structure used in these different cases are an inevitable by-product of having different organisations, doing different things, and in different environments: It

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<sup>1005</sup> Richard Skinner, "Homeland Security Information Network Could Support Information Sharing More Effectively," (Department of Homeland Security Office of Inspector General, 2006).

<sup>1006</sup> Masse, "Homeland Security Intelligence: Perceptions, Statutory Definitions, and Approaches." 16

<sup>1007</sup> Peter Gill, "Securing the Globe: Intelligence and the Post-9/11 Shift from 'Liddism' to 'Drainism'," *Intelligence and National Security* 19, no. 3 (2004).474-475 and *Rounding up the Usual Suspects?: Developments in Contemporary Law Enforcement Intelligence*(Ashgate Pub Ltd, 2000).40-54

<sup>1008</sup> "Official Website of the Department for Homeland Security - Organizational Chart".

follows that Different “species” of organisations are thus needed.<sup>1009</sup> However this distinction produces institutional costs between actors who nonetheless need to cooperate closely.

Thus the poor definition of property rights surrounding the new organisation and HSINT itself will lead boundedly rational senior bureaucrats in diverse agencies to feel individually responsible for overlapping elements of the function. They will be incentivised to act opportunistically in a Niskanen-like manner to secure a greater counterterrorism responsibility, as well as the kudos and resources that go with it. Because the provision of security is an “...n-person game dominated by strategic practices of information control and power as between various agencies...”,<sup>1010</sup> the weak property rights clarity provokes high institutional costs. Frictions occur during each separate negotiation in which the DHS engages, with any one of these other organisations. Moreover the shifting terrorism environment means these occur sequentially as well as simultaneously.

Powell and DiMaggio describe a 'normative isomorphism' where established members of a community act to “... to define the conditions and methods of their work, to control ‘the production of producers’...”.<sup>1011</sup> The structural and operational secrecy inherent in intelligence work makes it especially vulnerable to these pressures. An outward looking organisation like the DHS, made up of individuals largely recruited from outside the intelligence community, and led by a politician, would be an anathema to those already inside the intelligence community. These insiders can use the high institutional costs that are inherent to counterterrorism provision, as well as those that result from both the cultural and organisational differences described above, to act opportunistically to regulate the patterns of dominion

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<sup>1009</sup> Morgan Gareth, *Images of Organization*(California: SAGE Publications, 1997).44

<sup>1010</sup> Peter Gill, *Policing Politics: Security Intelligence and the Liberal Democratic State*(London: Cass, 1994).83

<sup>1011</sup> DiMaggio and Powell, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields."152

and coalition to their individual advantage rather than that of their sponsor, the US government.<sup>1012</sup>

### **Section 3: Hierarchical Cooperation and The United States Director of National Intelligence**

Although unable to leverage the political support to establish a community wide head of intelligence itself, the 9/11 Commission did identify a lack of cohesion across the US Government and intelligence community as one of four principal failures that had contributed to a failure to prevent the attacks, clearly signposting the importance of cooperation in the counterterrorism function. This shortfall in coordination was then divided into two areas: Firstly the Commission noted that “Action officers should have been able to draw on all available knowledge....”, and secondly that “Management should have ensured.....duties were clearly assigned across agencies, and across the foreign-domestic divide.”.<sup>1013</sup> This clearly signified that the lack of cohesion went beyond information sharing issues, but also included confused responsibilities and uncertainty over priorities. The 9/11 Commission therefore believed that systemic problems in both the structure and information sharing capabilities needed to be dealt with, both of which can be captured within the institutional costs impact framework. The subsequent creation of a Director of National Intelligence after the second shock over poor intelligence on Iraqi WMD capabilities was (inter alia) intended to address both of these problems, at least for the intelligence function, in future counterterrorism work. This section will therefore examine each issue in turn from an institutional cost perspective to assess the contribution the DNI (and ODNI, including the NCTC) has made to collaboration within the US intelligence and security spheres in the counterterrorism field.

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<sup>1012</sup> For a discussion on how organisations in the US intelligence community use their relative 'autonomy' and 'penetration', a different working of the institutional costs paradigm, to manage power relations see Gill, "Securing the Globe: Intelligence and the Post-9/11 Shift from 'Liddism' to 'Drainism'."

<sup>1013</sup> See "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States."9



## a. Structural Issues

The post of DNI, together with its supporting organisation, the ODNI and functional centres like the NCTC were finally created in 2004 through the Intelligence Reform and Terrorism Prevention Act (IRTPA) specifically to 'manage' the intelligence community.<sup>1014</sup> It boasts a significant architecture through which that aim could be achieved, with different committees, councils and centers designed to coordinate the whole community both vertically and horizontally.<sup>1015</sup> Indeed despite some misgivings, Gregory Treverton suggests that the creation of a DNI was one of the foremost 'successes' of the 9/11 Commission.<sup>1016</sup> Certainly the fact that IRTPA gave the DNI role responsibility for both foreign and domestic intelligence activity, and reconstituted the National Foreign Intelligence Program as the National Intelligence Program should have removed one of the most problematic bars to cross-community cooperation in the terrorism sphere.<sup>1017</sup>

However even in that the DNI's actual ability to direct the program with any authority was "... acutely circumscribed", limiting the role of the office to 'advise' and provide 'guidance'.<sup>1018</sup> The creation of the office, in tandem with IRTPA measures and building on both the 2001 Patriot Act and its 2006 enhancement Patriot Improvement and Reauthorization Act is regarded by some as positive, as wide-ranging as the threats with which it is required to deal, and timely.<sup>1019</sup> Yet some of the resultant detail indicates that horse trading over the minutiae actually allowed the reappearance of some of the structural problems that the legislation was designed to overcome, with the same institutional frictions still apparent (and in some cases made worse).

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<sup>1014</sup> "Intelligence Reform and Terrorism Prevention Act of 2004." and discussed in Omand, "Creating Intelligence Communities." 107

<sup>1015</sup> "Office of the Director of National Intelligence: Leading Intelligence Integration". Coordinating machinery includes The Executive Committee, The Joint Intelligence Community Council, The National Intelligence Council (NIC), The Information Sharing Environment (ISE), The National Counterterrorism Center (NCTC), The National Counter-proliferation Center (NCPC), and The National Counter-intelligence Executive (NCIX).

<sup>1016</sup> Treverton, *Intelligence for an Age of Terror*. 81-85

<sup>1017</sup> "Intelligence Reform and Terrorism Prevention Act of 2004." Sec. 1074

<sup>1018</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol. 1. 407

<sup>1019</sup> From 'US Intelligence Reform: Improvement in counter-terrorism?' IISS Strategic Comments. Editor Alexander Nicoli. ISSN: 1356-7888 Volume 13 Issue 09 November 2007

Any such assessment must take into account that the DNI as originally envisaged is a hierarchical construct intended to sit over the disparate parts of the US intelligence community and enforce cooperation between its recalcitrant members from on high. However when actually rolled out the DNI was neither a wholly authoritative body; equivalent to what the WMD Commission thought of as a 'Secretary of Intelligence' with powers to match, nor what they regarded as the other viable alternative; a simple coordinating entity.<sup>1020</sup> Property rights over the use of intelligence community resources were thus further confused rather than clarified: An ODNI 'Office of the Inspector General' report in 2008 found that it had lead to elements of the intelligence community believing that the DNI's support for collaboration was indicative of how it was to be managed only with their consent, a position fundamentally at odds with the original DNI ethos and even IRTPA.<sup>1021</sup> These opaque property rights introduced further search, information and negotiating costs, fundamentally changing the DNI role and the capabilities of its functional elements like the NCTC. The different institutional cost impacts on first hierarchical, then collegial structures will therefore be examined to assess their impact on the DNI's ability to genuinely 'manage' collaborative working against the terrorism threat.

#### i) Structure, Authority, and Institutional Costs

These structural difficulties were rooted in the negotiations that suffered from high institutional costs. Firstly there was a language cost as boundedly rational advocates variously argued over national and tactical level control of assets on the apparent assumption that they were the same thing. Congressional debates show a clear tension between strategic and tactical concerns without the distinction being made explicit. They reflect a well-founded fear that if DNI has an holistic responsibility (including for DoD intelligence assets) they will be focused on the national level priorities of their new masters. The reasonable assumption being that a DNI, as the Presidents principal intelligence adviser, will direct his or her assets to fulfill

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<sup>1020</sup> Silberman and Robb, "The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction."6

<sup>1021</sup> Edward Maguire, *Critical Intelligence Community Management Challenges*(Washington DC: Office of the Director of National Intelligence, Office of the Inspector General, 2008).

these needs to the detriment of tactical level intelligence, so that soldiers and others would be put at risk.<sup>1022</sup>

The very real but very different needs of both sides are reliant on many of the same tools. However because the agencies and departments involved were organised into self-contained functional silos, providing intelligence for their own purposes from the bottom all the way up, the utility of senior bureaucrats is best served by maintaining autonomy, as they can then judge how best to allocate scarce resources between each as particular circumstances dictate.

In part because of this organisational form high negotiating costs between actors were not solely predicated on the different levels of responsibility that complicated the DNI case however, or even the peculiar difficulties of the terrorism problem. Rather they were the norm between the various members of the US intelligence community. Terrorism was simply another issue over which they were to be contested.<sup>1023</sup>

Indeed the level of negotiating friction and repeated sub-optimal outcomes that have resulted are a strong argument against the sort of 'realist' world-view described in Chapter 1. The WMD Commission's overview, which was produced after the twin exogenous shocks of 9/11 and the flawed intelligence assessments on Iraqi WMD, pessimistically noted the ability of the intelligence community to resist any externally generated pressure to adapt, and how closed to outsiders it was.<sup>1024</sup> The uncertainty of their external environment is therefore not matched internally; where private firms adapt at a population level, because if they fail to modify after exogenous shocks they perish, most government bodies survive for decades almost unchanged.<sup>1025</sup> Without that risk the relative utility of pursuing agency level sub-goals is enhanced over community level projects like the DNI.

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<sup>1022</sup> Allen, *Blinking Red : Crisis and Compromise in American Intelligence after 9/11*.1-5

<sup>1023</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1

<sup>1024</sup> 'The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction'[the Silberman-Robb Commission].6. March 2005. *Italics in original*.

<sup>1025</sup> Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.46-47, Howard Aldrich, *Organizations and Environments*(New Jersey: Englewood Cliff, 1979).36

Nor was the idea of an authoritative DNI universally accepted as a positive move across the board anyway; opposition coalesced around concerns that the DNI would be neutered,<sup>1026</sup> particularly without an agency of their own, and the converse worry that they would be too strong relative to the DoD.<sup>1027</sup> The recommendations of the 9/11 Commission, whilst authoritative, were only recommendations, and its panel were from outside the community so lacked credibility to some. This was the case despite the fact unlike many earlier Commissions, the 9/11 Commission did not disappear having reported, but remained constituted to try and ensure implementation of their recommendations.<sup>1028</sup> In any event the role of DNI was mutated through the same processes of deleterious horse-trading that have undermined almost every measure recommended in Presidential Commissions going back to the First Hoover Commission in 1948,<sup>1029</sup> the original National Security Act of 1947,<sup>1030</sup> and even the US approach to foreign and domestic intelligence in the run-up to the Second World war.<sup>1031</sup>

The results were a set of confused property rights that varied not only from issue to issue but even with respect to different agencies within each issue, and according to the level at which the issue was being addressed, increasing complexity rather than lowering it. These property rights problems are shown diagrammatically in Figure 6.2.<sup>1032</sup> They mean that the DNI has to enter wholly different negotiations with each, even when dealing with the same issue. The likelihood of the same outcome, and the evolution of a genuinely cooperative 'single' community, is thus reduced. Consider for

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<sup>1026</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.405, Allen, *Blinking Red : Crisis and Compromise in American Intelligence after 9/11*.31

<sup>1027</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.405

<sup>1028</sup> Robert D. Chapman, "Intelligence Reinvented," *International Journal of Intelligence and CounterIntelligence* 23, no. 2 (2010).

<sup>1029</sup> Glen Hastedt, "Foreign Policy by Commission: Reforming the Intelligence Community," *Intelligence and National Security* 22, no. 4 (2007). for a Commission by Commission description of this process.

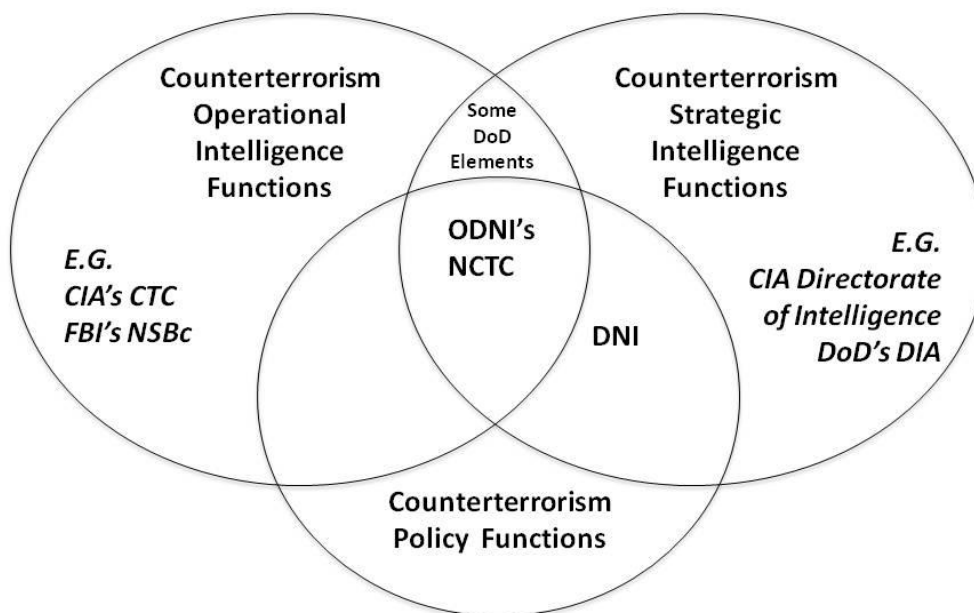
<sup>1030</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.*

<sup>1031</sup> Douglas M Charles, "'Before the Colonel Arrived': Hoover, Donovan, Roosevelt, and the Origins of American Central Intelligence, 1940–41," *Intelligence and National Security* 20, no. 2 (2005).

<sup>1032</sup> Source of diagram: Own design. Once again it should be noted that the diagram is simplified for the sake of clarity, and masks still more complex property rights claims by a wide range of actors.

example the agreements reached around the appointment of senior personnel around the community.

Figure 6.2 : Overlapping Property Rights in US Counterterrorism Intelligence Functional Levels



The DNI chooses and is line manager to the Director of the Central Intelligence Agency, but both of them are actually appointed by the President. Conversely the DNI's authority over the appointment of an intelligence head for any of the host Departments of other Intelligence Community members like the State Department or Treasury is limited to a veto because these are appointed by their host department. As if to enforce the importance of negotiating positions over practicality in this area, the same veto arrangement applies to the intelligence heads for the Army, Navy, Marine and Air Force elements of the military, who would be most engaged with their solely military single-service concerns. On the other hand the DNI only has a right to 'be consulted' around the appointment of the DIA head, who has very specific national responsibilities<sup>1033</sup> which overlap those of the ODNI. Even where the DNI has theoretical authority, weak property rights and a poor negotiating position mean that enacting it is problematic. A

<sup>1033</sup> Discussed further in Part 3.

directive from DNI Blair in 2009 that his office would henceforward select the US heads of intelligence in any country, historically a CIA choice from amongst their own staff, was immediately countermanded by the then Director, Leon Panetta, who successfully ordered that it be ignored despite being ostensibly under the DNI's line management.<sup>1034</sup> Given that the principle purpose of these organisations is not counterterrorism, or even intelligence collection in most cases, a condition of differing sub-goals will apply and the DNI's ability to align their goals with his (at the time of writing) own will be limited by these confused and restricted property rights.

Internally property rights are similarly confused so that the DNI is barely even 'master in his own house':<sup>1035</sup> Because of his limited authority over the external parts of the intelligence community described above, a great deal of the counterterrorism effort is vested in the internal NCTC. Certainly the NCTC sits within the ODNI, but its Chief is appointed by the President (and ratified by the Senate). Thereafter the NCTC reports to the President on counterterrorism operations that are not 'intelligence' (despite its own lack of operational capacity), but to the DNI on counterterrorism intelligence.<sup>1036</sup> Again, confused and overlapping property rights linked to different goals mean that the intended hierarchal authority of the DNI over the counterterrorism piece is largely illusory.

Other possible control methods were similarly limited. The UK's former Security and Intelligence Coordinator, Sir David Omand, has stated that for any reforming initiative to be successful there must be an alignment of the desired change and authority over the relevant budget.<sup>1037</sup> However the diminution of the proposed authority of the DNI included a limitation on the budgetary control over agencies that the DNI could exercise, so that the role became a 'conduit' for the agencies financial bids to the President, a conduit that could be 'gone around' if the agency in question was unhappy with the

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<sup>1034</sup> Drezzen and Naylor, "Mission Unstoppable".

<sup>1035</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.425

<sup>1036</sup> Treverton, *Intelligence for an Age of Terror*.91

<sup>1037</sup> Omand, "Creating Intelligence Communities."100

DNI's position.<sup>1038</sup> The result is that for budgetary questions the DNI may represent an additional tier of institutional costs that can be avoided by some of the actors involved.

The contest over budgetary control between the DNI and DoD was an extension of the strategic/tactical debate already referred to, but was rooted in the negotiation over new patterns of property rights. The DNI was never intended to be involved in the tactical military intelligence programs, known as 'Tactical Intelligence and Related Activities' (TIARA), because they were to serve military commands and field commands only. The property rights were apparently clear. However the shift in the external environment brought about by the information age,<sup>1039</sup> coupled with the linkage between counterinsurgency and counterterrorism that the US's 'War on Terror' brought about, meant that the distinction between military operations and civilian counterterrorism, and between the tactical and strategic levels, was far less clear. It was therefore proposed that the DNI have some authority over the 'Joint Military Intelligence Program' (JMIP), but that included elements of TIARA as well as DoD held, nationally responsible resources like the NSA and NGA (and precursors); a significant overlap that could seriously impact on the ability of each to function in their respective roles.<sup>1040</sup>

The resultant arrangement directing that the DNI 'consult with' the Secretary of Defense to agree civilian and military needs (with the President as referee);<sup>1041</sup> was in fact a settlement that is no settlement at all. Item by item and use by use negotiations that are hotly contested are inevitable. The military needs to integrate the same resources needed by the national level into operational units, for whom more will always be better and the need always more 'urgent' (if not more important) than any civilian requirement. The creation of an agreed strategic framework by the DNI and Defense Secretary as advocated by Treverton through which all such negotiations can

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<sup>1038</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.407

<sup>1039</sup> Treverton, *Reshaping National Intelligence for an Age of Information*.93-135

<sup>1040</sup> *Intelligence for an Age of Terror*.87

<sup>1041</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.407

be mediated seems unlikely,<sup>1042</sup> so that this element of budgetary control seems more likely to prevent cooperative behaviour than encourage it.

The DNI's ability to use budgetary authority as a control mechanism post approval of the National Intelligence Program (NIP) are slightly better however. As well as controlling disbursement the DNI has a monitoring role and needs to approve any shift in what the money is to be used for by an agency.<sup>1043</sup> Given the uncertainty of the environment such a constraint on an individual agencies flexibility is a significant tool to align them with other agencies, albeit a negative one. Possible sanctions in the event of a breach remained weak however, and the DNI's own ability to respond to emerging threats in any positive way, which might have gained the office credibility as an intelligence actor, more limited still. Shifting funds between programs requires the agreement not only of the agencies (at least some part of which will be a net loser) but also the Office of Management and Budget.<sup>1044</sup>

This pattern of formal authority over intelligence community elements intended to enforce cooperative behaviour that is not matched by any real statutory authority is repeated elsewhere. The DNI's strategic responsibility for community requirements and priorities included the near impossible exhortation to resolve conflicts in collection priorities and tasking of national assets with no commensurate property rights over either the agencies or assets in dispute.<sup>1045</sup>

However less obviously contentious hierarchical control measures have been gradually accumulated to offset these limitations, most often through Congressional activity, whereby the DNI's impact could be enhanced through relevance to enabling rather than core architecture: While the DNI's directive that the NCTC should be staffed by analysts from across the community might have been the victim of perfunctory compliance by self-interested

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<sup>1042</sup> Treverton, *Intelligence for an Age of Terror*.87

<sup>1043</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.407

<sup>1044</sup> *Ibid*.Vol.1.407

<sup>1045</sup> "Intelligence Reform and Terrorism Prevention Act of 2004."Sec.102A and *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.408



managers,<sup>1046</sup> the Senate Select Committee could provide the DNI with some intra-agency personnel authority by giving the office some control over ceiling levels so that civilian expansion had to be approved by the external DNI, granting the office additional 'cards' in other negotiations.<sup>1047</sup>

There are therefore indications that Congress and the ODNI are talking to each other, and that Congress is aware of the limitations to the DNI's authority, and minded to enhance it, albeit by gradual evolution. Contrary to Zegart's findings of a disinterested Congress little incentivised to involve itself in foreign affairs,<sup>1048</sup> an institutional cost approach suggests that Congress is instead motivated to improve their own negotiating position. Congressional utility from intelligence related matters has shifted with the closer links between them and the domestic security environment and terrorism. Empowering the DNI in any real way may not be a positive for the Executive's utility, given their direct working relationship with internally controlled departmental intelligence agencies (in the DoD and State for example).

Enhancing the position of the DNI nonetheless lowers Congress's own institutional costs by providing a single executive point through which to oversee' the community at large. Although it is too much to claim any seismic shift in willingness by Congress to enter into the sort of bruising internal reforms and external negotiations with senior bureaucrats advocated by Lee Hamilton, the former Vice Chairman of the 9/11 Commission,<sup>1049</sup> the 2010 Intelligence Authorization Act is replete with minor measures that enhance and extend the DNI's authority.<sup>1050</sup> Indeed Congress behaves in a Dunleavy 'bureau shaping' manner in the report by accepting a diminution of its own authority by passing the power to order an 'accountability review' of an

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<sup>1046</sup> Nolan, "Information Sharing and Collaboration in the United States Intelligence Community: An Ethnographic Study of the National Counterterrorism Center."

<sup>1047</sup> Dianne Feinstein, "Intelligence Authorization Act for Fiscal Year 2012: Report Together with Additional Views," (Washington DC: Senate Select Committee on Intelligence 2012).Sec.103

<sup>1048</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.*

<sup>1049</sup> Amy B Zegart, *Eyes on Spies: Congress and the United States Intelligence Community*(Hoover Press, 2011).

<sup>1050</sup> Dianne Feinstein, "Intelligence Authorization Act for Fiscal Year 2010: Report Together with Additional Views,"(Washington DC: Senate Select Committee on Intelligence 2010).

intelligence community element to the DNI.<sup>1051</sup> One of the most potentially potent of these measures is the granting to the DNI authority to control the vetting status of everyone within the community (except some political or judicial appointees which are specifically linked to the oversight function).<sup>1052</sup> There are thus indications that where head on assaults on the intelligence community have failed, Congress is minded to use the DNI as a lower institutional cost route to back-door control. This indicates that although the DNI was intended as a coordinator by fiat, when that failed, routes boasting less institutional frictions have been sought.

Nonetheless the net divergence between the proposed authoritative DNI role and the actualité was so great that several potential candidates for the job declined it prior to Negroponte's accession despite its apparent kudos,<sup>1053</sup> and there has been a high turnover thereafter.<sup>1054</sup> The post cannot enforce cooperative behaviour across the intelligence aspects of the counterterrorism community because the detail of the legislative and organisational architecture in which it sits engenders high institutional costs.

## ii) Structure, Collegiality, and Institutional Costs

The alternative possible path offered by the WMD Commission, that the ODNI be a small coordinating body only, would also have been subjected to institutional cost pressures that would still have impinged on its ability to encourage collaboration. Certainly the DNI could usefully have been a 'primus inter pares' amongst agencies. Like the British system this could have offset the positions bounded rationality problem, whilst lowering 'principal-agent' tensions, because although still unsighted the DNI would be a coordinator and not a principal anyway. Such a system would also provide redundancy against the bounded rationality within the agencies themselves,

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<sup>1051</sup> Ibid.29

<sup>1052</sup> "Executive Order 13467—Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information ", ed. The White House, Presidential Documents (Washington DC: Federal Register, 2008).

<sup>1053</sup> Treverton, *Intelligence for an Age of Terror*.81-85

<sup>1054</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.424

a useful commodity in an uncertain security environment despite the potential problems of overlap.<sup>1055</sup>

The scale of the undertaking dictates a number of committees sitting across purposes, geographical areas and consumer areas of relevance.<sup>1056</sup> Efforts to achieve this have been negatively impacted by the resulting complexity. Executive coordination is for example ostensibly managed by a National Intelligence Board (NIB), which the DNI chairs over the various heads of agencies. Despite its larger membership than its forefather (the National Foreign Intelligence Board (NFIB)), Davies suggested in 2012 that its remit for coordination across the community is weaker. However the more recent release of Intelligence Community Directive 202<sup>1057</sup> suggests that it has actually inherited the NFIB remit, so that although not technically weaker, the NIB's lack of visibility across the community that Davies observed means that it is de facto less influential. Whilst it manages national estimates, coordination has been delegated down to a complex tapestry of managers with specific areas of concern<sup>1058</sup> as predicted by Hammond.<sup>1059</sup> The net result has been a series of 'duplicated taskings' and 'conflicting messages' out to the wider intelligence community which have undermined ODNI status and cooperation generally,<sup>1060</sup> as actors individually select their own reporting lines (in the manner depicted in Diagrams 5.3 and 5.4) according to which offer the lowest institutional difficulties.

At Cabinet level there are other institutional costs that reduce collaborative capability. The Joint Intelligence Coordinating Council (JICC), which the DNI also chairs (although the role is not of Cabinet rank), is intended as a committee type body for national level coordination. However the rigidity of the legislative architecture through which it must work, when coupled with the

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<sup>1055</sup> Senior U.S. Intelligence figure Speaking Under Chatham House Rules CH5, (Oxford 2013). Landau, "Redundancy, Rationality, and the Problem of Duplication and Overlap."

<sup>1056</sup> Hammond, "Why Is the Intelligence Community So Difficult to Redesign? Smart Practices, Conflicting Goals, and the Creation of Purpose-Based Organizations."418

<sup>1057</sup> Mike McConnell, "Intelligence Community Directive – 202: National Intelligence Board," ed. Director of National Intelligence(Washington D.C.2007).

<sup>1058</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.415

<sup>1059</sup> Hammond, "Why Is the Intelligence Community So Difficult to Redesign? Smart Practices, Conflicting Goals, and the Creation of Purpose-Based Organizations."418

<sup>1060</sup> Maguire, *Critical Intelligence Community Management Challenges*.2

informal channels open to participants, limits its ability to work collegially. The JICC system mandates that members may formally dissent from any advice or opinion the Council offers. It further states that any such dissent must be brought to the attention of the end-user (whether the President or NSC).<sup>1061</sup> Any dissenting party, which might include the Secretaries of State for Defence State or Treasury (who are more overtly politically aligned with the President than the DNI), will however have much lower institutional cost points of access to the President that are both routine and less formal. Through these they will discuss the broader set of issues relevant to their role, of which any intelligence opinion is but a small part. The weight of the original opinion can therefore be diminished by a single dissenting voice, undermining the collaborative approach that produced it.

Perhaps the greatest structural flaw in the DNI's ability to promote cooperation across the counterterrorism intelligence endeavour lies in the fact that although no longer formally double hatted in the way the old DCI was, the DNI nonetheless has two roles: As the manager of the community and as the Presidents principal intelligence adviser. Just as being double hatted provoked probity problems for the old DCI role, this arrangement creates significant institutional costs for the DNI. Each role is qualitatively different to the other, so that any holder of the DNI post is likely to themselves be asset specific to one or the other. The span of control of any executive is inevitably delineated by the time and energy available to them,<sup>1062</sup> and bounded rationality will prevent full engagement with two such distinct areas. Any information disadvantage in either will be magnified by the attention needed by the other, as knowledge in each area will be highly idiosyncratic to it alone.<sup>1063</sup> The fact that the DNI's intelligence responsibilities that transcend the full range of national security issues in an uncertain environment will inevitably provide a push for the intelligence adviser role as

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<sup>1061</sup> "Intelligence Reform and Terrorism Prevention Act of 2004." Sec.1023, Based on "National Security Council Intelligence Directive No. 1," ed. The White House(Washington DC1950).Updated from 1947 Version

<sup>1062</sup> Gulick, "Papers on the Science of Administration (1937)."7

<sup>1063</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization.*

crises emerge, and be deleterious to the terrorism issue generally, and its coordination particularly.

Michael Hayden, the former Principal Deputy DNI (as well as former Director of the CIA and NSA) observed: "Unfortunately the DNI has two jobs, either of which would overwhelm a person. One is senior intelligence adviser to the President; the other is smooth functioning of the Intelligence Community. It's very hard for a DNI not to focus on the first, largely because the president insists that he does. If you do that, that means the smooth functioning of the community, by default, tends to drift to the DNI staff. That is not a formula for success. Staffs don't run other staffs; staffs support principals".<sup>1064</sup> The problems Hayden refers to can be described in institutional cost terms by examining the two significant issues that result.

Firstly appropriate points of contact are indistinct which produces barriers for to peer to peer cooperation. Clear equivalents to practices and organisational forms are not apparent. As Gareth describes it, different 'species' of organisation are required if systems are needed to do different things in distinct environments,<sup>1065</sup> but the ODNI has two such roles and a Director who "... spends his days waiting outside the Oval Office ... trying to manage the community on his Blackberry"<sup>1066</sup> so that the development of probity at a senior level is difficult. Hayden goes on to make this point, arguing for the importance of commanders talking to commanders, so that the "... CIA's HR (human resources) is not being tasked by DNI's HR ... the CIA director may be tasked by the DNI, and the director may use his HR to respond to that tasking. When you're able to establish that kind of relationship, then I think we're more likely to succeed."<sup>1067</sup> In an apparently hierarchical system the same will be true of a function like counterterrorism, increasing the negotiating costs experienced by a body like the NCTC. The dual role of the DNI thus increases the frictions in negotiating at both senior and working levels. At the same time communication costs increase with the necessity for

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<sup>1064</sup> Mark Mansfield, "A Conversation with Former Cia Director Michael Hayden," *Reflections on Service* 54, no. 2 (2010), <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol.-54-no.-2/a-conversation-with-former-cia-director-michael.html>.

<sup>1065</sup> Gareth, *Images of Organization*.44

<sup>1066</sup> Treverton, *Intelligence for an Age of Terror*.97

<sup>1067</sup> Mansfield, "A Conversation with Former Cia Director Michael Hayden". parenthesis added.

peer to peer nodes, and information costs rise as the DNI staff must coordinate itself before it can attempt to coordinate the external community.

Establishing such a relationship is however rooted in the utility different actors find in each function. Clearly aware of the extent to which this distracted him from what he saw as his principal mission, DNI Mike McConnell did attempt to divest himself of the responsibility of delivering the President's Daily Brief (PDB). The President was not inclined to permit this<sup>1068</sup> as his utility was in receiving the best possible intelligence picture on a daily basis. At the same time whilst the coordination role may be the job that is least able to be delegated, the DNI's personal utility will probably be enhanced by satisfying the senior decision-maker: He or She will have been appointed by the President after all. The relationship will offer significant status and may even be personally fulfilling, or at least relatively low friction. There will only be a small number of nodes with which to connect, all of whom will be part of the same executive team and will largely share the same maximand. Atmosphere will therefore be superior when contrasted with the limited and variable lines of control the DNI can muster in delivering his or her coordination function. Often this will be a matter of cajoling and negotiating difficult 'contracts' between various actors that are frequently at least as powerful, boast the same access to the senior decision maker, and can routinely use the significant structural secrecy factors and limits on the DNI's time to engineer information advantages and then act opportunistically. Presidential direction will thus only reinforce how the DNI would rationally elect to allocate his scarce personal resources.

Secondly because 'staffs don't run other staffs' the rationality limitations of the DNI will be reflected in their staff, rather than off-set by it. Left to its own devices, a staff will naturally pursue the status quo, focusing its energy on maintaining a point of balance as close to the point where a senior decision maker left it. They will be risk averse and have neither the authority nor the inclination to engage with any issue that might be contentious, or where the

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<sup>1068</sup> Treverton, *Intelligence for an Age of Terror*.97

wishes of their absent principal are not obvious at the outset.<sup>1069</sup> The equation for the operational elements with whom they must contract is however very different as they are motivated to take risks if they believe other parts of the community are providing an 'insurance cover'.<sup>1070</sup> They might use their discretionary latitude to deviate still further from the formers implicit wishes if they believe the ODNI are that insurance, and for example, reduce coverage of a counterterrorism target offering poor individual utility returns in favour of something else more in keeping with home agencies core mission as they perceive it.

The DNI's staff will also be incentivised to maximise their personal utility by pursuing their principals preferences for obtaining good analytic product with which to serve the President (for much the same reasons), and thus inclined to liaise vertically with their contacts to help compile national level intelligence products like the Presidents Daily Brief (PDB), rather than horizontally to improve linkages across a discordant counterterrorism effort, as the emphasis within the Office of Deputy Director of National Intelligence for Intelligence Integration makes clear.<sup>1071</sup> The organisational levels responsible for tactical delivery are capable of working bilaterally when it appears to them functionally useful, as various operations have demonstrated,<sup>1072</sup> and so could after all actually end up removing the ODNI from that linkage at a sub-strategic level, where many of the rewards for counterterrorism are to be found. The ODNI is therefore incentivised to maintain an asymmetric control over information if it is avoid the possibility of being neutered by the very organisations it is supposed to coordinate.

There is therefore a tension between the costs associated with either management by fiat or by coordination. The bounded rationality of the DNI will make it impossible to actively manage information flows between different

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<sup>1069</sup> The relative risk taking preferences of different groups, including staffs, are discussed in Robert H. Brockhaus, Sr., "Risk Taking Propensity of Entrepreneurs," *Academy of Management Journal* 23, no. 3 (1980).

<sup>1070</sup> Stiglitz, "Distinguished Lecture on Economics in Government: The Private Uses of Public Interests: Incentives and Institutions."p.383 and footnotes

<sup>1071</sup> See "Office of the Director of National Intelligence: Leading Intelligence Integration".

<sup>1072</sup> Discussed previously but see for example Terry McDermott and Josh Meyer, *The Hunt for Ksm: Inside the Pursuit and Takedown of the Real 9/11 Mastermind, Khalid Sheikh Mohammed*(Hachette Digital, Inc., 2012).3-21

organisations that themselves have a complex variety of information holdings, roles, and specialist knowledge advantages. The volume of data that may be potentially relevant is simply too great. What he or she could be reasonably expected to achieve is the establishment and management of a low institutional cost environment for the different agencies so that they can interact horizontally.<sup>1073</sup>

However, any such moves from a DNI would undermine their own office, and violate the 'command principle' resulting in confusion and inefficiency.<sup>1074</sup> The ODNI have tried to manage this tension by focusing on high powered analysis in functionally based centre's like the NCTC, arguably another staff running staffs approach with all the problems that brings (as discussed above). However this sort of organisational form itself requires a trade off against the deeper cultural and contextual understanding often needed, which is better developed through a more traditional geographically based form of organisation that allows an analyst a longer period of familiarity with potential problem areas as they ebb and flow towards becoming a terrorist threat.<sup>1075</sup>

Each has advantages in different circumstances, but the property rights overlap between the DNI's NCTC and CIA's CTC has meant that those advantages have become a means for each to behave opportunistically to define and then protect their 'turf' rather a point around which they coalesce. The ODNI have tried to improve their bargaining position with the rest of the community by becoming the loci at which all such information is aggregated then analysed,<sup>1076</sup> but have evolved into a strategic level resource as without an 'agency' of their own they have struggled to establish low friction relationships at more operational levels. The CIA on the other hand have used their greater depth of knowledge to remain the operational and tactical

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<sup>1073</sup> Hammond, "Why Is the Intelligence Community So Difficult to Redesign? Smart Practices, Conflicting Goals, and the Creation of Purpose-Based Organizations."418

<sup>1074</sup> Hammond, "In Defence of Luther Gulick's 'Notes on the Theory of Organization'." 148 quoting Gulick, "Notes on a Theory of Organization."

<sup>1075</sup> Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*.154, 156

<sup>1076</sup> John Negroponte, "Keynote Address to Jmic-Odni Conference " in *Managing the Future During a Time of Change: A conference on Intelligence Reform*(Center for Strategic Intelligence Research2005).



level intelligence providers for counterterrorism, behaving opportunistically by sending only very inexperienced analysts to the NCTC so that their own capability is retained, and the knowledge base of their rivals is not improved.<sup>1077</sup>

Other structural problems are less intentional, but occur as a result of the uncertain environment shifting. The counterterrorism capability of the US is heavily invested in foreign liaison relationships and the DNI is in turn responsible for the coordination of liaison with foreign intelligence and security agencies,<sup>1078</sup> a responsibility delegated down to the CIA Heads of Station in most instances. Observers like Michael Herman have long warned that the new need to share intelligence across national divides following the environmental shift at the end of the Cold War could only be managed if trust was developed, and that this might be incompatible with broader requirements and priorities.<sup>1079</sup> Trust in the probity of one's fellow actor is likely to be fragile, and can be easily lost.<sup>1080</sup>

There is an inherent risk in putting both counter terror liaison and responsibility for diplomatic and economic intelligence needs in the same hands.<sup>1081</sup> Jennifer Sims has even argued that in some cases a liaison service will have to be penetrated so that the likely costs and benefits of the relationship can be assessed.<sup>1082</sup> Whilst there is no great problem if one avoids discovery, if one does get caught one cannot hope to maintain a cordial, or even a 'business as usual' relationship with one's target. The US has had a mutually beneficial relationship with Germany<sup>1083</sup> over shared terrorism concerns for some years, but this is likely to be seriously diminished following allegations of both SIGINT intercepts on Chancellor Merkel's

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<sup>1077</sup> Nolan, "Information Sharing and Collaboration in the United States Intelligence Community: An Ethnographic Study of the National Counterterrorism Center."

<sup>1078</sup> "Office of the Director of National Intelligence: Organization," Office of the Director of National Intelligence, <http://www.dni.gov/index.php/about/organization>.

<sup>1079</sup> Writing in Steele et al., "An Intelligence Response."

<sup>1080</sup> See for example Casson and Giusta, "The Costly Business of Trust."334. The nature of fragile trust is described in Ring, "Fragile and Resilient Trust and Their Roles in Economic Exchange."

<sup>1081</sup> This dichotomy is discussed in Lander, "International Intelligence Cooperation: An inside Perspective."

<sup>1082</sup> Sims, "Foreign Intelligence Liaison: Devils, Deals, and Details."205

<sup>1083</sup> Ignoring the disastrous sharing of the 'Curveball' material prior to 2003 invasion of Iraq. "Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors."

phone, and the presence of US agents within the German intelligence and security infrastructure. The fact that one of the sanctions imposed by the Germans was the requirement that the CIA Head of Station, the man responsible for that counter terror liaison, left the country, indicates how fraught having the two responsibilities in the same hands can be.<sup>1084</sup> The breakdown of trust has made negotiating around the terrorism issue with any sense of a shared maximand more difficult, and the remaining (genuine) need for secrecy around some sources and methods mean that re-establishing trust is particularly problematic in the intelligence sphere once it is lost.

Like the DHS before it, the structural framework in which the DNI operates both internally and externally has significant implications for the level of institutional costs the post must overcome if it is to deliver truly cooperative working in the counterterrorism intelligence sphere.

### **b. The Management of Information Sharing**

The centrality of information sharing to an effective intelligence community was noted when the US first created theirs: Reviewing the Joint Committee on the Investigation of the Pearl Harbor Attack Report,<sup>1085</sup> Michael Warner has stated that the Japanese attack on Pearl Harbor in December 1941 "... could have been blunted if the various commanders and departments had coordinated their actions and shared their intelligence." They therefore enacted the National Security Act, 1947 precisely to "...implement the principles of unity of command and unity of intelligence".<sup>1086</sup> Yet in 2001 a comparable lack of cohesion contributed to the success of the 9/11 attackers.<sup>1087</sup> Improving cooperation around information sharing was thus

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<sup>1084</sup> See for example "C.I.A. Station Chief Ordered out of Germany Has Left, Us Confirms," *The Guardian* 17th July 2014.

<sup>1085</sup> "Joint Committee on the Investigation of the Pearl Harbor Attack," in *Investigation of the Pearl Harbor Attack*(Washington D.C.1946).

<sup>1086</sup> Michael Warner, "Central Intelligence: Origin and Evolution,"(Washington DC: Central Intelligence Agency Center for the Study of Intelligence, 2001). 2,18. Quoted by Richard C Shelby, "September 11 and the Imperative of Reform in the Us Intelligence Community: Additional Views of Senator Richard C. Shelby Vice Chairman, Senate Select Committee on Intelligence," ed. Senate Select Committee on Intelligence(Washington DC: U.S. Senate, 2002).1

<sup>1087</sup> See for example "Joint Enquiry into Intelligence Activities before and after the Terrorist Attacks of September 11, 2001. Report of the Us Senate Select Committee on Intelligence and Us House

seen as a key reform, and the IRTPA was specific in making the DNI the official to discharge Presidential responsibility in this area, as well as mandating the appointment of both a program manger and council to advise them.<sup>1088</sup>

Certainly the result was some significant improvements in the ability of analysts to access intelligence, and to collaborate with each other virtually. These successes rested on not only allowing collaboration, but also changing the utility that cooperation offers to those involved. This course was chosen in preference to trying to enforce cooperation, which was regarded as doomed to fail as compliance would only ever be perfunctory, and experience had shown this to be inadequate for intelligence engagement that needs the active value-addition from actors.<sup>1089</sup>

The relative utility that both analysts and their managers achieved through sharing was heightened through positive measures and the introduction of potential sanctions. Although National Intelligence Estimates (NIEs) had long been joint products, intelligence Involvement in creating the Presidents Daily Brief was now formally credited. This provided kudos so that by 2009 70% of products involved input from two or more agencies, and the products of the National Intelligence Council (NIC), which was by now part of the ODNI,<sup>1090</sup> became a community wide standard. At the same time programs that demonstrated what other members of the community did were delivered to managers. This ensured both an increased shared maximand and that they were aware of low institutional cost routes to where help could be found for their own issues, and even how overlap could be reduced and resources redirected. Concerns from within agencies that their core mission could be degraded if analysts were busy on someone else's problem were off-set in this way. Because interactions became more sequential probity could be

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Permanent Select Committee on Intelligence (Together with Additional Views)," (Washington DC2002).Part 1C Systemic Findings 9.77

<sup>1088</sup> "Intelligence Reform and Terrorism Prevention Act of 2004."Sec.1016

<sup>1089</sup> CH5.

<sup>1090</sup> Although established in 1979, the National Intelligence Council or NIC is now in the ODNI and provides strategic support to the DNI and "...has served as a bridge between the intelligence and policy communities". See "National Intelligence Council," O.D.N.I., <http://www.dni.gov/index.php/about/organization/national-intelligence-council-who-we-are>.

established and managers could be reassured that they would benefit when their turn came.<sup>1091</sup>

Other negotiating costs were lowered too, albeit some accidentally. Probity amongst the senior bureaucrats was already established as eight of them had been China analysts together in the past, which acted as a lubricant to the inevitable frictions. Inter-organisational pathologies that had been useful to build esprit d' corps within agencies through the denigration of the 'others' were discouraged through integrated training, behaviours and standards of analysis (although certainly not eliminated altogether<sup>1092</sup>), and collaboration was made easier through shared vetting standards and levels as well as through innovative IT that reduced any 'opportunity costs' in pursuing a collaborative solution.<sup>1093</sup>

However although better cooperation in forming analytical judgements within the intelligence community was achieved to some degree, the more problematic linkage between the intelligence and security capabilities so that the resultant product is properly actioned is a distinct issue sitting at the edge of the DNI's responsibility. Strategic warnings in the run-up to the 9/11 attacks were after all numerous and widely disseminated,<sup>1094</sup> it was the more operational collaboration that missed key linkages both within and between agencies,<sup>1095</sup> and this problem would appear to have persisted, as the post-incident investigation into Umar Farouk Abdulmutallab's attempt to blow up a Northwest Airlines flight on Christmas Day 2009 demonstrated. It concluded that information was shared, but not in the meaningful way that might have pre-empted his attempt.<sup>1096</sup>

The difficulties of managing cooperation across this divide are still significant, and riven by contradictory pressures. The need for secrecy competes with

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<sup>1091</sup> CH5

<sup>1092</sup> Nolan, "Information Sharing and Collaboration in the United States Intelligence Community: An Ethnographic Study of the National Counterterrorism Center."

<sup>1093</sup> CH5.

<sup>1094</sup> "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States." 254-265

<sup>1095</sup> See for example *ibid.* 272.

<sup>1096</sup> Dennis C. Blair, "Dni Statement to the Intelligence Community Regarding the Abdulmutallab Attempted Terrorist Attack on December 25," ed. Director of National Intelligence (Washington DC: ODNI, 2010).

the need to share, with serious consequences for the inappropriate use of either, incentivising delay and risk aversion. The intelligence and security nexus thus demonstrates the same conflicting drivers of 'guardianship' and 'trade' identified by Jane Jacobs.<sup>1097</sup> The DNI's current drive for analysts to engage in 'outreach' with security professionals, policy level consumers, and well informed outsiders while still remaining non-partisan and protecting secrets provokes such a tension and is exemplified in the mutually contradictory instructions emanating from the DNI in both 'Vision 2015' and the more specific 'ICD-205', as they try to incorporate both traits in the same activity.<sup>1098</sup> Such tensions inevitably make negotiations between agencies more difficult as without a clear policy either might be preeminent on any given day. As no in-depth explanation for sharing or guarding will usually be possible, establishing probity will be harder, and the perception of the sort of opportunistic use of intelligence as a tool for self-advancement observed by Nolan within the NCTC and CTC<sup>1099</sup> is always likely.

The former DNI Dennis Blair also points out the inevitable dichotomy between sharing and securing information, without offering any particular solution. He does however link problems of information sharing with the new information costs that the information revolution has brought. He observes that the ideal is to "... leverage virtual teams of intelligence officers linked together throughout the world" but goes on to intimate that the problem for analysts has shifted from one of obtaining scant or secured information, (that is to say finding enough pieces of the jigsaw) to discerning which pieces of the myriad available are useful and relevant to the problem at hand.<sup>1100</sup> Oversupplying, or simply sharing everything will therefore not resolve the problem; the protective security intelligence element of the Secret Service, who were one of the organisations dropped into the DHS when it was created in 2002, and who are charged with the early identification of tactical level terrorist threats to the President and others, were receiving some 5000

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<sup>1097</sup> Jane Jacobs and Random House, *Systems of Survival: A Dialogue on the Moral Foundations of Commerce and Politics* (New York: Cambridge Univ Press. Vintage, 1994).

<sup>1098</sup> Anthony C Olcott, "The Challenges of Clashing I.C. Interests," *International Journal of Intelligence and CounterIntelligence* 23, no. 4 (2010). 625-626.

<sup>1099</sup> Nolan, "Information Sharing and Collaboration in the United States Intelligence Community: An Ethnographic Study of the National Counterterrorism Center."

<sup>1100</sup> See for example Blair, "Road Rules for the Intelligence Community."

reports a day even in 2009, with very few staff members to read, much less properly assess them.<sup>1101</sup> Whereas the new emphasis on sharing details of a sources access and credibility with the analyst responsible for the overall assessment can provide a qualitative improvement<sup>1102</sup> and lower horizontal negotiating costs. Nonetheless search costs that occur before the negotiation between analyst and user can even begin have largely replaced the former costs of intelligence collection.

Costs are then exacerbated through the cultural enthusiasm for hierarchy that exists within the US mindset. A belief that, in order to be useful, all intelligence needs to move upwards that was asset specific to the very different intelligence and security environment of the Cold War. Ironically it has been the US military, that most hierarchical of organisations, that have been first to bypass the additional frictions and costs that unnecessary vertical move creates, as the next part to this thesis will discuss. The 9/11 Commission critically refers to much needed intelligence not reaching the President. This despite its own observations that throughout 2000 and early 2001 the "...system was blinking red" and that President Bush had been specifically reminded of the imminent Bin Laden threat in a Daily Brief in August 2001.

As the 9/11 Commissions Executive Summary puts it "These cases did not prompt urgent action. No one working on tactical and operational leads in individual agencies through the summer of 2001 connected them to the high level of threat reporting. In the words of one official, no analytic work foresaw the lightning that could connect the thundercloud to the ground".<sup>1103</sup> This describes a problem of poor vertical collaboration so that the leads on which tactical level officers were working, such as the 'phoenix memorandum', were not contextualised within the framework of the intelligence that was reaching the very senior levels. These frictions must then be considered in conjunction

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<sup>1101</sup> SS1.

<sup>1102</sup> See for example "D.D.I.'S State of Analysis' All Hands Meeting," ed. CIA - Directorate of Intelligence(Washington DC2004).

<sup>1103</sup> "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States."Executive Summary.

with the policy makers preferences for “tactical level warning”<sup>1104</sup> which satisfy their utility by providing easier decision-making 'wins'. Although in turn they provoke tensions between levels as lower level specialists can be left having to execute operations in a manner they would not have chosen.<sup>1105</sup>

The DNI's ability to either enforce or encourage cooperation is thus limited by high institutional costs between actors, although to a lesser extent than that of the DHS. The imposition of an authoritative super-structure over the entire intelligence community, as originally intended, was impossible due to high existing negotiating and information costs in the US system, exacerbated by weak property rights around the new DNI post which in turn increased negotiating costs again. These encouraged the opportunistic protection of the status quo by many of the actors involved, and the complex tapestry of overlapping property rights made more collegial management less effective. Information sharing within the community has improved, and the DNI's ability to focus elements of it on particular problems like terrorism through 'mission teams' has improved coordination more generally.<sup>1106</sup> Despite this frictions between those 'inside' the community, and those who must use their product who are 'outside' persist. Overall structural fissures that permit high institutional costs between intelligence community agencies still pertain and prevent genuinely cooperative working.

#### **Section 4: Hierarchical Cooperation and The United Kingdom's CONTEST Strategy**

Unlike the case of the DHS examined in section 2, the establishment of the CONTEST strategy by the OSCT did not require the latter to become both a security and intelligence body, despite their similar objectives for integrating the two communities. Instead property rights were clearly delineated at the

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<sup>1104</sup> Stephen Marrin, "Homeland Security and the Analysis of Foreign Intelligence," *Markle Foundation Task Force on National Security in the Information Age* 15(2002).<sup>14</sup> Mark V Kauppi, "Counterterrorism Analysis 101," *Defense Intelligence Journal* 11, no. 1 (2002).

<sup>1105</sup> The advent of improved encrypted communications has for example allowed strategic level decision makers to direct operational and tactical levels from situation or control rooms, which has increasingly permitted a blurring of property rights over each level, even across the Atlantic, as US policy interference in the UK's Operation Overt demonstrated. See Chanan, "The Plot to Bring Down Britain's Planes."

<sup>1106</sup> Blair, "Road Rules for the Intelligence Community." 180

outset, so that OSCT were responsible only for coordinating existing functionality at the strategic level, according to the needs of CONTEST. Negotiations between the OSCT and the organisations that supplied the counterterrorism functions were focused on that (shared) goal only. Institutional costs were thus much lower and vertical cooperation easier to achieve. Neither the OSCT or the CONTEST strategy were ever any sort of security or intelligence provider. Although its staff boasted some individual areas of expertise,<sup>1107</sup> it did no more than provide a link between the wishes of government and its security and intelligence tools. Much in the same way as the agencies, departments and police were already used to through previous engagement with Cabinet Office or other departmental elements.<sup>1108</sup> Negotiations could run along established routes, using existing property rights and relationships that already demonstrated probity. Overall institutional costs were therefore much lower and cooperation much easier to achieve.

A brief overview of how these different levels cue particular sorts of activity can clarify how low-friction negotiations aid effective delivery of the whole: A former senior UK practitioner has described how a the JIC might produce a strategic warning of an emerging potential threat that might prompt further 'Research and Development' activity in several other government departments, and shift collection priorities for the agencies. They in turn might produce an operational alert if conditions seem to them to have made the threat more likely to become reality. Should the increased vigilance at (for example) border controls produce intelligence suggesting the threat is more immediate and domestic, the Joint Terrorism Analysis Centre (JTAC), which is responsible for analysing and assessing all intelligence relating to terrorism, whatever its source, without impinging on existing departmental

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<sup>1107</sup> The Director of OSCT charged with introducing CONTEST when it was moved into the Home Office was Charles Farr, was an ex SIS officer, and his staff of some 320 persons included civil servants and secondees from the police, military and agencies. This lowered the 'language costs' between the government and practitioner sides and lowered internal institutional costs, but concerned some external observers. See for example Esther Addley, "Charles Farr - G.C.H.Q.'S Next Spymaster General?," *The Guardian* 13th April 2014.

<sup>1108</sup> For a description of the four functions of the OSCT see "Project Contest: The Government's Counter-Terrorism Strategy. Ninth Report of Session 2008-09. Report, Together with Formal Minutes, Oral and Written Evidence," (London: House of Commons Home Affairs Committee, 2009).Ev20 Evidence of Charles Farr



roles and responsibilities,<sup>1109</sup> might issue an operational warning. It will then be for the police and Security Service to identify the individuals involved and to provide any executive action required. Each element is to a degree triggered by another but are nonetheless distinct functions managed separately.

Nor are they mono-directional; the intelligence process requires that information gleaned at any stage and by any party should be assessed for utility not only at the level it is secured but also those above and below it. Coordinating that effort produces further distinct functions: The JIC and its machinery, the Joint Intelligence Organisation (JIO) will coordinate intelligence and information that is useful at a national strategic level<sup>1110</sup> whereas JTAC will do so if it has a more immediate or tactical level utility. There is however a further coordination need that is qualitatively different again; this involves the coordination of policy level decisions that cross the normal departmental or agency boundaries of responsibility, so that existing line management structures are inadequate. As the last chapter discussed countering terrorism in any holistic fashion produces a number of instances where this is required.<sup>1111</sup> A closer examination of the policy machinery is therefore required.

It should be stressed at the outset that this section is not concerned with the success or otherwise of any particular work stream within the CONTEST strategy. It is instead only concerned with the degree of success it (and by extension the OSCT) has achieved as a means of integrating different security and intelligence providers within a shared overall objective. However because it must integrate a range of departments and agencies in diverse functional areas, and is itself only a part of the wider National Security Strategy,<sup>1112</sup> as operationalised in the Strategic Defence and Security Review

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<sup>1109</sup> "Joint Terrorism Analysis Centre," Security Service M.I.5, <https://www.mi5.gov.uk/home/about-us/who-we-are/staff-and-management/joint-terrorism-analysis-centre.html>.

<sup>1110</sup> Davies, "Twilight of Britain's Joint Intelligence Committee?," 427-428

<sup>1111</sup> Senior Official involved in developing the original CONTEST idea speaking under Chatham House rules. London 2013

<sup>1112</sup> "A Strong Britain in an Age of Uncertainty: The National Security Strategy."

(SDSR),<sup>1113</sup> CONTEST cannot exist much less function in isolation, whether vertically in either direction or horizontally.

At the heart of the CONTEST strategy and the UK's counterterrorism effort is the understanding that predictive intelligence is its central tenet and provides what has been described 'strategic notice of possible futures'.<sup>1114</sup> The fact that the different threats from terrorist activity are only possibilities, with varying degrees of likelihood, mean that any strategy to minimise their potential impact is a risk management tool. A government will have very different uses for intelligence that is strategic in nature, and intelligence that is more tactical, but will need to harness both in pursuit of national security in all its forms. The complexity of that undertaking means that different organisations will be responsible for different functional elements.

Where the US compromises on the legislative form of their reforms, and negotiates each down to the minutest detail, then enforces the resultant agreement rigidly, prompting only reluctant and perfunctory compliance,<sup>1115</sup> the UK produce a definitive strategy that goes no further than being exactly that. Compromises then occur after the fact and the binding effect is more in the form of favours owed across those responsible for different aspects, much more in the manner of the way a core executive might operate. Compliance is thus more likely to be achieved because even if doing so is not in one elements best immediate interest, they can anticipate a return later and will be seen as cooperative and 'part of the team' in the interim.

This section will therefore consider how the different aspects of the CONTEST strategy approach to cooperative working established a very different institutional cost environment to that experienced by either the DHS or the DNI. It will first consider how different parts of the community are directed towards very different objectives so that property rights between them are clear, then examine how the relatively un-ambitious functions of the OSCT have impacted on their working relationships with external agencies.

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<sup>1113</sup> "Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review."

<sup>1114</sup> Senior Official involved in developing the original CONTEST idea speaking under Chatham House rules. London 2013

<sup>1115</sup> As described in the DHS and DNI cases above.

Finally the limits of the approach in terms of cooperative efficiency across the whole counterterrorism endeavour will be briefly assessed.

Each iteration of the UK's CONTEST strategy has been premised on the same fundamental principle: Different parts of the nation's intelligence, security and wider government would retain responsibility for the delivery of the area in which they had expertise. The division of labour is managed not by the problem to be addressed but by the specialist skill set held. In the United States responsibilities are often broader, with comprehensive capabilities to deliver against a particular problem without outside help held within individual organisations. In the United Kingdom on the other hand primary organisational structure takes less note of the problem. Instead the existing structure is refocused and ad hoc committees are formed at various levels, and which can last for as long as they are required, to coordinate existing organisations that are relevant to the new problem. Essentially the CONTEST strategy adopted the same approach.

Although reliant on predictive intelligence,<sup>1116</sup> the CONTEST strategy does not regard terrorism as an intelligence problem, and therefore within the remit of the three UK agencies, anymore than it is exclusively a law enforcement, military or foreign problem. Rather it is a risk management tool that is as precautionary as it is responsive. Strategic and operational intelligence inform assessments around the capabilities and intentions of potential threats as discussed above, but only to direct resources and future planning as efficiently as possible. 'Risk' is taken to be a function of the likelihood of any particular attack, the vulnerability of the potential target, and a combination of the impact and duration of any harm felt. Each is mitigated using the different work-streams that make up CONTEST: Likelihood is diminished through 'prevent' then 'pursue' activity, vulnerability by the 'protect' functions, and the impact and duration of harm are managed through 'prepare'.<sup>1117</sup>

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<sup>1116</sup>For an assessment of how intelligence contributes, see Edgar B. Tembo, "Moving Towards a Qualitative Assessment of Counter-Terrorism Strategies after 9/11: Assessing the Contribution of Intelligence," in *British International Studies Association Annual Conference*(2009).

<sup>1117</sup> Senior Official involved in developing the original CONTEST idea speaking under Chatham House rules. London 2013

Different organisations have different parts to play in delivering each but no absolute authority over any. The police for example have responsibilities in each of the four work-streams. They lead in some, some of the time, such as under 'pursue' when tactical primacy might shift between them and the Security Service as an operation evolves. Under 'protect' on the other hand they might have sole responsibility in some areas, such as for providing armed protection, whether for premises or at-risk individuals. It is noteworthy that the protection of individuals was a function of the Metropolitan Police Special Branch, an intelligence entity, albeit a policing one, until its demise in 2006, an arrangement that recognised the central importance of intelligence in providing close protection and which obviated the sort of problems that the US Secret Service experienced with overload when using a small hub of analysts to serve their wider organisation (referred to above).<sup>1118</sup> In some areas they may share that responsibility with others, including those in the private sector, such as when obviating the threat to 'crowded places'. In some functional areas they may merely assist, such as in the protection of the UK's critical national infrastructure, which is handled by the Centre for the Protection of Critical National Infrastructure (CPNI) by providing advisers through the National Counter Terrorism Security Office (NaCTSO) scheme.<sup>1119</sup> The different points of access needed for 'prevent' activity meant the police could engage with more extreme but not necessarily criminal elements of Muslim communities while educationalists engaged with the young. Government could nonetheless preserve their political level control.<sup>1120</sup> In each case property rights are delineated not by responsibility for the desired outcome but by the input each organisation can offer.

This organisational form has allowed the UK to be more resistant to environmental shifts and the uncertainty that is a fundamental aspect of the

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<sup>1118</sup> P1.

<sup>1119</sup> See "C.P.N.I.-Centre for the Protection of Critical National Infrastructure," CPNI, <http://www.cpni.gov.uk/about/Who-we-work-with/>. and "Na.C.T.S.O.-National Counter Terrorism Office ", ACPO, <http://www.nactso.gov.uk/>. the CPNI was created out of the Security Service's protective security function, while NaCTSO is a police unit that supports both 'Protect' and 'Prepare' strands of CONTEST.

<sup>1120</sup> See Lambert, *Countering Al Qaeda in London : Police and Muslims in Partnership*. This division of property rights was however ended by 2006 when government policy directed which Muslim's made suitable 'partners'. See *ibid.*..36 and Lord Carlile, "Report to the Home Secretary of Independent Oversight of Prevent Review and Strategy,"(London2011).

terror threat. In the US a shift in the threat environment led to new and unanticipated overlaps between different aspects of the security and intelligence infrastructure, so that bureaucrats were obliged to compete for the emerging territory and the resources that went with it, and had to portray it as either a law enforcement, military or intelligence problem over the other options to do so.

In the UK property rights are able to remain constant despite the same shift. Counter-intuitively the more rigid role definition actually provided greater flexibility. The law enforcement officer remained in control of law enforcement aspects to the problem, intelligence officers remained focused on providing intelligence on which others might act, and so on. The post 9/11 changes were thus primarily ones of scale for each agency, with an upsurge in the amount of effort demanded of them against international terrorism overall and as a percentage of their workload. New initiatives peculiar to the post 9/11 environment were thus evolutionary and took place within existing organisations at the operational level, and outside them at the policy level. The CONTEST strategy was simply a governmental policy response to the particular issue of terrorism, nothing more.

In the same way the OSCT was reorganised to develop and then coordinate delivery of that policy, and no more than that so that property rights allocations did not overlap. They are not responsible for operational delivery and property rights between the strategic and operational levels can remain unambiguous.<sup>1121</sup> There can be no perception of OSCT having any vested interest in any particular organisations rise or fall, or any particular analytical outcome.<sup>1122</sup> Where a potential conflict has been identified, as was the case with overlaps between the CONTEST strategy and the more specifically

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<sup>1121</sup> The pressures on this tenet and the negative impact on cooperative behaviour when it fails is further discussed below.

<sup>1122</sup> The status of the OSCT as a purely 'civil service' body can be demonstrated by the way it has been treated by the Intelligence and Security Committee. In its 2008-2009 Annual Report the ISC dedicated 3 ½ pages under the heading of 'Strategic Framework and Intelligence Machinery', by 2009-2010 this had been reduced to a throwaway line listing it in the (the ISC's) remit only where the OSCT's work was relevant to the Committee. See Intelligence and Security Committee, "Annual Report 2008-2009." and "Annual Report 2009-2010," (London: Intelligence and Security Committee ISC, 2010). In the same way the Cabinet Office's 'National Intelligence Machinery' which only mentions the OSCT as a potential witness to the ISC. See "National Intelligence Machinery."

targeted work of the Northern Ireland Assembly to counter terrorism in the province, then coordination passed to the officials working to the political level responsible for deciding on the policies that required coordination.<sup>1123</sup>

This in turn has meant that the principal-agent problems that undermined the DHS's efforts to coordinate and direct both the intelligence and security communities was largely avoided. Where property rights are clear between distinct levels as well as distinct functions then the visibility required to off-set moral hazard can be effectively delegated. Because the property rights over strategic control of the counterterrorism effort clearly belong to the government, but the rights over operational control are retained by (variously) the police or agency in question,<sup>1124</sup> competition between levels is limited. Thus operational plasticity can remain as high as the uncertain environment requires, while strategic plasticity is nonetheless limited. Consummate compliance is achieved by the higher level limiting the scope of their direction to the strategic sphere, and the sort of perfunctory compliance exhibited by sub-levels in the US cases above is avoided.

This same principle of clear property rights vertically as well as horizontally operates 'upstream' of the OSCT where the CONTEST strategic objectives must be agreed and be integrated into governance beyond the counterterrorism sphere. The UK is advantaged over the US here because its very system of government through the collective responsibility of Cabinet means that negotiations occur early, after which the individual utility of actors is bound to the successful implementation of the *collective* decision.<sup>1125</sup> This same approach is informally applied at levels several stages below Cabinet itself, and encourages the sort of whole-of-government approach the many facets of the terrorism problem need. It has therefore had a Cabinet

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<sup>1123</sup> "Contest: The United Kingdom's Strategy for Countering Terrorism Annula Report," (The Stationery Office: Office of Security and Counter Terrorism at the Home Department, 2013). 7

<sup>1124</sup> "Project Contest: The Government's Counter-Terrorism Strategy. Ninth Report of Session 2008-09. Report, Together with Formal Minutes, Oral and Written Evidence." Ev22 Evidence of Charles Farr. See also Hayman's criticism of Cobra system as blurring this divide; Hayman and Gilmore, *The Terrorist Hunters*. 317 For SyS see Parker, "Address by the Director General of the Security Service, Andrew Parker, to the Royal United Services Institute (Rusi), Whitehall."

<sup>1125</sup> This idea is discussed from the perspective of Government by a core executive in Smith, "Intelligence and the Core Executive." although he does not fully engage with the institutional cost savings that collective responsibility brings.

Committee responsible for coordinating a policy response to terrorism of one sort or another since 1969 and the early years of the Northern Ireland troubles.<sup>1126</sup> Even the quantitative and qualitative shifts in terrorism related governance of the post 9/11 period did not equate to the requirements for Cold War committee machinery to achieve the same level of policy coordination,<sup>1127</sup> so that the habits of negotiation and the history of probity were already in existence.

Until the creation of the National Security Council (NSC)<sup>1128</sup> in 2010 property rights were well established. The Defence and Overseas Policy (International Terrorism) [DOP(IT)], which was chaired by the Prime Minister, dealt with the global threat. The more detailed aspects were delegated down to DOP(IT) (Protection Security and Resilience[PSR]), under the Home Secretary, and there policy decisions were informed by and enacted by the Terrorism, International Defence and Overseas (TIDO) machinery, chaired by the Security and Intelligence Co-ordinator and staffed by civil servants (with seconded military and agency personnel). The Cabinet's TIDO system was arranged into the four CONTEST work-streams with additional cross cutting elements to deal with general issues like communications and research and development so that responsibilities were clear, and ran parallel to those of the OSCT in the Home Office.<sup>1129</sup>

It has been argued that this arrangement produced too domestic a focus,<sup>1130</sup> and with detailed policy being decided on in a committee chaired by the Home Secretary, then being enacted through machinery there-under, while the whole is coordinated by the OSCT from within the Home Office, who in turn have responsibility for many of the key assets needed to deliver that strategy such as the Security Service and Police, the criticism may be valid. What is evident is that the property rights are clearer than in the US cases

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<sup>1126</sup> "Northern Ireland: Meetings 1-6; Papers 1-6," ed. Cabinet Office - Miscellaneous Committees, MISC 238 (National Archives, 1969).

<sup>1127</sup> Hennessy, "From Secret State to Protective State."27

<sup>1128</sup> Discussed in more detail below.

<sup>1129</sup> Hennessy, "From Secret State to Protective State."27-28

<sup>1130</sup> Edgar B. Tembo, *Contemporary Terrorism Studies: U.S.-U.K. Counter-Terrorism after 9/11 : A Qualitative Approach*, (London: Taylor and Francis, 2014), <http://lib.myilibrary.com.ezproxy.brunel.ac.uk/Open.aspx?id=563224.40>

above, and contracts are negotiated only at the level at which actors have responsibility. Decisions are then delegated down for interpretation and enactment by other actors with a more specific knowledge base, offsetting the bounded rationality problem and linking the personal utility of agents to that of their principals. The division between responsibilities necessitates negotiations and the resultant agreements create a shared maximand to which all the actors are bound. Despite the less formal authority imbued in each, the capacity for decision making and delivery at each level within one's area of responsibility is thus actually higher.

A brief examination of how apparent overlaps in one area of CONTEST, the 'prepare' work-stream, are actually managed demonstrates how the counterterrorism strategy is integrated into more general governance. In this case some of the functions already existed within the 'Civil Contingencies Secretariat' in Cabinet Office, a much wider pan-governmental body created in July 2001 in the wake of the 'Four F's' procession of crises, and before the threat from international terrorism was properly acknowledged.<sup>1131</sup> It was the Secretariat, not the OSCT or even Home Office, that already had broader responsibilities for 'prepare' type functions that related to the panoply of non-terrorism hazards likely to impact on the nation because they were always likely to involve more than one department,<sup>1132</sup> where in the USA those duties were contained within the DHS.

At first glance this suggests property rights clarity would be poor, with a functional overlap as depicted in Figure 6.3,<sup>1133</sup> and one would anticipate clearer property rights in the single hierarchy of the DHS. However the existence of a shared management structure does not establish a shared maximand, and it is the latter that makes the difference between perfunctory and full compliance. The collegial nature of governmental relationships mean that although the Cabinet Office Secretariat is in some respects a 'higher'

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<sup>1131</sup> The Four F's being the flooding, fuel protests, foot and mouth epidemic and firemen's strikes of 2000/2001. See Kevin Tebbit, "Countering International Terrorism: Joining up the Dots," in *The New Protective State: Government, Intelligence and Terrorism*, ed. Peter Hennessy (Continuum Intl Pub Group, 2007).77

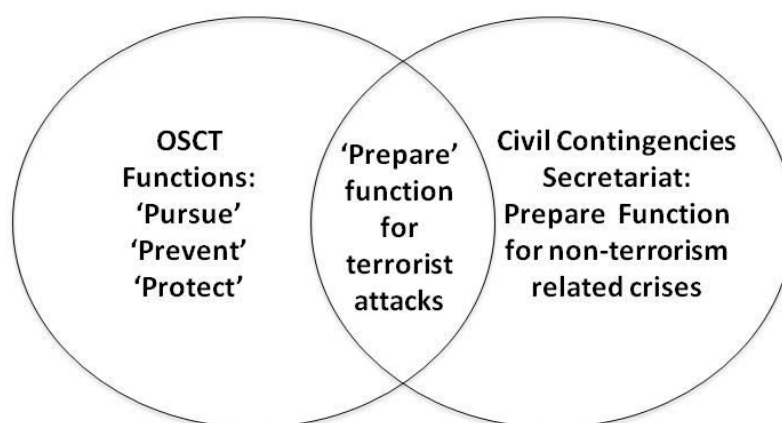
<sup>1132</sup> "Countering International Terrorism: The United Kingdoms Strategy," ed. Cabinet Office (London: Stationery Office, 2006).25

<sup>1133</sup> Source of diagram: Own design



body' than the OSCT, for terrorism related contingency coordination it becomes the delivery arm of the CONTEST strategy.<sup>1134</sup> There is no necessity for the OSCT to contest 'ownership' with the Secretariat because neither own the overarching strategy, they each simply manage the coordination of different parts of it.

Figure 6.3: Apparent Functional Overlap Between OSCT and Civil Contingencies Secretariat in UK



The two organisations thus only need to share the same idea of utility with each other, and know that the necessary preparation is being done. They can therefore act more in the manner consistent with Dunleavy's 'bureau shaping' model, with senior bureaucrats incentivised to maximise their utility by focusing on core functions and having extraneous responsibilities passed to others.<sup>1135</sup> Both exist as 'control' agencies<sup>1136</sup> and disperse funds to achieve their goals.

<sup>1134</sup> In fact OSCT simplified existing structures by incorporating the Home Office elements responsible for crisis planning so that the number of negotiations and actors involved was more limited. "Project Contest: The Government's Counter-Terrorism Strategy. Ninth Report of Session 2008-09. Report, Together with Formal Minutes, Oral and Written Evidence." Ev20 Evidence of Charles Farr.

<sup>1135</sup> Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*. 174-209

Where they overlap in Figure 6.1 above, so to do their objectives. Under such conditions, negotiations as to who is responsible for what become relatively frictionless: The Civil Contingencies Secretariat (CCS), who are part of the Cabinet Office and have coordinated the UK's response to national emergencies since July 2001, remain responsible for coordinating the work of individual operational and tactical level providers of response to national crises under the seventeen work streams that define types of emergency, no matter how they are caused.<sup>1137</sup> The Home Office on the other hand are responsible for national level exercising of that response to terrorist incidents because of their established links to the police et al. Meanwhile they have jointly clarified the property rights of those providers through the Civil Contingencies Act 2004 and do not need line management downstream to implement their respective responsibilities.<sup>1138</sup> No DHS style monolith that must struggle with the complexity of the problems is therefore required where property rights are clear and contracting costs low.

The UK is not immune to the same sorts of opportunistic reorganisations observed in the US cases however, reinforcing the idea that it is clarity of property rights and institutional costs, not national culture, that decide levels of friction. For example in recent years substantive changes across central government<sup>1139</sup> have included the national level strategic machinery. Gordon Brown's government established a short lived National Security Forum (NSF) to provide analytical advice from external<sup>1140</sup> sources in competition with the established lines of reporting from the JIC who, with the JIO, should have

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<sup>1136</sup> Ibid.186

<sup>1137</sup> The CCS was created after the three crises of fuel, floods and foot and mouth (the 3 F's) at the beginning of the Millennium and before the 9/11 attacks on the US. To quote the UK government's website, whilst, for example, infectious diseases falls to the Department of Health, fuel disruptions to Business Innovation and Skills, they are coordinated by the Civil Contingencies Secretariat. See "Guidance: Preparation and Planning for Emergencies: Responsibilities of Responder Agencies and Others," Cabinet Office, <https://www.gov.uk/preparation-and-planning-for-emergencies-responsibilities-of-responder-agencies-and-others>.

<sup>1138</sup> "Countering International Terrorism: The United Kingdom Strategy."26-27

<sup>1139</sup> There were some 90 reorganisations across the whole of UK central government machinery between May 2005 and June 2009 that failed to follow any overall pattern. See "The Nao's Work on the Cabinet Office: A Short Guide," (National Audit Office, 2010).14

<sup>1140</sup> "The National Security Strategy of the United Kingdom: Security in an Interdependent World," ed. Cabinet Office(London: TSO The Stationery Office, 2008).59

been ensuring that such views were already inculcated into assessments via the various governmental departments and agencies.<sup>1141</sup>

This was abandoned by the subsequent government. This move was questioned by the Joint Committee on National Security Strategy,<sup>1142</sup> but the Intelligence and Security Committee had reported in 2009 that the Ministerial Committee on National Security, International Relations and Development (NSID) had been functioning adequately without any significant advice from the (National Security) Forum. It also observed that the interim National Security Forum had had a negligible impact on the other elements of the national security machinery; questioning the need for it at all. all this suggests that the established machine adopted a position of perfunctory compliance with the new initiative.<sup>1143</sup>

In fact, despite this clean bill of health, NSID itself was abolished and the new National Security Council (NSC) created. The NSC was managed on a day-to-day basis by a National Security Adviser (NSA) who ran a distinct supporting structure through the NSC 'Officials Committee', the NSC(O). This system however also provoked institutional costs that impacted on cooperative behaviour, and thus counterterrorism. Because it ran in parallel to the established JIC system, the NSC(O) obscured the property rights around both the provision of analysed intelligence to policy makers and of the requirements and priorities procedure. Both are vital to the CONTEST strategy, which is informed of strategic and emergent threats, and is directed towards them, based on the strategic analysis taking place in the JIO. Yet the creation of the NSC(O), and more specifically the role of Deputy National Security Adviser for Intelligence Security and Resilience, overlaps that function significantly.<sup>1144</sup>

This means that heads of agency can sideline the requirements and priorities JIC lay-down. The confused property rights thus allow, and may even

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<sup>1141</sup> Davies, "Twilight of Britain's Joint Intelligence Committee?."430

<sup>1142</sup> "Joint Committee on the National Security Strategy: First Review of the National Security Strategy 2010 (Report Together with Formal Minutes)."34-35

<sup>1143</sup> Intelligence and Security Committee, "Annual Report 2008-2009."31

<sup>1144</sup> Although not discussed in institutional cost terms, this history is described in Davies, "Twilight of Britain's Joint Intelligence Committee?."440

incentivise, opportunistic behaviour. The head of SIS for example has variously stated that the National Security Strategy, the principal product of the NSC, had "...little direct impact on the focus or nature of their work".<sup>1145</sup> Indeed in evidence to the ISC he particularly pointed out that he absolutely needed to retain an independent capability to focus SIS on targets that he perceived to be necessary, JIC priorities notwithstanding.<sup>1146</sup> Curiously in a unique public address in October 2010 he then made it clear that SIS in fact did take direction from the NSC.<sup>1147</sup> This variety of positions suggests at least the potential for principal-agent problems as the plasticity of agencies is increased, and is reminiscent of the way Treverton found managers of national level agencies in the US DoD developing their own autonomy by playing different consumers off against each other.<sup>1148</sup>

Simultaneously the property rights over the intelligence advice role were also increasingly obscured because the heads of agency sit in on NSC meetings as required, although two of the three provide raw rather than all-source analysed product. This may allow a narrowing of the input to advice that has not gone through the rigour of the JIC process, and the avoidance of a cooperative approach in analysis altogether.<sup>1149</sup> The property rights over the strategic and operational domains have also been blurred. The NSC itself was intended solely as a strategic entity that would act as a more responsive form of 'Cabinet' for security issues as the full Cabinet became too unwieldy and concerned with more immediate problems.<sup>1150</sup> However the use of the

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<sup>1145</sup> Intelligence and Security Committee, "Annual Report 2008-2009."32-33

<sup>1146</sup> Ibid.32

<sup>1147</sup> Sir John Sawers, "Sir John Sawers's Speech – Full Text: Transcript of Today's First Public Speech by a Serving Mi6 Chief," *The Guardian*(2010), <http://www.theguardian.com/uk/2010/oct/28/sir-john-sawers-speech-full-text>.

<sup>1148</sup> Discussed in Chapter 8 Section 3 and see Treverton, *Reshaping National Intelligence for an Age of Information*.89-90

<sup>1149</sup> The introduction of intelligence that had not been fully assessed impacted negatively on appreciations of the WMD threat from Iraq, and could as easily encourage poor counter terrorism policy decisions. See Roberts), "Report of the Select Committee on Intelligence on Postwar Findings About Iraq's Wmd Programs and Links to Terrorism and How They Compare with Pre-War Assessments Together with Additional Views." and "Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors."

<sup>1150</sup> Rt Hon. Dr Liam Fox MP, 18th June 2014.

NSC structure during the Libyan crisis in 2011 permitted the intrusion of strategic level decision makers into operational matters.<sup>1151</sup>

Nonetheless for the most part property rights around the counterterrorism endeavour have remained clear. The CONTEST strategy is much a horizontal construct as it is vertical, with the OSCT having to interpret, coordinate and disseminate the policy decisions emerging from Cabinet Office bodies. Despite the importance given to its re-invigoration by Dr. (now Lord) John Reid in 2003, and the appointment of an intelligence professional, Charles Farr,<sup>1152</sup> to lead it (as well as a number of seconded and ex-security professionals on its staff), the OSCT functions exactly like any other branch of the civil service. It advises upstream and helps with drafting policies that are agreed, and then helps ensure their delivery. Its area of expertise happens to be the counter terrorism function, which requires it to have both Cabinet Office and Home Office responsibilities because of the inter-departmental interests and domestic threat, but it is nonetheless limited to that standardised civil service function.<sup>1153</sup>

This has meant that although the organisation was new its property rights were already clear to the delivery organisations, who were used to receiving policy direction from the centre anyway, and did not have to compete for their right to decide on operational matters, which was established. There exists the same delineation of role and inter-reliance between policy level and delivery level as is found between, for example the intelligence agencies who have only limited capability to act, and the security agencies who have only limited sight of the environmental conditions that prevail, and where to target their actions. Each organisation, by virtue of the limits within which it works, shares some of the informational asymmetry of its principal, and needs the other organisations to off-set this condition. Bounded rationality problems are nonetheless reduced because OSCT only needs to have full information on

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<sup>1151</sup> "Joint Committee on the National Security Strategy: First Review of the National Security Strategy 2010 (Report Together with Formal Minutes)."27

<sup>1152</sup> Farr has been accused by some of being over-focused on the intelligence aspects of the OSCT function, see Addley, "Charles Farr - G.C.H.Q.'S Next Spymaster General?." but practitioners have argued that his expertise gives the OSCT credibility. See Hayman and Gilmore, *The Terrorist Hunters*.124

<sup>1153</sup> *The Terrorist Hunters*.124

strategic level activity. Each of the delivery organisations would need to take the others with it if it wanted to move contrary to the strategic direction, and would be less able to do so unobserved by the centre. To do so would be to risk the operational freedom they enjoy within their own functional area.

Sub-levels are thus neither fully capable nor particularly incentivised to act contrary to the principals wishes. They are certainly concerned with immediate goals at their particular level, but these remain intermediate objectives along a route towards a maximand shared with the principal (policy setting) level. Responsibility for each level is nonetheless clear, and so any failure of delivery cannot be generalised. Policy level goals cannot be supplanted with operative goals and vice versa. If each part of the bureaucracy can be assessed independently then the problem of organisations being identified as efficient or not because of their performance around intermediate rather than primary goals is obviated. This in turn limits the tendency of bureaucrats to indulge in sub-optimisation or goal displacement.<sup>1154</sup>

Internally, the layered nature of the strategy, with each layer of prevent, then pursue, protect and prepare geared to offset harm from terrorism at a different phase, mean that each of the four work-streams can be managed separately.<sup>1155</sup> This has proven useful in clarifying property rights within both the TIDO and OSCT organisational infrastructures, and has assisted in establishing probity in relationships between the civil service side and the delivery mechanisms. There is a natural tension between the norms of those engaged in the aggressive tactics needed for 'pursue' and the more culturally sympathetic and engaged approach required of those doing 'prevent' work for example. By keeping the two separate patterns of trust can be created that are not negated by the less palatable actions or requests of 'others' in a different work stream.<sup>1156</sup>

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<sup>1154</sup> Jackson, *The Political Economy of Bureaucracy*.189

<sup>1155</sup> Tembo, "Moving Towards a Qualitative Assessment of Counter-Terrorism Strategies after 9/11: Assessing the Contribution of Intelligence."9-10

<sup>1156</sup> Mid Level Civil Servant CS1, interview by Author, February 2014, London.

In the US case examined above, the DHS could be categorised as a regulatory agency with respect to its intelligence community coordinating functions, and a delivery agency in respect of security coordination, while the ODNI resembles a regulatory agency.<sup>1157</sup> The OSCT and relevant parts of Cabinet Office are however more akin to a control agency as it has responsibility for disbursing funds. Dunleavy has demonstrated how this has profound effects on the discounted marginal utility senior bureaucrats will enjoy from different increases in program budget as external resistance shifts there costs curve.<sup>1158</sup> In institutional cost terms the maximand of each type of agency is different. Because that external resistance is linked to the institutional costs environment the same logic can be applied to the utility they receive in other areas that require bureaucratic labour to produce utility, particularly from cooperative working where the joint enterprise affect itself lowers external resistance so that both curves are shifted.

In the United Kingdom intelligence and security are predominantly funded by different budgets in the same way as they are delivered by different organisational structures. The intelligence agencies are funded out of the 'Single Intelligence Account' (SIA), managed through Cabinet Office, and the police and military through independent budget streams via the Home Office or local government structures and Ministry of Defence respectively. The Cabinet Office and OSCT/Home Office infrastructure therefore has considerable budgetary authority where programs that fall under the CONTEST strategy are concerned. The military are probably furthest removed from this, but counterinsurgency operations fall outside CONTEST concerns anyway.<sup>1159</sup> The problem of MoD budgetary control over national intelligence assets and thus national rather than military priorities forms part of the cross-case to the CONTEST strategy examined in Part 3.<sup>1160</sup>

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<sup>1157</sup> As describe by Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.183-186

<sup>1158</sup> *Ibid.*184

<sup>1159</sup> "Project Contest: The Government's Counter-Terrorism Strategy. Ninth Report of Session 2008-09. Report, Together with Formal Minutes, Oral and Written Evidence." Ev20 Evidence of Charles Farr It is worth noting the relative success of CONTEST in linking disparate parts of government into a cohesive strategy

<sup>1160</sup> See for example Davies, "Imagery in the Uk: Britain's Troubled Imagery Intelligence Architecture."

This has enabled them to encourage and finance initiatives that cross usual organisational boundaries, such as JTAC. The same is true of operational units that provide low institutional cost linkages such as the Counter Terrorism Unit (CTU) and Counter-Terrorism Intelligence Unit (CTIU) networks. Each of these links a number of police forces and security service representatives with specialist capabilities and knowledge,<sup>1161</sup> whilst internal reorganisations such as the creation of the Counter Terrorism Command (CTC-SO15) within the Metropolitan Police remain within the gift of the organisation itself, and in this case was funded and driven by the new Metropolitan Police Authority when control for the forces budget passed from the Home Office.<sup>1162</sup>

This is not to suggest that cooperative working under the OSCT system is always so well ordered. As soon as property rights are blurred, problems emerge and actors act opportunistically. For example following the 2008 financial crash when funding was reduced the previously observed distinction between the strategic and policy roles of OSCT, and the operational delivery level was damaged. Funding from the OSCT to the Protection Command SO1, who provide close protection to at-risk political figures and are the successor organisation to the Metropolitan Police Special Branch protection officers discussed above, was based on a formula that included a payment based on the number of officers required. Property rights were occluded as which individual were to receive close protection was already decided on by the OSCT, albeit on JTAC advice. Where in almost every other sphere the OSCT has no operational control, and do not get 'reported back to' by the delivery level to ensure their independence,<sup>1163</sup> in this case they had a vested interest in outcomes, as the Home Secretary and other senior political figures

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<sup>1161</sup> "Project Contest: The Government's Counter-Terrorism Strategy. Ninth Report of Session 2008-09. Report, Together with Formal Minutes, Oral and Written Evidence." Ev11 Evidence of AC Quick. The initiative was driven by an HMIC review: Blakey, "A Need to Know: H.M.I.C. Thematic Inspection of Special Branch and Ports Policing."

<sup>1162</sup> The MPS CTC was created in 2006 by the amalgamation of the forces SO-12 Special Branch and SO-13 anti-Terrorist Branch, based on the perceived uniqueness of the Capital, and was at odds with national level changes despite its national level role. P1. London and "Counter Terrorism Command," MPS, <http://content.met.police.uk/Article/Counter-Terrorism-Command/1400006569170/1400006569170>.

<sup>1163</sup> "Project Contest: The Government's Counter-Terrorism Strategy. Ninth Report of Session 2008-09. Report, Together with Formal Minutes, Oral and Written Evidence." Ev22 Evidence of Charles Farr



are amongst those who receive such protection (and all the resources and assistance that go with it).

By re-assessing the number of officers they believe were required to provide close protection so that overall costs could be reduced without lessening the number of protection operations itself the OSCT became directly involved in operational decision making, trying to enforce a new 'single vehicle package' model that removed the need for a back-up vehicle and its crew. Partly because this was regarded as tactically unsound, and partly to protect their decision making integrity, middle managers acted opportunistically to derail the initiative, replacing back-up vehicles with 'logistics vehicles that simply shifted the budgetary burden, ensuring the new model was not 'trained', and so forth.

Tensions between the two sides rose, which negatively impacted on other areas of negotiation, and cooperation between them more generally.<sup>1164</sup> The contradictory nature of this case indicates that is not simply a cultural predilection to cooperate in the UK as against a more competitive ethos in the US, and that although the absence of financial control was a problem for the DNI, having it does not in itself necessarily ensure cooperative success.

Rather the role of CONTEST and the OSCT in coordinating counterterrorism in the UK demonstrates that it is the importance of clear property rights and low institutional costs between actors that dictate cooperative success or failure.

## **Section 6: Conclusion**

The two very distinct post 9/11 attempts to coordinate different areas of governance into a cohesive counterterrorism response, and the very different experiences in the US and UK that resulted can now be contrasted more holistically:

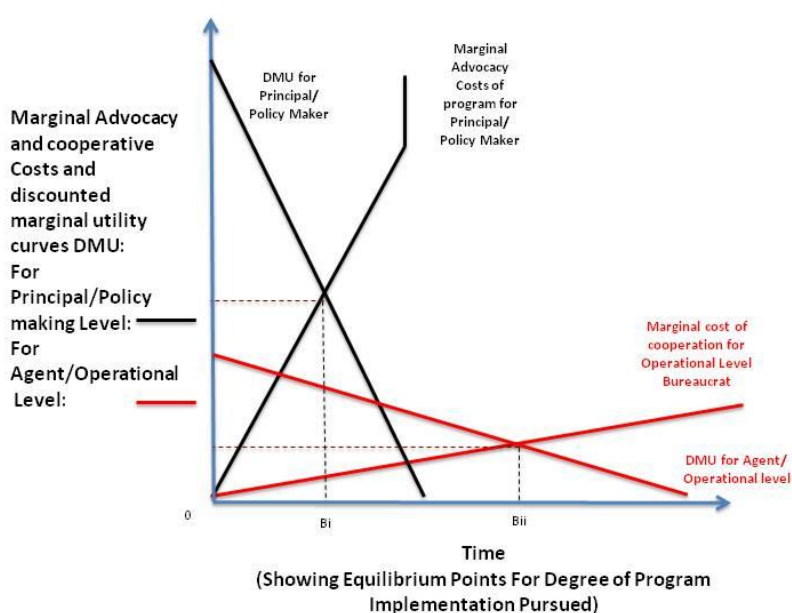
The formal authority of both the DHS and DNI concepts, through which each was intended to deliver counterterrorism cooperation across the security and

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<sup>1164</sup> P3.

intelligence communities, has in fact been circumscribed by the interaction of environmental and internal institutional costs. These have combined to ensure neither are ever more authoritative than the organisations they were intended to oversee. Terrorism intelligence product from other organisations can have utility without passing through either the DNI or the DHS intelligence capability. This fact must be added this to their starting position of asymmetric information holdings, so that they need not know what intelligence is available to ask for. It is clear that their position as apparent monopsonists is actually weaker even than if they were in a bilateral monopoly relationship with intelligence providers. They are therefore prey to the same sort of gaming behaviour observed in the 'inside contracting system' during any of their interaction between the centre and the contracting agency or department, but even less able to deal with it.<sup>1165</sup>

**Figure 6.4: Variance of Relative Utility from Different Degrees of Successful Program Implementation Between Principal and Agent (Policy Making and Operational Levels in us**



<sup>1165</sup> The inside contracting system is discussed in Chapter 2 but see Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.96

The US attempts at hierarchical control can thus be summarised diagrammatically as in Figure 6.4,<sup>1166</sup> which is derived from Dunleavy's analysis of the respective costs and benefits experienced by actors at different levels in a regulatory or delivery body.

Using Dunleavy's categorisations, the DNI can be conceived primarily as a regulatory agency, as its ability to act as a transfer agency as originally conceived was limited through the opportunistic behaviour of sub-groups.<sup>1167</sup> The DHS on the other hand can be categorised as both a regulatory (for its intended intelligence function) and a delivery (for some security functions) agency. Both however are liable to high levels of institutional frictions when trying to enforce cooperation on lower organisational tiers, as described above, and Dunleavy treats both agency types together in his analysis.<sup>1168</sup>

The marginal advocacy costs (a particular sort of negotiating costs) for a policy maker trying to encourage a policy program rise steeply in this case as implementation is resisted by those with alternative or overlapping property rights. They can adopt the sort of behaviours described above and restrict compliance to a perfunctory level by utilising the uncertainties inherent in the counterterrorism sphere and the complexities of overlapping functions in other national security policy areas to obstruct full implementation, until it finally rises vertically at the point after which no further implementation will occur no matter how much effort is made because of environmental conditions beyond the principals control.

Meanwhile the discounted marginal utility (a part of their maximand) they receive starts high as a new policy is introduced, but drops sharply once the initial appreciation for the program is received, as other policy concerns emerge and effort is required elsewhere in the manner described by Zegart.<sup>1169</sup> At the operational level meanwhile the marginal utility likely to be

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<sup>1166</sup> Source of diagram: Own design developed from Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.199

<sup>1167</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.404-407 and Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.184

<sup>1168</sup> *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.184,199

<sup>1169</sup> Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.

received by cooperating with the more senior level starts much lower as there are "...benefits in autonomy and costs in ceding it".<sup>1170</sup> These are off-set by utility losses as independent capabilities are lost to the higher level. The lower powered incentive schemes enjoyed by operational level bureaucrats are only tangentially linked to any policy program or cooperative success, but much more tightly aligned with the local-level, more internalised success of core missions (as perceived by themselves). This provides for a less radical drop in marginal utility over time. The costs of cooperation also rise more slowly and are relatively inelastic. There is therefore a significant disparity between the points of equilibrium between the marginal costs and benefits the actors at different levels, represented by the difference between 'Bi' and 'Bii'. Dominant coalitions of actors working at a distance from their principal are thus both incentivised and able to pursue their own sub-goals.<sup>1171</sup>

Poorly defined property rights across both the security and the intelligence communities encourage senior bureaucrats to use what is anyway a difficult institutional cost environment to seek contractual advantage over their colleagues. At the same time, because the asset specificity of intelligence resources is of a different type to those needed for security, attempts to blend them have been thwarted. Alignment of intelligence assets to earlier environmental conditions limits their flexibility to adapt anyway, or indeed to want to. Difficulties in monitoring have provided them with both an information advantage and a condition of moral hazard in which to use it. The negotiating advantages existing organisations enjoy over new joiners, whether formally senior or not, has allowed them to use property rights that are poorly allocated to new circumstances to act opportunistically to secure agency level goals in preference to those advocated from on high: Despite the creation of the two organisational super-structures, the DHS and DNI, established agencies have, in the words of the Office of the Inspector General, continued to go their own way.<sup>1172</sup>

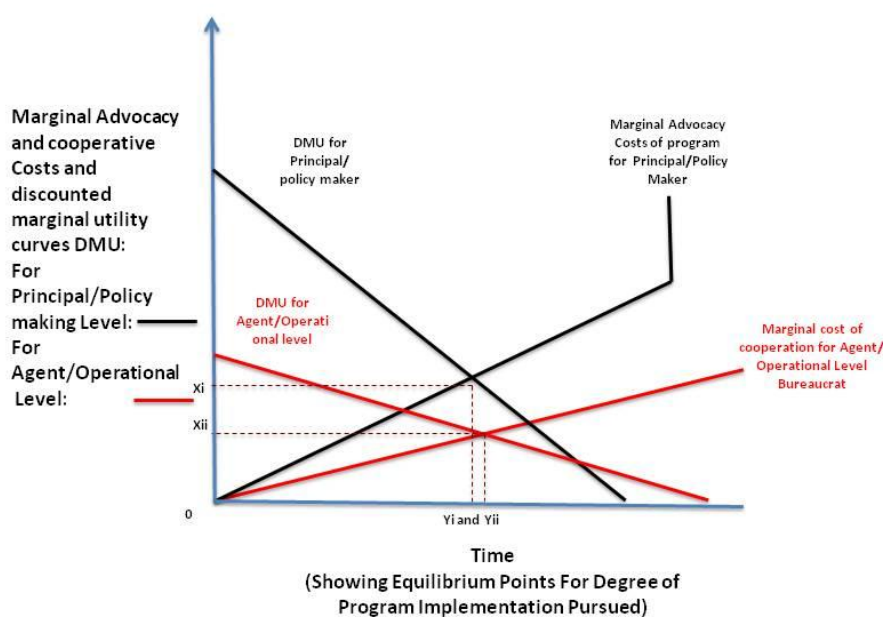
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<sup>1170</sup> Ibid.48

<sup>1171</sup> Discussed in Jackson, *The Political Economy of Bureaucracy*.189-190 and Arnott and Stiglitz, "The Basic Analytics of Moral Hazard."383 and footnotes

<sup>1172</sup> Maguire, *Critical Intelligence Community Management Challenges*. Referring to the intelligence community members nominally under the DNI.

Figure 6.5: Variance of Relative Utility from Different Degrees of Successful Program Implementation Between Policy Making and Operational Levels in UK



In the UK case, Figure 6.5<sup>1173</sup> makes the same comparison between the relative utility (that is the net utility given that there are costs involved in achieving it) of the policy making and coordination level embodied in the OSCT and Cabinet and that of the operational levels who must cooperate with them to deliver it. The different organisational structure, whereby the principal level is a control organisation according to the Dunleavy classifications<sup>1174</sup> rather than a delivery or regulatory body as in the US case provokes a very different institutional cost environment in the manner described above.

The clearer property rights across levels of responsibility allows the flexibility that the uncertain and complex environment requires, and reduces the need for lower levels to act opportunistically to secure autonomy. The result is that the principal's marginal advocacy costs rise in a shallower curve than in the US cases as less frictions to program implementation are experienced. Their discounted marginal utility still drops over time, but less sharply as utility is

<sup>1173</sup> Source of diagram: Own design developed from Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.199

<sup>1174</sup> Ibid.184

uniquely associated with policy implementation in the counterterrorism sphere. The operational level remains less elastic, but marginal utility gains from successful cooperation will not be off-set by utility loss associated with the loss of autonomy. The difference between  $Y_i$  and  $Y_{ii}$  is thus significantly less than that between  $B_i$  and  $B_{ii}$  in Figure 6.2 so that a viable shared maximand across levels can be inferred, and because *within* that shared understanding of a maximand each level has its own objectives that are distinct to their level, the strategic level is less inclined to adopt operative goals and dominant coalitions at the operational level, however powerful, can remain incentivised to cooperate with the strategic vision rather than to reform it. Goal displacement or sub-optimisation by them is thus much reduced in comparison to the US organisational architecture.<sup>1175</sup>

The analysis of vertical collaboration in the counterterrorism sphere as pursued through very different organisational forms in the US and UK conducted in the sections above thus demonstrate how high institutional costs between actors at different levels are a bar to cooperation between them. The findings indicate that for functions like security or intelligence provision, which are neither routine nor repetitive and boast high levels of information asymmetry between boundedly rational levels, attempts to enforce cooperation will produce perfunctory rather than complete compliance with instructions. The US cases demonstrate how monitoring costs will preclude the use of sanctions to correct such behaviour, so that lower level actors will remain incentivised to pursue sub-level goals that are only tangential to those of the principal or policy making level. On the other hand in the UK case the same difference in information holdings between levels is offset by established probity between actors. The achievement of a low institutional cost inter-relationship between levels, based on clear property rights over specific roles and responsibilities that are nonetheless geared towards a strong shared maximand, can thus encourage higher levels of cooperative success.

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<sup>1175</sup> Behaviours discussed by Jackson, *The Political Economy of Bureaucracy*.189-190

Chapter 5 thus demonstrated how the provision of counterterrorism provokes inherently high institutional costs, while this Chapter has examined how different approaches can either exacerbate or reduce this naturally high level. It has examined the particular problems of two US approaches to coordinating the counterterrorism function and contrasted these with the very different approach in the UK. Part 3 will now examine cooperative success and failure in the provision of defence intelligence to demonstrate how these positions can be reversed if the level of institutional costs is inverted.

# **PART 3**

## **The Paradoxical Case of Cooperative Success and Failure in the Provision of Defence Intelligence**



## **Chapter 7 –Institutional Costs and the Contradictory Case of National Military Intelligence**

### **Section 1: introduction**

In the introduction to this thesis two possible conceptions of a security and intelligence community were suggested; firstly as a unitary entity with the lower level elements acting as tools in pursuit of an overarching goal (the utopian ideal) and secondly the perhaps more realistic idea of a community of disparate elements, each pursuing utility at the level at which they operate, and of the type they each perceive as most advantageous. Part 2 of this thesis argued that the United Kingdom's approach to counterterrorism boasted lower institutional costs than that of the United States and encouraged higher levels of co-operative behaviour and improved outcomes.

The UK then would appear to be closer to representing a genuinely cooperative community, whereas the US seems emblematic of the more realistic model described in Section 4 of Chapter 1; findings which support the apparently contradictory conclusions of Patrick Dunleavy in the UK, and William Niskanen in the USA for governance in the two societies more generally, as discussed in chapter three. This is the distinction highlighted by Davies in the intelligence sphere, who has described significant differences in the cooperative capability of each community. More controversially however, Davies has also noted that in some specific instances where intelligence and military functions interact the opposite is the case, with poor cooperation in the UK and good cooperation in the US.<sup>1176</sup>

This chapter will therefore seek to continue the argument that the causes of different cooperative outcomes between the two communities is caused by the interaction of the wide range of organisational, environmental and behavioural factors captured within the institutional cost impact framework by examining collaborative working in the military intelligence sphere.

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<sup>1176</sup>See for example Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.310-311 and "Imagery in the Uk: Britain's Troubled Imagery Intelligence Architecture."

It will examine the different experiences of the defence intelligence bodies of the two Countries, demonstrating that they have each developed against type with respect to their respective nations, and are thus cross-cases. In the counterterrorism sphere the United Kingdom demonstrated good cooperative working while the United States performed poorly in this area, whereas in the defence intelligence sphere this is reversed. Furthermore the endemic and constant nature of either high or low institutional costs observed in the counterterrorism sphere in Part 2 is not replicated in defence intelligence. Instead specific points of change that shift both levels and types of institutional costs can be observed. The UK's defence intelligence capability has historically had problems defining its place in the larger intelligence and security community, and has oscillated between contested organisational set-ups that have then bedded in, only to be changed again. Recent reports have indicated a continuing inability to work co-operatively and effectively at all the levels required. The defence intelligence capability of the US, on the other hand, which has had a similarly difficult history, has recently demonstrated a number of initiatives and shifts that have lowered its institutional costs and improved its co-operative capability significantly, an effect which is beginning to transition beyond the immediate defence realm.

This chapter will thus demonstrate that the exceptional nature of military intelligence and the resultant respective organisational structures in the US and UK has lead to a shifting and opaque sets of property rights. In the UK this has lead to high institutional costs as solutions have had to be negotiated on a case by case basis. Confusing requirements and priorities will be shown to have lead to the UK's military community to have pursued the sort of sub-goal pursuit more usually associated with US intelligence community members. Conversely the Unites States defence intelligence capability will be shown to have shifted in entirely the opposite direction, having progressively sought and then enjoyed easier cooperation across several previously difficult boundaries, based on increasingly better delineated property rights in support of a shared maximand.

The next section will therefore examine how unique features of the defence intelligence architecture in both the US and UK provoke particular institutional cost issues that impact on its cooperative working on its interactions internally and with the wider security and intelligence effort. Section 3 will then consider the impact of the 1991 Persian Gulf War (Operations Desert Shield and Storm) as the precursors to a volte-face in the US military intelligence institutional cost environment and contextualise elements of the US defence intelligence and information revolution that followed. Section 4 will then conclude.

## **Section 2: The Uniqueness of Military Intelligence**

Military intelligence boasts very distinct differences to its civilian counterpart that significantly alter the institutional cost framework within which it must operate, and thus the organisational architecture best suited to collaboration with the wider security and intelligence communities. These will be briefly considered by firstly examining the property rights position, then considering how different understandings provoke language costs and an asymmetry of information between various actors. Next the importance of organisational positioning will be assessed for its impact on cooperation with either the military or national level communities. The different pragmatic needs and cultural preferences of the various actors for hierarchical rigidity or flexibility, and their institutional cost implications will then be appraised. Finally the nature of military intelligence as a product will be considered from the same perspective.

Before that it is worth reflecting briefly on the impact of both uncertainty and complexity on the nature of organisational form that is likely to be best suited to any military endeavour. General Rupert Smith has written:

“On every occasion that I have been sent to achieve some military objective in order to serve a political purpose, I, and those with me, have had to change our method and reorganise in order to succeed. Until this was done we could not use our force effectively. On the basis of my lengthy experience, I have come to consider this as normal—a necessary

part of every operation ..... The need to adapt is driven by the decisions of the opponent, the choice of objectives, the way or method force is applied, and the forces and recourses available, particularly when operating with allies. All of this demands an understanding of the political context of the operation, and the role of the military within it. Only when adaptation and context are complete can force be applied with utility. ”<sup>1177</sup>

Smith thus suggests that the environmental conditions that surround any military endeavour will make it unique. Thus, in keeping with the ideas developed in Chapter 2, no perfect organisational form for all instances can exist. The uncertainty that results from the decision-making of opponents, and the complexity inherent in working with varying patterns of allies require a flexibility that is at odds with conventional appreciations of a military bureaucracy's reliance on 'Standard Operating Procedures' (SOP's) and the like.<sup>1178</sup> Rather Smith's experience seems to push him towards a Merton-like distrust of rigid doctrine<sup>1179</sup> so that a tension between different hierarchal levels seems likely from the outset.

#### **a. Shifting Property Rights at the National Level in the US and UK:**

Despite the very many distinctions between the military and civilian intelligence worlds, they are nonetheless required to inter-relate at various levels so that the level of institutional cost will always impact on how well the one can serve the other, and perhaps as importantly, how useful the military part of intelligence is perceived to be by political decision makers (and budget setters). This part of the chapter will therefore examine how property rights are arranged between the two in both the US and UK, and briefly consider the history of shifting claims and counter claims as environmental conditions have changed to provide a context for the tensions apparent in the military intelligence arena.

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<sup>1177</sup> Smith, *The Utility of Force: The Art of War in the Modern World*.6

<sup>1178</sup> The Chief of Defence Staff, quoting Basil Liddell-Hart, stated in 2010 that “...there is only one thing more difficult than getting a new idea into the military mind and that is getting an old idea out”. General Sir David Richards, “Securing Britain in an Age of Uncertainty,” (2010), <https://www.gov.uk/government/speeches/2010-11-22-securing-britain-in-an-age-of-uncertainty>.

<sup>1179</sup> Merton, "Bureaucratic Structure and Personality."562-565

Some parts of the UK's defence intelligence infrastructure, such as the Defence Intelligence Assessments Staff (DIAS), which is responsible for high level analysis, and the Defence Intelligence Fusion Centre (DIFC - formerly the Defence Geospatial Intelligence Fusion Centre (DGIFC, and before that JARIC), which performs the imagery intelligence function, have national responsibilities whilst being part of the Ministry of Defence, and property rights over them have therefore been affected by changes in the organisational structures in each, particularly in recent years with the advent of substantive changes like the military Joint Forces Intelligence Group (JFIG) in 2012 or the civilian National Security Council (NSC) in 2010. In the US the National Security Agency (NSA), National Reconnaissance Office (NRO) and National Geospatial-intelligence Agency (NGA) in the US, are formally double-hatted, with the Defense Intelligence Agency being effectively triple-hatted (to the Secretary of Defense, the Joint Chiefs of Staff (JCS) and lower level commanders) because they are national agencies that are nonetheless part of the Department of Defense. The DIA's defence intelligence role is then overlapped by the individual security agencies of each of the single services, any of which can contribute to the national piece without being a national agency under statute.

In both countries then this mix of responsibilities to both national and military masters means that property rights are inevitably extremely complicated.<sup>1180</sup> The problem of double-hatting, which caused such problems for the former DCI and current DNI roles (as discussed in Part 2), is a structural necessity if the significant military intelligence capabilities are to serve civilian as well as defence needs. Finite capability means that not all demands can be met and some form of prioritisation must occur. In an uncertain environment priorities will of course vary, which will inevitably be to the detriment of both, as the requirement to shift quickly between the national strategic concerns of the

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<sup>1180</sup> It should be noted that in the United States many of the functions of the United Kingdom's Government communications Headquarters (GCHQ, a civilian body that accounts for much of the Country's capability to punch above its weight), is conducted within the NSA which is co-run with its Defense counterpart the Central Security Service (CSS). This further emphasises how the civilian and military inter-relationships are very different and how property rights are impacted by the two Countries functional proximity as well as their internal organisation.

Cold War to the theatre level requirements of the first Gulf war in 1991 demonstrated.<sup>1181</sup>

Property rights around military intelligence assets at the national level are affected by interrelationships at the international level; particularly between the two communities under discussion: In the civilian sphere the United Kingdom, through its relationship with the United States, has the capability to be a significant actor on the world stage. This in turn enhances the policy making level's ability to project British policy overseas both through reputation and its status as influencer to the worlds remaining superpower (however remotely).

During the Cold War and into the 1990's this was through intelligence sharing agreements and mutual need, with the United Kingdom's geographical position on the globe, and the spread of its former colonial possessions, an important initial consideration.<sup>1182</sup> More recently, as budgets are restricted in the United States, previous areas of redundancy and overlap have been removed and the American civilian community has been less inclined to duplicate the UK's collection efforts or re-assess analysed product from it. In the military sphere this is not, and has never been the case.<sup>1183</sup> The relative sizes of the two make any aspirations of parity unrealistic, and the United Kingdom's current military strength make any significant unilateral undertaking a risky proposition.<sup>1184</sup> Despite the 2010 Lancaster House treaty with the French, the only tried and tested basis for such coalition based action remains the North Atlantic Treaty Organisation, in which the Americans are dominant. This means that the UK's military is dependent on civilian intelligence if it is to retain its position as the 'primus inter pares' ally

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<sup>1181</sup> See for example the lack of coverage for Iraq's 'intentions and the run-in time for HUMINT operations described by Hughes-Wilson, *Military Intelligence Blunders and Cover-Ups*.308-352

<sup>1182</sup> It should be noted of course that in the United States many of the functions of the United Kingdom's Government communications Headquarters, a civilian body that accounts for much of the Countries capability to punch above its weight, is conducted within the Department of Defense. If anything however this further emphasises how the civilian and military inter-relationships are so very different.

<sup>1183</sup> Senior United Kingdom Intelligence Figure Speaking Under Chatham House Rules CH3, (Royal United Services Institute, London, 2011).

<sup>1184</sup> It is worth noting however that the UK's intervention in Sierra Leone in 2000, and even the Falklands Conflict in 1982, mean that a unilateral military undertaking cannot be discounted, despite a doctrinal preference for coalition action.

of the US. Where the military and civilian decision makers derive utility from a shared goal this is not problematic. However civilian resources can be diverted away from coalition military uses to national level concerns, so that differences in property rights allocations can provoke tensions that are exacerbated because the US and UK organisational architecture over some intelligence assets is different, even when they are engaged in a shared endeavour.

These overlapping property rights can undermine cooperative capability at even the international level as actors try and ensure their ability to function effectively cannot be compromised by decisions over which they have no control. In the military arena intelligence at any level is more closely geared to specific missions and goals than that of its civilian counterpart so these tensions can play out very differently between the tactical and strategic levels: For example even while good collaborative working was being demonstrated around the Iraqi intelligence target after the first Gulf War at an operational level, different institutional costs were effecting strategic level pulls and providing the impetus for, and then shaping the detail of, the European Security and Defence Policy (ESDP) in the late 1990's. At that time there existed a combination of bounded rationality on the part of European strategists (who struggled to manage the language costs in interpreting domestic political messages in the US in relation to European security), asymmetric information about actual US intentions, and an awareness that US assets committed to the protection of Europe were non-specific and could be easily redeployed. These institutional costs were all set in an atmosphere of uncertainty as to future environmental conditions and lead British and French policy makers to fear opportunistic behaviour by the US that could lead to strategies of abandonment, entrapment and exploitation.<sup>1185</sup> Ironically, the sub-goal pursuits of the various nations, each seeking to maximise their individual utility through distinct organisational designs that placed autonomy in different areas, and their respective concerns around the property rights over any new force, were eventually managed through the

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<sup>1185</sup> Weiss, "Transaction Costs and the Establishment of the European Security and Defense Policy." 667-668 and citing David A Lake, *Entangling Relations: American Foreign Policy in Its Century* (Princeton University Press, 1999). 52-59

use of another institutional cost: Re-designing the EDSP so that its assets were less specific to intra-European problems, and more generally available to NATO, and therefore the US, were what made the new security institution palatable to all those concerned.<sup>1186</sup>

The same institutional cost pressures can be seen to impact on cooperation between levels of command as one descends to the operational level. Improved connectivity mean that messages from different sites of authority are easier to transmit. But this is countered by the bounded rationality of actors concerning the situation of others, and the language costs generated mean that handling the resultant collection of policy level maximands is problematic. Commanders at different levels have to manage often unrealistic expectations from their political leadership.<sup>1187</sup> This can be described in institutional cost terms. British military commanders in, for example, Afghanistan face significantly higher negotiating costs as a result of increased direction from the centre of Whitehall through the National Security Council, and the information asymmetry between them. What was barely manageable during the Libya crisis, a sharply defined engagement involving the British and French acting as independent nations, as property rights over the operational direction of the campaign were split between NSC(Libya) and operational commanders<sup>1188</sup> can become a more intractable problem in a longer term and more complex campaign such as Afghanistan. This serves to heighten the negotiating costs of middle ranking officers as they attempt to disentangle the various property rights of those above them in NATO-ISAF, the Ministry of Defence, and the National Security Council and then negotiate over the expectations of each.

The level of negotiating frictions can then impact on the relative property rights of the different actors, and the lack of clarity left operational decision

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<sup>1186</sup> Weiss, "Transaction Costs and the Establishment of the European Security and Defense Policy." 654-682

<sup>1187</sup> Major General Christopher Elliott has for example cited the allocation of troop numbers by political figures, and over optimistic assessments of what they can achieve (as well as a too compliant senior military cadre). See Christopher L. Elliott, "Not Ruling the Waves, Just All at Sea," *The Sunday Times*, 11th January 2015 2015.

<sup>1188</sup> "Joint Committee on the National Security Strategy: First Review of the National Security Strategy 2010 (Report Together with Formal Minutes)."



makers to work according to their own preferences. In fact so authoritative was the chain of command leading up to NATO-ISAF, with whom they were in constant touch, that direction from London was sometimes seen as irrelevant because it was simply not deliverable outside of the narrow confines of the British mission in Helmand, in which case it was usually at an operational rather than strategic level anyway. Alternatively, if it related to political engagement with senior Afghan figures, it was largely handled either by the United States Four Star element (with war fighting left to the three star level), or by civilians in the Provincial Reconstruction Team (PRT). At the same time civilian intelligence assets being directed through Whitehall would nonetheless be prioritised according to the objectives set there, to the detriment of those being pursued by NATO-ISAF.<sup>1189</sup> Conflicting property rights emanating from organisational choices can thus be seen to have an impact on levels of collaboration between different bodies.

Conflicting pressures over property rights and the negotiating costs they engender in this sphere can be demonstrated by considering the how they have been contested and shifted even when environmental uncertainty and complexity were less significant during the Cold War. The relevance of the nuclear dimension, and policy instruments such as the doctrine of 'mutually assured destruction' that it engendered meant that the Cold War was as much a political-civilian conflict as a military one, so that the distinction between the property rights of each level was harder to discern.

In the US, these different property rights perceptions of the civil and military leaderships are apparent throughout the early years of the DIA:

From its establishment in 1961 until 1991, and the sea-change wrought by Operation Desert Shield/Storm, the United States central capability suffered much the same organisational pushes and pulls as its British counterpart. Rather than follow the United Kingdom's model of division into directorates based on the areas to be studied,<sup>1190</sup> although concerned with linking the intelligence capabilities of the single services, the DIA was however

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<sup>1189</sup> M3.

<sup>1190</sup> Davies, "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence."200-203

organised almost from quite early on in a manner that spoke to the problem of having both a national and operational role; by the 1970's its three subdivisions distinguished between headquarters support, management roles, and operational activities so that the property rights of each should have been clearer. Nonetheless the organisation struggled with the distinctly different pulls from its civilian and military overseers from the outset, and by 1971 Dr. James Schlesinger's report for George Schultz's Bureau of the Budget noted the 'spectacular' rise in expenditure on collection which was not linked to a commensurate rise in quality of product, and presciently foresaw the need for an overall Director of National Intelligence to cover both civilian and military agencies (an idea blocked by the pentagon<sup>1191</sup>).

By 1963 re-organisation was sought by the Joint Chiefs of Staff (JCS) that would re-prioritise their needs in an asset they perceived as theirs. This resulted in the 1965 appointment of a 'Special Assistant for JCS Matters' which shifted the balance slightly by 1967. As a result, and in response to continuing criticism through to 1970 (both internal and external) the then Secretary of Defense attempted to clarify the property rights as he saw them by ordering that the Director DIA should report to him directly. The DIA would thus have its priorities set by the political level (and the United States Intelligence Board) rather than by the JCS, which the DIA was directed to 'support' (and who were specifically told not to establish a competing J2<sup>1192</sup> capability in response).<sup>1193</sup> The response from the Chairman of the JCS was to re-interpret this fairly unequivocal direction into a rather different property rights allocation: The 'domestic, investigative and counterintelligence' (i.e. the non-core functions) roles performed by DIA were to be through the Secretary's office, but operational or foreign intelligence (and counter

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<sup>1191</sup>The Pentagon ensured negotiating costs were high, and unfortunately the subsequent selection of Schlesinger as DCI, intended to expedite the process, made the position worse as he could no longer claim to be an honest broker and the institutional frictions increased still further so that it stalled until the Watergate crisis ended the initiative. David Omand, "Creating Intelligence Communities," *ibid.* 25, no. 1 (2010).106

<sup>1192</sup> The '2' is the NATO accepted denomination for the intelligence function (with other numbers for other functions such as 1 dealing with personnel, through to 6 dealing with communications. J means it is joint, where G is an army, A an air force, and N a navy version. For fuller listing see for example "Staff Organization: General Staff," Canadian Army, [https://army.ca/wiki/index.php/Staff\\_Organization](https://army.ca/wiki/index.php/Staff_Organization).

<sup>1193</sup> Allen Deane, "Relationship of Dia and the Dcs/J2," Defense Intelligence Agency, <http://www.dia.mil/history/features/dia-and-JCSJ2/>

intelligence) would still be through the JCS. Furthermore by 1974 a J2 'support office' had, despite this direction, evolved and enlarged to leverage control back again.

Military functions were then highlighted once again, with the DIA itself being re-organised in 1976 and then 1979 to better serve combat operations and strategic support to the JCS respectively. The latter was designed, inter alia, to specifically address the property rights question over DIA's J2 functions in JCS; still extant since a 1971 blue ribbon review that had explicitly identified it as a problem (despite Secretary of Defense Schlesinger having regarded the matter as resolved in 1974). The reviews that underpinned these changes had culminated by 1982 in two charter revisions and the incoming Director James Williams explicitly advocated DIA functions that supported both strategic and tactical military efforts in an open letter to his agency.<sup>1194</sup> Then, in 1986, The Goldwater-Nichols Defense Reorganization Act formally made the DIA a national intelligence agency, providing statutory support for the national claim whilst leaving the agency in the DoD.<sup>1195</sup> Legislators thus tried to influence the property rights debate, which should have strengthened the DCI's hand as the formal lead of the national intelligence community, yet DIA officers continued to work for the Defense Secretary, and to prioritise defense needs. Even as late as the mid 1990's such shifts continued, with peace time defence intelligence re-gearred to more closely function as it would during war time.<sup>1196</sup>

However by then the United States military, along with its intelligence apparatus, had had to deal with the twin strategic surprises of the end of the Cold War and being suddenly engaged in a 'hot' war in the Gulf. These were to fundamentally change their approach to military intelligence from fixed positions on what was right, to an acceptance that it would need to be as flexible and agile as the forces it supported. Much lower institutional costs were then sought between actors at all levels and in a myriad of roles and

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<sup>1194</sup> Quoted by *ibid.*

<sup>1195</sup> *Goldwater Nichols Department of Defense Reorganization Act of 1986*, Public-Law 99-433-Oct. 1, 1986.

<sup>1196</sup> James R Clapper Jr, "Challenging Joint Military Intelligence," *Joint Forces Quarterly JFQ* Spring(1994).

organisations; the developments discussed below which were to evolve into a central tenet of the 'Defense Intelligence Enterprise'.<sup>1197</sup> Despite the tensions described above between the civilian and military needs, the DIA suffered less than its UK counterpart in the contest between the single services. It had been fundamentally strengthened by being formally made part of the national machinery following the 1986 Goldwater Nichols Act,<sup>1198</sup> which became the enabler for the bottom-up changes described below: Joint capability in the intelligence function followed on from a wider move towards joint operations across the military and most of the major frictions were addressed within that wider contest.

In the United Kingdom on the other hand, the situation was reversed. Huw Dylan argues that proponents of wider centralisation in the military saw the creation of the Joint Intelligence Bureau (JIB) as a platform on which a 'centralised, military relevant' intelligence service could be built, whilst opponents viewed it as a stalking horse for wider amalgamations and central controls.<sup>1199</sup> Because the joint intelligence function was in the vanguard of wider centralisation, the individual utility of each of the three services was best served by undermining it and instead securing their own autonomy and the sole property rights to their individual intelligence capabilities. Each used their individual information advantages to act opportunistically in attempt to retain responsibilities they regarded as theirs.<sup>1200</sup> The JIB functioned well when limited to a coordination role, very much like the CONTEST case discussed in Chapter 2, but provoked divisive arguments and limited compliance where its role was seen to overlap any of those previously held by a single service.<sup>1201</sup> Dylan for example notes the problem of analyses of Soviet fighter production, which arguably fell under the JIB as an economic

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<sup>1197</sup> See for example "2012–2017 Defense Intelligence Agency Strategy. One Mission. One Team. One Agency.," ed. Defense Intelligence Agency(DIA, 2012).

<sup>1198</sup> *Goldwater Nichols Department of Defense Reorganization Act of 1986.*

<sup>1199</sup> Huw Dylan, "Modern Conditions Demand Integration and Professionalism': The Transition from Joint Intelligence Bureau to Defence Intelligence Staff and the Long March to Centralisation in British Military Intelligence," *Public Policy and Administration* (2012).2

<sup>1200</sup> The intense competition over intelligence between the centre and single services is described in Kenneth Strong, *Intelligence at the Top: The Recollections of an Intelligence Officer*(Doubleday, 1969).

<sup>1201</sup> Pete Davies, "Estimating Soviet Power: The Creation of Britain's Defence Intelligence Staff 1960–65," *Intelligence and National Security* 26, no. 6 (2011).

issue, and the RAF's intelligence wing as an 'air' matter, so that the JIC noted in 1947 that "... there was no clear indication where the work of JIB ended and where that of the service directorates began.", encouraging the services to try and negate JIB functionality to preserve their own, and the JIB to attempt to grow in order to survive.<sup>1202</sup>

Davies finds similar problems over property rights in his examination of the JIB's successor, the Defence Intelligence Staff (DIS) from 1963 onwards. He observes problems that are both intra and inter-organisational as DIS struggled to both coordinate the services and their intelligence appreciations whilst simultaneously responding to national level requirements and priorities.<sup>1203</sup> The result is the same ebb and flow of dominance of the military then civilian priorities that was observed in the US case until the Goldwater-Nichols re-organisation and the exogenous shock of the first Iraq war, as external circumstances changed and internal patterns of dominance shifted. The evolution of defence intelligence on both sides of the Atlantic during the Cold War thus reflects the tensions inherent in serving more than one master: As each moved from the military pre-eminence and property rights clarity of a shooting war to the more opaque imperatives of the civilian dominated nuclear world, and the new requirements and priorities that entailed, each organisational form was pushed and pulled between the needs of each.

There are thus very particular property rights issues at a number of levels that afflict the military arena and its relationship with other areas of governance, and intelligence assets sit astride these fissures. How negotiations between the two are managed will therefore be a non-trivial issue in deciding the levels of cooperation between them. The possible frictions that can undermine such negotiations will therefore be considered next.

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<sup>1202</sup> Dylan, "'Modern Conditions Demand Integration and Professionalism': The Transition from Joint Intelligence Bureau to Defence Intelligence Staff and the Long March to Centralisation in British Military Intelligence."

<sup>1203</sup> Philip H.J. Davies, "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence," *ibid.*28, no. 2 (2013).

## **b. Different Understandings of Military Intelligence and Negotiating Costs:**

The sub-section above described how the peculiarities of property rights over military intelligence assets increases institutional frictions between different areas of governance. The problem is however more deep-rooted than can be addressed through organisational wiring. Both property rights clarity and wider negotiations over the shape and use of military intelligence can be negatively impacted by very different understandings and cultural norms in use by military as opposed to civilian bodies. At the extreme, this can mean actors are negotiating across completely different world views, rooted in very distinct theoretical approaches. Rather than negotiating around the best way to achieve a genuine sense of shared maximand they can actually be pursuing objectives that are diametrically opposed, sometimes without even realising this is the case. The former Permanent Under Secretary at the Ministry of Defence Kevin Tebbit has noted that although the MoD were the first department to produce any substantial policy statement following the 9/11 attacks<sup>1204</sup> the post-conflict stabilisation in Iraq was fundamentally flawed by the absence of any agreed cross-departmental strategy.<sup>1205</sup>

In the UK, for example, it has been argued by Robert Crowcroft and Owen Hartley that the Ministry of Defence (MoD) approach is defined by their 'realist' view of the world. The civilian side on the other hand is represented by the Foreign and Commonwealth Office (F&CO), who see the UK as setting the tone of the debate in a 'Global community', and the Department for International Development (DfID), who are explicitly removed from national interests.<sup>1206</sup> The government has attempted to off-set these difficulties by the creation of a cross-departmental conflict pool of resources, at least in part funded independently through the 'Counter Terrorism Program Fund' (CTPF). This links the overseas projects in the F&CO, MoD and

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<sup>1204</sup> "The Strategic Defence Review: A New Chapter," ed. Ministry of Defence (London: Stationery Office, 2002).

<sup>1205</sup> Tebbit, "Countering International Terrorism: Joining up the Dots."

<sup>1206</sup> Robert Crowcroft and Owen A Hartley, "'Mind the Gap': Divergent Visions of National Priorities and the International System within Contemporary British Government," *Defence Studies* 12, no. 4 (2012).

DfID.<sup>1207</sup> Both the conflict pool and CTPF are attempts to ease the negotiating frictions involved in such inter-departmental undertakings by having NSC priorities inculcated into their work. This effectively creates a new shared maximand at a sub departmental level within and across them so that the existence of competing pressures is recognised,<sup>1208</sup> even if the institutional difficulties these create for intelligence assets required to serve both have still not yet been successfully addressed.<sup>1209</sup> The maximand of each intelligence consumer is bounded by the divergent world views observed by Crowcroft and Hartley, which are in turn based on different policy responsibilities, and thus, preferences. Collaboration between them in any functional area must overcome this. In Crowcroft and Hartley's view, where the MoD is pragmatic and precise in its objectives, the FCO are more ambiguous, and see the UK's best interests as analogous to those of the wider 'human community'. This has implications for the maximand and international engagement of each. The former look to the North Atlantic Treaty Organisation (NATO), the latter to the European Union (EU) as representative of the international perspective.<sup>1210</sup> Military intelligence organisations must however necessarily engage with all these preferences at every level.

All of the organisations mentioned above are represented in Afghanistan for example, and have distinct impacts on strategic direction and tactical delivery.<sup>1211</sup> Even the Foreign Secretary has acknowledged the different roles of the military, diplomats, intelligence personnel and police officers and identified it as one of the jobs of 'government' to "... marshal their resources

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<sup>1207</sup> Hague, "F.C.O. Programme Spending 2014-15 Foreign and Commonwealth Affairs."

<sup>1208</sup> See for example the links between the National Security Strategy, NSC and Conflict, Stability and Security Fund described by Chloe Smith, "Written Answer to Questions. Cabinet Office. Conflict, Stability and Security Fund," ed. House of Commons(Hansard, 2013).

<sup>1209</sup> Davies, "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence."

<sup>1210</sup> Crowcroft and Hartley, "'Mind the Gap': Divergent Visions of National Priorities and the International System within Contemporary British Government."

<sup>1211</sup> See for example Gordon Stuart, "Defence Policy and the Joined up Government Agenda: Defining the Limits of the Comprehensive Approach" in *The Development of British Defence Policy: Blair, Brown and Beyond*, ed. David Brown(For Royal Military Academy, Sandhurst: Ashgate Publishing, Ltd., 2013).

in a way that serves the country's overall objectives ...",<sup>1212</sup> clearly signalling the relationship between a shared maximand and inter-agency collaboration across the security and intelligence communities and the need for government to orchestrate the whole in the same way coordination has been managed in the domestic CONTEST arena described in Chapter 6.

Any such orchestration is however hampered by the attempted clarification of the defence intelligence function as strategic, and therefore suited to both governmental policy making and Ministry of Defence military planning needs.<sup>1213</sup> This has in fact increased the language costs associated with the bounded rationality of bureaucrats in different parts of government, and so had entirely the opposite effect. The understanding of strategic itself is fundamentally different between Cabinet Office on one side of Whitehall, and senior military figures in the Ministry of Defence on the other. The former differentiate the strategic, operational and tactical spheres with reference to time, while the latter do so by considering spatial dimensions.<sup>1214</sup> So basic a difference in language can provoke the same sort misunderstandings Davies considered when discussing different understandings of intelligence between the US and UK intelligence communities in 2002.<sup>1215</sup> To quote Davies more recent work, "... in the United States 'information' is a component of 'intelligence' while in the UK, 'intelligence' is a particular type of information. This is not merely a semantic difference: it has profound and pervasive institutional implications."<sup>1216</sup> In fact the regularity of joint UK/US operations through NATO has meant that the UK military intelligence community is as likely to be exposed to the US definition as that of its own nations civilian community, so that an additional set of language costs are likely here too. These same implications create institutional costs that impact on military civilian negotiations, which have to be managed via this asymmetry of understanding. The respective bounds on the rationality of each side are

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<sup>1212</sup> William Hague, "Securing Our Future," (2011),  
<https://www.gov.uk/government/speeches/securing-our-future--2>.

<sup>1213</sup> See for example "Guidance- Defence Intelligence," Ministry of Defence,  
<https://www.gov.uk/defence-intelligence>

<sup>1214</sup> Davies, "B.C.I.S.S. Comments on Jwp 2-00 Re-Write Arising from D.C.D.C. Intelligence Seminar."

<sup>1215</sup> See Davies, "'Ideas of Intelligence: Divergent National Concepts and Institutions'."

<sup>1216</sup> "Intelligence Culture and Intelligence Failure in Britain and the United States." 500



inevitably magnified across such a divide, heightening institutional costs overall as each seek to negotiate to the same solution over what are can be rather different questions.

Moreover, whilst the military can face the same difficulty of negotiating between their own tactical level needs and the strategic political direction of their civilian masters that law enforcement agencies were seen to suffer in the previous chapter, law enforcement communities in democracies can at least usually fall back on the supremacy of the law itself. The military, who are overtly a tool of projected power and are deployed specifically to ensure that political strategic objectives are met, cannot. They are a more directly a tool of government, even where it is not clear which part of the government that might be.

In the case of Iraq for example the ability of the US Executive and State Department to agree legislative changes with the Iraqi Republic was challenged by Congress.<sup>1217</sup> Such opaque property rights limit the military's ability to negotiate (both formally and informally) with the centre.<sup>1218</sup> An example of the sort of tension that can result can be found in the United States and Iraqi decision in 2008 that local courts were to have primacy, thus altering the military mission to a law enforcement one despite the continuing hostility of the environment.<sup>1219</sup> This meant that hierarchies were further confused and tactical level options were significantly limited as officers were re-focused on evidence gathering against insurgents rather than simple kill or capture missions. The bounded rationality of soldiers operating in a new role (as foreign police officers), their instinctive aversion to doing so for cultural and competency based reasons, conjoined with the increased complexity of working within the very distinct legal framework of a wholly strange culture pushed up the institutional costs within the military significantly.<sup>1220</sup> Conversely at the strategic level the willingness of the United States as a

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<sup>1217</sup> Matthew Weed, "U.S.-Iraq Strategic Framework and Status of Forces Agreement: Congressional Response," in *CRS Report for Congress* (Washington: Congressional Research Service, 2008).

<sup>1218</sup> See for example Elliott, "Not Ruling the Waves, Just All at Sea."

<sup>1219</sup> "Strategic Framework Agreement for a Relationship of Friendship and Cooperation between the United States of America and the Republic of Iraq," ed. State Department (Baghdad 2008).

<sup>1220</sup> Shannon W Caudill, Anthony M Peckard, and Raymund M Tembraull, "Defending the Joint Force: Lessons Learned from Joint Base Balad," *Air and Space Power Journal* Spring (2011).92

nation to make the shift lowered the negotiating costs between the two governments themselves (although problems such as jurisdiction over soldiers who have opened fire etc have remained problematic<sup>1221</sup>) and even within Iraqi society more generally, as the regime appeared more independently credible. Good collaboration at one level had to be sacrificed to achieve it in the other.<sup>1222</sup>

### **c. The Position of Defence Intelligence in the National System:**

Despite this duality of civilian and military understanding, and confused property rights around their possible priorities, the defence intelligence apparatus in both the UK and US sits outside the rest of the Intelligence Community. Michael Herman has stated that there are actually two UK intelligence communities; the (civilian) community based around the Cabinet Office, and the Chief of Defence Intelligence's (CDI's) community on the other side of Whitehall.<sup>1223</sup>

Although the 'Defence Intelligence' part of military intelligence is regarded as another part of the national intelligence capability it has a very different modus operandi by virtue of its need to function in a very different manner. As Michael Herman puts it, unlike the civilian agencies, Defence Intelligence is "... governments authority on subjects not sources".<sup>1224</sup> The military apparatus actually resembles the US civilian one, and therefore more closely reflect the incumbent institutional costs of that community (as discussed in the previous chapter) than those of its UK counterpart. One can consider the intelligence and security linkage as made up of three parts; collection, information management, and execution. The UK civilian division then occurs between collection and information management (which is co-located with policy delivery). In contrast the military put collection and information

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<sup>1221</sup> Property rights over jurisdiction for security force activity that involves private contractors (who are not subject to martial law is even more difficult. See for example Dan Roberts, "Us Jury Convicts Blackwater Guards in 2007 Killing of Iraqi Civilians," *The Guardian*, 23rd October 2014.

<sup>1222</sup> See for example the operation to protect the United States primary operating base in Iraq, which ironically itself generated some successful collaborative arrangements as a result of this shift (in keeping with the new US approach to counter-insurgency examined below) discussed in Caudill, Peckard, and Tembraull, "Defending the Joint Force: Lessons Learned from Joint Base Balad."

<sup>1223</sup> Herman, *Intelligence Services in the Information Age : Theory and Practice*.98

<sup>1224</sup> *Ibid.*192

management together, with execution under a single commander, who decides on the latter, using the former, under more finite and usually clearly delineated, circumstances. The military therefore, rather than producing raw product that is analysed by the consumer department, sit within the organisation of their own customers. They are thus collector, analyst and end-user. Whilst this is normal in the United States, in the United Kingdom assessment is viewed, as Davies, summarising the work of Michael Herman, has put it "... as a *government* function and not specifically as an *intelligence* function".<sup>1225</sup> The property rights problems discussed in the US counterterrorism context of the last chapter are thus also found in UK defence intelligence. The very unusualness of this style of division provokes a number of additional institutional costs as actors on each side try to integrate with the other, but have to negotiate across this qualitative distinction if they are to find an appropriate part of the other organisation with which to deal. In the US, although they have had to deal with the same overlapping and contentious property rights, there is at least a parallel in the systems used by civilian and military intelligence and security organisations.

It follows of course that as the anticipated roles and responsibilities of the national level body are misunderstood, then the organisation that should support it is also flawed. As earlier chapters made clear there is no perfect organisational form, but rather different variations that perform different functions for better or worse depending on what they are prioritised towards. In the case of military intelligence not only is that prioritisation fraught with difficulties, but the decision making around what form is preferred is also necessarily confused by virtue of the different claimants on the 'right to the use of resources' of military intelligence as discussed above.

If one takes the UK case, the strategic 'pull' architecture that acts on Defence Intelligence (DI) in the United Kingdom are themselves a complex set of interactions that need to be negotiated by those charged with implementation. As the 'Defence Intelligence's own website makes clear

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<sup>1225</sup> Philip H.J. Davies, "A Critical Look at Britain's Spy Machinery: Collection and Analysis on Iraq," *Studies in Intelligence* 49, no. 4 (2005), [https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol49no4/Spy\\_Machinery\\_4.htm](https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol49no4/Spy_Machinery_4.htm). from Herman, *Intelligence Power in Peace and War*.257-279

there are effectively three occasionally divergent groups that can (and do) provide strategic direction and thus have influence on the requirements and priorities 'pulls' that will have to be negotiated across:<sup>1226</sup> Firstly the military itself, including both the MoD and the armed services themselves, secondly the national central intelligence machinery represented by Cabinet Office, and thirdly treaty and coalition bodies and partners such as NATO and the EU, together with individual member states on particular occasions (the working alliance with France during the Libyan conflict being an example).

The same problem can be seen at an individual level in the duality of Defence Attaches as both diplomat and intelligence officer.<sup>1227</sup> The USA case is similar; agencies like the National Security Agency (NSA) and Defense Intelligence Agency (DIA) sit within the Department of Defense (DoD) but have national civilian as well as tactical military responsibilities provoking the property rights problems described above. Even as early as 1951 the then DCI Walter Bedell-Smith argued that the Department of Defense's communications intelligence should be re-organised so that national priorities were better reflected. He described a near impossible position of "...divided authorities and multiple responsibilities..." that he believed compromised communications intelligence as a source, but that actors nonetheless have to manage.<sup>1228</sup> The duality of its functions made this re-allocation of property rights a more difficult undertaking than might be imagined however: In response the DoD re-created the intelligence function as the NSA, and ordained that the NSA should be considered as "... within but not part of DoD"<sup>1229</sup> in an attempt to retain the capability. But in doing so they further blurred the property rights and ensured that negotiations between military-strategic, military-tactical, civilian-national and civilian-tactical needs for the use of these increasingly important assets, and the significant budgets that accompany them, would remain contentious and protracted.

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<sup>1226</sup> "Guidance- Defence Intelligence".

<sup>1227</sup> *Intelligence Services in the Information Age : Theory and Practice*.43

<sup>1228</sup> Walter Bedell-Smith, "Proposed Survey of Communications Intelligence Activities' "(Washington: National Security Council Executive, 1951). Cited by Richelson, *The U.S. Intelligence Community*.31

<sup>1229</sup> *The U.S. Intelligence Community*.31

More recently the increasing number of operations in the counterinsurgency field have meant that the lower levels actors have now to navigate more complex property rights and negotiate with actors outside their usual chain of command, or outside the military altogether. However the long established principle of joint operating established in the Goldwater Nicholls, did at least set precedents for negotiated agreements of responsibilities that developed over the years. This means that, even on the battlefield other parts of government can be usefully employed,<sup>1230</sup> and provided the setting through which later initiatives to lower frictions between levels and uses such as General Soyster's Military Intelligence Board (MIB), and General Flynn's operations-intelligence linkage could take root.<sup>1231</sup>

In the United Kingdom on the other hand the only two organisations involved in the central intelligence machinery that have to manage both collection and analysis are the Security Service and Defence Intelligence. However the former, as was discussed in the previous chapter, have clearly delineated responsibilities geared towards very specific subject areas so that the property rights remain clear. This is not the case with defence intelligence. More specifically this means that there are two bodies charged with national level intelligence assessments, the Defence Intelligence Assessments Staff (formerly the Defence Intelligence Staff) and the Joint Intelligence Committee (JIC). Defence intelligence can therefore provide a 'challenge' capability from the other side of Whitehall, a perfectly healthy position even (if occasionally uncomfortable) if the two systems are properly integrated, as the different positions of the two on Iraqi weapons of mass destruction indicate. Even in this case of poor cooperation however the ongoing tension between the two sides are apparent, as the Committee of Privy Councillors that investigated the misreading of Iraqi weapons of mass destruction found when trying to advise on an organisational 'fix'.<sup>1232</sup> The further complications of a political

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<sup>1230</sup> General James E. Cartwright, "The Future Dod Budget: Tradesthat Could Be Made," in *Rethinking National Security Priorities and Investments in an Era of Declining Budgets*(John Hopkins University, 2012).

<sup>1231</sup> Both discussed later but see for example Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1 309-310 and Flynn, Juergens, and Cantrell, "Employing I.S.R. S.O.F. Best Practices."

<sup>1232</sup> "Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors."

dynamic that involves the usage of assessments to further policy objectives will inevitably increase that divide.<sup>1233</sup>

Despite this unique position of arriving with already assessed product, from a range of Defence Intelligence sources, Defence Intelligence is nonetheless only another (single) voice amongst the single-source representatives on the JIC, who are there at the beginning of their assessment process. A voice, what is more, that may not have the intelligence background to overcome the information advantages held by intelligence specialists if from a conventional military background. The Butler Report noted that both the Chief of Defence Intelligence (CDI) and his deputy were not intelligence specialists.<sup>1234</sup> There are thus inevitably inherent institutional costs involved in getting the requisite relative weight put on Defence Intelligence products, as the experience of Dr. Brian Jones during the run up to the 2003 war in Iraq made clear.<sup>1235</sup> The civilian national lead is already held by the committee so that there should be little surprise when Defence Intelligence default to their military role.

There is a similar imbalance above them at the National Security Council (NSC) level, where defence intelligence is only represented by the wider military, in the person of Chief of Defence Staff, despite their having a significant analytic capability, whereas the civilian agencies represent themselves although they boast only very limited analytic capacity. This is perhaps more problematic given that the NSC is supported by the National Security Secretariat and its National Security Adviser, which is distinct from the Joint Intelligence Organisation (JIO) which contains the JIC.<sup>1236</sup> This

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<sup>1233</sup> The use of particular reporting as a tool for political advocacy is beyond the purview of this thesis despite its potential impact on the institutional cost environment. It is not however unique to this case. For an insight into the problem in the Iraq case see Glees and Davies, *Spinning the Spies : Intelligence, Open Government and the Hutton Enquiry*. For a discussion of how assessments can be used by organisations themselves and institutional fixes see Marrin and Davies, "National Assessment by the National Security Council Staff 1968–80: An American Experiment in a British Style of Analysis?." For an examination of the policy-intelligence interface in the 9/11 case see Stephen Marrin, "The 9/11 Terrorist Attacks: A Failure of Policy Not Strategic Intelligence Analysis," *ibid.* 26, no. 2-3 (2011).

<sup>1234</sup> "Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors." 143

<sup>1235</sup> *Ibid.* 137-139

<sup>1236</sup> "National Security and Intelligence: National Security Council," [gov.uk, https://www.gov.uk/government/organisations/national-security/groups/national-security-council](https://www.gov.uk/government/organisations/national-security/groups/national-security-council).

seems to specifically add a tier of negotiating costs between assessment and decision-making.

The US alternative during the Cold War however had the Central Intelligence Agency's (CIA's) Directorate of Intelligence, and the Department of Defense's Defence Intelligence Agency (DIA) both producing assessed product. Although some of this product was more even-handed<sup>1237</sup> the overlapping property rights, coupled with different organisational interests, lead to sub-goal pursuits and the production of very different estimates of Soviet capabilities, as each approached their assessment from their own particular (civilian or military) perspective. A process that moved the institutional costs from within the assessment process to the policy maker, making informed decision making more rather than less difficult.<sup>1238</sup>

There is a further tension within the military in that Defence Intelligence is one of the most immediate ways that the wider military can be seen to be constantly and consistently useful to the government of the day outside of the deployment of forces. Intelligence is not however their core function, but rather only an enabler that supports it. The source of its financing is thus of import, and on both sides of the Atlantic it comes from within the wider defence enterprise. Those allocating increasingly scarce resources then have to balance the expected return on a particular piece of expenditure in terms of the prospective utility gained towards a national versus an equivalent military requirement or priority. Yet that decision must also be tempered with an assessment of how that choice might impact on future resourcing decisions by different consumers that are left either disappointed or sated. This may come down to being influenced by (otherwise irrelevant) factors such as the position or possible future position of those involved, or the point-in-time in relation to the spending round.

The position of defence intelligence in the wider system therefore has behavioural implications for the actors involved. Institutional costs may well be heightened as they pursue different sub-optimal outcomes for internal

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<sup>1237</sup> Herman, *Intelligence Services in the Information Age : Theory and Practice*.32

<sup>1238</sup> See for example Marrin and Davies, "National Assessment by the National Security Council Staff 1968–80: An American Experiment in a British Style of Analysis?."

political reasons. Opportunistic behaviour can occur as actors pursuing these sub-goals can justify decisions with reference to the entirely genuine needs of one part of community or another, and pursue them using the information advantage they enjoy through structural secrecy. The uncertainty of the environment makes suspected behaviour of this sort difficult to challenge and adds to the principal-agent problems as the latter can make their own choices as to which master to serve.

Efforts to secure clearer property rights so that one's own side can better guarantee access to these intelligence resources under such circumstances often involve some form of fiscal control. Sir David Omand has suggested that there are two models of budgetary approach: A decentralised one, where each agency says what it needs and this is squeezed as necessary centrally, or a centralised version, where the centre says how much there is overall, and then divides it up. In the UK the civilian agencies use the latter, through the Single Intelligence Account, which provides strong leverage towards collaborative approaches and mutual 'cueing' of potential intelligence leads. Defence intelligence on the other hand is external to this system. It is funded from the MoD, which means it faces a wholly distinct trade-off; intelligence capability with more conventional forms of military power. Yet despite this separation they may be reliant on a collection platform that is not owned within defence, confusing property rights and future investment decisions.<sup>1239</sup> The decentralised system in the US is at the other end of the spectrum, and as funding is on a program by program basis, there is little incentive to increase collaboration. Instead actors are encouraged to behave in an Niskanen like way to push for greater program budgets.<sup>1240</sup>

It is little wonder then that the Pentagon have routinely fought against a Director of National Intelligence with any authority over budgets. Or indeed that the Ministry of Defence have historically taken the unusual step of *resisting an additional income stream* from the 'Single Intelligence Account' to support their national intelligence responsibilities, such as the imagery intelligence performed in DIFC, knowing that it would lessen their ability to

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<sup>1239</sup> Omand, "Creating Intelligence Communities."111-112

<sup>1240</sup> Discussed in Chapter 3 but see Niskanen, *Bureaucracy and Representative Government*.



focus their intelligence assets on purely military problems as opposed to civilian national level needs as espoused through Cabinet Office.<sup>1241</sup>

Despite the fact that successive defence reviews have questioned the cost effectiveness of intelligence provision, particularly the expensive technical collection efforts such as Royal Air Force Reconnaissance aircraft and the overseas bases needed to operate them, no ideal solution has become apparent; each system boasts different institutional costs. One idea considered, for example, has been whether external customers could be directly charged for intelligence provided to bolster scarce defence funding.<sup>1242</sup> But this would shift the costs not alleviate them, and might even increase them disproportionately. Additional negotiations would be needed in very low frequency circumstances, thereby increasing the institutional costs negotiating usage would bring. It is anyway unlikely that boundedly rational consumers (themselves facing resource constrictions) could factor in the asset specificity of most assets, and the very long run-in times of many intelligence streams, before they could be useful. The approach could thus have detrimental strategic level implications on both sides of Whitehall.

Another way to approach the problem is to have oversight bodies act as referee. However these too are split along the same lines: In the US there is a Senate Select Committee on Intelligence and a Senate Committee on Armed Services, and even the Senate Committee on Appropriations uses sub-committees that have defence in one area, and the various intelligence needs split amongst different subject areas like homeland security and foreign operations.<sup>1243</sup> In the UK oversight of defence intelligence at the national level is increasingly being undertaken via the Intelligence and Security Committee (ISC).<sup>1244</sup> However references to defence intelligence in

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<sup>1241</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol 2 326-327

<sup>1242</sup> See for example Omand, "Creating Intelligence Communities." 107

<sup>1243</sup> See websites variously for "Senate Select Committee on Intelligence,"

<http://www.intelligence.senate.gov/>. and "United States Senate: Committee on Armed Services," US Senate, [http://www.senate.gov/general/committee\\_membership/committee\\_memberships\\_SSAS.htm](http://www.senate.gov/general/committee_membership/committee_memberships_SSAS.htm) and "United States Senate: Committee on Appropriations. Barbara A. Mikulski, Chairwoman," US Senate, <http://www.appropriations.senate.gov/>.

<sup>1244</sup> Julian Lewis, "Justice and Security Bill [Lords] Deb, 31 January 2013," ed. Public Bill Committee (London: Hansard, 2013).

the ISC Annual Report for 2012-2013 for example are largely tangential, predominantly in the cyber and 'support to military operations' areas, and although the subsequent years annual report also refers to some degree of financial oversight no DI or even MoD witnesses are recorded.<sup>1245</sup> The impact of such changes on the allocation of property rights over military intelligence assets has therefore yet to be assessed.

#### **d. Institutional Costs, Military Hierarchy and Civilian Collegiality**

There are also cultural frictions that arise from the unique double-positioning of defence intelligence. It sits at the heart of the dichotomy between the collegial, committee based methodology for national level assessments more usually found in the UK system, and more centrist approach favoured by the US. Its approach to lowering institutional costs is thus composed of contradictory drivers. The collegial approach favoured by the British civilian community is anathema to its military counterpart, or at least its management.<sup>1246</sup> In the US however the distinction between the two is less marked, and the frictions experienced are more standard fare across the community.<sup>1247</sup>

Herman has argued persuasively as to the merits of a committee system for top level assessment, and describes a formal UK process that is supported by more informal understandings that can utilise the advantages of both central and collegial control.<sup>1248</sup> Yet defence intelligence per se struggle to find a place in that system and the interwoven committees Herman describes are a very civilian construct. A certain discomfort with a committee of equals is inevitable given the very hierarchical managerial systems necessarily used by a military. In 1945 Secretary of War Robert Patterson testified to the Senate that "I will concede that coordination by committees is better than no

<sup>1245</sup> Chair Rt Hon Sir Malcolm Rifkind Intelligence and Security Committee, "Annual Report 2012–2013," (London: Intelligence and Security Committee ISC, 2013). and "Annual Report 2013–2014," (Intelligence and Security Committee ISC, 2014).

<sup>1246</sup> The Duke of Wellington is quoted after his first Cabinet Meeting as Prime Minister: "An extraordinary affair. I gave them their orders and they wanted to stay and discuss them." "Past Prime Ministers: Arthur Wellesley, 1st Duke of Wellington," Gov.uk, <https://www.gov.uk/government/history/past-prime-ministers/arthur-wellesley-1st-duke-of-wellington>.

<sup>1247</sup> Herman, *Intelligence Power in Peace and War*.257-279

<sup>1248</sup> Ibid.

coordination at all. But in military matters action by committee is not the equivalent of action by a single authority. ... Someone has said that one poor commander is better than two good commanders sharing a command"<sup>1249</sup> indicating how deep a division this can be. The organisational forms most suited to the wider military endeavour are naturally hierarchical, with clear and unquestioned chains of command, and with each level of the hierarchy able to comprehend and decide on their own area of responsibility unilaterally.<sup>1250</sup>

Intelligence functions on the other hand are better suited to less formal environments with low institutional frictions either horizontally or vertically, that encourage collaborative working, and it has been argued that military hierarchical approaches can produce a form of self-censorship that civilian 'free-thinking' can avoid.<sup>1251</sup> There exists a different cultural ethos between civilian and military approaches that the intelligence function sits astride. It permeates the sense of maximum utility and preferred organisational forms of each. Their individual approach to hierarchy and discipline will therefore create higher negotiating costs as each misunderstand the motivations of the other, as Davies quotation of a senior DoD official decrying CIA's lack of discipline in the most forthright terms makes clear.<sup>1252</sup>

The military intelligence function must nonetheless sit inside the militaries preferred organisational type, but still be able to work upwards to collegial bodies, and horizontally on an intra and inter-organisational basis to an increasing degree. In the United Kingdom serving officers are posted to civilian bodies like JTAC, and civilians are routinely present in counterinsurgency operations like Afghanistan.<sup>1253</sup> There is an inevitable tension between the culture as well as the needs of one against the other in many military intelligence undertakings, and it will need to be negotiated across at a variety of levels if collaborative working is to succeed.

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<sup>1249</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* 112

<sup>1250</sup> Henry Mintzberg, *Structure in Fives: Designing Effective Organizations*(Prentice-Hall, Inc, 1993). 157-162

<sup>1251</sup> Laqueur, *The Uses and Limits of Intelligence.*35

<sup>1252</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective.* Vol.2.325

<sup>1253</sup> J1. and M1.

Any point of equilibrium found between them will however only be suited to the environmental conditions pertaining at the time. The environmental shifts that occurred as World War II became the Cold War, which then in turn abruptly mutated as its monolithic threat was replaced by the more ubiquitous risks that permeated society more generally thereafter,<sup>1254</sup> each drew out these divisions in different ways. Any settlements that had been reached were ill suited to the new conditions and had to be re-negotiated.

The nature of the Cold War and nuclear policy in particular make it much more a political-strategic issue than a tactical military one. Decisions are far more civilian and political in nature than that had been required before. In the US this meant a fundamental renegotiation of the civil military relationship that naturally included the military intelligence assets on which civilian decision making would rest. Yet cooperation between the two rested on a low level of institutional costs between them that Laqueur suggests would be unlikely even given normal bureaucratic behaviour, much less when expecting civilian and military cultures to interact.<sup>1255</sup> The National Security Council (NSC) in the United States was after all supposed to be the point at which US national security capabilities were re-integrated into a single entity under the President; including integrating the single services within the Department of Defense (DoD), and foreign policy with defence policy. This was in recognition that the complexities of foreign policy could not be handled within single departments, and that greater flexibility was required.<sup>1256</sup> Whilst successful to a degree, the NSC nonetheless suffered from the same institutional tensions between civilian and military cultures described above.

In her discussion of its creation and evolution, Zegart describes how the newly formed DoD had the capacity to provide a wealth of information to the Executive, but used its information advantage to 'filter' it through a 'self-interested prism'. However to Zegart, its motives were not necessarily sinister, it was simply that the DoD was incentivised in a way that was

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<sup>1254</sup> Beck, *World Risk Society*.3-4 and further discussed in Phythian, "Policing Uncertainty: Intelligence, Security and Risk."

<sup>1255</sup> Laqueur, *The Uses and Limits of Intelligence*.73

<sup>1256</sup> John Deutch, Arnold Kanter, and Brent Scowcroft, "Strengthening the National Security Process," in *Keeping the Edge: Managing Defense for the Future*, ed. Ashton B Carter and John P White(Cambridge MA.: Harvard Kennedy Business School, 2001).

different to that of their President.<sup>1257</sup> *The NSC was thus a way through which the Executive could reduce monitoring costs:* Because the NSC staff was smaller and closer, their behaviours were more visible, and as they served at the pleasure of the President, their utility was more closely tied to his.<sup>1258</sup> In institutional cost terms the likelihood of opportunistic behaviour was reduced as spans of control became more manageable and a shared maximand between the levels was created. It is not surprising therefore that defence interests were keen to gain control of the NSC, and even generously offered to house it in the Pentagon.<sup>1259</sup>

The post Cold-War environmental shift produced similarly significant tensions in the existing civilian military understanding of property rights over DoD held intelligence assets, but along a different dimension. In this case the policy shift from national security to public safety that followed increased the importance of the operational and tactical levels at the expense of the broad strategic agreements in place. The existing system was designed so that there were low institutional costs obstructing the vertical passage of intelligence up the chain of command, but with very high costs permitted, and even encouraged, horizontally. For example national level estimates could flow up both CIA and DoD with little interaction between them.<sup>1260</sup>

More problematically for the new environment, the drafting of the Foreign Intelligence Surveillance Act (FISA) in 1978 allowed limited domestic/foreign joint working for counterintelligence purposes, but ensured high institutional bars protected US citizens constitutional rights.<sup>1261</sup> These institutional cost rigidities, although well suited to both that environment and the military culture, were ill-suited to the increased complexity and uncertainty of the asymmetric threats that followed. It was a subsequent shift to the low horizontal frictions discussed in the next chapter that allowed these to be addressed, meaning that many of the earlier agreements became redundant.

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<sup>1257</sup> Zegart, *Flawed by Design : The Evolution of the C.I.A., J.C.S., and N.S.C.* 96

<sup>1258</sup> *Ibid.* 97

<sup>1259</sup> *Ibid.* 99

<sup>1260</sup> Laqueur, *The Uses and Limits of Intelligence.* 73

<sup>1261</sup> Edward P. Boland, "Foreign Intelligence Surveillance Act of 1978. Report Together with Supplemental, Additional and Dissenting Views," ed. House of Representatives. Permanent Select Committee on Intelligence (Washington DC 1978).

In the UK the same cultural distinction meant that settling defence intelligence into the national system was similarly problematic: It remained "... one of the only... UK bureaucratic rather than collegial model(s) of interagency coordination..."<sup>1262</sup>. Even in its formative years as the Joint Intelligence Bureau (JIB) different cultural ideas of a maximand caused constant attempts at reform that oscillated between the military of civilian approaches: For example during the 1960 Templer Review, the author advocated the removal of JIB from the MoD to Cabinet Office to ensure its views were seen as independent, whereas JIB Director Sir Kenneth Strong argued that the services would lose confidence in what would be perceived as a 'civilian organisation'.<sup>1263</sup> At the specific case level, even Templer had to agree that the civilian 'group' approach was essential for 'scientific and technical intelligence'. However he believed it to be a special case, based on the high negotiating frictions between the respective departments, with the net result that some joint working was agreed, but that the single service departments remained.<sup>1264</sup>

At odds with their organisational rigidity is the militaries mission-type flexibility. Michael Herman has identified a recurrent pattern of Ministry of Defence inspired economies that have reduced capability, which is then followed by a crisis of some sort forcing them to take on new topics or areas for the simple reason that no one else was equipped to do so.<sup>1265</sup> Certainly the Research & Analysis Department of the Foreign & Commonwealth Office, which suffered similar cuts going back as far as the 1970's has no such surge capacity. Furthermore there is a cultural imperative within the military to do whatever is required, whether or not one is mandated or equipped for such a role; as Herman puts it, defence intelligence "... has upheld in intelligence the military tradition of pulling governments' chestnuts out of the

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<sup>1262</sup> Davies, "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence."199

<sup>1263</sup> Davies, "Estimating Soviet Power: The Creation of Britain's Defence Intelligence Staff 1960–65,"825

<sup>1264</sup> Field Marshal Sir Gerald Templer, "Templer Report: A Review of Service Intelligence and Steering Committee Meeting 13th February 1961 "(National Archives1960). paras 19,58

<sup>1265</sup> Herman, *Intelligence Services in the Information Age : Theory and Practice*.85

fire". This in turn has led to an ever increasing "... ambiguity about where the limits of the DIS's responsibility for defence intelligence actually lie."<sup>1266</sup>

However laudable and indeed necessary this might be, it causes legacy problems around roles and responsibilities as actors in subsequent negotiations point to precedent or areas of apparent similarity. Put another way, the organisation most steeped in cultural and historic norms, and working most assiduously to the sort of standard operating procedural rigidities identified by Merton and others,<sup>1267</sup> is also the organisation from which the highest degree of adaptability and flexibility is likely to be required, and from which it is often delivered:<sup>1268</sup> Under such circumstances the detrimental prevalence of especially high institutional costs can be no surprise.

Such short term and variable requirements can however mean that institutional frictions can prevent too great an organisational shift towards a transitory problem. The limited time frame of many such missions (which cease on surrender of the enemy or when security is adequate for a civilian take-over) mean that the high institutional costs, both between the single services and between the services and their political masters, can actually be constructive. Like the high institutional costs built in to the American political system, they can prevent short term perspectives causing lasting damage.<sup>1269</sup> There is of course a very real imperative to resource current operations adequately, and this can be at the expense of future strategic needs, for the urgent to obscure the important just as it did in the counterterrorism case. This can shift the negotiating dynamic between the single services, and between the military and Whitehall as controversies over equipment levels in the early years of British involvement in Iraq demonstrated.<sup>1270</sup>

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<sup>1266</sup> Ibid.83,85. The same can be said of earlier and later iterations of the same function, such as DIAS and DI (respectively).

<sup>1267</sup> Merton, "Bureaucratic Structure and Personality."562-565

<sup>1268</sup> Tebbit, "Countering International Terrorism: Joining up the Dots."89

<sup>1269</sup> J.W. Osborne, "Can the Senior Military Leadership in the United Kingdom Armed Forces Ever Be Truly Collegiate in Its Approach to Defence Interests?" (Joint Services Command and Staff College, 2011).12-13,27

<sup>1270</sup> See for example "Brown Denies Starving Uk Troops of Cash in Iraq War ", *BBC News*(2010), [http://news.bbc.co.uk/1/hi/uk\\_politics/8552593.stm](http://news.bbc.co.uk/1/hi/uk_politics/8552593.stm).

The longer term requirements that the single service chiefs have tended to protect still exist, but remain assets that are specific to a particular type of operation that is of uncertain frequency, whether it is a current or merely a potential issue. The tensions between the two nonetheless decrease the sense of a shared maximand. Osborne for example cites General Sir Richard Dannatts emotive castigation of the MoD, who continued to prioritise across the three services even as the Army were struggling in Basra.<sup>1271</sup> However it was not long afterwards that the UK had to conduct a complete campaign in Libya using air assets alone, and with little more than intelligence support from the US. The uncertainty of the environment can consequently mean that the asset specificity of military and single service cultures can be both a positive and a negative influence on efficiency, even as it provokes problems in cooperation.

This dichotomy is not however new to the post 9/11 world of multiple risks. It was arguably the same sort of opportunistic 'protection of turf' observed in the notoriously difficult Montgomery's defence of the Army in 1948, against a more generally held view that saw the future of wars as nuclear, and therefore the primary concern of the Air Force rather than the Army or Navy, that ensured the latter were able to take on the rise in counter insurgency and policing style operations that were subsequently required of it.<sup>1272</sup>

Nonetheless it was the less egotistical Mountbatten who managed to lower negotiating frictions; achieving more through higher levels of cooperation. By presciently shifting the debate from the exclusively nuclear sphere, he lowered the asymmetry of information, pointing to the uncertainties and (perhaps most particularly) clarifying the property rights of each service, with respect to the different types of potential engagement each might be engaged in.<sup>1273</sup>

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<sup>1271</sup> Richard Dannatt, *Leading from the Front: An Autobiography* (London: Transworld Publishing - Random House, 2010).248

<sup>1272</sup> Osborne, "Can the Senior Military Leadership in the United Kingdom Armed Forces Ever Be Truly Collegiate in Its Approach to Defence Interests?."40

<sup>1273</sup> See for example Dylan, "'Modern Conditions Demand Integration and Professionalism': The Transition from Joint Intelligence Bureau to Defence Intelligence Staff and the Long March to Centralisation in British Military Intelligence." 173



For the military generally adapting to environmental changes is thus no small undertaking, and that includes its intelligence apparatus despite its greater engagement with the external world; it means altering 'the form of social power in which the military apparatus is embedded'. Resistance in the form of opportunistic behaviour by boundedly rational officers protective of their own units or service is inevitable. It is perhaps more surprising that the American military intelligence apparatus have managed the change to the extent that they have,<sup>1274</sup> than that their British equivalent has not.

#### **e. Institutional Costs and the Temporal Nature of Defence Intelligence:**

Just as different understanding of the term 'strategic' can produce language costs across the civilian and military spheres as discussed above, so too can misunderstandings about even the nature of the intelligence product within that. The issue of timeliness is central to the usefulness of all intelligence,<sup>1275</sup> and particularly so in the military sphere. However the detail of that timeliness will vary according to the type of the intelligence in question, depending on whether it can be regarded as strategic, operational or tactical. The utility of each has a different life-span depending on what it is being used for.

This can be represented by adapting John Ferris's diagram demonstrating the perishable nature of intelligence in war, as Figure 7.1 shows.<sup>1276</sup> The usefulness of a particular piece of intelligence is increasingly divergent between each level as time passes. As Ferris describes it, each sort of intelligence has a distinct 'half-life' that varies significantly over the levels of usage to which it might be put: The more 'mobile' the situation, the shorter the half-life of the intelligence. He therefore argues persuasively that each requires a different organisational architecture to be best employed: Elaborate and in-depth assessments staff are needed for the careful planning of operations but are disastrous for fluid ongoing actions.<sup>1277</sup>

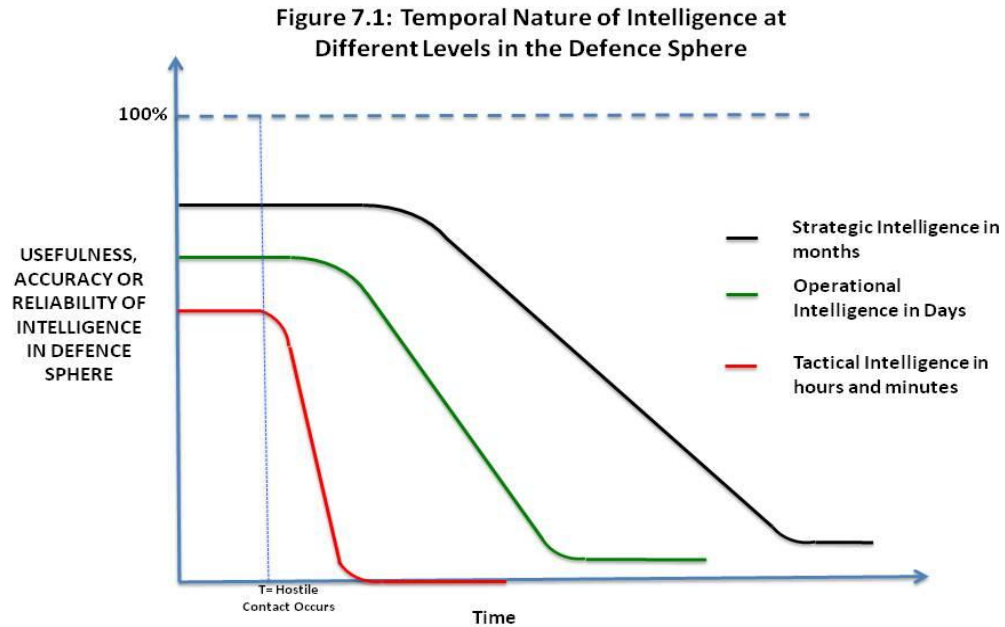
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<sup>1274</sup> Michael Hardt and Antonio Negri, *Multitude: War and Democracy in the Age of Empire* (London: Penguin, 2005).58-59

<sup>1275</sup> Dulles, *The Craft of Intelligence : America's Legendary Spy Master on the Fundamentals of Intelligence Gathering for a Free World*.44

<sup>1276</sup> Source of diagram: Own design derived from the diagrammatic representation of John R. Ferris, "Intelligence, Uncertainty and Command," in *Intelligence and Strategy: Selected Essays*, ed. John R. Ferris (London: Routledge, 2007).284

<sup>1277</sup> *Ibid.*.285



The utility of any piece of intelligence thus only exists within a finite period of time, so that it is in effect a perishable commodity. That period will however vary according to the nature and intended use of that intelligence. If these distinctions are not understood then language costs can create tensions between military intelligence providers and their immediate customers even within the defence sphere.

The nature of the ultimate intended use may however be beyond the purview of the analyst providing the assessed product if the wrong organisational architecture for that use is in place, so that bounded rationality acts across information asymmetry between each of the three levels. Any system that prescribes a particular level for any given piece of intelligence is unlikely to be appropriate. The same piece of intelligence might need to be used at various levels. A hypothetical example would be intelligence suggesting that Iran was assisting in the supply of Explosively Formed Projectiles (EFP's) to be used by Iraqi insurgents against coalition troops and civilian armour in the post Iraq war period. This would be needed by the Executive – contextualised by both intelligence and State Department analysts - to deal with as a strategic issue in any bilateral discussions with Tehran. But it would also be relevant to operational planners who need to ensure the right armour

is in use in theatre, and to a trooper on the ground that needs to know his vulnerabilities at an exclusively tactical level. Although a range of actors may have a need for the same bit of intelligence, their roles require them to do very different things with it. Property rights to each area of responsibility need to be clear or a senior policy maker might be tempted to concern himself or herself with the usefulness of B7 grade armour because that provides the sort of operative goal that Jackson predicted would replace the more difficult and longer term strategic one<sup>1278</sup> of dealing with a truculent Iranian leadership.

Despite the distinct types of usage identified by Ferris, and the different organisational form each requires, there is nonetheless an overlapping area where the same assets will be required to serve each. Senator Chambliss, who has served on the Permanent Select Committee on Intelligence, and the House Intelligence Sub-Committee on Terrorism and Homeland Security, regards reform as a means for “Engaging the Full Spectrum” across the national and tactical divide, so that the same capabilities can serve each level.<sup>1279</sup> It is not simply a matter of dividing assets between one or the other therefore, but rather of each level having clear property rights to the use of them to satisfy their own requirements; a far more complex and fluid cooperative arrangement is thus required, but as Ferris has observed, the uncertainty of the environment mean any 'lesson learnt' in one context may be "... precisely the solution not to apply",<sup>1280</sup> so that developing any organisational solution will be difficult, and flexible ongoing negotiated agreements between actors will remain necessary.

There are therefore significant institutional cost implications : Firstly the same organisational entity may well be responsible for the collection, analysis and even usage of a piece of intelligence so external dissemination is beyond their remit. If no established and trusted nodes for contact exist transmission is less likely. This applies in the military sphere to a greater extent than in the counterterrorism case because, in the UK at least, there is greater separation

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<sup>1278</sup> See Jackson, *The Political Economy of Bureaucracy*.189

<sup>1279</sup> See Saxby Chambliss, "We Have Not Correctly Framed the Debate on Intelligence Reform," *Parameters* 35, no. 1 (2005).8

<sup>1280</sup> Ferris, "Intelligence, Uncertainty and Command."285

between functions in the civilian arena. When collection, analysis, and 'action-on' might all take place in distinct organisational entities it is easier to pass intelligence product to different consumers to consider within the context of their own responsibilities. Police resources might even take over from many of those belonging to the intelligence agencies as the situation evolves. This is not the case within the armed forces. Instead while property rights can be still more pressing, but with qualitatively different requirements and priorities being contested.

Secondly if the distinction between strategic, operational and tactical intelligence is not understood then it can have a critical impact on efficacy between intelligence provider and consumer, so that further frictions are introduced into their relationship and subsequent negotiations are made harder. Vertical cooperation is thus keenly affected by the distinct nature of each levels intelligence requirement and the institutional cost landscape between them that will either help or hinder working across them.

Military intelligence is very closely tied to the requirements and priorities of a commander, whatever level it is employed at and whatever time-period is being considered. This applies to a much greater extent than in the civilian agencies where requirements and priorities are broader. In the UK for example they are currently based within the Strategic Defence and Security Review (SDSR).<sup>1281</sup> Beyond even that they allow for a certain amount of horizon scanning<sup>1282</sup> and a degree of flexibility in interpretation.<sup>1283</sup> There is therefore an immediate dichotomy between how each sphere of intelligence needs to operate. Because of this, defence intelligence is more closely aligned to its military master; interactions with the civilian community, and in particular its leadership (the national level consumer) are very limited. There is thus limited opportunity for the low institutional costs developed through regular interactions to materialise at the strategic level outside of the MoD

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<sup>1281</sup> "Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review."

<sup>1282</sup> Gustafson has however argued persuasively that 'the tyranny of current intelligence' has left a lacuna in the current British system, with too great an emphasis on a pull architecture for products that relate only to existing problems. See Gustafson, "Strategic Horizons: Futures Forecasting and the British Intelligence Community."

<sup>1283</sup> Intelligence and Security Committee, "Annual Report 2008-2009." 32 Oral Evidence of Head Of Secret Intelligence Service

itself. In fact no Minister has attended a joint exercise with the military since Margaret Thatcher's premiership (who insisted on it, on a Saturday, to the chagrin of many).<sup>1284</sup> They therefore only come together in very specific circumstances, such as when COBR(A) is being instigated due to a hostage taking or terrorist attack, or at one remove through the Chief of Defence Staff (CDS) at the National Security Council (NSC) as and when required.<sup>1285</sup>

This same proximity of intelligence to mission, at all levels of the defence sphere, increases institutional costs in more internal ways too. The motivated bias that Matthew Wahlert identified as a problem in both the war fighting and intelligence functions<sup>1286</sup> results from the toxic combination of uncertainty and bounded rationality, but the very nature of an international crisis is also likely to engender problems of assets specific to a different scenario. This is likely to be coupled with information costs that result from decision makers seeking to give 'more weight than it can bear' (to quote Lord Butler)<sup>1287</sup> to information that supports the existing (and sometimes the only) policy option already selected. Indeed it has been calculated that in most international crises, any rejected option was never properly reconsidered, no matter how the scenario subsequently played out.<sup>1288</sup>

Given that the rationality of the decision makers (whether political, official or military) is assumed, then it becomes clear that policy reversal is prohibitively expensive in institutional cost terms as the factors laid out above are exacerbated by a lack of time<sup>1289</sup> to conduct unique searches for adapted approaches or to undertake the sort of complex negotiations needed to execute them. This is nonetheless the very sphere in which military intelligence must operate. Furthermore they must do so by integrating with an

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<sup>1284</sup> Major General Mungo Melvin, Lord Peter Hennessey, and Julian Lindley-French, "Oral Evidence Taken before Defence Committee Towards Next Defence and Security Review," ed. Defence Committee. House of Commons(London: www.parliament.uk, 2013).

<sup>1285</sup> "National Security and Intelligence: National Security Council".

<sup>1286</sup> Matthew H Wahlert, "The "Motivated Bias" Dilemma in Warfare and Intelligence," *Defense & Security Analysis* 28, no. 3 (2012).

<sup>1287</sup> "Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors."

<sup>1288</sup> Gregory M Herek, Irving L Janis, and Paul Huth, "Decision Making During International Crises: Is Quality of Process Related to Outcome?," *Journal of Conflict Resolution* 31, no. 2 (1987).

<sup>1289</sup> "2012–2017 Defense Intelligence Agency Strategy. One Mission. One Team. One Agency.." Objective 1.3

operational arm for whom the some degree of path dependency is a necessary prerequisite for executive action if the same factors of bounded rationality, complexity and uncertainty are not to cause paralysis in decision makers. For them motivated bias can be a method for managing high institutional costs within the time-frame available.

Analysts in all intelligence fields can suffer from what is recognisable as the pathology of confirmation bias, but in the military the analyst works directly for the decision maker, their commanding officer, in a very disciplined hierarchy. They are often a part of the staff function, and can be sitting in the same working space. The pressure to conform to the accepted view of the world once decisions have been made, and troops committed and put in harm's way, will thus be far higher than that experienced by their civilian counterparts who are insulated within their own (probably more understanding) agency, particularly when no alternative plan is apparently available.<sup>1290</sup> Despite this co-location, the nature of policy execution in the military sphere means that it is necessarily handled by a separate entity, so that negotiating costs for even minor shifts in decisions are correspondingly high as they have to be managed across asymmetric information one way and asymmetric authority the other.

Conversely in the civilian sphere a professional civil service is managing both the information and the delivery of the resultant policy.<sup>1291</sup> The institutional costs of adjusting delivery in the light of changes in the information known are therefore relatively low. The significance of this is perhaps best demonstrated by the fact that it has been the United States militaries recent lowering of these institutional costs, so that the tempo of constantly shifting plans and contingencies can more closely follow the intelligence available, that has not only increased their tactical level efficiency but also changed the

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<sup>1290</sup> Mid level Army Intelligence Officer M6, interview by Author, May, 2014, North London. Also see for example Richard K. Betts, "Analysis, War and Decision: Why Intelligence Failures Are Inevitable," in *Intelligence Theory: Key Questions and Debates*, ed. Peter Gill, Stephen Marrin, and Mark Pythian, *Studies in Intelligence* (Oxford: Routledge, Taylor and Francis, 2009).

<sup>1291</sup> Davies, "B.C.I.S.S. Comments on Jwp 2-00 Re-Write Arising from D.C.D.C. Intelligence Seminar." for a more detailed discussion see also Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.22-40 and for the military perspective see "Understanding and Intelligence Support to Joint Operations' Third Edition ".

nature of the 'battle-sphere' itself. This in turn has allowed them to incorporate the ethos of 'Effects Based Operations' into their strategic capability.<sup>1292</sup>

Military intelligence is also distinct in that it includes, but is not limited to, significant amounts of what is known as 'situational awareness' from the tactical level up. This tells you where your enemy is, and is supported by 'order of battle' type intelligence. However it has previously been at odds with a deeper knowledge of the capabilities and intentions of an enemy. One of the significant lessons of the first Gulf war was that even where situational awareness was good, deeper understanding of the enemy could be lacking. Furthermore, the relationship between the two types of intelligence (which might be the difference between imagery intelligence and a human intelligence source) needs to be negotiated, and often in very quick time. As Michael Herman puts it a battlefield commander might be "... incredibly well sighted, but in some degree deaf and illiterate in his choice of evidence to assess the enemy". A situation that has been exacerbated by the 'Revolution in Military Affairs' and the resultant dominance of information that has not always distinguished information by type.<sup>1293</sup>

This section has shown that the peculiar institutional cost environment in which defence intelligence is situated presents very particular problems for cooperative behaviour at several levels. It operates in an uncertain environment. Above it, property rights over the function are opaque across the military - civil divide, while its position in the national systems of both the UK and US increases complexity and produces contradictory pulls downstream. The allocation of finite resources has to be negotiated repeatedly as a result. Meanwhile, high languages costs and cultural asset specificity make any such negotiations more difficult.

Apart from noting that the US defence intelligence infrastructure and the wider intelligence and security apparatus are more similar organisationally than those of the UK, this section has said little about why the US defence

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<sup>1292</sup> Discussed more fully in the next chapter.

<sup>1293</sup> Herman, "Where Hath Our Intelligence Been? The Revolution in Military Affairs." 65

intelligence endeavour was able to produce a volte face during the early 1990's. The next section will therefore examine the defence intelligence performance around the First Gulf War, when high institutional costs were put into stark relief, and some low institutional cost structures came to the fore which were subsequently capitalised on through a number of the initiatives that will be examined in the next chapter.

## **Section 2: US Defence Intelligence and Operation Desert Shield/Storm**

For the United States defence intelligence the 1991 Gulf War experience was seminal as it provided a threshold moment between the collegial model that had been advanced by General Soyster and his reconstituted Military Intelligence Board (MIB) discussed below, and the more antagonistic approach exemplified by General Schwarzkopf (the overall Commander in Chief, or CINC, of the central command known as CENTCOM).<sup>1294</sup> Furthermore the necessity for joint working was more apparent than ever in a such an obviously military setting.<sup>1295</sup> A clear pattern of what worked and what didn't emerged in a less volatile environment than that which usually forces major reviews, when the sobriquet of 'intelligence failure' often leads to actors being forced into defensive sub-goal pursuits. On this occasion the monitoring costs of being in the media glare were lessened, despite the surprise of Saddam Hussein's initial adventure into Kuwait, because the intelligence community at large were only one of several agencies involved and could share some of the credit for the subsequent successful campaign to oust him. The frictions that had provoked sub-optimal performance in some areas could therefore be contrasted with improved collaboration in others in a more rounded way than usual.

As has already been noted, in the military domain intelligence is often viewed as simply another support function. Apparently held at the most senior level of command, this view hobbled theatre level intelligence capability from the

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<sup>1294</sup> CENTCOM was, at that time, the only regional command without a base in its area of responsibility and was initially in Tampa, Florida so had to be re-located en-masse into Saudi Arabia when the crisis broke.

<sup>1295</sup> "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives," (Washington DC 1993).



outset. Ironically, because of a fear of further Iraqi incursions into Saudi Arabia, General Schwarzkopf prioritised the lifting of combat forces over intelligence assets into theatre so that the latter had to fight for what space they could on flights to Saudi Arabia.<sup>1296</sup> The General thus undermined his own requirement for indicators and warnings of any such incursion, and for detailed tactical information if it had actually occurred. The cultural distinction between combat troops and 'support' meant that intelligence assets were unable to negotiate across the divide to ensure their place on transport. CENTCOM commanders were boundedly rational<sup>1297</sup> in that they failed to realise the degree to which intelligence assets were specific to previous priorities, and that they would need time in a new, very uncertain environment ahead of combat troops if the latter were to be most usefully deployed.

Secondly cold war priorities meant that in normal times the CENTCOM intelligence capability was simply a shell, minimally staffed. It had no collection assets under its own control so that the property rights needed to secure them were an issue in the crucial first days of the crisis.<sup>1298</sup> Like the DoD's Joint Intelligence Center (DoD JIC) it was reliant on each of the services and national agencies for staff. Externally this allowed for opportunistic behaviour as boundedly rational middle level managers perceived their maximand as achieved through retaining their best staff for their own core functions, so that less experienced staff without adequate knowledge of the basic skill sets were sent first: In the DoD JIC these missing skills included such basics as 'order of battle maintenance' and experience of the messaging systems in use. Internally neither CENTCOM nor the DoD JIC teams had worked together, so that every issue had to be negotiated at several levels, across asymmetric information holdings as to purpose and priority, until a standard approach had been implicitly agreed. In the face of a quickly shifting, uncertain, and complex environment, this proved too tall an order. In fact, because of these issues, the DoD JIC was overwhelmed with

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<sup>1296</sup> Ibid.4

<sup>1297</sup> This bounded rationality in commanders had so deleterious an effect that Congress recommended briefings on national intelligence capability be given as a matter of course. Ibid.6-7

<sup>1298</sup> Ibid.5

too many roles so that property rights were left un-clarified as it was in any event unable to fulfil them.<sup>1299</sup> The CENTCOM's own JIC also withdrew from its intended role, so that as the Congressional report into Desert Shield/Storm notes, "... no theatre wide intelligence architecture was developed; J-2 mainly focused on meeting the day to day, minute by minute requests of the CINC...".<sup>1300</sup> Conversely, the clear property rights of the Command Structure as represented by the Commander in Chief in CENTCOM, over all 'non national level' intelligence assets (and a few logistical pieces), no matter where those units originated, worked well in almost every other area.<sup>1301</sup> The property rights over these had been negotiated and established over years of previous military engagements where command had to be delegated out from the centre in total, and were unequivocal. The relative ease and thus efficiency with which could be used was thus a clear marker for future development.

The Pentagon's DoDJIC on the other hand, as a rapidly expanding body with no "... road map" of how do so, also experienced overly high frictions with external agencies. The CIA for example declined to join it at all, arguing that its assessments needed to be independent. Given the asymmetric information holdings of each however divergent assessments were likely and are not helpful to a decision maker.<sup>1302</sup> Instead they lead to acrimony and even higher frictions between bodies as trust breaks down (see for example the problems around bomb damage assessment discussed below).<sup>1303</sup> Curiously, this distance between the DIA and CIA was exacerbated by an imposed switch in property rights over the co-ordination function of other

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<sup>1299</sup> John J. Bird, "Analysis of Intelligence Support to the 1991 Persian Gulf War: Enduring Lessons" (U.S. Army War College, 2004).11-12

<sup>1300</sup> "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives."6

<sup>1301</sup> "Conduct of the Persian Gulf War: Final Report to Congress Chapters 1 through Viii," (Washington DC: Department of Defense, 1992).55

<sup>1302</sup> See for example Betts, "Analysis, War and Decision: Why Intelligence Failures Are Inevitable.", Marrin and Davies, "National Assessment by the National Security Council Staff 1968-80: An American Experiment in a British Style of Analysis?."

<sup>1303</sup> Curiously although General Schwarzkopf makes this point himself he also apparently contradicts himself by arguing that as CINC he is in the best position to analyse any data on bomb damage, despite its contradictory nature and the huge amount of it. See 'Schwarzkopf Critique of Intelligence from Congressional Testimony 12<sup>th</sup> June 1991' reproduced as appendix to "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives."29

assets, firstly from CIA to the DIA (on behalf of CENTCOM) then eventually to CENTCOM itself. A move made despite the CIA's long experience and established relationships and already negotiated contractual understandings in fulfilling that role, and the fact that CENTCOM requirements were in any event already prioritised.

This suggests the cultural distrust between civilian and military personnel described above were still a factor at this time, and that the civilian asset specificity was regarded as unsuitable to a situation where an actual war was to be fought. A very different view to that found in more recent times when lower institutional costs between the two have been established.<sup>1304</sup> Clearly if institutional costs between the two agencies had been lower a more efficient service could have been achieved by CIA simply adapting their priorities, in concert with DIA JIC CENTCOM officers, to reflect the requirements of the crisis (and in fact Congress noted the sudden and almost total lack of coverage of other threats that resulted).<sup>1305</sup>

Observers post war were able to contrast the limited performance of the JIC's during the crisis with the Military Intelligence Board or MIB. This had been reinvented shortly before the conflict by the then Director of DIA General Harry Soyster as a decision making, as well as an advisory body that included the four service intelligence chiefs and the Director NSA, under his Chairmanship.<sup>1306</sup> It was thus already well placed, as an authoritative and representative body, to provide lower institutional costs within the intelligence community, and therefore between it and its combat focused customers when the crisis broke. Ever since its incorporation (alongside the DIA itself) in 1961 the MIB had been a body implicitly intended to lower institutional costs; initially between the Director DIA, the J2 elements on the Joint Chief of Staff, and the various heads of intelligence. However, after an initial flurry of activity the MIB settled into being an irregular body without a particular mandate, a situation that pertained through until the 1990's. The imperative of the

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<sup>1304</sup> See next chapter.

<sup>1305</sup> "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives." 4-6

<sup>1306</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.p.309-310

forthcoming war however ensured the leptokurtic point created by the frictions that had prevented it acting as originally intended were passed. This allowed Soyster to change it from a slow-time and rather vague management forum into a dynamic support structure with a decision making capability, that then also included external voices such as Joint Staff officers for Command, Control and Communications (J6), that was intimately linked with the operational functions of the coalition.<sup>1307</sup> It thus had the credibility to quickly clarify property rights over intelligence assets whenever they were disputed, and could lower negotiating costs between those who needed to utilise them.

Beyond the institutional costs impact framework of course note must be made of Soyster's own collaborative style. This, in sharp contrast to General Schwarzkopf's more abrasive approach, helped lower frictions between intelligence and the wider military, allowing him to lower institutional costs in the first place. The Congressional report into intelligence performance for example particularly cite the way in which a disagreement between the Pentagon and CENTCOM over the use of some imagery processing hardware that the latter did not want shipped into theatre was managed by the MIB. Rather than simply join the fray, MIB directed a tour of the theatre that established trust between the two bodies, demonstrated an understanding of the operational problems and needs which resulted in some key personnel who could assist with the management of the various new systems being shipped into theatre as well as the piece of hardware at the centre of the dispute.<sup>1308</sup> Soyster thus established a condition of probity between the MIB and established lower communication costs between the relevant actors, including civilians, so that negotiations over the use of resources could be more easily agreed.

Nor was this approach limited to the conduct of the war itself as the reaction to poor performance in some technological intelligence areas demonstrates: Ever smarter bombs had of course been developed over the years, but often on an assumption that the requisite level of detailed intelligence would be

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<sup>1307</sup> Ibid. Vol.1.309

<sup>1308</sup> "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives."7

there to support and direct them.<sup>1309</sup> At the same time the pace of the Gulf conflict exacerbated the difficulties caused by the need for increased accuracy around not only around targeting itself, but also about the exact position of both enemy and friendly units. This takes a collection and collation capability of a qualitatively and quantitatively different order.<sup>1310</sup> In the case of signals intelligence for example the Gulf war showed that the seven-year procurement cycle typical of DoD purchases was inadequate to keep pace in an area reckoned to double in capability every 12 to 18 months. Nonetheless overcoming the institutional resistance so that equipment could be bought 'off the shelf' from the private sector was no mean feat.<sup>1311</sup> It is however now the standard approach on both sides of the Atlantic.<sup>1312</sup>

The use of advanced technology in the intelligence sphere tends to bring its own institutional cost problems as its possession, and the secrecy surrounding its capabilities, both provides a bargaining advantage over one's peers and creates frictions as those that do not have the capability perceive their needs are being side-lined so that others can secure either the use of the asset in the short term, or the property rights over it in the longer term. One of the pervading problems of the Gulf war intelligence effort was the secrecy of many of the systems that had suddenly become available. At the same time one of the lessons that had already been learnt during the Panama and Grenada campaigns was that tactical level commanders needed a much lower friction point of access to national level intelligence assets if they were to be able to utilise what had always been a strategic product in a tactically useful way.

The answer to both issues was found by creating horizontal linkages that boasted far lower institutional costs than those that required requests to

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<sup>1309</sup> Clapper Jr, "Challenging Joint Military Intelligence."

<sup>1309</sup> See for example "2012–2017 Defense Intelligence Agency Strategy. One Mission. One Team. One Agency.." For fuller deeper discussion see Treverton, *Reshaping National Intelligence for an Age of Information*.<sup>90</sup>

<sup>1310</sup> "Conduct of the Persian Gulf War: Final Report to Congress Chapters 1 through Viii." xvi

<sup>1311</sup> Bird, "Analysis of Intelligence Support to the 1991 Persian Gulf War: Enduring Lessons." 7

<sup>1312</sup> A senior intelligence officer from the technical field that during the Cold War government agencies led many technology fields, with many advances only being publicly available long after seeing service within the intelligence sphere. Now however the same fields are dominated by the likes of "Disney and Microsoft" with the public sector piggy-backing their research and development. CH3.

travel vertically before being debated by more senior personnel in the Pentagon whose own utility was likely to be satisfied by bureaucratic 'wins' over rivals. The deployment by the DIA of eleven adapted National Military Intelligence Support Teams (NMIST's) into the Gulf to be directly available to support tactical level command without the need for the frictions that running up and down the chain-of-command had previously engendered. The NSA mirrored this approach by directly deploying their own liaison teams to forward command areas that could assist with both subject matter expertise and easy access to nationally collected materiel.<sup>1313</sup>

This meant that those involved in negotiating access suddenly had a clear and shared maximand at the same (tactical) level. It also negated the problems of secrecy to a significant extent, and became a way through which the cultural shift needed to routinely pass on information could be managed. This was particularly important as information that had previously only been needed by only a few was suddenly vital to a plethora of military personnel.<sup>1314</sup> The addition of these national level teams directly into tactical command levels was therefore able to improve cooperation between different functional entities on each side of the intelligence and operational divide. It alleviated many of the problems associated with actually bringing to bear America's prodigious national intelligence capability in a tactically useful way, although further improvements remained to be made.<sup>1315</sup>

The overall success of the concept in achieving collaborative working is best demonstrated by the fact that after the Persian Gulf War, when one would predict a retrenchment back to the single-service or specific skill-set as bureaucrats tried to reassert their autonomy,<sup>1316</sup> the idea was adapted further: Both the NMIST and NSA liaison teams were reconfigured into a

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<sup>1313</sup>See for example Bird, "Analysis of Intelligence Support to the 1991 Persian Gulf War: Enduring Lessons."3

<sup>1314</sup> Hughes-Wilson, *Military Intelligence Blunders and Cover-Ups*.343-350

<sup>1315</sup>See for example the comments of Lt. Gen Boomer, a veteran of Vietnam and the Marine Commander during operation Desert Shield/Storm who remembered "...being in Vietnam for two tours and never getting a single piece of useful intelligence. It has gotten better. But we still can't get to the company level what they need to do the job" in evidence to House Investigators. "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives."

<sup>1316</sup> Cartwright, "The Future Dod Budget: Tradesthat Could Be Made."

single, quickly deployable and dynamic National Intelligence Support Team or NIST which also included CIA and National Imagery and Mapping Agency (NIMA) personnel.<sup>1317</sup>

This diminution of frictions between the strategic and tactical levels was particularly important because the Persian Gulf War saw the two become far more relevant to each other. The information age meant that suddenly a militarily minor matter at the tactical level could derail an entire strategy because of the higher levels of monitoring costs that improved communications had brought. For example Scud missiles were of limited military significance at the tactical level, but the possibility that they could cause Israeli popular opinion to force its Government to enter the war, and thus destabilise the whole pan-Arab coalition strategy, made them a politically significant threat that required substantial intelligence and other assets to be seen to be re-directed to them.<sup>1318</sup> The different intelligence needs of the strategic and tactical levels described in the section above were actually seen to blur and become interwoven. For the most part this new 'two way street' functioned well, with Battalion level product informing 'Echelons Above Corps' (EAC), and with them in turn being able to access and utilise, via their NMISTs's and NSA liaison officers, a good deal of what had previously been regarded as material for the strategic level only.<sup>1319</sup> However, where institutional costs existed, whether vertically or horizontally, it was noticeable that good information still failed to get to the right user in the right form.

The congressional review team for example noted the unacceptably high institutional costs involved with the information itself. The nature of information costs had changed, so that traditional problems persisted in new

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<sup>1317</sup> James M Lose, "Fulfilling a Crucial Role: National Intelligence Support Teams," *CIA Center for the Study of Intelligence, Studies in Intelligence, Winter 2000(1999)*. It should be noted however that despite this successful cooperation the property rights over the imagery and mapping functions were hotly contested between the CIA and DoD from 1992 onwards, after the DCI Robert Gates proposed a National Imagery Agency that would absorb both the CIA's National Photographic Interpretation Center and the DoD's Defense Mapping Agency. See Robert M Gates, "Statement on Change in Cia and the Intelligence Community," ed. Director of Central Intelligence(Washington D.C.: N.S.A. Archive, 1992). and Richelson, *The U.S. Intelligence Community*.<sup>42</sup>

<sup>1318</sup> "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives."

<sup>1319</sup> Bird, "Analysis of Intelligence Support to the 1991 Persian Gulf War: Enduring Lessons."3-4

guises. Usable information was still scarce, but often this was because it was lost in too much data. The principal costs had shifted from collection of intelligence that was obscured behind a sophisticated counterintelligence program, to what became called the Tasking/ Processing/ Exploitation/ Dissemination (TPED) costs.<sup>1320</sup> A system designed to be specific to a slow-tempo, high impact cold war threat simply became flooded. As Hughes-Wilson describes it, the full intelligence cycle had still to be gone through, but suddenly that meant 20,000 images to be assessed even as aircraft were on the runway 'turning and burning' waiting to be despatched to a target.<sup>1321</sup>

This shift in balance generated a parallel shift in frictions around the whole intelligence cycle. A new set of negotiations and fixes therefore had to be introduced even as the campaign was running. These negotiations were hampered by too rigid an attachment to existing procedures better suited to earlier environmental conditions however; the occupational psychosis described by Merton<sup>1322</sup> pertained. Intelligence processes were for example asset specific to the use of intelligence in Cold War conditions. The resultant agreements did eventually shift performance, according to the Air Force Commander in the Gulf, from a five out of ten to a nine out of ten, but it was not an easy road.<sup>1323</sup> In addition the bounded rationality of battalion level commanders led to a massive spike on the demand side. They knew they ought to be able to access detailed imagery intelligence, but didn't realise that their own demands were further overloading the system.

In response post war observers noted that more imaginative elements generated low institutional cost systems that could help deal with the problem. Devices such as the Army's central intelligence component, known as ARCENT G2, developed a 'key-reads' methodology. This was essentially a short circuited 'requirements and priorities' system that could pre-assign

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<sup>1320</sup> See inter alia *ibid.*13

<sup>1321</sup> Hughes-Wilson, *Military Intelligence Blunders and Cover-Ups*.349

<sup>1322</sup> Merton, "Bureaucratic Structure and Personality."565

<sup>1323</sup> Lt. Gen Horner as quoted by Paul Richter and Tracy Wilkinson, "Turning Facts into Attacks," *Los Angeles Times*, 6th April 1991 1991.



assets as key points in the campaign were reached, without the need for further individual negotiations.<sup>1324</sup>

Similarly, the sudden availability of imagery intelligence changed the institutional cost balance between it and other seams of information. Boundedly rational and hard pressed analysts and decision-makers struggled to differentiate what different types of asymmetrically held intelligence were telling them. Low cost access to imagery seemed to offer both an immediacy and relatively high level of certainty when compared to deeper and more predictive intelligence as the latter needed to be interpreted through conversations with analysts who used a more uncertain language. As a result situational awareness data drowned out useful clues as to intentions and broader capabilities. As General Horner (who ran the Air War) noted the war was "...replete with our failures to understand the enemy, to dissect him with the clarity needed to discover his capabilities and intentions". He further noted that this imbalance, which favoured technology acquired measurements, could actually lead to an injection of biases in subsequent assessment of capabilities and intentions.<sup>1325</sup>

Furthermore this friction was made more apparent by the coalitions capability to translate their superiority in technological intelligence into a decisive kinetic superiority. Quite simply, their ability to annihilate any enemy found decreased the utility of information on enemy intentions, so that the negotiating strengths of each shifted from previous considerations of the Soviet threat. But subsequent engagement in counter insurgency and counterterrorism operations would necessarily shift it again, so that the need for a low friction way to compare the utility of each intelligence seam in any given circumstance became apparent.<sup>1326</sup>

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<sup>1324</sup> "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives." 10-11

<sup>1325</sup> Herman, "Where Hath Our Intelligence Been? The Revolution in Military Affairs." 67

<sup>1326</sup> Kevin R Cunningham, "Bounded Rationality and Complex Process Coupling: Challenges for Intelligence Support to Information Warfare," in *Strategy Research Project* (Pennsylvania: U.S. Army War College DTIC Document, 2000). 5

The same type of language cost were also problematic across the intelligence and operational divide because the type of decision making required was qualitatively and quantitatively different to that needed from cold war strategists. The Cold War derived language that was used by analysts could therefore provoke frictions between themselves and decision makers in two ways:

Firstly terminology could be in too technical a format. General Schwarzkopf gives a (possibly apocryphal) example of being told a bridge is 52% destroyed when what he needs to know is whether the Iraqis were still able to use it to move either tanks or trucks across it. If they could not then it is effectively 100% destroyed, and decisions can be made on that basis. If they can use the bridge then it is not destroyed at all. In the more serious case of bomb damage assessment such language differences had the capacity to delay the ground attack significantly: Its timing was premised on the degrading of Saddam's forces by a given percentage through the use of coalition air power. Language differences around the use of 'words of estimative probability' thus allowed naturally cautious assessors to use their informational advantage to behave opportunistically. They could protect their own preferred modus operandi and reputations to the detriment of collaborative engagement with each other and the senior decision maker.<sup>1327</sup> Conversely at the tactical level intelligence was supplied in the broad language needed by higher levels, so that it then had to be re-assessed in conjunction with their own observations before it was useful, detracting from its efficacy and adding tiers of institutional costs between provider and user.<sup>1328</sup>

Secondly they are dealing with bounded levels of information in what are invariably complex and uncertain environments. This means that there is a natural (and, as subsequent events in the region proved, very necessary) tendency by analysts to caveat their impressions with assessments of how

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<sup>1327</sup> General Norman Schwarzkopf, "Critique of Intelligence from Congressional Testimony 12th June 1991. Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives "(Washington dC: U.S. Government Printing Office, 1991).29

<sup>1328</sup> "Conduct of the Persian Gulf War: Final Report to Congress Chapters 1 through Viii."

reliable they believe they can be. This can be difficult for a military decision maker who may be faced with a binary decision of 'attack/don't attack'. There is a cultural preference for at least the appearance of certainty in military decision makers mind, which is at odds with the cultural preferences of an intelligence specialist; each is asset specific to their own role as discussed in the previous section. The dichotomy of positions across an asymmetry of information holding is exacerbated by the parallel divergence between analysts, who work on a permanent and on-going cycle and whose focus is always on more and better data, and the decision maker, who simply needs to know when he or she has enough information to act.<sup>1329</sup> This can decrease their sense of a shared maximand. Furthermore the practical need for some degree of caveat on any predictive intelligence can be difficult to separate from a natural tendency on the part of boundedly rational analysts to behave opportunistically by ensuring so great a spread of caveats that they never risk being proven wrong.<sup>1330</sup>

New data streams also reproduced some of the older opportunistic behaviour problems associated with asymmetric information holdings. The new form of scarcity (of processed, usable information) gave it a value and thus created a potential moral hazard in the component command staffs that had the greatest access to the systems capable of processing it. Their greatest utility lay in 'hoarding' it for the use of their own hierarchy rather than passing it down to ground units and air wings. This was possible because property rights over secret intelligence were not clear-cut; users existed not only above but also below and across the various hierarchies.

Negotiating costs between (for example) the air force intelligence component of CENTCOM, known as CENTAF/Intel and the operational element it was supposed to serve were excessively high. Like the CENTCOM J2 element, it had been a shell until the war, so boundedly rational actors on both sides had no experience of how best to interact, or indeed what the other could or could not do. This asymmetry was repeated in other areas so that in many cases

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<sup>1329</sup>For a discussion of this issue for decision makers in the military context, see Ferris, "N.C.W., C4.I.Sr., I.O., and R.M.A.."

<sup>1330</sup>"Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives."

operators simply sought out unofficial lower friction routes to secure what they needed. The negative impact on cooperation is clear when one considers that for some army units this meant bypassing the substantial CENTCOM assets altogether, in favour of interacting with French tactical collectors who offered a lower institutional cost route to usable intelligence of the right sort.<sup>1331</sup> *This suggests that a shared maximand and tactical language was more important than a shared actual language, and clearly demonstrates the importance of institutional costs in influencing actors choices.*

Perhaps the most noteworthy property rights legacy that those in the Gulf had to deal was a ironically dissemination issue dating back into the 1980's, that made cooperative working in the 1990's more difficult. The single services had each recognised the usefulness of imagery intelligence and the need to disseminate it quickly to (their own) front line troops. However, typically for the pre-Gulf era, they had all pursued independent projects in order to achieve this that were not interoperable. Operator level efforts to address the problem during the eighties were simply unable to gain sufficient traction to overcome the institutional costs generated by sub-goal (i.e. service level) orientated and boundedly rational hierarchies above them. Instead each holder of part of the property rights to the systems behaved opportunistically because they were each unwilling to lose out on their initial investment to their rivals.

Uniquely, the technology existed to get national level intelligence in near real time from Washington to CENTCOM J2, but thereafter it stalled. To quote one intelligence witness "...The Navy had their own systems, which could not interface with the Army's systems, which could not interface with the Marines', which could not always receive data from J-2". The net result was that despite all the advantages of American technological supremacy, forward deployed troops were ill served with what should have been the most useful tactical intelligence source, often resorting to couriers and other old

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<sup>1331</sup> Ibid.16-18

world methods.<sup>1332</sup> Many units elected to bypass the problem, finding it easier to task their own assets over which they had clear property rights. The Navy for example had some success using a Vietnam era drone to direct its guns,<sup>1333</sup> while the Army's 101<sup>st</sup> Airborne Division resorted to pushing Apache helicopters along their potential routes of advance. Both these tactics also compensated for the asset specificity of the overly narrowly focused optical capabilities that were by then available; described as "... like searching New York by looking through a soda straw".<sup>1334</sup>

This seemingly inexplicable situation had resulted from the simultaneous retirement of the SR-71 aircraft and its comparable satellite. This was done by different independent bodies, each pursuing their own utility without consultation because the institutional bars to joint decision making at the time were too high.<sup>1335</sup> Of the twelve Secondary Imaging Dissemination Device's (SID's) used only four were interoperable. CENTCOM and the USAF for example were proponents of their own systems (Digital Video Imagery Transmission System or DVITS and Tactical Digital Facsimile or TDF respectively). But whatever its technical strengths the former was too late into theatre, and the latter was simply inadequate. The opportunistic behaviour of its advocates is perhaps best demonstrated by the wholly different evidence given by the senior officers who were at least in part responsible for the \$688,000 spent on it, who were vociferously supportive, and the junior officers at 'the receiving end' who denounced it.<sup>1336</sup>

In fact the interaction of the uncertainty of the defence environment and the asset specificity of both equipment and personnel transcended all parts of the intelligence effort, not just its technical elements. The whole army was specific to Cold War scenarios focused on European terrain rather than the deserts of the Persian Gulf, and the intelligence system supporting it was no less so. For example human intelligence collection and analysis, which had been negligible in the area anyway prior to Saddam's invasion of Kuwait, was

<sup>1332</sup> See inter alia *ibid.* 13-14

<sup>1333</sup> Bird, "Analysis of Intelligence Support to the 1991 Persian Gulf War: Enduring Lessons." 9

<sup>1334</sup> "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives." 10

<sup>1335</sup> *Ibid.* 10

<sup>1336</sup> *Ibid.* 13

hamstrung by both its own lack of linguists as it had previously focused on USSR languages (earlier non Cold War related conflicts in Panama and Grenada had been managed by the fortuitously readily available supply of Hispanics in the military). Not only were the languages specific to a different theatre, but so to was the system that relied on those languages. Quite simply it was unable to process the huge number of Iraqi prisoners (some 64000 by US forces alone) so that both intelligence and counterintelligence capability suffered.<sup>1337</sup>

Just as importantly in the subsequent analysis of what went right and wrong, observers also saw clear evidence that the fixes employed by the more imaginative units to make things work tended to bypass problem areas, often by liaising horizontally and so shortening the links between producer and user and lowering institutional frictions: For example when JSTAR aircraft patched radar imagery of enemy troops moving direct to fire-control cells at divisional level the transactional costs involved in getting it to the right people were lowered, and suddenly the system worked.<sup>1338</sup> The increase in efficacy that such low friction collaborative systems engendered may have been the genesis of General Flynn's integrated 'Find, Fix, Finish, Exploit, Analyze' cycle discussed in the next chapter.<sup>1339</sup> However it is worth noting that even this successful system was asset specific to the Gulf War. Limiting the analysis to this extent would for example be less viable in the more complex and uncertain environment of a counter insurgency operation where 'Red' enemies were hidden among a wider population.<sup>1340</sup>

The very public dispute over Battle Damage Assessment (BDA) touched on above is worth examining from a wider institutional cost perspective as well as it amply demonstrates the negative interaction of behavioural and environmental issues.<sup>1341</sup> It variously involved the Army, Air Force,

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<sup>1337</sup> "Conduct of the Persian Gulf War: Final Report to Congress Chapters 1 through Viii."411 and Appendix C.13 & 19

<sup>1338</sup> Hughes-Wilson, *Military Intelligence Blunders and Cover-Ups*.349

<sup>1339</sup> And see Flynn, Juergens, and Cantrell, "Employing I.S.R. S.O.F. Best Practices."

<sup>1340</sup> See for example *British Army Field Manual. Countering Insurgency*, vol. 1. Part 10. (Section 5: Intelligence)(2009).

<sup>1341</sup> It is worth noting that BDA, particularly that resulting from bombing from the air, was not a new problem having been an issue in WW2 and Vietnam. See John T Rauch Jr, "Assessing Airpower's Effects: Capabilities and Limitations of Real-Time Battle Damage Assessment,"(DTIC Document,

CENTCOM and Washington trying to answer the critical question of the levels of damage being done to Saddam's forces by the coalition prior to the land offensive without any pre-negotiated methodology. This was not simply a matter of how successful individual pilots or operations might be. Rather the level of damage done from the air was the key decider as to when the land offensive could be launched. CINC commissioned Army intelligence, as objective observers, and they, for lack of any other approach, developed a rational (albeit boundedly so) system of allocating percentages of kills against claims depending on the type of source reporting the damage, presumably in the forlorn hope that this apparently 'fair' system would minimise frictions. The Air Force however regarded the system as far too negative and argued (correctly) that the Army had no relevant or specific experience of BDA work with new 'smart' munitions. National assets in Washington meanwhile also disagreed with the Army's BDA, but declared the results too positive, to the chagrin of all and the increasing frustration of General Schwarzkopf.<sup>1342</sup> This led to Washington based decision makers publicly "... distancing themselves" from the CINC in case (in his view) the ground offensive stalled because he had gone too early, which in turn led to a breakdown of trust between them.

Thus because BDA was a low frequency need, previously performed by those with a specific (lower technology) skill set, but was suddenly required to be used in both a complex and uncertain environment, boundedly rational actors pursued their own ideas of the best way to maximise utility. Each held different information that they thought superior to their colleagues, whilst none had any clear idea of the other's property rights. Their interpretations of how best to serve what sense of a common maximand existed were therefore at odds. This led to opportunistic behaviour as, having failed to negotiate an agreed position; actors positioned themselves so as to be most likely to be proved right rather than supporting the needs of the CINC. The intrusive media interest increased the negotiating frictions by increasing the

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2002). The type of debate this issue can engender is discussed in Harold Wilensky's 1967 work. Wilensky, *Organizational Intelligence: Knowledge and Policy in Government and Industry*, 19.

<sup>1342</sup>In fact the most reliable estimate made post war suggested that even the most pessimistic of these assessments was overly optimistic to the order of up to 134%, although in the event it made little difference to the success of the ground offensive. "Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives."3

costs associated with monitoring potential agreements, as actors felt obliged to support their positions by public statements. This deleteriously impacted on both the probity that had existed horizontally across different levels (for instance between Army and Air Force analysts and between CENTCOM and Washington decision makers), and any probity that had been established vertically between analytic and decision making levels. A situation which then permeated through into other aspects of the campaign.<sup>1343</sup>

#### **Section 4: Conclusion**

This chapter has discussed how the peculiar nature of defence intelligence in both the UK and US imbues it with a distinct institutional cost environment. This then impacts on its ability to work cooperatively both within the military and across the wider intelligence and policy making communities. Both nations have been similarly afflicted, despite the disparity between the well reported difficulties in intelligence collaboration throughout the history of the US intelligence community, and the accepted wisdom of collegial relationships across its UK equivalent. This demonstrates that cooperative success or failure are not predetermined because of any national cultural pre-dispositions.

The first half of the chapter examined how the naturally uncertain and complex environmental conditions common to security and intelligence functions are exacerbated in this arena because organisational structures and competing sites of vertical control have lead to contested property rights. These in turn have lead to asset specificity problems, as defence intelligence endowments and even cultural capital are suited to particular uses in either the national or the military domain, and are therefore ill adapted to the other. Structural separation and asymmetric information holdings have encouraged opportunistic behaviour as the ability of external principals to monitor military agents is extremely limited. At the same time each may have a very different idea as to what sort of utility should be maximised based on the sort of environments in which they work. These problems were further exacerbated

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<sup>1343</sup> Discussed in non-institutional cost terms in inter alia *ibid.* and Hughes-Wilson, *Military Intelligence Blunders and Cover-Ups*.348



by language costs between different levels and functional entities, making negotiating over these issues more difficult.

The result is that the role of defence intelligence as far as it relates to the rest of the intelligence effort of both nations, although different in each, is opaque at best. Attempts to genuinely shift the Defense Intelligence Agency of the United States into the intelligence community in a more than merely legal or formal sense have never managed to achieve the necessary momentum to transcend the very high institutional costs that DoD have always thrown up. In the United Kingdom the position of defence intelligence as a part of the Ministry of Defence, with a military command structure, rather than as a free standing agency simply responsible to a Secretary of State (as is the case for the other national agencies). This defines how it is regarded in terms of the national machine, and indeed what it can be expected to deliver to the centre as a result. The different claims mean its usefulness to either can vary over time, as either its military or its national responsibilities are pre-eminent.<sup>1344</sup> Whilst the military element in both Countries boasts some sort of line-management the rights to the use of the resources is nonetheless opaque so that cooperative working has been hindered.

As a result of the 1991 Gulf War experience the usefulness of low friction collaborative working to meet the new operating conditions was recognised across the wider defence intelligence enterprise, and a number of initiatives were introduced. These were intended to address the specific problems experienced in delivering collaborative working vertically and horizontally (described in the first half of this chapter). They were also meant to adapt the defence intelligence function so that it could better address its growing role in countering terrorism through increased counterinsurgency work, and the new partnerships that this implied. A shift in role that has provoked many of the

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<sup>1344</sup> This can be demonstrated by noting how it is treated (or not) by Cabinet Office publications on the United Kingdom's intelligence machinery over time, as demonstrated in Omand, "Creating Intelligence Communities." 101-103 and also by its treatment by the oversight body, the Intelligence and Security Committee, however since their remit has broadened through 2013 they have paid increasing attention to defence intelligence and it may well be that this will gradually have the effect of shifting it further into the wider community, particularly as engagement in Afghanistan is reduced post 2014. See variously Intelligence and Security Committee, "Annual Report 2007-2008.", Intelligence Security Committee, "Annual Report 2010-2011." Then Intelligence and Security Committee, "Annual Report 2012-2013."

same institutional costs issues experienced by civilian organisations as described in Chapter 5. The following chapter will therefore apply the institutional costs impact framework to contrast the different ways the UK and US each tried to improve their cooperative efficiency, and why they experienced very different levels of success that reversed the more usual outcomes for each nation.

## Chapter 8 - The Relative Management of Institutional Costs in the Upper Levels of Defence Intelligence in the United Kingdom and United States

### Section 1: Introduction

The last chapter described how the particular demands on defence intelligence that crossed military/civilian and strategic/tactical boundaries produces a difficult working environment with high institutional costs impacting on collaboration across these divides. Nonetheless since the 1991 Gulf War the US defence intelligence sphere has significantly improved cooperative capability to the extent that it is the preeminent example of how the full spectrum of intelligence capabilities could be harnessed. The UK effort on the other hand has continued its pattern of contested property rights and an ebb and flow of authority between different actors, so that it is as negatively contradictory a case in the largely cooperative UK intelligence machinery as US defence intelligence is a positive contradiction in the predominantly non-cooperative US community.

Why then this dichotomy? Asymmetric military operations have become the norm. Often taking place in the midst of interwoven social, political, religious and economic strife between sections of populations. The settings are thus increasingly complex, and the wider outcomes of any action (or inaction) increasingly uncertain, particularly within the intelligence field.<sup>1345</sup> Complexity theory argues that interconnected enterprises in such environments organise best from the bottom up.<sup>1346</sup> Military organisation is however traditionally a conventional pyramidal hierarchy:<sup>1347</sup> As actors became more senior they moved ever larger numbers of their juniors over ever larger areas of responsibility, to ever greater strategic impact. The chain of command insures high institutional costs, but these prevent the inexperienced from

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<sup>1345</sup> These aspects of asymmetric conflict are detailed in "Future Character of Conflict," in *Strategic Trends Programme* (London: Development, Concepts and Doctrine Centre (DCDC), 2010). The interconnected nature of these problems is examined in Charlie Edwards, "The Case for a National Security Strategy," *DEMOS Report* (2007).

<sup>1346</sup> For example, for a parallel analysis from the healthcare field, see James W Begun, Brenda Zimmerman, and Kevin Dooley, "Health Care Organizations as Complex Adaptive Systems," *Advances in health care organization theory* 253(2003).

<sup>1347</sup> For an assessment of how complexity in modern military scenarios impacts on principal agent problems see Coletta, "Principal-Agent Theory in Complex Operations."

overstepping their authority, which is able to be clearly assigned. This position has largely persisted, and the fact that minor tactical skirmishes could have major strategic implications has made senior officers more inclined to this approach to command and control despite the increased fluidity of tactical situations, so that a complex system of Unified and Specified (as well as Subordinate Unified) Commands has been developed in the US case to manage 'broad continuing missions'.<sup>1348</sup> The complexity inherent in modern military operations and their interaction with the wider world, together with all the frictions discussed in the previous chapter, has to be managed nonetheless.

The US defence intelligence community appears to have managed this with a number of horizontal linkages at every level that have very specific functions, and thus much clearer property rights in those areas. These are then directed through the principal of 'management by command intent' so that each has decision making capabilities within their area of specialism geared towards what is effectively a shared maximand with the next level up. Although the UK has achieved better intelligence and operations integration at the tactical level through the use of the 'shared floor-plate' approach<sup>1349</sup> they have not been able to achieve the same at any level outside of that despite a similar approach being incorporated into the move to the refurbished RAF Wyton under Project Pride (the MoD's Programme to Rationalise and Integrate the Defence Estate).<sup>1350</sup>

This chapter will therefore firstly consider the UK case in Section 2, to establish why it has been unable to get tactical level improvements to filter up despite significant change efforts. Defence intelligence itself is inevitably itself made up of disparate organisations with distinct functions, and space

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<sup>1348</sup> The Unified Commands include two or more military departments, and the creation of the Unifies/Specified Command system after the Goldwater-Nichols Act that creates the conditions for joint working that become the seedbed for jointery in intelligence. See "Joint Publication 1: Doctrine for the Armed Forces of the United States," ed. Joint Chiefs of Staff (JCS)(2013). and *Goldwater Nichols Department of Defense Reorganization Act of 1986*.

<sup>1349</sup> Whereby the intelligence element sits alongside other enablers such as logistics and links to air support, all in the same space as the operational commander. M1.

<sup>1350</sup> "The First of a Suite of New Buildings to House Defence Intelligence Has Been Formally Handed over to the M.O.D. At Raf Wyton," Ministry of Defence, <https://www.gov.uk/government/news/new-defence-intelligence-buildings-handed-over-to-mod--2>.

precludes an in depth examination of all of them. The focus of Section 2 will therefore be on top level management and how this impacts on two areas: The strategic analytic capability of Defence Intelligence (DI - formerly the Defence Intelligence Staff or DIS) provided by the Defence Intelligence Assessments Staff (DIAS) and the imagery intelligence capability now known as the Defence Intelligence Fusion Centre (DIFC - formerly the Defence Geospatial Intelligence Fusion Centre (DGIFC, and before that JARIC). Section 3 will move on to examine the US case, looking at particular initiatives that have lowered institutional costs and improved cooperative working before Section 4 briefly considers the extent to which this mutation is fixed and applicable beyond the immediate confines of 'defence'. Section 5 will then conclude.

## **Section 2: Institutional Costs and Cooperation at the Upper Levels of UK Defence Intelligence**

In the United Kingdom the post 2008 financial pressures to prevent duplication and redundancy across the whole defence enterprise, coupled with the Strategic Defence and Security Review (SDSR)<sup>1351</sup> lead to an in depth re-evaluation of how defence was organised. Although broader in scope, it paralleled many of the findings of the much earlier Cold War reports into defence intelligence cited in Chapter 7. Much as civilian intelligence reviews in the US invariably came to the same conclusions without ever being able to address them.<sup>1352</sup> Known as the Levene Report,<sup>1353</sup> the investigation found substantial bars to collaboration at a number of levels which can be better described in institutional costs terms. The report was concerned with overlapping and confused authorities at the highest level, notably between the civilian Permanent Under Secretary (PUS) and the military Chief of Defence Staff (CDS), as well as the service chiefs; a property rights issue. It noted that because of this change "tends to fail"; implicitly citing issues of both 'contract' and the subsequent 'control' of

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<sup>1351</sup> "Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review."

<sup>1352</sup> Silberman and Robb, "The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction."6

<sup>1353</sup> More fully the "Defence Reform: An Independent Report into the Structure and Management of the Ministry of Defence," (Defence Reform Steering Group, 2011).

transactions when support for them is not across the board. At the same time it observed that any change that affects the balance of power within the military (as distinct from the quantity of power they all share) will be resisted, particularly if it shifts power relations between the three services, joint organisations and the 'head office'. Where agreement has been negotiated, the organisational dynamic tends to ensure the relevant actors have moved on to other posts before implementation. Re-negotiation will therefore be required, often across a slightly different asymmetry of information, and the cycle of institutional costs begins again.

Levene argued that "Specific allegiances trump corporate ones";<sup>1354</sup> so opportunistic behaviour is exhibited by boundedly rational individuals or parts of the organisation engaged on sub-goal pursuits. A position made worse by the fact that this top-down run organisation is almost exclusively filled from the bottom, so decision makers are steeped in cultural biases that effect their negotiating flexibility and sense of maximand.<sup>1355</sup> Ironically the net result is that any bottom-up permeation of new approaches that have worked at the tactical level into the upper levels, in the ways one would expect of a complex adaptive system in a dynamic environment are, as Tom Dyson observed, "... hampered by organisational politics at the higher levels of the service"<sup>1356</sup> as senior actors who are overly asset specific to their own service behave opportunistically to protect their part of the defence endeavour. Institutional costs thus impede adaption to a more collaborative environment, and defence intelligence is both an actor in the resultant contest and a resource over which other actors compete.

#### **a. Strategic National Defence Intelligence and its Coordinating Architecture**

Defence intelligence activities now exist in the same complex and uncertain environment that civilian counterterrorism has inhabited for some time, with the requisite increase in the number of actors involved. The institutional costs

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<sup>1354</sup> Ibid.78

<sup>1355</sup> Ibid. Annex G.78

<sup>1356</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia."220

involved in its delivery have therefore both enlarged and become increasingly relevant as the number of nodes with which must interact have increased, in much the same way as in the counterterrorism world (as discussed in Chapter 5). As an enabling function it has however remained distinct from core military work, so that nodal connections with the wider military itself remain some of the most opaque. Lord Levene reported 'a number of tensions' in joint areas and that cross-cutting or enabling activities, including intelligence and the other aspects of ISTAR, that were not organised or managed "... as coherently or effectively as they could be". Despite the tactical level improvements referred to earlier, joint level synergies could not be properly exploited because of organisational separations. These were often made on an ad hoc basis because units were too small to exist alone, but did not comfortably sit anywhere else. Yet they introduced institutional costs that no particular element had a strong interest in overcoming, particularly as these enablers were not 'core to any single service output'. Defence Intelligence assets for example sat within the central 'Top Level Budget' (TLB) - the budgets held by the Service Chiefs under the Permanent Under Secretary - simply because it had nowhere else to go, but functional linkage to the other parts of central TLB was limited.<sup>1357</sup>

At the same time increasing institutional costs were also being introduced upstream of the defence intelligence apparatus, impeding it from properly assisting in the compilation of national level appreciations and assessments. The bodies on which it had historically relied for its point of access, the Joint Intelligence Committee (JIC), and the Joint Intelligence Organisation (JIO) that supported it, had themselves been marginalised. Since 2009, they had been struggling with new questions of property rights as some of their functions were shuffled around Cabinet Office on what seemed at times to be a fairly arbitrary fashion,<sup>1358</sup> fulfilling a diminished role as much of the coordinating function shifted new ministerial and official committees.<sup>1359</sup> Thus what low institutional cost relationships defence intelligence had developed

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<sup>1357</sup> "The Levene Report."Section 9.44-47

<sup>1358</sup> Davies, "Twilight of Britain's Joint Intelligence Committee?."428

<sup>1359</sup> Renamed the NSC(I) and NSC (I)(O) respectively once the UK's National Security Council was created in 2010. *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.2.307-308

with their civilian counterparts through the collegiality and established understanding of property rights of that forum were having to be renegotiated. To complicate matters further the recent innovation of a National Security Council (that was still bedding-in) and supporting apparatus clouded just whom such negotiations should involve.

In 2011 a committee established jointly by the Prime Minister and Cabinet Secretary recommended that defence intelligence assets should be put "...more directly at the disposal of the NSC where appropriate" even though it also recommended that the NSC become the primary source of JIC requirements and priorities, providing a route for the Defence Intelligence Assessments Staff (DIAS) or other defence intelligence product to bypass their usual point of access (but only on occasion). This introduced yet another master in the form of the Cabinet Office's Chief of Assessments who could then task them. Even beyond the property rights confusion that must result, this process is likely to reduce the trust that oils the collegial machine as DI might be seen to have gone behind the JIC's back.<sup>1360</sup> The possibility of property rights clarity being provided from on high was however further reduced as the Permanent Secretary level coordinator post was removed and Cabinet Office capacity to manage policy for the wider intelligence community diminished.<sup>1361</sup> The previous difficulties of both civilian and military consumers having property rights over parts of the defence intelligence apparatus as describe in Chapter 7 have thus been exacerbated, with another civilian national level claimants on their resources being added to the mix.

It is worth noting here that the departmental type organisational structure that creates these institutional costs is reflected in the organisation of its oversight bodies as well. Thus the very bodies that might be able to leverage adaptability and better cooperation from an external perspective are obstructed from doing so because they are orchestrated on parallel lines: For example the Defence Committee are distinct from the Intelligence and

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<sup>1360</sup> "Supporting the National Security Council (Nsc): The Central National Security and Intelligence Machinery," in *National Security Council Recommendations' Policy Paper*(National Security Adviser and Chairman Joint Intelligence Committee, 2010).

<sup>1361</sup> Omand, "Creating Intelligence Communities."114



Security Committee. They have themselves noted that their ability to tie MoD organisation into the National Security Strategy is limited precisely because they are the defence committee and tend to 'collapse back in' to MoD internal organisation. In so doing losing sight of cross government issues and the 'security' element because of the institutional costs between the discrete silos.<sup>1362</sup> Such an arrangement is asset specific to earlier environmental conditions, and would have been well suited to a period when the civilian and military worlds were discrete entities but actually adds a further tier of contracts that have to be negotiated if any change is to occur, and will thus tend to perpetuate the status quo despite any external shift in conditions.

The Intelligence and Security Committee (and the Intelligence Services Commissioner) have recently been granted increased authority through the Justice and Security Act 2013<sup>1363</sup> that include defence intelligence elements in an attempt to redress this problem. At the time of writing how this new responsibility will interact with the Defence Committee's remaining authority has not yet become apparent. The nature of the property rights arrangements between the two committees, and where they intersect, may yet help or hinder cooperation. What is clear however is that a focus on parts of the organisation or process rather than the whole system tends to 'displace problems' or miss their root causes so far as wider cooperation is concerned. Wider patterns of oversight should at least assist with this, and help address the very natural tendency of any organisation (but particularly a secret one) to be inward looking and inclined to 'wash their dirty linen in private' so that horizontal criticism is all the more difficult.<sup>1364</sup>

#### **b. The Defence Intelligence Assessments Staff**

The fault-line between these competing needs is DIAS. As the provider of fully assessed intelligence (including open source intelligence) to both military and civilian consumers, based on input from the civilian agencies as well as defence intelligence collection assets, it is at the nexus of both horizontal and vertical reporting lines so that low institutional costs are a pre-

<sup>1362</sup> Harvard Dai "Towards the Next Defence and Security Review."

<sup>1363</sup> "Justice and Security Act," ed. Houses of Parliament (London: The Stationery Office, 2013).

<sup>1364</sup> "The Levene Report." Annex G.78

requisite for efficient working. Unfortunately an internal study in 2012 (released publicly in *Public Policy and Administration*) found DIAS itself exhibited significant bars to frictionless operation both within and outside itself. Despite the need to be interconnected logistical and security concerns have however left much of DIAS isolated from the rest of the military. Its evolutionary history has thus resembled that of a sort of Galapagos Island within the MoD. In fact participants in the study thought DIAS 'more like the MoD of several decades ago' than a unit at the forefront of interdependent functionalism.<sup>1365</sup> The twin institutional pressures of secrecy that is both structural and actual, and the asset specificity that is evident in both its culture and its national level product have left it isolated within its parent body both physically and culturally. A presence in the MoD 'Main Building' that should provide an interface with its military consumers has largely remained behind locked doors except for generalist managers that orchestrate taskings, and a large proportion of specialists have been relocated right outside of London under the auspices of the estate rationalisation programme Project Pride anyway.

Internally the culture of the analysts themselves was found to be asset specific to their own work, in that it was inward looking and risk averse analysts. Researchers found that institutional bars between themselves and their customers were encouraged. They preferred to supply carefully crafted written reports, which have the advantage of being difficult to misinterpret, that were thoroughly researched and caveated. This despite the fact that this approach is at odds with the military 'can do' attitude, and their need for the sort actionable rather than exact intelligence General Schwarzkopf had sought during the 1991 Gulf War.<sup>1366</sup> In part this stems from an understandable reluctance to be forced, by customers "... for whom the price - in time and attention - of additional accuracy is not worth paying" into an analysis that lacks appropriate depth, but may not be possible in a resource

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<sup>1365</sup> Nicolas Paul Hare and Paul Collinson, "Organisational Culture and Intelligence Analysis: A Perspective from Senior Managers in the Defence Intelligence Assessments Staff," *Public Policy and Administration* (2012).224

<sup>1366</sup> Discussed in Chapter 7 but see Schwarzkopf, "Critique of Intelligence from Congressional Testimony 12th June 1991. Intelligence Successes and Failures in Operations Desert Shield/Storm: Report of the Oversight and Investigations Subcommittee of the Committee on Armed Services House of Representatives ".

constrained environment.<sup>1367</sup> While each position seems reasonable they nonetheless distance analyst from military consumer, and prevent the sort of low institutional cost, sequential, and personal relationships that might more closely align the two.

The same bars are reflected between analysts and their supervisors, who actually manage both consumer interfaces and the requirements and prioritisation process. Time constraints preventing the use of proper methodologies (despite the post-Butler introduction of proper training in them), and an imbalance between current production and strategic analysis are imposed by extrovert managers on introverted analysts, inevitably increasing tensions.<sup>1368</sup> Subject matter experts will be less inclined to engage openly with consumers if they feel their product is poor, while their managers will do so, but lack the detailed knowledge to match the brief to the customer need. The information asymmetry thus acts at two different levels across the same transaction and exacerbates the other problems, which can include language costs and probity issues between the groups based on a misunderstanding of the maximand of the other.

The institutional costs generated by the cultural isolation preferred by some analysts are ensured by both the nature and location of DIAS offices. The Old War Office building still in use by some DIAS staff (despite several attempts to sell the building) is comprised of small offices behind closed doors, with very little shared space. The open plan MoD space is necessarily behind locked doors as well but does at least boast areas where consumers and DIAS staff can meet. For that reason however the main building is primarily occupied by middle managers so that they can better manage their customer interactions, which has tended to merely shift the institutional frictions further back along the chain so that they now exist between analysts and managers, rather than between the manager and consumer. They have therefore been reduced less than might otherwise have been the case from an organisation that prides itself on its focus on consumer needs. DIAS has

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<sup>1367</sup> Hare and Collinson, "Organisational Culture and Intelligence Analysis: A Perspective from Senior Managers in the Defence Intelligence Assessments Staff."223

<sup>1368</sup> Ibid.218,223

however not only has to manage the civil/military split across Whitehall, and its own split across Horseguards Avenue, it also has to deal with much of its own current operations capability being further removed to the Permanent Joint Headquarters (PJHQ) in Northwood, and will be sending an increasing contingent (about 15%) to RAF Wyton as part of the MoD estate rationalisation project PRIDE.<sup>1369</sup>

Unlike the JIO staff on the other side of Whitehall, with whom they must routinely engage, DIAS staff are permanent appointments not attached for a defined period from a parent body. This causes a number of conflicting cultural tensions that in turn provoke institutional costs at the national level. Hare and Collinson found DIAS staff were in any event an amalgamation of cultures because of the wide variety of civilian and military sources from which they were recruited. However they do not identify with the MoD particularly, but rather with DIAS itself, as a particular sub-group. This suggests the possibility of opportunistic behaviour as they capitalise on their information advantage (particularly given their apparent dislike of the 'breadth over depth' preference of their customers). Yet despite their perceived differentiation from the MoD at large because of their national role, DIAS struggled to see themselves as part of the national effort. The study found that DIAS staff thought their product did not impact policy adequately, and that they saw themselves as the poor relations of the better resourced agencies,<sup>1370</sup> even though, as a producer of a broad tranche of analysed product, one would expect them to be a 'primus inter pares'.<sup>1371</sup>

Structurally, the four Directorates within DIAS (counter proliferation, conventional weapons and their platforms, strategic level political and military developments, and current operations) should be reasonably aligned with the customer base each field might attract, which should lower institutional costs as far as possible: Current operations are naturally used most by military figures, whether in theatre or Whitehall, political developments are of

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<sup>1369</sup> Ibid.224,226

<sup>1370</sup> A conclusion supported by Philip H.J. Davies, "Comment: The Preventable Decline of British Defence Intelligence," *Comments and Analysis*(2012), <http://www.politics.co.uk/comment-analysis/2012/12/06/comment-the-preventable-decline-of-british-defence-intellige>

<sup>1371</sup> Hare and Collinson, "Organisational Culture and Intelligence Analysis: A Perspective from Senior Managers in the Defence Intelligence Assessments Staff."223

particular interest to other government departments, and so forth.<sup>1372</sup> However cuts and a still significant operational tempo that must be supported mean that such an architecture is itself an overly specific asset, suited to earlier conditions (and very possibly one's to follow), rather than current demands on them. This hinders their ability to work cooperatively with both national and operational military consumers as they ebb and flow between them. The shift towards operational support is inevitably detracting from their ability to fulfil existing contracts at the national level, and vice versa.<sup>1373</sup>

The cultural distinction between DIAS and the wider military, including the tactical level intelligence personnel who are ever more operational rather than analytic, becomes increasingly germane to its efficacy when one then adds in the other institutional costs that surrounds it. The environmental shift of the 1990's, from which defence intelligence as a whole had largely benefited, saw its top level analytic capability cut from 800 to 600 (400 by 2012<sup>1374</sup>) staff, because boundedly rational actors saw a diminution in the key threat it had previously addressed. They had failed to properly acknowledge the impact of uncertainty, and the complexity of the new environment. This was a quantitative error that left DIAS hard pressed to provide even desultory coverage on the plethora of emerging threats, but it was also a qualitative problem: Defence intelligence analysis had, since the 1964 Mountbatten reforms been focused on national strategic support, and what remained of analytic capability within the single services had to manage immediate tactical issues.

The confused property rights around the twin mandate of defence and national intelligence support have been contended throughout the history of both DIAS and its DIS forbear. The emerging threats however also existed individually, at the operational, localised Headquarters, level. In the absence of any alternative, that gap had to be part filled by DIAS. This included being part resourced by them through 'efficiency savings' (forced on them via the

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<sup>1372</sup> Ibid.220

<sup>1373</sup> Davies, "Comment: The Preventable Decline of British Defence Intelligence". Discussed in more detail in "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence."

<sup>1374</sup> Nicolas Paul Hare and Paul Collinson, "Organisational Culture and Intelligence Analysis: A Perspective from Senior Managers in the Defence Intelligence Assessments Staff," *ibid.*(2012).219

imperative of urgent operations). As a result there was a re-emergence of single service capabilities,<sup>1375</sup> and a strategic level intelligence gap resulted that has not yet been filled.<sup>1376</sup> This despite the advocacy of Lord Butler after the 2003 Iraq debacle.<sup>1377</sup> In fact the position worsened as the twin pushes of reduced public spending and the wider re-organisations of the Levene Report further reconfigured DIAS: The former inevitably encouraged sub-goal opportunistic behaviour across disciplines and at all levels as actors had to compete for increasingly scarce resources despite still being engaged in Afghanistan and other occasional operations like Libya. The latter, despite being focused on joint operations and reducing overlap, was a review that was internal to the MoD so it naturally focused on Military, rather than national needs.

The institutional cost environment of DIAS, like that of the DIFC, is therefore shifting towards what operational support it can offer. It is having to manage a new trade off between increased customer proximity and the lower negotiating costs that come with improved external relationships as a result on the military operations side on the one hand, and the increased difficulties of providing a genuinely holistic, all source analytic capability that can play to wider departmental assessments and usefully inform national level policy making with assessments from across the DIAS skill set on the other. The reorganisations that followed the Levene Report included the April 2012 creation of the Joint Forces Intelligence Group,<sup>1378</sup> and the subsequent shift of Defence Intelligence into the ambit of the new Joint Forces Command in 2013 (discussed further below).<sup>1379</sup> These may have improved coordination across the single services and have shifted the defence intelligence piece from being a 'staff branch at the MoD' to a military intelligence organisation

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<sup>1375</sup> The troubled history of DIS/DIAS is analysed in Philip H.J. Davies, "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence," *ibid.* 28, no. 2 (2013).

<sup>1376</sup> For a review of the UK's 'strategic gap' from a realist perspective see Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia."

<sup>1377</sup> "Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors."

<sup>1378</sup> "Defence Intelligence: Roles," Ministry of defence, <https://www.gov.uk/defence-intelligence-services>.

<sup>1379</sup> "Joint Forces Command: About Us," Ministry of Defence, <https://www.gov.uk/government/organisations/joint-forces-command/about#who-we-are>.

integral to the JFC,<sup>1380</sup> but there is inevitably a cost in the increased separation from the national piece as the JFC introduces another tier of authoritative and military focused bureaucracy between it and defence intelligence capability. The changes can therefore best be visualised not as a solution to the tension between the two requirements, but only as a temporary shift in dominance between them; a continuation of the pattern of oscillation between the National and the military need. The net result however may well be the more permanent loss of a genuine centre of excellence for all source analysis.<sup>1381</sup>

### **c. Overlapping Rights Over Shared Resources Across the Civilian Military Divide**

The same conflicting pressures produce similar contracting difficulties in the use of Ministry of Defence owned assets that also have a role in national intelligence assessments. The preeminent example is the UK's imagery intelligence capability, which has been if anything had an even more turbulent history than that of DIAS. It has all the same problems of having to negotiate between the requirements and priorities of both civilian/military and strategic/tactical level consumers, and like DIAS is funded not from the SIA but from within the MoD. Requirements are set not within the Requirements and Priorities for Secret Intelligence (RPSI) mechanism, but via the defence intelligence's own Collection, Coordination and Intelligence Requirements Management (CCIRM) system. This is despite what is now the DIFC (and its precursors) being the equivalent of one of the agencies in its own right, by virtue of its unique functional capability. It has been examined in detail by Davies, who describes what amounts to a continuous series of disputes around property rights, renegotiations and reorganisation as first one then the other side are ascendant. The cycle then begins again as the previous compromise is found to be flawed.<sup>1382</sup> It is worth considering the following points of his analysis from an institutional cost perspective:

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<sup>1380</sup> Senior M.o.D. Intelligence Figure Speaking Under Chatham House Rules CH4, (London, 2014).

<sup>1381</sup> Davies, "Defence Intelligence in the UK after the Mountbatten Reforms: Organisational and Inter-Organisational Dilemmas of Joint Military Intelligence." "Comment: The Preventable Decline of British Defence Intelligence".

<sup>1382</sup> "Imagery in the UK: Britain's Troubled Imagery Intelligence Architecture."

Like DIAS it is an important part of the national intelligence capability but as Davies notes it is marginalised as a result of that importance. Actors in the defence intelligence community act opportunistically; using it to retain their status at the national table. Yet even then DIFC is represented, along with DIAS and all the other defence intelligence assets, by the Chief of Defence Intelligence (CDI), who is technically of a lower rank than his JIC fellows. This is despite the size and importance of the DIFC and DIAS contributions, and overlooks that, unlike other inputs, they boast an analytic as well as collection capability.<sup>1383</sup> Property rights are more difficult because analysis (often of US raw product) rather than collection are at the core of modern imagery intelligence in the UK, but its analysed product does not sit comfortably with the way the JIC has been organised.<sup>1384</sup> At the same time the authority vested in the CDI to direct intelligence programs in this area is opaque because the UK armed forces do not necessarily 'own' the resources involved. Although it is worth noting that now both GCHQ and the US are represented in the open-plan floor plate at RAF Wyton, to expedite the additional negotiations this provokes.<sup>1385</sup> Internal tensions, as Army and Air force elements have been joined, and tactical and strategic responsibilities housed within a single organisation, have also been observed.<sup>1386</sup> However opinion remains divided as to whether the creation of DGIFC in 2012 (and its 2014 shift to RAF Wyton as the DIFC) will be a force for good, lowering institutional costs between them, or will instead provoke further confusion and at the same time lower analytic expertise as the 'centre of excellence' that JARIC represented in its old format is spread across different points of requirement in an open plan, operationally focused, workspace at RAF Brampton.<sup>1387</sup>

As well as the national/military problem shared with DIAS, property rights for imagery intelligence are additionally complicated by the very intimate

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<sup>1383</sup> Ibid.960

<sup>1384</sup> See for example the JIC's 1950's organisation around the functional areas of collation, management and security discussed by *ibid.*966

<sup>1385</sup> CH4.

<sup>1386</sup> M3. The mix of inputs and outputs across services and levels is discussed in Davies, "Imagery in the UK: Britain's Troubled Imagery Intelligence Architecture."960

<sup>1387</sup> M3. See also Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.2.327-328



relationship it shares with its US equivalent. This includes joint investment over substantial periods of time as well as the resultant shared access through agreements like TALENT-KEYHOLE, a security clearance agreement that operates on both sides of the Atlantic.<sup>1388</sup> Property rights that are already strained at the national level are thus further complicated by a variety of both fixed agreements negotiated as treaties, memoranda of understanding that need occasional renegotiating as circumstances develop, and informal reciprocal undertakings at the working level that can constrain the strategic level even when they have not been party to the negotiations.<sup>1389</sup>

#### **d. The Asset Specificity of the Cultural Condition in the Military**

The competitive culture encouraged within the UK's armed forces<sup>1390</sup> is the antithesis of the collegial one found in its intelligence community as well as the civilian intelligence and policy making bodies. It is a significant point of friction in negotiations between them, impacting on the ability of less operational intelligence assets like DIAS and to integrate with them and for probity to be established on any longer term basis. However the wider military's use of an inter-unit competitive ethos is as suited to their needs as the collegial preferences of intelligence analysts is suited to theirs. Historically the creation of an esprit de corps at each sub-level has always helped cement fighting units into self-contained and very intra-reliant structures; any joint working was the preserve of the upper echelons. The recent increase in combat operations has intensified the need for this characteristic and new generations of officers and men are all a product of on-going hostilities. It is however a cultural disposition that is asset specific to open conflict, and at odds with the intelligence function outside of that.

Nonetheless combat remains the *raison d'être* of the armed forces so that promotion and incentives are increasingly based on how individuals have performed on operations, with combat still the pinnacle. Despite a good deal of rhetoric as to the value of both the joint approach and intelligence as a

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<sup>1388</sup> "Imagery in the Uk: Britain's Troubled Imagery Intelligence Architecture."962

<sup>1389</sup> M2.

<sup>1390</sup> M1.

lead, this has had the twin effect of denigrating the perceived career value of non-combat roles and of soft skills such as an ability to negotiate efficiently, particularly once the Colonel/Brigadier level has been reached.<sup>1391</sup> Officers are promoted if they are perceived as 'winning', whether that is internally or externally. The urgent drivers of current operations as against the important needs of future circumstances increases these tensions and exacerbates the cultural predispositions that enforce them. The likelihood of the same sort of collegial negotiations found in the civilian intelligence sphere being successfully applied in the military one is thus remote.<sup>1392</sup> There are however some indications that this trend might at least slow to some extent in the future as some junior officers (and only in some Brigades) have in very recent years begun to rebuild these skills within the Counterinsurgency (COIN) context as greater emphasis has been placed on EBO and the hand over to Afghan National Security Forces (ANSF).<sup>1393</sup>

High institutional bars can also have accidental longer-term benefits, whatever the reason for their existence. It has been argued that the British military cultural investment is in single services or other lower organisational entities.<sup>1394</sup> An example of how more specific allegiances 'trump' wider corporate ones as observed by Levene and referred to above.<sup>1395</sup> The Actors are therefore more strongly incentivised towards the utility of that level over any broader objective. This can be beneficial because it can off-set the pernicious impact of environmental uncertainty in the military sphere. It also

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<sup>1391</sup> See for example Osborne, "Can the Senior Military Leadership in the United Kingdom Armed Forces Ever Be Truly Collegiate in Its Approach to Defence Interests?." 38

<sup>1392</sup> A good example of the sort of tensions between the pressures of current and future needs occurred in 2009 when debate over the future of the Harrier and Fleet Air Arm led to toxic relations between the Navy and Air Force, so that an Army officer from DCDC had to mediate in negotiations and lower negotiating frictions, but at the heart of the dispute was capability in the post 2016 era when uncertainty ensured threat and risk were extremely hard to calculate. See Thomas Harding, "Harrier Dispute between Navy and Raf Chiefs Sees Army Marriage Counsellor Called In," *The Telegraph*(2009), <http://www.telegraph.co.uk/news/uknews/defence/4448256/Harrier-dispute-between-Navy-and-RAF-chiefs-sees-Army-marriage-counsellor-called-in.html>.

<sup>1393</sup> Compare for example the very kinetic approach of 16 Air Assault Brigade in 2006 and the broader definitions of success used by the Commanding Officers of 52 Brigade in 2007. Michael Clarke, *The Afghan Papers: Committing Britain to War in Helmand, 2005-06*, vol. 77, Rusi, Whitehall Paper (London: Routledge, 2011).2,21,91-92 and Theo Farrell, "Improving in War: Military Adaptation and the British in Helmand Province, Afghanistan, 2006–2009," *The Journal of Strategic Studies* 33, no. 4 (2010). respectively.

<sup>1394</sup> Osborne, "Can the Senior Military Leadership in the United Kingdom Armed Forces Ever Be Truly Collegiate in Its Approach to Defence Interests?."

<sup>1395</sup> "The Levene Report."78

means that there is a pressure to perform in current operations, despite any opportunity costs this might present for any future (largely unknown) crises.<sup>1396</sup> Osborne suggests that institutional costs and difficult contracting between senior actors can prevent the sort of strategic short sightedness and short term views alluded to by Dyson<sup>1397</sup> becoming catastrophic in the longer term, and can even paper over gaps in the strategy making process itself for a limited period.

Others however have countered that such moves tend to reinforce distinctions between departments and that although this can have benefits in the immediate crisis they are achieved at the expense of longer term strategic capability and the more flexible posture that uncertainty dictates is required.<sup>1398</sup> Certainly the idea that lower levels of cultural asset specificity could increase adaptability, giving decision makers a better range of options and thereby improving military performance is not a new one. In 1925 the British General John F.C. Fuller had already noted the problems that US sociologist Robert Merton was to expound on decades later<sup>1399</sup> noting that the "... danger of a doctrine is that it is apt to ossify into dogma...".<sup>1400</sup> An early variety of the low institutional cost model of 'management by command intent' that the US military were to find so useful for information orientated operations, was first promulgated in the UK by General Nigel Bagnall in 1987. In his model political goals were communicated down to ever lower levels, who are then given significant autonomy to pursue that goal as they see fit, an approach well suited to COIN and other effects based

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<sup>1396</sup> "Can the Senior Military Leadership in the United Kingdom Armed Forces Ever Be Truly Collegiate in Its Approach to Defence Interests?." 12

<sup>1397</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia."

<sup>1398</sup> See for example Professor Julian Lindley-French (and others) on the difference between national crisis management and longer term strategy with regard to FCO and MoD perspectives. Julian Lindley-French, "Who Does UK National Strategy: First Report of Session 2010-11: Written Evidence Submitted by Professor Julian Lindley-French," ed. House of Commons Public Administration Select Committee (London: The Stationery Office, 2010).

<sup>1399</sup> Discussed in Chapter 3 but see inter alia Merton, "Bureaucratic Structure and Personality." 563-565

<sup>1400</sup> John Frederick Charles Fuller, "The Foundations of the Science of War," (1925). quoted by Geraint Evans, "Rethinking Military Intelligence Failure: Putting the Wheels Back on the Intelligence Cycle," *Defence Studies* 9, no. 1 (2009).28

operations.<sup>1401</sup> A shared maximand is thus created and problems of bounded rationality and limited monitoring capability by senior levels are off-set as this reduces moral hazard. Whilst this approach has had some success in the operational sphere, in the higher reaches of the defence intelligence arena conflicting property rights and objectives by consumers prevent any such shared maximand being established. There is instead a constant tension amongst lower level actors who are unable to satisfy all the demands upon them, and are instead motivated to act opportunistically to avoid any controversy by instead creating and pursuing more 'operative' and realisable sub-level goals in the manner predicted by Jackson.<sup>1402</sup>

The next sub-section will therefore consider how far changes to cooperative working within the military itself can be applied to defence intelligence provision.

#### **e. The Impact of New Approaches to Joint Working**

Many of the frictions described above result from the difficulties of serving a plethora of requirements, all of which have an apparently equal claim. The property rights over intelligence assets for such claims tend to be strong and difficult to compare reasonably in terms of utility. Furthermore the ability of intelligence functions to work more cooperatively across the whole intelligence piece is reliant on it having the right structural nodes in place with which to interact. Addressing either issue within the military context has however been made more difficult through organisational divides between different areas of responsibility and functions that can be perceived as either 'joint' or 'single service'. Intelligence can reasonably be either or both.

For example the contentious question of who has ownership of learning from operations and previous decisions can vary with circumstances. The single services remain responsible for their own learning if there are no cross-cutting functions involved. However either the Permanent Joint Headquarters (PJHQ) or the Development Concepts and Doctrine Centre (DCDC) are

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<sup>1401</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia." 210

<sup>1402</sup> Jackson, *The Political Economy of Bureaucracy*. 189

responsible for any learning that has implications for more than one service. This is dependent on the perceived operational relevance, and includes responsibility for implementation of any actions identified as a result. There is also an understanding that DCDC do 'higher level doctrine' whereas tactical matters are the preserve of the relevant service, although the division between the two is more than a little porous in counterinsurgency warfare. Services however naturally like to retain control of such 'learning', which may often be critical, and "... retain the capacity to erect a 'firewall' hindering the ability to determine the extent of follow-up". Opportunistic behaviour in deciding which category a lesson might go is therefore likely, and monitoring costs high. Furthermore tactical level operators will inevitably prefer to go by their own services doctrine, on which their line managers will judge them, rather than anything produced from a far-removed centre.<sup>1403</sup> Thus the property rights of 'joint' organisations are obscured, and even resisted by single services. The same applies to the joint intelligence apparatus, and a commander will generally be motivated to prefer to use their own, more directly controllable intra-service intelligence capability where possible.

The new problems that come from the "anarchy of the information age" as it competes with traditional hierarchical interests<sup>1404</sup> are not in fact new at all. Rather they are the latest round of high friction negotiations that inevitably need to be managed in an area of confused and shifting property rights, across asymmetric information, and with all the attendant issues of the institutional cost impact framework. When the then head of DIS pushed for a national level coordination capability for intelligence in 2007, a de facto admission that current arrangements were inadequate, at least from the military perspective, he implicitly cited both property rights issues over assets with a general utility and information costs as a result of data quantity.<sup>1405</sup>

Nonetheless attempts to lower transacting costs between elements of defence, particularly those that have a cross-cutting existence like

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<sup>1403</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia." 219

<sup>1404</sup> Brigadier Charles Holtom, quoted by Evans, "Rethinking Military Intelligence Failure: Putting the Wheels Back on the Intelligence Cycle." 29

<sup>1405</sup> Giles Ebbutt, "Uk Intelligence Delivery Needs to Evolve, Says Dis Head," *Jane's International Defence Review* (2007).

intelligence, continue to be made. Like the US case discussed later, the most significant initiative has occurred within the military, linking its own functional areas across a lower institutional cost interface through the creation of the Joint Forces Command (JFC), as recommended by the Levene Report: Firstly, it is positioned to lessen the tension between current operations and future capabilities. Joint Operations, Special Forces and Defence Intelligence all share two alternate reporting lines that separate current operations and strategic intelligence product. The Commander of JFC must report to both the Chief of Defence Staff (CDS) and, as a Top Level Budget Holder at the same level as the Heads of the single services, to the MoD's Permanent Under Secretary (PUS). At the same time the key task of the JFC is to develop and coordinate 'contingent capabilities' that address both strategic direction and emerging threats.<sup>1406</sup> This should at least clarify some of the property rights issues even if it fails to reduce the level of demands overall. Secondly, it is intended to increase the negotiating authority of "... key enablers in the battle space" like intelligence and surveillance (known by the acronym ISR, or Intelligence Surveillance Reconnaissance) so that they could engage with the appropriate weight given their increased significance to modern operating conditions, and do so as a "central node" to both the military/operational perspective and the longer term corporate governance needs of the MoD.<sup>1407</sup>

The JFC is premised on an acceptance of uncertainty in its operating environment, and focused on capabilities to counter 'real world scenarios' in the near and midterm, and mid to long term planning assumptions. At the same time the organisational logic of JFC suggests it should be able to leave the distraction of current operations to its junior partner PJHQ.<sup>1408</sup> It is

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<sup>1406</sup> Jones Phil (2012) 'The joint Forces Command: What Does the Organisation Offer' *The British Army Journal* 2012 Edition. NewsDeskMedia. Downloadable from <http://army.newsdeskmedia.com/british-army-2012/the-joint-forces-command> Accessed 2nd November 2013

<sup>1407</sup> Carr Ian (2012) 'Commanding View: Air Chief Marshall Sir Stuart Peach Talks About the Creation of Joint Forces Command' Verbatim. *Defence Forces*. p.10-11 April 2012 Issue 260. Downloadable from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/27935/dfapril2012.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/27935/dfapril2012.pdf) Accessed 20th October 2013

<sup>1408</sup> Phil Jones, "The Joint Forces Command: What Does the Organisation Offer," *The British Army Journal*(2012), <http://army.newsdeskmedia.com/british-army-2012/the-joint-forces-command>.

therefore at least possible that some of the operational and strategic level intelligence capability that has recently been lost as defence intelligence have tried to supply contextual intelligence at the tactical level will be regained. Furthermore the new organisational structure boasts some of the same attributes as General Soyster's Military Intelligence Board<sup>1409</sup> so it may well be as successful in leveraging the same increased cooperation by also providing a lower institutional cost interface. Nonetheless it should be noted that as late as June 2014 Rory Stewart, a new member of the Defence Select Committee, clearly believed these operational and tactical improvements had come at the expense of a strategic capability. He describes 'Defence Intelligence' as "... hollowed out" because it no longer asked the "... hard questions ... regularly asked in planning meetings throughout the 1970's, '80's and '90's."<sup>1410</sup> Clearly a tension between the strategic and operational/tactical requirement remains, and given that the JFC also adds a further military tier of authority between the civilian strategic capability (as described in Section 2.b above) this is only likely to increase under these new organisational arrangements.

Perhaps more radically, the ethos of the new JFC is intended to be collaborative and geared towards low institutional costs, albeit out of necessity as the organisation will remain minimally resourced and reliant on the single services. Its first commander, Air Chief Marshall Stuart Peach, has been portrayed as preferring a diplomatic approach,<sup>1411</sup> and his Chief of Staff, Major General Phil Jones, is explicit that the posture is "... supportive, collaborative and enabling" and is clear that lowering anticipated frictions by 'developing interfaces' and clearing up property rights overlaps by 'establishing boundaries' were at the top of his agenda although not yet achieved.<sup>1412</sup> More concrete perhaps are the improvements to the institutional cost problems that having intelligence and other functions sitting

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<sup>1409</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.309-310

<sup>1410</sup> Rt Hon Rory Stewart, "Defence Spending - Business of the House " in *House of Commons*(Hansard, 19th June 2014).

<sup>1411</sup> Nick Hopkins, "Sir Stuart Peach Appointed Head of UK's New Joint Forces Command," *The Guardian Defence and Security Blog*(2011), <http://www.theguardian.com/news/defence-and-security-blog/2011/sep/15/stuart-peach-defence-appointment>.

<sup>1412</sup> Jones, "The Joint Forces Command: What Does the Organisation Offer".

uncomfortably in the central TLB provoked. The JFC has not only subsumed many of the functional areas that Lord Levene suggested,<sup>1413</sup> it has also established its own TLB, effective as of April 2012, from which to run them as a coherent whole. The board that then manage that budget include officers such as Chief of Joint Operations (CJO) and CDI which should ensure lower frictions as scarce resources are negotiated over through trade-offs between contingent capabilities, rather than between current operational needs and longer term wish lists.<sup>1414</sup>

At the same time however the CDS and PUS are describing the 'fundamental changes' in relationship between the four services, the MoD, Defence Equipment and Support and Defence Infrastructure. They argue that the alteration in TLB arrangements is part of as a shift back to single service power bases.<sup>1415</sup> Property rights between them may become clearer, but it is as likely that the overall effect is simply another round in the contest between the centre and the services. The JFC may represent the sort of shift towards lower frictions between parts of the military whole that will improve intelligence at the joint level. It is however a very recent construct and it will take several years before this can be established. Concerns remain that the JFC has simply created another HQ 'without dismantling some of the others'<sup>1416</sup> with the inevitable property rights problems that this might engender. Certainly the detailed organisational structure is a work in progress and the sort of informal nodal connections that might make the construct a success in managing collaboration remain to be negotiated across.

Furthermore, the US Joint Forces Command (JFCOM), a Unified combatant Command formed in 1999 to improve transformational efficiency, and on which the UK version was to be closely modelled, was itself closed down in

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<sup>1413</sup> "The Levene Report."Section 9.7

<sup>1414</sup> "The Joint Forces Command: What Does the Organisation Offer".

<sup>1415</sup> "Blink and You Might Miss a Big Change at the Mod," ed. General Sir David Richards and Jon Thompson, (2013), <http://www.thinkdefence.co.uk/2013/04/blink-and-you-might-miss-a-big-change-at-the-mod/>.

<sup>1416</sup> Andrew Brookes. Dir Air League quoted in Hopkins, "Sir Stuart Peach Appointed Head of UK's New Joint Forces Command".



2010 as a result of their defence budget cuts.<sup>1417</sup> This cannot have helped the UK's new JFC's credibility and may result in the emergence of NATO level connections that bypass the JFC altogether. Lord Levene's recommendation that the CDI post no longer requires Three Star leadership<sup>1418</sup> may also have negative repercussions (although the idea seems to have been sidelined for the moment): The civilian Secret Intelligence Service's demotion of their post holder on the requirements side had significant and unfortunate ramifications for the function,<sup>1419</sup> and the post has had to be re-established as the Director of Requirements and Compliance. It seems likely that if this was the case in a civilian organisation, it will be more of a problem in a steep hierarchy like the military. Sir Stuart Peach was however emphatic that the JFC would provide a voice for enabling functions like intelligence,<sup>1420</sup> and is himself a former CDI. Beyond him however the role may become the voice of a generalist as staff rotate, with intelligence's own voice receding still further.

Overall then the level of cooperation across the upper reaches of the United Kingdom's defence intelligence apparatus remains poor, although there are nascent signs of this being addressed. Property rights confusion over national and civilian requirements and between strategic and more operational needs still undermine collaboration between them, and no clear negotiating forum through which these can be clarified has emerged; instead further complexities in the national machinery are likely to increase frictions. Within the military itself the same tensions are still apparent, but attempts are at least being made to address them. Defence Intelligence nonetheless remains the exception to the rule of low friction relationships within the intelligence community in the United Kingdom.

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<sup>1417</sup> The US JFC was one of the early victims of defence cuts in 2010. see Mark Thompson, "Gates Wields the Ax, and a U.S. Command Dies," *Time*(2010), <http://content.time.com/time/nation/article/0,8599,2009535,00.html>.

<sup>1418</sup> "The Levene Report." Part 6: head Office.27

<sup>1419</sup> Davies, "A Critical Look at Britain's Spy Machinery: Collection and Analysis on Iraq".

<sup>1420</sup> Ian Carr, "Commanding View: Air Chief Marshall Sir Stuart Peach Talks About the Creation of Joint Forces Command," *Defence Forces*, no. 260 (2012), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/27935/dfapril2012.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/27935/dfapril2012.pdf).

### **Section 3: Decreasing Institutional Costs across the US Defence Intelligence Enterprise**

In their '2012-2017 Strategic Plan' the United States 'Defense Intelligence Enterprise' (of which the DIA remains the foremost part) acknowledges that prioritising the grand strategic or the tactical level is no longer manageable. Instead it must address what it specifically identifies as a "... complex and uncertain.." future environment by lowering institutional costs across what has been the missing ground between them. In this way it seeks to be able to most easily re-direct assets between them as circumstances shift, and even organisational forms themselves can be quickly re-constituted to a more appropriate form through "... aggressive and adaptive restructuring..." to support them.<sup>1421</sup> The plan thus accepts, in an echo of Rupert Smith's observation,<sup>1422</sup> that the breadth of the potential modern military intelligence mission means that no 'perfect form' for the DIA will exist, so that low internal institutional costs are a prerequisite for easy adaptation to any particular case. This section will therefore examine the structural architecture that supports cooperative behaviour between different sub-level organisations so that the adaptability sought by the plan might be achieved, and how recent shifts in the type and methodology of operations undertaken has impacted on them.

#### **a. Low Institutional Costs impact on Vertical Support and the Strategic Level**

The shift to a more uncertain and complex environment post Cold War meant that the US defence intelligence community had to deal with potentially much higher institutional costs. Thus a pre-negotiated, flexible, and low friction set of interwoven architectures was deemed essential if the full capabilities of the intelligence community were to be brought to bear against a threat. Within the Executive this meant the establishment of a number of cross-cutting security committees to coordinate security policy and provide advice. These crossed previously discrete departmental divides. Perhaps most notably,

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<sup>1421</sup> "2012–2017 Defense Intelligence Agency Strategy. One Mission. One Team. One Agency.."2-3

<sup>1422</sup> Quoted in Chapter 7 but see Smith, *The Utility of Force: The Art of War in the Modern World*.6

1994 saw the creation of the Security Policy Board by both the Deputy Secretary of Defense and the DCI.<sup>1423</sup>

Within the military the experience of high institutional costs at the strategic level that had occurred in trying to run a Department of Defence Joint Intelligence Centre (DoD JIC) during Operations Desert Shield/Storm (discussed previously) led to fundamental changes in Joint Intelligence Center management. These included pre-negotiation of staffing surges and joint exercising,<sup>1424</sup> and a continuing evolution of DIA that paralleled developments in the wider military towards Joint Task Forces (JTF's) which could be utilised in a peace time role, but in a form easily transmuted to a war footing.<sup>1425</sup> The central idea being that they too could lower the frictions when shifting between various missions; from long term "...projecting future threat environments" to short term provision of "... insight to operating forces".<sup>1426</sup>

To achieve this shift the DoD's JIC was re-constituted as the National Military joint Intelligence Center (NMJIC) immediately after the 1991 war. This was more than a merely semantic change. Those elements that had functioned effectively during the war were institutionalised, and the Joint Intelligence Centers became the primary nodes for intelligence support to any CINC.<sup>1427</sup> Future conflicts would thus not face the same uphill struggle to achieve them once the threat emerged. Beyond this however the NMJIC is an exercise in lowering all the institutional costs that so affect intelligence in the military sphere. It was organised along very similar lines to those used so successfully some years later by the UK's civilian JTAC. Analytical teams were arranged by both geographical area and thematic divisions, all of which worked to produce the same reporting rather than competing outputs. It was made into a genuinely joint body, first by the permanent inclusion of staff from all the four services, followed by permanent staff from both the NSA and

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<sup>1423</sup> William Clinton, "Presidential Decision Directive 29 Security Policy Coordination," in *NSC-29*, ed. National Security Council (Washington D.C.: The White House, 1994).

<sup>1424</sup> Bird, "Analysis of Intelligence Support to the 1991 Persian Gulf War: Enduring Lessons." 12

<sup>1425</sup> "C.J.C.S. Report on the Roles, Missions, and Functions of the Armed Forces of the United States: The Joint Intelligence Architecture," ed. Chairman of the Joint Chiefs of Staff (Washington: Joint Chiefs of Staff, 1993).

<sup>1426</sup> Clapper Jr, "Challenging Joint Military Intelligence." 93

<sup>1427</sup> *Ibid.* 95-96

CIA agencies. Furthermore it could include not only State Department analysts, but also those of the FBI; no small achievement in the pre 9/11 era of the 'wall'.

Designed to manage longer term indicators and warning, the NMJIC was also intended to be crisis centric, so that it could be readily realigned towards an emerging problem. Any working group could be easily expanded into Intelligence Task Forces, and from there into a full Operational Intelligence Crisis Center. Analysts could be quickly re-located to the Bolling Air Force base Defense Intelligence Analysis Center (DIAC) to provide a NMJIC capability that has immediate access to all of the DIA's analytic output and could immediately become the 'clearing house' for all requests of national assets. Property rights over national assets were thus clarified so that the unit could better co-ordinate support to operational units via their intelligence field units.<sup>1428</sup>

At the same time at the next level down Joint Intelligence Centers within the combatant commands extended this policy of low institutional cost support to the tactical level through an architecture designed to interconnect collectors producers and customers directly.<sup>1429</sup> The experiences of the Gulf war also led them into pursuing a system of lower institutional costs in their (then) core function to support combat operations. The Department of Defence pursued a number of initiatives that included 'pushing' more national level intelligence collection and analysis functions out from the centre by establishing Joint Intelligence Centers not only at a national level but within each combatant command. This approach was further adapted in 2006 when the merger of the Combatant Commands intelligence elements' financial and administrative functions were merged into the DIA in Washington.<sup>1430</sup>

Almost accidentally this started the process of easier horizontal collaboration in the missing mid-levels as each Joint Intelligence Center then included liaison officers not only from within the DIA itself, but also from the NSA and

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<sup>1428</sup> Ibid.95-96

<sup>1429</sup> "C.J.C.S. Report on the Roles, Missions, and Functions of the Armed Forces of the United States: The Joint Intelligence Architecture."

<sup>1430</sup> Deborah Melancon and Todd Brymer, "Agencies Create Architecture to Support Intelligence," *The Public Manager* 41, no. 1 (2012).

CIA (whose input had been so absent during Desert Shield/Storm). Perhaps more importantly these combatant command Joint Intelligence Centers brought with them tools such as the Joint Deployable Intelligence Support System (JDISS) which provided less friction in disseminating intelligence horizontally. The same system was also a medium for multi-way communication. This helped the age old problem of whether a 'push' or a 'pull' architecture encourages maximum utility in different intelligence functions,<sup>1431</sup> as it encompassed a capacity for both, and so increased flexibility to shifting environmental conditions. As these were linked into the more sensitive compartmentalised information held on the 'Joint Worldwide Intelligence Communications System' (JWICS) they thus provided a low institutional cost first-point of access, via their liaison officers, to external agencies and defence intelligence product. All of which assisted in building trust between previously delineated personnel, and thus lowering negotiating tensions across the wider community.<sup>1432</sup>

#### **b. A Revolution in Military Affairs and Information Management**

Just as the arrival of the information age caused an environmental shift in counterterrorism thinking, so too did it affect defence, and in particular defence intelligence, provision. It finally permitted the sort of joint working that had been intended ever since the 1986 Goldwater Nichols Act.<sup>1433</sup> What became known as the Revolution in Military Affairs (RMA), and the subsequent advent of 'Information Operations' as a military concept in their own right, fundamentally changed the place of intelligence in defence. Thereby changing the collaborative architecture it required to function. Strategic, operational and tactical decision making were all suddenly linked through concepts like the 'Intelligence Preparation of the Battlespace' (IPB). IPB became a formalised, pre-negotiated holistic fully joint intelligence undertaking, adapted to the specific needs of any given situation to the extent

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<sup>1431</sup> For a discussion on the relative merits of 'Push' and 'Pull' architecture in directing intelligence assets see Davies, *M.I.6 and the Machinery of Spying*.340-342

<sup>1432</sup> See for example "C.J.C.S. Report on the Roles, Missions, and Functions of the Armed Forces of the United States: The Joint Intelligence Architecture."

<sup>1433</sup> *Goldwater Nichols Department of Defense Reorganization Act of 1986*.

that it did not even need to be DoD led.<sup>1434</sup> Crucially intelligence was a key component of how a whole operation could be managed, rather than simply a mechanistic battle field support function.

In turn this was eventually linked to the very different sort of operational goals asked of the military in counterinsurgency operations. Commanders and planners had to think beyond the kinetic outcomes of any action, to the much more wide ranging and unpredictable social and economic results might result from any actions they took. These more rounded, all-inclusive, 'Effects Based Operations' (EBO) require intelligence and operational collaboration of a very different order to that needed in conventional conflicts. Relatively simple information on the capabilities and intentions of an enemy must be augmented by more contextual understanding of the society amongst whom a campaign is being waged.<sup>1435</sup> This requires a very different, far more interactive relationship between intelligence and other functional areas of defence provision.

In fact US military intelligence deliberately reconfigured itself so that it could act as a low-friction nexus across several planes, becoming a central tenet of RMA and became still further integrated under Secretary of Defense Rumsfeld's 'Defense Transformation' plan. The high levels of synergy already established at the Combatant Command level was extrapolated down still further without additional negotiating frictions needing to be incurred: The National Military Intelligence Support Teams (NMIST) and National Intelligence Support Team (NIST) which had already become an integral part of any joint task force could be supported by an already agreed operational level 'Joint Intelligence Support Element' (JISE), whether based in theatre or at home, working to the JTF J-2. The JTF J-2 in turn coordinates all the single service and even coalition intelligence assets,<sup>1436</sup> thereby simplifying the number of nodal connections required, and allowing

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<sup>1434</sup> Leigh Armistead, *Information Operations: Warfare and the Hard Reality of Soft Power* (Washington D.C.: National Security Agency. Joint Forces Staff College. Potomac Books, Inc., 2004).56-57

<sup>1435</sup> See for example Jack Marr et al., "Human Terrain Mapping: A Critical First Step to Winning the Coin Fight," *Military Review* 88, no. 2 (2008).

<sup>1436</sup> Armistead, *Information Operations: Warfare and the Hard Reality of Soft Power*.56

boundedly rational actors to focus on more limited and better delineated areas.

At the highest level, property rights over what were effectively new types of operation were clarified between the Assistant Secretary of Defense for Command, Control, Communications and Information (ASD C3I) and the Under Secretary of Defense (Policy) [USD(P)], via a memorandum of understanding in 1999. A property rights architecture that survives despite other organisational shifts and various post holders: ASD-C3I dealt with information assurance issues, and the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD-SOLIC) generated policy unique to that area, as well as separate policy areas for psychological operations and public information:<sup>1437</sup> A prescient move that left the United States well placed to capitalise on intelligence and Special Forces collaboration throughout the following decade. Collaboration achieved through the evolution of the Joint Special Operations Component Commander (JSOCC), and the wider tactical shifts embodied in the Flynn report (both of which are discussed later). Unlike in the United Kingdom, the United States had deduced that property rights affected by shifts in strategic level policies would also need to be addressed as early as 1999.<sup>1438</sup>

In fact, within the upper echelons of the DoD, the already strengthened ASD C3I eventually split (in 2003) to manage the different authorisations for covert actions that had previously been a simple matter of being either military, and within the gift of the Secretary of Defense, or civilian and needing Congressional authority.<sup>1439</sup> However the move was also designed to ensure, under a single 'Under Secretary of Defense (Intelligence) [USD(I)]', a closer correlation between the 'intelligence' and the 'information operation'

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<sup>1437</sup> Walter Slocombe and Arthur Money, "Under Secretary of Defense for Policy and Assistant Secretary of Defense for Command, Control, Communications and Intelligence, Joint Memorandum Direction to the Staffs: Seamless Integration between U.S.D.(P) and A.S.D. (C3i) Regarding Information Operations," ed. Department of Defense(Washington D.C.1999). Quoted by Armistead, *Information Operations: Warfare and the Hard Reality of Soft Power*.31-32

<sup>1438</sup> *Information Operations: Warfare and the Hard Reality of Soft Power*.31-32

<sup>1439</sup> The blurring of Title 10 and Title 50 authorisations remains a matter of debate since the 'War on Terror' effectively altered the geographically defined nature of a combat operation. See Marshall C Erwin, "Covert Action: Legislative Background and Possible Policy Questions,"(Washington D.C.: Congressional Research Service 2013).

functions, which by then applied across conflict and peacetime defence activity, and which were already central to the United States outward looking security posture.<sup>1440</sup> The distinction between the military and civilian spheres was blurring and safeguarding the low institutional cost relationship between the two thus of increasing importance.<sup>1441</sup>

As a result the position changed from one where the CIA had declined to join the original DoD JIC during the Gulf war to one where even the upper levels of the intelligence community have managed to achieve a largely collaborative relationship within the defence intelligence arena. This relationship was described by Admiral McRaven (Commander US Special Operations Command) and Michael Lumpkin (Acting Assistant Secretary of Defense – Special Operations/Low Intensity Conflict) in their 2011 testimony to Congress: McRaven describes a routinely interagency way of working at the operational level. Lumpkin meanwhile actively declines to have control of special operations moved into his personal remit, and implicitly refers to the clear set of property rights that already exist. Both are clear that the interagency approach at the strategic level is the most affective course.<sup>1442</sup> In this, one sees an American senior bureaucrat behaving less as Niskanen would predict, and more like Dunleavy's model of British bureaucrats<sup>1443</sup> because institutional costs have been lowered and property rights made clearer.

That is not to say that the advent of information based defence planning and the more collaborative approach it engendered solved the institutional cost problem altogether. Increasing availability of data mean that information costs can still be high between boundedly rational actors incapable of dealing with more than a fraction of it. Proponents of RMA and other information

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<sup>1440</sup> It should be noted however that the creation of the USD(I) position caused disagreements between the DoD and CIA over the roles and responsibilities of each that would result, essentially a property rights dispute. See for example Allen, *Blinking Red : Crisis and Compromise in American Intelligence after 9/11*.20

<sup>1441</sup> Armistead, *Information Operations: Warfare and the Hard Reality of Soft Power*.31

<sup>1442</sup> *The Future of U.S. Special Operations Forces: Ten Years after 9/11 and Twenty-Five Years after R-Nichols: Hearing before the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services House of Representatives*, 1st, 22nd September 2011 2011.10, 13-14

<sup>1443</sup> Discussed in Chapter 3 but see Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.



centric initiatives that best provide a low institutional cost collaborative response to the current crop of more complex threats and high levels of uncertainty in the environment argue that the natural extension to these developments are fully decentralised all-source, and demand led organisations like Pentagon's then Director of Transformation Admiral Arthur Cebrowski's Information Dominance Center's (IDC's). These are focused at the operational level and based in theatre commands, constantly 'merging' incoming information into an adapting picture, so that the threat from terrorism and asymmetric war fighters can be best answered.<sup>1444</sup> Certainly this helps address the problems of too much information simply swilling about the system unused, and would lower the institutional costs involved in getting it front of a decision maker.

But, as the British found, such a focus is likely to be to the detriment of the broader strategic, national-civilian intelligence capability. A low institutional cost architecture right for one context need not be right in another. In the same way that Herman worried that intelligence based on measurement will limit deeper analytic ability,<sup>1445</sup> such a move will provoke other institutional costs such as what Ferris and Handel called the 'Type B Information Problem' with too much fluid information preventing good decision making in boundedly rational commanders.<sup>1446</sup> The property rights and architecture that has so recently been established would have to be contested once again, heightening frictions and negatively impacting on the low institutional cost interdependencies currently enjoyed as shifts between Washington and the Combatant Commands, and between the DoD and CIA at the operational and tactical levels (see below) were adjusted once again.<sup>1447</sup> Furthermore the divergent needs of larger collaborative groupings on the one hand and the need for secrecy on the other would be increasingly problematic. Refusing to supply intelligence can after all provoke longer term probity difficulties. This is

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<sup>1444</sup> Ferris, "N.C.W., C4.I.Sr., I.O., and R.M.A.."292

<sup>1445</sup> Herman, "Where Hath Our Intelligence Been? The Revolution in Military Affairs."

<sup>1446</sup> John Ferris and Michael I Handel, "Clausewitz, Intelligence, Uncertainty and the Art of Command in Military Operations," *Intelligence and National Security* 10, no. 1 (1995).

<sup>1447</sup> John Ferris, "Netcentric Warfare, C4isr and Information Operations," in *Secret Intelligence: A Reader*, ed. Christopher Andrew, Richard J Aldrich, and Wesley K Wark(Oxford: Routledge, 2009).458-9

even more the case when coalitions, often with non-traditional 'Four-eyes' countries are involved.<sup>1448</sup>

More successful collaborative working in the complex and uncertain defence sphere is therefore not simply a matter of employing an IT solution. Rather the improved cooperative performance of the combat support agencies within DoD is based on structural shifts that have promoted clearer property rights, permitting easier cross functional collaboration rather than overlap, and low friction adaption to environmental changes that can be easily negotiated. The next sub-section will therefore look at three examples of post Gulf War initiatives that have applied this more collaborative ethos.

### **c. Examples of Low Institutional Cost Architecture at the Operational Level**

#### **i) The DIA's Council of Deputies**

The DIA's Council of Deputies was created after the 2006 expansion of its mission in relation to the Combatant Commands, coupled to the need for an operational level infrastructure that could support the evolving low institutional cost strategic and tactical way of working. The effectiveness of the MIB is for example dependent on the advocacy and balance of the positions put to it from the mid-level officers below it.

In 2006 the DIA's responsibilities' as an operational level 'host' were significantly extended when some of these functions for the intelligence components in nine of the Combatant Commands were folded back into the DIA (with only tactical level functions left within the command). This potentially provoked two institutional cost problems: Firstly it provided the potential for opportunistic behaviour by boundedly rational actors separated by significant distances, who could realistically have been expected to contest responsibilities over these new roles and use the move to improve resource allocations to the centre at the expense of the denuded combatant commands. New property rights would necessarily have to be negotiated to match the new structure and those in the DIA had a significant information

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<sup>1448</sup> Armistead, *Information Operations: Warfare and the Hard Reality of Soft Power*.56

advantage, established relationships with decision makers, and were already better designed for the new structure. Secondly the change meant a significant increase in complexity so that the needs of individual commands could more easily be 'lost', particularly as in any traditionally hierarchical structure they would have then been in competition with the intelligence needs of both the Joint Chiefs of Staff and the increasing authoritative Special Operations command, both of whom were physically proximate.<sup>1449</sup>

Instead however the DIA created the Council of Deputies, eliminating five other boards with overlapping property right in the process. The Council, like the MIB above it, boasts both a consultative and decision making role, and was tested during the planning of the 2013 'program build'. This had previously been an excessively competitive process as different sub-units compete for the scarce resources on which they will operate into the future; a zero sum game whereby success is entirely relative so that the denigration of one's competitors is as much a victory as individual recognition. However the Council of Deputies managed to encourage a sense of shared maximand amongst actors, and decreased the asymmetry of information holdings between them, by increasing transparency. It thereby reduced the temptation to behave opportunistically. Having established an agreed set of priority areas, negotiations were managed through a series of trade-offs.<sup>1450</sup> Negotiations thus became more overtly sequential than in the past, and probity between actors could be established so that any trade-off would be more likely to see a return in a later round.

The linkages established provoked actors to demonstrate "... increased advocacy by its members for each other's priorities" through improved awareness of what each could do for the overall capability, so that a shared maximand was established. The council membership includes representatives from all the Combatant commands but is basically flexible depending on an issues relevance to a given actor; importantly however it is not dominated by Headquarters staff so that even the impression of hierarchical dominance from the centre is avoided. Thus it provides genuine

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<sup>1449</sup> Melancon and Brymer, "Agencies Create Architecture to Support Intelligence."27

<sup>1450</sup> Ibid.28

access to MIB level decision makers to even the furthest Combatant Command on any operational support matter that might affect it.<sup>1451</sup>

## ii) JIVA and IADS as Contrasting Stories

The importance of property rights in complex and uncertain situations is not only relevant at an organisational level like the Council of Deputies case, but to actors at all levels, and even on an individual basis, nor is the opportunistic behaviour described in the British military context above exclusive to the individuals involved, or even their cultural and social norms. The propensity of lower level managers to act opportunistically under bounded rationality, and pursue a sub-level utility for their own advancement or unit and is unlikely to have simply stopped with the advent of the 'War on Terror'. Gregory Treverton suggests that the managers of stove piped national level agencies within the DoD had actually managed to develop significant autonomy for themselves even within the DoD itself by capitalising on the opaque property rights of both the (then) DCI and the equivalent military intelligence leadership; essentially by claiming to each that the other was restricting them.<sup>1452</sup> Mid level managers will also pursue their own rational self interest to the detriment of a larger strategic ambition (of which they may know little) whenever a lack of clarity around the property rights to the resources they believe they control is conjoined with bounded rationality in a complex or uncertain environment.

To demonstrate this consider the apparently wholly different outcomes of two different defence intelligence programs in the mid 1990's: The first instance to be considered was initiated as a response to Congressional criticism that the American intelligence community members were overly competitive and unable to collaborate or share information adequately. The DIA, despite their reputation as one of the least collaborative members of the intelligence community, answered by beginning the development of the Joint Intelligence Virtual Architecture (JIVA).<sup>1453</sup> This involved creating cross-agency virtual

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<sup>1451</sup> Ibid.27-28

<sup>1452</sup> Treverton, *Reshaping National Intelligence for an Age of Information*.89-90

<sup>1453</sup> See John Pike, "Joint Intelligence Virtual Architecture Jiva," Federation of American Scientists, <http://www.fas.org/irp/program/core/jiva.htm>.

teams of analysts in thematically bounded areas, working on ‘collaborative white boards’ that can provide “modular” “living” intelligence products. These are constantly being updated from around the community as new data arrives with minimal institutional blocks, an approach far better suited to any operational or tactical environment.<sup>1454</sup> In order to achieve this they reallocated some forty million dollars from other defence intelligence projects rather than securing new funding, creating a ‘sunk-investment’ that acted as a credible commitment to other community members, an important step in any circumstances where actors are both bounded rational and likely to act opportunistically.<sup>1455</sup>

Nor were the creators of JIVA naive as to the cultural hurdles to the venture, attempting to circumvent them through joint training and concept development. They even went so far as to appoint retired (and therefore theoretically non-partisan) three or four star ranks to act as mentors and lower negotiating costs between agencies when required.<sup>1456</sup> Furthermore the principles behind the project were fully supported by both the new DCI, James Woolsey and the Deputy Secretary of Defense, John Deutch.<sup>1457</sup>

Nonetheless the project was only successful in so far as it created a common data platform, Intelink.<sup>1458</sup> As an attempt to provide more deep rooted inter-agency links, the initiative was not particularly rewarding to participants, with interest and involvement tailing off within three years. Despite the significant efforts made by some very authoritative actors the property rights over the resource needed for the initiative to succeed, the analysts involved, were left opaque at middle levels of management. Middle level bureaucrats in whose

<sup>1454</sup> Armistead, *Information Operations: Warfare and the Hard Reality of Soft Power*.54

<sup>1455</sup> Williamson, "Credible Commitments: Using Hostages to Support Exchange."521

<sup>1456</sup> Linden, *Leading across Boundaries: Creating Collaborative Agencies in a Networked World*.157-161

<sup>1457</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.317-318 although it should be noted that even this cross agency success excluded the Federal Bureau of Investigation, who were not any part of the foreign intelligence community and instead continued with their own, domestic and law enforcement case based system, the ‘Automated Case System’ (ACS) despite its manifest failings as an intelligence tool.

<sup>1458</sup> It is at least arguable that the rapid rise of Intelink was a root cause of Edward Snowden's subsequent ability to reveal such huge quantities of data due to the lack of compartmentalisation, re-emphasising the tension between secrecy and communication costs discussed in Chapter 1. In the UK, the nearest equivalent program, SCOPE, was not driven by the same need to lower communication costs as these were not the problem in the UK, and was much slower in development. For a comparison see *ibid*.Vol.2.246

hierarchy they at least partly sat were faced with a skewed set of incentives. They were excluded from, and even unaware of, tactical level intelligence gains that they could use, as well as from any strategic successes that might have produced reputational gains for them. Therefore no additional utility reached them at a personal level. Instead they experienced a reduction in their real control over the asset without any reduction in their managerial responsibility for them and their productivity within their own section. They were thus motivated to behave opportunistically; to hinder the initiative and their staff's involvement in it.<sup>1459</sup> A lack of clarity over property rights therefore derailed this attempt at low institutional cost collaboration.

The importance of institutional costs in deciding collaborative success can be demonstrated by contrasting the limited cooperative success engendered in the early years of JIVA with the more complete compliance from all levels enjoyed by a similar program; the 1994 Defense Intelligence Agency's Integrated Air Defense System (IADS) project. In this case property rights, which included the roles and responsibilities of actors and also what they could expect in return, were made explicitly clear at the outset. The narrower focus of the undertaking, to integrate different functional areas of intelligence analysis (such as an enemy's radar capability with their surface-to-air missile capability) permitted an easier sense of a shared maximand by actors at all levels, set within clear property rights despite the tri-service nature of the input required, as each participant had a specific expertise to contribute. The two part structure of co-ordinators and analysts was explicitly designed to include middle managers in their normal directional roles, which also ensured a credible commitment from each sub-group towards the general level utility. Furthermore those involved in the early formation of the project seem to have been implicitly aware of the need to minimise institutional costs and ensure that ongoing negotiations and monitoring could be best managed via an informal and flexible organisational structure.<sup>1460</sup>

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<sup>1459</sup> Linden, *Leading across Boundaries: Creating Collaborative Agencies in a Networked World*.157-161

<sup>1460</sup> *Ibid.*173-175

In fact the program and its architecture looks more similar to its UK civilian counterparts than to those more normally found in the US military organisation at that time in both its organisation and its aspirations: Property rights are clearly allocated amongst what are nonetheless mutually interdependent actors and sub-groups, granting each improved to genuinely all source intelligence on a particular theme.

### iii) Knowledge Labs as a Low Institutional Cost Route to Information Sharing

The different cultural requirements for needed by intelligence officers and combat troops were similarly addressed at an operational level some years later. In 2004/5 the DIA, having acknowledged that most of their projects involved both inter and intra agency collaboration, designed and developed an agency wide initiative known as the 'knowledge lab' specifically to lower institutional costs at the operational level and so improve collaboration.<sup>1461</sup>

Central to this effort was the understanding that the military is necessarily a hierarchical organisation, with information traditionally passed vertically up a rigid command chain, but that a 'knowledge based' organisation such as the DIA needed to "... behave collaboratively, seamlessly move across organisational boundaries" and indeed to "... promote the use of personal networks"; anathema to a rigid bureaucracy.

Rather than being an intelligence sharing, shared IT initiative the knowledge lab concept was to create collaborative networks not of finished product but of adaptive work groups linked from the moment the problem to be addressed was identified.<sup>1462</sup> An Organizational Network Analysis (ONA), which amounted to a "... probe into a complex social system", was conducted to shed light on the DIA's patterns of behaviour (including those that needed 'disrupting'). The results of the ONA however were not used to seek out high impact or efficient programs or units, but rather to identify points of

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<sup>1461</sup> Patti Anklam and Adrian Wolfberg, "Creating Networks at the Defense Intelligence Agency," *Knowledge Management Review* 9, no. 1 (2006).10-11

<sup>1462</sup> Zeke Wolfberg, "Lessons Learnt from Really Changing Intelligence," *Inside Knowledge* 12, no. 4 (2008).

“betweenness... the extent to which individuals lie on paths between others”.<sup>1463</sup>

The knowledge lab entity itself was organisationally predicated to keep frictions low: It avoided being under the governance of any particular line of the organisation so that it would not be associated with one, and therefore was not perceived as a challenge to the others. It avoided appropriating either budgetary or personnel resources so that middle managers were not disaffected, but rather used ‘volunteers’ who continued to do the day job but now brought with them an extended capability against complex problems that extended beyond what managers had been previously able to call on. This meant that the new approach was gradually accepted as the ‘line of least resistance’, rather than being resisted because it had been imposed from above. A summary of successful pilot projects by the project leader indicates how key low institutional costs were: The ‘Crossing Boundaries’ project was designed to lower negotiating costs both vertically and horizontally and to reduce both bounded rationality and the incentive for opportunistic behaviour. ‘Critical Discourse’ was aimed at increasing the sense of a shared maximand. This was supported by a mentoring project that engendered one in staff.<sup>1464</sup> This increased the synchronicity between it and the sub-goals of lower units and individuals. The sort of cultural asset specificity that was shown to be so problematic in the British case was addressed through the ‘Full Spectrum’ projects, which attempted to insulate both analysts and managers from the pressures of the sort of institutional norms that could impose higher costs in any new situation that might subsequently develop.<sup>1465</sup>

#### **Section 4: The Applicability and Implications of Lower Institutional Costs in US Defence Intelligence Beyond the DoD**

The wider implications of these shifts in institutional costs must now be considered. These include the degree to which the United States has managed to extrapolate out this experience to the wider intelligence and

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<sup>1463</sup> Anklam and Wolfberg, "Creating Networks at the Defense Intelligence Agency."13-14

<sup>1464</sup> Ibid.14

<sup>1465</sup> Wolfberg, "Lessons Learnt from Really Changing Intelligence."



security community and how durable a construct the lower institutional cost ethos is within it. Certainly over the two decades there has been a number of initiatives that have promised improved cooperation more generally:

During the crisis in the Balkans the NIST/NMIST model was borrowed by an under pressure State Department to create what became known as a 'Diplomatic Intelligence Support Center' (DISC). This was needed, ironically, because President Clinton's 1995 Presidential Decision Directive 35 (PDD-35)<sup>1466</sup> had prioritised support to military operations over support to diplomatic operations for intelligence agencies. This had made their assets in the Balkans specific to force protection rather than able to support the sort of shuttle diplomacy and monitoring required in the run up to the Dayton Accord. In the face of an urgent need the 'Bureau of Intelligence and Research' (INR) created an "...interagency, all-source, dedicated analytical unit" to provide tactical level support to the Embassy team. It was an innovation designed to by-pass the rigidities of PDD-35, which had been drawn up by boundedly rational actors at the NSC to deal with the complexity of too many competing 'demands' on intelligence in the post Cold War era, but which had failed to factor in uncertainty. It was cooperatively designed from the outset by the several agencies involved; an INR initiative strongly supported by the DoD and with a CIA officer as its lead. Thus each actor had the same sense of what the maximum utility looked like and shared information and physical space allowed quick and low friction negotiations to address unanticipated requirements or contingencies as they arose at the margins. The format acted as the securer of property rights for all concerned so that they could work collegially.

Yet despite this success the DISC was dismantled as soon as the crisis diminished. The high institutional costs more traditional between the organisations involved reasserted themselves back in Washington as upper-mid level managers acted opportunistically to support their own

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<sup>1466</sup> William Clinton, "Presidential Decision Directive 35: Intelligence Requirements," in *PDD-35*, ed. The White House (Washington D.C.: Office of the Press Secretary, 1995). PDD-35 had been intended as a national intelligence 'needs' process but had instead become a rationale behind not doing things as resources became more restricted. See Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.144

organisations. The CIA lobbied to maintain the role of sole intelligence providers in such areas, despite their inability to deliver alone in the Balkans case and a cash starved State Department acquiesced.<sup>1467</sup> High transaction costs were then deliberately reintroduced into the system to prevent easy repetition and the establishment of a DISC now needs the express approval of the Director National Intelligence, who must answer to Congress for the appropriations involved.<sup>1468</sup>

The occasional encouraging signs of a less competitive intelligence community is thus by no means a general picture, and even within defence intelligence there are contradictory indicators. The move from a competitive regime of high institutional costs (despite a relatively stable threat environment) during the cold war, to a collaborative low institutional cost network operating in the face of much higher uncertainty and complexity is no small achievement. It has however been achieved from within the DoD's position of dominance in the US intelligence community, and while the military mission has been at the forefront of foreign policy, so that the trade-offs involved have been largely internal or, if external, of a minor more tactical-level type. Despite some signs of a wider pursuit of low institutional cost collaboration across the community there are clear indications that the shifts described above are specific rather than general.

A number of examples may be cited to support this view. While operational level coordination with the CIA may be near seamless in some areas, there are still clear distinctions between the DoD and other civilian organisations. Language costs between the two remain. As late as February 2015, while the DNI issued one directive defining national security information that must be passed to the NSC as 'critical information' or CRITIC,<sup>1469</sup> the DoD published its dictionary of military terms defining 'CRITIC' and critical information as that pertaining to friendly intentions and capabilities that would be needed by

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<sup>1467</sup> Sims, "Understanding Friends and Enemies: The Context for American Intelligence Reform." 51-53

<sup>1468</sup> "Intelligence Reform and Terrorism Prevention Act of 2004." 125-126

<sup>1469</sup> "Intelligence Community Directive 190: Critical Information (Critic)," ed. Office of the Director of National Intelligence (O.D.N.I.) (Washington D.C.: Federation of American Scientists, 2015).

an enemy.<sup>1470</sup> In 2013 the United States was still running 15 different unmanned aircraft programs, at a cost of some thirty-seven billion dollars, to the detriment of both efficiency and shared research gains.<sup>1471</sup>

Even between the services themselves the possibility of a resurgence of high institutional costs exists. General Cartwright, a former Vice Chairman of the Joint Chiefs of Staff, who has some experience of the single services working together, suggests that declining defence budgets will negatively impact on cooperation across the board despite the successes it has brought because in times of austerity cross-cutting organisations are viewed as 'bill payers' by single service management.<sup>1472</sup>

In some areas of defence intelligence the same enthusiasm for 'turf' is still evident: The DIA's continuing efforts to expand their human intelligence or HUMINT role have been ongoing since the 1990's for example, and encroach very directly on a CIA core function. This also suggests that the CIA's collection priorities are too tied to their national responsibilities for DoD preferences, leaving a potential gap in more specifically defence spheres.<sup>1473</sup> Although current levels of tactical cooperation in Afghanistan and elsewhere are very high,<sup>1474</sup> there is no guarantee that will persist as levels of overt conflict decrease. In the immediate aftermath of the Cold War, and despite budgetary pressures to reduce DIA expenditure by 20%, the then Director James Clapper, himself one of the architects of the low institutional cost approach, attempted to significantly enlarge the DIA role in HUMINT provision. His own motivation may have been to merely reconfigure the four single service intelligence structures into one more efficient organisation as the more complex threat environment made it become increasingly

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<sup>1470</sup> "Joint Publication 1-02. Department of Defense Dictionary of Military and Associated Terms," ed. D.o.D.(Pentagon: Federation of American Scientists, 2014).57

<sup>1471</sup> Remarks of Senator Tom Coburn (R-OK). "Congressional Record 159," (2013).

<sup>1472</sup> Cartwright, "The Future Dod Budget: Tradesthat Could Be Made."Question and Answer Session.

<sup>1473</sup> Eric Schmitt, "Defense Department Plans New Intelligence Gathering Service," *New York Times*, 23rd April 2012 2012.

<sup>1474</sup> Operational Level U.S. Army Officer M5, interview by Author, March, 2012, Afghanistan. See also inter alia Flynn, Juergens, and Cantrell, "Employing I.S.R. S.O.F. Best Practices."

important.<sup>1475</sup> However the move provoked a resurgence of both inter and intra agency conflict.

Property rights concerns with the CIA's Directorate of Operations and worries over professionalism by the single service elements<sup>1476</sup> meant each pursued sub-goals to ensure they retained operational control and achieved a more direct return on their own investment. The Army for example owned 85% of DoD HUMINT resources.<sup>1477</sup> Despite support at Deputy Secretary level, the net result was, as Davies puts it "...an unwieldy compromise...entirely consistent with the existing precedent in US intelligence management"; the four existing agencies became five, with the Defense HUMINT Agency (DHS) managing the DoD piece.<sup>1478</sup> Similar proposed expansions, riding on the back of some very significant tactical successes in both 2004<sup>1479</sup> and again in 2012 were also met with obstruction. In the latter case a much publicised DoD plan to create a Defense Clandestine Service that would have exactly paralleled the CIA's had to be blocked by the Senate. They cited current poor management practises and asked the DoD to produce any cross institutional agreements with CIA and NSA that would prescribe property rights between them and declined to fund the move.<sup>1480</sup> The Defence HUMINT case thus demonstrates that despite the low institutional costs established at all levels and discussed across this chapter, where doubts over property rights exist, contested negotiations are likely to obstruct a genuinely shared maximand and limit cooperative behaviour.

The sort of integration of defence and defence intelligence capability into a wider cross government security strategy in the way it has been managed in

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<sup>1475</sup> Deane Allen and Charles Francis Scanlon, *In Defense of the Nation: Dia at Forty Years*(Defense Intelligence Agency, 2002).237

<sup>1476</sup> The existing DIA 'Directorate of Attaches and Operations' (DA) was a coordinating body with no operational experience, all of which was housed in the single service organisations. See Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.3.11-312

<sup>1477</sup> Allen and Scanlon, *In Defense of the Nation: Dia at Forty Years*.237

<sup>1478</sup> Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*.Vol.1.311-312

<sup>1479</sup> Douglas Jehl and Eric Schmitt, "Pentagon Seeks to Expand Role in Intelligence Collecting," *New York Times*(2004), [http://www.nytimes.com/2004/12/19/politics/19military.html?\\_r=1&](http://www.nytimes.com/2004/12/19/politics/19military.html?_r=1&).

<sup>1480</sup> Greg Miller, "Senate Moves to Block Pentagon Plans to Increase Number of Spies Overseas ", *Washington Post*(2012), [http://www.washingtonpost.com/world/national-security/senate-moves-to-block-pentagon-plans-to-increase-number-of-spies-overseas/2012/12/10/5a9a55b8-42ea-11e2-9648-a2c323a991d6\\_story.html](http://www.washingtonpost.com/world/national-security/senate-moves-to-block-pentagon-plans-to-increase-number-of-spies-overseas/2012/12/10/5a9a55b8-42ea-11e2-9648-a2c323a991d6_story.html).

the UK's counterterrorism effort is also still absent, so that the DoD remains a largely autonomous tool for projecting policy. Its attempts to respond to the increased complexity of soft-power operations by a more inclusive approach to other agencies and departments have not met with the success of their purely military initiatives. As recently as November 2007 the then Secretary of Defense Robert Gates argued not for enhanced DoD resourcing, but rather increased capability in other agencies that should work alongside Defense in soft-power projection.<sup>1481</sup>

Jeffrey McCausland argues that this problem exists because of a lack of formal and overarching architecture at the Federal level. He suggests that this should be supported by the sort of strategic leadership that can not only set objectives (and communicate them as a shared sense of the maximand) but also grasp the policy detail to enact them across a complex organisation<sup>1482</sup> (the organisational shifts needed to lower behavioural blocks and issues like asset specificity). However the Executive attempts to establish an effective civil support to COIN operations referred to in the paragraph above suggest that sub-goal pursuit and bounded rationality in the face of uncertainty are also part of the problem.

A 2005 Center for Strategic and International Studies noted that, despite the long accepted fact that Effects Based Operations (EBO) required significant civilian expertise and input, American operational capacity resided almost exclusively within the Department of Defense.<sup>1483</sup> Despite having an enthusiastic advocate of an holistic approach to foreign policy in the shape of the then Secretary of State Colin Powell (2001-2005), a former Chairman of the Joint Chiefs of Staff from the era of Desert Shield/Storm, broader inter-departmental collaboration had proved elusive. Powell pursued joint State Department, United States Agency for International Development (USAID) and DoD interoperability through initiatives like the Development Readiness

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<sup>1481</sup> Robert M. Gates, "Landon Lecture: Remarks as Delivered by Secretary of Defense Robert M. Gates, Manhattan, Kansas," (2007).

<sup>1482</sup> Jeffrey D McCausland, "Developing Strategic Leaders for the 21st Century,"(Carlisle P.A.: Strategic Studies Institute, U.S. Army War College, 2008).

<sup>1483</sup> Clark A Murdock, Michele A. Flournoy, and Mac Bollman, *Beyond Goldwater-Nichols: US Government and Defense Reform for a New Strategic Era, Phase 2 Report*(Center for Strategic and International Studies, 2005).

Initiative.<sup>1484</sup> At the same time formal compliance was sought through via the 2004 Lugar-Biden initiative (more formally the Stabilization and Reconstruction Civilian Management Act, which was also promoted by the future Secretary of State for Defense Chuck Hagel)<sup>1485</sup> and the supporting National Security Presidential Directive 44.<sup>1486</sup> These lead to the quick establishment of the Office of the Coordinator for Reconstruction and Stabilization (S/CRS) in the Department of State.

However the bounded rationality of lower levels of management, who were committed to their own core responsibilities over those they shared with Defense, meant they were disinclined to divert resources to it. Opportunistic behaviour over property rights by bodies such as the National Security Councils Deputies Committee, who argued over the management system through until 2007, was the result. The ambition to have four cadres capable of gathering and utilising the deep cultural type of intelligence that is still, of necessity, only developed within DIA has yet to be realised. In fact by 2008 only seventy experts were on the books, with a woeful eleven actually active and deployable.<sup>1487</sup> Crisis response suffers from the same marginalisation as the FBI's intelligence element; it is not seen as a central tenet of State Department work and so incentives do not support it. Perfunctory compliance with formal edicts is the result. In 2011 the Department of State created a Bureau of Conflict and Stabilization operations into which the S/CRS was integrated. It was however underfunded from the outset, and left to wither on the vine by the NSC Deputies Committee, despite being intended for a very pressing need.<sup>1488</sup> This suggests that environmental uncertainty will continue to provoke opportunistic behaviour by resource starved sub-groups.

By this time (2011), the DoD had effectively withdrawn back into itself, and accepted that it was going to have to take on what were primarily civilian

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<sup>1484</sup> McCausland, "Developing Strategic Leaders for the 21st Century."39

<sup>1485</sup> "Stabilization and Reconstruction Civilian Management Act 2004," ed. U.S. Senate Committee on Foreign Relations(Washington D.C.: G.P.O.).

<sup>1486</sup> George W. Bush, "National Security Presidential Directive 44: Management of Interagency Efforts Concerning Reconstruction and Stabilization," in *NSPDD-44*, ed. The White House(Washington D.C.: F.A.S., 2005).

<sup>1487</sup> McCausland, "Developing Strategic Leaders for the 21st Century."39

<sup>1488</sup> *Ibid.*39

tasks if they were to be achieved. DIA activity would therefore necessarily include intelligence suited to policing and nation building, as well as supporting kinetic operations.<sup>1489</sup> Curiously the DoD's need to decide whether to rely on unenthusiastic external suppliers like the State Department, or to bring such function's 'in-house' are an echo of Oliver Williamson's original question in 'Markets and Hierarchies' that led him to develop transaction cost theory.<sup>1490</sup>

Even within the military the tension between 'urgent' tactical and operational military intelligence needs and 'important' strategic concerns remain. As Afghanistan becomes less important the DIA are likely to be re-directed back towards the strategic warning function, suggesting it's impressive performance in support of the US military (even across so broad a front and at several levels) has left a gap as far as the civilian policy making level is concerned. However in an interview in July 2012, the then Deputy Director DIA, David Shedd suggested this need had manifested itself because the 'Arab Spring' had not been predicted,<sup>1491</sup> which suggests an unrealistic expectation from his intelligence community to predict 'mysteries' as well as gather 'secrets'. This will inevitably skew any future negotiations over organisational change to deliver such a shift. In fact his recent removal, along with his superior Lt. Gen Flynn, from the DIA after pressure from both the Administration and the DNI James Clapper, despite their significant successes improving co-operative efficacy within the DoD in Iraq then Afghanistan, precisely because of their military and operational orientation, go some way to indicate the level of this tension.<sup>1492</sup> Opaque property rights

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<sup>1489</sup> See for example Michele A. Flournoy, "Department of Defense Instruction: Stability Operations," ed. Department of Defense(Washington D.o.D. (Under Secretary of Defense for Policy), 2009). which outlines the breadth of the military mission in conflict zones.

<sup>1490</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.

<sup>1491</sup> Cheryl Pellerin, "Interview with Deputy Director Dia David Shedd: Dia Five-Year Plan Updates Strategic Warning Mission," *D.o.D. News*(2012), <http://www.defense.gov/news/newsarticle.aspx?id=117160>

<sup>1492</sup> Greg Miller and Adam Goldman, "Head of Pentagon Intelligence Agency Forced out, Officials Say," *The Washington Post*(2014), [http://www.washingtonpost.com/world/national-security/head-of-pentagon-intelligence-agency-forced-out-officials-say/2014/04/30/ec15a366-d09d-11e3-9e25-188ebe1fa93b\\_story.html](http://www.washingtonpost.com/world/national-security/head-of-pentagon-intelligence-agency-forced-out-officials-say/2014/04/30/ec15a366-d09d-11e3-9e25-188ebe1fa93b_story.html). and Ian Allen, "Are America's Most Senior Military Intel Officers Being Forced Out?," *Intelnews.Org*(2014), <http://intelnews.org/2014/05/01/01-1466/>

over each will continue to provoke competition and advocacy between actors and negotiating costs will remain high as a result.<sup>1493</sup>

Shifts in environment find the single services still competing for territory and strategic relevance, which will inevitably include their intelligence capabilities. Although low institutional costs have evolved in the COIN scenarios and linked multi-agency stabilisation or policing style operations, that does not mean that the organisational forms generated will be adequate to lower frictions in other circumstances: The re-focusing on the Asia-Pacific region by President Obama has led to tensions between the currently dominant Army and a coalition of the Navy and Air Force, with the latter proposing that emergent or potential threats from China and Iran are dealt with through a concept called 'AirSea Battle' whilst Army strategists argue vociferously for the need for a larger role in the Anti Access/Area Denial strategy on which this is based. At the heart of the argument is the almost philosophical question of whether the operational theatre is large sea channels with islands in them, or tracts of land surrounded by water.<sup>1494</sup> Such basic divisions suggest that new strategic arenas will still suffer large negotiating costs, at least until property rights are clarified.<sup>1495</sup>

## Section 5: Conclusion

The distinction between the collaborative capabilities of the defence intelligence organisations of the United States and United Kingdom are substantive, despite the very similar external environments they need to address. In a direct contradiction of the patterns found in the counterterrorism sphere, the former has achieved a largely low friction set of working relationships with other security and intelligence providers and with the US 'defense enterprise' at large whilst the latter has continued the fractious relationships of the Cold War era.

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<sup>1493</sup> Murdock, Flournoy, and Bollman, *Beyond Goldwater-Nichols: Us Government and Defense Reform for a New Strategic Era, Phase 2 Report*.45-53

<sup>1494</sup> See for example Alex Crowther, "Op-Ed: The Army Should Embrace A2/Ad," (2013), <http://www.strategicstudiesinstitute.army.mil/index.cfm/articles/The-Army-Should-Embrace-A2AD/2013/07/12>.

<sup>1495</sup> Osborne, "Can the Senior Military Leadership in the United Kingdom Armed Forces Ever Be Truly Collegiate in Its Approach to Defence Interests?."28



Levels of cooperation across the upper reaches of the United Kingdom's defence intelligence apparatus remains poor, and what nascent signs of this changing exist are still mired in high institutional costs. Property rights confusion over national and civilian held assets, and the requirements and priorities they are supposed to serve remain high. Operational needs still have to compete with strategic ones and no clear negotiating mechanism through which these can be assessed has emerged. Instead the addition of further tiers of 'principals' have increased the complexity of ownership patterns that are heightening frictions and making opportunistic behaviour by 'agents' who are anyway asset specific to previous environmental and organisational conditions more likely. Any of the benefits of the 'operational dynamism' found by Dyson at lower levels has therefore not been translated into collaborative capability at higher levels.<sup>1496</sup> Instead a repeated pattern of oscillating power bases that have to be constantly defended emerges.

In the United States on the other hand the joint approach first inculcated in military doctrine in the Goldwater Nicholls initiative in 1986 has permeated through to defence intelligence in the post Gulf War era, and their change of role post 9/11 from a narrow area of policy delivery in limited circumstances (war) to the lead player in the rather wider (albeit contentiously labelled) 'war on terror' has increased the cooperative tendency. The creation of a plethora of cross-cutting horizontal platforms through which cooperation could be managed reduced institutional frictions by creating a shared maximand that the actors involved in any transaction could relate to, not only at a general 'policy' level but also in terms of their own mission.

Figure 8.1<sup>1497</sup> is a development of the diagram used in Part 2 to show the increases in negotiations that complexity causes. It demonstrates that by establishing a direct link between two functional entities, in this case C and D, the purpose of their engaging with each other becomes their shared objective. Less contracting is required in any event as the centre need only deal with the horizontal platform through a single conduit (1, shown in green)

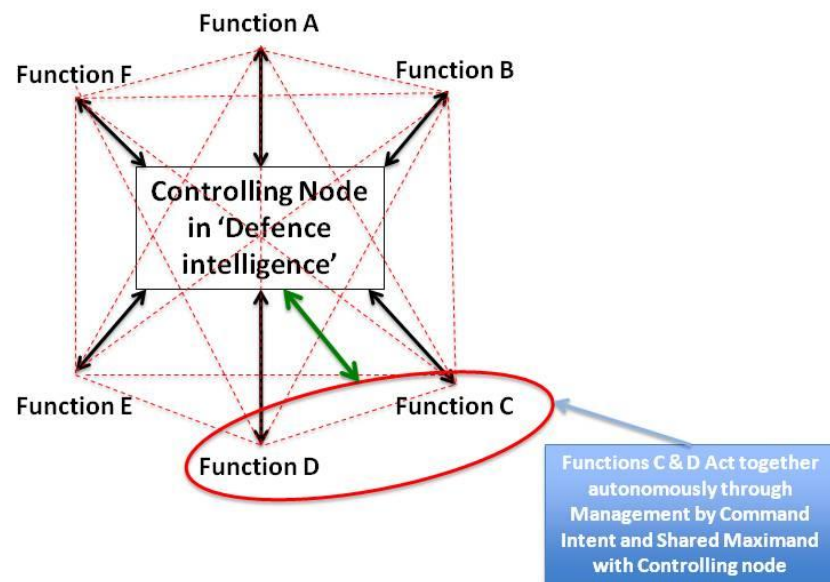
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<sup>1496</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia."

<sup>1497</sup> Source of diagram: Own design developed from Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.46

rather than through the traditional hierarchical individual relationships with both C and D. This reduces the opportunity for either to play off other actors against each other in the way that Treverton suggests DoD owned national intelligence assets had done in the past.<sup>1498</sup>

**Figure 8.1: Complexity in the Military Context**

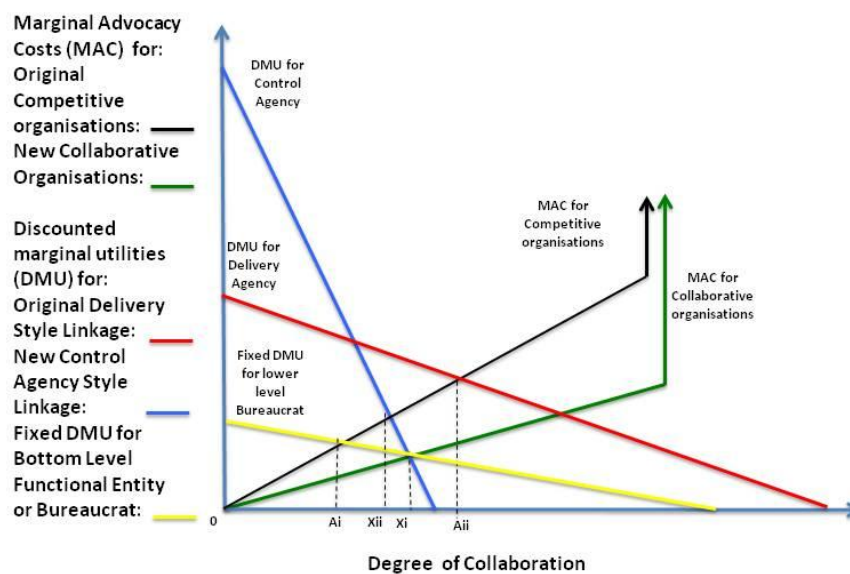


Bounded rationality problems are limited because the leadership only needs to pass on its strategic intent rather than direct the agencies individually, and so do not need the same detailed understanding of the capabilities and roles of each. Instead the objective can be interpreted by horizontal linkage and the roles of each function contracted between them. Probity can be developed at a more manageable level and atmosphere improves. In addition communicating costs are reduced as the high quantity of messages represented by the dotted red lines that result from modern operating conditions can be sorted by the linkages to sift 'signals' that are relevant to the shared objective from surrounding 'noise' that might only be relevant to other functional areas.

<sup>1498</sup> Treverton, *Reshaping National Intelligence for an Age of Information*.90

The overall result of these lower institutional costs for vertical collaboration can then be demonstrated using the same comparison of the relative utility of different levels under the new conditions that was used in Part 2. By changing their modus operandi and providing low institutional cost cooperative mechanisms for their consumers, the Department of Defense intelligence assets introduced what was effectively a 'control agency' with which lower levels of bureaucrats could contract, even while the whole remained the classic Weberian 'delivery agency'.<sup>1499</sup>

Figure 8.2: Impact of Shifting Institutional Costs on Incentives for Cooperative Behaviour in US Defence Intelligence Post Gulf War



As Patrick Dunleavy demonstrated, such a shift will have the effect of shifting the utility of the actors involved. The 'Discounted Marginal Utility' (DMU) of those responsible for orchestrating cooperation amongst the functional entities will move clockwise as the new linkages take over the task, as represented in Figure 8.2,<sup>1500</sup> and become more engaged with having the functional entities cooperate to complete the task.<sup>1501</sup> In the interests of

<sup>1499</sup> Described in Dunleavy, *Democracy, Bureaucracy and Public Choice: Economic Explanations in Political Science*.183

<sup>1500</sup> Source of diagram: Own design developed from *ibid.*199

<sup>1501</sup> *Ibid.* p.207-8

clarity the utility curve of actors within the functional entities is shown as fixed, although in fact improved atmosphere and probity with their colleagues will in all likelihood improve this too.

At the same time the marginal advocacy costs shift as the actors involved are now intimately involved in encouraging a cooperative solution and gain utility by improving their working experience through (inter alia) improved atmosphere and sense of efficacy, easier working relationships, and so forth. In fact although not part of the new position depicted here, Dunleavy's analysis also suggests that the utility of the higher-level bureaucrats who have shed the coordination task will be improved as they free up resources to engage with more intellectually pleasing tasks.<sup>1502</sup>

Thus although cooperative behaviour in the US defence intelligence community is no more a given than it is in the UK's the structural changes that have occurred since the Gulf War in 1991 have lowered institutional costs between contracting parties and thereby improved cooperation outcomes. As Cebrowski put it, "...initial concepts of jointness were... based on deconfliction" and although eventually successful the whole "... became interoperable in the most painful way".<sup>1503</sup> The very different experiences of cooperation in defence related intelligence in the United Kingdom and United States cannot however be attributed to any single cause or executive edict, and many of the environmental pushes are very similar to those that caused entirely the opposite sort of reaction in each nation in the civilian counterterrorism contest. A more micro level of analysis however demonstrates that where patterns of institutional costs are similar, so too will the level of collaborative success or failure.

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<sup>1502</sup> Ibid.207

<sup>1503</sup> Arthur Cebrowski, "Planning a Revolution: Mapping the Pentagon's Transformation," *Presentation to the Heritage Foundation: National Security and Defense*(2003), <http://www.heritage.org/research/reports/2003/06/planning-a-revolution-mapping-the-pentagons-transformation>.

## **Chapter 9 - Conclusion**

### **Section 1: The Utility of a political Economy for Security and Intelligence**

As the examination in this thesis makes clear, any consideration of the governmental functions of security and intelligence must necessarily contemplate the feasible levels of cooperation between the actors and organisations involved in its provision.<sup>1504</sup> Central to that cooperation is the ease with which decision makers can negotiate and contract with each other over which of them provides which service, counters what problem, and with which resources, and the clarity of the property rights across which those negotiations must be managed. Yet despite the theoretical possibility that the very substantial resources available to provide security and intelligence in both the United Kingdom and United States could be brought to bear as a cohesive whole, this is rarely realised. Even instances that are regarded as demonstrating successful collaboration exhibit some degree of institutional friction along the way. Conversely examples of good cooperation are evident on occasion even between established rivals like the CIA and FBI. Existing accounts are characterised by an emphasis on success or failure, frequently divided between the US and the UK respectively, but a more complete explanation must acknowledge that they are each characterised by both.

At the same time the strong interpenetration of the security and intelligence spheres with more conventional areas of governance means that the fields are far less unique than might be expected. More general theories of (inter alia) bureaucracy, organisational behaviours and the wider environment can therefore each add something to the understanding of why cooperation succeeds or fails in particular circumstances. None however are comprehensive. Like the intelligence and security literature itself, the approaches considered in Chapter 3 can each be argued to provide a good

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<sup>1504</sup> In his substantive comparison of the UK and US intelligence communities, Davies emphasises that effectiveness in any agency relies on successful interagency. See Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.1

account of some instances, only to be found to be silent or even incorrect in others.

Institutional cost theory is the larger theory that can encapsulate these approaches and extend them so that they can be considered in relation to each other. It is the theory that can be more specifically aligned with the predominant features of individual cases.

Not only can institutional cost analysis account more elegantly for 'normal' cases such as the predominance of poor cooperation across the US counterterrorism effort than existing theoretical paradigms, it can also explain deviant cases like the high levels of cooperation that have emerged in the US defence intelligence enterprise with equal conviction. Furthermore this can be achieved without violating any of the central tenets of previous theoretical explanations. Talcott Parsons found that although existing literature in his chosen area of study was inadequate to explain the range of phenomena he was concerned with, it was nonetheless essential in providing the bedrock of his theory of social institutions. In the same way this work too has not been "... manufactured *ad hoc* out of whole cloth" but rather it is the product of the "interpretation and further construction" of those approaches.<sup>1505</sup>

To support that contention a clear correlation between high institutional costs and poor collaborative outcomes, and low institutional costs and good collaborative outcomes can be discerned within the cases analysed. The detail of the results specific to each of the counterterrorism and defence intelligence cases has already been discussed and summarised in the conclusions to Parts 2 and 3. The next section will therefore concentrate on what the two pieces of analysis can say about the usefulness of institutional cost analysis for examining cooperation in security and intelligence when considered in conjunction with each other.

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<sup>1505</sup> See Parsons, "Prolegomena to a Theory of Social Institutions."319 (*italics in original*).

## Section 2: Key Findings Across Counterterrorism and Defence Intelligence Cases

The combination of the twin examinations of how vertical cooperation or closer integration between various functional areas and levels of authority is managed in the counterterrorism and defence intelligence spheres conducted in Parts Two and Three of this thesis provides very different results for the United Kingdom and United States. However whilst the consideration of counterterrorism supports the orthodox view that the UK is good at coordination whilst the US is poor, cooperation in the defence intelligence sphere demonstrates that the converse can also be true. When the granularity of the analysis shifts it is apparent that even within each discipline examples of good and poor cooperation are to be found and that there is a temporal dimension to both. Therefore each has the potential to demonstrate the same cooperative features as the other if circumstances alter.

The analysis clearly indicates that those circumstances can be encapsulated within the institutional costs impact framework for security and intelligence provision that was developed in Chapter 2 of this thesis. However it is also apparent that its individual elements are of less importance than the result of their interaction with each other, as predicted by Oliver Williamson when he developed his ideas of transaction cost analysis for the very different cases of negotiating contracts in the private sector.<sup>1506</sup>

The net result is that different institutional costs take on more or less relative importance depending on their interrelationship with the others, most noticeably across the behavioural/environmental divide. Just as flaws in, for example property rights allocations can exacerbate the tendency of actors to act opportunistically, so too can established probity in relationships or an accepted shared maximand between them diminish it.

Although, as described above, it is still very much their interaction that counts, when institutional costs analysis is applied to the security and intelligence spheres then a new observation can be made. Particular

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<sup>1506</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.8-10

elements of the institutional costs impact framework can be seen to act on the whole in different ways so that they can be distinguished not only by the category to which they belong (be it behavioural, environmental or shared) but also by the type of impact they have.

Although treated the various transaction costs described by Oliver Williamson are only discussed by him in terms of the levels of costs each create, the examination of the counterterrorism and defence cases above suggests that institutional costs can actually be separated very broadly into three categories: Firstly those that can be described as catalytic; these may be defined as precipitating institutional cost issues through their effect on other elements of the institutional costs impact framework, although they are not immediately affected by these frictions themselves. Property rights, asset specificity and uncertainty are all catalytic elements. Secondly there are those elements that act as a point of leverage about which the others react with each other. These may be described as pivotal as they provide a fulcrum across which institutional costs can be magnified or simply oscillate as negotiations and interactions proceed. Both information impactedness and complexity may be so defined. Finally there are those institutional costs elements that can be most easily conceived as a product of their fellows. Even where the condition might exist it only becomes problematic once acted on by one of the others, although each can then exacerbate the other. These may be described as derivative elements and include the behavioural factors of probity, opportunism and bounded rationality, the environmental condition of frequency, and the shared surrounding conditions of the degree of atmosphere and of a shared maximand. These will now be considered in turn as the combined findings of Parts 2 and 3 are considered in relation to the elements of the institutional costs impact framework.

#### **a. Catalytic Institutional Costs**

A number of common factors nonetheless emerge across both areas that are routinely catalytic in provoking frictions between actors and agencies required to interact. Principal amongst these are the surrounding issue of



property rights clarity, and the environmental variables of asset specificity and uncertainty.

The examinations of counterterrorism and defence intelligence cooperation demonstrate how property rights clarity is of central importance in defining levels of institutional costs and thus levels of cooperation in both spheres and in both countries. Where and how that impact is felt varies across the cases however. Shifts in the environment produce concomitant tensions in established patterns of property rights ownership in the cases studied, but the nature of the existing organisational architecture has a substantive impact on how these play out. In the defence intelligence case both the United Kingdom and United States have historically struggled with overlapping property rights to military intelligence assets between national and military and between strategic and operational requirements. The upsurge in counterinsurgency operations in the new millennium with its requirement for increased interaction with civilian agencies and departments only exacerbates this tension. However while the US has developed a number of organisational linkages following the acknowledged usefulness of the Military Intelligence Board during and after the first Gulf War, the UK has instead continued the pattern of oscillation between the different demands, only adding an additional tier of authority on the military side in the form of Joint forces Command (JFC) following the Levene Report,<sup>1507</sup> a review that itself was victim to the same division as was wholly centred on the Ministry of Defence and had no broader national responsibility. It is therefore likely that the JFC simply represents the latest shift towards the military side rather than any balancing, further complicating property rights without providing any means for the different sides to contract with each other over them, although it is too soon to be certain of this. The result is that while the US has developed a number of low friction links<sup>1508</sup> that can more easily accommodate new partners and ways of operating, the British have not.

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<sup>1507</sup> "The Levene Report."

<sup>1508</sup> There is a caveat to the linkage of this finding too directly to institutional cost issues, as the discussion of US military dominance as a potentially limiting factor below makes clear.

In the counterterrorism case the approaches (and the outcomes) are reversed, with the US opting to rely on additional levels of hierarchical control while the UK prefers coordinating existing capabilities through more collegial bodies. Again, the pre-existing organisational architecture helped define how these strategies played out. In the United States organisation was historically managed by functional responsibility, but terrorism crossed the fault lines between these, with a single case often having foreign and domestic, intelligence and law enforcement aspects. Organisations like the FBI, CIA and indeed the DoD have both an intelligence collection and analysis capability. They are therefore well placed to become their own customers, and need to interact with external agencies less than British counterparts. The different organisations are thus able and incentivised to act opportunistically and undermine new hierarchical controls over them. In this way they can secure contested property rights over the counterterrorism role and preserve their own autonomy.

In the United Kingdom on the other hand, the existing organisational architecture was inter-dependent. Collection agencies needed other government departments to provide any analysis above the immediately operational level,<sup>1509</sup> and any executive action was the province of the police or military. The tendency of terrorism to cross the jurisdictions of different agencies and departments is thus less problematic, as property rights are already allocated in such a way as to give each one well defined responsibilities at different points in any counterterrorism case. The OSCT's management of the CONTEST strategy, or even the roles of the Senior National Co-ordinator or the Executive Liaison Group are no more than formalisations of established practices and relationships. Even if they are motivated to do so, no one agency has the capability to contest further property rights as they are each reliant on the others. Indeed the most problematic unit in the UK's array of counterterrorism agencies, the

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<sup>1509</sup> DIAS being the exception, and boasting many of the institutional cost problems more normally observed in the US system, as discussed in Part 3.

Metropolitan Police's Special Branch, was the one closest to having a more complete capability.<sup>1510</sup>

The analysis thus confirms that the clarity with which property rights are allocated between different actors and agencies is of primary importance in setting the level of institutional frictions, as the original model predicted. However it also demonstrates the importance of the type of supporting organisational architecture *in determining how those allocations respond to changes in environmental conditions.*

The asset specificity of the different elements of both the security and intelligence arenas is also catalytic in stimulating other institutional cost activity, and is broadly divisible into two types that provoke different sorts of institutional cost issues: Technological asset specificity is observable in both the counterterrorism and defence intelligence cases. As functions of governance, intelligence and security each boast assets that are specific to the target or theatre in which they are to be used, and both pursuits require a long run-in time if new assets are to be developed, whether they are intelligence sources or security tools. It is therefore unsurprising that a tension between these assets and the uncertainty of their environment is observable, or that actors whose roles and relevance are directly linked to their continued use should act opportunistically to extend their life-span.

The significance of the asset specificity of human sources on the other hand was less expected,<sup>1511</sup> yet it is the more relevant in provoking frictions between actors and their organisations. The analysis exposes a key tension between the individual organisation's need to inspire and encourage its own culture and norms, the fidelity to self defining principles of Selznick,<sup>1512</sup> and

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<sup>1510</sup> The remaining Special Branch's have both an executive and intelligence capability although they are actually very reliant on the agencies as well as other policing assets (and embedded within a large number of different force areas). See Blakey, "A Need to Know: H.M.I.C. Thematic Inspection of Special Branch and Ports Policing." The Metropolitan Polices Special Branch, which retained a number of national functions was swallowed up by the Anti-Terrorist Branch in the hope of producing a more FBI like entity and has exhibited many of the same problems. The remainder of the UK have however preferred to leave property rights as they were and simply jointly locate Security Service, Special Branch and other police personnel.

<sup>1511</sup> Not because of any prediction generated by the institutional costs model, but rather because of personal assumptions about the relative flexibility of humankind.

<sup>1512</sup> Selznick, *The Moral Commonwealth : Social Theory and the Promise of Community*.322

those of the wider endeavour. The professional and social norms of any organisation, as well as the coded means of communicating amongst its members that ensures effective delivery of whatever functions it is responsible for, are asset specific to that role as it has previously existed. This does not mean they are necessarily suited to new conditions. These new conditions in turn also require asset specificity if they are to be suitably addressed, just of a different type. This phenomenon is observable in both the defence intelligence and counterterrorism cases and prompts a substantial amount of institutional friction when cooperation between divergent cultures was required and was particularly prevalent in the face of external adaptive pushes. Like the property rights case above however the nature of the extant organisational architecture has a notable impact on how any resistance plays out.

Uncertainty is often treated together with complexity during the examinations of defence intelligence and counterterrorism, however the two need to be decoupled at this stage. Although they both act as the same sort of environmental variable, and cause the same sort of difficulties for decision makers, the manner in which each does so is more subtle than that similarity would suggest. Whilst complexity provides leverage for the interaction of other institutional cost elements (and is therefore considered as a pivotal factor in sub-section b. below) uncertainty is observed to act as a catalyst for wider institutional cost issues, in particular behavioural activity, and therefore belongs in this category. Its impact is nonetheless intimately linked to the problem of bounded rationality and the manner by which information asymmetry issues and principal-agent relationships are enacted. Like many of the institutional costs elements, uncertainty is found to be a more nuanced concept than a simple quantitative appreciation would allow, although the levels of uncertainty are high in both the spheres examined. Because uncertainty provokes a number of possible futures whose costs or benefits cannot be compared like for like, its impact on institutional frictions is similarly varied, subtle and pervasive. Actors must struggle to decide on their own priorities and then align them to those of their colleagues.

## **b. Pivotal Institutional Costs**

Other elements of the institutional cost impact framework are found to act as pivots around which frictions between contracting parties might be exacerbated or diminished.

Foremost amongst these are information advantages, which function as an enabler for the behavioural elements of the model once any of the catalytic features have initiated friction between contracting actors. It is invariably at the epicentre of any principal-agent problems observed, justifying its position as a central point of leverage in the impact framework diagram produced in Chapter 2 (see Figure 2.3). Like the shared maximand issue, information asymmetry demonstrates relevance across both the horizontal and vertical planes. The secrecy inherent in intelligence and security provision is often cited as a reason for a lack of cooperation within the existing literature. Curiously however, although actual secrecy certainly adds to the perception of information asymmetry between actors and organisations, and can certainly be a logistical as well as an institutional cost problem in particular cases, the more ubiquitous problem of structural secrecy causing information impactedness between specialisms is the more significant variety. As secrecy is one of the elements of the institutional costs model that appears most specific to the intelligence and security functions of governance this suggests that a wider application of the model may be feasible.

Another result of the analysis is that the exponential increase in information availability, particularly in the counterterrorism case, has not necessarily diminished the problem of asymmetric holding of information, but rather has simply changed its dynamic. Whereas during the Cold War an agency might enjoy such an advantage because it had collected what small amount of information there was, since the information revolution that advantage goes to those organisations capable of dealing with the huge quantities of data and discerning the 'signal' amongst its 'noise'. The 'ring of secrecy' is no less an institutional fact and producers and consumers still exist either in a bilateral

monopoly or in a monopsonic relationship that offers only very limited or even false choices to decision makers while aggravating property rights problems. Information asymmetry remains key to the capability of agents to behave opportunistically with their principals and with each other.

In the cases where cooperation between actors in a vertical relationship is examined, information advantages are found to be such that incumbent actors and organisations can still control the 'production of producers', as Powell and DiMaggio predicted,<sup>1513</sup> by acting opportunistically to ensure that the authority of new joiners is restricted. In such instances the tension between secrecy and sharing that exists as an operational construct can also become a bureaucratic one. Once again this is particularly the case in the counterterrorism sphere, where major initiatives such as the DHS and DNI and NCTC are affected, but is also observable in the defence intelligence case, albeit at a much lower level, where initiatives like the 'Joint Intelligence Virtual Architecture' can be derailed by middle level managers working under poorly aligned incentive schemes.<sup>1514</sup>

What the examination finds has changed however, is the inter-relationship between different functional levels in both the terrorism and defence spheres as they interact across unequal information holdings. Tactical level terrorist attacks have of course always had the potential to have a strategic impact and this has been exacerbated by more ready access to various media forms. The same impact can now be achieved during certain types of military engagement so that, for example, instances of 'green on blue' attacks or even an upsurge in 'improvised explosive device' usage can have major strategic implications. This in turn means that those with a more detailed knowledge of the tactical level can use the potential strategic value of such information as a bargaining chip in both vertical and horizontal negotiations with other actors.<sup>1515</sup>

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<sup>1513</sup> DiMaggio and Powell, "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields." 152

<sup>1514</sup> Discussed in Chapter 8 section 3

<sup>1515</sup> Discussed in Parts 2 and 3 but for a more detailed discussion of the use of tactical level information for contracting advantage see Nolan, "Information Sharing and Collaboration in the United States Intelligence Community: An Ethnographic Study of the National Counterterrorism Center."

Closely related to the upsurge in information availability is the increasing diversity of the sources and types of information from which it is formed. This has implications for the ability of boundedly rational actors to deal with it. As the model predicts, this is equally true in both spheres examined, although the detail varies from case to case, and this is dealt with in more detail in Parts 2 and 3. However the sub-issue of the costs different usage of language provokes amongst those boundedly rational actors proves to be more prevalent and of more importance than was anticipated. That different social norms and terminology might create frictions between very different bodies such as those contracting across the military/civilian divide in the defence intelligence case, or across the law enforcement/intelligence divide in that of counterterrorism, was always likely. However the extension of the issue from the macro to the micro level is more surprising. There is substantial evidence of language costs resulting from different understandings of the world at large, as well as actors' understanding of specific terms such as the meaning of strategic or the definition of intelligence proving problematic at one end of the scale. At the other, divergent character types can produce internal language costs that magnify frictions at the intra-organisational level.

The other institutional cost element that leverages increased frictions amongst the others is complexity. This is the case despite the fact that it is not located in the same sort of pivotal position as information impactedness in the impact framework developed in Chapter 2 (or indeed in Williamson's original diagrammatic representation of the 'Organisational Failure Framework',<sup>1516</sup>) but is instead an environmental variable. Yet it acts as such, and in very significant ways:

The use of institutional costs modelling for cooperative working in the intelligence and security functions is based on the ease with which relevant actors can negotiate and contract with each other. It is therefore no surprise that the analysis finds that all of the institutional costs summarised above increase as the number of nodes required in delivering the whole becomes

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<sup>1516</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.40

greater. Just as important is the exponential increase that the increased need for horizontal interaction provokes. The augmentation of disparate organisations is visible in both the counterterrorism and defence intelligence spheres, although to a greater extent in the former, but it is their increasing need to interact at more and lower levels which impacts most on complexity and resultant cooperative capability.

The significance of complexity is also found to be more than a simple numerical issue. Certainly the increasingly complicated problems of both counterterrorism and the provision of defence intelligence to ever more consumers provoke the need for more complex organisational forms. There are thus problems of quantity and quality to be addressed. Organisational forms have to deal with both the division of labour into manageable sub-functions and the re-integration of their outputs back into a usable security or intelligence product. In addition to this however an increased complexity in terms of the types of work involved is observable in both fields. These are also divided into sub-functional fields, but that are not necessarily in any kind of hierarchical relationship with each other.

In such circumstances re-integration is a more important issue.<sup>1517</sup> The problem becomes one of not only having actors access the system at an appropriate level, but also in a manner that accords with their particular specialism. This might intersect with several other specialisations, so that further complexity is induced. In some instances this produces some surprising outcomes. For example despite their reputation as one of the most independent of the US bureaucracies, particularly where intelligence capability is concerned,<sup>1518</sup> there is contrary evidence of the Department of Defense trying to off-load complicated (usually civilian) tasks in a very un-Niskanen like manner, and also generating frictions in that direction as a result.<sup>1519</sup> Complexity in both spheres is thus found to increase property rights problems and the difficulties of establishing a shared maximand, as

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<sup>1517</sup> A point strongly emphasised by Philip Davies in Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1.1

<sup>1518</sup> See inter alia Betts, *Enemies of Intelligence : Knowledge and Power in American National Security*.151-153

<sup>1519</sup> Discussed in Chapter 8 Section 4.



well as providing the space for bounded rationality and for opportunistic behaviour to occur as the model predicts, but in a greater variety of ways.

Tensions are also evident because these varied types of complexity are at odds with many of the organisational forms that are used to counter them. The nature of the asset specific hierarchical culture of the military has already been alluded to, but the complex and varied nature of counterinsurgency deployments, like counterterrorism, are found to create particular problems for organisation. In both cases the fact that the threat emanate from a plethora of 'ground level' sources means that traditional 'top-down' structures struggle to deal with it. In the case of the UK's counterterrorism effort a collegial and often semi-informal structure is found to provide a lubricant, so that actors can quickly and flexibly contract with each other as circumstances dictate.

Successful cooperation across the complex range of organisations in the cross-case of US defence intelligence is managed through a variety of new horizontal structures and, at the operational end, by creating a 'complex adaptive system' with intelligence and other enabling functions embedded with command structures in a single entity that can react rapidly and with little additional contracting required. The contrast between these cases and the poor cooperation found in US counterterrorism and, to a lesser extent, in UK defence intelligence, demonstrates how the organisational approach to complexity can magnify or diminish the institutional problems it instigates, and in the former case the two proposed solutions to managing the issue each in fact are found to add to the complexity of the organisational environment.<sup>1520</sup> The cases examined are thus a testament to the importance of complexity as a qualitative as well as a quantitative issue.

### **c. Derivative Institutional Costs**

The environmental variable of probity, together with the other surrounding factors of atmosphere and actors having a strong sense of a shared

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<sup>1520</sup> See Chapter 6 Sections 2 and 3. It should also be noted that the confused inter-relationship of the UK's new National Security Council and the JIC may be causing the same problem although the organisational 'bedding-down' is still ongoing. See Davies, "Twilight of Britain's Joint Intelligence Committee?." and further discussed in Chapter 6 Section 4).

maximand also proves important, but each of them is in turn a product of the interaction of the other institutional costs elements, flowing from them in a linear relationship, and as much a product of them as a producer. Williamson's problems of actors either 'free-riding' or demonstrating 'self-interest-seeking with guile' that are described in Chapter 2<sup>1521</sup> are less of a problem if actors are striving towards the same collective objectives, and vice versa.

The elements of atmosphere and a sense of a shared maximand are however intimately related to each other. However just as clear is the degree to which existing conditions of good atmosphere and shared goals can lubricate processes of adjustment between actors as they have to respond to changes in their external environment or organisational arrangements. This applies in both functional areas and in both Countries examined. Collegial approaches coexist with good atmosphere more readily than does hierarchical organisation, although this is not nation specific. Indeed there are several examples of (often informal) collaborative arrangements being superimposed on formal hierarchies in the US, such as the utilisation of established bonds between analysts who had worked on cold war problems when trying to encourage information sharing after the creation of the ODNI.<sup>1522</sup> Issues of atmosphere are therefore also closely bound up with the development of probity between actors and how they set about allocating new tasks.

The analysis also demonstrates the usefulness of incorporating ideas of a shared maximand into the model. It reveals that a collective goal can be both an enabler for low friction negotiations and yet still a product of them. More surprisingly perhaps, not only is it important between organisations, and even between actors within the same organisation,<sup>1523</sup> along the horizontal plane as predicted, but also along a vertical plane. However the usefulness of any such shared maximand was found to be dependent on it being amenable to

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<sup>1521</sup> See for example Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.96

<sup>1522</sup> Discussed in Chapter 6 section a. See CH5.

<sup>1523</sup> See for example the CIA/FBI relationship discussed in Chapter 5 section 2, and the relationships between DIAS analysts and managers and the larger MoD in Chapter 8 section 2.

being broken down into sub-goals that still serve it. In the military context for example it is relatively easy to translate a strategy for victory over a Nation State into sub-goals, so that lower units might for example have responsibility for taking designated parcels of land. It is much harder to translate a counterinsurgency strategy into vaguer, often more ephemeral, sub-goals involving what are more usually civilian functions. In the latter case the emergence of a new dominant narrative such as that found in 'Effects Based Operations' that can act as a bridge between the overall maximand and sub goals is required.<sup>1524</sup> Certainly the analysis demonstrates that despite the depth of feeling that supported the United States' 'Global War on Terror', it did not act as a shared maximand in the same functional way as the less emotive ideas embodied in the UK's CONTEST strategy. Although beyond the purview of this thesis, further research into when and how a particular shared maximand becomes operationally useful would therefore be of interest.

Like the shared maximand discussed above, levels of probity are evident as both a product of, and the supporting plank for, high or low institutional costs in both of the functional areas examined. Opaque property rights can for example be negotiated across more easily if parties have already established patterns of trust amongst themselves. This is evident in both functional areas examined and on both sides of the Atlantic. Equally, the level of significance that can be attached to the probity developed across working groups is clearly a factor in determining what other institutional points of friction between negotiating parties exist and how they are interacting. Within the context of the cases of managing cooperation amongst the different vertical levels examined, probity provides particular problems: The trust that results is at the same time both a construct of social norms that operate horizontally<sup>1525</sup> and a fundamental requirement of leadership.<sup>1526</sup> The high resolution of a microeconomic approach like institutional costs analysis is therefore beneficial in exposing its impact.

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<sup>1524</sup> See Chapter 8 section 2 and 4.

<sup>1525</sup> Putnam, Leonardi, and Nanetti, *Making Democracy Work: Civic Traditions in Modern Italy*.

<sup>1526</sup> Casson and Giusta, "The Costly Business of Trust." 324

One of the most significant aspects of the probity issue is the temporal nature of its relevance, so that the trust between actors which it engenders has both an "...intrinsic and instrumental value". It is both the means by which negotiations can be undertaken and the foundation on which membership of the community (of actors engaged in intelligence and security provision in this case) is based.<sup>1527</sup> It is however hard to establish and easy to lose. That this should be so is of course predicted in the original model and in fact the analysis demonstrates how the sequential nature of contracting in each of the fields means that probity acts as something of a binding agent along the temporal dimension, so that its relative importance increases. Where successful cooperation is observed, probity, unlike many other institutional cost elements, is a repetitive aspect of contracting. This means that it is possible to offset the uniqueness of particular circumstances, that can cause problems of (inter alia) uncertainty, asset specificity and bounded rationality. The predicted downside to this - that actors will be inclined to agree to sub-standard courses of action to satisfy extant obligations to their fellow actors - is not evident in either functional area. However given that the emphasis of this work is the levels of cooperation rather than operational success, and that no counterfactual outcomes are available to contradict contributors, the weight that can be attached to this finding is limited.

The analysis of the impact of hierarchical patterns of probity suggest, as Williamson argues for public sector pursuits more generally,<sup>1528</sup> that low powered incentive schemes are more likely to encourage probity between actors, and thus cooperative behaviour. However the evidence supporting this conclusion is mostly of the negative sort, for example the lack of probity between FBI agents who are encouraged to compete very directly for advancement,<sup>1529</sup> so that a stronger assertion is not possible without further research. The probity levels across relationships that result from the increasing relevance of private contractors across the security and intelligence fields might provide a fruitful line of enquiry to prove or disprove this assertion.

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<sup>1527</sup> Ibid.323,325 parenthesis added.

<sup>1528</sup> Williamson, "Public and Private Bureaucracies: A Transaction Cost Economics Perspectives."

<sup>1529</sup> Zegart, *Spying Blind : The C.I.A., the F.B.I., and the Origins of 9/11*.15

The two behavioural factors of opportunism and bounded rationality are also seen to be a result of the existence of the more catalytic elements described above. In the case of the former this has implications for understanding how ideas of 'self interest seeking with guile' is actually operationalised. In the cases examined opportunistic behaviour is observed less as the positive pursuit of advantage by actors who simply had the opportunity to behave in this way, and more as a reaction to perceived threats to their interests (normally vested in the 'status quo'). The distinction has, in turn, implications for how the assumption of rationality in actors is conceived in such circumstances. In keeping with this finding, examples of extensive opportunistic behaviour follow the pattern of high institutional costs more generally, supporting the idea that it is as much a by-product of them as it is a creator of them.

This slightly contradictory finding is, for example, evident where the opportunistic behaviour of hold-up is encountered. In the United States' case there is ample evidence that actors in both the functional areas considered are concerned to pre-empt the possible threat of hold-up by establishing an in-house capability for whatever service they might require from another organisation. However the evidence suggests this is more about internal concerns that an external providing organisation would prioritise their own needs to the detriment of those of the original agency needing to contract for their services, and a natural reluctance to be hostage to that sort of capability gap.<sup>1530</sup> Given the serious nature of the subject matter of the cases examined, no admission that on the one hand the service provider was withholding support, or that on the other the service consumer was developing a parallel capability, simply because they wished to establish a position of strength for subsequent negotiations, was of course likely. Real motivations should therefore be regarded as remaining opaque. Nonetheless the perception of possible hold-up behaviour is present and sufficient to

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<sup>1530</sup> Consider for example the DoD's pursuit of a HUMINT capability discussed in Chapter 8 Section 4, or the NYPD's attempts to secure national and international counterterrorism intelligence because they believed the FBI's LEGAT program could not support their needs (Chapter 1 Section 4 and Chapter 4 Section 3).

cause uncertainty, property rights frictions, and further opportunistic behaviour in turn.<sup>1531</sup>

Conversely in the United Kingdom the overarching organisational form, whereby each organisation is in an established relationship of mutual reliance with the others, again seems to dampen institutional cost pressures. Although this interdependency might have meant that hold up was more of a problem, as different organisations were hostage to the service provision of the others, the opposite is in fact demonstrated to be the case. The reciprocal nature of the relationships means that probity is improved. As importantly, the nature of the relationship is such that without the input of other organisations, none can function to the extent that any useful outcome can be realised. This is very evident in the counterterrorism case and to a lesser extent in the defence intelligence case, so that the risk of this sort of opportunistic behaviour would seem to be minimal at each end of the spectrum of interdependence, and greatest in the median range.

The intimate association of opportunistic behaviour and the 'small numbers conditions' occasioned by the uncertain and unique aspects of individual counterterrorism and military operations suggests that it is worth considering the environmental variable of frequency together with that of opportunism here.

Initial assumptions of uniqueness from case to case in both functional areas examined are found to hold. Once the degree of resolution used is such that the problem actors have to address and the negotiations themselves are equally enhanced it is evident that there is little homogeneity in either. This exposes a distinction between the US and UK counterterrorism cases because in the former this fact is not built in to their organisational responses. Contracts between collaborating actors are formal, often to the extent of being statutory instruments, and narrowly focused. These correspond poorly to the uncertainty inherent in dealing with terrorism and the high degree of plasticity held by lower level actors. Nonetheless their formality means that in

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<sup>1531</sup> Although not examined here the increasing influence of private contractors in both spheres might mean that hold-up opportunism becomes more prevalent, given their very different set of incentives.

subsequent negotiations over issues that might be only slightly similar, extant solutions are likely to be adopted in the same way that Williamson predicts contract holders in the private sector will wield a substantial 'first-mover' advantage when contract renewal is required,<sup>1532</sup> whether or not they are best placed to deliver the best solution.<sup>1533</sup> This is a substantially different position to that found in the US defence intelligence case which more closely resembles the British counterterrorism approach. Both acknowledge the frequency problem, and leave agreements as overarching and quite open contracts, within which lower level actors can (and are encouraged to) negotiate with each other in a less formal and even organic way.

The significance of bounded rationality, the final behavioural factor in the institutional cost impact framework for security and intelligence provision, parallels the division made by Williamson in that it can be observed as both a language cost and, distinctly, as a computational issue. In both forms its impact is greatest in the counterterrorism sphere. Environmental complexity and uncertainty are both extremely high, so that actors can only assimilate parts of the picture in adequate detail at any particular time, and spans of control are difficult to manage. This increases the property rights problems that boundedly rational managers create and the opportunity and incentive they have to take advantage of the structural secrecy that results. The wider range of types of organisations involved means that a larger number of widely divergent cultures need to interact, causing both information and language costs. In the defence intelligence case both problems still exist, but their nature is distinct: Because missions are geographically delineated complexity can be better managed. In the UK case particularly, it is uncertainty around not only the possible actions of the enemy but also the strategic goals that cause the greater bounded rationality problem. This in

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<sup>1532</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.28

<sup>1533</sup> In addition to the cases examined in this thesis, the difficulties experienced when using political level grand gestures such as passing the lead role for counterterrorism amongst variously, the FBI, CIA and DoD in the US are also indicative of the mismatch between low frequency events like particular types of terrorist activity and a pre-ordained policy response. See for example Suskind, *One Percent Doctrine: Deep inside America's Pursuit of Its Enemies since 9/11*.

turn creates some slight degree of friction both within the military element and between them and their civilian partners.<sup>1534</sup>

These findings are commensurate with the model developed in Chapter 2. The more oblique problem stemming from bounded rationality in senior actors, that of satisficing, is however as important. Here there is a distinction between the nature of the bounded rationality of actors at different levels: Decision makers in both functional areas are inclined to favour previous solutions, or to adopt adequate solutions, in preference to incurring substantive search costs, particularly when time pressures are high. Lower levels on the other hand, whose knowledge is greater at a more detailed level, but less broad, prefer more specifically tailored solutions. This discrepancy negatively impacts on vertical cooperation; it echoes the frequency issues described immediately above and is closely aligned with information asymmetry issues more generally, as well as with the principal-agent problems generated by the usually high plasticity of agents.

Overall, analysis of vertical patterns of cooperation or of closer integration in the defence intelligence and counterterrorism spheres are found to match those that would be predicted by the presence of either high or low institutional frictions between actors. The next section will therefore summarise the implications of the findings as a whole on the development of a political economy for intelligence and security provision based on this form of microeconomic analysis.

### **Section 3: The Overall Impact of Findings on the Theory**

The empirical findings discussed in Parts 2 and 3 to this thesis support the hypothesis that microeconomic analysis can explain levels of cooperative behaviour through the application of an adapted transactional cost paradigm more holistically than existing approaches. Both the subject matter and the approach to it permit a high level of confidence that the sort of microeconomic analysis developed in Part 1 of the thesis is well suited to the intelligence and security spheres examined. The two functional areas

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<sup>1534</sup> Dyson, "Defence Policy under the Labour Government: Operational Dynamism and Strategic Inertia." Also recently highlighted in Elliott, "Not Ruling the Waves, Just All at Sea."



considered have proven amenable to analysis, despite the secrecy required in some instances. Although heavily engaged with theoretical concerns, the analysis is fundamentally empirical in nature and deals with largely contemporary issues so that both primary and secondary sources are not only readily available but also often part of an ongoing 'conversation' across a spread of opinions that is especially conducive to the examination of cooperation. However the contemporary and temporal nature of the issues also means that there can be more variables of relevance than fixed points about which they react. Despite the drafting problems that so many interdependent variables can cause, this reinforces the place of interaction as a central concept of the institutional costs impact framework, and the need for an holistic model more generally.

The cross-cases in the United Kingdom and United States strongly indicate that the orthodoxies of good cooperation being the norm in the former, and poor cooperation the usual experience in the latter, cannot provide any kind of generally applicable paradigm, despite the evidence for such a contention in the counterterrorism sphere. Equally significantly, the more detailed level of analysis required in assessing levels of institutional costs also demonstrates that even within each functional area, in each country, poor cooperation can occur if the institutional frictions are high and good cooperation can be engendered if the institutional costs are low. No particular organisation or interaction is wholly immune to their impact. Again, this supports the notion that the combination of elements that comprise the institutional costs impact framework is adequate to capture the sorts of issues that affect cooperative outcomes.

However the increased granularity of the analysis also demonstrates that, even within the individual elements of the impact framework as currently constituted, there are significant and separate qualitative characteristics that can impact on the level and type of institutional costs created. These sub-fields then interact with the wider framework in distinct ways. For example whilst both are subsumed within bounded rationality, computational limits are most closely associated with complexity and uncertainty, whereas language

costs are more particularly aligned to cultural asset specificity. Although highly nuanced, these qualitative distinctions suggest that the accuracy of the theory can be improved if it is further developed to incorporate sub-fields within particular elements. Such an extension might even shed further light on why some elements acts in a catalytic manner, others as a means of leverage, while a third category flows from the existence of the others, as observed in the section above.

When the findings are re-applied to the theoretical considerations made in Chapters 3 and 4, two key features are observable: Firstly the observed dichotomy in the subject centric literature on the intelligence and security functions, whereby either cooperative success or failure is explained, but not both, is symptomatic of a larger problem of too narrow a focus. In fact the findings are at odds with the authors own biases,<sup>1535</sup> which had anticipated that many of the cooperative problems were predominantly behavioural, with inappropriate incentive schemes and controls merely supporting self-serving behaviour, much as argued by Zegart and Posner.<sup>1536</sup> *The reality is more involved and more nuanced*, with particular types of behaviour more evident as the inevitable result of the environmental difficulties of the field, especially uncertainty, coupled with stresses in the organisational architecture used to address them. Indeed the analysis shows that the sort of collegial behaviour described by British commentators like Herman and Omand<sup>1537</sup> is also observable on the American side when surrounding conditions permit; it is just that the organisational architecture of the US system prevents such an approach more often than that of the UK.

In each of the cases studied it is the interaction of several institutional cost issues that impacts on cooperative outcomes, and the relevance of each in that interaction varies widely from one instance to another. As Derthick

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<sup>1535</sup> As the data under consideration was taken from real-life interactions the possible existence of biases amongst actors, commentators and even the author, had to be guarded against, or at the very least acknowledged.

<sup>1536</sup> Discussed in Chapter 3, but see for example Zegart, *Spying Blind: The C.I.A., the F.B.I., and the Origins of 9/11*. and Richard A. Posner and Hoover Institution on War Revolution and Peace., *Countering Terrorism: Blurred Focus, Halting Steps*, Hoover Studies in Politics, Economics, and Society (Lanham, Md.: Rowman & Littlefield, 2007).

<sup>1537</sup> See for example Herman, *Intelligence Power in Peace and War*.and Omand, "Creating Intelligence Communities."

observed of American federalism, the intelligence and security functions are "...a very large elephant indeed" and "always in flux". Nonetheless the "... properties of the whole beast" must be grasped if any holistic explanation is to be produced.<sup>1538</sup> It is in this area that existing explanations fall short; often working back from specific outcomes, they can use a linear explanation that excludes factors not relevant to the case in point, so that the applicability of their explanation is limited. The use of the range of institutional costs for analysis with variable amounts of emphasis on each gives the model as a whole a much broader utility.

Secondly, the analysis suggests that ideas found in much of the existing literature arguing that organisational structure can be reformed to improve cooperative performance across the board are flawed.<sup>1539</sup> Although examination of possible reforms is only incidental to this thesis, the ebb and flow in importance of particular problems nonetheless suggests that no perfect organisational form is likely to suit all circumstances. Whilst the British counterterrorism case demonstrates how one method of organisation might be better suited to cooperation in the face of uncertainty than another, that of the US, this is because it is more free to adapt and evolve, not because of any greater inherent suitability to the problems faced. No perfect organisational form *per se*, that would be well suited to all circumstances, is apparent. Instead rigid reforms induce problem displacement, and adaption to one environment leads to mal-adaption in another. Interestingly, this meant a closer alignment between this work and the more general literature, particularly that of Robert Merton,<sup>1540</sup> than with much of the subject centred literature cited.

Finally it must be emphasised that throughout the cases studied the twin assumptions of rationality and of actors pursuing their own self interest above all else are both *far more nuanced* constructs than the simple classical economic varieties. Indeed this is one of the powers of institutional cost

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<sup>1538</sup> Derthick, "The Enduring Features of American Federalism."

<sup>1539</sup> This was not always the case. Richard Posner for example draws back from too radical an application of reform in Garicano and Posner, "Intelligence Failures: An Organizational Economics Perspective." despite the strength of his own advocacy in his books.

<sup>1540</sup> See Merton, "Bureaucratic Structure and Personality."

analysis. The divergence within them can therefore have non-trivial consequences for the larger institutional costs picture.

In both the defence intelligence and counterterrorism cases, and on both sides of the Atlantic, the rationality of actors at every level is closely aligned with their plasticity as autonomous entities. Decision-making is adaptive and reactive, varying even in individuals when faced with largely similar circumstances. Rationality is thus evident to the extent that best outcomes are always preferred, but how that 'best' is defined can shift and is a matter of personal taste, often closely linked to the goals of the particular organisation to which actors belong but not necessarily any more apparent for that.<sup>1541</sup> Too great a reliance on any assumed preference as a fixed point is therefore problematic.

Similarly, the nature of 'self-interest' as pursued by actors can be seen to be variable. More contradictorily, this is most significant when operating at a group level.<sup>1542</sup> Individual actors at all levels naturally equate their own self-interest with that of the group with which they most identify. The institutional cost problem this induces is not based on personally selfish activity, but rather on the fact that the level of identification is invariably at a sub-group level. This has implications for establishing vertical integration or even cooperation along any kind of hierarchical chain, as shared maximands are opaque and principal-agent problems more likely.

Perhaps most importantly for the development of the approach used here, it is the interaction of particular institutional costs that decides the feasible set of cooperative outcomes, as suggested by the work of previous transaction cost scholars,<sup>1543</sup> but this is still not a complete explanation. These findings also support a new argument, that different elements of the institutional costs impact framework each act on the others in very different ways, depending on the peculiarities of the case in question: Some are clearly catalytic in instigating other institutional cost issues, others may be conceived as pivots

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<sup>1541</sup> Discussed in Chapter 4 Section 4.

<sup>1542</sup> Discussed in Chapter 2 Section 4 and predicted for the more general case by Parsons, "Prolegomena to a Theory of Social Institutions."

<sup>1543</sup> Discussed in Chapter 2.

across which the interactions of other elements occur (and are often magnified), whilst a third group are a product of other interactions, which might then exacerbate any frictions. Yet these categories do not necessarily parallel the divisions originally used by Williamson when he first framed his organisational failures framework.<sup>1544</sup>

#### **Section 4: Concluding Remarks**

The utility of the institutional costs approach as a means of considering cooperation between actors and organisations in the intelligence and security spheres lies in its ability to account for both 'normal' and 'deviant' cases with equal confidence. Because it is overall levels of institutional costs that define the boundaries of cooperative behaviour, and different issues can be more or less relevant, or act in distinct ways in different circumstances, the institutional costs approach offers an holistic explanation that is built on a range of existing theories, rather than in opposition to them.

Taken in the round, the empirical findings of Parts 2 and 3 demonstrate that contrary to the orthodox view, British intelligence and security actors are no more predisposed to behave cooperatively than those of the United States, and vice versa. Rather, each will act and react to their fellow actors in similar ways to further the efficacy of their own particular responsibilities *as they perceive them* given similar constraints under which they must operate. These constraints are captured within the institutional costs impact framework and are constant on both sides of the Atlantic. It is matters of degree, and the way in which they interact, that varies from case to case. The principal distinction between the two nations is set, not in any general cultural antipathy towards, or enthusiasm for, cooperation, but in their overarching organisational architecture. It is this community level supra-structure that defines the clarity of property rights allocations between different organisations and thereby the initial level of institutional frictions between them.

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<sup>1544</sup> Williamson, *Markets and Hierarchies : Analysis and Antitrust Implications : A Study in the Economics of Internal Organization*.20-40

However advantages in those systems that do favour cooperative behaviour are not rooted in any specific structural design that is inherently superior in all cases. Instead it is a product of a lack of structural rigidity. The absence of too demarcated an inter-organisational structure allows actors to negotiate solutions in the face of environmental shifts and uncertainty more easily than would otherwise be the case. The apparent contradiction between the need for clear holdings of property rights and the need for adaptability in both counterterrorism and defence issues is not in fact a contradiction at all: Property rights were clearest when divided according to function, and most opaque when divided by responsibility. In the former cases those functions could be simply re-focused on any emerging problem by decision makers, whereas in the latter new threats mean new responsibilities and priorities that might provoke bureaucratic losers as well as winners.

It is also worth reflecting on how fixed the various elements of the institutional costs paradigm might be? For example the emergence of a disposition towards 'transparency' in government amongst the public at large, set in an environment of increasing and ever more immediate access to information sources, was seen to create a new sort of monitoring cost. This could reduce flexibility and increase friction as actors had to negotiate in public, making any retreat from published positions and compromise harder. This shift suggests that other elements could also adapt over time, or potentially that wholly new elements might emerge, as the external environment changes.

Overall then these findings have implications for both the practice and academic explanation of cooperation within the security and intelligence spheres. First, the idea that there can be any 'perfect organisational form' that is well suited to all possible environmental conditions, as advocated by many commentators advocating reform, is called into question. Certainly the manner in which the division of labour is managed can be altered so that property rights are clearer, but thereafter less not more rigidity is best in the face of high levels of uncertainty and complexity. But if the idea that there is any perfect organisational form that only needs to be introduced is a chimera, so too is the notion that any single issue can provide explanatory power for

the differing levels and types of cooperation observed across the two spheres of governance, whether it is socially or environmentally based.

The question then arises, how far can these findings be extrapolated into firstly cooperation in the wider intelligence and security context, and thereafter across into more general questions of governance?

The breadth of the areas of potential relevance to this study means that it cannot, of course, be exhaustive. Instead cases that could be expected to also test the boundary conditions of the institutional costs approach are used. This means that even within the functional spheres of counterterrorism and defence intelligence, issues of vertical cooperation and closer integration are the principal focus. At the same time it can be argued that both spheres, in both nations, could be regarded as having been in a state of crisis throughout the period under review, so that 'normal' environmental conditions remain untested.<sup>1545</sup>

In order to support a wider claim of general applicability across the security and intelligence functions, there is therefore a requirement for a more extensive analysis to increase the reliability of the model. For a higher degree of certainty, the other dimensions of security and intelligence provision (as represented by the conception of probity considerations in Figure 5.6) should be examined in further detail. These would necessarily include horizontal relationships between and within different agencies, downstream interactions with local police and community level bodies, and an appreciation of how oversight is managed. To some extent each of these has been considered in at least a tangential way during this work: Firstly material published by oversight bodies is used extensively throughout the preceding Chapters so that at least some insight into the relationships on both sides of the Atlantic can be induced. Secondly the vertical integration and cooperation examined involved senior levels managing horizontal interaction amongst their sub-level organisations across the broad front of functions needed in both

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<sup>1545</sup> Although a longer term perspective would seem to suggest little real difference to be observed. See for example Davies, *Intelligence and Government in Britain and the United States : A Comparative Perspective*. Vol.1&2. or for more specific examples Riebling, *Wedge : The Secret War between the F.B.I. And C.I.A.*

disciplines. This is an integral part of how managers achieve and deal with the complexity of the subject and their own bounded rationality. Both areas, like downstream relationships, would however benefit from further research.

Some degree of commensurability across these levels can nonetheless be inferred, but with less confidence once specific cases are considered: The very poor relationships between operational level analysts within the CIA's Counterterrorism Center and the ODNI's National Counterterrorism Center (NCTC) for example seem to be aligned to the equally poor property rights allocations between them. However without further examination around, for example, what type of organisation the latter primarily aspires to be this is only conjecture; are the same tensions evident in the interrelationships between those involved in the NCTC's coordinating and policy elements and the CIA for instance? Similarly the local nature of the Joint Terrorism Task Force's across the US would appear to provide a lubricant between the local Federal capability and downstream 'State, local and tribal' actors. But there is also evidence that improving downstream interactions are at the expense of those back upstream to Washington, as the investigation into the Fort Hood shootings by Major Nidal Hasan suggests,<sup>1546</sup> They may thus be becoming the same sort of fiefdoms that FBI field offices were found to be after the 9/11 attacks.<sup>1547</sup> If specific instances of poor cooperation within these areas are to be considered with a higher level of confidence more research is therefore required. In addition other areas of security and intelligence provision such as the provision of national estimates and their like, or counter intelligence, that were selected out of this thesis could also usefully be examined to support the wider aspirations of the theoretical architecture it espouses.

The various theoretical approaches that are used in the development of the institutionalist costs impact framework for intelligence and security provision developed here, including the property rights and transaction costs considerations that are at its heart, were not themselves specific to the

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<sup>1546</sup> William H. Webster, "Final Report of the William H. Webster Commission on the Federal Bureau of Investigation, Counterterrorism Intelligence, and the Events at Fort Hood, Texas, on November 5th 2009," (Washington D.C. 2012).

<sup>1547</sup> "9/11 Commission: Final Report of the National Commission on Terrorist Attacks Upon the United States." 74-78,425



intelligence or security spheres. Rather, they were designed to consider more general issues of social interaction that includes issues as diverse as private sector economic transactions through to wider matters of public sector governance. It is therefore likely that their amalgamation into the institutional costs approach may have a wider utility than that evidenced here.

The narrow findings of this study validate the use of the institutional costs approach when considering cooperation between actors and organisations that exist along a vertical axis relative to each other. In the same way, it is likely to be pertinent to the other intelligence and security questions discussed above, despite the caveats already discussed. Beyond even these questions, the extensive breadth of theoretical views that have informed the development of the institutional costs approach argue for a potentially much wider applicability to questions of cooperation in governance more generally. Certainly the exact nature of much of the evidence discussed might be peculiar to the cases examined here; the asset specificity of military norms are of a unique type for example, but a less pronounced form might well be found in a Treasury department. The degree and exact nature of its impact will thus vary, but not the fact of its relevance. Similarly the problems of complexity and uncertainty might be particularly significant in the areas examined here, but they are never wholly absent from other areas of governance. While the institutional costs approach may have little to say about functions that are routine and repetitive and where contracting is predominantly fixed, in any more complex circumstances where actors must negotiate with each other to agree objectives, resources or roles it could, if appropriately developed, provide a more holistic explanatory paradigm of cooperation between them.

The integration of the conclusions of a range of social scientists, including those outside the 'economics' realm, into the original Coasian and Williamson ideas of property rights and transaction costs has also refined understanding of their key elements, particularly as they are applied to non-financial agreements, and made them more broadly applicable. At the same time the more nuanced understanding of many of the terms asks further questions

about not only the degree of impact they might engender (be it positive or negative), but also the type of impact they might have as they interact with each other. The discovery that some can be catalytic, others act as pivots, and some are derived from the interactions of the other elements, suggests that the order in which each condition occurs might itself have an impact on how overall levels of institutional costs develop for example.

There is therefore further work to be done, but as Graham Allison stated in his conclusion to 'Essence of Decision':

"The burden of this study's argument, however, is that larger payoffs in the future will come from an intellectual shift of gears. We should ask not what goals account for a nation's choice of action, but rather what factors determine an outcome... We must move to a conception of happenings as events whose determinants are to be investigated according to the canons that have been developed by modern science."<sup>1548</sup>

This investigation into cooperation between different actors and organisations involved in the provision of security and intelligence is an examination of those factors, and the development of the transaction cost analysis for economic transactions into a framework of institutional costs provides a utilitarian and comprehensive means through which they can be more clearly analysed. It is therefore a further step along the road advocated by Allison in 1971.

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<sup>1548</sup> Graham T. Allison (1971) 'Essence of Decision: Explaining the Cuban Missile Crisis' p.255 Lillie Brown & Company. Boston MA.

## Appendix 1 - Acronyms

ASD-C3I	Assistant Secretary of Defense for Command, Control, Communications and Information
ASD-SOLIC	Assistant Secretary of Defense for Special Operations and Low Intensity Conflict
BDA	Battle Damage Assessment
CCIRM	Collection, Coordination and Intelligence Requirements Management
CDS	Chief of the Defence Staff
CENTCOM	Central Command
CIA	Central Intelligence Agency
CINC	Commander in Chief
CPNI	Centre for the Protection of Critical National Infrastructure
CTIU	Counter-Terrorism Intelligence Unit
CTU	Counter Terrorism Unit
CTC	Counter Terrorism Command (aka. SO15)
DARO	Defense Airborne Reconnaissance Office
DCDC	Development, Concepts and Doctrine Centre
DCI	Director of Central Intelligence
DGIFC	Defence Geospatial Intelligence Fusion Centre (Formerly
JARIC)	
DHS	Department for Homeland Security
DIA	Defense Intelligence Agency
DIAC	Defense Intelligence Analysis Center
DIFC	Defence Intelligence Fusion Centre
DNI	Director of National Intelligence
DoD	Department of Defense
DoDJIC	Department of Defense Joint Intelligence Center
DOP(IT)	Defence and Overseas Policy (International Terrorism)
DOP(IT)(PSR)	Sub-Committee of above for 'Protection Security and Resilience'
DVITS	Digital Video Imagery Transmission System
EAC	Echelons Above Corps
EBO	Effects Based Operations
EFP	Explosively Formed Projectile
ESDP	European Security and Defence Policy
ExCom	Executive Committee of the National Security Council
FBI	Federal Bureau of Investigation
GC&CS	Government Code and Cypher School
GCHQ	Government Security Head-Quarters
GPO	General Post Office
HSIC	Homeland Security Intelligence Community
HSEC SINS	Homeland Security Standing Information Needs
HSIN	Homeland Security Information Network
HSINT	Homeland Security Intelligence
HUMINT	Human Intelligence
INR	Bureau of Intelligence and Research
IPB	Intelligence Preparation of the Battlespace
IRTPA	Intelligence Reform and Terrorism Prevention Act of 2004

JARIC	Joint Air Reconnaissance Intelligence Centre, now the DGIFC
JDISS	Joint Deployable Intelligence Support System
JISE	Joint Intelligence Support Element
JSOCC	Joint Special Operations Component Commander
JTAC	Joint Terrorism Analysis Centre
JIC	Joint Intelligence Committee
JICC	Joint Intelligence Coordinating Council
JISE	Joint Intelligence Support Element
JIVA	Joint Intelligence Virtual Architecture
JMIP	Joint Military Intelligence Program
JTF	Joint Task Force
JTTF	Joint terrorism Task Force
JWICS	Joint Worldwide Intelligence Communications System
MoD	Ministry of Defence
NaCTSO	National Counter Terrorism Security Office
NATO	North Atlantic Treaty Organization
NFIB	National Foreign Intelligence Board
NGA	National Geospatial Intelligence Agency
NIB	National Intelligence Board
NIC	National Intelligence Council
NIE	National Intelligence Estimate
NCTC	National Counterterrorism Center
NFIP	National Foreign Intelligence Program
NIMA	National Imagery and Mapping Agency
NIP	National Intelligence Program
NIST	National Intelligence Support Team
NMIST	National Military Intelligence Support Teams
NMJIC	National Military joint Intelligence Center
NRO	National Reconnaissance Office
NSA	National Security Agency
NSID	Ministerial Committee on National Security, International Relations and Development
NSC	National Security Council
NSC(O)	National Security Council Officials Committee
ODNI	Office of the Director of National Intelligence
ONA	Organizational Network Analysis
OSCT	Office for Security and Counter-Terrorism
PJHQ	Permanent Joint Headquarters
PPD	Presidential Policy Directive
PRT	Provincial Reconstruction Team
PSIS	Permanent Secretaries Committee on the Intelligence Services
PUS	Permanent Under Secretary
RMA	Revolution in Military Affairs
RPSI	Requirements and Priorities for Secret Intelligence
TDF	Tactical Digital Facsimile
SAP	Special Access Programs
SCI	Special Compartmented Information
SIA	Single Intelligence Account
SID	Secondary Imaging Dissemination Device
SIS	Secret Intelligence Service (also known as MI6)

SIGINT	Signals Intelligence
SCS	Special Collection Service
SDSR	Strategic Defence and Security Review
SOP	Standard Operating Procedure
SyS	Security Service (also known as MI5)
TIARA	Tactical Intelligence Related Activities
TIDO	Terrorism, International Defence and Overseas
TK	Talent-Keyhole
TPED	Tasking/ Processing/ Exploitation/ Dissemination
TTIC	Terrorist Threat Integration Centre (later the NCTC)
UK	United Kingdom
US or USA	United States of America
USAF	United States Air Force
USD(P)	Under Secretary of Defense (Policy)
USSS	United States Secret Service
WMD	Weapons of Mass Destruction

## Appendix 2 – Brunel University School of Social Sciences Ethical Approval



### School of Social Sciences Ethics Checklist

**ETHICAL MATTERS MUST BE CONSIDERED BEFORE ANY RESEARCH TAKES PLACE  
FAILURE TO FOLLOW THE CORRECT ETHICAL PROCEDURES OR CONDUCTING RESEARCH WITHOUT ETHICAL  
APPROVAL WHERE IT IS REQUIRED MAY LEAD TO DISCIPLINARY ACTION**

#### Guidance

This Ethics Checklist has been designed to help determine the level of risk or harm to participants' welfare entailed in a proposed study. It also contains a sample consent form and information leaflet checklist that you can use/adapt as appropriate.

**NB: If your research requires NHS ethics approval, you should not complete this form. Please provide the School with a copy of your letter of NHS approval once you receive this.**

#### Who Completes the Checklist?

The Principal Investigator (PI) is the main researcher and can be a student. The PI (or where the PI is a student, the supervisor) is responsible for exercising appropriate professional judgement in this review.

#### Underpinning Codes of Ethics

Before completing this checklist, you must refer to the University [Code of Research Ethics](#) as well as the relevant code of ethics for your discipline. These are listed in the Useful Links section at the end of this guidance. It is your responsibility to follow these Codes of Research Ethics in the conduct of your study. This includes providing appropriate documentation and ensuring confidentiality in the storage and use of data (see section 3.3.2 of the University Code of Research Ethics).

#### The Checklist

This Checklist is in two parts:

Part 1: This must be completed by all students and staff undertaking research. This section aims to confirm that there are no ethical or risk assessment issues related to your research.

Part 2: This is for all Principal Investigators who identify that there are ethical and/or risk assessment issues in their proposed research.

**YOU MUST HAVE YOUR APPLICATION, CONSENT FORM AND INFORMATION SHEET APPROVED BY YOUR DEPARTMENTAL ETHICS COORDINATOR (OR IF APPROPRIATE, UNIVERSITY ETHICS COMMITTEE) BEFORE YOU START YOUR RESEARCH AND APPROACH POTENTIAL PARTICIPANTS.**

#### What do I have to do if I need to complete the University Research Ethics Committee Application Form?

You will need to complete and submit this via BBL. In most cases, the School will be able to review and approve the ethics form. If the research needs University level approval, your form will be submitted to the University Research Ethics Committee by the Research Office.

#### Risk Assessment

All Principal Investigators (and their supervisor where relevant) are required to consider matters of risk and conduct a risk assessment as part of the University's Health and Safety Policy. If issues of risk are identified, a risk assessment is required and must be attached to this form. For further information about Risk Assessments and guidance on how to undertake one, see the document 'RISK ASSESSMENT – FAQs' which can be found in the School of Social Sciences Ethics Organisation, under my Organisations in BBL.

#### Disclosure and Barring Service (formerly Criminal Record Bureau) Checks

If your research involves vulnerable persons, you are required to follow University guidelines for Disclosure and Barring Service (DBS) checks. If you need a DBS check please contact the DBS Administrator in Admissions who will send you the information you need to make a DBS application.

### How to submit Checklist and appendices on Blackboard Learn

- Stage 1: Log into BBL
- Stage 2: Click on the School of Social Sciences Research Ethics Organisation, under the My Organisations list on the right hand side
- Stage 3: Download the Ethics Checklist from the folder on the homepage titled 'Research Ethics Application Form'.
- Stage 3: Click on your appropriate department folder
- Stage 4: Click on the Ethics Checklist Submission Assignment Tool
- Stage 5: Upload your Ethics Checklist and appendices eg consent form, information leaflet, using the Browse My Computer link, and ensure you have uploaded the correct documents
- Stage 6: Once you have confirmed they are the correct documents, click submit
- Stage 7: You will receive an email receipt of your submission to your Brunel email account
- Stage 8: Click on the My Grades link in the School of Social Sciences Research Ethics Organisation to find the outcome and feedback once it has been reviewed by your Departmental Ethics Coordinator.

Further information about how to submit is available in the School of Social Sciences Ethics Organisation, under My Organisations, in BBL.

### What happens after I have received ethical approval?

Once you have received ethical approval, you can start your research.

Students are required to retain a copy of the approved Checklist, consent form and information leaflet and submit these with their research report/dissertation/thesis.

All undergraduate and postgraduate work submitted/conducted without ethical approval may be subject to academic penalties and disciplinary action.

If your research is delayed and will extend beyond the dates stated on your form, please contact your Departmental Ethics Coordinator to seek approval for an extension.

### Useful Links and Resources

University Research Code of Ethics [LINK](#)

UREC website - [LINK](#)

Code of Ethics – Anthropology [LINK](#)

Code of Ethics – Economics and Finance (Use University Research Code of Ethics)

Code of Ethics – Politics and History (Use University Research Code of Ethics)

Code of Human Research Ethics – Psychology [PDF](#)

Code of Ethics – Sociology and Communications - [LINK](#)

Risk Assessment – FAQs – School of Social Sciences Ethics Organisation, under my Organisations in BBL.

### Contacts

Anthropology Ethics Coordinator:	Dr Isak Niehaus
Economics and Finance Ethics Coordinator:	Professor Frank Skinner
Politics and History Ethics Coordinator:	Dr John MacMillan
Psychology Ethics Coordinator:	Dr Achim Schutzwohl/ Dr Bridget Dibb
Sociology and Communications Ethics Coordinator:	Dr Simon Weaver
Research Ethics Administrator:	Ms Amreen Malik

## SSS Research Ethics Review Checklist – Part 1

### Section I: Project details

1. Project title: A Political Economy of Intelligence and Security: Can Microeconomic Analysis Explain Success or Failure in Intelligence Cooperation?	
2. Proposed start date: Oct 2010	3. Proposed end date: Dec 2014

### Section II: Applicant details

4. Name of researcher (applicant)	James W H THOMSON
5. Student Number	0631163
6. Status	PGR Student
7. Department	Politics and History
8. Brunel e-mail address	James.thomson@brunel.ac.uk
9. Telephone number	07824 321181

### Section III: For students only

10. Module name and number:	N/A
11. Supervisor's name:	N/A
12. Brunel supervisor's e-mail address:	N/A

	Yes	No
13. Does this research involve human participants?	<input checked="" type="radio"/>	<input type="radio"/>
14. Does this research raise any ethical or risk concerns as set out in the University Code of Research Ethics or relevant disciplinary code?	<input type="radio"/>	<input checked="" type="radio"/>
15. Risk Assessment – are there any elements of risk related to the proposed research? (See Risk Assessment – FAQs)	<input type="radio"/>	<input checked="" type="radio"/>

If you have answered **Yes** to any of questions 13-15, you must **complete Part 2** of this form.

**Students:** If you have answered No, please email this document to your supervisor who will confirm that the research does not involve ethical issues. Once electronically signed by your supervisor, please submit Part 1 of this form via BBL within 1 week. Please keep a copy for yourself and bind it into your dissertation/thesis as an appendix.

**Staff:** If you have answered No, please sign below and submit your form via BBL. Please keep a copy for yourself.

**If your research methodology changes significantly, you must submit a new form.**

For Supervisor's/Staff e- signature

I confirm that there are no ethical or risk issues relating to this research and the applicant can proceed with the proposed research.
--



e-signature/ Date:

## SSS Research Ethics Review Checklist – Part 2

### Section IV: Description of project

Please provide a short description of your project:

The thesis discusses why apparently similar intelligence and security scenarios can experience very different levels of internal cooperation. It argues that there is a symbiotic relationship between many parts of the community but that the interaction of environmental and behavioural factors in complex and uncertain situations generate frictions that negotiation and some form of 'contract' (however informal) needs to offset, so that the level of institutional costs experienced will be central to levels of success. These seeming dichotomies can be explained using a microeconomic approach. By increasing the granularity of analysis, the frictions that hinder negotiated cooperation become apparent. As part of the study some key individuals whose professional role is or has been to act at those points of interaction should be interviewed to provide a further point of triangulation of findings from other primary and secondary sources.

### Section V: Research checklist

Please answer each question by ticking the appropriate box:

	YES	NO
1. Does the project involve participants who are particularly vulnerable or unable to give informed consent (e.g. children/ young people under 18, people with learning disabilities, your own students)?	<input type="radio"/>	<input checked="" type="radio"/>
2. Will the research involve people who could be deemed in any way to be vulnerable by virtue of their status within particular institutional settings (e.g., students at school, residents of nursing home, prison or other institution where individuals cannot come and go freely)?	<input type="radio"/>	<input checked="" type="radio"/>
3. Will it be necessary for participants to take part in the study without their knowledge and consent (e.g., covert observation of people in non-public places)?	<input type="radio"/>	<input checked="" type="radio"/>
4. Will the study involve discussion of sensitive topics (e.g., sexual activity, drug use) where participants have not given prior consent to this?	<input type="radio"/>	<input checked="" type="radio"/>
5. Will the study involve work with participants engaged in breaking the law?	<input type="radio"/>	<input checked="" type="radio"/>
6. Will the publications/reports resulting from the study identify participants by name or in any other way that may identify them, bring them to the attention of the authorities, or any other persons, group or faction?	<input type="radio"/>	<input checked="" type="radio"/>
7. Are drugs, placebos or other substances (e.g. food substances, vitamins) to be administered to the study participants or will the study involve invasive, intrusive or potentially harmful procedures of any kind?	<input type="radio"/>	<input checked="" type="radio"/>
8. Will the study involve the use of human tissue or other human biological material?	<input type="radio"/>	<input checked="" type="radio"/>
9. Will blood or tissue samples be obtained from participants?	<input type="radio"/>	<input checked="" type="radio"/>
10. Is pain or more than mild discomfort likely to result from the study?	<input type="radio"/>	<input checked="" type="radio"/>

	YES	NO
11. Could the study induce psychological stress or anxiety or cause harm or negative consequences beyond the risks encountered in normal life?	<input type="radio"/>	<input checked="" type="radio"/>
12. Will the study involve prolonged or repetitive testing?	<input type="radio"/>	<input checked="" type="radio"/>
13. Will financial inducements (other than reasonable expenses and compensation for time) be offered to participants?	<input type="radio"/>	<input checked="" type="radio"/>

	YES	NO
14. Will the study require the co-operation of another individual/ organisation for initial access to the groups or individuals to be recruited? If yes please attach the letters of permission from them.	<input type="radio"/>	<input checked="" type="radio"/>
15. Will you be undertaking this research as part of a work placement or in conjunction with an external organisation? If Yes and the organisation has conducted its own research ethics review, please attach the ethical approval.	<input type="radio"/>	<input checked="" type="radio"/>

If you have answered 'yes' to any of questions 1-13, you will need to complete the [University Application Form for Research Ethics Approval](#).

**Students:** If you have answered 'No' to all of questions 1-13, please **sign below and submit this completed Checklist, consent form, information leaflet and any other documents and attachments for your supervisor's approval by email** . Once you have received it back from your supervisor you will be able to submit via BBL. Forms that do not have your supervisor's approval will be rejected.

**Staff:** If you have answered 'No' to all of questions 1-13, please **sign below and submit this completed Checklist, consent form, information sheet and any other documents and attachments via BBL**.

Please note that it is your responsibility to follow the University's Code of Research Ethics and any relevant academic or professional guidelines in the conduct of your study. **This includes providing appropriate information sheets and consent forms, and ensuring confidentiality in the storage and use of data**. Any significant change in protocol over the course of the research should be notified to the Departmental Ethics Coordinator and may require a new application for ethics approval.

Applicant (Principal Investigator) Name: James W H THOMSON
Applicant's e-signature: By Email/BBL Submission
Date: 27th July 2014

**Supervisor Section (for students only)**

Please tick the appropriate boxes. The study should not be submitted until all boxes are ticked:

<input checked="" type="checkbox"/>	The student has read the University's <a href="#">Code of Research Ethics</a>
<input checked="" type="checkbox"/>	The topic merits further research
<input checked="" type="checkbox"/>	The student has the skills to carry out the research
<input checked="" type="checkbox"/>	The consent form is appropriate
<input checked="" type="checkbox"/>	The participant information leaflet is appropriate
<input checked="" type="checkbox"/>	The procedures for recruitment and obtaining informed consent are appropriate
<input checked="" type="checkbox"/>	An initial risk assessment has been completed
<input checked="" type="checkbox"/>	If there are issues of risk in the research, a full risk assessment has been undertaken in line with the 'School of Social Sciences Risk Assessment- FAQs' document and a risk assessment is attached.
<input type="checkbox"/>	A DBS check has been obtained (where appropriate)
<input checked="" type="checkbox"/>	The debriefing form is appropriate (NB for psychology only - please refer to BBL)

Any comments from supervisor:

--

Supervisor or module leader (where appropriate):

E-signature: Professor Philip H.J. Davies

Date: 22/08/14

**Supervisors:** Please **email** this form to the student who will then need to submit it and related appendices via BBL.

**Student:** Once you have received this form back from your supervisor, submit this completed Checklist, consent form, information sheet and any other documents and attachments via BBL.

**Departmental Ethics Coordinator section:**

This request for expedited review has been:	<input checked="" type="checkbox"/> Approved (No additional ethics form is necessary)
	<input type="checkbox"/> Declined (Full University Ethics Form is necessary)
	<input type="checkbox"/> Declined (Please give reason below)

Departmental Ethics Coordinator Name: Dr. Myron Varouhakis
E- signature Myron Varouhakis
Date: 22/09/2014

**Appendix 1**
**SAMPLE CONSENT FORM TO BE ADAPTED AS APPROPRIATE**

The participant should answer every question

	YES	NO
1. I have read the Research Participant Information Sheet.	<input type="checkbox"/>	<input type="checkbox"/>
2. I have had an opportunity to ask questions and discuss this study.	<input type="checkbox"/>	<input type="checkbox"/>
3. I understand that I am free to withdraw from the study:		
- at any time (Please note that you will be unable to withdraw once your data has been included in any reports, publications etc)	<input type="checkbox"/>	<input type="checkbox"/>
- without having to give a reason for withdrawing	<input type="checkbox"/>	<input type="checkbox"/>
- without it affecting my future care	<input type="checkbox"/>	<input type="checkbox"/>
4. I agree to my interview being recorded	<input type="checkbox"/>	<input type="checkbox"/>
5. I understand that I will not be referred to by name in any report/publications resulting from this study	<input type="checkbox"/>	<input type="checkbox"/>
6. I agree that my comments can be quoted as long as they do not directly identify me when the study is written up or published	<input type="checkbox"/>	<input type="checkbox"/>
7. I agree to take part in this study	<input type="checkbox"/>	<input type="checkbox"/>

Research Participant Name:
Research Participant signature:
Date:

Principal Investigator name:
Principal Investigator signature:
Date:

One copy to be kept by the participant and one by the researcher

## Appendix 2

### PARTICIPANT INFORMATION LEAFLET

#### Checklist

##### Study title

A Political Economy of Intelligence and Security: Can Microeconomic Analysis Explain Success or Failure in Intelligence Cooperation?

##### Invitation Paragraph

You are being invited to take part in a research study. Before you decide, it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it with others if you wish. Ask me/us if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

##### What is the purpose of the study?

The study is intended to develop an over-arching theory of factors that can impact on the success or failure in collaborative endeavours in the intelligence and security spheres by developing and adapting a microeconomic model initially intended to explain business decisions in the private sector.

##### Why have I been invited to participate?

You have been asked to take part because of your (x) years of professional experience having to manage points of interaction between agencies and individuals coming from different parts of the intelligence and security spheres at a (political/senior-official/operational) level.

##### Do I have to take part?

Taking part in this interview is entirely optional. You may also have the interview terminated at any stage or have any answer you have given removed or adapted within any record should you subsequently decide you are unhappy with it or that your point has not been fairly represented. You need not provide any reason for any such decision. A consent form will be provided for you to sign if you are happy to do so.

##### What will happen to me if I take part?

You will be interviewed by the researcher in a one to one setting of your choice. The interview may be recorded for the purposes of accurate transcribing of any quotes, but will not be unless you give consent. The interview will last no more than an hour and a half and no preparation is needed.

##### What do I have to do?

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The interview relates to your professional experiences only. There are no requirements beyond answering questions around these.

**What are the possible disadvantages and risks of taking part?**

As a candid appreciation of various elements of your workplace will be discussed you will need to think carefully about whether you are comfortable discussing such issues, and whether you need to seek any internal permissions.

No information that is classified is required or will be requested.

**What if something goes wrong?**

In the event that you do disclose anything that is not suitable for the public domain you can make the fact clear to the researcher at any point. The researcher retains DV status and will NOT use any such information under any circumstances, and will ensure any record of it is destroyed (or returned to you for destruction if that is preferred).

The person to be contacted if you wish to complain about any facet of the interview is the Chair of the principal investigator's School Research Ethics Committee at Brunel University (Tel: .

**Will my taking part in this study be kept confidential?**

Should you wish your participation to remain confidential it will be. Any references to information you provide will be in the form 'interview with ... a reference to your approximate rank or position, and a reference to the type of organisation from which you have been drawn (to the degree that we agree during the interview)... as well as an approximate date that the interview took place. No record of your name or any detail of your specific position or function will be retained or disseminated.

**What will happen to the results of the research study?**

This study is pursuant to the researcher obtaining a PhD through Brunel University. It's results will be used in the submission of a thesis towards that end. Should a subsequent use of the study be considered, you will be contacted by the researcher to ensure you remain happy with the information you provided and the new use for which it is intended.

**Who is organising and funding the research?**

The researcher is self-funding. No other funding has been made available.

**Who has reviewed the study?**

The School of Social Sciences at Brunel University have reviewed this study.

**Contact for further information**

The researcher can be contacted via: [james.thomson@brunel.ac.uk](mailto:james.thomson@brunel.ac.uk)

The School of Social Sciences at Brunel University can be contacted on:

*School of Social Sciences, Brunel University*

*Uxbridge, Middlesex.*

*England UB8 3PH*

- Email: [sss-enquiries@brunel.ac.uk](mailto:sss-enquiries@brunel.ac.uk)
- Tel: +44 (0)1895 265884
- Fax: +44 (0)1895 269786



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