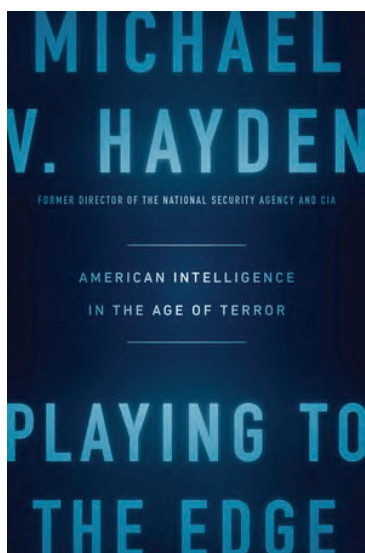


CHALK DUST ON OUR CLEATS

Review by Keith Pavlischek



PLAYING TO THE EDGE: AMERICAN INTELLIGENCE IN THE AGE OF TERROR

by MICHAEL V. HAYDEN, Penguin Press, 2016

It would be, quite simply, impossible to find a person better positioned to write on “American Intelligence in the Age of Terror” over the past two decades than Michael Hayden, who from 1999 to 2009 served as the Director of the National Security Agency (1999-2005), the first Principle Deputy Director of National Intelligence (2005-2006), and then Director of the Central Intelligence Agency (2006-2009).

In the first page of the forward, Hayden says, “Critics, observers, and just average citizens don’t know much about intelligence as they want or should. A goal of this book is to help address that.” He more than succeeds, not simply because he held such critical positions of leadership during such a critical period of American history, but because he has an uncanny ability to summarize and communicate highly classified, technical, and complex policy and legal issues to the informed non-specialist and average citizen.

This is a rare talent for senior military officers and certainly for senior intelligence officials, not least of all because the public discussion of highly classified information, even apart from the technical details, is fraught with pitfalls. Responding to critics is somewhat akin to going to a knife fight with one hand, the one with your knife, tied behind your back. I suspect this book will be essential reading for decades, certainly for military and intelligence professionals, foreign policy experts and wonks, and (one would hope) members of congress, although given the book’s description of the fecklessness of a few representatives of this later group, including them in this aspiration may be a bridge too far.

While describing his professional interaction with the whole of the US military and government, Hayden focuses on the most significant intelligence programs and initiatives: NSA’s Stellarwind Program (the so-called metadata program), the CIA’s enhanced interrogation program and the Obama decision to release Department of Justice memos from the Bush administration, the controversial Iranian National Intelligence Estimate, the

employment of UAVs (drones) in the War on Terror, as well as on offering insight into bureaucratic infighting, intelligence leaks, dealings with the press, and interactions with Congressional Intelligence oversight committees.

But regarding Hayden as a person, it is not until halfway through the book in a chapter titled “Going Home: Pittsburgh, PA, 1945-2014” that you really get at what makes him tick, as a leader and an intelligence professional, and get a glimpse into his *character*.

Hayden grew up in a modest blue collar family in a hard-scrabble ethnic neighborhood on Pittsburgh’s North Side in a house that would later be torn down to build Three Rivers Stadium. His family attended the same Catholic Parish as the Art Rooney family, owners of the Pittsburgh Steelers (Dan, Art Rooney’s son and the future president of the Steelers, was Hayden’s grade school football coach). He attended parochial grade school, North Catholic High School, and then Duquesne University, where he joined Air Force ROTC and graduated in 1969. “I was on active duty with America’s Air

Force before I ever sat in a classroom that didn't have a crucifix in it."

He recalls his parents as having "imposed a high (practically guilt-inducing) moral standard on us, but insisted on a great deal of tolerance for others: 'Judge not lest... We are all God's children.'" As the commencement speaker at Duquesne University in 2007, he described, "the challenging philosophy and theology courses" taken at Duquesne as "wonderful gifts...gifts that keep on giving. They give me anchor in what is often a turbulent sea. They give me compass when the way ahead is far from clear. *They give me a beam of light when I have to work in the shadows*" [emphasis in the original].

I call attention to this chapter because, if you are a leader with great responsibility and are going to "play to the edge" in the intelligence business, especially during a time of great peril, you better be personally honorable and trustworthy because sooner or later you will be confronted not only by honorable men and women who sincerely believe you may have crossed the line, but also because you will be inevitably slandered by less than honorable politicians, and will have to withstand the slings and arrows of half-baked, ill-informed, and sometimes crackpot critics with a microphone.

"Playing to the edge" is a football metaphor that Hayden had been using at the NSA since at least 9/11. "The reference is to using all the tools and all the authorities available," he writes. "Much like a good athlete takes advantage of the entire playing field right up to the sideline markers and endlines." Now, the average citizen and casual

observer might be inclined to take this as self-evident. Why would anyone choose to play between the hash marks when the bad guys were playing from sideline to sideline? Why not use the entire field, so long as you don't go out of bounds?

But as Hayden observes, and as I can personally confirm, since the Church Commission hearings of the 1970s, the NSA culture in particular, and the associated bureaucratic pressures generally, had produced an agency that was extremely cautious and almost manically resistant to pushing up against legal boundaries. Despite the more hysterical critics (including those who take seriously entertaining but wildly exaggerated movies and TV shows like *Enemy of the State* or *24*) and half-informed critics, right and left, who think the NSA is all about "spying on the American people," NSA professionals are, as Hayden says, "very conservative when it comes to the privacy of US persons." Rather than "play to the edge," rather than go right up to the "is it legal?" boundary line, it was always easier and safer, not to mention career enhancing (typically bureaucracies, including intelligence bureaucracies, discourage risk) to establish policies that would keep you as far away from that legal sideline as possible. That's how you end up playing between the hash marks while your adversary uses the entire field, and more.

Arguably, throughout the 1980s and the 1990s, the cost of this cautious approach could be borne. But the true cost eventually became painfully evident in 2001. As Hayden notes, the Congressional Joint Inquiry Commission (JIC) investigation into the failure to prevent 9/11 mentioned specifically:

NSA's cautious approach to any collection of intelligence relating to activities in the United States

There were also gaps in NSA's coverage of foreign communications and the FBI's coverage of domestic communications.

NSA did not want to be perceived as targeting individuals in the United States.

[In talking about one-end US conversations] there was insufficient focus on what many would have thought was among the most critically important kinds of terrorist communications, at least in terms of protecting the homeland.

It wasn't for nothing that General Hayden was famous for saying after 9/11, "I want chalk dust on my cleats." That he had to say it repeatedly, *even after 9/11*, is sufficient evidence that old habits die hard.

Most American intelligence professionals," Hayden says, "are well acquainted with the broad cultural rhythm connecting American espionage practitioners and American political elites: the latter group gets to criticize the former for not doing enough when it feels in danger, while reserving the right to criticize it for doing too much as soon as it has been made to feel safe again." This dynamic is a consistent theme of the book, layered on top of the perennial task of balancing security and secrecy with privacy. (Hayden gets in a dig at some critics by pointing out the frequent misquotes of Benjamin Franklin who actually said: "Those who can give up *essential* liberty to obtain a *little temporary*

safety deserve neither liberty nor safety.”)

So, how does “playing to the edge” cash in on the two most well-known intelligence programs, the NSA’s metadata collection program and the CIA’s interrogation program? The moral and legal complexities are not easily summarized, so I’ll simply highlight a revealing Hayden comment on each program.

With regard to Stellarwind (NSA’s “metadata program”) Hayden, as we have seen, called attention to the failures of NSA as cited by Congress in the JIC. In response to these findings, Hayden writes, NSA’s Stellarwind program ought to have been perceived as:

a logical response to an agreed upon issue and not the product of demented cryptologic minds, as some later would suggest. By Congress’ definition, what we had been doing had not been enough. What would they have us do if not a Stellarwind-like approach to fill the gaps they were so righteously identifying?

I don’t think there is a good, or even a plausible response to that question, which tends to be confirmed by the NSA inspector general, Joel Brenner, whom Hayden describes as a “skeptical outsider,” and who was read into the program in 2002 to provide oversight. *“Joel was pretty much on record that any president who failed to collect the intelligence authorized by this program would have been derelict in his duty. He was equally passionate that we should move as much of this*

program under the FISA Court and a broader (i.e., legislated) legal structure. We did, but not until years later” [emphasis added]. That’s playing to the edge.

Hayden was perhaps the most articulate public defender of the CIA interrogation program. While the most controversial interrogation technique, waterboarding, had ended long before he became Director of the CIA, he vehemently and articulately opposed the total elimination of all enhanced interrogation procedures, rightly rejecting the claim that they constituted “torture” as well as the frequently asserted claim that these techniques were useless and ineffective in producing highly important intelligence. And he, along with just about every other living Director of Central Intelligence, was justifiably furious and publicly critical when the Obama administration decided to release Department of Justice legal memos that laid out in detail the techniques that had been authorized for the CIA’s interrogation of high value terrorists. He described the release of those memos as a “betrayal of trust” and “fundamental dishonesty.” Hayden’s position is succinctly summarized:

Most of the people who oppose these techniques want to be able to say, “I don’t want my nation doing this (which is a purely honorable position), *and they didn’t work anyway.*” The back half of that sentence isn’t true. The honorable position has to be, “even though these techniques worked, I don’t want you to do that.” That takes courage. The other sentence

doesn’t. [emphasis in the original]

I’d imagine Hayden’s undergraduate theology and philosophy courses played an influential role here. For it is at this precise point where—especially when playing to the edge—integrity, honor, and character matter. Even before evaluating the evidence Hayden presents that the interrogation program did indeed produce otherwise unattainable, actionable intelligence, you have to first take the measure of the man. Does his life and his public service give us reason to believe he is a man of honor and integrity, and thus can he be believed when he says the interrogation program was effective, even if you believe that the techniques employed should be prohibited? The choice is forced: Is he trustworthy, or is he being deceitful in stating so categorically that the techniques worked? Or do you believe that ideologically-driven or feckless political opportunists declaring “they didn’t work anyway” are merely, once again, “reserving the right to criticize [the intelligence community] for doing too much as soon as it has been made to feel safe again”?

That, it seems to me, is an easy call. One can only wish we had more public servants like General Hayden. **P**

Keith Pavlischek is a Senior Editor for *Providence*. He retired as a Colonel in the U.S. Marines in 2007. From 2002 to 2005 he served at the National Security Agency and from 2005 to 2007 at the Office of the Director of National Intelligence. He grew up in the Steel Valley near Pittsburgh, PA, and is a Steeler fan who, like General Hayden, bleeds Black and Gold.