

Back to the Future: The Implications of September 11, 2001 on Law Enforcement Practice and Policy

Steven G. Brandl*

The purpose of this essay is to offer some informed speculation as to the implications of September 11, 2001 on law enforcement practice and policy. Drawing upon an understanding of police history, it is seen that in the past, major changes in policing have usually been prompted by crises, crises caused by new crime and technological demands being placed on the police. With September 11 and related events, American law enforcement may once again be approaching a state of crisis. The devotion of new resources and authority to law enforcement entities, the further militarization of the police (a trend already well established) and the rapid incorporation of crime detection technology are presented as the most likely and visible adaptations to the crisis.

I. INTRODUCTION

Nineteen motivated men. A few box-cutter knives. Four hijacked commercial airplanes. Sixty thousand gallons of jet fuel. Logistical and training support from the al Qaeda terrorist organization. Several hundred thousand dollars. The World Trade Center and the Pentagon, filled with people. On September 11, 2001, these ingredients came together to create a disaster of previously unseen proportions. The law enforcement response to this incident represents, arguably, the largest and most complex criminal investigation in our history. In fact, in many respects, “the” investigation has actually become a multitude of inter-related investigations, all of which together represent the new “war on terrorism.” Over 7,000 agents from the FBI and other agencies are assigned to the matter. Information uncovered as a result of the investigations has led to U.S. military action in Afghanistan, and intelligence and enforcement operations in numerous other foreign countries. And that is the least of it. What happened on September 11 has changed our lives in dramatic ways; however, the changes that we have seen so far are insignificant in relation to what may lie ahead.

The purpose of this essay is to offer some informed speculation regarding the implications of September 11 on law enforcement practice and policy. The premise of the essay is that the events of September 11 have initiated, and in some instances

* Associate Professor, Department of Criminal Justice, University of Wisconsin-Milwaukee.

accelerated, a wave of change in American law enforcement, and these changes will dramatically affect the face of law enforcement of the future. The discussion provided here is based largely on an understanding of history. Indeed, one of the benefits of such an understanding is that it may serve as a guide to the future (Gallie, 1985). According to Lichtman and French (1985), “the past provides our only source of information for evaluating current affairs and making predictions about the future” (p. 277). As stated by American historian Charles Beard (1934), “all efforts . . . to guess the trends of the future . . . require some penetration into the depths of history” (p. 69). However, scholars agree that making accurate predictions based on the past is always difficult, and sometimes impossible. Schlesinger (1985) explains:

Most useful historical generalizations are statements about massive social and intellectual movements over a considerable period of time. They make large-scale, long-term prediction possible. But they do not justify small-scale, short-term prediction. For short-run prediction is the prediction of detail and, given the complex structure of social events, the difficulty of anticipating the intersection or collision of different events and the irreducible mystery, if not invincible freedom, of individual decision, there are simply too many variables to warrant exact forecasts of the immediate future (p. 319).

In other words, the more specific the prediction, the more likely it is to be wrong. Stephens (1985) likens the prediction process to that of shooting an arrow at a distant target at night:

The target will at best be barely perceptible, and a number of factors may intervene so that the target moves or the arrow is thrown off course by a sudden gust of wind. Fortuitous circumstances are ever-present in the life of man, and man’s reaction to events is never so constant that we can state with lawlike precision that he will behave in the same way at all times (p. 328).

There are at least two specific ways that an understanding of history may be used to predict the future. One way is to identify historical parallels to the events of today and examine the now realized implications of those historical events. Although not close to the hijackings of September 11 in terms of magnitude or degree of devastation, we may find the closest and most useful analogy in the “Red Scare” of the 1920s. The second and more broad-based method by which an understanding of history may inform the future involves the identification of the circumstances that have led to change in the past, in this case, circumstances that have led to changes in policing in the past, and then assessing when or if those same circumstances may be present in the future. As illustrated in this essay, throughout history, changes in policing have been prompted by crises. The crises for the police in the past have been

largely two-dimensional—crises have taken the form of new crime and new technological demands. So what does the future hold? It is to this question that attention now turns.

II. THE RED SCARE AND ITS AFTERMATH

As explained by Murray (1955), the Red Scare “is important because it provides us with a concrete example of what happens to a democratic nation and its people when faith and reason are supplanted with fear” (p. ix). The time was 1919 and World War I had just concluded. The American economy was trying to find its peacetime footing. Americans were watching the Bolshevik Revolution in Russia from a distance, and many people were concerned. According to some, people were simply paranoid regarding this amorphous threat (Preston, 1994). Laws regarding espionage, treason, sedition, and the regulation of aliens coming to the United States were passed by Congress and state legislatures. These concerns and the corresponding legislation largely coincided with the formal creation of the Communist Party in the United States. It took the form of the Socialist Party and the Industrial Workers of the World. Communists were perceived as a prominent threat and were blamed for labor unrest, the poor condition of the economy, and, of course, the bombings.

In February 1919, posters began to appear in the United States that spoke to the motives and actions of the Communist radicals. One of the posters read in part (Murray, 1955, p. 69):

GO AHEAD

The senile fossils ruling the United States see Red! . . .
 The storm is within and very soon will leap and crash
 and annihilate you in blood and fire. You have shown
 no pity to us! We will do likewise. . . . *We will dynamite
 you!*

In April, the bombs began to appear. The first bombs arrived by mail at the homes of the Mayor of Seattle and at the home of a former U.S. Senator. In May, a total of 34 bombs were intercepted by postal authorities. The newspaper headlines across the country read: “REDS PLANNED MAY DAY MURDERS” (Murray, 1955). Meanwhile, labor-related riots broke out in several major American cities, riots believed to be instigated by the Communist radicals. The police made arrests. More bombs followed. On the night of June 2, 1919, explosions occurred within the same hour in eight different cities. America was under attack. The targets were the homes of mayors, state legislators, judges, other industrialists, as well as the Washington D.C. home of Attorney General A. Mitchell Palmer. The Attorney General and his family were not injured in the blast but the presumed bomber blew himself to bits when the bomb exploded prematurely. Again the headlines appeared, “TERROR REIGNS IN MANY CITIES” (Murray, 1955).

As a result of the bombings, “the machinery of the government began to move” (Murray, 1955, p. 80). “All the crime-hunting agencies of the government and of the nation were then placed at the [Department of Justice, Bureau of Investigation’s] disposal while radical halls were searched, members questioned, and a few arrests made” (Murray, 1955, p. 80). Congress was busy passing new legislation to contain and deal with the new threat. Among the new laws was one that made it a capital offense to transport bombs or to belong to an organization supporting the overthrow of the government. Attorney General Palmer brought his case to Congress and argued that the government needed more power to deal with the threat since the earlier Espionage and Sedition acts could not be used to prevent such activity. Congress allocated an additional \$500,000 to the Justice Department to hunt down the perpetrators of the bombings. Despite these efforts, law enforcement agencies were unable to successfully trace the origin of even a single bomb. The *New York Times* asked the question: “Has the gift of skill and genius in ferreting out criminals been denied to our present-day detectives?” (Murray, 1955, p. 81).

Attorney General Palmer established the General Intelligence Division (GID) within the Justice Department to significantly increase the ability to store information on radicals and their sympathizers. J. Edgar Hoover was named the head of the GID. With the new power of the Immigration Act of 1920, a law that provided power to punish aliens who possessed the literature of, held office, or showed sympathy or support for certain groups (Preston, 1994), Attorney General Palmer authorized a series of raids (to be known as the “Palmer Raids” or the “Red Raids”) in 33 cities across the country. These raids resulted in more than 5,000 arrests of persons believed to be “un-American” or Communists. Information possessed by the GID facilitated the raids. The plan was then to deport the individuals who were arrested. There were two problems: First, most of the people arrested were not radicals; and second, many of the arrests (and corresponding searches) were illegal. The courts ordered the release of many of those arrested. In 1921, Congressional hearings were held on the conduct of the GID and the Bureau of Investigation during the Palmer Raids. With the election of Calvin Coolidge as President in 1923 and with a new Attorney General, the Justice Department underwent significant reform but Congressional legislation that supported the monitoring of individuals deemed “un-American” survived. In 1924, J. Edgar Hoover was appointed Director of the Bureau of Investigation (Preston, 1994).

By 1921, the public hysteria associated with the Red Scare had largely passed. The nation turned its attention to other matters—Prohibition, automobiles, Babe Ruth, the roaring 20s—but the same themes embodied in the Red Scare emerged again and again. With the Red Scare, the “file mentality had been born” (Preston, 1994, p. 281). There remained public suspicion of organized labor and foreigners, and a nascent distrust of Soviet Russia was borne.

Some of the similarities between our situation today and those of the “Red Scare” are striking. It used to be the “radical” Communist threat; today it is the “Islamic” terrorist threat. The threat from Communists was that they were going to annihilate us; today, the threat from terrorists is that they are going to annihilate us. Radicals

used bombs and explosives to cause mass fear; terrorists of today do the same. The government response to the Communist threat was to increase the power and enforcement capacity of federal agencies to combat it, particularly that of the Bureau of Investigation; we have seen the same response from the government today. Civil liberties were a casualty of the Red Scare, just as they appear to be today. The deportation of suspected radicals was a favorite strategy of authorities during the Red Scare, as it is today (Serjeant, 2002; Fainaru, 2002b). Of course, perhaps the most striking difference is that the terrorists' methods today are (at least potentially) much more lethal than those of the past. Of the similarities, two are most noteworthy: first, the increased authority of federal law enforcement agencies to deal with the threat; and second, the corresponding deterioration of civil liberties of citizens. As explained by Preston (1994), "the assumption that the excesses and hysteria of an era leave the constitutional structure undamaged in the calmer aftermath therefore belies the lessons of history" (p. 287). Indeed, if truth is the first casualty of war, civil liberties are a close second.

III. THE HISTORY OF POLICING

Three major "waves of change" can be identified in American society: the agricultural wave, the industrial wave, and the information wave (Toffler, 1980). Pre-colonial and colonial America reflected the agricultural wave. At this time, the land and farming were at the center of the economy and life in general. The land was divided into farm parcels, and small villages and towns dotted the landscape. In the South, the land and slave labor were the main engines of the economy. Farmers, plantation keepers, and craftsmen represented important and common occupations of the agricultural era. For the most part, each household provided for its own needs. Health care, transportation, and communication systems were quite rudimentary, if existent at all. Society was simple and so too was the system of policing. The policing function was not formalized; it consisted primarily of loosely organized groups of watchmen in the North and slave patrols in the South (Williams & Murphy, 1990). In whatever form it took, the police function was devoted to the maintenance of order, particularly the control of groups perceived to be a threat to those with economic advantage. Success took the form of squashed riots and smothered rebellions.

By the mid-1800s, America was in the firm grip of the Industrial Revolution. The economy was increasingly based on capital, energy, and raw materials. The Civil War marked the transition from the agricultural wave to the industrial wave (Toffler, 1980). Industrialism affected every aspect of human life. Giant advances in technology were made. Electrical power and the steam engine were invented. Mass production via assembly lines became the norm as machines were introduced into the manufacturing of goods. Coal and oil were used to power machines. Steel was a building block of the new economy and was used to build machines, machine tools, railroads, and to make other goods. Factories and corporations became the centerpieces of the new economy. With the construction of factories came the

creation of cities as work centers. The population of cities grew rapidly through immigration and with people moving to cities to find work. For the first time, the “urban” problems of health, sanitation, and crime became a major concern to residents. With the industrial revolution, the police found themselves in the midst of a crisis. The old systems of policing were ill-equipped to deal with the demands of the new society. Slave patrols of the South became irrelevant and the watches of the North became outmoded. Policing did not work well in the face of the new demands.

There were persistent and serious concerns about the social order among political and economic leaders. It was in this environment, and a result of this crisis, that the first formal police departments in the United States were created.

The first police departments in America were modeled after the London Metropolitan Police Department which was established in 1829. Most importantly, the departments were organized in a military manner and deployed officers on patrol with the intent of dealing with crime and disorder. Policing was conceived as a responsibility of local government. There were few federal laws and correspondingly, there were few federal agents to enforce them. Policing during the mid-1800s was all about politics; politicians controlled virtually every aspect of policing including the hiring and firing of officers, and what officers did while they were at work. The police acted as an arm of the political machinery. With no formal system of communication between the police and citizens, or among the police themselves, the role of police supervisors was minimal. The police were corrupt and generally inefficient.

Into the early 1900s, another swell of change swept American society. Industrialism was cresting. By 1920, automobiles were widely used, as were radios, telephones, and other technologies. Charles Lindbergh’s first trans-Atlantic flight in 1927 signaled a time of great promise, and greater mobility. Along with advancing living standards for many, the new technology also provided increased demands on the police. With the use of automobiles in particular, criminals could commit crimes in one jurisdiction and easily flee to another, causing great difficulties for the police. In addition, automobiles created a need for traffic enforcement, a responsibility assigned to the police. Another element of technology that significantly affected the work demands of the police was the telephone; the telephone turned police organizations into 24-hour-a-day agencies that were just a phone call away. Beside technology, the police were confronted with other demands as well. Concerns about crime became a major issue. With the 1920s came a rise (at least in perception, if not in fact) in serious crime. The kidnapping of Charles Lindbergh’s infant son was the “crime of the century.” The crimes of gangsters were front-page news. As noted above, in 1919, the United States experienced a series of bombings with the targets including the homes of mayors, judges, senators, and the Attorney General. America was under attack. Prohibition and The Great Depression also placed significant new demands on the police. In the face of these developments, the police were once again in the midst of a crisis. And once again, crisis led to change.

The new work demands and technology of the early 1900s led to the emergence of the “reform era” of policing (Kelling & Moore, 1988). The reform era was a

response to the police crisis of the 1920s. The reform era was all about “the-police-as-experts,” “police professionalism,” and about putting distance between the police and undesirable political influences. Technology was an important element of the reform era. Automobiles allowed the police to institute “preventive” patrols as a tactic, and to offer fast responses to crime scenes as a means by which to make more arrests. In addition, the patrol car provided the means by which officers could be removed from close day-to-day contact with citizens and to have them patrol anonymously through communities. The two-way radio provided a mechanism by which police supervisors could monitor and direct the activities of officers on the streets. Also in response to the crisis of the early 1900s, state and federal law enforcement agencies were created to assist local police departments with the new demands they faced. The Bureau of Investigation, later known as the Federal Bureau of Investigation, was created in 1909 and quickly became a powerful law enforcement agency. The FBI played an extremely important and prominent role in law enforcement efforts; it led the war against the Communists, gangsters, and kidnapers. The FBI developed a crime laboratory, collected crime information, developed fingerprinting on a large-scale as a method of identification, and created the FBI National Police Academy to provide advanced training to police leaders across the country. With these new tools, the police presented themselves as experts, as professionals, who had the knowledge and capabilities necessary to control crime, and to successfully overcome the challenges of the early 1900s.

This system of policing worked well until the 1960s, when the “information wave” began to take form. The “information wave,” as discussed by Toffler (1980), is characterized by an electronics explosion. Beginning in the 1960s, huge advances were made in various industries including space exploration, genetics, health care, computers, and in manufacturing processes, among others. Also beginning in the 1960s, and associated with the movement from the industrial wave to the information wave, society began experiencing “a great disruption” (Fukuyama, 1999). Consider some of the events of the 1960s: President John F. Kennedy was assassinated, as was his brother, Senator and Presidential candidate Robert F. Kennedy. Dr./Rev. Martin Luther King, Jr. was killed. The civil rights movement was in full gear; racially motivated riots and other demonstrations were occurring in most major American cities. The Vietnam War was being waged, as were protests against the war. The police found themselves on the front-lines of these riots and demonstrations. In many places, the police became viewed as a white “occupying army” in ghetto neighborhoods. The police were “pigs.” Drug use, the hippy movement, and women’s liberation were prominent counter-culture movements. America was also in the grip of a crime wave; from 1960 to 1970 the crime rate doubled. The increase in fear of crime was even more dramatic. In addition, for the first time, systematic research was conducted on police operations and strategies, and much of this research came to the conclusion that the police had little or no impact on crime. Given the conditions of society, many people were not surprised by the conclusion. By the end of the 1960s, it was clear that policing was not working well. The police were once

again in the midst of a crisis as the old system of policing was ill-equipped to deal with the demands of the new society.

The crisis in the 1960s led to yet another “paradigm shift” in policing. As the notion of police “professionalism” dissolved, the community problem-solving era of policing began to form (Kelling & Moore, 1988). The community problem-solving era is considered to be the predominant style of policing today. In the community problem solving era, deliberate efforts have been made by the police to recognize citizens as meaningful partners in crime prevention efforts. Community policing is the cornerstone of the community problem-solving era. Community policing represents many different things to many different people, but the core idea is that the police institute policies and practices that involve citizens in policing. According to the ideals of community policing, it is only when police and citizens work together that crime can be prevented.

In summary, policing in America has evolved through a series of stages or eras. The era of informal policing existed from pre-colonial and colonial America to the mid-1800s. The political era was in place from the 1850s to the early 1900s; the reform era from the early 1900s to the 1960s; and the community problem-solving era from the 1970s to the present. Each stage represented a new way of policing. Police organizations in each of these eras reflected the social, political, and economic environments in which they operated. Likewise, the emergence of each new era of policing—in the mid-1800s, early 1900s, and the 1960s—was prompted by major social, economic, and political changes. Each of these periods represented a time of major crisis for the police and, as noted by Kuhn (1970), “crisis is a prerequisite to revolution” (p. 92).

IV. THE FUTURE OF POLICING

As we begin the twenty-first century, we see the “information wave” building momentum. Computer technology has matured. Computer networking has taken the form of the Internet. Developments in genomics, alternative fuel sources, and space travel have continued unabated. With the widespread adoption of technology (e.g., especially the Internet), individual citizens have broad and immediate access to information, and citizens with information are citizens with power. As with the Industrial Revolution, the Information Revolution is affecting every aspect of human life, from the nature of education, to family structure, to the nature of occupations (Toffler, 1980). With these changes, we see once again significant “new” demands on the police. We see continuing disruption in society. As explained by Toffler (1980):

The period of transition (from the second to third wave) will be marked by extreme social disruption, as well as wild economic swings, sectional clashes, secession attempts, technological upsets or disasters, political turbulence, violence, wars, and threats of war . . . the clash of two civilizations presents titanic dangers (p. 367).

Although the clash and resulting disruption may be “normal,” it represents the latest crisis for the police because the police may not be prepared to deal with the new demands being placed upon them. Given how extraordinary developments and demands have prompted changes in policing in the past, it may be reasonable to expect that these demands will once again lead to a paradigm shift in policing, to fundamental changes in the nature and style of policing.

A. The “New” Crime and Technological Demands

Just as in the past, many of the new demands on the police today are related to crime and technology. With regard to crime in particular, it is clear from history that as society has become more complex, so too has crime. Indeed, crime has, over time, become more devious, organized, specialized, and complex (Marx, 1988). In addition, it may be reasonable to expect that as society becomes more global, so too will crime. Globalization is a firmly established trend as evidenced over time by various movements and developments—including imperialism, world wars, global and continental currencies, global trade agreements, and so forth. These two trends—increasingly sophisticated and devious crimes, and globalization—along with consideration of September 11, 2001 and related events—may point directly to organized international terrorism as the “new” most significant crime-related demand on the police.

Terrorism is hardly a new phenomenon, but recently religion has become a major driving force behind such actions (Long, 2000). In the recent history of terrorism, the villains have changed—America’s attention has moved from the Ayatollah Khomeini, to Carlos the Jackal, to Abu Nidal, to Moammar Kaddafi, to Osama bin Laden. However, with the rise of bin Laden and the events of September 11, terrorism has taken on a new meaning. As reported by the U.S. Department of State (2001), terrorist incidents have become much more frequent since the late 1960s, then again since the mid-1990s, and even more since September, 2001. According to the State Department, there were over 150 significant terrorist incidents worldwide since 1968; however, only a few of them actually occurred in the United States. These latter incidents were the 1975 bombing of a Wall Street bar by Puerto Rican nationalists that killed four and injured sixty; the 1995 bombing of the Federal Building in Oklahoma City by Timothy McVeigh that killed 166; the 1997 Empire State Building sniper attack by a Palestinian gunman that killed one; the 1993 bombing of the World Trade Center by Islamic extremists that left six people dead; the 1993 shooting deaths of two Central Intelligence Agency employees outside of CIA Headquarters by a Pakistani gunman; and, of course, the terrorist attacks of September 11, 2001 that killed over 3,000. The still-unsolved October, 2001 Anthrax letters that killed five people may also be added to this list. Several other incidents directly involved Americans and American interests but occurred overseas; for example, the Iranian hostage crisis of 1979, the bombing of the U.S. Marine barracks in Beirut in 1983, the Achille Lauro cruise ship hijacking of 1985, the Pan Am Flight 103 bombing in 1988, the 1996 truck bombing of the Khubar Towers in Saudi Arabia that housed U.S. Air Force personnel,

the U.S. Embassy bombings in east Africa in 1998, and the attack on the U.S.S. Cole in 2000.

Most terrorism is motivated by hate and revenge. Acts of terrorism directed against the United States by foreign interests is most directly related to American support for Israel, and American involvement in Mid-East political affairs. The United States is the global superpower and attacks on it can glean attention for groups that wish to advance a particular cause or ideology (Kelly, 1998). Given the hatred of the United States by these foreign interests, acts of terrorism directed against it are not surprising. What is most odd, as explained by Kelly in 1998, was that “the United States has escaped major, externally based terrorist actions for so long, given this country’s thousands of miles of open borders, porous immigration control service, easily accessible firearms, and the availability of unfettered travel” (p. 23).

Of course, on September 11, 2001, terrorism came to the United States in a big way. September 11 was what many have referred to as a blaring “wake-up” call. It is now realized that Americans are not immune to terrorists’ actions, even on their own soil. Other serious threats may loom, and not only in the hypothetical. If commercial airliners can be turned into missiles to destroy skyscrapers filled with people, then bio-terrorism and the use of nuclear bombs for terrorist purposes is certainly a possibility. It is being realized that the current system of policing is ill-equipped to deal with the new threat.

There are good reasons to believe that trends already in place will increase the terrorist threat to the United States. One such trend is the demographics of Middle-Eastern countries. For instance, in Saudi Arabia, seventy percent of the population is twenty-five years of age or younger, the age group most likely to become involved in criminal and other terrorist activity. This situation will not change soon as almost one-half of the population is under the age of fifteen. In addition, the decline of central authority of political heads-of-state in Middle-Eastern countries is also troubling (Kaplan, 2002). It is this type of political environment that can serve as a haven for terrorist groups. As explained by Kaplan (2002), “the experience of neighboring Yemen, with its brazen highwaymen and rampant kidnappings, may be what Saudi Arabia can look forward to—and that’s the optimistic view” (p. 55). Further, American power, influence, and foreign policy, which is the source of much of the hatred directed against the United States, is not likely to change. As a result, the “new” terrorist threat is likely to be with us for a while.

Right now, changes are being made at a rapid pace among American law enforcement agencies to deal with the threat, and to prevent the police from looking impotent in the face of the new threat. Already, law enforcement agencies have received their share of criticism regarding the inability to foresee and prevent the recent terrorist incidents. For instance, many have argued that the warning signs for the terrorist act of September 11 were so obvious that they reasonably should not have been missed. Specifically, for years it was known that airplanes were planning to be used in terrorist plots (Guggenheim, 2002). Consider these clues: In 1994, al Qaeda terrorists who hijacked Air France flight 8969 as it prepared to leave Algeria for Paris (presumably to force the pilots to crash the plane into the Eiffel Tower) but

commandos stormed the plane during a refueling stop and killed the terrorists. Consider as well the discovery and interruption of the 1995 terrorist plot to blow-up 11 American jetliners over the Pacific Ocean and crash a light aircraft loaded with explosives into the CIA Headquarters. Consider that several informants in the investigation of the African Embassy bombings spoke of al Qaeda's interest in flight training. Consider that Islamic terrorists were planning to use an airplane to kill President Bush in July 2001 in Italy (Fainaru, 2002a). And then there was the information that two known terrorists associated with al Qaeda entered the United States after the January 2000 terrorist-planning meeting in Malaysia (Isikoff & Klaidman, 2002). Had authorities monitored the activities of Khalid Almihdhar and Nawaf Alhazmi¹ when they were in the United States, including their meetings with other hijackers, and their flying lessons, it is likely that the entire September 11 plot would have been disrupted. Then there was the arrest of Zacarias Moussaoui in flight school in Minnesota in 2001.² And there were the multitude of intelligence reports received by the CIA that spoke of the interest of al Qaeda in hijacking American airplanes and flying them into various high profile targets. The list of warning signs was a long one. In spite of this knowledge, little seemed to have been done to prevent the disaster of September 11, 2001. Government officials described September 11 as "a new type of attack that had not been foreseen" (Fainaru, 2002a).

Along with an increasingly devious, organized, and global terrorist threat, another trend that may have implications for crime and the future of policing is the continued rapid discovery and adoption of technology. Just as with electricity, the telephone, the automobile, and the airplane, the technology of today dramatically

¹ One of the terrorists involved in the bombing of the U.S. Embassy in Nairobi, Africa in 1998 was apprehended. He provided information to the FBI concerning an al Qaeda safe-house in Yemen. The CIA intercepted phone conversations from the house that alerted agents to a January 2000 meeting of al Qaeda terrorist operatives in Malaysia. Of the twelve individuals who attended this meeting, two were identified as Khalid Almihdhar and Nawaf Alhazmi. Almihdhar and Alhazmi were two of the hijackers aboard Flight 77 that was flown into the Pentagon. Representatives of the FBI have said that the CIA did not tell them that these two individuals came to the United States; representatives of the CIA have said that they did in fact relay this information to the FBI. Apparently, what neither the CIA nor the FBI knew at the time was that both of them were already living in the country, in San Diego, for two months prior to the meeting in Malaysia. In mid-2000, Almihdhar left the United States for the Middle East. While he was away, his visa expired but the State Department consulate in Saudi Arabia issued him a new one. He returned to the United States on July 4, 2001. Meanwhile, Alhazmi moved to Phoenix and stayed with Hani Hanjour (who is believed to have piloted Flight 77). They moved to New Jersey on August 25 (Isikoff & Laidman, 2002; Pincus & Eggen, 2002).

² Zacarias Moussaoui was arrested by the Immigration and Naturalization Service on immigration charges on August 17, 2001 after an instructor at a flight school in Minnesota became suspicious of him. Reportedly, Moussaoui was only interested in learning how to turn an aircraft; he was not interested in take-offs or landings. It is now believed by investigators that Moussaoui was to be the fifth hijacker aboard Flight 93.

affects the nature of our lives. As before, technology now can place incredible demands on the police. Perhaps the most significant technology of today is the Internet. The Internet is to today what the automobile was to the early 1900s. The Internet is a global computerized network that allows for the exchange and dissemination of information. With the good of the technology comes the bad. The Internet has created a multitude of criminal opportunities; it can be used to disseminate information of hate and other unlawful materials (e.g., child pornography); it can be used to perform acts of terrorism (e.g., cyberterrorism; Gellman, 2002); it can be used to illegally gain access to and steal protected governmental and corporate information (e.g., hacking); and it can be used to distribute computer viruses (Damphousse & Smith, 1998).

B. The "New" Police

In the face of the "new" crime and technological demands, what may be the next adaptation of policing? As Marx (1988) has noted, crime tends to reflect the nature of society, and methods of policing tend to reflect the nature of crime. When crimes are simple and local, detection strategies are simple and local. When crimes are complex and global, detection strategies are necessarily complex and global. As such, at a minimum, it seems reasonable to predict that policing of the future will likely be more complex and more global than in the past. To support the increased scope of police operations, it is likely that more resources and authority will be provided to law enforcement agencies, particularly *federal* law enforcement agencies, to deal with global crime, particularly terrorism. As noted, previous crises have led to an increased role for and authority of federal agencies, particularly the FBI. The current crisis may be no different. This point is made obvious with the passage of the recent federal anti-terror bill—the USA PATRIOT Act of 2001—that provides new police powers including expanded authority to wiretap telephones, examine Internet usage, conduct searches, combat money laundering, and to detain foreigners suspected of terrorism. Upon signing the bill, President Bush stated:

We're dealing with terrorists who operate by highly sophisticated methods and technologies, some of which were not even available when our existing laws were written. The bill before me takes into account the new realities and dangers posed by terrorists.³

In addition, massive additional resources are being allocated to federal agencies to enhance homeland security. In 2002 and 2003 the estimated expenditures for homeland security will be over \$35 billion—and President Bush has called this a "down payment" (Sammon, 2002). The greatest proportion of the money will be spent on border security (INS), import security (Customs Service), national security

³ See http://www.pbs.org/newshour/bb/terrorism/bush_terrorismbill.html for the text of his complete statement.

(Department of Defense), and transportation security (Department of Transportation). It is estimated that homeland security will attract over \$100 billion in private and governmental spending by 2008 (Dow Jones Business News, 2002). The newly authorized Department of Homeland Security represents a massive reorganization of federal efforts to deal with domestic security threats. The department will include 22 agencies and employ 170,000 employees. The federal government has not seen such changes since 1947 when President Truman merged the Department of War and Department of Navy into the Department of Defense. With the increased resources devoted to federal law enforcement efforts, it would not be surprising if there was a corresponding decline in federal funding to local police agencies. In particular, the \$30 billion allocated for the Violent Crime Control and Law Enforcement Act of 1994 (i.e., the "1994 Crime Bill") may soon come to an end. This money provided local police departments with funds to hire additional "community-policing" officers, among other mostly local initiatives. The shift away from local law enforcement matters is also evidenced by the fact that, under the direction of Attorney General Ashcroft, the FBI is now focusing more on preventing terrorist acts and less on solving traditional crimes that "local police can handle" (Gullo, 2001).

Regardless of these shifting priorities, citizens will remain powerful players in the police enterprise and in crime fighting. Nowhere will this be more apparent than with citizens as a source of information. Reward and tip lines will be increasingly important as the police continue to rely on citizens for information about crimes and the people who commit them. A proposal of the Bush administration and the U.S. Department of Justice is the development of Operation TIPS—a national system for reporting suspicious and potentially terrorist related activity.⁴ The participation of workers in several occupations—truck drivers, meter readers, and taxicab drivers—is seen as critical to the success of the program. In the past, most crime tip programs have been administered at the local level (e.g., Crime Solvers). Operation TIPS takes the concept to the national level and is further evidence of the trend toward the federalization of law enforcement.

Policing of the future may also reflect the continuation of another trend already in place—the lines separating the police and the military will become increasingly blurry. In particular, the police will become more military-like and the military will become more police-like. As Colonel Charles Dunlap wrote in 1999, "the involvement of the armed forces in what might be considered police or law enforcement activities is poised to increase exponentially in the near future. This is largely because of the growing threat of terrorism" (Dunlap, 1999, p. 220). With regard to the military becoming more police-like, since September 11, there have been numerous well publicized and high profile instances of military involvement in domestic law enforcement activities. For example, an immediate response to September 11 was the placement of fully equipped and armed National Guard personnel in airports to provide security. In addition, for several months, the U.S. Air Force operated air patrol over numerous cities in an effort to enforce air space

⁴ See <http://www.citizencorps.gov/tips.html>.

restrictions and to protect cities from any additional terrorist hijackings. Today, such air patrols are still used on an intermittent basis. In November, 2002 the Department of Defense provided aircraft surveillance to assist federal, state, and local law enforcement authorities in the investigation of the sniper shootings in the Washington D.C. area. Of course, the precedent for military involvement in the “war on terrorism” is the “war on drugs” that has been fought for years by law enforcement and the military (see Duke & Gross, 1993).

The Posse Comitatus Act of 1878 (18 U.S. Code, Section 1385), as amended in 1994, restricts the participation of the military in domestic law enforcement activities (see Larson & Peters, 2001). It reads:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisonment not more than two years, or both.

The Air Force was added in 1956 and the Navy and Marines are included in the Act as a result of a 1992 Department of Defense regulation (Larson & Peters, 2001). The original intent of the Act was to end the use of federal troops in policing state elections of the former Confederate states. There are several important exclusions to the Act. They include:

1. The use of National Guard forces.
2. The use of federal troops to quell domestic violence, by presidential order.
3. The use of military personnel to provide for aerial photographs and surveillance.
4. The use of military personnel to combat the “war on drugs.”
5. The use of the Coast Guard.
6. The use of Navy resources to assist the Coast Guard.

As reported by Lindlow (2002), in the wake of September 11, President Bush has called on Congress to thoroughly review the modern day appropriateness of the Posse Comitatus Act. It should not be surprising if a seventh exception is created: The use of military personnel to combat the “war on terrorism.”

Along with the military becoming more police-like, the police are also becoming more military-like. Police organizations in America are, at their core, quasi-military in structure and function; however, it appears that the parallels are becoming more clear, and will likely become even stronger in the future. In the last few decades in America, there has been a gradual, and now more rapid, adaptation of the police into military roles—in terms of rhetoric (e.g., “war” on drugs, “war” on crime, “war” on terrorism) and function (e.g., the use of paramilitary units and technology). The war on terrorism is being fought by police forces and the military, here and abroad. The

FBI is in Afghanistan and Pakistan conducting raids and interrogating prisoners (e.g., Shahzad, 2002). Military tactics and technologies are increasingly being used among police departments; this trend is what Kraska and Kappeler (1997) refer to as the “militarization of the police.” Much law enforcement technology, and civilian technology for that matter, has its beginnings in defense contract work. Consider the development of technologies such as radar, two-way radios, night vision, sensor technologies (including gunshot detection), satellites, geographic positioning systems, and even the Internet—all were born at least in part through defense grants and contracts (Haggerty and Ericson, 1999; Rome Laboratory Law Enforcement Technology Team, 1996). Several federal programs exist whereby police departments can obtain surplus military equipment free of charge. Items that have been distributed through such programs include bayonets, grenade launchers, and armored personnel carriers (Elbow, 2001). In addition, the police occupation has traditionally been a magnet for former members of the military. Military service as a police officer usually counts toward retirement credits as a police officer. The “Troops to Cops” program of the Violent Crime Control and Law Enforcement Act of 1994 is a recent example of an attempt to bring former military personnel into local police departments. The program provided money to local agencies that hired former members of the U.S. armed forces.

The parallels are also striking when one considers the similarities between police and military tactics. In 1996, Kraska and Kappeler (1997) conducted a survey of all police departments in the United States that served cities of 50,000 people or more. Of the 548 agencies that responded to the survey (seventy-nine percent response rate), eighty-nine percent had a police paramilitary unit (PPU). This compares to about fifty-nine percent of the agencies in 1982. According to Kraska and Kappeler, the mean number of call-outs (deployments) of PPUs per year in each agency grew from thirteen in 1980, to forty-four in 1990, to fifty-three in 1995. With regard to the PPU deployments, the researchers found that PPUs are increasingly being incorporated into “normal” police work; seventy-five percent of call-outs were for purposes of “high risk warrant work,” and where the PPU served as “a proactive tool through which the police gather evidence and crudely conduct an investigation into suspected illegal activity” (p. 9). “Since 1982, there has been a 292 percent increase (from 24 to 94) in the number of departments using PPUs for proactive patrol” (p. 9). As concluded by Kraska and Kappeler, not only has there been a dramatic increase in paramilitary policing activity, but also a “movement toward the normalization of paramilitary groups” in police organizations (p. 9). Similar findings were also found among small departments in the United States (Kraska & Cubellis, 1997). On the basis of these two studies, which are the only available studies that have examined the use of paramilitary policing in the United States, it is clear that the trend toward a more harsh and “high powered” police strategy is firmly in place. It seems reasonable to expect that the events of September, 2001 did not diminish the trend; if anything, they have accelerated it.

As the police function evolves, law enforcement agencies may be “democratic and participatory” (community-oriented) in peacetime but “highly centralized and

authoritarian” (military-like) during times of unrest (Toffler, 1980). Zalman (2000) appears to concur: “This indicates that [in the next twenty to forty years] the criminal justice system will continue in its dualistic, quasi-authoritarian mode marking the United States as a flawed liberal democracy” (p. 182). In any case, the “velvet glove” of community policing appears to be giving way to the “iron fist” of military-like policing (Center for Research on Criminal Justice, 1975).

C. Technology and the “New” Police

Technology not only makes certain types of crime possible and places new demands on the police; it also provides the police with new tools for fighting these and other crimes. It is likely that the discovery and adoption of technology for crime detection and investigation purposes will continue to progress at an accelerated “information age” pace. The impact of technologies under development and in early adoption stages are likely soon to be realized. Much of the significant new “crime fighting” technology will focus on identification (e.g., biometrics), “seeing,” computer/Internet applications, and information access. In particular, with the development of the Combined DNA Index System (CODIS), a nationwide DNA network that includes DNA samples from convicted offenders and crime scenes, DNA will become an even more powerful tool for identifying suspects. On the distant horizon may be the construction and operation of a massive DNA data bank that would include samples of DNA from every individual who resides in the United States. The technology to store this amount of data is currently available; legal and ethical issues have inhibited the development of such a system. More immediately, several new technologies are being developed that will allow DNA to be collected more efficiently and analyzed more quickly with lower cost (see Friedman, 1999).

Implantable microchips are another technology that could serve an important identification function. This technology is already in existence but to date has only limited application. The “Verichip,” made and marketed by Applied Digital, Inc., is about the size of a grain of rice and has been used in the United States to track and identify house pets, livestock, and fish. In 2002, the company applied to the Food and Drug Administration for approval to use the chip as a way of providing information about medical devices (e.g., pacemakers, artificial joints) to physicians who need quick access to patient information. The same technology has been incorporated into a wristwatch-type device that, when linked to a global positioning system, can transmit information on body temperature, pulse, and location of the person who is wearing it. This system is sold in the United States as a way to monitor the whereabouts of Alzheimer’s patients, children, and parolees (Krolicki, 2001). It is conceivable that the next application of the technology will be under-the-skin placement, where the chip contains readable information on an individual’s identity, whereabouts, and other critical information.

Fingerprinting and facial recognition systems are also being used as a method of identification. Facial recognition systems go beyond passive camera surveillance and include a link between the cameras and databases of photographs of wanted or known

criminals. When a match between the facial image caught on camera and a facial image in the database is made, the operator of the system is alerted. Facial recognition systems have been deployed in casinos for several years, assisting security personnel in identifying and apprehending known gambling cheats and scams. More recently, facial recognition systems have been implemented in airports, public streets, and sports stadiums (Associated Press, 2001). Facial recognition systems, fingerprint scanning devices, retinal scanning technology, and “smart” identification cards have been developed and are beginning to be used in place of passwords on computers and locks on doors (controlled access).

Along with biometric technologies, technological advances are also being made in the technology of “seeing.” Most significant is the use of low level x-rays, gamma rays, or passive millimeter wave imaging to facilitate the detection of weapons, explosives, drugs, and other contraband (Rosenberg, 1998). For example, while we are all familiar with walk-through metal detectors, more recent and beginning-to-be-deployed technology are devices that allow one to see through clothing, thus allowing detection of items that may be hidden under clothing. Similar technologies are being used to see through luggage for explosives, to see through walls, and to see through cargo containers. A technology with related applications is the electronic “sniffer” microchip. This electronic computer chip is designed to detect microscopic amounts of substances including chemicals, explosives, radiation, and drugs.

Other investigative tools are also being developed and deployed to deal more effectively with Internet and computer-related crimes. For example, DCS 1000 (previously known as Carnivore) can search e-mail traffic for specific senders, recipients, and key words. “Magic Lantern” is a technology that can record keystrokes on identified computers (Dampenhause & Smith, 1998). It is likely that related technologies will be developed and existing technologies will be improved in order to effectively confront related crimes.

The technology of the sort discussed above, and the widespread adaptation of this technology, may produce significant reaction, mostly as it relates to the issue of privacy. Indeed, it is likely that most legal challenges of the future that relate to technology will center on privacy issues. No question, the technology is opening a new set of issues relating to the reasonable expectation of privacy.

V. CONCLUSION

In 1988, Gary Marx posed the question “Are we moving toward a maximum security society?” In addressing the question, Marx suggested that a maximum security society is composed of five inter-related sub-societies:

- A dossier society, in which computerized records play a major role;
- A predictive society, in which decisions are increasingly made on the basis of predictions about future behavior as a result of our membership in aggregate categories;

- An engineered society, in which our choices are increasingly limited and determined by the physical and social environment;
- A transparent society, in which the boundaries that traditionally protected privacy are weakened; and
- A self-monitored society, in which auto surveillance plays a prominent role.

As discussed in this essay, it appears that the trend toward a maximum security society, as envisioned by Marx (1988), is well underway. The more relevant question may now be: should this trend be interrupted? How should the police protect citizens' freedom without unnecessarily restricting it? These are age-old dilemmas of policing. The future holds many challenges, and it awaits. . . .

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