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Policing in the United States: Balancing Crime Fighting and Legal Rights

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Chapter One

Policing in the United States

Balancing Crime Fighting and Legal Rights

John A. Eterno

Policing in any nation is an inextricable and essential aspect of the existing government. The government of the United States is an elected democracy. It is a tripartite system including legislative, executive, and judicial branches. Essentially, the legislature creates the laws, the executive is charged with enforcing laws, and the judiciary interprets the laws. At the federal level these branches are the president, Congress, and federal courts (the highest court being the United States Supreme Court). Because the founding fathers of the U.S. (the authors and supporters of the Constitution of the United States) feared tyranny, no branch of government has unlimited power. That is, the branches of government check and balance one another. As James Madison writes in *The Federalist Papers* (No. 48), "An *elective despotism* was not the government we fought for; but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others." Americans, taken as a whole, cherish these limits and the freedoms that come with them.

The checks and balances and freedoms built into the American Constitution can make policing in the United States an arduous task. There is a strain between the limits and freedoms guaranteed by the Constitution and the task of police to enforce the criminal laws. Additionally, law enforcement is generally considered to be a function of the executive branch. However, the other branches of government have an enormous impact on police because of the tripartite nature of the U.S. government. Police have the power to enforce the laws but they must follow the law while enforcing it.

In fact, a wide range of factors contribute to the complex nature of law enforcement in the United States. First, police are limited in power in the U.S.

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They must work with the law while they enforce the law. This means following all the laws including those made by other branches of government. In particular, the complexity and ambiguity of the procedural laws (those laws that explain and limit police power generally explicated by the courts) complicate the situation for law enforcement. Police are often faced with an array of guidelines issued by various courts and legislatures that, at times, make little or no sense.[1]

Second, there exists a decentralized policing system with many overlapping jurisdictions. At times, several jurisdictions have authority to investigate and make an arrest for the same crime. This can create tension and competitiveness that hinders the efforts of law enforcement. Third, there is a large criminal population that includes many illegal drug users. With such a large criminal element, policing can be very arduous. Fourth, a sophisticated and advanced communications and transportation system makes it easier for criminals to cross jurisdictional boundaries. Finally, the large size and diversity of the country presents various challenges to police. Simply getting to some of the more remote areas presents problems.

The U.S. is a vast country with a landmass of over 9 million square kilometers (3.7 million square miles). It has a population of 300 million people who speak hundreds of languages. Nevertheless, the main language is English with a significant Spanish-language population. In fact, some areas of the country are bilingual. In 2004, those who identified themselves as being of Hispanic origin exceeded 40 million people (Bernstein, 2005).[2] The growth in the Hispanic population accounted for nearly half of the growth in the U.S. population from July 1, 2003, to July 1, 2004 (Bernstein, 2005).

Many of the people—approximately 80 percent—are descended from a wide variety of European countries. About 13 percent of the population is African in origin, 4 percent Asian, and 1 percent indigenous (American Indian). Most of the population is Christian—a majority of whom are Protestant—with about a quarter of the population identified as Roman Catholic. There is a fairly significant group who identify themselves as atheist (about 10 percent), 2 percent are Jewish, and the remaining 4 percent identify themselves with other religions including Islam, Hinduism, and so on.

This diversity makes policing difficult but, at the same time, this diversity can also help American police—if they properly work with the communities they serve. In most of the large cities, officers will need to familiarize themselves with a wide variety of cultures. A movement toward community policing as the dominant philosophy of American law enforcement has made knowledge of various communities that agencies serve mandatory. In fact, 66 percent of police departments in the U.S. are using community policing and 100 percent of those agencies serving jurisdictions with over 1 million peo-

ple are applying community-policing methods (*Sourcebook Online*, 2002: Table 1.48: 49). It can be described as a revolution in American policing.

Community policing entails developing partnerships between the police and the communities they serve. Together, the police and the community identify issues that the police must deal with. Once the problems are identified, the police engage in problem-solving exercises bringing to bear all the resources needed—including those outside the police such as child welfare agencies and libraries—to solve the identified issues. The shift to community policing means that police must be less reactive, merely responding to emergency radio calls for help, and more proactive, developing strategies and engaging problems before they become emergency situations.

The diversity of the country has also led to other policing issues. Informal social control mechanisms such as laughter, smiles, and gossip tend to be very weak. Americans, therefore, rely heavily on formal social control such as the police to suppress criminal behavior. While diversity makes policing difficult, it is also an advantage in that Americans are exposed to a variety of ideas and cultures. While there is a checkered past of police relations with other cultures, based on the lessons of the past police today are trained in various cultures and tend to be fairly tolerant of those whose racial/ethnic/religious backgrounds are different.[3]

Another difficulty for police in the U.S. occurs when more than one police agency has the authority to enforce the law in the same area. This is termed overlapping jurisdictions. This is a fairly regular occurrence in the U.S. for two main reasons. First, the government has many agencies with law enforcement powers. Sometimes more than one agency is given law enforcement powers in the same region. For example, in the New York City area, there is a Metropolitan Transit Authority (MTA) Police Department, which has police powers throughout New York State. They are charged with policing the transportation system in and around the city. If something occurs, say, near a train in New York City, both the MTA Police and the New York City Police Department would have jurisdiction (i.e., their jurisdictions overlap).

A second reason for overlapping jurisdictions is due to the parallel nature of the government in the U.S. The federalist system divides the government into national, state, and local levels. Each operates fairly independently of the others. At the state and local level, as of the year 2000, there were 17,784 state and local law enforcement agencies employing over 708,022 sworn officers. Additionally, there were 88,496 federal law enforcement officers with 60 percent of them working in various agencies such as the Immigration and Naturalization Service, Federal Bureau of Prisons, U.S. Customs Service, and the Federal Bureau of Investigation (Bureau of Justice Statistics, 2000).[4] These jurisdictions often overlap. For example, if a person robs a bank in Floral

Park, New York, the following agencies, at a minimum, have jurisdiction: Floral Park Police, Nassau County Police, and the New York State Police. If it is discovered that the suspect may have robbed a bank in the nearby state of Connecticut, then the Federal Bureau of Investigation would also have jurisdiction as well as the Connecticut police (including any local jurisdictions in Connecticut).

A good example of overlapping jurisdictions is the Washington-area sniper case. John Allen Muhammad and Lee Boyd Malvo went on a killing spree in which ten people were killed in several jurisdictions in 2002. After their arrest, even the officers were unsure of where they were to be taken for processing: "As John Muhammad and Lee Malvo sat handcuffed at a rest stop off Interstate 70 in Myersville after their arrest in the early morning of Oct. 24, the first question was who should take custody of them. They had been captured by the FBI, the Maryland State Police, and the Montgomery County police. They were being arrested on federal warrants. And they were in a jurisdiction patrolled by the state police, who had been first on the scene" (Horwitz and Ruane, 2003: A1).

Policing in the United States is also difficult due to the fairly high crime rate (although the rate has decreased in recent years) and the methods employed by American police to fight crime. American police have attempted to control crime through a variety of methods such as community policing. Nevertheless, American police tend to use formal social control such as arrest and/or summons to handle problems so that the numbers can be reflected in the agency's statistics. Such tactics combined with "get tough on crime policies" have led to enormous increases in the number of people under the supervision of corrections.

These policies are reflected in statistics that show an enormous increase in the number of adults incarcerated, on probation, or on parole in the U.S. In 1980 there were 1,840,400 adults in this category; by 2006, the number had increased to 7,211,840 (Sourcebook Online, 2002: table 6.1.2006). This represents a 292 percent increase in the adult population under correctional supervision. One can only imagine the Herculean efforts needed to place nearly 7 million people under the supervision of the criminal justice system and keep them there. It is possible that these policies have helped reduce crime in the U.S. to historically low levels. Nevertheless, the U.S. still has the highest homicide rate compared to other Western nations (Stephens, 2005). Further, the U.S. remains the largest consumer of illegal drugs in the world (Country Watch, 2005). Lastly, the U.S. has the dubious distinction of having the highest prison population rate in the world (Walmsley, 2003). Certainly the U.S. has chosen, for whatever reason, to handle much of its crime problem via formal sanctions. Whether these policies are successful or not remains the sub-

ject of debate. For police who must deal with the large volume of people considered criminal, these policies present difficulties.

One of the difficulties with such a strong focus on crime control is that police must work within the law to enforce the law. If police in the U.S. were in a police state, then crime control would be a simple matter. For example, one could simply make a draconian law in such a state that directs "all people caught stealing will have their hands chopped off." Such a law would undoubtedly deter thieves. Crime control is easy in such a horrid, tyrannical environment. The key to law enforcement in a democracy, however, is to control crime while, at the same time, respecting basic human rights. This is the dilemma for police in democratic societies; they must work within their legal authority. In the above example, chopping a thief's hands off would be intolerable in the U.S. due to the Constitution's Eighth Amendment prohibition against cruel and unusual punishment.

The U.S. is a free government and its Constitution contains basic rights granted to all citizens. These rights are specifically stated in the Bill of Rights, the first ten amendments of the Constitution. All police officers in the U.S. must swear an oath to support and defend the Constitution. The Constitution is the foundation for the procedure law. The procedure law is aimed at granting and limiting the powers of those who work in the criminal justice system. While its roots are in the Constitution, the procedure law is also explicated in many state constitutions, statutes, and, most importantly, in court cases.

All officers are responsible for learning and properly applying procedural laws that place limitations on their authority. This can, however, get very complicated. In order for officers to understand what is expected of them legally, they must learn a confusing array of court cases that interpret federal and state constitutions, laws, and statutes at each level of government. The courts have been particularly ambiguous in that area of the law that affects police, such as "search and seizure" and "stop and frisk" laws. Judge Harold Rothwax (1996: 40–41) writes, "The problem is, the law is so muddy that the police can't find out what they are allowed to do even if they wanted to." Many other scholars and commentators have elaborated on this issue for police in the U.S. (e.g., Amsterdam, 1974; Goldstein, 1992; Grano, 1982; LaFave, 1972; Reinharz, 1996).[5]

The remedies for police officers not obeying the procedure law vary. In extreme cases, officers have been arrested and convicted.[6] Generally, however, the remedy is exclusion of illegally obtained evidence. That is, if an officer does an illegal search, the remedy is to disallow illegally obtained evidence from being used in court against the defendant. Other remedies may also be applied. Most jurisdictions have some form of civilian complaint system in which people can complain about an officer's behavior. Punishment for civilian complaints can

involve the loss of the job. Civil suits (torts) have also been used quite frequently as a remedy to illegal behavior by officers. That is, civilians can sue an officer or department in civil court for such behaviors. This can lead to a judgment against an officer or a department, which ultimately may mean a monetary award for the plaintiff. Most police departments also have an internal affairs unit or something similar that investigates illegal activity by officers. Additionally, the officer's supervisor should be cognizant of the legal criteria officers must obey and discipline those officers who stray.

Another aspect of the U.S. that creates difficulties for law enforcement is the comparatively modern infrastructure, including transportation and communications systems. This infrastructure makes it very easy to conduct illegal business enterprises across jurisdictional boundaries. Since the U.S. is generally policed by local authorities, the ease with which criminals can move and communicate across boundaries makes enforcement difficult. To combat this, many local agencies are developing partnerships with federal authorities. For example, many areas partner with an arm of the federal government called the Drug Enforcement Agency, creating joint task forces in an attempt to control narcotics trafficking.

Complicating this issue further is the local nature of laws and enforcement. The laws vary, sometimes drastically, by jurisdiction and area of the country. This system can easily be abused by criminals involved in gun running, money laundering, and other such crimes. For example, in the South it is fairly easy to purchase a firearm, while in the Northeast and in most urban areas there are strict laws against the purchase of firearms—especially concealed firearms. Gun runners can purchase firearms in the South and easily transport them through a variety of methods to areas where it is illegal to sell and/or own them without permits.

Overall, policing in the U.S. is complex. The large size of the country, overlapping jurisdictions, the large criminal population, limited police powers, and a modern infrastructure are just a few of the difficulties that American police must contend with. The country is a politically stable democracy and economically prosperous—two important facts that are helpful to police. However, American police, like no other in the world, are closely scrutinized, not only by Americans, but also by worldwide authorities. Policies developed by flagship police departments such as New York City are emulated throughout the democratic world (e.g., Silverman, 1999, with respect to the Compstat process). Additionally, the U.S. is a multicultural society (especially in urban areas) that relies heavily on formal social control (i.e., government law enforcement). This is one reason that the U.S. has a very high number of people in prison. The philosophy of community policing is prevalent but some departments are becoming overwhelmingly "crime control"–oriented, often

minimizing the importance of protecting freedom and the Constitution of the U.S., which is their main mission (see, for example, Eterno and Silverman, 2006). Overall, law enforcement in the U.S. is a complex endeavor, especially when police officers are mandated to know and follow the principles of a free society.

TRANSNATIONAL CRIME

The complexity of the American system of policing is further challenged by the international nature of some crimes. The international drug trade, international terrorism, cybercrime, and organized crime are just a few examples of illegal activities that transcend national boundaries. We must understand the nature and extent of transnational crime in the United States before we can discuss the mechanisms, or lack thereof, to combat it.

Modern technology has led to globalization. National boundaries are increasingly meaningless. Criminals can transport goods, communicate, and travel as easily as anyone else, particularly in free societies. Certain crimes, such as identity theft, can be accomplished quite easily using information freely available on the Internet, from outside national boundaries. In fact, identity theft is increasingly a problem in the United States. Just how much identity theft and, for that matter, transnational crime is occurring in the United States is far from clear.

Law enforcement in this area, including statistical information gathering on international crime, is still in its infancy. In the United States, the Federal Bureau of Investigation still relies on local law enforcement to supply crimes known to them in order to report their figures in *Crime in the United States* (i.e., the uniform crime reports [UCR]). The crime index in the United States is used to calculate the amount of crime that occurs. A crime rate can then be calculated to determine the amount of crime in an area by factoring in the population. The crime index includes the following crimes: murder/nonnegligent manslaughter, forcible rape, burglary, arson, grand larceny, aggravated assault, robbery, and motor vehicle theft.

Many crimes, especially those of an international nature, will not be recorded using such a system. This is because many crimes, such as drug trafficking, identity theft, copyright infringement, and so on, transcend national and local boundaries. Indeed, local law enforcement generally does not consider such crimes their responsibility. Even if a victim of, say, identity theft shows up at a police station, the police are likely to turn the victim away without taking a report unless the entire crime, or a major part of it, took place in their jurisdiction.[7]

The second nationwide method for counting crime, the National Crime Victimization Survey (NCVS), is no better. Both the UCR and the NCVS concentrate on local street crimes. White-collar crimes and organized crimes (many of which are transnational crimes) will not be captured by these American crime-counting instruments. Certainly, if these crimes are not measured by local law enforcement and information about them is not readily available (it is not), then the ability to properly combat those crimes is diminished. Indeed, little concrete information is known about the scale of transnational crimes.

This problem is not limited to the United States. According to the United Nation's Office for Drug Control and Crime Prevention, Centre for International Crime Prevention (1999: chapter 9, paragraph 8),

> although governments are responding to transnational criminal organizations and transnational criminal activities, they are doing too little too late. Efforts need to be expanded especially in the area of reliable and uniform data collection. More sophisticated methodologies need to be devised and greater use made of the information available in the private sector. As a matter of urgency a central clearing house needs to be established with a focus on illicit market activities of all kinds and a recognition of the cross-linkages and synergies that are being developed.

We can, however, using various sources, establish that the level of transnational crime affecting the United States is not inconsequential. As a start we can examine statistics from U.S. Customs and Border Protection under the U.S. Department of Homeland Security (formerly the U.S. Customs Service under the U.S. Department of the Treasury). Of interest to us are the statistics on drug seizures. With respect to drugs, based on the number of seizures and the quantity of illegal drugs being seized, the general tendency indicates an enormous amount of illegal drugs are entering the country. Heroin, for example, increased from 245 seizures for a total of 277.7 pounds in 1977 to 916 seizures for a total of 3,622.4 pounds in 2001. Similarly, there was a dramatic increase in cocaine seizures from 1,025 seizures for a total of 952.1 pounds in 1977 to 2,698 seizures for a total of 190,856.4 pounds in 2001. Not every drug saw an increase, but the sheer amounts are staggering. The Customs Service, for example, did 14,587 seizures for a total of 1,503,940.8 pounds of marijuana in 2001 alone (Sourcebook Online, 2002: table 4.43, p. 393). With such staggering numbers of illegal drugs seized by the Customs Service, one can only speculate that transnational crime with respect to illegal drugs in the U.S. is out of control.

Another estimate of transnational crime comes from the Federal Trade Commission. The Federal Trade Commission sponsored a survey conducted

by the company Synovate to examine identity theft. Using random digit dialing, respondents were contacted by telephone in March and April 2003. Ultimately a sample size of 4,057 adults was attained (Synovate, 2003: 3).

One pertinent finding is that a staggering 10 million Americans reported being a victim of some form of identity theft within the last year (Synovate, 2003: 4). Only 25 percent of victims reported the crime to the police (Synovate, 2003: 9). Six percent of the victims stated that a person who worked at a company or financial institution that had access to the information on them stole that information (Synovate, 2003: 29). Additionally, 85 percent of victims reported having their accounts misused with 3 percent of victims indicating it was done over the Internet (Synovate, 2003: 33). With many American companies outsourcing services conducted by telephone or computer to other nations, the possibility of having one's identity stolen outside the nation is markedly increasing. At a minimum, this survey indicates that this crime is susceptible to crossing state and local boundaries, but the possibility of international criminal organizations and terrorists getting such information presents a credible danger as well. Anecdotal information is widely available on the high level of transnational crime in the United States. Liddick (2004) collates and discusses many of these events, for example, the music industry losing $5 billion a year because of stolen materials; terrorist attacks in Bali, Indonesia, killing more than 180 people; several arrests for selling the illegal drug ecstasy worth $40 million on the street with the most likely origin of the drug being in the Netherlands; drug smuggling and money laundering operations run by the Italian Mafia covering thirteen countries; the largest child smuggling operation in U.S. history recently exposed by the U.S. immigration; and there are countless others (Liddick, 2004: 3–6). These are just a small sampling of the events that we are aware of; unfortunately, what is not known must be enormous.

Liddick (2004) also points out the main groups that he believes to be a problem with respect to transnational crime for the U.S. today: La Cosa Nostra, outlaw motorcycle gangs, the Yakuza, Chinese triads, Russian gangs, and Colombian and Mexican drug cartels.[8] One needs to add international terrorists, especially fundamentalist Islamic groups such as al-Qaeda, as well as other gangs with international reach such as Mara Salvatrucha (MS13). Of course, there are many other groups with international ties that are a viable threat. Unscrupulous corporate leaders should be seen as possible problems for law enforcement. For example, one could add Kenneth Lay and other executives at Enron as well as Bernard Madoff, all of whom were involved in white-collar crime, to the list of transnational criminals influencing America. Using Liddick's listing of problem groups, we will explain each of them.

The Federal Bureau of Investigation (2005) considers La Cosa Nostra (which means "our thing") "the foremost organized criminal threat to American society" (History of the La Cosa Nostra, paragraph 1). La Cosa Nostra is not a simple alliance of criminals. Rather, it is arranged by "families" or groups generally by geographic region. They maintain their numbers through fear, strict obedience to a hierarchy, loyalty to family members, and "'omerta'—the code of silence" (Liddick, 2004: 19).

The FBI traces the history of La Cosa Nostra back to the late 1800s. However, the form of La Cosa Nostra has evolved over the years. Today it is unquestionably transnational in scope. It is currently involved in a wide range of illegal activities such as "murder, extortion, drug trafficking, corruption of public officials, gambling, infiltration of legitimate businesses, labor racketeering, loan sharking, prostitution, pornography, tax fraud schemes, and most notably today, stock manipulation schemes" (FBI, 2005: History of the La Cosa Nostra, paragraph 8).

La Cosa Nostra are generally expert at camouflaging their illegal activities— sometimes the legitimate and the illegitimate are so well mixed that it is nearly impossible to distinguish the two. In the U.S., according to the FBI, they are most active in New York, Philadelphia, New England, Detroit, and Chicago. Of course, their activities extend elsewhere as well. While an accurate count of their membership is impossible, one estimate indicates that there are twenty-five Italian-dominated crime families, with 1,700 made men and another 17,000 associates (Siegel, 2004: 420). However, given the ambiguous nature of La Cosa Nostra such estimates should be considered very tentative.

Motorcycle gangs are the second category of concern with respect to transnational crime in the United States. The National Alliance of Gang Investigators Associations (NAGIA) reports that there has been a resurgence of motorcycle gangs in the U.S. due to law enforcement efforts concentrating on street gangs, illegal drugs, and other activities. Some of these gangs have become international in scope. As stated by Tretheway and Katz (1998, paragraph 2) of NAGIA, "The international problem has become clearer through Interpol's 'Project Rockers,' which demonstrated that American-based motorcycle gangs such as the Bandidos, Hell's Angels and Outlaws (three of the larger gangs) use their networks to spread criminal activity overseas. Indeed, at least six motorcycle gangs in the United States now have chapters outside the country's borders. The Hell's Angels gang alone has chapters in 20 countries and is expanding so rapidly that it's difficult to keep up with prospective new chapters. By moving outside the United States, biker gangs can enhance their international criminal connections through involvement with the Italian Mafia, Colombian cartels and other organized crime enterprises."

Many types of illegal activities are associated with these motorcycle gangs. While illicit drugs are generally associated with them, other illegal activities include "murder for hire, prostitution, the operation of 'massage parlors,' international white slavery, kidnapping, burglary, theft, gambling, truck, hijacking, arson, forgery of government documents, extortion, the fencing of stolen goods, theft for U.S. military bases, assault, and rape" (Liddick, 2004: 23). The larger groups are much more organized and they generally have hundreds of members with many chapters around the world.

Another group listed by Liddick is the Yakuza. The Yakuza are the equivalent of organized gangs in Japan. They are mostly male adults who, compared to American gangs, enjoy some acceptance from the population. As Kersten (1993: 278) states, "in Japan the location of the local *boryokudan* (organized crime group) offices is well known to many ordinary citizens." There are a very large number of members of the Yakuza in Japan. According to Kersten (1993: 288), there are 88,000 registered members of the Yakuza. This compares well with Liddick's estimates, which range from 60,000 to 110,000 members (Liddick, 2004: 27).

Japanese crime is considered fairly low by American standards. Kersten (1993), however, suggests this may be due to some complicity by authorities with the Yakuza. Nevertheless, many reported serious crimes may be attributed to the Yakuza. Crimes that they get involved in include illegal gambling, prostitution, and other areas of illegal sexual activity such as sex workers (Kersten, 1993: 290). With respect to the U.S., major illegal activities involve illegal importation of American handguns and amphetamines. The Yakuza are also able to launder illegal money in the U.S. by the "purchase of legitimate businesses to launder and repatriate its illegally earned revenues" (Liddick, 2004: 28).

Chinese triads are, numerically, among the largest known criminal organizations in the world. Liddick (2004: 28) states that there are over 100,000 members. The triads each have their own organizational structures. According to the U.S. Department of State, currently, there is no known centralized authority controlling the triads. However, many individual triads have been active in the U.S.—some for well over one hundred years. Some examples of those investigated by the FBI include 14K Triad, Four Seas Gang, King Yee Triad, Hung Mun Triad, San Yee On Triad, Wo Hop To Triad, Wo Lee Kwan Triad, Wo On Lok Triad (also called Shui Fong), Wo Shing Wo Triad, Wo Shing Yee Triad, United Bamboo Gang, and Yee Kwan Triad, and there are other gangs and groups (Mahlmann, n.d.). The East Asian heroin trade is very lucrative to the triads, bringing in profits estimated at $200 billion (Liddick, 2004: 29). Many of the senior members of the triads are quasilegitimate businessmen (Mahlmann, n.d.). The international network allows the

Chinese triads to conduct sophisticated international crimes. Their loose organization and sophistication also make them difficult to penetrate and uproot. All this, combined with the transnational nature of their crimes, makes the Chinese triads a source of significant concern for authorities in the U.S.

Russian gangs represent another significant threat to the U.S. According to Liddick (2004: 29), "more than one hundred Russian organized crime gangs are thought to operate in forty-four countries around the world." With the collapse of the Soviet Union, organized crime has filled the power vacuum left behind. It is very powerful. Indeed, Liddick (2004) suggests that nearly half of the former Soviet economy is affiliated with organized crime.

In the United States, it has been suggested that Russian gangs rival and even surpass the threat of traditional organized crime. Although Russian gangs tend not to use "indiscriminate violence, they will use the amount of violence necessary to further and protect their illegal enterprises" (Rush and Scarpitti, 2001: 537). Additionally, Rush and Scarpitti (2001: 538) suggest that "Russian organized crime groups will present a greater overall threat to American society than the traditional Italian-American crime families ever have (U.S. Congress, Senate, 1996; Cilluffo, 1997; Sterling, 1990)." They believe this is due to Russian organized crime having a "higher level of sophistication." Liddick (2004) suggests that there are hundreds of members in the U.S. with ties to the former Soviet Union. Profit seems to be their main motive. Of major concern is the possibility of nuclear material from the former Soviet Union being sold to terrorist groups. While a nuclear bomb is always a concern, many consider such a scenario less likely since its delivery to the U.S. would be difficult. A more likely scenario in the U.S. is a "dirty-bomb"—a traditional bomb laced with nuclear material that has the potential to murder millions of innocent people and, at the same time, possibly make a large area uninhabitable to human life.

Another major area of concern for policing in the United States is the Colombian and Mexican drug cartels. Liddick (2004) reports that the Colombian drug trade alone is $5 billion annually. With such enormous amounts of money at stake, it is unlikely that the drug cartels will discontinue their illegal activities anytime soon.

Currently, Colombia and Mexico supply over 80 percent of illegal heroin entering the U.S. (Forero and Weiner, 2003: 1). One major concern is that the organizations seem to be working together. According to Forero and Weiner (2003), Colombian heroin dominates in the eastern U.S., while Mexican heroin dominates in the west. Such an arrangement does not appear to be due to happenstance.

The scourge of illegal drugs in the U.S. has always been associated with high crime rates and violence. Gang activity surrounds the illegal drug trade.

The countries to the south of the United States, including Colombia and Mexico but others as well, have given birth to some of the most notorious gangs involved in many types of international crime. One of the most violent, and a major concern to law enforcement, is MS13. They have over 80,000 members in Central America and approximately 10,000 in the U.S. They were founded in El Salvador. They are best described as follows: "Hardened by years of warfare in their home country, and attacks by other gangs in America, MS-13 has emerged as an ultra-ruthless group of street toughs whose members kill, steal, rape, and deal drugs without the slightest fear of cops or rivals" (Baram and Hamilton, 2003: 9). One of the greatest concerns to law enforcement is the possible link between such gangs and terrorists.

TERRORISM

For the American people, the scourge of terrorism is an evil they are confronting, and, unfortunately, an evil they have come to know well. Most of the world is familiar with the attacks of September 11, 2001, on the World Trade Center in New York City and at the Pentagon in Washington, D.C. In New York, two hijacked planes piloted by suicide bombers slammed mercilessly into the twin towers. The Pentagon was similarly hit. The final act of fanatical Islamic terrorists was to murder thousands of innocent people. Countless others were touched: children lost parents; relatives who simply went to work never returned; neighbors who attended parties the day before were now dead; firefighters and law enforcement officers went tragically to their deaths trying to help. Such calamity cannot be measured; the pain and suffering caused by these horrid acts seems endless.

This particular band of terrorists use a sick and perverted religious ideology called fundamentalist Islam to brainwash some of their own into believing that God wants them to murder innocent people and take their own lives in the process. While people of understanding and wisdom know that such an ideology violates the most basic principles of goodness including those of Islam—not to mention the Judeo-Christian understanding of God's Ten Commandments—namely, respect for human life, or "thou shalt not kill."

These terrorists have been linked to Osama bin Laden's al-Qaeda organization. Al-Qaeda had many of its training camps in Afghanistan. After 9/11 a coalition of forces led by the U.S. overran the ruling regime of Afghanistan at the time, called the Taliban. The Taliban, a fundamentalist Islamic regime, allowed al-Qaeda to operate the training facilities freely in the country. The free world could not allow such camps to exist. It is in such camps that the ideology and the training of terrorists take place. Some type of training is

necessary to properly "indoctrinate" (brainwash) recruits. Without such train-
ing facilities, it is much more difficult to indoctrinate people to the point
where they are willing to kill themselves "for the cause." Because of the large
threat that such terrorists present, it is likely that the U.S. and its allies will
continue to attack any such training camps throughout the world. In particu-
lar, any facility that provides a total institution where recruits will—twenty-
four hours a day, seven days a week—be indoctrinated into the sick ideology
of the terrorist organization is a target. Without such facilities, it is much more
difficult for terrorists to train recruits to overcome basic human instinct (sur-
vival) and other appropriate controls that most people have developed at
some time in their lives (e.g., feelings of guilt when killing innocent people).
That is, getting a person to murder innocent people and commit suicide at the
same time requires a great deal of effort and training, even for a person who
is predisposed to agree with the terrorist ideology. It generally requires a to-
tal institution in which a person can be immersed into the evil logic that the
fundamentalist Islamic terrorists preach.

Some other acts of international terror directly aimed at Americans and ac-
complished by fundamentalist Muslims include the bombing of the USS
Cole. This occurred on October 12, 2000. The ship was in the process of re-
fueling in Yemen. Two suicide bombers from Osama bin Laden's terrorist or-
ganization approached in a small boat filled with explosives. They blew it up
near the refueling destroyer, killing themselves in the process.

Another incident of terror occurred at the World Trade Center on February
26, 1993. Islamic extremists placed a bomb in a rented truck and parked it in
the garage of the North Tower. The bomb exploded, killing six people and in-
juring over one thousand others. According to the Anti-Defamation League,
quick action by the Joint Terrorist Task Force (JTTF) (a combined group of
law enforcement officers from the Federal Bureau of Investigation and the
New York City Police Department) led to the arrests of four terrorists, with
each doing 240 years in prison. The quick action of the JTTF did help restore
confidence in American law enforcement and helped allay many concerns.
However, the vigilance that was warranted by the successful attack, unfortu-
nately, did not take place to the extent necessary to prevent 9/11.

Other direct attacks on American interests familiar to most Americans in-
clude the bombings of the U.S. embassies in both Kenya and Tanzania. On
August 7, 1998, the simultaneous bombings of both embassies—in Nairobi,
Kenya, and Dar es Salaam, Tanzania—occurred. Both used car bombs. In
Nairobi, 213 were killed and over 4,000 injured. In Dar es Salaam, 12 were
killed and 85 wounded (White, 2009). Few Americans were killed in the at-
tacks and many of those responsible have been brought to justice. Neverthe-

less, Osama bin Laden remains free and currently there is a $50 million reward for his capture (Koelbl and Simons, 2004).

Recent attacks on mass transit systems in London and Madrid leave no doubt that international terrorism is an awful evil that the modern world must confront. Madrid signaled a change in strategy by al-Qaeda. On March 11, 2004, ten bombs exploded on Madrid's rail system. As a result, 191 people were killed and over 2,000 were wounded (White, 2009). Within a month, fifteen people had been arrested, with Islamic fundamentalist groups bearing responsibility. Similarly, attacks on the London underground and bus system were conducted by Islamic terrorists. On July 7, 2005, four bombs exploded killing 56 people and injuring an additional 700. Later in the month on July 21, 2005, an additional four attempted bombings occurred but only the detonators exploded, resulting in no fatalities or injuries. Closed-circuit television (CCTV) images installed in much of London's transportation system were one of the keys to unlocking the mystery as to who was responsible. Police were able to capitalize on the mistake and make numerous arrests of the perpetrators and their accomplices. Of concern to authorities is that some of the perpetrators were not known terrorists and, in fact, had no history of such activity. Additionally, some of the accomplices were women. Since the attacks, it has been reported that the London police are engaging in racial profiling. As Harrington (2005: A23) writes, "Police make no bones about who they are targeting . . . Ian Johnston, chief constable of the British Transport Police, put it more bluntly on Sunday: No use searching 'old white ladies,' he told reporters." However, conflicting statements came from British Home Office Minister Hazel Blears, who advised police "not to use racial profiling as a basis for conducting stop-and-search operations in the wake of the July bombings of London's transport network. I don't think you should be ruling out anybody in terms of how you exercise stop-and-search powers. You can equally have white people who could be the subject of intelligence, so I don't accept [that it] is right to target groups."

In the U.S., it is less likely that racial profiling will be conducted—at least on a widespread basis.[9] Americans are all too aware of the pitfalls this brings. For example, most Americans know about the U.S. government's internment of those with Japanese ancestry during World War II. War hysteria led to the shameful act of incarceration of 100,000 people based solely on national origin. U.S. society is multicultural and the police must act to join all segments of society, including those of the Islamic faith. Indeed, cooperation from that segment would seem essential, and not alienating the Islamic community is helpful to law enforcement; rather, law enforcement's goal is to work with the Islamic community to root out those who have evil intent.

While racial profiling is very controversial in the U.S., most would argue, based on experience, that the evil face of terrorism in the U.S. is not simply the Islamic terrorist—that is, a Middle Eastern young male. The aforementioned acts conjure up images of Osama bin Laden and Afghanistan training camps with fanatical young Middle Eastern men being trained to kill the innocent. However, there are several important facts that serve as reminders that anyone is potentially a terrorist and that authorities must use intelligence to make reasonable decisions rather than broad, unreasonable decisions that could have lasting consequences for our people.

First, the British caught several female accomplices who do not fit the profile. This should be considered a first warning sign. Given the adaptability of the enemy, one should assume that if law enforcement adopts a public policy of racial profiling, the terrorists will be aware of that fact and adapt their strategy accordingly.

Another reason for concern is that an American was captured among the Taliban in Afghanistan. The American who was captured is John Walker—a most unlikely Taliban. He is a twenty-year-old white male who was baptized as a Roman Catholic and lived in an affluent suburb of San Francisco. After high school Walker felt a spiritual need. He found some Internet sites and eventually attended mosques in the San Francisco area. He converted to Islam and studied in Yemen and Pakistan, eventually becoming tied to the Taliban. There is no reason to believe that unscrupulous Americans of any ethnicity or religion might not attempt terrorist activity ("American Taliban," 2002).

Americans are also quite aware of acts of terror that occurred domestically—some of them apparently based on ethnic hatred. Timothy McVeigh, assisted by Terry Nichols—both American and white—did the most heinous act of domestic terrorism recorded in the United States. They bombed the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, killing 191 men, women, and children (Eterno, 2005). A page from the novel *The Turner Diaries* by recently deceased William Pierce (a leader of a neo-Nazi hate group in the United States called the National Alliance) under the pseudonym Andrew McDonald was found on McVeigh at the time of his arrest for the bombing. The book is about angered white supremacists conducting a series of terrorist attacks against the federal government.

White supremacist groups are a concern in the U.S. (Eterno, 2005). These groups attach extreme significance to skin color and make the baseless claim that the white race is somehow better than other races. Although there are no firm figures on the number of supremacists in the U.S., the Southern Poverty Law Center has identified five hundred groups that they classify as white supremacist. These groups are generally placed into four categories: the Ku

Klux Klan, neo-Nazis, the Christian Identity church movement, and the militia movement. As stated, the neo-Nazi group known as National Alliance was headed by William Pierce, who wrote *The Turner Diaries*. Other neo-Nazi groups, such as skinheads, are transnational and have thousands of members in the U.S. One theme among these groups is that the federal government (as well as the media and the economic system) is controlled by Jews or what they call ZOG, the Zionist Occupation Government. Somehow these groups see the Jews as a threat to the white race.

Of course, the white supremacist movement is not the only movement to espouse hate and the use of terror in the U.S. For example, the Black Liberation Army in the 1960s and 1970s used terrorist actions and violence to change what they saw as the white establishment. They are likely responsible for a number of violent deaths of police officers in the U.S. among other violent acts.

From this law enforcement in the U.S. generally realizes that no group or individual is to be selected in or selected out as a possible terrorist without evidence. Of concern to society is guarding against ethnic, racial, and/or religious hatred, which appear to be commonalities in both domestic and international terror. That is, both appear to be fueled by irrational hatred of those who are different—in the case of the domestic terrorists, those who are not white, and in the international cases, those who are not of the fundamentalist Islamic faith. Rather than embracing diversity, terrorists are willing to kill themselves and others using indiscriminate violence in a feeble attempt to show that their way of life or they themselves are somehow superior. Thus, law enforcement and the American culture is trying to embrace diversity and multiculturalism. For these reasons, American law enforcement is less likely to use indiscriminate racial profiling. This leads us to how law enforcement in the U.S. is responding to these threats.

POLICE/JUSTICE RESPONSES

Due to the complexity of the American system, the response by law enforcement to transnational crime and terrorism is multifaceted. First, I will discuss recent changes made to laws to combat these crimes, since the law is the foundation upon which other modifications are based. Some aspects of these laws are very controversial and touch upon issues that strike at the very heart of democracy. I will focus on the USA PATRIOT Act among other changes at the federal level and also discuss some changes in state laws, using New York as an example. The next area of change that I will discuss is the organization and tactics of law enforcement agencies. To that end, I will first describe the

fairly new Department of Homeland Security at the federal level in the United States. I will then talk about changes in the preeminent local agency (which was vastly affected by 9/11), the New York City Police Department—now considered to be far ahead of all other local departments with respect to combating transnational crime and terrorism. Last, I will discuss the use of task forces as a tool to combat these crimes.

The U.S. is working with many other nations to fight these horrid menaces to civilization and democracy. For example, the U.S. signed the United Nations (UN) Convention Against Transnational Organized Crime on December 13, 2000, at Palermo, Italy. The U.S. also works closely with INTERPOL, whose mission is "to be the world's pre-eminent police organisation in support of all organisations, authorities and services whose mission is preventing, detecting, and suppressing crime" (INTERPOL, 2005: Mission). INTERPOL also has a longstanding agreement with the UN (made official in a 1996 cooperation agreement that both signed) in an attempt to deal with the changing and complex nature of transnational crime and terrorism. INTERPOL has a separate "Public Safety and Terrorism Sub-Directorate (PST) [that] deals with matters relating to: Terrorism, Firearms and explosives, Attacks and threats against civil aviation, Maritime piracy, and Weapons of Mass Destruction" (INTERPOL, 2005: Terrorism). After 9/11, such international cooperation seems mandatory to most Americans.

There is much more controversy surrounding changes in general policy and domestic laws: the value of preemptive war, the use of the military (particularly in Iraq), violation of civil liberties, immigration issues, and many others. The public is fairly divided on many of these issues. For example, in December 2001, a *New York Times*/CBS News poll asked, "What worried them more—that the government would fail to enact strong antiterrorism laws or that the government would enact new antiterrorism laws that excessively restrict the average person's civil liberties?" (Eterno, 2003: 1). Responses to this indicated that Americans were equally concerned with both.

One of the most controversial laws passed by the national legislature is the USA PATRIOT Act. It was signed into law on October 26, 2001, right after 9/11. The more controversial aspects of the law are suggested by O'Meara (2002: 69–70).

The law allows for indefinite detention of noncitizens who are not terrorists on minor violations. It minimizes judicial supervision of telephone and Internet surveillance by law-enforcement authorities in antiterrorism investigations and in routine criminal investigations unrelated to terrorism. The act expands the ability of the government to conduct secret searches—even in criminal investigations unrelated to terrorism. It gives the attorney general and the secretary of

state the power to designate domestic groups as terrorist organizations. The new law grants the FBI broad access to sensitive medical, financial, mental-health and educational records about individuals without having to show evidence of a crime and without a court order. The act allows searches of highly personal financial records without notice and without judicial review, based on a very low standard that does not require the showing of probable cause of a crime or even relevance to an ongoing terrorism investigation. It creates a broad new definition of "domestic terrorism" that could allow a police sweep of people who engage in acts of public protest and subject them to wiretapping and enhanced penalties. And this law allows the sharing of sensitive information in criminal cases with intelligence agencies, including the CIA, National Security Agency, Immigration and naturalization Service and the Secret Service.

O'Meara is essentially arguing that the U.S. is becoming tyrannical or unlimited in power—lacking checks and balances. Civil liberties, she feels, are so eroded by the act that the terrorists can claim a victory in extracting our freedom.

On the other hand, O'Beirne (2003: 76–79) argues that the USA PATRIOT Act has been a success; it is a "key weapon in the fight against terrorism." She argues that the Justice Department must report to Congress twice a year with details on the implementation of the Patriot Act. This provides some checks and balances that critics suggest are not there. She argues that critics are exaggerating their case and that the law is necessary and being prudently used to fight specific cases of terrorism. This is a difficult issue. Law enforcement needs the power to stop such atrocities—but how much power is enough? Recent so-called random searches of commuters in New York City have led to a lawsuit against the city by the New York Civil Liberties Union. Although these searches were upheld (see *McWade et al. v. Kelly*, 2006), such privacy issues will certainly be debated in the future.

At the state level, laws have also changed. In New York State, the penal law has been changed to reflect the terrorism threat. Article 490 on terrorism was recently added. It includes acts of domestic and international terrorism. The death penalty can be invoked for some of the more heinous terrorist crimes (although the death penalty is currently unconstitutional in New York State [see *People v. LaValle*, 2004]). Some of the new laws include soliciting or providing support for an act of terrorism, making a terrorist threat, crime of terrorism, hindering prosecution of terrorism, and criminal possession of a chemical weapon or biological weapon. These new laws seem to be a logical step for states. Certainly, previous laws are not adequate to deal with this new threat, and having laws that specifically address these crimes will make it easier to prosecute suspected terrorists and keep them from harming the public.

Laws are not the only area in which the justice system of the U.S. has responded to the threat of transnational crime and, more critically, terrorism. Another area is the organization and tactics of law enforcement. At the federal level, the most critical change is the creation of the Department of Homeland Security (DHS). The creation of the DHS involved transforming twenty-two federal agencies with approximately 180,000 employees. These agencies were brought under the control of the new DHS, established on November 25, 2002. Recently, the mission of the department was, "We will lead the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the nation. We will ensure safe and secure borders, welcome lawful immigrants and visitors, and promote the free-flow of commerce" (DHS, 2005, Our Mission). However, the department is constantly evolving and this mission statement can no longer be found on their website.

The current secretary of the DHS is Janet Napolitano. She is President Barack Obama's choice for secretary, replacing Michael Chertoff. The department has been restructured several times since its formation. A six-point agenda was developed in 2005 to guide the future of the Department (see http://www.dhs.gov).

1. Increase overall preparedness, particularly for catastrophic events
2. Create better transportation security systems to move people and cargo more securely and efficiently
3. Strengthen border security and interior enforcement and reform immigration processes
4. Enhance information sharing with our partners
5. Improve DHS financial management, human resource development, procurement and information technology
6. Realign the DHS organization to maximize mission performance

According to the DHS website, there are currently sixteen major department components (see http://www.dhs.gov).[10] The Directorate for National Protection and Programs attempts to minimize risks. Under this office are Cyber Security and Communications, Infrastructure Protection, Intergovernmental Programs, Risk Management and Analysis, and US-VISIT (using technology such as digital fingerprints to identify possible terrorists/criminals). The next major department is the Directorate of Science and Technology. It provides state and local officials with technology and also is involved in research and development. The Directorate for Management is responsible for funding. The Office of Policy attempts to coordinate offices and work on long-term planning. The Office of Health Affairs specializes in medical issues.

Of critical importance is the Office of Intelligence and Analysis, which gets information from multiple sources and attempts to use that information in the most appropriate way to protect the homeland. One pertinent point is that two critical intelligence agencies do not come under the secretary of the DHS: the Federal Bureau of Investigation and the Central Intelligence Agency. Both agencies conduct independent investigations and gather their own intelligence. Since they are separate from DHS, there is still some concern that they will not share information.

Other offices include the Federal Law Enforcement Training Center, the Domestic Nuclear Detection Office, the Transportation Security Administration, United States Customs and Border Protection, United States Citizenship and Immigration Services, United States Immigration and Customs Enforcement, the United States Coast Guard, the Federal Emergency Management Agency (FEMA) (after the internationally viewed debacle in New Orleans with Hurricane Katrina, FEMA has been markedly restructured), and the United States Secret Service (which guards the president and other high-level officials and has responsibilities in investigating counterfeiting money, other financial crimes, and computer-based attacks).

In the U.S. the individual fifty states are responsible for state and local responses. They should be coordinating that response with federal agencies and with each other. Due to the complexity of the American system of policing, especially involving numerous law enforcement agencies with many overlapping jurisdictions, coordination is difficult. With respect to investigations agencies, rather than sharing information, often compete with one another. Even worse, in larger agencies, one unit will not share information with another. At the federal level, the DHS is supposed to help prevent the failure of agencies to share information. At the state and local level, this can be more difficult.

One of the most advanced local agencies with respect to intelligence and terrorism is the New York City Police Department (NYPD). The NYPD has made enormous strides since 9/11. They have created a Counterterrorism Bureau with over one thousand officers assigned to it. This bureau is responsible for counterterrorism operations, training and exercises for NYPD personnel, and risk assessment and critical infrastructure protection of key sites within New York City. The Deputy Commissioner of Intelligence also has an expanded role. NYPD officers are now deployed worldwide as they no longer completely rely on the federal government for protection. As Finnegan (2005: 61) states, "there was a strong feeling that federal agencies had let down New York City, and that the city should no longer count on the Feds for its protection." The Intelligence Division also handles Nexus (a program that handles terror-sensitive business, financial investigations, cyberintelligence, and various undercover operations [Finnegan, 2005]).

Today NYPD is much more involved in direct terrorist investigation and prevention. They have been very proactive in this area compared to other local and state agencies. The NYPD deploys Hercules teams throughout the city to protect sensitive or possible targeted locations of terrorists. These teams include heavily armed officers, canine units, and armored vehicles.

NYPD now has officers on the scene at locations around the world, giving them information on terrorist incidents around the world quickly and efficiently. For example, officers in London gave Police Commissioner Raymond W. Kelly information on the London Underground (i.e., subway) attacks that few had access to. Indeed, Commissioner Kelly gave information about the materials the bombs were constructed of to the press, to the anger of some British officials. Nevertheless, the NYPD has a very good relationship with most police around the world. This is due, in part, to the professional image of the NYPD as well as a camaraderie among law enforcement officers around the world that should not be underestimated. Further, many agencies identify with the NYPD due to 9/11.

While the NYPD has generally been thought of as the epitome of law enforcement agencies, there are some areas of concern, particularly with their emphasis on crime reduction. Compstat is the NYPD's management tool to lower crime. It involves precinct commanders being held strictly accountable for crime in their assigned areas. At Compstat meetings precinct commanders must present what is happening in the precincts with an emphasis on crime — particularly index crime. Commanders are, at times, publicly berated at these meetings for failing to reduce crime. Indeed, commanders have lost commands for failing to reduce crime numbers. Such a scientific management approach is not necessarily conducive to successful policing. Why? Because it can alienate the community the department is trying to serve (which it has, especially in minority communities that may have information on potential terrorists), alienate midlevel managers (those considered part of a team rather than being berated are more likely to be forthcoming with information and innovative ideas), and fail to motivate the vast majority of officers (see Eterno and Silverman, 2006; Cowper, 2000). It is suggested that the NYPD could benefit from being more community friendly (thinking of themselves as "service oriented" rather than simply "crime fighters") and fostering a human relations–management approach. While this does present a challenge to the NYPD (they are essentially a top-down bureaucracy at the current time), the potential benefits (e.g., getting intelligence to stop a future attack; officers willing to be innovative and proactive in their efforts rather than passively obeying orders) outweigh the difficulties. Even with these issues, NYPD is still the preeminent police agency in the U.S. with respect to combating terrorism.

One nationwide tool that is very effective in the fight against terrorism and transnational crime is the establishment of joint task forces. These task forces bring together local and federal authorities. Rather than competing with each other for valuable leads and resources, the efforts of the agencies in the task force are combined. Federal agencies often bring a variety of resources and leverage that local agencies may not have. Local agencies often know the neighborhoods and have local connections and sources of information that federal authorities lack. These task forces are a critical tool in law enforcement in the U.S.

One example of the success of the task force is on Long Island in New York. In 1999, with gang violence rising, the United States Attorney's Office–Eastern District helped create the Long Island Gang Task Force. Agents and officers are from numerous jurisdictions: the Federal Bureau of Investigation; Immigration and Customs Enforcement (ICE); the New York State Police; Nassau County Corrections; and the Nassau County, Hempstead, Freeport, and Port Washington police departments. As an added part of this task force, local district attorneys have been cross-designated to prosecute on both the federal and state levels. At least forty convictions of members of the notorious international gang MS13 are due to the efforts of this task force. Two were recently convicted in violation of the federal Violent Crimes in Aid of Racketeering (VICAR) statute among other crimes. (Racketeering statues have been used very successfully by law enforcement in these types of organized transnational crimes. The Racketeer Influenced and Corrupt Organizations statute [RICO] is another example of such a statute.) Eighteen members, including two critical leaders, also plead guilty to federal racketeering charges. An additional twenty were convicted on various other charges (non-racketeering) such as robbery, firearms possession, and immigration crimes (see United States Attorney's Office, 2005).

FUTURE/CONCLUSIONS

The battle against terrorism and transnational crimes is sure to continue well into the future as these menaces are threats to the civilized world. As a first step, we must understand the dynamics of these incidents. Why do they occur? What purpose do terrorists and criminals have? Typical criminal behavior, at least to some extent, is easier to understand. Most criminals (although there are, of course, exceptions) want money, power over others, or have some other tangible goal. Terrorists, on the other hand, have more elusive goals (in some cases one can question whether a reasonable goal exists for them)—often to change a government, change its policies, or to change

an entire society. In any case, terrorists are fanatics. They often believe in what they are doing—even though, ironically, they are doing just the opposite of what they think. That is, they do great evil, sometimes brainwashed into thinking they are actually doing good (or the "will of God"). Such attitudes are difficult to battle against. Terrorists are unlikely to see, or want to see, the other side's point of view. Such dogmatic and stubborn people often cannot be reasoned with. Nevertheless, developing an understanding of the enemy is a first step.

To most Americans, fanatical Islamic terrorists are very foreign and very evil. Nothing is worse than taking the lives of innocent people for whatever reason one might have. Law enforcement is being trained in understanding fundamentalist Islamic terrorists. Training includes learning about Islam and how perverted the terrorists' view is. Because the U.S. is a multicultural society, Americans have excellent sources of information on just about any culture in the world, including various Islamic cultures.

Americans are also familiar with hate or bias crimes, which terrorist ideology is based on (irrational hate of Americans, their allies, and/or their government). The history of the U.S. is an uneasy one with respect to ethnic and racial bias. The U.S. had to fight a civil war to end slavery. Even so, one hundred years after the U.S. Civil War, many still did (and do) discriminatory acts against blacks and other minorities. The U.S. is not perfect, and no place in the world is. Americans, however, have learned from their past that to survive one must be tolerant of others and their views. In the U.S., if people were not at least somewhat tolerant, the society could not function. Tolerance is something that terrorists do not understand. In the worldwide community, there is a general consensus that the radical extremist dogma of terrorists as well as their actions are wrong.

One way to understand Islamic terrorists is through the use of criminological theory. Sociologist Emile Durkheim's theory of anomie is an excellent tool. Durkheim, who wrote in the late 1800s and early 1900s, saw a stark contrast between agricultural society and industrial society. In the older agricultural society, people understood their roles—they knew what they were supposed to do. There was a strong consensus among the people about right and wrong. Durkheim calls this mechanical solidarity. In such a society there is a strong collective conscience. In industrial society, however, there is a division of labor. The collective conscience is initially weakened. However, in a normally developed industrial society people realize how dependent they are on one another and develop a new social bond that Durkheim terms organic solidarity. If change happens too rapidly you get a situation in which you have "anomic" division of labor or "anomie"—normlessness. This leads to a weakened, or even a lack of, collective conscience.

Fundamentalist Islamic terrorism can be seen as a clash between Western society and the fundamentalist Islamic version of Eastern society (indeed, other terrorist acts can also be seen as a struggle between ideologies and sometimes cultures, especially when one group is much stronger than the other, generally leading the weaker group to resort to terrorist acts [e.g., Irish Republican Army, Black Liberation Army]). Due to advances in technology, communications, and transportation, society is becoming a global village. The ideology of fundamentalist Islamic militants comes from Eastern society. As Western ideas take hold (e.g., freedom of religion, equal protection for women), some will undoubtedly reject them—especially those in power, such as the former ruling Taliban in Afghanistan. As the East tries to cope with the social change that modern Western society brings, the strong collective con-science that once existed is breaking down. The social order and the collec-tive conscience are weakened. The change is happening very rapidly—perhaps too rapidly for some. It is possible that in some cases subcultures have become anomic, leading to a lack of a collective conscience, irrational ethnic hatred (especially against Americans and their allies, who represent the Western ideal), and eventually a lashing out at Western society through ter-rorist acts.[11]

To combat terrorism, it is very important for the U.S. to maintain high moral standards and respect for other cultures. Some terrorist groups, in an at-tempt to defend their actions (recall they are conducting their violence in the name of "God"), will try to rationalize what they are doing by pointing to any actions the U.S. does that seems contradictory or evil. Much of what Amer-ica is doing around the globe is in the name of defending freedom—certainly a noble goal—but sometimes is not perceived that way by others. Americans have been seen as exploitive, fighting for oil, and imperialist. This, however, is not what most Americans feel they, or their government, are doing.

Americans believe, for example, in religious freedom—that you can wor-ship in whatever way you deem appropriate without government interfer-ence—a very tolerant view. They believe that others who feel differently from you have the right to meet, speak, and even protest against the dominant view. Americans believe in equal protection of the law (groups should not be treated differently), in due process (if the government is going to take something, you have the right to a fair hearing), and in checks and balances (that no branch or person in government should have unchecked power—the government is lim-ited). No system of government is perfect, but Americans generally feel that ultimately, there is nothing better. Winston Churchill in a speech to the House of Commons on November 11, 1947, captures the essence of Americans' feel-ings: "Many forms of Government have been tried, and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all wise.

Indeed, it has been said that democracy is the worst form of Government except all those other forms that have been tried from time to time."

Fundamentalist Islamic terrorists are fighting for a cause that Western civilization patently rejects: tyranny and worship of God in one way—their way. Such an ideology is as hopelessly doomed as are the terrorists. The U.S. needs to better portray these ideals such that they are not perceived as imperialists. Globally, the U.S. must understand its leadership position and better sell the ideals of its society. Unfortunately, the controversial war in Iraq, prisoner abuse scandals, support given to various corrupt regimes, and other such policies have not boded well for the U.S. internationally.

Nevertheless, years of battles and death stand behind democracy and tolerance of others. As Abraham Lincoln (arguably one of the greatest American presidents) stated in his Gettysburg address, a speech after a pivotal battle in the American Civil War, "that these dead shall not have died in vain . . . that this nation, under God, shall have a new birth of freedom . . . and that government of the people . . . by the people . . . for the people . . . shall not perish from the earth." The stark contrast between terrorists and the U.S. government could not be clearer. The U.S. stands for freedom and democracy, while the terrorists are, simply put, intolerant murderers. The U.S. must, to the extent possible, demonstrate that its society is a better way of life, that the cause of terrorists and other criminals is an evil cause, and that the Bill of Rights (including freedom of religion, freedom of the press, freedom from unnecessary government searches and seizures, etc.) is an enduring and meaningful part of the Constitution and our way of life that many Americans are willing to die for (and that some have already died for).[12]

Within the U.S., we need to also understand that the harm that occurs from acts of terrorism and transnational crimes come not only from the destruction and murder committed but also from the reactions (or overreactions or underreactions) to the criminal acts or the threat of possible future acts. Unquestionably, the global community must continue to work together to eradicate these crimes. The U.S. is a leader in this effort. As such, the U.S. has a great responsibility.

As a first step, the U.S. and its law enforcement agencies must understand that protecting the U.S. Constitution while, at the same time, stopping terrorists and criminals, is their primary mission. Crime control (terrorism control) is *not* the highest mission of police; rather, it is crime control (terrorism control) joined with respect and dignity of human rights. This means law enforcement must respect people's constitutional rights. People have a right to speak their views, to assemble, and so on, as long as they do not endanger others or trample on other's rights. One area of concern is that fear of a terrorist incident—especially from a weapon of mass destruction (WMD)—

could lead to erosion of civil liberties to the extent that the society is no longer free. However, freedom is what we are fighting for. We cannot allow our fears to overwhelm us. As Franklin Delano Roosevelt (another eminent American president) stated, "We have nothing to fear but fear itself." Fear of an attack can cause a nation to take unnecessary and draconian actions in the name of fighting terrorism. The internment of the Japanese at the beginning of World War II during the war hysteria after Pearl Harbor is an example.[13] How free democratic society remains in the future will be directly related to the actions that we take in our own defense. These actions need to be based on reason and not fear. What can be done to maximize safety and minimize intrusions on civil rights?

Law enforcement officers need to be given appropriate guidance by legislatures and policymakers. To that end and to the extent possible, bright-line rules should be composed so that officers understand the extent of their power. Research indicates that bright-line rules help front line practitioners work within the limits of their authority (see Eterno, 2003). Furthermore, without such rules, policymakers are relinquishing their responsibility by pushing it down to the lowest ranks. Leaders must give guidance and not shirk responsibilities.

Checks and balances on law enforcement's power need to be carefully reviewed. The exclusionary rule, civil suits, arrest (although rare), civilian complaint review boards, and internal review by police agencies are just a few of the remedies for police excess. We need to determine whether these remedies are sufficient given law enforcement's expanding role. We could, for example, certify officers on a national basis. That is, officers would have to earn a national license to be police officers anywhere in the U.S. That license or certification could be removed for improper behavior (see, for example, Goldman and Puro, 2001). Additionally, we need to revisit the exclusionary rule and determine whether it is appropriate in all circumstances. Say a police officer does an illegal search and finds a nuclear device. Should the evidence be excluded? Perhaps, but should any action be taken against the perpetrators? These are truly questions for the future of our democracy.

Law enforcement agencies need to recruit the best and the brightest into their ranks. Currently the best and the brightest often shy away from law enforcement, often due to inadequate remuneration. However, these professions are some of the highest callings in a democratic society, particularly since law enforcement officers are at the front line of democracy in action. It is a very difficult job, if done properly. Officers must balance the need for safety and fighting crime with protecting constitutional rights. They, and their leaders, need to understand the complexities that this balancing presents to law enforcement.

Police agencies must work as a team: do not disrespect those of lower rank; think service. Officers who have worked under a top-down management style will likely become discontent and not work efficiently. Indeed, my own research in New York City indicates that Compstat (a top-down management approach) motivates very few officers to make arrests and write summonses. It is more efficient to work as a team than to berate lower ranks. This has the effect of motivating more officers to work, being more efficient, and getting more innovative ideas from the rank-and-file (see Eterno, 2003; Eterno and Silverman, 2006).

Agencies need to work with communities and not alienate people. Today, this especially means working with and not alienating those of the Muslim faith. Ask and willingly receive the assistance and cooperation of all peoples. Emphasize being proactive in law enforcement but also that officers, as representatives of the government, are there to serve people.

Officers need to be trained in the adverse influence of the police culture. In particular, car stops seem to be an area where officers are abusing their authority due to the influence of other officers (Eterno, 2003). Enhanced supervision and the use of video and audio as well as training would seem to be prudent steps. The success of video (CCTV) in the London Underground bombings seems to indicate that its use should be expanded. However, this should be done carefully so as not to trample on people's rights.

The government and police agencies must allow the media to have limited access to operational commands. Let them report on what is or is not happening. An open, candid discussion can bring new ideas and agencies should welcome some criticism. In fact, some criticism is good and can lead to constructive change.

Agencies and the public need to be open to reasonable change and ideas, allowing debates about key issues such as whether the war in Iraq is justified, are we fighting for oil, are we expanding democracy, is the Patriot Act a threat to civil liberties, should we allow officers to use racial profiling, and so on.[14] Open dialogue is necessary and to be embraced. This will allow the U.S. to capitalize on its strengths. Also, the diversity of people in the U.S. will allow for a very informed discussion. The U.S. needs to consult its best and brightest on these weighty issues.

NOTES

1. See especially Eterno (2006) for an interesting discussion on the need for bright-line rules for police.

2. The U.S. Census Bureau advises that Hispanics can be of any race.

3. Although there is a need to be ever-vigilant of police abuse of authority. Examples abound of police misuse of their authority, including incidents such as that of Abner Louima, where a Haitian immigrant had a stick placed in his rectum by a police officer who had him in custody. The police officer, Justin Volpe, is currently serving a thirty-year sentence for his actions.

4. The Immigration and Naturalization Service has merged into the Department of Homeland Security. U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) are components of Border and Transportation Security (BTS) within the Department of Homeland Security (DHS).

5. See Eterno (2003) for more information on this issue.

6. Lieutenant Patricia Feerick of the New York City Police Department is one example.

7. For example, the UCR did not factor in the terrorist attacks in New York City when calculating the crime rate for the city in 2001 (although the murders were reported with a footnote explaining them).

8. Liddick adds "Italian-based transnational crime groups" and "other" groups as well.

9. For an interesting debate on racial profiling with respect to terrorism see Simonson (2001) and Clegg (2001) in Balkin (2005).

10. As recently as 2005, there were nine components, four of which were directorates. This structure has completely changed in the span of several years.

11. This is based on Emile Durkheim's anomie theory. A complicated array of political, economic, and numerous other pressures are also likely responsible for terrorist acts. This is one way to try to understand such terrible acts of violence. There are, of course, many other ways. For example, modern (post-enlightenment) versus old (pre-enlightenment) philosophies. There are many other examples such as Brown (2007); Rees and Aldrich (2005); Kudryavtsev, Luneyev, and Petrishchev (2005), and many others (see also Verma's chapter in this book).

12. Most Americans would not commit suicide attacks (at least in the sense that terrorists do) as such acts are considered the ultimate in evil (taking innocent life) but also in violation of cultural norms that all life—including one's own—is precious.

13. Franklin Delano Roosevelt was the president at this time and was ultimately responsible for the internment.

14. These questions are debated in Balkin (2005).

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