Journal of the Institute of Justice & International Studies

2010
Number 10
ISSN 1-538-7909

Papers from:
The Homeland Security:
Global & Domestic Perspectives Conference
March 29-30, 2010

Copyright © 2010
Institute of Justice & International Studies
Department of Criminal Justice
University of Central Missouri
Warrensburg, MO 64093  USA
Journal of the Institute of Justice & International Studies

Editorial Board:
Fiona Brookman, Centre for Criminology, University of Glamorgan, Wales, UK
Gerard De Jonge, Faculty of Law, University of Maastricht, Netherlands
Tim John, Centre for Criminology, University of Glamorgan, Wales, UK
Roddy Nilsson, University of Vaxjo, Sweden
Paul O'Mahoney, Trinity College, Dublin, Ireland
Harriet Pierpoint, Centre for Criminology, University of Glamorgan, Wales, UK
Eva Rieter, Faculty of Law, Radboud University Nijmegen, Netherlands
Rick Sarre, School of Commerce, University of South Australia
Michael Vaughn, College of Criminal Justice, Sam Houston State University, USA

Issue Editor:
Donald H. Wallace, Criminal Justice Department, University of Central Missouri

The Journal of the Institute of Justice & International Studies is published annually.
Subscription rates within or outside the United States: $50.00USD per year for institutions, $25.00USD per year for individuals.

Journal articles are reproduced in EbscoHost, Hein Online, ProQuest, and Westlaw.

The views expressed in this publication are those of the authors. Opinions expressed do not necessarily represent the opinions or views of the editors, Director, or publisher of The Journal of the Institute of Justice & International Studies. All rights reserved. No part of this journal may be reproduced, stored in a retrieved system, or transmitted in any form or by any means without written permission from the Institute of Justice & International Studies.

The authors warrant that the work is the product of his or her original effort and to the best of the author's knowledge and ability, does not defame any individual or entity or infringe upon any individual's or entity's rights, including intellectual property rights, and includes proper citation to other published works.

For information about the Journal of the Institute of Justice & International Studies, write or call:
Director
Institute of Justice & International Studies
Criminal Justice Department
Humphreys Building 300
University of Central Missouri
Warrensburg, MO 64093 USA
660/543-4950

Copyright © 2010 by the Institute of Justice & International Studies
Criminal Justice Department
University of Central Missouri

Printed by: University Copy Center, Printing Services
University of Central Missouri
CONTENTS

Preface ........................................................................................................iv

Author Information ....................................................................................vi

Plenary Session Presentations/Articles:
MISSOURI HOMELAND SECURITY
Paul Fennewald .........................................................................................1

THE ROLE OF LOCAL COMMUNITIES IN CHEMICAL ACCIDENT
PREVENTION AND PREPAREDNESS
Timothy R. Gablehouse ...........................................................................13

NORTHERN COMMAND AND HOMELAND SECURITY
Major General Stephen Villacorta ..........................................................19

Panel Session Articles:
EMERGENCY PREPAREDNESS OF INDIVIDUAL STUDENTS
AT A LARGE STATE UNIVERSITY IN MISSOURI
David M. Claborn ..................................................................................33

THE EFFECTS OF PERCEPTIONS OF PREPAREDNESS AND PREVENTION
ON THE FEAR OF FUTURE TERRORIST ATTACKS
Patrick R. Gartin ......................................................................................45

THE NATIONAL GOVERNORS ASSOCIATION AND OPPOSITION TO
HOMELAND SECURITY POLICY
Mitchel N. Herian ...................................................................................59

CAN JUST WAR THEORY SURVIVE THE WAR ON TERROR?
Hamner Hill ............................................................................................77

FAITH AND CULTURE IN THE MIDDLE EAST:
A ROAD TO HEAVEN OR A CATALYST FOR CRISIS
Tseggai Isaac ..........................................................................................87

THE FINANCING OF TERRORISM
Jeffery M. Johnson & Carl Jensen .........................................................103

RAPE AND WARFARE: ITS IMPACT ON FEMALE BODY
—THE CASE OF THE DEMOCRATIC REPUBLIC OF CONGO
Drocella Mwisha Rwanika ......................................................................117

HUMAN TERRAIN TEAMS AND COMMUNITY POLICING:
The Military Based Example That
U.S. Law Enforcement Agencies Can Follow
Christopher R. Sharp .............................................................................131
PREFACE

This issue of the Journal of the Institute of Justice & International Studies is the tenth in a series that stretches back to the Institute’s first program in the fall of 2001. These issues have featured articles that have been based on the papers and plenary session addresses that have been presented at the Institute’s sponsored events. These events have varied in topic to a considerable degree. Yet, despite the variety the majority of these events have consistently contained a common thread regarding homeland security and its many implications. This theme seems to be a defining national and international concern in this first decade of this unfolding century.

For the conference in 2010, the decision was made by the Institute’s advisory board to take on this topic directly. Thus, the Homeland Security: Global & Domestic Perspectives Conference was held at the University of Central Missouri on March 29 and 30. This Conference investigated the range of issues surrounding the efforts to secure the homeland from threats of human origin and natural threats. Further, this Conference examined best practices along with an assessment of policies. Specific themes addressed by the speakers and papers included: international cooperative efforts in homeland security, identification of threats, rural homeland security initiatives, institutional architectures to respond to other security challenges and disasters, proactive measures to counter terrorism, intelligence concerns, crisis and consequence management, public health response, impact of homeland security measures on concepts of justice and sovereignty at both domestic and international levels, training and academic educational programs in homeland security, impact on law enforcement and first responders, among many other topics.

With such a wide-range of issues underlying the concept of Homeland Security, it should have come as no surprise that presentations were made from many academic disciplines and professions. Over 70 presentations were made at this two-day Conference. When one considers the collaborative efforts in several of the papers, these presentations represent the work of over 90 authors and co-authors from over three dozen non-academic and academic institutions in addition to UCM students and faculty members. A total of 2500 people were estimated attending these various presentations.

There are many people I need to acknowledge, the many supportive administrators and staff members, especially the strong encouragement and support that stems with the Institute’s affiliation with the Department of Criminal Justice at UCM. Foremost are the students at UCM, particularly those studying criminal justice who were involved in the many needed details of putting this conference together.

This Conference was financially supported in part by a grant from the UCM American Democracy Project and by the UCM College of Health & Human Services. Also, particularly helpful was the support from the Conference sponsors: Burns & McDonnell, a full-service engineering, architecture, construction, environmental and consulting solutions firm, the Warrensburg Chamber of Commerce, the Watermark Risk Management International, LLC, a security management consulting firm,
helping clients with focused, comprehensive, and balanced approaches to their security challenges. Also sponsoring the Conference were the Criminal Justice and Public Safety programs at IUPUI, the Johnson County (Mo.) Ambulance District, the Missouri Department of Higher Education, the U.S. Army, the U.S. Department of Homeland Security, the U.S. Navy, the UCM-Army-ROTC, and the UCM Institute for Rural Emergency Management.

Critically important to the success of the Conference were the tireless efforts of my colleague Diane Butler, the instructor at UCM for homeland security studies. She managed to successfully juggle family and career responsibilities while pursuing with great determination and energy all the needed aspects of organizing and coordinating all of the essential ingredients that went into this event. It was an honor working with her and any success marked by this Conference is directly attributable to the tenacity of this individual.

The articles in this special conference issue of the Journal allow for some remarkable delineation of the wide scope of the topics that can fall under the rubric of Homeland Security. Much gratitude is extended to the peer reviewers who examined the submissions from the several presenters who accepted our invitation to submit extended manuscripts for consideration for publication. Also included are articles from some of our plenary session speakers who provided either an extended paper or edited remarks based on their presentations. The breadth and quality of these articles make for an excellent enduring product of the Conference.

Don Wallace
Director
Institute of Justice & International Studies
Criminal Justice Department
University of Central Missouri

THE JOURNAL OF THE INSTITUTE OF JUSTICE & INTERNATIONAL STUDIES
is a multi-disciplinary, peer-reviewed journal devoted to the dissemination of information regarding a wide variety of social issues, both national and international, and a wide variety of research and presentation techniques.

MANUSCRIPTS
Manuscripts are typically the outcome of a presentation by the author at the academic conference hosted by the Institute each year. These manuscripts should be submitted via email to cjinst@ucmo.edu. Only original, unpublished manuscripts not under consideration by other journals will be considered. Submissions should follow the style from either the Publication Manual of the American Psychological Association or the Uniform System of Citation.
David Claborn is an assistant professor of public health and homeland security at Missouri State University in Springfield, Missouri. Prior to his academic career, he was a military medical staff officer. He retired from the Navy's Medical Service Corps in 2008. During his 20 year military career, he lived and worked internationally for nearly six years, with extended periods in Japan, Saudi Arabia, Italy and South Korea. He is a veteran of Desert Shield and Desert Storm. He also worked extensively with disasters and epidemics, both domestically and internationally, providing disaster relief for earthquakes, hurricanes, and disease outbreaks. In 2001, David completed his Doctor of Public Health degree (DrPH) at the Uniformed Services University of Health Sciences where his dissertation dealt with the re-emergence of malaria to the areas around the demilitarized zone between North and South Korea. He also has degrees in zoology and entomology from Texas Tech University. Currently, Dr. Claborn’s research interests focus on threats to the country’s economic and public health that are posed by invasive organisms, particularly in the context of bioterrorism and disaster.


Tim Gablehouse, President, National Association of SARA Title III Program Officials (NASTTPO), holds a number of positions relevant to emergency planning. He is in an eighth term as a Governor’s appointee on the Colorado Emergency Planning Commission, currently chairs the LEPC–Citizen Corp Council for Jefferson County, is serving a second term on the Executive Committee of the InfraGard Denver Member’s Alliance, and is a member of the board of directors of the Colorado Emergency Preparedness Partnership, Inc. Reelected in April 2009, he is also serving his second term as President of the National Association of SARA Title III Program Officials. Mr. Gablehouse has been a member of federal advisory committees regarding accident prevention and EPCRA and a participant in EPA’s Presidential Review Stakeholders Conference on EPCRA. He has twice testified before the Commerce Committee of the United States House of Representatives regarding emergency planning and response, and before the Environment and Public Works Committee of the United States Senate regarding the accident investigation and prevention activities of the United States Chemical Safety Board and Environmental Protection Agency. Mr. Gablehouse has been a speaker at numerous international conferences, has conducted or otherwise participated in a wide variety of research projects and has served as a Special Assistant Attorney General for the State of
Colorado regarding the Rocky Mountain Arsenal environmental litigation and numerous reported CERCLA governmental and private party cost recovery actions.

Mr. Gablehouse holds JD and MBA degrees from the University of Denver, and a BA in Environmental Biology from the University of Colorado.

**Mitchel N. Herian** has been a researcher at the University of Nebraska Public Policy Center since 2008. At the Center, he conducts policy-relevant research for federal, state, and local governmental entities. His work has primarily consisted of surveys, field experiments, laboratory studies and the facilitation of public participation into governmental decision-making. His scholarly work has primarily focused on intergovernmental relations, attitudes toward government, and examining determinants of state policy. His work has been presented at numerous national conferences and has appeared in a number of peer reviewed and practitioner outlets. Currently, Dr. Herian has a book in press with Cambria press that focuses on the role of U.S. state governors in influencing federal policy. Dr. Herian received his Ph.D. in political science from the University of Nebraska – Lincoln in May, 2008, with a focus on public policy and state and local government.

**H. Hamner Hill** is Professor and Chairperson of the Department of Political Science, Philosophy, and Religion, and Professor of environmental Science at Southeast Missouri State University. He specializes in the philosophy of law with emphasis on normative conflicts and in applied ethics. Recently his work has focused on conflicts between discrete bodies of domestic law (e.g. bankruptcy and environmental protections laws) and on conflicts between international trade regimes and domestic environmental protection laws.

**Tseggai Isaac**, Ph.D. received his B. A. degree from Olivet Nazarene University in Kankakee, Illinois and his Masters degree in Business Administration, and Masters Degree in Public Administration from Governors State University, University Park, Illinois. He earned his Doctorate degree in political science from the University of Missouri – Columbia. He currently teaches at the Missouri University of Science and Technology, formerly University of Missouri – Rolla. Currently, Isaac is working under a grant with the United States Army Training and Doctrine and the Maneuver and Support Center of Excellence at Fort Leonard Wood, Missouri as a Foreign Language and Cultural Advisor. Dr. Isaac teaches Comparative Politics, International relations, Politics of the Third World, American Government, Policy Analysis, and Theories and Issues of Political Science. His specialty is the Horn of Africa and the Middle East. He has published in peer reviewed journals, encyclopedias, a book chapter, and conferences proceedings. He is currently working on a manuscript entitled “*Third World Politics: A Journey from Hope to Despair,*” tentatively to be published by the Africa World Press. He is married and he and his wife have four grown up children, two sons and two daughters.

**Carl Jensen** is the Director of the Center for Intelligence and Security Studies at the University of Mississippi and a Senior Behavioral Scientist (adjunct) at the RAND Corporation. Prior to that, he served as a Special Agent in the Federal Bureau of Investigation for twenty-two years. In the FBI, Dr. Jensen worked as a field agent in the Atlanta and Cleveland Divisions, a Forensic Examiner (Cryptanalysis) in the FBI.
Laboratory and an Instructor/Researcher in the Behavioral Science Unit (BSU). While in the BSU, he founded the Futures Working Group, an organization dedicated to developing ethical and effective strategies for the future of policing. Upon his graduation from the U. S. Naval Academy in 1978, Dr. Jensen served aboard the nuclear fleet ballistic missile submarine USS George Washington Carver and then as an aide to the Commander of Submarine Group Five. In addition to his Bachelors degree, Dr. Jensen earned an M.A. in Sociology from Kent State University and a Ph.D. in Criminology and Criminal Justice from the University of Maryland. He is the author and co-author of numerous articles, books and book chapters and has lectured throughout the world.

Jeffery M. Johnson is a Clinical Instructor of Criminal Justice at the University of Mississippi. A former police officer with the Kansas Highway Patrol-Capitol Police, Mr. Johnson began his academic career teaching as an adjunct at Washburn University, where he received both his Bachelor and Master of Criminal Justice. Mr. Johnson has served as chair of the Department of Administration of Justice at Brown Mackie College in Salina, Kansas, as well Chair of the Department of Administration of Justice at Cloud County Community College in Concordia, Kansas. Mr. Johnson’s research interests are the financing of terrorism and gang research. Currently Mr. Johnson has received a Graduate Certificate in Homeland Security from Texas A&M and is pursuing his Doctorate of Education at Delta State University in Cleveland, Mississippi.

Christopher R. Sharp is an Assistant Professor of Criminal Justice of Valdosta State University. He received his BS from Florida State in Criminology, and his MS and PhD in Public Affairs for the University of Central Florida. His dissertation, titled “Interprofessional Collaboration between Criminal Justice and Mental Health Practitioners regarding Mentally Ill Offenders: Perceptions of collaboration from Criminal Justice Practitioners” has led to several articles published in the Journal of Offender Rehabilitation, the Southwest Journal of Criminal Justice, Public Affairs Review and the Law Enforcement Executive Forum. Dr. Sharp continues to be involved in researching the concept of loose coupling and organizational collaboration as well as treatment options for mentally ill offenders. He has also been a member of the United States Army Reserve for 11 years, where he commands a Basic Combat Training company responsible for the training of new recruits and researches the emerging practices of military anthropology.

Drocella Mwisha Rwanika is a Professor of French at the University of Central Missouri, where she teaches French and African and French literature. Her research interests include Francophone African and Caribbean Literature with focus on Women’s issues. She earned a Ph. D in French with focus on Francophone Literature and a M.A. in French both from Vanderbilt University, Nashville, TN. Dr. Rwankia began her academic studies by obtaining a B.S.E in French, with a minor in African Linguistics at the Universite Nationale du I.S.P. Bukavu, Democratic Republic of Congo (DRC). She served as a Language Coordinator for the U.S. Peace Corps in the DRC where she trained French and Swahili Language instructors, trained assistant language coordinators for other African countries, and organized in-service training.
Major General Stephen F. Villacorta assumed duties as the Special Assistant to the Combatant Commander, North American Aerospace Command/United States Northern Command for National Guard Matters and Liaison to the Chief, National Guard Bureau on 1 September 2007. In this position he serves as the principal liaison to the Combatant Commander, North American Aerospace Command/United States Northern Command on matters affecting the National Guard. General Villacorta entered the United States Army in 1972 as a Regular Army Infantry Officer. His career in the Florida Army National Guard began in June 1978. During his tenure with the Florida National Guard, he has served in a wide variety of command and staff positions. General Villacorta has participated extensively in logistics and air defense exercises in the Republic of Korea, Japan, Germany and South America. His General Officer assignments include Deputy Commanding General, Detachment 1, 32nd Army Air and Missile Defense Command. The 32nd Army Air and Missile Defense Command was a multi-component unit consisting of Active Component Soldiers stationed at Fort Bliss, Texas and Soldiers of the Florida Army National Guard. His most recent assignment was as the Commander, 164th Air Defense Artillery Brigade. General Villacorta’s educational achievements include the U.S. Army War College, the Command and General Staff Officer Course, an M.B.A. in Management and a Bachelor of Science—Education, from the University of Florida. Among the many commendations bestowed him are the Legion of Merit award, the Meritorious Service Medal, the Army Commendation Medal, and the Army Achievement Medal.
I am really honored to be able to come here and talk to you this evening about the Missouri perspective on homeland security and what that means for us here in this state. With the academics, the students and the practitioners in this audience, I think all three groups look at homeland security from their own perspectives. Sometimes we get wrapped up as we go through the job, in our own perspective of homeland security, and we need to recall that we have only had a formal Homeland Security since 2001, about 9 years. At first we were going a hundred miles an hour, to get Homeland Security stood up, spending money, and making sure that we had all of these capabilities to make us safer and prevent terrorism. But we did not really spend a lot of time looking in that proverbial “rear view mirror;” to examine where we have been or to determine the smart thing to do and what has failed.

Now that we are a few years into this, the Department of Homeland Security has completed an extensive review about where they have been the last few years. We have done the same and continue to review the program in place in Missouri. We have got regionalization working within our state. We are examining the uniqueness of various regions in Missouri, identifying some common denominators for addressing and developing homeland security concerns and capabilities within and across the state’s regions. This will allow for a sharing of commonly needed resources ranging from northwest Missouri down to the Boot-heel region, for disasters ranging from an ice storm to a major earthquake. It is time to step back a little to gain perspective on what we are doing. I want to discuss with you some of the challenges we face and look at the road ahead.
In looking at Missouri’s Homeland Security program, pre 9/11, the state did not have a plan for homeland security per se. The approach was limited by all sectors to counterterrorism. An FBI agent working counterterrorism would be focused on this specific issue. But a highway patrol officer in drug and crime control in the same geographic area really did not focus on terrorism or worry about counterterrorism. Generally, for fire-related personnel there was not much knowledge about terrorism. EMS or emergency management personnel did not have a lot of visibility on these issues either. The result was limited engagement by all sectors.

Information sharing was relatively disjointed. There was no real concept of a fusion center. Further, similar to what was seen across the country and just like the horror stories learned with 9/11, where the police and the fire department personnel were going into the towers, and law enforcement saying that the buildings were coming down, and not sharing that information, in our own way we were not sharing our own information very well in this state either. We were dealing with exclusive pockets or silos of first responder communities, involving issues of turf protection and funding based on the squeaky wheel principle. It was an unfocused approach to counter-terrorism, and only a quasi-homeland security attitude of seamlessness and connectivity existed in the state.
In the post 9/11 era homeland security has been a process of evolution. The way we were doing homeland security right after it started in 2001 was not the same way that we now do it a few years later. We were doing hopefully a little bit better in 2003 and 2004. Hopefully we are even doing it better now, and will be even better down the road a bit.

Whenever we set up homeland security teams in the aftermath of 2001, we had situations where there was a lot of money to bring to the issue in the state of Missouri. Definitely, at that time, this was not taking an in-depth look at that broader perspective. For example there was money expended on HAZMAT teams and fire departments. From 2001 to 2006, there was 34 million dollars spent on these HAZMAT teams. Much of this probably was very good money spent because it brought their capabilities up to where they had never been. Now decent personal protective equipment has been purchased. Other equipment has really brought their capability up. But this was money being expended on a relatively unsophisticated program, and it was a challenge to smartly take full advantage of that amount of money and spend it quickly.

As the available amount of money decreased, the expenditures have become more sophisticated. In 2006 the level of expenditures was 4.5 million. In 2007 it dropped back to 2.3 million. Levels have continued dropping since 2007. It is not just because this program may be spending more than what it really has the capability to develop, the reality is that this is all the Homeland Security Program has to spend and it is really stretching just to spend a million dollars on this sector at this point in time.

In considering the future one must examine the value of strategic planning. When I first came to Homeland Security, I came from an operator's perspective; I was
a SWAT guy, a bomb tech, and an investigator. I had not been involved in the executive level of examining strategic planning. The first time I heard the term “strategic planning” I thought this was just a bunch of nonsense. I had thought one just needs to know what one needs to do, make sure there are the resources and the training. One did not really need to worry too much about strategic planning. Having been in this job now for five years, I now realize that strategic planning is critical. If we do not have the luxury of having a large amount of money to keep a program moving, then we better stop for a second and really start to think about strategic planning. One of the things that I will offer to the students in here, is that as you get involved in this field, to have an effective strategic plan, you need to have connectivity between the people at that the executive level, academia, and the practitioners. You need to have this mix, to develop a strategic plan. One of the things that we are doing in homeland security in the state of Missouri now is we are starting to develop strategic plans for all different aspects of homeland security. We have developed a strategic plan for 9-1-1; we are looking at a strategic plan for credentialing; and we are looking at a strategic plan for protecting our critical infrastructure, among other things. One needs to know how to develop the needed capabilities, and what Homeland Security will be doing three and five years down the road. Thus, one really needs to have some plan, or it will be like our earlier Homeland Security Response Team initiative. There will be 30 to 40 million dollars invested without any real plan, and when there is no longer the luxury of having that money to continue to invest at the same rate, you will have wished you had done something different.

When do we know when we get there? I am asked by first responders about the money being spent on building capabilities, on training, and on many different initiatives. The question raised is what are we trying to accomplish? What will we know when we get there? My reply is that I do not think we will ever really know if we get there. All we know is if we do not get there, if we have another September 11 attack, if it is on our watch and in our jurisdiction, and if we did not do something right, then we know we have failed. But, without an attack, we will never know if we have succeeded. This is one of the things I think leadership in our state and in our country must understand. It is hard to measure some of those things in which Homeland Security is successful. One must know that the right thing is being done and good people are placed in the positions to make the needed decisions.

I think with our economic challenges with which we are presented, as suggested in the old Chinese proverb, “we live in interesting times.” There are some great opportunities out there for people who are innovative and resourceful entrepreneurs. This is true of Homeland Security and of public safety in general.
One of the things I have been speaking about focuses on the money aspects of homeland security. But homeland security is not all about money. If we did not have a penny here of Homeland Security grant money that the federal government has given us, we should still have a homeland security program because it is about people coming together. It is about changing attitudes. It is about cooperation and collaboration. It is not just about the money. There are fiscal challenges for the state of Missouri. In the 2002—2003 time frame, there was 45 million dollars for homeland security just for the “state” aspects of homeland security. That is back when homeland security was just starting to stand up in Missouri and in the nation. The goal seemed to be able to spend this money as quickly as possible. The attitude was embraced that the problem will be fixed by spending money on it. We know that does not work. In the next year, just looking forth in 2004, we got 41 million dollars, and this amount has steadily decreased from 2004 to 2009. We already know in 2010, that homeland security will be receiving a quarter of a million dollars less than in 2009. As critical capabilities are built, there is a lot of sustainment costs that must be covered to insure that these capabilities don’t go away. So the challenge is, finding consensus on which capabilities are critical and which are not. But, as I said, it is not really just about the money. It is about attitude; it is about working together.

Considering the many great things there are out there, there is technology that can save first responders’ lives, save the lives of the public, and make people’s jobs easier. But it all has a price. It is all expensive. And it continues to get more expensive. For much of this technology, if bought on an installment plan, there will be times that it will become totally worn out or the technology will become out-dated before it is fully paid for.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>SHSGP &amp; LETPP Grants</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002–2003</td>
<td>$45,610,000</td>
</tr>
<tr>
<td>2004</td>
<td>$41,555,000</td>
</tr>
<tr>
<td>2005</td>
<td>$27,626,635</td>
</tr>
<tr>
<td>2006</td>
<td>$23,590,000</td>
</tr>
<tr>
<td>2007</td>
<td>$12,840,000</td>
</tr>
<tr>
<td>2008</td>
<td>$11,950,000</td>
</tr>
<tr>
<td>2009</td>
<td>$11,272,000</td>
</tr>
</tbody>
</table>
We have purchased software programs for which we have paid a million, a million and a half. These do great things for us. We have a software tool that we made available free of charge to every school in the state of Missouri: K-12 and higher education, public and private. With this tool, we brought together subject-matter experts to develop best practice emergency response measures. As part of the design of the tool, a school, as it develops its emergency response plans, must engage a first responder community in doing those plans.

After the Virginia Tech shooting, we asked schools in the state of Missouri, if they have engaged their first responder community in their emergency planning. This would be the first responder community that is outside the campus and does not include a campus security or campus law enforcement, but the general community’s police department, fire department, EMS, or sheriff’s department. Less than 25% had engaged this first-responder community in this planning.

That is unacceptable. As we developed this tool, we also made it easy to include in the plans such things as diagrams of the classrooms, where students would shelter in-place in an emergency, their staging or rallying points for EMS and SWAT. All these tools, maps, and photographs were available in that tool for the use by the schools, and the first responder community to be used in an emergency. We bought that tool, spending about a million and a half dollars on that, and paid for all the maintenance for four years.

These four years expires next year. It will cost us 75,000 to 80,000 dollars to keep this tool functioning. This year we just took a quarter of a million dollar cut again in our Homeland Security program. It is a challenge to find the money to keep this tool going. To justify the expenditure, the tool has to add some value to the education community and to the first responder community. One of the mistakes I personally made was when we were selling that tool; we were presenting it to education thinking they would see the value of it, and readily embrace it. I mistakenly thought that education stakeholder community would flock to the template of the emergency plans in the tool and create the 200 page plans, and provide all the diagrams and photos to be put in the web-based tool. What we found is that was not the case, and now we in Homeland Security are examining who will really benefit from this tool.

The truth is that this tool benefits the first responder community, by providing them the plans and site information, which will facilitate a more effective response. So we regroup; we have looked at emergency management, we have looked at law enforcement, we are looking at our highway patrol troopers, getting them access to the tool and selling them on the benefits of it, so that they can go out there and start selling this for us to the education stakeholder community.

One of the valuable lessons I have learned is that whenever some type of concept is developed; the correct stakeholder community must be engaged. These stakeholder communities can be ambassadors for Homeland Security and can be an important part of the marketing.

Previously in Missouri Homeland Security a proposal for a new initiative would be made to our Homeland Security Advisory Council. If approved, the proposal would be implemented and then four years later when the grant funding cycle was past, we would worry would about how to sustain the initiative. This is not a smart way to do business. This process has been changed. Now before we allow an initiative to even be presented before the Advisory Council, we have about a 10-page document that the people proposing it need to fill out. This document must address
how the proposal will leverage off of our existing investments in other initiatives and identify the other initiatives than can leverage from the new proposal. The target capabilities we are building with the new initiative must be identified. A major part of the documents is a required discussion of how it will be sustained and how it will be marketed. The risks must be identified and the strategies for risk mitigation included. These new requirements for proposals address the concern of limited resources being expended on projects where no plans for sustainability have been made for the initiatives several years later. We are fixing our mistakes.

Considering cultural and political challenges, in Homeland Security, “interoperability” is the buzzword now. It is not just interoperability in terms of radios or communications, but also includes interoperability of equipment. Again it is not just about the equipment itself, it is about attitudes. A political and cultural mindset must be changed. People must be willing to come together to talk. As an example, when we purchase trailers, trailers that haul generators and other heavy equipment, previously we would let the individual regions buy whatever trailer that they wanted. Further, if they needed to buy a prime mover to pull the trailer, they would do that. However, for sharing of equipment across regions within the state, the lack of compatibility such as in hitching systems, braking systems, or electrical lighting systems, becomes a problem. A generator may need to be picked up by a prime mover that is different from the one that first placed the equipment in an area.

In our regional meetings last October, we had the trailers purchased in the region with homeland security money brought together for the meeting. We found that in that one region, the different trailers had three different hitching systems, three different electrical hookups, and three different braking systems. Now we have a sub-committee looking at equipment standards. Soon there will be one standard or common denominator when we buy trailers. Once we have one common denominator for braking systems, one common denominator for electrical systems, something as simple as that will make things smarter and simpler.

DHS Secretary Janet Napolitano was testifying in front of Congress recently and was getting questioned vigorously by representatives who form a part of this Homeland Security sub-committee. They wanted to get Homeland Security money out as quickly as possible. However, at the same time they were demanding to know how one could measure whether we are more prepared now than we have ever been before. Unfortunately we cannot have it both ways. There needs to be coordination of strategy before the government just starts spending money, if it is to be spent wisely. We have seen grants come to Missouri. There are still fire grants coming into the state that get spent by the fire departments. There are very good intentions here. Where a lot of great things are built and a lot of great capabilities are developed. Further, we have the Health Department bringing in grant money, and we have Education bringing in grant money. But all too often these are not synchronized with the other Homeland Security grants. As a nation, we need to get to the point where we have a centralized focus in our national strategy. As we say in the state of Missouri, “one state, one strategy.” That is where we basically need to go as a country moving forward.

What does the future hold? In an attempt to look at the road ahead, one of the things I found to be useful was a document called “55 Trends Now Shaping the Future
The Department of Defense has brought together many of subject-matter experts from all over the country, from many different sectors. One of the key people involved in this is Brian Jenkins out of the RAND Corporation. Almost 30 years ago I heard Brian Jenkins when I was a brand new FBI agent, talking about the future of terrorism and where terrorism is going. He was relatively new with the RAND Corporation. The things that he predicted back then have pretty much come true. So I have great respect for what he has to say about terrorism.

Here I want to identify the several key trends that we as a country need to be pondering as terrorism evolves and emerges. First, even assuming the economic development moves on a path of growth for the next five years, one of the things this document points out is a difference between the haves and have-nots. It is a gap that will grow and will fuel terrorism.

There are implications for Missouri, in that the national and state economies will slow down. In our nation and in our state, our resources to address terrorism will continue to shrink for the foreseeable future. We must work smarter, get smarter, and make sure we are focused on what is not driven by the money. We must do more with less and work smarter.

A growing trend being observed is that militancy will continue to spread and global jihad will continue to grow. While this is likely true, I think we must be very careful to not focus only on international terrorism. Missouri is in a hot bed of extremism. For a long time we have been seeing a growth in the domestic terrorism arena. We must pay attention to that whole spectrum; we cannot get focused only on one aspect of terrorism. We need to look at the holistic picture; we need to take this all-hazard approach, making sure that terrorism is in the proper perspective with everything else. We have ice storms that will kill probably more Missourians than terrorism will. We have tornadoes that will kill probably a lot more Missourians than terrorism will. We have floods here that will kill probably more Missourians than terrorism probably will. So how can we find that proper mix, that proper perspective? That is the challenge.

We have to adopt an approach to this whole terrorism threat spectrum that is in the context of all-hazards. We cannot just focus on one little aspect, droning on only one little thing. We have heard about the butterfly effect, where if one thing is addressed it will affect everything else, either positively or negatively. We must focus on that broader view.

The world population is growing. Basically a lot of overburdening of domestic economies has continued to make the United States a target for terrorism. In Missouri we will have foreign students, immigrants, and growth of ethnic communities, among other things that must be kept in the proper context. We cannot view all of the immigrants as being the entire problem or that foreign students are the entire problem. We must have a dialogue about this, to try to understand some of the issues with these groups and the cultural issues, keeping them all in proper perspective.

The outreach and engagement across the state need to be robust and ongoing. This state is typical of the country. Missouri is part of a global economy, part of a global education community, and part of a global first responder community. But, we

---

often do not think in global terms. We cannot just think in terms of only being one little Midwest, out-of-the-way state.

Technology increasingly dominates both the economy and society. The Internet and other working technologies can and are being exploited by terrorists. Terrorists are using technology, such as the Internet to recruit, to indoctrinate, and to radicalize people. They are using it for training. A person can learn how to build any bomb one wants at a jihad website. Any time one of them gets taken down by a government, 25 more pop up with similar content. We are no longer a rural state in the middle of nowhere. Basically, because of this technology, we are right in the middle of a global technology explosion.

We can either be slaves to technology or we can be masters over technology. We can take a leadership role in advantages of technology to support public safety as well as economic development. We should not be afraid of technology. We need to understand it; we need to figure out how we can use it in a positive way. We are doing that in so many different ways. For example we are making sure that our first responders have the technology they need. As we build out broadband technology in the state, hopefully this is going bring many more technology opportunities to us. We need to make sure we stay focused on that and capitalize on it when the opportunity presents itself.

Privacy is the defining right for Americans that is declining quickly. There is less privacy for individuals, when it comes to cameras and other forms of surveillance. There is a segment of Missouri that is concerned about these privacy issues. They are concerned about people taking their guns away; they are concerned about people reading their e-mail or listening in to their phones or looking in their medical records. We need to make certain as we are developing Homeland Security strategies, that we take that into account. We cannot have absolute security in an absolute police state — nobody wants this. We need to manage with public safety and law enforcement, reasonable expectations of privacy. We need to make certain that as we develop our policy, our strategy, we remain aware of this.

The global economy is growing and is more integrated. We have people from Missouri travelling all over the world, people coming from all over the world to Missouri. That can be both positive and negative. One of the things with the global economy and the fact that we have the concern of global terrorism, with people travelling all over the world, we have got people coming to Missouri, living here, studying here, doing business here, and the line between international terrorism and domestic terrorism continues to blur. So at some point and time, we may not be able to distinguish between one and the other. These are radicalized Americans born, Missourians born, people who get involved in something on behalf of international policy or jihad. That line will blur. Back when I was an FBI agent we were really only concerned with distinguishing domestic terrorism from international terrorism because of the Attorney General’s guidelines used to investigate it. Evolution in terrorism mandates that the way we investigate it has to also change.

Urbanization, arguably the world's oldest social strength, has become rapidly congested to the point that it can cause social and economic problems. One of the things we have to recognize in homeland security is that the priorities of the urban areas are not necessarily the same as rural areas. In addressing homeland security, in Missouri there are two major urban areas, Kansas City and St. Louis, and then the rest of the state. The challenge is how we find that happy medium so that we can get one state, one Homeland Security program. We cannot even get the urban areas and rural
areas to agree on one radio system. There is a need to get people together so that they can understand one another’s perspectives and priorities. Even though through the regionalization process in Missouri each region is allowed to be somewhat unique, to develop the capabilities that it wants to focus on for that region, and at the same time we are studying some overarching priorities - some overarching capabilities that they need to build with the Homeland Security money. Further, we need to be able to share these resources, move them around because as this money shrinks, by taking that holistic approach to it, that is the only way we will be able to keep Missouri safe and secure.

As indicated earlier, the Internet continues to grow and opportunities for terrorist exploitation increase. Missouri and other states are behind the curve with much technology, such as broadband Internet access and public safety communications. One of the things that really concerns me is that increasingly we are tying things to the Internet. Our public safety communications, some of our other resources we use for emergency management, our emergency response, our situational awareness, are all being tied to the Internet. We need to be asking about constructing redundant systems. We need to plan for whether the Internet goes down not for an hour, not for a day, but for a week. How about a month to three months if the Internet went down, what would we do?

We saw with the ice storm that we had down in southeast Missouri about a year and a half ago, where the electricity went down, the internet was down, people could not get gas, and they could not get to a store to buy batteries for their first responder’s flash lights. We need to be thinking about all these scenarios and bring in the first responder community, as well as the private sector, to make sure that we haven’t missed something. The public side should also include people from EMS, health, and mental health. As plans are developed all these people should be included, because no one person can keep ahead of that curve, and think of all of those different things.

Advanced communications and information technologies are changing the way we work and live. We need to be thinking about how we exploit these technologies. How do we use these technologies? How do we use social networking? Could they support not only outreach public education but can they support alerts and warnings and those sorts of things. There are many possibilities out there. The students who are in this audience, you are the ones using this technology every day. You know all the capabilities. We need to understand the risks and liabilities and we need to figure out how we can use this stuff smartly and move forward.

There are all kinds of implications with technology, such as biophysics, medicine, biology, and chemistry. Further, it is increasingly important countries get more involved in this technology. There are all kinds of implications. We should form some alliances between the military and public safety. We already have very good involvement within the military. There are ways we can cooperate further. We do not have to have a brick wall between us. There are many things on which we could collaborate together that involve around technology, such as with GIS. We could work together on, and leverage off of each other’s initiatives and capabilities.

We cannot decide to limit our focus to only one type of threat. We must remain focused on all-hazards. It is important to keep the perspective on what actually will hurt Missourians - what will hurt U.S. citizens. We have got terrorists as our threats, but we have got far more people killed on our highways. We have more people who drown accidentally than we have killed by terrorists, so we need to keep it
in the proper perspective. We need to be prepared, we need to think ahead, but we need to keep it in the proper perspective. We need to form new nontraditional partnerships—partnerships with the private side, partnerships with the military. We have some great partnerships and we need to build on them, we need to expand on them.

With these great challenges, these interesting times in which we live, now is not the time to pull back into a protective shell. We need to open up, we need to reach, and we need to form these new alliances and allegiances.

In conclusion terrorism will continue to evolve, to continue to change. We either will have to change or we will lose. We as a country, looking at what we are about and the way we came together after September 11, need to identify our challenges. We need to come together and move forward. We can do that, we can do it as a nation; we can certainly do this in Missouri.

I have worked all over the world. I have been to Russia. I have been to Africa. I have been to Uzbekistan. I have been all over the United States looking at the way people come together and work together. Missourians do not have to take a back seat to anybody in the United States; we do not have to take a back seat to anybody in the world. We have got a better attitude in this state than probably any other place on the face of the earth as far as people being willing to put their own agendas aside - their own organizational egos aside - and figure out what it is that we need to do smarter and then work together to accomplish that. The fact that we have this conference in Warrensburg, at the University here, and the diversity of all of the people that we bring together for this, is testimony to that.
THE ROLE OF LOCAL COMMUNITIES IN CHEMICAL ACCIDENT PREVENTION AND PREPAREDNESS

Timothy R. Gablehouse*
President National Association SARA Title III Program Officials

This Article is based on address made to the Homeland Security:
Global & Domestic Perspectives Conference
March 30, 2010

In most communities the risk of a “routine” chemical or fuel accident is far greater than any credible threat of terrorism. These accidents happen hourly across the country. They range from truck accidents to chemical releases in commercial or industrial settings. They may involve criminal or intentional acts; however, the vast bulk will be simple and avoidable accidents. Since the adoption of community right-to-know programs in the United States following the Bhopal (India) incident, there has been an increase in the number of groups known as local emergency planning committees with the mission of preparing the community for these “routine” accidents. These committees have matured in focus over the intervening years since the Bhopal incident and even more so since the events of September 11, 2001. There is a strong recognition that local communities working very closely with chemical handling facilities in their areas can directly and meaningfully reduce the threat of a chemical release incident, regardless of cause. Likewise, through similar means communities can better prepare themselves to respond should an incident occur. While national legislation is certainly helpful to the process of bringing people together, it is the local relationships that produce improved preparedness results.

To start this conversation I think it is critical that we establish an objective for what we are trying to achieve. It is all too easy to become distracted over debates about risk and probability, what is and is not an appropriate worst case scenario, and the degree to which communities and/or government should regulate the emergency preparedness practices of individual facilities. These debates miss many critical points and are ultimately not helpful in creating a prepared community.

In most communities the risk of a “routine” chemical or fuel accident is far greater than any credible threat of terrorism. These accidents happen hourly across the country. They range from truck accidents to chemical releases in commercial or industrial settings. They may involve criminal or intentional acts; however, the vast bulk will be simple and avoidable accidents.

These accidents bear little relationship to our system of permits, reporting thresholds, and chemical regulation. Facilities storing chemicals in amounts well short of regulatory thresholds are quite capable of having accidents that kill people. If stolen, even small amounts of chemicals in the wrong hands are capable of causing very significant harm.

The country is covered by these smaller facilities. They normally do not attract the attention of regulatory agencies at the state or federal level. They are, however, familiar to the community. Be they the corner gas station, hardware store, or mechanics shop, they are not unusual or viewed as creating significant risk.

* © 2010 by author, reprinted here by permission.
Please send your correspondence to author at tgagehouse@gcgllc.com.
Nonetheless, in the context of a small community, an accident or theft at such a facility can have catastrophic impacts.

In the United States there is little doubt among the public that the first responders in their communities, law enforcement and fire agencies primarily, will act and do their best to protect the citizens of the community in the event of a hazardous materials incident. Certainly this belief existed prior to the incidents of 9/11, but was greatly reinforced by the dedication shown and loss of life suffered by the fire and police agencies of New York.

While most of the rural United States is served by volunteer fire departments, this does not carry a negative connotation. There is a sense that these volunteers are dedicated and determined. There is also a great deal of community pride in these departments and they frequently form a key component of the social life of the communities.

Nonetheless, people feel confident in their emergency response agencies only to a point. That point is defined by two major gaps between what the public believes about the capabilities of their local agencies and the magnitude of the incidents they may face, especially those involving hazardous materials. First, the citizens do not necessarily believe that the volunteers have all the equipment and training they might need. Second, they do not believe that the industrial community is doing all it can to prevent accidents.

A chemical accident can result in disruption to the community. Streets may be blocked, fire and law enforcement agencies may be overwhelmed, and nearby businesses or schools may be closed. Individuals may be injured or killed. First responders will be put in harm’s way while evaluating and dealing with the accident. If serious damage to streets or the facility results, the community may be financially harmed either directly or through loss of tax revenue. Cleanup and repair, even if insurance is present, may be beyond the available financial resources.

The facility or company involved will be harmed. They may lose profits, their employees may be injured and certainly there will be some degree of damage to their assets. The simple distractions of dealing with these situations—even absent significant injuries and property damage—make it difficult to conduct day-to-day business operations.

It is quite obvious that the risks of a chemical or fuel incident, whether accidental, criminal or an act of terrorism, are shared risks. The entire community, including the owner of the chemical or fuel facility, has a stake in minimizing the number of incidents as well as their consequences.

Because it is a shared responsibility it is important to understand the roles everyone plays. The owners of the facilities handling chemicals or fuel are by far in the best position to act to prevent accidents or other incidents. They control the amount of the chemicals or fuel on the site. They control employee training. They control facility security.

Laws, regulations or code enforcement are a poor substitute for the knowledge and experience of the facility owner. No enforcement or inspection program can possibly create a better system of risk reduction than the sort of program a responsible facility owner can put in place. No regulatory program can possibly be as detailed and comprehensive as the facility-specific programs the facility owner can institute.

There are, of course, facility owners of bad faith who will not respond even for their own good without a government mandate. The existence of these owners
does not justify creation of new regulatory programs. Adequate enforcement tools exist under building and fire codes, or other provisions of existing law. Creating a new program generates a false sense of security. Instead, motivation of those owners of good faith should be the objective.

The legal duty to prevent an incident clearly falls on the shoulders of the person that controls the facility. No owner of a facility assumes that public agencies will prevent all criminal acts that may impact the facility. Likewise, it is not acceptable to assume that the various public agencies will be doing all that is necessary to protect facility property, employees, and community from the “routine” accident.

Ultimately preparedness at a facility can only be judged in the context of the community where the facility is located. Facility owners and operators bear the responsibility of operating their facility to eliminate accidents, minimize the consequences of those that occur, preventing theft of dangerous materials, preventing acts against the facility intended to harm the community, and ultimately protecting the community from the hazardous chemicals or fuels they have brought into the community. Only through coordination and cooperation with the community that hosts it, can a facility ever hope to satisfy these duties.

It is in these relationships between government agencies and facilities in their communities where expectations need to be discussed. Facility owners are the ones with the information and they are the ones that need to initiate these relationships. Local agencies will expect that facilities will have increased security precautions and prepared emergency response plans. The public will hold that expectation as well. Facility owners and operators need to anticipate that local agencies will approach them to determine their emergency response plans and increased security efforts. Facilities should expect to be asked to share their security and emergency plans. But even if they don’t, facilities need to reach out to the community.

Even though the Emergency Planning and Community Right-to-Know Act (EPCRA) was adopted over 20 years ago, most citizens are not aware that it exists and are certainly not aware that it provides the individual with access to information about both emergency planning and the chemical hazards present in their communities. In most of the country citizens are routinely discovered to be unaware that both types of information are readily available.

This raises a whole series of questions. Key among them is the question of whether the public simply does not care that data on chemical hazards are available.

This question likely has two possible answers. Some have suggested that this situation simply reflects apathy - which is profoundly negative if one is trying to create a system where public participation is crucial to improving community preparedness. Others suggest that the public assumes that an adequate emergency response exists. To a real degree both are true at least prior to the occurrence of a significant incident.

To this point this paper has focused on emergency response. While obviously crucial, the reality of any incident is that it has the potential to get out of control causing serious harm and personal injury. No community possesses emergency responders that are so good as to immediately contain and resolve every incident they might face. The bigger and more threatening the incident, the more likely it is to overwhelm the local community's resources. There is always a finite limit to the actions the first response agencies will be able to take to protect the public in the event
of an accident. The more limited the resources in a community, the greater the potential for an incident to get out of hand.

This suggests that two things must be done in an effort to protect the public from the inevitable disruption, property damage, and even injury or death that can come from a chemical accident. The first is to prepare the public to take action to protect themselves, their families, and their neighbors in the event of an overwhelming incident. The second is to prevent it from happening in the first place.

Local Emergency Planning Committees (“LEPCs”) are local and volunteer. In addition they also lack money. Most operate with no budget. As such there is an obvious gap in their ability to accomplish the tasks described earlier. They struggle to inform the public and to provide information on hazards present and the actions individuals can take to prepare themselves.

Nonetheless, this work does get accomplished primarily through the personal initiative of the people who volunteer to sit on these committees. They work with other community volunteer groups to distribute information on critical topics such as first aid. Many emphasize personal preparedness through the preparation of emergency kits with things such as first aid supplies, drinking water, flashlights, and food.

Judging from research the public does apparently want information and a roll in local response activities. Recommending and trying to implement specific plans of action for members of the public is always difficult. Turning members of the public into first responders, such as through the Citizen Emergency Response Team program, presents daunting practical problems such as finding money for equipment and providing training. Coordination and incident command issues are extremely difficult. As a result, very few communities have gone to this level.

Instead the LEPCs and first response agencies have focused on elements that involve public action under specific direction from the emergency response agencies. The LEPCs and first response agencies will work on developing evacuation plans and warnings to be used in appropriate circumstances. Rarely is there much communication of these plans to the public and almost never is there an exercise on these plans so it is difficult to know how well they will work. Depending upon the state the bulk of the practice on things like evacuation plans comes from hurricanes, wildfires, and winter storm events and they do not always go very well. It seems that the public is predictable only to a very limited extent even when presented with guidance and common purpose.

The point of this paper from this point forward is to examine the role of the LEPCs in evaluation of the risks faced in their communities and their activities focused on accident reduction and prevention. In this regard the LEPCs mirror their communities’ concerns with facilities handling chemicals. As noted before, that will vary substantially from community to community. Nonetheless, success depends upon understanding that ultimately what the public wants is success in preventing accidents and responding promptly to those that occur.

The largest industrial facilities in the United States can be counted upon to have a high level of expertise regarding accident prevention even though they will not always be successful. They will have internal staffs, systems of management and accountability, and a clear understanding of the regulatory environment in which they operate. This is not true of smaller facilities and is especially not true when one moves from chemical manufacturing facilities to those facilities that use and store chemicals as part of their business. Even worse will be those facilities that are primarily engaged
in agricultural industries where the level of training in handling chemicals is suspect and the regulatory environment is permissive.

Many LEPCs focus on non-manufacturing and agricultural facilities for precisely these reasons. The techniques are numerous, but typically involve finding and providing information and training resources to both the emergency response agencies as well as the facilities themselves. Sources of this information are diverse but will include publications of government agencies, such as the U.S. Environmental Protection Agency, and industry trade associations.

These efforts do not rely on government agency inspectors. In fact, many of the facilities presenting the greatest risks are at a size below that where they get much attention from the agencies. Instead, it is the local agencies such as fire departments and building departments that may be the only regulatory authority paying any attention to these facilities. As these agencies do not have specialized skills with chemical hazards it becomes the function of the LEPCs to try and educate these agencies in the most crucial aspects of accident prevention.

As the LEPCs do not have regulatory authority, which the exception of gathering information about chemicals present, effecting change and accomplishing accident prevention puts a premium on public relations skills.

Fortunately the LEPCs have a built-in advantage. They are part of the community. They are neighbors to the agencies and the facilities. They know each other.

A powerful and successful argument with a facility owner emphasizes the interdependence of these communities. It can be reduced to a very fundamental statement of fact. If the facility has an accident it will harm its friends and neighbors. If the facility has an accident it will want these same friends and neighbors to respond as volunteer fire departments and provide aid to the facility. Each has a responsibility to the other and each is dependent on the other to do their part.

Accident prevention opportunities flow from this dependence. LEPCs can and do meet with facilities owners to provide information about accident prevention techniques. The LEPC is not and does not need to be an expert in these matters. They only need to be able to identify advice from expert sources and work with the facility to encourage them to implement these suggestions.

Many of these suggestions will not be complicated. Chief among them are ideas such as inventory reduction and control, appropriate maintenance schedules, employee training on the safe handling of chemicals, safer storage, spill containment techniques, and improved facility security. More complicated but still quite achievable are ideas dealing with process change and materials substitution.

Achieving these sorts of changes requires attitude more than money. It is a matter of creating an expectation within the entire community that preventing accidents is crucial. Communities have a way of demanding accountability from all segments of that community. Be it the emergency response agencies, facilities or the LEPCs, each is answerable to the other members of the community for their part of the puzzle.

With such an attitude even the most sophisticated process engineering changes can be accomplished. Communities can help fund changes that require capital investment and in at least one case in Colorado actually paid to relocate the entire facility to an area much farther away from the population of the community. As these communities are typically lean in resources, attitude is perhaps the only real asset they
possess. There is value in the ideas that result from these attitudes and it is the LEPC that needs to lead the way in trying to bring these ideas forward and to completion.

In the years since the terrible accident at Bhopal and the continuing tragedy of its impact, much has changed and much change is yet needed. The international APELL (Awareness and Preparedness for Emergencies at Local Level) program has brought the techniques and ideas of public involvement to many corners of the world. In the United States the very similar EPCRA programs and LEPCs have converted the public from passive observers to vital participants in their own safety.

These programs do not yet exist in all places subject to the risk of chemical facility accidents. In many places there is still an adversarial relationship between facilities and the communities in which they are located. Larger manufacturing facilities do not get credit for all the positive changes they have made while yet being challenged to do more. Smaller facilities are ignored by the regulatory agencies, trade associations, and even their own communities. There is a lack of that sense of community we feel is crucial to success.

Money is not the solution to these problems. Personal dedication to a positive attitude is crucial. Whether these people are volunteers with the LEPC, work with facilities, or are connected with emergency response agencies, individual rather than institutional attitudes are the thing that accomplishes change and progress.

EPCRA and the Risk Management Plans of §112r of the Clean Air Act Amendments were created with the full memory of catastrophes like Bhopal. The visionaries present at the creation of these programs understood that a community-based accident prevention and preparedness program was not only necessary but represented the only realistic way of protecting communities and first responders.

Quite obviously 2001 changed our perspective on many fronts. Nonetheless, the risk of a chemical accident and the need for community preparedness have not diminished. As the Chemical Safety Board has noted in several reports, the failure of communities to have adequate awareness of the hazards present within area facilities and the resulting failure of emergency response systems have contributed to many injuries and the deaths of first responders. If one speaks to the police chief of Bhopal, as I have, one discovers that was precisely his situation on that terrible night in 1984.

This is the very basic truth of the role filled by LEPCs. Planning and preparedness is a local activity. It must be done locally and its success can only be measured by the accidents and responses that occur locally.

Perhaps one of the key legacies of Bhopal is recognition that regulatory systems alone do not prevent accidents. Members of the public are no longer voiceless observers of the chemical facilities in their communities. They have a role and that role is not just to complain and oppose, but to develop positive relationships within the community to improve the safety of all.
On behalf of General Renuart, Commander of NORAD and NORTHCOM, as well as Major General Grass, Director of Operations, I want to thank you for this opportunity to come speak to you this morning. The purpose of this presentation today is to provide a brief overview of NORTHCOM and how we work with our interagency partners to respond in the aftermath of a catastrophic incident. United States NORTHCOM is seeking to continue to expand its partnership with other federal government agencies, the National Guard Bureau, and the states, to make our jobs easier when it comes time to respond to an incident. Some of you may have seen the results of this effort over the past two years, both in the exercises in which we have participated with the states on a regular basis, as well as during significant incidents like Hurricanes Ike and Gustav, which have occurred in the last two years.

In terms of an agenda, and I want to cover a couple of items in this presentation that are beyond just talking about NORTHCOM. At the Headquarters of NORAD and NORTHCOM, General Renuart is what you call a “dual-hatted” commander. He is Commander of both NORAD and NORTHCOM. They are two separate organizations in terms of the mission sets they have been given, NORAD being a bi-national command with Canada and NORTHCOM being geographically centered in the United States. However, in this presentation one will see some of the synergies that are derived particularly in the Homeland Defense mission between the NORAD sets of responsibilities and the NORTHCOM sets of responsibilities, and how having that under one commander brings a sense of synergy. There are some advantages from the operational structures of both NORAD and NORTHCOM in terms of performing that mission.

I will also talk about homeland defense and defense support of civil authorities and about NORTHCOM’s subordinate organizations and how they function in providing defense support of civil authorities as well as homeland defense. I will address interagency efforts and the structure of this interagency organization which is kind of unique to NORTHCOM and how those efforts have attempted interphase with private volunteer organizations and non-governmental organizations as well as businesses in order to provide better efforts in defense support of civil authorities. I will discuss operations under both the Stafford and Economy Acts, and how that is a difference, or how they differ when we go out and do defense support of
civilian authorities. I will also talk about the Defense Coordinating Officer, or DCO, and how he interacts with the State Coordinating Officer, or SCO, the Federal Emergency Management Agency, the Joint Field Office, and the Federal Coordinating Officer, or FCO when mission assignments come together and a mission assignment is given to the DCO. The category of federal military forces that are available to NORTHCOM will also be examined as well as the forces that are available, how these are put together in pre-scripted mission assignments that both the states and FEMA are familiar with and how we use that construct of pre-scripted mission assignments to provide rapid Federal military support as part of the whole of government approach to a state should it need it.

NORAD and NORTHCOM are two separate commands; neither is subordinate to the other. Our commander, General Renuart is, as I stated, dual-hatted, and is the commander of NORAD and NORTHCOM. As the Commander of NORAD he reports to the senior civilian leadership of both nations. This is kind of unique because he is confirmed as the Commander of NORAD on the United States side, he must also be confirmed by the Canadian Prime Minister as the Commander of NORAD. So that is a unique responsibility there. On the NORAD side, there are, in the Headquarters, about 150 Canadian Defense Force members working at NORAD. There are about 200 or so Air Force personnel, basically United States Military personnel that work for NORAD at the headquarters. The NORAD, or North American Aerospace Command, is a bi-national, United States/Canadian organization that is charged with the missions of aerospace warning and aerospace control for North America. Aerospace warning includes the monitoring of man-made objects in space, and the detection, validation, and warning of attack against North America by aircraft, missiles, or space vehicles through mutual support arrangements with other commands. Aerospace control includes ensuring air sovereignty and air defense of the air space of Canada and the United States. The May 2006 NORAD Agreement renewal also added a maritime warning mission, which entails shared awareness and understanding of the activities conducted in the United States and the Canadian maritime approaches, and the maritime areas of inland waterways. The NORAD and NORTHCOM Command Center serves as the collection and coordination facility for a worldwide system of sensors designed to provide the commander and the leadership of Canada and the United States with an accurate picture of any aerospace threat. There are three subordinate regional headquarters located in Elmendorf Air Force Base in Alaska, the Canadian Forces Base in Winnipeg, Manitoba, and Tyndall Air Force Base in Florida. They receive the direction from the Commander and control air operations within the respective areas of responsibility. To accomplish the aerospace warning mission, the Commander of NORAD provides his integrated tactical warning attack assessments to the governments of Canada and the United States. They use a network of sensors, satellites, ground-based radar, airborne radar and fighters to detect, intercept, and if necessary, engage an air-breathing threat to America. As part of its aerospace control mission, NORAD assists in the detection and monitoring of aircraft paths suspected of illegal drug trafficking. This information is passed on to civilian law enforcement agencies to help combat the flow of illegal drugs into North America. The Command is currently developing a concept for implementing the new maritime warning mission. As the Commander for NORTHCOM, he reports to the United States Secretary of Defense and the President. NORTHCOM is considered a geographic combatant command under the Unified Command Plan. Under the Unified
Command Plan, there are six geographic commands: NORTHC
COM, PACOM or Pacific Command, EUCOM or European Command, the Central Command, AFRICOM, and SOUTHCOM. There are also four functional commands; those are Transportation Command, Special Operations Command, Strategic Command, and Joint Forces Command. So as one of the geographic combatant commanders, NORTHC
COM fits underneath the Unified Command Plan.

Considering the broad mission sets currently assigned to NORTHC
OM and NORAD, these are broken out in fairly general terms. NORTHC
OM has the responsibility for a quick response force within the United States. This mission is accomplished via a rotating mission assignment involving armed United States Forces that are available within the country. An active duty Army Unit is assigned the quick response mission for a certain period of time and then the mission is reassigned to another unit after that time has elapsed. Under Chemical, Biological, Radiological, Nuclear and High Explosive Consequence management response, NORTHC
OM has a responsibility for putting together and maintaining two CBRNE Consequence management response forces (one Active Duty, one Reserve), with each force are about 4,500 people. The CCMRF is an active duty force; the other two are composite reserve component units consisting of the Army and Air National Guard and Army Reserve. These units would be called upon if there was a chemical, biological, radiological, or nuclear incident that overwhelmed civilian capabilities. One of the scenario’s the Department of Homeland Security uses is a 10k nuclear detonation. NORTHC
OM provides support of Federal law enforcement for border operations using our Joint Task Force North. We issue guidance to DoD facilities concerning terrorism threats, and force protection levels based upon incidents or events that occur here at home or abroad. One of NORTHC
OM’s primary missions is providing Defense Support of Civil Authorities when responding to man-made or natural disasters. We have talked a little bit about the maritime activity postures and we will go into that a little bit more in detail here since that is a new mission for us, and we will talk about some of the things we are doing about maintaining maritime domain awareness. One of the things you need to know about the NORAD Alert Fighters is that about 85% of this capability is performed by the Air National Guard. There are air wings that are allocated for this mission throughout the United States. The Air National Guard operates a number of air bases that conduct strip alerts—that have aircraft on alert ready to go, should they be called upon to respond to any kind of incident in support of civilian authorities. We also have the National Capital Region Integrated Air Defense, which consists of the Air National Guard aircraft stationed in the National Capitol Region and the Army National Guard ground-based Air Defense missile system. They also operate the Joint Air Defense Operation Center in Washington, D.C., which brings together the aircraft and ground-based missiles system. We also do ballistic missile defense for the rest of the United States. We have ballistic missile interceptors operated by the National Guard. The Alaskan National Guard and the Colorado National Guard have control of and conducts the monitoring C2 work and actually operate the missile fields in Alaska and in Vandenberg AFB in California.

Since maritime warning was added to the NORAD Agreement, the mission development has steadily progressed, with the planning staff working in cooperation with several external agencies in the United States and Canada building upon the initial maritime warning capability established in late 2006. The staff has prepared a
strategic concept that sets a framework to establish and formalize agreements to improve maritime information sharing to ensure a comprehensive and shared understanding between Canada and the United States, and to institute a maritime warning process.

Ballistic missile defense is a unique set of the mission responsibilities for the command and control structure and is a little unique in how we hand things off between STRATCOM and NORTHCOM for ballistic missile defense. Most people do not realize that the execution of this mission is performed by National Guard units that transition from Title 32, which is the normal status for a Guard unit, to Title 10 during mission execution. One of NORTHCOM’s efforts is to operationalize missile defense by developing tactics, techniques, and procedures that enable seamless command and control systems for engagement, as well as recapitalizing an antiquated systems network, or sensor network. Our ground-based mid-course defense system is designed to protect the United States against incoming ICBM attack.

There are some of the major incidents or events we have gone through over the last couple of years, and it is quite a range of things in which NORTHCOM has become involved, such as the California wildfires. Most of you, from a couple of years ago, can remember the fires down in Southern California, then a year later the fires were up in Northern California. NORTHCOM provided C-130’s equipped with modular airborne firefighting equipment to both of those. Particularly in the Southern California fire incident, there was a lot of immediate assistance response, from DoD installations where they loaned their fire crews out to assist local civilian crews within the community. There were quite a number of troops committed with that. NORTHCOM had a responsibility for providing DoD support to California. With the Democratic and Republican National Conventions, we had a large Title 10 presence as well as National Guard presence at both of those events. The National Conventions and the G20 are examples of events in which we utilized a dual-status commander. This is where a National Guard officer retains both Title 10 and Title 32 status. This enables the dual-status commander to command both active duty forces and National Guard forces in a mutually exclusive manner and as directed by the federal or state chain of command. To date, most of these types of events have been what we call National Special Security Events. The dual-status commander reports through the Adjutants General to the governor for state National Guard forces and missions. He reports through the USNORTHCOM Commander to the President of the United States for all Title 10 forces and missions. NORTHCOM supervises the Title 10 forces that go out there to support the event, and works with the states and National Guard Bureau to get the certification for the dual-status commander. We are also involved with every space shuttle launch. We provide search and rescue capability as well as security for all the launches and landings. We also provide support to the President, whenever he is moving within United States and outside the national capital region as well. Another thing we have done is also provide Title 10 support to the UN General Assembly meetings that take place each year in New York.

NORTHCOM coordinates not only with the National Guard Bureau but with the Department of Homeland Security (DHS) as well. We have liaison officers in both organizations. They have personnel at our headquarters. One of the things that has come up recently, in the last year since the 2008 National Defense Authorization Act is that the Deputy Commander, as far as the Commander and Deputy Commander of NORTHCOM are concerned, if the commander is a Title 10 Commander or Active...
Component Commander the Deputy must be a National Guard Officer, or come from the National Guard. If the Commander of NORTHCOM is a National Guard Officer then the Deputy Commander will most likely be an active component member. NORTHCOM has 43 full-time Guardsmen in the NORTHCOM Headquarters. There are about another 50 or so that are on various forms of man-day orders, so there is roughly about a hundred Guardsmen in NORTHCOM at any given time.

The Director of Operations is General Grass, a Missouri National Guardsman. He has been out there for about 2.5 years now as well, so we are pretty well represented. Right now the current Deputy Commander, Lt General Blum, is a National Guardsman and used to be the Chief of the National Guard Bureau as well. So Guard presence is increasing at NORTHCOM and we have a good working relationship with the National Guard Bureau and hopefully with the states as well in our operations. All of the services are represented in the headquarters, Army, Navy, Air Force, and Marine Corps. There are also about 23 Coast Guard, including the Deputy Director of Operations at NORTHCOM who is a Coast Guard Admiral.

Our command is further broken down into subordinate and component commands. Air Force, the JFACC, which is Joint Forces Air Component Command, is First Air Force that is down at Tyndall. That organization wears a number of different hats; they are also the CONAR Region, Continental Region Commander for Air Defense under NORAD. United States Army North, near San Antonio Texas, is our Joint Force Land Component Command or JFLCC. Joint Task Force North is aligned under them and they provide support of federal law enforcement agencies. In their counter-drug efforts, Joint Task Force North provides indirect support to federal law enforcement. They are usually working with Customs and Border Protection both on the Northern and Southern borders. They do things such as assist in tunnel detection. So they have got a unique set of capabilities there. The main mission of the Joint Task Force Civil Support is CBRNE Consequence Management. If there was a CBRNE incident they are the headquarters that would come in on the federal side and assist with the state and locals in order to respond to that incident. The Consequence Management Forces would fall underneath them to work those issues as well. Marine Forces North, which is down in New Orleans, provides any Marine capability that we need. Then we have a supporting relationship with the Fleet Forces Command out of Newport News and Second Fleet. The Navy has them tasked for a number of things. They come and support us and when we need them in an event, they become the Joint Forces Maritime Component Commander. On the other side, are the Joint Task Force Alaska, and as well as the National Capital region. These elements report directly to the NORTHCOM Commander. The layout of the responsibilities of Joint Forces Alaska is kind of a unique operation there because the forces that are in Alaska are actually assigned to Pacific Command, however we provide a Joint Task Force Headquarters for Alaska. It is about 80-some people, they are charged with the responsibility for providing DoD support and doing the planning necessary inside Alaska for either DSCA Operations or homeland defense and the Commander of the forces, the 11th Air Force, Lt. General Dana Atkins is assigned to PACOM, he still has another dual-hat reporting situation of coming back to NORTHCOM for the DSCA and the homeland defense pieces in Alaska. He is also responsible for the Alaska NORAD region as well. It is kind of a unique situation with that. The National Capital Region has its own Joint Task Force because there are so many events that go on there that require Title 10 support, either from such things as the Inauguration or the State
The Journal of the Institute of Justice & International Studies

of the Union Addresses and other meetings that take place within the National Capitol region we have our own Joint Force headquarters specifically to handle that and Title 10 support. We do a lot of coordination with the District of Columbia National Guard as well as those in Virginia, Maryland, and West Virginia, where we need assets to do that. We had almost fourteen thousand Guardsmen involved in the Presidential Inauguration and they came predominantly from that area. However, as many as 23 other states contributed Guard Forces to support the Inauguration. This was coordinated with the Joint Task Force National Capitol region as well as the JTF out of the Virginia National Guard that was coordinated with the National Guard Bureau to command and control the Guard Forces.

We have at NORTHCOM an organizational chart that shows eight staff components which cover personnel to intelligence operations, logistics, plans and policy, communications, training, and resource functions. We also have an Interagency Director. Because we have such a unique mission with regards to defense support of civilian authorities, we have representation within our headquarters from all these various civilian organizations. So there are over 60 different groups or agencies within the federal government represented at USNORTHCOM. We also have our Canadian partners involved. Thus, we have a political advisor to the Commander from Canada. We also have representatives from Mexico including officers from the Mexican Army and the Mexican Navy. So it is a unique headquarters in which we are trying to reach out and maintain contact with all these organizations, most of which have actually felt it was important enough to go ahead and put an LNO in our headquarters because of the business they expect to do with us should we have any kind of incident or event in the United States. We are also reaching out to private volunteer organizations, non-governmental organizations, and businesses. There is been a recognition over the last couple of years that there is a lot that business can bring when a disaster occurs. Considering the scale of the assets, facilities, and capabilities that are resonant in such organizations as Wal-Mart, Home Depot, or Lowes, it is worthwhile for us to talk to them and include them in on some of what we are planning on doing so that we are not sitting there trying to duplicate something that private business may already be doing. We can tailor our response to actually target what may be necessary, so it is important to understand what these organizations are going to do. In many disasters there will be a lot of private volunteer organizations and NGOs coming in. If they are providing a service or function, there is no reason for DoD to be there to do that or they may need backup in some cases. We just need to be aware of what they are doing when you have those kinds of operations. So it is important to integrate them into what we do.

Regarding the specific missions of NORTHCOM, these missions are basically the same as other geographic combatant commanders. However, there are a couple of distinctions that need to be made, and they are important ones. First, our area of responsibility has special significance because it is our homeland, people, economic base, and platform for projecting power around the world. Second, in the United States, under most circumstances, the military can only be used as a backup for other organizations responsible for homeland security. We are mandated to continuously and closely collaborate with partners in the Department of Homeland Security, state and local law enforcement, the FBI, the Coast Guard, FEMA, the Department of Energy, the Department of Transportation, as well as the National Guard. This coordination takes place every single day and with respect to NORTHCOM, NGB and
the states, has significantly increased over the last ten years. Third, operating in the homeland is further impacted by the United States legal, political, economic, and cultural characteristics and we are restricted by our own Constitution and laws, from conducting certain types of operations in the homeland. The Posse Comitatus Act prohibits the use of Title 10 Active Duty forces for law enforcement in certain situations and prohibitions on the gathering of intelligence on United States citizens is an example of these restrictions.

NORTHCOM has two missions. The first mission is to anticipate and conduct homeland defense operations within our assigned area of responsibility—to defend, protect, and secure the United States and its interests. The second mission is to provide support of civil authorities in the homeland, defense support of civil authorities or DSCA, as directed by the Secretary of Defense and the President. When directed we assist law enforcement or respond to natural disasters and will almost always be supporting another Federal agency. Our mission means leaning forward and preparing for incidents and events before they happen, not just cleaning up after the incident. We want to do all we can to work with our federal and state partners to mitigate the threat, whether it is a man-made threat or a natural disaster. The key word in this is “anticipate.” This is the word that General Renuart added to the mission statement when he got there. We feel that this anticipation process puts us ahead of the game when we do a response to an incident or event. If we worked with the locals, the state, and the other federal agencies in terms of exercise, in terms of planning for an incident or event, we have a better understanding of what the gaps are between their capabilities and what DoD may be called upon in order to provide assistance to each of those levels during an incident or event. Conducting these two types of missions allows us to protect the homeland.

There is a continuum between civil support and homeland defense. There are events such as the space shuttle launch, the UN General Assembly, and there is increased participation, when we have disasters within the United States. At the midrange there would be the civil disturbances, and then moving on into homeland defense, which we consider to be a Title 10 federal mission. Consistent with the other geographic combatant commands is defending the homeland, with the NORAD fighters; they are actually executing operation plans for the defense of the United States. With the CBRNE Consequence Management Forces, which we consider to be ranging over into that homeland defense portion should there be a nuclear detonation or one of those types of incidents within the United States, we figure those are probably going to generate a federal response should that happen, in order to support a state or local entity.

In Alaska, we share responsibilities with PACOM; they own the forces that are physically in Alaska; however NORTHCOM tasks them to do homeland defense and DSCA support planning within the Alaska region. Basically for NORTHCOM, our area is the 48 contiguous states. Hawaii is underneath the responsibility of PACOM. For doing DSCA operations to Hawai‘i, they also support the American territories there as well. The unified command plan changed at the end of December 2008, and we shifted the Bahamas, the Turks and Caicos, Puerto Rico, and the Virgin Islands to NORTHCOM’s area of responsibility. So for theater engagement, in terms of the Bahamas and Turks and Caicos, we are responsible for that area and now we also picked up DSCA responsibilities and homeland defense responsibilities for Puerto Rico and the Virgin Islands from SOUTHCOM. So we feel that puts us in a
pretty good position in terms of the continental United States and coordinating a better understanding of what takes place in the states and territories in terms of DSCA operations and their requirements by having them all underneath NORTHCOM.

In discussing our roles and responsibilities in the aftermath of a catastrophic incident in the homeland, the support is provided in terms of civil support or defense support of civilian authorities. When providing support in a domestic incident, the DoD and NORTHCOM will always be in support of civil authorities. We are not going to be taking the lead, or generally we will never be the lead. Understand that there is either going to be a federal agency that comes in and requests our support or the states are going to come in and request our support and we are going to be there as an organization that is going to try to have to understand what those requirements are and then integrate our forces with both the civilian and military responders such as the National Guard from the states and make sure that we are doing the missions that they need in order to respond to that particular disaster. To be clear, when we are talking about DSCA, we are talking about operations within the United States. NORTHCOM has responsibilities to engage with countries that are in our geographic area such as Canada, Mexico, the Bahamas, and Turks and Caicos. When we talk about disaster operations in a foreign setting, we are talking about humanitarian assistance and disaster response so there is a little bit of difference there.

One example is Haiti. Over the last couple of months, SOUTHCOM has had the responsibility of providing disaster support to Haiti. They did that in conjunction with USAID and the State Department in conducting that operation, however they used a significant amount of military capability in order to come in and provide the support. At one point there was over 20-some odd thousand United States forces that were in Haiti or just offshore providing support for that. NORTHCOM had a piece of that when evacuations of American citizens came back to the United States from Port au Prince. When those Haitian citizens that had to come back to the United States for medical care, we had the responsibility of receiving those individuals. Most of them came back into Florida. We had the responsibility of receiving those individuals and then assisting the state of Florida in getting either those people back to where they wanted to go in the case of the non-injured or in the case of Haitian citizens who required medical care, getting them into facilities within the state of Florida so they could receive needed treatment.

Considering defense support of civil authorities, we look at this as a Secretary of Defense-approved response to a request for assistance before, during, or after an incident. Defense support of civil authorities can include a catastrophic incident, such as a hurricane or a national security special event such as a Presidential Inauguration. Just as important as to what defense support of civil authorities is, is what it is not. It is not homeland defense, what we consider to be the Title 10 mission, most commonly thought of as someone attacking the United States and the response to that attack. It is not foreign disaster relief, and there are certain other programs that are not considered to be that. We have an extensive counter-drug operation within the states, but that is not covered in this. There is also, the community outreach and what we do that is not the normal course of contacting or interacting with local and state agencies, which is not considered to be that as well. Regarding the supporting framework and documents that give us authority to do what we do and also control how we do it within the United States, we recognize the National Response Framework that has recently replaced the National Response Plan and, we also understand that it is built upon
scalable, flexible, and adaptable coordinating structures to align with the key roles and responsibilities of the local and state agencies across the nation. The Stafford Act allows FEMA to use DOD support as a result of a federal emergency or disaster. The federal government generally pays for 75% of the support required with the state picking up the remaining 25%. The Economy Act is a statute that allows DoD to provide support to other federal agencies on a 100% reimbursable basis. This statute normally is used for a national security special events, and things like wild-land fire fighting. There are also DoD plans or orders that establish doctrine on how DoD will provide defense support of civil authorities. NORTHCOM’s own plan, which is based on the guidance and instructions within joint publications and other DoD regulations, tells us how we are going to do our DSCA support. It is based on the 15 National Planning Scenarios used by DHS and others for planning purposes that basically covers natural disasters and bio-chemical events, as well as cyber within the United States. The Joint Staff Standing DSCA Execution Order also allocates some forces to NORTHCOM for performing certain specified missions within our plans.

As mentioned the National Response Framework replaced the National Response Plan, and the National Response Plan, in our view, was based on successive failure of state/local agencies before getting to a point where federal support is needed. The National Response Framework allows a parallel response. So at the same time the local and state government structures are responding, the federal forces can also begin gearing up, whether it is both military or civilian federal agencies, and begin to get geared up to respond to a particular incident or event. So there is a tiered and paralleled response, and we work very hard to go ahead and integrate our activities. We have an extremely active engagement policy at NORTHCOM in getting out to talk to the states, the Emergency Management Directors participating in the conferences to understand where the states are coming from, what they consider to be some of the latest developments and, how they are going to respond to specific incidents or events as well as what the gaps are between their capabilities and where it looks like their gaps may end up getting filled with a DoD response.

Considering the forces that are available to NORTHCOM, we have tailored those forces to meet historic mission requirements of the states in order to support them during an incident or event. So we have an opportunity to provide as little as necessary or as much as necessary based on what the states’ requirements are in an effort to respond to that particular incident or event. One of the things that we also need to work through is unity of effort and unified command. We recognize the National Incident Command System, we understand where the states and locals are coming from in terms of how they function during an incident from the Incident Command System, with this, we try to fit in with that, and we try to make sure that we are responsive to whatever that incident commander needs for that particular event. Though we are familiar with it, we try to work through our side of the support in a manner that is consistent with that system and making sure that we are not usurping the prerogatives of state and local officials when we come in to do something.

The biggest thing for us is the readiness to act. This goes back to the anticipation piece that I talked about earlier and trying to gear up for a Katrina type incident. After the incident has occurred it is too late. If there is enough warning, with a hurricane or some of the flood situations that have gone on last year and this year, one knows flood or fire season is coming. Before those incidents, we want to start talking to the state and locals, find out where they are for that season and making sure
that we synchronize with their plans and the only way we can do that is by getting out and talking to people before an incident occurs. Everybody here knows the old adage “you do not want to be exchanging business cards during an incident.” You want to have talked to the individual beforehand and everybody knows one another before you move into these kind of incidents. It makes the response a lot more effective and flexible, and there is a better understanding that we are not duplicating a lot of things the states may already have in place. This shows the parallel response where there are federal forces. If we know about it in advance, we go through the anticipating process, when the incident occurs, we are also gearing up at the same time. When the President makes an emergency declaration that is going to allow the federal forces to go ahead and deploy. The local responders are normally going to be the first ones on the scene, the state leadership is going to activate their local and state emergency operation centers and the Governor may also end up requesting assistance from other states under the EMAC, or the Emergency Management Assistance Compacts, and subsequently, request a Presidential Declaration which is going to allow the federal government to provide Federal assistance and reduce expenditures to the state under the Stafford Act. FEMA’s going to evaluate the governor’s request for the Presidential Declaration and will make a recommendation. Once the President declares the emergency or major disaster the federal resources are authorized to respond. Once established, the FEMA Joint Field Office through the Federal Coordinating Officer establishes the coordination of all federal response resources. The National Response Framework allows all potential responders—local, state, and federal—to anticipate the need and provide a parallel response.

In considering the application of the Stafford Act, Texas will be used as an example. From the Governor’s perspective, with the likelihood of a hurricane there will be the local first responders. The state operation center’s will be up and functioning and the Governor, depending on the recommendations coming out of what is required at the local level and at the state level, may activate forces that go back underneath EMAC. Typically the use of Guard forces is what is thought of being brought under EMAC. But EMAC also applies to civilian assets from other states. We used it extensively in Florida and in hurricanes to bring from other states law enforcement and some paramedics and firefighters and rescue people to assist us under EMAC. We have done it before, with firefighting within Florida and bringing outside assets in from other states in to assist us in forest fires and in wild land firefighting. Do not have just the perception that this is a military response usually involving the National Guard; the state, under EMAC, can bring in civilian assets from other states. If the state, even after all that underneath EMAC, feels as though it is going to have to have some outside assistance or some federal help, that is when there is usually a request from the Governor back to the President for a declaration of a disaster. The President’s going to get that declaration of a disaster after FEMA has taken a look at it and made a recommendation as to whether or not it feels all the criteria for approval applies to that. In most cases, as with hurricanes, the declaration will be obtained early. There is been a big push over the last couple of years, particularly since Katrina, to get an early Presidential Declaration because that allows the federal government to move forces early and pre-position forces so that we are in a better posture in terms of response, cutting down on the response time. So once FEMA has approved it, then it will take a look at what is requested and what appropriate agency within the federal government is best suited to provide those kinds
of assets. It does not necessarily mean that all those requests are going to come to the
DoD; some could go to Health and Human Services, some could go to the Department
of Transportation, each request will be evaluated.

To help them look at that and make recommendations is a role for the Defense
Coordinating Officer, who works for NORTHCOM. It is a direct subordinate to Army
North; there is one Defense Coordinating Officer for each FEMA region. They have
got a staff of about six people, and then they have got the Regional and State
Emergency Preparedness Liaison Officers, that they can call on to assist them, with a
disaster in a state. They will go in and work with the Joint Field Office, the Federal
Coordinating Officer and usually there is a State Coordinating Officer within the State
Operations Center and they help translate what the requirements are of the state and
whether DoD is the one that is best suited to provide required capabilities. They put
together a mission assignment, get the mission assignment approved through FEMA,
and if it is coming to DoD, then give notice to NORTHCOM that this is coming as a
valid mission assignment approved by Secretary of Defense as well as the Federal
Coordinating Officer and FEMA coming back to us to do the work. At that point, once
we receive the mission assignment, then we will go ahead and look at what forces we
have available and begin to prepare those forces and put them on what we call
“Prepare to Deploy” orders, or PTDOs, and get them ready to respond. Depending on
the scope of the incident and the amount of federal forces that are required, the DCO
could be the commander of the Title 10 units that are coming in to do that. If it is a
large-scale incident, we generally will not put the forces underneath the DCO, they
will have their own separate command structure and that frees up the DCO to work at
the Joint Field Office and complete the coordination with mission partners.

The Minnesota Bridge Collapse in 2007 is an example of an operation under
The Economy Act. Local first responders were out there for the bridge collapse. There
was a heightened activation level at the state EOC that did not come up to full
operation during the bridge collapse but it did raise the alert level. At that point, the
State EOC went back to the governor indicating a need for some capabilities
identifying DoD as best to provide these. The request went ahead and there was no
Presidential Declaration, it went directly back to the Department of Transportation.
They, in turn, under the Economy Act, stated that Navy divers were needed to do
casualty recovery and to assist in debris clearance from the river. So they contacted
the Department of the Navy since it has the dive teams and the salvage crews and
those crews were cut to NORTHCOM and they were a small group of individuals and
ended up working directly for the Defense Coordinating Officer so that was the chain
of command for those people. However, in actual operation, the local sheriff was the
one who would determine what they wanted done, how they wanted to do it, the
timeframe, and face-to-face coordination between the DCO and the Commander of
the Navy Dive Team. That is how it was accomplished. The requirements of the
formal Title 10 structure are satisfied and that is how we work with the face-to-face
coordination with the local authorities in order to make sure that happens and they got
the assistance that they needed. Thus, under The Economy Act, this is one federal
agency supporting another federal agency, and that federal agency is reimbursing the
DoD for the cost of sending the dive team out there.

The DCO, or Defense Coordinating Officer, was mentioned earlier, and here I
want to examine their responsibilities and how they make some judgments about
when the missions come to them and what the criteria are in terms of mission
The Defense Coordinating Officer, DCO, serves as the DoD single point of contact at the Joint Field Office. There are a total of 10 DCOs, one for each FEMA region. The DCO is an Army Colonel, most of them are senior Colonels, and they have been Brigade Commanders, so they have, you know, some significant background and experience in dealing with operations. The DCOs provide a conduit to flow the information about regional concerns and pre-incident requests for assistance from FEMA or another requesting agency to NORTHCOM. They review, validate, and provide recommendations on the requests for assistance to NORTHCOM. The DCO has the authority to determine if a request is appropriate for a DoD mission by screening it for these criteria. The first consideration is lethality, whether or not we are going to have to use, or there is the potential for use of any kind of lethal force. The second consideration is the legality of it; whether it fits the laws under The Stafford or The Economy Acts for DoD support, whether it fits within the DoD instructions for support that have been published. To be examined here are the kinds of risks the DoD forces will be confronting. Further the discussion will examine the cost estimate associated with the risk, whether it is something that is appropriate for DoD to do, or whether there are other federal agencies that can do that outside of DoD. Also considered will be the impact it has on the readiness of DoD forces. One of the things we always have to consider now is the operations in Iraq and Afghanistan and the availability of forces, against those issues, those situations and against what may be required within the United States. If the DCO determines that the request is not appropriate he may reject it and send it back to the requesting agencies. If he determines that it is appropriate, he will forward it to the NORTHCOM Commander. I can tell you, if there is a question about it, the rejection piece is probably not going to settle only at the DCO, there will be some phone calls back to NORTHCOM to notify them that there may be some issues with it. We have had some discussions during national incidents or events about writing the mission requirements and mission assignments to provide better fidelity on what was required, the duration of how long we were required and we have worked through those issues. I have rarely heard of a mission assignment, something coming from the state and a request from FEMA being turned down.

Considering the Emergency Preparedness Liaison Officer (EPLO) Program, there are over 400 of them, across the 10 FEMA regions. The regional EPLOs work at the FEMA regional headquarters and the state EPLOs usually about five to six per state, are usually resident within each state and they will also work with the state Emergency Managers, and also work with the state Attorney General to identify requirements. They are there to serve as liaisons between what the states need when they have an actual operation. They fall underneath the DCO and become part of his team when conducting an operation within a state. One of the other things we have is the NORTHCOM Situational Awareness Team. This is a small group of 15 or so people which is tailorable, depending on the situation that may be deployed to help the NORTHCOM Commander and Staff gain timely situational awareness of an incident. Usually these people come from our standing Joint Force Headquarters at NORTHCOM. They are self-contained, they go out and look at just another way of trying to get situational awareness on what is taking place, what the requirements are, and whether there is going to be a larger response necessary. They provide the interface back to NORTHCOM Commander about what exactly may be needed in terms of that larger response. They can also be used by the DCO; we talked about him...
being the Commander of the deployed Title 10 forces. They can also be used by the DCO to assist him in that responsibility. So it is very flexible, very tailor able and we can use it also if we decide to put in larger forces. They can become integrated into those larger force’s headquarters and provide them some immediate awareness of what is taking place and some background on the history of the response to date. We talked about the DSCA orders, and this gets into the categories of forces and the availability of forces that we have assigned to NORTHCOM. The pre-scripted mission assignments involve forces that we have identified based on historical responses on what was used, how long they were required. We have coordinated with FEMA and advised them there are the things that we feel, based on past history, are needed or are not needed in order to respond to an incident and we have put together those force packages. Thus, we are not going to respond to an incident until we have got approval from the President and the Secretary of Defense. We do not just come in because an incident has occurred; this will need that approval. We can deploy forces underneath these Executive Orders, we cannot employ the forces until the President and the SECDEF have approved them. This is a fine distinction. But, it gets back to the point that we are always there to assist somebody. We are not coming in to take over an operation or incident. It has to be worked out with the locals and the state personnel. We have got to get in most cases FEMA to understand where we are coming and give us a mission assignment before we go out there and put these forces on the ground.

Category 3 forces are forces that probably will never be seen at an incident. But they are needed in order to support our headquarters in the case of a disaster. The Category 4 forces are ones that are most likely will be needed in terms of a large scale response. We will put in a request for forces up through the Joint Staff and Joint Forces Command, they will go ahead and look at those forces and capabilities and forces that are required and then based on what is available within the services, identify units that are in turn cut to NORTHCOM in order to perform that particular mission. Once they have given us the identified units then we will end up contacting those units, issuing “Prepare to Deploy” orders and whatever other instructions are necessary in order to get them into the area to do the response. These are phased operations at NORTHCOM in terms of DSCA support. Phase 0 covers the shaping piece with the states and the locals and making sure we understand where the gaps are, what the requirements are, and where we think we are going to end up getting an interface with them in terms of an actual operation. Some places are under a Phase 1, where there is notice, like a hurricane for example, or that flood and fire seasons are coming so we will work through these things more specifically. We just recently had the conference between the National Guard Bureau and NORTHCOM for the upcoming hurricane season. We had pretty much all the states in the United States send representation to it, and we walked through what the hurricane states, typically Gulf and east coast states, thought their requirements were going to be for this upcoming hurricane season and in terms of support, what their shortfalls were and in terms of National Guard support both within the state and available under EMAC. This gave us a very good idea of what those state gaps would be and where they thought NORTHCOM was going to end up having to provide some assistance to them during hurricane season. As part of that conference, we worked out under EMAC criteria, the Guard, and the State, what we call the “Donor” states, or ones that would provide Guard forces, to say Texas or Louisiana, should they be needed in a hurricane.
We examined the standard for the phases going through the respond, operate, stabilize, and then looking at transition back to the local government and withdraw our assistance and get them back to where they were prior to the particular disaster.

This covers some of the key assumptions that we at NORTHCOM view for disaster responses. We have worked through a lot of these things, but they may occur with little or no warning. We are going to be there in response to a civilian agency request for assistance. The National Guard is probably going to be involved in all of the DSCA operations. The National Guard is going to be under the control of the governors and the state authorities. As mentioned we may respond to a DSCA under immediate response, such as the California wildfires where several of the DoD installations within Southern California loaned out their firefighting teams to assist the state and locals with the conduct of that effort, we will continue to do that here. Usually that period of time is about 72 hours, after that, they generally fall under NORTHCOM if they are still continuing that immediate response. The coordination piece of the state and local officials, that is necessary whenever we conduct these operations. Again, NORTHCOM has no assigned forces for DSCA missions other than the Category 1 forces that were on that slide, and that basically consists of the NSAT and our DCOs. So we are in a position of always having to go back through DoD and Joint Forces Command in order to get the units that we need in order to support an incident. The point to emphasize is that we are not going to do anything unless the SECDEF or the President tells us or gives us the authority to do it. Under Title 10, we are not used to enforce or provide law enforcement support. The state National Guard generally will do that, either under state active duty or Title 32 authorities. Title 10 forces do not do law enforcement, the provisions of the Posse Comitatus Act provide very specific situations where we can get involved with law enforcement, but that requires basically the request for assistance from the governor and then an agreement by the President. I believe the last time this happened was with the Los Angeles Riots. Further, we cannot procure or maintain any supplies, material, or equipment used exclusively for DSCA. There is a lot of dual-use stuff that we have both in terms of equipment and supplies but we cannot specifically go out and buy something uniquely for DSCA operations, that is again, prohibited by law. So these are some of the limitations and restrictions that we have.

Let me just say in conclusion, I hope I have adequately described what are NORTHCOM’s roles and missions. It is my personal belief, after doing this for a number of years in Florida and in going through the Mariel boatlift, Hurricane Andrew, and the rest, that we cannot do this without engaging with the state and locals. The best response is one is where we have talked to these officials, we understand them, work with them. Unless that happens, we are not going to be successful in our support.
EMERGENCY PREPAREDNESS
OF INDIVIDUAL STUDENTS AT A LARGE STATE UNIVERSITY IN MISSOURI

David M. Claborn∗

A convenience-sampled, written survey of students at a large state university in Missouri was used to assess the level of emergency preparedness in this population. When compared to the population of the United States, as described in a separate government study, a lower percentage of students maintained 72-hours worth of essential supplies. However, the majority of students had the means to evacuate and could readily identify where they would go in the event of an evacuation of the university. About 3% could not identify a destination to which to evacuate. Respondents ranked terrorism as one of the more likely hazards to occur nationally, but ranked it very low regionally.

A hazard is a source of danger that has the potential to cause an emergency or a disaster. A disaster, in turn, is an event that demands a substantial crisis response that is beyond the capability of any one agency or service. People who are ‘at risk’ of disaster are those who are susceptible to some kind of harm as a result of the hazard. (Haddow, Bullock, & Coppola, 2008) Risk due to a particular hazard is, in part, a function of the vulnerability of that community to the hazard (World Health Organization, 2004). Although many variables such as geography and weather factors contribute, vulnerability is influenced to a great deal by the community’s preparedness for the disaster. Preparedness efforts can occur at the group or individual levels. In other words, a community or an individual can reduce vulnerability to a hazard through appropriate preparedness. Much has been written about community, state, and national preparedness, particularly in the aftermath of the terrorist attacks of 9-11; however, researchers have published much less in the field of individual preparedness for emergencies and disasters.

In 2007, the Citizen Corps National Survey was completed to evaluate the level of individual preparedness for emergencies and disasters in the population of the United States (Federal Emergency Management Agency, 2009). The survey emphasized several aspects of emergency preparedness including the individual’s ability to evacuate, familiarity with community emergency plans, and capacity to shelter in place with sufficient and appropriate emergency supplies. The survey specifically asked if respondents kept an emergency kit, and if available, what was included in the kit. In particular, the respondents were asked if the kit included water, food, a flashlight with batteries, a first aid kit, cash, prescription medications, financial documents and personal identification. Over 70% of respondents stated that they maintained the recommended 3-day supply of food and water, but only about 40% kept a flashlight. Even fewer kept first aid kits and battery-powered radios. The survey also investigated the roles of age, ethnicity, religion, and household income on

∗ © 2010 by author, reprinted here by permission.
Please send your correspondence to Center for Homeland Security, Missouri State University, 901 S. National Avenue, Springfield, MO 65897. davidclaborn@missouristate.edu.
the level of personal preparedness, with several differences being noted between groups.

Some groups have been identified as particularly vulnerable during emergencies, including the aged and the infirm (Aldrich & Benson, 2008). This vulnerability is demonstrated by the fact that 71% of the fatalities in New Orleans after Hurricane Katrina were over 65 years old, even though this demographic comprised only 15% of the population prior to the storm (The White House, 2006). Other groups that have been identified as vulnerable include those who live alone or are socially isolated (Kovats & Ebi, 2006) and the poor (United Nations, 1996).

College student populations have rarely, if ever, been identified as truly vulnerable, but the case can be made that this demographic group has characteristics that make it particularly susceptible to harm from certain disasters. Admittedly, college students are typically young and educated. However, they often live in short-occupancy housing, such as dormitories or apartments built specifically for the population. The limited storage available in these temporary quarters can limit the student’s ability to store emergency supplies or other necessities. In addition, food and water are often taken communally, so the student’s access to emergency supplies for nutrition and hydration may be limited. Students are often in a transitional period in which they are learning how to live independently from their parents. In fact, many students maintain two homes: one at school and another in the home of their parents. As a result, they may have little experience with emergency procedures and plans. Finally, some students may be members of groups with other vulnerabilities due to mobility or communication deficits. On campus violence, such as the killings at Virginia Tech, has increased awareness about such dangers at many universities and several schools have subsequently instituted emergency preparedness programs and notification systems. However, there is little in peer-reviewed literature about individual emergency preparedness among students. Smith, Notaro, and Smith (2009) reported that students perceived a low likelihood of a bioterrorist attack at their university. Low percentages of students thought that the university and the student population were prepared for such an attack. He, Tiefenbacher, and Samson (2007; p. 61) reported that international students were more aware of their residential risk due to hurricanes than were domestic students, and noted that “evacuation behavior is a direct consequence of perceived risk.” Risks to college student populations have prompted several different responses, from the establishment of cell phone notification systems to the formation of campus specific disaster response teams. Meizoso et al. (2008) describe the emergency system built by undergraduate students at the University of Miami that is used to promote awareness and is available for emergency response in the event of an emergency. These studies, however, have not addressed the individual’s emergency preparedness.

The current study was performed to assess the preparedness of individual students at a large public comprehensive institution. The information gathered in this study is intended to help universities plan mitigation and response efforts to support student populations in the event of an emergency.

**Materials and Methods**

This study was conducted at Missouri State University, a school in Springfield, Missouri with a student population of nearly 23,000. Emergency preparedness is important to the school because the Springfield region has a recent
history of several natural disasters including ice storms, tornadoes, and floods. Also, the New Madrid fault in the southeast part of the state projects a significant risk of a catastrophic earthquake to much of the state. Though Springfield is considered to be at low risk of major earthquake damage, the region has been identified as a primary relocation site for evacuees from St. Louis and surrounding areas of Missouri. The university is typical of many residential campuses in that several thousand undergraduate students live in residence halls or off-campus student housing near the university. The university is over 150 miles from the nearest urban centers to Springfield.

A convenience sample survey of students was conducted on the first day of classes in the fall of 2009. A written survey was used to maximize the number of respondents and to facilitate statistical comparison of the results. The questionnaire was designed to be very short and convenient so respondents would agree to take the survey. Graduate student workers recruited volunteers from students in the Student Union Building between 9:00 AM and 5:00 PM. The volunteers were asked to complete a short written survey (see Appendix A) of 14 questions about their perceptions of risk and their individual levels of preparedness. Limited demographic information was also solicited on the questionnaire. The study was granted an exemption by the university’s institutional review board.

Results of the survey were coded for data entry into a spreadsheet, then sorted and analyzed using the SAS PROC FREQ procedure. The effects of the variables ‘residence’ and ‘gender’ were analyzed using chi-square analysis.

**Results**

A total of 470 students answered the questionnaire; however, only 370 surveys were completed correctly and thus included in the analysis. The majority of the incorrectly completed questionnaires were due to one question that required only one answer to be circled, but for which several respondents provided multiple answers. Some non-student responses were also removed.

<table>
<thead>
<tr>
<th>Variable</th>
<th>n</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>185</td>
<td>50.0</td>
</tr>
<tr>
<td>Female</td>
<td>185</td>
<td>50.0</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt; 18</td>
<td>2</td>
<td>0.5</td>
</tr>
<tr>
<td>18-23</td>
<td>296</td>
<td>80.0</td>
</tr>
<tr>
<td>24-29</td>
<td>59</td>
<td>16.0</td>
</tr>
<tr>
<td>30-40</td>
<td>11</td>
<td>3.0</td>
</tr>
<tr>
<td>&gt; 40</td>
<td>2</td>
<td>0.5</td>
</tr>
<tr>
<td>Home of record</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>324</td>
<td>87.6</td>
</tr>
<tr>
<td>Other U.S.</td>
<td>26</td>
<td>7.0</td>
</tr>
<tr>
<td>Non-U.S.</td>
<td>20</td>
<td>5.4</td>
</tr>
<tr>
<td>Local residence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>On campus</td>
<td>121</td>
<td>32.7</td>
</tr>
<tr>
<td>Off campus</td>
<td>249</td>
<td>67.3</td>
</tr>
</tbody>
</table>
Table 1 describes the population of the respondents. The total represented about 2% of the university’s undergraduate population. The university census reports a male:female ratio of 44:56. Our survey was completed by equal numbers of males and females, so the male population was slightly oversampled. Otherwise, the survey appeared to be highly representative of the undergraduate population of the university. Nearly 88% identified their residence of record as Missouri; this percentage was identical to that reported in the university census. International students comprised 5.4% of our survey compared to 5.2% in the university census. Residents of the university dormitories comprised 33% of the survey and 80% of the respondents were between the ages of 18-23. Only 13% reported that they lived alone.

Preparedness was assessed by asking the respondent about individual abilities to communicate, evacuate, and shelter in place with sufficient essential supplies. The university has a cell-phone notification system with which to notify students, faculty, and staff about emergencies such as tornadoes or campus violence. Approximately 59% of the respondents were enrolled in the notification system. Perhaps due to the concentration of the respondents in one age bracket, there was no detectable difference between ages with regard to enrollment in the system. This was true for all questions. Similarly, there were no significant differences in enrollment associated with gender or local residence ($p > 0.05$). About 30 percent of the respondents maintained a battery-powered radio; this percentage was similar to that reported for a national survey of the general population (Federal Emergency Management Association, 2009).

The majority of respondents (81%) stated that they had personal transportation with which they could evacuate from the university if required. However, possession of transportation varied by groups. Only 63% of dormitory residents reported that they had personal transportation as compared to 91% of those who lived elsewhere. This difference was significant ($X^2 = 4.74; \ p < 0.05$). Similarly, a higher percentage (85%) of Missouri residents reported possession of personal transportation than did international students (45%) ($X^2 = 20.8; \ p < 0.001$) or non-Missouri citizens of the United States (61%) ($X^2 = 9.35; \ p < 0.001$). Possession of personal transportation did not vary by gender.

When asked where they would go if they were forced to evacuate the university, the majority (58%) of the respondents stated they would go to the home of a parent. About 19% said they would go to a friend’s or relative’s home somewhere else in Missouri. Smaller percentages stated they would go somewhere outside of the state and about 3% stated they did not know where they would go or that they would stay in a communal emergency shelter.

About half of the respondents stated that they had recently seen a building evacuation plan. A similar but smaller percentage (43%) said they had seen or discussed a plan for post-emergency meeting sites. However, few of the respondents were familiar with plans for emergency power shut-off (15%) or evacuation routes for the city (18%). These percentages did not vary by gender or residence. It should be noted that the survey did not evaluate the respondent’s knowledge about any of the plans, but simply asked if the respondent had seen or discussed such a plan recently.
Figure 1. Percentage of survey respondents who reported maintaining specific emergency items. The survey was conducted exclusively among students at a large state university in Missouri in the August of 2009.

Figure (1) portrays the percentages of the student respondents who stated that they maintained a specific item for emergency usage. When compared to the survey of the national population conducted in 2007 (FEMA, 2009), the population in our survey reported lower percentages with a 3-day supply of water (about 20% lower) and a 3-day supply of food (about 13% lower). However, higher percentages of the respondents in our survey reported having flashlights with batteries, first aid kits, and radios. A surprisingly low percentage of the general population (less than 5%) maintained emergency supplies of cash; whereas, nearly 70% of the respondents in our survey reported keeping an emergency cash supply.

The survey posed two questions about which hazards were most likely to occur to the local area and to the nation. The results are not directly comparable because some hazards were not on both questions. For example, Missouri is not at risk from hurricanes. However, some differences in the responses were obvious.

Figure 2. Percentage of survey respondents who chose a specific hazard as the most likely to occur in Missouri (percentage rounded to nearest whole number). (August, 2009).
Respondents in our survey considered tornadoes to be the hazard most likely to occur locally, followed closely by ice storms (Figure 2). As the local community had recently experienced both of these disasters, these perceptions seemed realistic. Given recent concerns about terrorism and epidemic influenza, however, the relatively low perceived risk of occurrence for these hazards seemed somewhat surprising. The very low perceived risk of earthquakes suggests that either the respondents were unaware of the New Madrid fault and its history, or that they simply considered the risk of a major earthquake to be less than that of other hazards.

The respondents did, however, perceive the nation’s risk to be very different from the regional risk (Figure 3). The perceived risk of a terrorist attack was much greater at the national level, moving from the ninth most likely to occur locally up to the third most likely to occur at a national level. This difference implies that the respondents in our survey perceived the location of the university in the central part of the country within a comparatively suburban environment as providing a degree of protection from terrorist attack.

One puzzling difference in perceived risks dealt with epidemic disease. Respondents considered epidemic disease to be the most likely hazard for the nation, yet less than 3% considered it to be the most likely hazard to occur in Missouri. Again, this perception may have been a result of recent natural disasters in the form of tornadoes and ice storms that struck various places in Missouri.

Conclusions

There is some risk in applying the results of this survey broadly to the student populations of other universities. Missouri State University is located in a moderately sized city that is not a major metropolitan center. Universities in major urban or rural areas would probably have different preparedness issues. Similarly, the surveyed university has a large proportion of students who live in residence halls on campus. Commuter colleges service a very different student population, perhaps one with a greater ability to evacuate in a personal vehicle. Nevertheless, there are
some conclusions from this study that safety and emergency planners at other schools should consider when making emergency plans, including:

1. About 3% of the student population in this survey could not identify a site to which to evacuate if required;
2. A much lower percentage of students maintained recommended amounts of food and water when compared to the population of the United States;
3. About 20% of the student population did not have personal transportation with which to evacuate in the event of an emergency;
4. Non-Missouri citizens of the United States, international students, and dormitory residents reported the lowest percentage of vehicle ownership;
5. Students have a low level of familiarity with essential plans for evacuation and sheltering in place.

These conclusions present questions about the importance of emergency education during orientation procedures for new students. Should students be provided with information on local risks due to natural hazards? Should they be encouraged to maintain stocks of emergency food and water? Should the university require every student to submit a written personal emergency plan that addresses evacuation and communication with family and school officials? Such education at orientation could be useful, but could also be disregarded by most students who do not perceive themselves to be at personal risk. Further research is necessary to address the need for and effectiveness of preparedness education in the college student population.

The students in this survey may not be representative of their age group within the population of Missouri. As college students, they are likely to be more educated and perhaps wealthier. As a result, some might question whether students should be considered a vulnerable group. However, this population’s temporary or transient occupancy can cause it to be less prepared for emergencies when compared to the non-student population. The results of this survey suggest that, in some ways, students are less prepared for a major disaster despite their reported possession of cash reserves for emergencies. Specifically, students may require an immediate response from the university, city or state to provide emergency food and water because communal dining decreases their need for personal food supplies. They are probably similarly equipped when compared to the non-student population with regard to cold-weather clothing, flashlights, radios and some other essentials. A small percentage of the student population would not know where to evacuate to in the event of an emergency and would probably require help with finding emergency shelter. In this survey, these students represented about 3% of the population but that number could vary considerably between universities, particularly those with larger numbers of out-of-state and international students.

The biggest weakness of this study is that it is based on a convenience sample and is thus open to the biases implicit in this type of survey. A follow-on survey of the regional population is planned that will use a random-dialer and a telephone survey to obtain better information about the community surrounding the university. An additional weakness of the design is related to the time of day during which the survey was conducted. Many graduate courses are taught in the evenings at the university but the survey was taken during the day, so very few graduate students were surveyed. Non-traditional students may also be more likely to take evening
classes and this could have resulted in under-sampling of this group, which is more likely to be older and to live off-campus. Finally, this survey did not attempt to address whether the respondents were disabled in any way. Nevertheless, a comparison of the demographics of this survey with that of the university census indicates the survey sampled a representative population.

This survey demonstrates that groups that are not usually considered to be vulnerable can still have characteristics that complicate planning for emergency response. The student population in this instance is not as well prepared as non-student populations in some categories of preparedness, particularly the possession of supplies that would be required to shelter in place for 72 hours as recommended by the Centers for Disease Control and Prevention. However, most students were able to easily identify sites to which they could evacuate if necessary. This is probably much different from populations such as that of New Orleans, where many people had nowhere to go after the city was damaged by Hurricane Katrina. Most of the respondents in our survey reported having suitable transportation and cash reserves to support evacuation. For these reasons, emergency planners should be aware of unique limitations regarding preparedness that are inherent to the university student population, and should plan accordingly.
References


Appendix A: EMERGENCY PREPAREDNESS SURVEY

This survey will assess how well students are prepared to take care of themselves in the event of a disaster. The survey consists of 14 multiple choice questions and one fill-in-the-blank. There are no identified risks associated with this survey; however, some of the information is mildly personal. The survey does not gather information that will identify individuals and will only be used to describe the aggregate university population, not individuals. Information that is gathered cannot be linked to you. This information will be useful in identifying ways that the university community can prepare for future emergencies. There is no cost to you for taking the survey, nor will you receive payment of any kind. You may choose not to answer any question or to stop the survey at any time. When you finish the survey, drop it into the provided box; do not sign the form. As an additional security measure, the survey will be locked in a secure drawer. Group results may be shared at conferences and perhaps published. You should not consider inclusion of an item on the questionnaire as a recommendation for personal preparedness. Instead, interested respondents should consult the official preparedness recommendation provided on the website for the Centers for Disease Control (http://emergency.cdc/preparedness/kit/disasters/). Your cooperation in completing the survey is greatly appreciated.

1. Where is your permanent home of record? (Where you live when not in school) (Circle one)
   a. In Missouri
   b. In the United States, but not in Missouri
   c. Not in the United States

2. Select where you live while at the university. (Circle one)
   a. On campus (dormitory)
   b. Off campus

3. Do you live alone?
   a. Yes
   b. No

4. In the event of an emergency that required you to leave the university for several days, where would you be most likely to go (Check one)
   a. My parents’ home
   b. The home of other relatives or friends in Missouri
   c. The home of other relatives or friends outside Missouri
   d. An emergency shelter
   e. Other (please explain) _________________________
   f. I do not know.

5. Please select ALL of the following items which you maintain for emergency use while you are here at the university:
   a. Flashlight with batteries
   b. 3-days supply of water
   c. 3-days supply of food
   d. Radio with batteries
   e. First aid kit
   f. Infant food/diapers
   g. Prescription medicines
   h. Blankets
   i. Cash
   j. Generator
   k. Ham radio
   l. Cold-weather clothing
   m. Fuel (wood, LPG, etc.)
   n. Manual recharger for cell phone
6. What kind of emergency do you think you are most likely to experience in Missouri? (circle one)
   a. Power outage
   b. Ice storm
   c. Hurricane
   d. Mass violence
   e. Drought
   f. Tornado
   g. Earthquake
   h. Terrorist attack
   i. Heat wave
   j. Fire
   k. Flood
   l. Epidemic disease
   m. Extreme cold weather
   n. Other ___________________________________

7. What kind of MAJOR emergency do you think that the United States is most likely to experience in the next five years? (circle one)
   a. Widespread power outage
   b. Large terrorist attack
   c. Epidemic disease
   d. Major hurricane
   e. Major heat wave
   f. Crop failure
   g. Major earthquake
   h. Extreme cold
   i. Other ___________________________________

8. Check ALL of the following for which you have an established plan, a plan that you have seen posted somewhere, or a plan which you have discussed with others.
   a. Meeting place after emergency
   b. Evacuation route from your residence
   c. Evacuation route from the city
   d. Emergency power shut-off
   e. Lock-down or shelter-in-place

9. Do you have your own transportation, such as a car, with which you could evacuate if required?
   a. Yes
   b. No

10. Are you signed up for the university’s cell phone emergency notification system?
    a. Yes
    b. No

11. What single service could the university provide to help you prepare for a natural or man-made disaster? _______________________________________

12. Please indicate your position at the university.
    a. Student
    b. Other

13. Gender
    a. Male
    b. Female

14. Age
    a. Less than 18
    b. 18-23
    c. 24-30
    d. 30-40
    e. 40-50
    f. > 50
THE EFFECTS OF PERCEPTIONS OF PREPAREDNESS AND PREVENTION ON THE FEAR OF FUTURE TERRORIST ATTACKS

Patrick R. Gartin*

Recent research shows that the angst surrounding the possibility of a domestic terrorist attack appears to remain persistently strong a full nine years after the tragic events of 9/11. Such levels of fear negatively affect the quality of life, raising the important question of what might be done to mitigate such fear and its adverse effects. A recent study by Rodriguez and Lee (2010) suggests that the answer to this question may lie in perceptions of preparedness for a domestic terrorist attack, rather than any factors that may determine the probability of such an attack actually occurring. An attempt was made to replicate and extend the findings of Rodriguez and Lee (2010) using data from a recent statewide safety survey conducted in Missouri. Of the six hypotheses developed for testing, two were strongly refuted, while none of the remaining four received strong support, though there are some consistencies found with the findings of Rodriguez and Lee (2010).

On September 11, 2001, Americans experienced a series of unprecedented acts of foreign terrorism on our soil. While many of the wounds from that infamous day have since healed, its aftermath persists in that the threat of future domestic terrorist attacks appears to remain a serious concern for our citizenry a full nine years after these tragic events. Indeed, results from one recent national survey found that 95% of all respondents expected more domestic terrorist attacks to occur in the U.S. within the relatively near future (Stinson, Kinsey, Degeneffe & Ghosh, 2007). Findings from another national survey indicated that about three fourths of Americans believe that another successful terrorist attack on U.S. soil is likely to happen, and the fear of such an attack was most often cited by survey respondents as their primary concern (Saga Foundation, 2007). Further, regular national polling by the Gallup organization since 9/11/ shows a remarkable consistency in Americans’ anxiety about terrorism, with 42% agreeing in early 2010 that they worry about being victimized by terrorism - a rate nearly identical to the average of 41% expressing the same view over the entire course of the survey series (Saad, 2010).

Clearly, even in the absence of any recent major U.S. domestic terrorist attacks that may fuel such feelings, the angst surrounding the possibility of such an attack appears to remain persistently strong. This is true even in the face of what many experts have calculated to be extremely unlikely odds that one will ever become a direct victim of a domestic terrorist attack (e.g., Lowenstein, Weber, Hsee & Welch, 2001; Schmeier, 2003; Sunnstein, 2003; Mueller, 2009). Sunnstein (2003) refers to this phenomenon as “probability neglect,” asserting "When their emotions are intensely engaged, people's attention is focused on the bad outcome itself, and they are inattentive to the fact that it is unlikely to occur" (p. 122). Indeed, entire...

* © 2010 by author, reprinted here by permission.
Please send your correspondence to author at PatrickGartin@MissouriState.edu.
communities can become gripped in paralyzing fear during particularly gruesome crime waves, such as this author experienced firsthand during the 1990 serial killings of university students in Gainesville, Florida and again during the DC sniper attacks in 2002. Even though the likelihood of direct victimization in both of these examples was demonstrably very low, the fear amongst the populace was palpable. Consistent with Sunstein’s (2003) probability neglect thesis, this fear dissipated very quickly once emotional levels were reduced, which was precipitated by the apprehension and incapacitation of criminal suspects. Once the threat was clearly nullified, irrational emotions subsided and the fear was gone.

Arguably, however, terrorism does not provide the same opportunity to end the cycle of fear in that the threat seems to be perpetual. Perhaps if Osama bin Laden had been captured and executed shortly after the 9/11 attacks some abatement of fear would have been observed due to the removal of such an iconic figure, although this is questionable given the numbers of those willing to take his place. Mueller (2009) cites several historical examples of this type of perpetual fear (e.g., the Communist-era “Red Scare,” the 40-year U.S. drug war, etc.) in arguing that our current level of what he refers to as “terrorphobia” may well be with us for many years, possibly decades, to come. He suggests that such fear becomes internalized and self-perpetuating, even when not being actively fed by media accounts, governmental warnings or the actual occurrence of the feared event itself. Without a doubt, the quality of life of those living with such levels of fear is negatively affected, and regardless of why this irrationally high level of anxiety regarding future domestic terrorist attacks persists, it raises the important question of what might be done to mitigate it and its adverse effects.

A recent study by Rodriguez & Lee (2010) suggests that the answer to this question may lie in perceptions of preparedness for a domestic terrorist attack, rather than any factors that may determine the probability of such an attack actually occurring. Results from analyses of data obtained from their national mail survey (n=363) show that perceived government preparedness for a terrorist attack was a significant predictor of the level of concern regarding such an attack (Rodriguez and Lee, 2010), suggesting that the focus of concern for respondents was more on the aftermath of an attack rather than the actual attack. While this may seem somewhat obvious, i.e. that the negative effects of a terrorist attack would be of more concern than the fact of the attack itself, the distinction may be an important one in terms of managing and reducing public fear. If the public’s trust in the preparedness for a terrorist attack can be increased it may be that the fear of such an attack and its consequences can be reduced, even if both the real and perceived likelihoods of the attack remain unchanged. Such a reduction in fear would undoubtedly lead to a greater quality of life, even though the risks of a terrorist attack may remain constant. As Rodriguez and Lee (2010) conclude, “Simply put, as the findings indicate, if one can trust, one can take the risk.” (p. 16), i.e., the risk will be assumed with less fear.

If the general findings of Rodriguez and Lee (2010) are able to be reproduced by other researchers using similar data, the implications for how government officials can best approach the issue of societal fear regarding a domestic terrorist attack could be significant. In the analyses that follow, an attempt is made to replicate and extend the findings of Rodriguez and Lee (2010) using data from a statewide safety survey conducted in Missouri. While looking at the effect of the perceived preparation for a terrorist attack on the concern regarding such an attack in a fairly similar manner as Rodriguez and Lee (2010), the current analysis also examines how the perceived
ability to prevent a terrorist attack affects concern for the same. Further, whereas Rodriguez and Lee (2010) identified levels of “Worry” and “Dread” as their two dependent variables, the present study specifies measures of “Fear,” “Personal Angst” and “General Angst,” as described below.

Rodriguez and Lee (2010) distinguished between “Level of Worry” and “Level of Dread” by stating that “Worry generally refers to mental distress or agitation resulting from concern for something impending or anticipated. Dread, on the other hand, is an emotion that ranges from extreme uneasiness to extreme fear in the face of a disagreeable prospect.” (p. 2). At least for this author, such a distinction is neither clear nor theoretically useful, though Rodriguez and Lee (2010) insist that the two are indeed “distinctly different” (p. 15). For the current purpose, however, this is most likely a moot point as each of the two variables clearly reflects some level of concern regarding a domestic terrorist attack, and both were found to be negatively related at a statistically significant level to perceptions of government preparedness for such an attack (Rodriguez and Lee, 2010). It is this general finding that is the basis of the six hypotheses presented below for testing, i.e. that various measures reflecting the perceived level of preparedness for, and ability to prevent, a domestic terrorist attack will effectively predict several indicators of foreboding (i.e., fear, personal angst and general angst) regarding such an attack.

- H1: Increased confidence in the preparation for terrorist attacks will decrease “fear” regarding terrorist attacks.
- H2: Increased confidence in the government’s ability to prevent terrorist attacks will decrease “fear” regarding terrorist attacks.
- H3: Increased confidence in the preparation for terrorist attacks will decrease “personal angst” regarding terrorist attacks.
- H4: Increased confidence in the government’s ability to prevent terrorist attacks will decrease “personal angst” regarding terrorist attacks.
- H5: Increased confidence in the preparation for terrorist attacks will decrease “general angst” regarding terrorist attacks.
- H6: Increased confidence in the government’s ability to prevent terrorist attacks will decrease “general angst” regarding terrorist attacks.

Methods

In late 2008 the first annual Missouri Crime and Safety Survey was initiated, using telephone interviews to assess the views of Missouri residents on a variety of crime and safety issues. The sampling frame, consisting of all available residential telephone numbers from all 115 counties in Missouri, was used to create a random sample that was proportionately stratified based on the relative percentage of the State’s population residing within each county. Full interviews were completed by 431 respondents, consisting of 165 males (38.3%) and 266 females (61.7%). Our respondents were predominately Caucasian (91.0%) and fairly mature, ranging in age from 18 to 88 with a mean age of 54.4 years. The current analysis utilizes all twenty-five scale items pertaining to views on terrorism that were included in the survey.

To assess how confidence in the ability to deal with terrorist attacks affects concern regarding such attacks, five scales were created from items on the survey to measure relevant constructs. First, a scale reflecting “Fear” of terrorist attacks was developed from the five survey items beginning with the words “I am afraid,” as
presented in Table 1. Second, a scale measuring the construct “Personal Angst,” reflecting the perceived likelihood of personal victimization during a terrorist attack within the next year, was created from the six survey items shown in Table 2.

Third, Table 3 displays seven less personalized items that were used to construct a scale measuring “General Angst,” or the perceived likelihood of a terrorist attack within the next year. Fourth, “Confidence in the Ability to Prevent” a terrorist attack was scaled using the three items in Table 4 pertaining to preventative efforts at the various levels of government. Finally, the four items measuring preparedness presented in Table 5 were used to develop a scale for “Confidence in Preparation” for terrorist attacks. The scale scores for each of these new constructs were computed as the mean of the values on all the component items used to create them (see Tables 1 through 5). Internal consistency was quite high for all five scales, as reflected by Cronbach’s alpha reliability coefficients ranging from .793 to .902.

Table 1

Variables Comprising the Construct “Fear” of Terrorist Attacks

<table>
<thead>
<tr>
<th>Type of Terrorist Attack</th>
<th>Mean</th>
<th>Percent Agreeing</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am afraid more terrorist attacks will occur within the U.S.</td>
<td>3.70</td>
<td>69.37%</td>
</tr>
<tr>
<td>I am afraid I will be a victim in a terrorist attack within the U.S.</td>
<td>2.08</td>
<td>16.24%</td>
</tr>
<tr>
<td>I am afraid a loved one will be a victim in a terrorist attack within the U.S.</td>
<td>2.47</td>
<td>30.63%</td>
</tr>
<tr>
<td>I am afraid someone in my community will be a victim in a terrorist attack.</td>
<td>2.33</td>
<td>24.59%</td>
</tr>
<tr>
<td>I am afraid someone in my State will be a victim in a terrorist attack.</td>
<td>2.89</td>
<td>40.37%</td>
</tr>
</tbody>
</table>

Note: Responses to all items were based on a Likert scale, with 1=Strongly Disagree, 2=Somewhat Disagree, 3=Neutral, 4=Somewhat Agree, and 5=Strongly Agree”. (Cronbach’s alpha = .819).

Table 2

Variables Comprising the Construct “Personal Angst” Regarding Terrorist Attacks

<table>
<thead>
<tr>
<th>Type of Terrorist Attack</th>
<th>Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>I could be on a plane that is hijacked.</td>
<td>2.88</td>
</tr>
<tr>
<td>I could be in a mall that is attacked.</td>
<td>3.32</td>
</tr>
<tr>
<td>I or my children could be in a school that is attacked.</td>
<td>3.02</td>
</tr>
<tr>
<td>I could be on a subway or bus that is bombed.</td>
<td>2.35</td>
</tr>
<tr>
<td>I could be in a tall building during a terrorist attack.</td>
<td>2.56</td>
</tr>
<tr>
<td>I could be the victim of a suicide bombing.</td>
<td>2.42</td>
</tr>
</tbody>
</table>

Note: Responses to all items were based on a scale of 1 to 10, with 1=Not at all likely” and 10 = “Very likely”. (Cronbach’s alpha = .876).
Ordinary least squares (OLS) regression models are commonly applied to test hypotheses such as these, but they are not appropriate in this case due to the OLS requirement of interval level data. Although the newly created scales have the appearance of being measured at the interval level given that they reflect mean values across several component scales, they in fact remain at the ordinal level of measurement; i.e., the mere averaging of scores cannot increase the sensitivity of the data beyond that of the original component scales. However, several generalized linear model (GZLM) regression techniques have been developed to accommodate non-interval level data, including those specifically designed for use with data measured at the ordinal level. The analyses presented below utilize one such ordinal regression model, developed by McCullagh (1980), to test our six hypotheses. To apply McCullagh’s (1980) methodology, it was necessary to convert the newly
developed scale scores from continuous mean values back to categorical values reflecting the original component scales, as failure to do so would result in an excessive number of cells which would seriously hamper meaningful interpretation of the models. To do so, mean scale scores ranging from one to 1.50 were recoded to a value of “1,” scores ranging from 1.51 to 2.50 were recoded to a value of “2,” etc. Frequency distributions for each of the five newly recoded ordinal scales are presented in Tables 6 through 10.

Table 6
Frequency Distribution for the Ordinal Construct “Fear” of Terrorist Attacks

<table>
<thead>
<tr>
<th>Value</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.00 – Strongly Disagree</td>
<td>48</td>
<td>11.1</td>
</tr>
<tr>
<td>2.00 – Somewhat Disagree</td>
<td>139</td>
<td>32.3</td>
</tr>
<tr>
<td>3.00 - Neutral</td>
<td>153</td>
<td>35.5</td>
</tr>
<tr>
<td>4.00 – Somewhat Agree</td>
<td>83</td>
<td>19.3</td>
</tr>
<tr>
<td>5.00 – Strongly Agree</td>
<td>8</td>
<td>1.9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>431</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Table 7
Frequency Distribution for the Ordinal Construct “Personal Angst” Regarding Terrorist Attacks

<table>
<thead>
<tr>
<th>Value</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.00 – Not at all Likely</td>
<td>140</td>
<td>32.5</td>
</tr>
<tr>
<td>2.00</td>
<td>115</td>
<td>26.7</td>
</tr>
<tr>
<td>3.00</td>
<td>72</td>
<td>16.7</td>
</tr>
<tr>
<td>4.00</td>
<td>34</td>
<td>7.9</td>
</tr>
<tr>
<td>5.00</td>
<td>31</td>
<td>7.2</td>
</tr>
<tr>
<td>6.00</td>
<td>15</td>
<td>3.5</td>
</tr>
<tr>
<td>7.00</td>
<td>11</td>
<td>2.6</td>
</tr>
<tr>
<td>8.00</td>
<td>7</td>
<td>1.6</td>
</tr>
<tr>
<td>9.00</td>
<td>3</td>
<td>.7</td>
</tr>
<tr>
<td>10.00 – Very Likely</td>
<td>3</td>
<td>.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>431</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Table 8
Frequency Distribution for the Ordinal Construct “General Angst” Regarding Terrorist Attacks

<table>
<thead>
<tr>
<th>Value</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.00 – Not at all Likely</td>
<td>21</td>
<td>4.9</td>
</tr>
<tr>
<td>2.00</td>
<td>15</td>
<td>3.5</td>
</tr>
<tr>
<td>3.00</td>
<td>28</td>
<td>6.5</td>
</tr>
<tr>
<td>4.00</td>
<td>51</td>
<td>11.8</td>
</tr>
<tr>
<td>5.00</td>
<td>89</td>
<td>20.6</td>
</tr>
<tr>
<td>6.00</td>
<td>70</td>
<td>16.2</td>
</tr>
<tr>
<td>7.00</td>
<td>80</td>
<td>18.6</td>
</tr>
<tr>
<td>8.00</td>
<td>58</td>
<td>13.5</td>
</tr>
<tr>
<td>9.00</td>
<td>14</td>
<td>3.2</td>
</tr>
<tr>
<td>10.00 – Very Likely</td>
<td>5</td>
<td>1.2</td>
</tr>
</tbody>
</table>
The results of the model used to test the first hypothesis, that increasing confidence in the preparation for a terrorist attack will result in less fear of such an attack, are presented in Table 11. Given the ranked nature of the ordinal variables, Spearman’s rho is an appropriate choice as a measure of bivariate correlation, and in this case it indicates a statistically significant relationship between the two variables. The chi square goodness of fit test also reflects dependence between the two variables, as seen by the relatively large p-value (i.e., a low p-value would suggest that the observed data are significantly different from the fitted model). Note, however, that the direction of the relationship is contrary to what is predicted by our hypothesis in that the correlation is a positive one. Thus, it appears that this is a fairly good model.
showing that fear of a terrorist attack increases as the confidence in the preparation for such an attack rises – again, in direct contradiction to our hypothesis.

Very similar results are found for the relationship between fear of a terrorist attack and confidence in the government’s ability to prevent such attacks, as seen in Table 12. While the bivariate correlation is statistically significant and the model appears to be well-fitted, the relationship found in the data is the inverse of what is predicted via our second hypothesis, i.e. that fear would decrease as confidence in governmental prevention increased.

Table 11
*Ordinal Regression Model for “Confidence in the Preparation” for Terrorist Attacks Predicting “Fear”*

<table>
<thead>
<tr>
<th>Threshold</th>
<th>Estimate</th>
<th>Std. Error</th>
<th>Wald</th>
<th>df</th>
<th>Sig.</th>
<th>95% Confidence Interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Fear_ordinal = 1.00]</td>
<td>-1.572</td>
<td>.586</td>
<td>7.206</td>
<td>1</td>
<td>.007</td>
<td>-2.720 – .424</td>
</tr>
<tr>
<td>[Fear_ordinal = 2.00]</td>
<td>.263</td>
<td>.578</td>
<td>.207</td>
<td>1</td>
<td>.649</td>
<td>-1.869 – 1.395</td>
</tr>
<tr>
<td>[Fear_ordinal = 3.00]</td>
<td>1.875</td>
<td>.585</td>
<td>10.284</td>
<td>1</td>
<td>.001</td>
<td>.729 – 3.021</td>
</tr>
<tr>
<td>[Fear_ordinal = 4.00]</td>
<td>4.545</td>
<td>.676</td>
<td>45.196</td>
<td>1</td>
<td>.000</td>
<td>3.220 – 5.870</td>
</tr>
<tr>
<td>Location</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Prepare_ordinal=1.00]</td>
<td>.091</td>
<td>.630</td>
<td>.021</td>
<td>1</td>
<td>.885</td>
<td>-1.143 – 1.325</td>
</tr>
<tr>
<td>[Prepare_ordinal=2.00]</td>
<td>.340</td>
<td>.606</td>
<td>.316</td>
<td>1</td>
<td>.574</td>
<td>-.847 – 1.528</td>
</tr>
<tr>
<td>[Prepare_ordinal=3.00]</td>
<td>.515</td>
<td>.594</td>
<td>.750</td>
<td>1</td>
<td>.387</td>
<td>-.650 – 1.679</td>
</tr>
<tr>
<td>[Prepare_ordinal=4.00]</td>
<td>.947</td>
<td>.601</td>
<td>2.487</td>
<td>1</td>
<td>.115</td>
<td>-.230 – 2.125</td>
</tr>
<tr>
<td>[Prepare_ordinal=5.00]</td>
<td>0</td>
<td>.358</td>
<td>0</td>
<td>0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


Table 12
*Ordinal Regression Model for “Confidence in the Ability to Prevent” Terrorist Attacks Predicting “Fear”*

<table>
<thead>
<tr>
<th>Threshold</th>
<th>Estimate</th>
<th>Std. Error</th>
<th>Wald</th>
<th>df</th>
<th>Sig.</th>
<th>95% Confidence Interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Fear_ordinal = 1.00]</td>
<td>-2.115</td>
<td>.416</td>
<td>25.871</td>
<td>1</td>
<td>.000</td>
<td>-2.930 – -1.300</td>
</tr>
<tr>
<td>[Fear_ordinal = 2.00]</td>
<td>-.286</td>
<td>.398</td>
<td>.516</td>
<td>1</td>
<td>.473</td>
<td>-1.066 – .494</td>
</tr>
<tr>
<td>[Fear_ordinal = 3.00]</td>
<td>1.314</td>
<td>.404</td>
<td>10.596</td>
<td>1</td>
<td>.001</td>
<td>.523 – 2.106</td>
</tr>
<tr>
<td>[Fear_ordinal = 4.00]</td>
<td>3.971</td>
<td>.526</td>
<td>56.959</td>
<td>1</td>
<td>.000</td>
<td>2.939 – 5.002</td>
</tr>
<tr>
<td>Location</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Prepare_ordinal=1.00]</td>
<td>-.379</td>
<td>.439</td>
<td>.747</td>
<td>1</td>
<td>.387</td>
<td>-1.239 – .481</td>
</tr>
<tr>
<td>[Prepare_ordinal=2.00]</td>
<td>-.096</td>
<td>.440</td>
<td>.048</td>
<td>1</td>
<td>.827</td>
<td>-.766 – .957</td>
</tr>
<tr>
<td>[Prepare_ordinal=3.00]</td>
<td>-.096</td>
<td>.434</td>
<td>.049</td>
<td>1</td>
<td>.824</td>
<td>-.946 – .754</td>
</tr>
<tr>
<td>[Prepare_ordinal=4.00]</td>
<td>.225</td>
<td>.429</td>
<td>.276</td>
<td>1</td>
<td>.599</td>
<td>-.615 – 1.065</td>
</tr>
<tr>
<td>[Prepare_ordinal=5.00]</td>
<td>0</td>
<td>.429</td>
<td>0</td>
<td>0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
In examining the analyses pertaining to our second dependent variable, personal angst, there was no significant correlation found between this and either of the two independent variables, i.e. confidence in preparation and confidence in governmental prevention. As would be expected under such circumstances, the fit of the associated ordinal models also suggests a fair amount of independence between personal angst and both of the independent variables. Thus, no support is found for either the third or fourth hypotheses.

Table 13

| Ordinal Regression Model for “Confidence in the Preparation” for Terrorist Attacks Predicting “Personal Angst” |
|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|
| Estimate | Std. Error | Wald | df | Sig. | 95% Confidence Interval |
| Threshold | [Personal_ordinal = 1.00] | - .880 | .566 | 2.420 | 1 | .120 | -1.988 | .229 |
|           | [Personal_ordinal = 2.00] | .235 | .564 | .174 | 1 | .677 | -.870 | 1.340 |
|           | [Personal_ordinal = 3.00] | 1.020 | .566 | 3.244 | 1 | .072 | -0.90 | 2.130 |
|           | [Personal_ordinal = 4.00] | 1.518 | .570 | 7.094 | 1 | .008 | .401 | 2.636 |
|           | [Personal_ordinal = 5.00] | 2.188 | .580 | 14.253 | 1 | .000 | 1.052 | 3.324 |
|           | [Personal_ordinal = 6.00] | 2.714 | .593 | 20.948 | 1 | .000 | 1.552 | 3.877 |
|           | [Personal_ordinal = 7.00] | 3.358 | .622 | 29.161 | 1 | .000 | 2.139 | 4.577 |
|           | [Personal_ordinal = 8.00] | 4.152 | .690 | 36.187 | 1 | .000 | 2.799 | 5.504 |
|           | [Personal_ordinal = 9.00] | 4.854 | .802 | 36.646 | 1 | .000 | 3.282 | 6.426 |

Location

| [Prepare_ordinal = 1.00] | .169 | .614 | .076 | 1 | .783 | -1.035 | 1.373 |
| [Prepare_ordinal = 2.00] | -.411 | .593 | .481 | 1 | .488 | -1.573 | .751 |
| [Prepare_ordinal = 3.00] | -.278 | .580 | .230 | 1 | .632 | -1.415 | .859 |
| [Prepare_ordinal = 4.00] | .135 | .585 | .053 | 1 | .817 | -1.011 | 1.281 |
| [Prepare_ordinal = 5.00] | 0 | .0 | .0 | 0 | .0 | .0 | .0 |


Table 14

| Ordinal Regression Model for “Confidence in the Ability to Prevent” Terrorist Attacks Predicting “Personal Angst” |
|-------------------------------------------------|-------------------------------------------------|-------------------------------------------------|
| Estimate | Std. Error | Wald | df | Sig. | 95% Confidence Interval |
| Threshold | [Personal_ordinal = 1.00] | -.795 | .393 | 4.083 | 1 | .043 | -1.565 | -.024 |
|           | [Personal_ordinal = 2.00] | .312 | .392 | .633 | 1 | .426 | -.456 | 1.079 |
|           | [Personal_ordinal = 3.00] | 1.090 | .395 | 7.602 | 1 | .006 | .315 | 1.864 |
|           | [Personal_ordinal = 4.00] | 1.585 | .401 | 15.640 | 1 | .000 | .799 | 2.370 |
Finally, somewhat mixed results are found in assessing the effects of confidence in preparation and confidence in governmental prevention on our third dependent variable, general angst. First, while there is not a statistically significant correlation between confidence in preparation and general angst, the direction of the relationship is at least in the predicted direction. Also, as expected based upon the Spearman’s rho statistic, the fit of the ordinal model predicting general angst on the basis of confidence in preparation is not very good (see Table 15). The same can be said of the model utilizing confidence in governmental prevention, as presented in Table 16, though in this case there is a statistically significant correlation in the predicted direction. This is not necessarily inconsistent, as a relationship can be present between variables, yet not properly specified in terms of a model. Hence, while there is no support found for our fifth hypothesis, there are indications of support for our sixth hypothesis regarding the effects of confidence in governmental prevention on general angst regarding a future terrorist attack.

Table 15

<table>
<thead>
<tr>
<th>Threshold</th>
<th>Estimate</th>
<th>Std. Error</th>
<th>Wald</th>
<th>df</th>
<th>Sig.</th>
<th>Lower Bound</th>
<th>Upper Bound</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Generalordinal = 1.00]</td>
<td>-2.778</td>
<td>.590</td>
<td>22.141</td>
<td>1</td>
<td>.000</td>
<td>-3.935</td>
<td>-1.621</td>
</tr>
<tr>
<td>[Generalordinal = 3.00]</td>
<td>-1.551</td>
<td>.563</td>
<td>7.583</td>
<td>1</td>
<td>.006</td>
<td>-2.655</td>
<td>-4.47</td>
</tr>
<tr>
<td>[Generalordinal = 4.00]</td>
<td>-8.111</td>
<td>.558</td>
<td>2.115</td>
<td>1</td>
<td>.146</td>
<td>-1.904</td>
<td>.282</td>
</tr>
<tr>
<td>[Generalordinal = 5.00]</td>
<td>.907</td>
<td>.556</td>
<td>.030</td>
<td>1</td>
<td>.862</td>
<td>-.993</td>
<td>1.187</td>
</tr>
<tr>
<td>[Generalordinal = 6.00]</td>
<td>.766</td>
<td>.557</td>
<td>1.890</td>
<td>1</td>
<td>.169</td>
<td>-.326</td>
<td>1.859</td>
</tr>
<tr>
<td>[Generalordinal = 8.00]</td>
<td>3.297</td>
<td>.597</td>
<td>30.450</td>
<td>1</td>
<td>.000</td>
<td>2.126</td>
<td>4.468</td>
</tr>
<tr>
<td>[Generalordinal = 9.00]</td>
<td>4.668</td>
<td>.710</td>
<td>43.248</td>
<td>1</td>
<td>.000</td>
<td>3.277</td>
<td>6.059</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Estimate</th>
<th>Std. Error</th>
<th>Wald</th>
<th>df</th>
<th>Sig.</th>
<th>Lower Bound</th>
<th>Upper Bound</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Prepareordinal=1.00]</td>
<td>.616</td>
<td>.607</td>
<td>1.029</td>
<td>1</td>
<td>.310</td>
<td>-.574</td>
<td>1.805</td>
</tr>
<tr>
<td>[Prepareordinal=2.00]</td>
<td>.199</td>
<td>.583</td>
<td>.116</td>
<td>1</td>
<td>.733</td>
<td>-.945</td>
<td>1.342</td>
</tr>
</tbody>
</table>

Table 16
Ordinal Regression Model for “Confidence in the Ability to Prevent” Terrorist Attacks Predicting “General Angst”

<table>
<thead>
<tr>
<th>Threshold</th>
<th>Estimate</th>
<th>Std. Error</th>
<th>Wald</th>
<th>df</th>
<th>Sig.</th>
<th>Lower Bound</th>
<th>Upper Bound</th>
</tr>
</thead>
<tbody>
<tr>
<td>General_ordinal = 1.00</td>
<td>-2.447</td>
<td>.429</td>
<td>32.482</td>
<td>1</td>
<td>.000</td>
<td>-3.288</td>
<td>-1.605</td>
</tr>
<tr>
<td>General_ordinal = 2.00</td>
<td>-1.871</td>
<td>.406</td>
<td>21.194</td>
<td>1</td>
<td>.000</td>
<td>-2.667</td>
<td>-1.074</td>
</tr>
<tr>
<td>General_ordinal = 3.00</td>
<td>-1.217</td>
<td>.393</td>
<td>9.620</td>
<td>1</td>
<td>.002</td>
<td>-1.987</td>
<td>-0.448</td>
</tr>
<tr>
<td>General_ordinal = 4.00</td>
<td>-.470</td>
<td>.386</td>
<td>1.483</td>
<td>1</td>
<td>.223</td>
<td>-1.987</td>
<td>-0.448</td>
</tr>
<tr>
<td>General_ordinal = 5.00</td>
<td>.446</td>
<td>.386</td>
<td>1.332</td>
<td>1</td>
<td>.249</td>
<td>-3.111</td>
<td>1.202</td>
</tr>
<tr>
<td>General_ordinal = 6.00</td>
<td>1.114</td>
<td>.389</td>
<td>8.194</td>
<td>1</td>
<td>.004</td>
<td>.351</td>
<td>1.876</td>
</tr>
<tr>
<td>General_ordinal = 7.00</td>
<td>2.091</td>
<td>.398</td>
<td>27.549</td>
<td>1</td>
<td>.000</td>
<td>1.310</td>
<td>2.872</td>
</tr>
<tr>
<td>General_ordinal = 8.00</td>
<td>3.651</td>
<td>.446</td>
<td>67.040</td>
<td>1</td>
<td>.000</td>
<td>2.777</td>
<td>4.525</td>
</tr>
<tr>
<td>General_ordinal = 9.00</td>
<td>5.023</td>
<td>.588</td>
<td>72.895</td>
<td>1</td>
<td>.000</td>
<td>3.870</td>
<td>6.176</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Estimate</th>
<th>Std. Error</th>
<th>Wald</th>
<th>df</th>
<th>Sig.</th>
<th>Lower Bound</th>
<th>Upper Bound</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevent_ordinal = 1.00</td>
<td>.882</td>
<td>.425</td>
<td>4.305</td>
<td>1</td>
<td>.038</td>
<td>.049</td>
<td>1.716</td>
</tr>
<tr>
<td>Prevent_ordinal = 2.00</td>
<td>.687</td>
<td>.426</td>
<td>2.600</td>
<td>1</td>
<td>.107</td>
<td>-.148</td>
<td>1.521</td>
</tr>
<tr>
<td>Prevent_ordinal = 3.00</td>
<td>.350</td>
<td>.419</td>
<td>.696</td>
<td>1</td>
<td>.404</td>
<td>-.472</td>
<td>1.171</td>
</tr>
<tr>
<td>Prevent_ordinal = 4.00</td>
<td>.478</td>
<td>.415</td>
<td>1.329</td>
<td>1</td>
<td>.249</td>
<td>-.335</td>
<td>1.290</td>
</tr>
<tr>
<td>Prevent_ordinal = 5.00</td>
<td>0</td>
<td>.</td>
<td>.</td>
<td>0</td>
<td>.</td>
<td>.</td>
<td>.</td>
</tr>
</tbody>
</table>

Spearman’s Rho = -.032, p=.254 (one-tailed test)  Goodness of Fit: Chi-square=54.713, df=32, p=.007.


Discussion

This study has attempted to replicate the findings of Rodriguez and Lee (2010) that showed a significant negative relationship between perceptions of the government’s preparedness for a terrorist attack and the level of concern, i.e., worry and dread, pertaining to future terrorist attacks. The results of such an effort have important implications for how we may go about attempting to control fear levels even while actual threat levels may remain unchanged. Of the six hypotheses that
were developed for testing, two were strongly refuted, while none of the remaining four received strong support, though there are some consistencies found with the findings of Rodriguez and Lee (2010).

The first two hypotheses utilized the dependent variable “fear” and the results from analyses showed a strong correlation between this and both independent variables – in exactly the opposite direction as predicted. These results are quite puzzling, yet they seem unambiguous. While it may not be inconsistent to have high levels of fear and high levels of confidence in preparedness and prevention (e.g., one could be very frightened yet still believe that the government is doing all it can), low levels of fear associated with low confidence in preparedness and prevention would seem to make less sense. This author is at a loss to explain this observed relationship, but given its unique nature it is one that should be explored more fully in future research.

The next two hypotheses were based on the dependent variable “personal angst,” which reflected the fear of personal victimization via a domestic terrorist attack, and analyses indicated no significant relationship between this construct and either of the two independent variables related to preparedness and prevention. This may be due to the personalized nature of the items used to develop the underlying scale, which could be reflecting Sunnstein’s (2003) notion of probability neglect. In other words, if the fear of direct victimization in a terrorist attack is largely irrational, perceptions of preparedness or prevention would seem unlikely to affect it.

Finally, this study examined the effects of the two independent variables on “general angst,” which represents a much broader measure of unease regarding future terrorist attacks. Although support for the last two hypotheses was not strong, the direction of the relationship was as predicted for both. Further, these findings lend some support to the explanation offered above regarding the concern of direct victimization. That is, a more generalized angst regarding terrorism may simply be more realistic and rational, and therefore more subject to being affected by reasonable assessments of the government’s ability to prepare for and prevent terrorist attacks.

The findings by Rodriguez and Lee (2010) would seem to indicate that the best way to manage the fear of domestic terrorism is not to attempt to eliminate such fear, but rather to mitigate it through increased confidence in the government’s ability to handle a terrorist attack. Results from the current study, however, suggest that such a conclusion may be too broad in its scope. While Rodriguez and Lee (2010) utilized items that assessed general levels of “worry” and “dread,” the present analyses make a distinction in the locus of control via the dependent variables “personal angst” and “general angst” with quite different results for each. While the findings of Rodriguez and Lee (2010) are not replicated for the more internalized level of concern, they are consistent with the present analyses that focus on a more general level of concern. In this light, the current findings should perhaps not be seen so much as contradicting those of Rodriguez and Lee (2010), but rather as a fine tuning of the relevant constructs. Future efforts would do well to further examine the conceptualization and operationalization of these important factors as we continue to cope with the threat of domestic terrorism and the impact of that threat on our citizens.

The findings reported here suggest that, while irrational fears of personal victimization during a domestic terrorist attack may simply be unmanageable, it may indeed be possible to reduce the more general levels of apprehension amongst the population regarding this type of an attack. Achieving such a reduction by increasing confidence in the government’s ability to prevent and prepare for terrorist attacks
would seem to suggest a shift from policies based solely on target hardening to those that also encourage confidence building in an effort to alleviate the tensions created by this new, ongoing threat.

### References


THE NATIONAL GOVERNORS ASSOCIATION AND OPPOSITION TO HOMELAND SECURITY POLICY

Mitchel N. Herian*

This paper uses a case study approach to examine the efforts of the National Governors Association and its allies to oppose the Real ID Act. Because Congress is poised to potentially replace the law with the Pass ID, it appears that the governors’ efforts may prove to be successful. There are three reasons for this possibility: 1) a strong alliance among intergovernmental lobbying organizations; 2) a univocal approach among the states and the intergovernmental lobby; and 3) an institutional connection between state and federal executives. Because homeland security is a relatively new policy area in American government, and because such policies are heavily dependent upon intergovernmental cooperation, this scenario holds potentially critical implications for homeland security policy as it is developed in the future.

The Real ID Act is exemplary of homeland security programs that rely upon intergovernmental cooperation for effectiveness. From the creation of the policy at the federal level to its implementation at the state and local levels, it is imperative that different governments cooperate if the programs mandated by the Real ID Act are to be successfully carried out. States must adopt the standards required by the federal bill and they must also communicate and enforce the standards at the county and local levels. Indeed, the successful implementation of the policy is contingent upon high levels of collaboration among the various governmental bodies (Wise & Nader, 2008).

Precisely because of this need for collaboration, Real ID has highlighted both the political and practical barriers to the implementation of this policy. As the legislation was being adopted at the federal level, the states, led largely by the National Governors Association (NGA), quickly began to oppose the legislation citing their displeasure with the unilateral way in which the policy was developed, the lack of state input solicited by the federal government, and the lack of funding from the federal government to pay for the transition. The governors continued to resist the bill throughout the time the Bush Administration was developing the rules for its implementation and up to the time President Obama was elected. Recent developments suggest that the bill might be significantly altered or discarded altogether in favor of less stringent legislation both because of state concerns and the fact that a former governor and critic of the law is now in charge of the Department of Homeland Security (DHS).

This paper examines the opposition to the Real ID Act provided by the NGA and other state lobbying organizations. There is specific focus on two elements of the efforts to oppose the implementation of the legislation: 1) the role of the NGA as an aggregating body for the nation’s governors as well as for the interest of the states

* © 2010 by author, reprinted here by permission.
Please send your correspondence to author at the University of Nebraska Public Policy Center, mnherian@nebraska.edu
more generally, and 2) the institutional connection between state level executives and the federal executive that has allowed the former leader of the NGA – an outspoken critic of Real ID – to embody that organization’s arguments and employ them as she works to implement and alter the law in her capacity as Secretary of DHS.

This case provides an important illustration of the ability of the states, particularly the governors and intergovernmental lobbying organizations such as the NGA, to shape federal policy. And because homeland security policy is such a new area in which the federal and state governments are working together, the case study may provide particularly critical lessons for the study of intergovernmental relations within the realm of homeland security policy more specifically. And because the governors are managers of both federal and state systems more generally (Beyle and Muchmore, 1983; Grady, 1987), their reaction to the policy provides an important example of how governors can use their place in the federal system to impact important policy decisions, not only in the realm of Homeland Security, but possibly in other policy areas as well.

Background

The Real ID Act has its genesis in the 9/11 Commission Report issued on July 22, 2004 (National Commission, 2004). That report detailed the efforts of the 9/11 hijackers to obtain and use state identification cards to carry out the attacks on the U.S. in 2001, and included policy recommendations. Among these was a call for states to issue secure and tamper-proof identification cards to residents. According to the report:

Americans should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified when they enter the United States…. The current system enables non-U.S. citizens to gain entry by showing minimal identification. The 9/11 experience shows that terrorists study and exploit America’s vulnerabilities. (p. 405).

Thus, the Commission recommended that the DHS should complete a biometric entry-exit screening system linked to data systems in the U.S. and that the federal government set standards for the issuance of birth certificates and sources of identification, such as driver’s licenses.

In the months following the release of the 9/11 Commission Report, Congress began consideration of the Intelligence Reform and Terrorism Prevention Act (IRTPA), portions of which were developed in response to the 9/11 Report. Two bills were introduced – one version in the House (H.R. 10, 2004) and one in the Senate (S. 2845, 2004) – that contained many of the recommendations of the 9/11 Commission Report. As part of broader proposals to strengthen various aspects of homeland security, both bills contained language that would require states to update and upgrade their state identification and drivers licensing systems. Though both pieces of legislation authorized the U.S. Department of Transportation to draft the rules and timelines that would guide the states in their efforts, the Senate version of the bill provided for formal state and local input into the revision process, while the House version of the bill did not.

In October, 2004, a conference committee to reconcile the two versions was convened after each bill had passed through its respective chamber. The NGA and its allies the National Council of State Legislatures (NCSL) and the American
Association of Motor Vehicle Administrators (AAMVA) favored the Senate version of the bill because of its provision for formal collaboration between the federal and state governments in the development of state identification requirements. In December, 2004, the state groups’ preferences were reflected in the legislation (Posner, 2008) as the Senate version of the bill was approved by Congress and the bill was signed by President Bush (P.L. 108-458).

But before work toward implementation of the bill could begin, efforts were underway to discard the IRTPA and rewrite portions of the legislation to strengthen the law. As Congress reconvened for the new legislative session in early 2005, John Sensenbrenner (WI) introduced H.R. 418 (2005) as a replacement for the sections of IRTPA dealing with identification. According to the official description of H.R. 418, the law would

establish and rapidly implement regulations for state driver’s license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, and to ensure expeditious construction of the San Diego border fence.

Toward that end, the proposal called for states to strengthen their review and issuance of identification, as well as to share information about individuals obtaining licenses and identification cards in the states through a complex computer system. Most significantly, Section 207 of the bill proposed to not only replace the provisions regarding identification cards and driver’s licenses in the IRTPA with more rigorous guidelines, but the bill would have also stripped out the formal requirements for federal-state collaboration that was contained within that legislation and would have placed the authority over the bill with the Department of Homeland Security (DHS).

On February 8, 2005, the NGA and the AAMVA addressed a letter to House leadership outlining their opposition to the new legislation. The letter stated the governors’ support for the 2004 IRTPA – particularly its call for collaboration with the governors and the states. The governors noted that they had already begun to work with the Bush Administration under the 2004 legislation to develop the guidelines and regulations that would guide the states. Signaling their concerns with the more practical matters of funding for the program, the governors also said “the cost of implementing such standards and verification procedures for the 220 million driver’s licenses issued by states represents a massive unfunded federal mandate” (NGA Letter to House of Representatives, February 8, 2005).

Though H.R. 418 failed to make it out of the House Judiciary Committee and ultimately died, an identical version of the bill was attached as an amendment to H.R. 1268 (2005), titled “An act for Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief.” With the new bill, the issue of driver’s licenses and identification cards was rolled into broader legislation dealing with not only terrorism and security, but also with appropriations for the war efforts in Afghanistan and Iraq, and the relief efforts associated with the tsunami that took place in the Indian Ocean in late 2004. By setting up this “must sign” situation (Posner, 2008, p.294), sponsors of the bill made it much more difficult for opponents of the

---

1 An April 11, press release indicated that the NGA had also appointed a representative to work with the Department of Homeland Security in developing guidelines (NGA Press Release 2005).
legislation to defeat the bill. As expected, the bill was passed by large margins in both houses of Congress and on May 11, was signed by President Bush replacing Section 7212 of the IRTPA dealing with state identification cards and establishing what is now commonly referred to as the Real ID Act.

State Resistance

With the adoption of the IRTPA, the governors and their state allies were provided with a formalized mechanism through which to provide direct input into the development of regulatory rules. Thus, throughout consideration of Real ID, the NGA and its allies pushed for similar formalized collaboration between the states and the federal government to be included in the bill. The groups also presented their concerns that the legislation represented an unfunded mandate, and that the regulations required by Real ID would “impose technological standards and verification procedures on states, many of which are beyond the current capacity of even the federal government” (NGA Letter to Senate, March 17, 2005).

As it became clear that Real ID was likely to become law, the NGA and its allies shifted their attacks from simply stating displeasure with the law to foreshadowing outright state opposition to the bill. Arkansas Governor and NGA Chair Mike Huckabee signaled this potential approach when he said, "We're going to look at the options we might have. Court action might be one, or noncompliance is another" (Pierce, 2005, para. 2). Huckabee noted that states were already looking at potential legal action that could be taken in federal court. And a protest by the governors could force Congress to reconsider the law if it passed, he said. “If 25 governors or more said, 'No, we're not going to let this be shoved down our throats,’” Huckabee said, Congress might feel pressured to change the law (Pierce, 2005, para. 13). As Huckabee put it, “we’re not going down without a fight” (Moscoso, 2005, para. 5).

Following the passage of the Real ID Act, the governors had no recourse other than try to resist the law as Huckabee suggested in his comments. Accordingly, the governors began to recast their argument from one that centered on opposition to the unilateral approach to licensing and identification that Congress had adopted to one that centered on the practicalities and costs associated with the new legislation. Governor Huckabee, again at the forefront of the discussion, said, "It has become a national ID card. It's a terrible idea for the states to do it" (Tanner, 2005, para. 7). He added, "They have created a national nightmare and they'll probably be driving up the cost of the driver's licenses (for consumers) by three- or four-fold" (Tanner, 2005, para. 7).

In a series of letters to Congress and the DHS, the NGA continued to make their case against Real ID. In an October 6, 2005 letter, the NGA noted that Real ID “requires states to establish effective procedures to confirm and verify the renewal of more than 227 million existing driver's licenses” (NGA Letter to Department of Homeland Security, October 6, 2005, para. 3) Attacking the broad language in the bill, the NGA asked:

What constitutes an effective procedure? Will all existing driver's licenses and ID card holders have to go through the same renewal procedure? Will renewal by Internet or mail be allowed? Specific answers to these questions are necessary to determine the feasibility and cost of implementing the statute
by Congress’ three year deadline. (NGA Letter to Department of Homeland Security, October 6, 2005, para. 3).

Additionally, the governors questioned the feasibility of requiring state and local motor vehicle administrators to pass security checks and clearances in order to verify the authenticity of documents.

In another letter the NGA, NCSL, and AAMVA stated their intention to conduct a study of the full costs of the law for the governments involved. According to the letter, the groups considered it “critical that states speak with one voice regarding regulations, …given the critical nature of this issue to our nation and the fact that the implementation of the act will be very challenging to states” (NGA Letter to Department of Homeland Security, November 29, 2005). Exemplifying the ways in which the NGA commonly works with other state and local lobbying organizations, the letter stated the commitment of the organizations to “streamline communications” between their organizations and the federal agencies involved in determining the regulations (NGA Letter to Department of Homeland Security, November 29, 2005).

**Policy Impact Analysis**

In fall 2006, the NGA, AAMVA, and NCSL issued their report outlining the estimated monetary and logistical costs of the Real ID Act. The report, titled “The Real ID Act: National Impact Analysis,” estimated the cost for the states at $11 billion over the course of five years. The driving force behind the high price was the re-enrollment of nearly 250 million individuals over a five year period as mandated by the bill; this requirement was estimated to be about $8.48 billion. The next most expensive portion of the bill ($1.42 billion) was the verification requirement that would force the states to verify the authenticity of every form of identification that was used by individuals to obtain a driver’s license or identification card. Finally, the design requirements mandating the incorporation of design features to prevent tampering and counterfeiting of the identification cards were estimated to cost $1.11 billion.

In addition to the cost estimates, the report put forth a number of policy recommendations to ensure smooth implementation of the bill. First, the groups recommended that the deadline to comport with the law be extended to a later date, particularly the re-enrollment requirement. Second, they proposed that the federal government provide funds to assist the states in their mandated move to REAL ID. Third, the governors and their allies requested that Congress grant the DHS authority to recognize state level innovation in the development of new identification cards and procedures. Finally, a variety of technical recommendations were offered, largely centered around the shared use of electronic databases among the states and their efforts to obtain access to federal databases to help them verify the identity of those seeking identification cards.

---

2 *The Real ID Act: National Impact Analysis* can be found at: http://www.nga.org/Files/pdf/0609REALiD.pdf. This document was accessed October, 2009.
State Legislation Resisting Real ID

In January 2007, just four months after the NGA issued its report, states began to take steps to obstruct the implementation of the law. Maine passed a non-binding resolution opposing the bill with only 4 of 186 lawmakers in voting against the resolution (Riopell, 2007). Soon after, the Montana legislature voted to ignore the law altogether, becoming the first state to do so. At the time of the Montana vote, Hawaii, Georgia, Massachusetts, New Mexico, Oklahoma, Vermont and Washington all had legislation pending regarding opposition to the REAL ID Act (Frank, 2007). Montana State Rep. Brady Wiseman, who wrote his state’s bill said that "You're going to see a lot more states getting on board" (Frank, 2007, p. 3A). Barry Steinhardt of the American Civil Liberties Union also said, "If one state says no, or another state follows Maine, the whole house of cards collapses" (Frank, 2007, p. 3A). In total, nearly 30 states were either considering or had already adopted some sort of legislation opposing the REAL ID Act by February, 2007 (Davidson, 2007). The sheer number of states that eventually had opposed, or were considering opposition, suggested the states were banding together in opposition to the legislation. Indeed, at the NGA’s annual meeting just a day before the governors were to meet with President Bush, Arkansas governor Mike Beebe said that it was critical that states, particularly governors, to present a united front to fend off federal mandates such as those represented by the Real ID Act (Daniels, 2007).

As the move to oppose the REAL ID Act gained momentum, and with the May 2008 deadline looming, Congress evidently began to take notice of the growing opposition among the states as a number of bills to alter Real ID were introduced by congressional members. In February, 2007, for example, Sen. Susan Collins (ME) introduced legislation (S. 563, 2007) to delay the implementation deadline by two years to May, 2010 and requesting that the Secretary of Homeland Security be given the flexibility to amend rules regarding the law. Collins also requested that the committee of state and federal officials from the 2004 legislation be recreated and its input incorporated into the REAL ID Act. Another Maine legislator, Rep. Thomas Allen, also introduced legislation (H.R. 1117, 2007) in February, 2007, calling for the reinstatement of the 2004 legislation providing for regulatory flexibility for the states. Sen. Daniel Akaka (HI) introduced legislation (S. 717, 2007) in conjunction with that introduced by Rep. Allen. Interestingly, many of the provisions contained within each of the bills proposed in February, 2007, were nearly identical to those suggested by the NGA and its allies.

2007 Draft Federal Regulations

In March, 2007, the DHS released its draft regulations for REAL ID, in which the DHS specifically mentioned the NGA and its allies in its introduction of the rules, and made clear that many of the proposed rules had been adopted in response to state concerns as they were laid out in the 2006 report and other meetings with the DHS. For instance, the DHS noted in its proposed rules that it had, “held meetings and solicited input from various States and such stakeholders as the National Governors

3 While formal opposition to the REAL ID Act mostly took place in the legislative arena, it appears that the report commissioned by the NGA and its partners provided the ammunition needed to justify such opposition. In report after report, state officials cite the $11 billion estimated cost of the program to the states and the practical problems associated with the law.
Association and the National Conference of State Legislatures.” (Department of Homeland Security, 2005, p. 121) Also, the DHS stated that its Office of State and Local Government Coordination hosted three face-to-face meetings (October 2005, January 2006 and February 2006), as well as a conference call (March, 2006). DHS also participated in other conferences on REAL ID, hosted by various other stakeholders, including the American Association of Motor Vehicle Administrators. (Department of Homeland Security, 2005, p. 121).

This shift was notable in the fact that the legislation did not formally call for DHS to solicit input from the states. Indeed, it appeared as though the DHS reached out to the NGA and its allies when it became apparent that there was strong opposition to the legislation.

In its draft rules, the DHS explained its response to state concerns by stating, for instance, that it had built in a five year “phase-in” period with which the states could issue new driver’s licenses and identification cards, thus extending the deadline for state compliance to 2013 rather than 2008; it was a critical extension since identification cards from states not in compliance would not be able to be used for federal purposes such as boarding airplanes. In response to the rules, the NGA, the NCSL and the AAMVA issued comments and recommendations to DHS (NGA Letter to Department of Homeland Security, May 8, 2007), which essentially restated their position as outlined in the September, 2006, report. Specifically, the groups expressed disappointment that there was not a further extension of the implementation deadlines and that there was no provision of the money necessary for states to comply with the law, only a rule change that allowed money designated for anti-terrorism to instead be used for Real ID purposes.

In the following weeks and months, the NGA continued to pressure Congress and the Administration. In a letter authored by NGA chair Gov. Janet Napolitano of Arizona and vice chair Gov. Tim Pawlenty of Minnesota, the governors referred to the act as an unfunded mandate that violates the spirit of the Unfunded Mandate Reform Act and requested $1 billion to help offset the initial costs of implementing the legislation in 2008 (NGA Letter to the House, March 19, 2007). The NGA testified to the Senate Homeland Security and Governmental Affairs Subcommittee (NGA Testimony to Senate, March 26, 2007), where David Quam of the NGA laid out the challenges of Real ID as perceived by the NGA, particularly the short time-frame in which states were required to adopt the regulations, as well as the general design of the new identification cards and the costs associated with the shifts to the new systems. Accordingly, the NGA again requested that $1 billion be included in the appropriation bill for Fiscal Year 2008 saying that the requested money would help offset the costs associated with initial implementation of the law (NGA Letter to House and Senate, May 17, 2007). Finally, in a letter to Office of Management and Budget Director Jim Nussle, Governors Ruth Ann Minner and Jim Gibbons formalized the NGA’s opposition to a proposal in the 2009 budget that would allow the states to utilize grant funds designed for homeland security saying that, “States should not have to choose between our first responders and our motor vehicle operations when obligating funds

---

4 The 2007 Draft Federal Regulations can be found at: http://www.dhs.gov/xlibrary/assets/nprm_realid.pdf. This document was accessed October, 2009.
from this ever-shrinking funding source” (NGA Letter to Office of Management and Budget, September 12, 2007).

2008 Final Federal Regulations

In January, 2008, the final rules for Real ID were adopted, and were scheduled to take effect on May 11, 2008. Once again, the DHS conceded on a major point of interest to the states when it granted another extension of the timeline for complying with Real ID requirements. The NGA and other state groups were pleased to have the rules finalized, as the slow process through which the rules were developed itself was a major source of frustration for the states since they were not able to plan accordingly. NGA Executive Director Raymond C. Scheppach suggested as much when he said, “Finalizing these regulations was a necessary step to allow states to determine whether the act can be implemented in a cost-effective and feasible manner” (State groups acknowledge, 2008, para. 2).

Following the adoption of DHS rules, in two separate letters to Congress, the governors asked for $1 billion to cover up-front costs of implementing Real ID. In the letters the NGA signaled its satisfaction with the DHS rules that had been proposed in spring 2007, but reiterated that they would like to see the federal government provide significant funding for the programs associated with Real ID. The governors placed their call for more federal dollars in the context of the federal government encroaching upon traditional state functions, “if the federal government is going to direct state security practices over traditional state functions such as driver’s licenses and identification cards, then the federal government should pay the states’ cost of compliance” (NGA Letter to House and Senate Leadership, March 20, 2008).

By May 2008, the NGA was adequately satisfied with the spirit of the rules concerning the Real ID Act to the point it said the states would comply with the new rules. To be sure, the governors were not pleased with the time that it took DHS to draft and submit the rules, nor were they pleased with the mostly unilateral approach with which the rules were devised and the lack of funding. However, the NGA did show some satisfaction with the fact that a time extension was granted to the states and that the DHS did make an effort to consider the states’ concerns when it issued its final rules.

The Executive Connection

Throughout the time that the NGA and its allies were lobbying the federal government on Real ID, a number of events surrounding the 2008 presidential election were taking place. During the campaign, three potential scenarios involved former leaders of the NGA becoming prominent members of the new administration. Each of the three following situations demonstrates the ways in which the institutional connection between current and former governors and the federal government has the potential to impact federal policy development and implementation (Beyle, 1988; Cammisa, 1995).

First, Minnesota Governor Tim Pawlenty was a possible vice presidential candidate on the 2008 Republican ticket. Throughout 2007 and into 2008, Pawlenty had served as the Chair of the NGA authoring numerous letters to federal officials stating the NGA’s, and implicitly his, opposition to Real ID. Suddenly, Pawlenty appeared to shift course when he said he would veto a noncompliance provision in an
omnibus bill of the Minnesota legislature, citing concerns about the costs of noncompliance (National ID law, 2008). Commentators suspected that Pawlenty’s change of tone was an effort to appease national Republicans and the DHS in the event that he became the vice presidential nominee on the Republican side (Sturdevant, 2008). Though it is unlikely that Pawlenty would have had the opportunity to significantly shape Real ID had he become Vice President, it is notable that he chose to shift his position on his state legislature’s approach to the legislation.

Also on the Republican side of the campaign, former Arkansas Governor Mike Huckabee was in contention to be the presidential nominee until his campaign foundered in the spring of 2008. Until that time Huckabee had been a serious contender and, potentially, could have used Real ID to illustrate how his governing philosophy may have differed from other Republican contenders. In an interview, he signaled as much when he responded to questions about how his approach to governing might differ from that of President Bush. Huckabee said:

The first thing is I'm much more a Tenth Amendment Jeffersonian federalist than the president turned out to be…we don't need an overly centralized, authoritative, empowered federal government. We need to keep that very limited and push the power out as much as possible to states. I've seen that (problem) on Real ID. (Gilbert, 2007, p. 1).

Huckabee’s comments as presidential candidate suggest that he would have made a push to at least alter Real ID if he had made it to the Oval Office, as did his earlier comments in 2005 criticizing the bill.

Though neither Pawlenty nor Huckabee – again, both former NGA Chairs – made it on the ticket in the general election, the Real ID had become an issue that at the very least highlighted the standing of these two men on the philosophical issues surrounding the Real ID Act. On the Democratic side of the race, however, Real ID never truly came into play as no former governors were in serious contention for either the presidential or vice presidential nomination. But following Barack Obama’s victory in the general election, it became apparent that another former NGA leader might ultimately have the ability to affect the implementation of Real ID when Arizona Governor Janet Napolitano received the nod to be Obama’s Secretary of Homeland Security. In December 2008, President Obama nominated the former Chair of the NGA after she supported him throughout his candidacy and she was approved by the Senate in January 2009. Thus, Napolitano was in the unique position of potentially leading the department responsible for implementing a major piece of legislation that she and her state had opposed.

Throughout her time as governor and leader of the NGA, Napolitano publicly commented on the extraordinary costs of the Real ID and helped lead the fight to obtain more federal funding for the program. Signaling her skepticism about the costs of the program Napolitano asked reporters in a 2007 interview:

Are we getting $11 billion worth in real improvement in identifying citizens or is this just yet another feel-good piece of legislation at inordinate cost to the states that, in the end, all it's going to do is raise the price of the average driver's license for the average American? (Gardner, 2007, para. 13).
In summer 2008, Napolitano signed a bill passed by the Arizona legislature formalizing the state’s opposition to the law. In a written statement, Napolitano explained that her support of the Real ID was contingent upon adequate funding from the federal government, which, in her view, the state did not or would not receive (del Puerto, 2009).

Upon her appointment to the cabinet position, observers soon questioned whether Napolitano would push for a change of the law, or possibly even a repeal of the entirety of Real ID (Wald, 2008; del Puerto, 2009). Hints of her intentions were provided when Napolitano said she would speak with an NGA task force and "get their sense of where we need to go on REAL ID," and that she hoped to work with the Senate committee on necessary improvements to the law (Loewenstein, 2009, para. 11). Additionally, she said that she would like to explore “realistic options” with the people responsible for the implementation of the law (Hudson, 2009, p. A05). Accordingly, Napolitano noted that Real ID would be the focus of conversation when she visited the NGA's winter meeting in February, 2009. She said governors need options to make identification more secure, but not necessarily "under the rubric of Real ID" (Hudson, 2009, p. A05) She said that she would look to existing state laws that have updated their systems to meet objectives similar to those of Real ID (Hudson, 2009).

By May, 2009, it had become clear which approach to Real ID Napolitano would take. In testimony to the Senate Judiciary Committee, Napolitano noted that the DHS had been working with the NGA to devise an alternative to Real ID (Napolitano Testimony to the Senate Judiciary Committee, May 6, 2009). The new proposal, dubbed the “Providing for Additional Security in States Act” (Pass ID), was the alternative developed by Napolitano and her NGA counterparts. The purpose of Pass ID would be to meet many of the goals of Real ID in a less expensive and demanding way that would be partly funded by federal grants (Hsu, 2009). According to Napolitano, the bill “is a recognition that Real ID, as originally passed, is simply not being put in place by the states” (Sullivan, 2009, para. 3). Not surprisingly, the NGA was quite pleased with the proposal. NGA vice chair Vermont Gov. Jim Douglas said, "This legislation redefines the partnership between states and the federal government the way it was always meant to be." He added, "Pass ID addresses states' concerns about costs and privacy. In the end, this Act will actually make us secure in a more expeditious manner" (Governors applaud Senate, 2009, para. 4).

As of this writing, the fate of Pass ID has not been determined as vocal opponents to Napolitano’s plans continue to speak out against the proposed legislation. A former senior official at the DHS, Stewart Baker, said "it's a very substantial relaxation" of the current law. "It keeps the idea of standards that will improve security, but it eliminates some substantial requirements" (Sullivan, 2009, para. 6). Also, the sponsor of Real ID, James Sensenbrenner, said the Pass ID would bring the country back to pre-9/11 standards. "She's dead wrong on this issue," Sensenbrenner said of Napolitano’s move to replace Real ID with Pass ID (Sullivan, 2009, para. 12). Regardless of the outcome, the shift from Real ID to Pass ID has highlighted some potentially significant hurdles the federal government must clear in the future as it attempts to devise national security policy that requires significant state action.

5 The text of Secretary Napolitano’s testimony can be found here: http://www.dhs.gov/ynews/testimony/testimony_1241706742872.shtm. This document was accessed in November, 2009.
While it may be tempting to point out the possibility that the NGA may have actually been in a position of weakness during the development of Real ID, it must be recognized that the NGA was formally left out of the original rule making procedures. It was only after the NGA and its allies continued to place pressure upon Congress and the Bush Administration that major changes in the development and application of the law were seen. Thus, the situation illustrates the tools that states and, more specifically, the NGA and other state lobbying organizations have at their disposal in opposing federal efforts to develop national security policy.

**Discussion**

The scenario surrounding Real ID provides an opportunity to examine the institutional and political hindrances to security-related policies, such as Real ID, that ask states to incur significant costs associated with implementation of the policy. The relative youth of this policy area has allowed us to see some of those potential barriers, particularly the political and legal tools that states have at their disposal in resisting similar policies. In this case, the governors took advantage of their expertise and clout in Washington (Broder, 2001; Cammisa, 1995; Haider, 1974) to affect the implementation of Real ID. In doing so, three factors in particular appear to have allowed the governors and the states to effectively resist Real ID.

**Strong State-Level Alliances**

First, the NGA worked closely with its allies the NCSL and the AAMVA in this particular case. As we know from previous research, interest groups tend to form coalitions in those instances in which each group perceives potential allies as both sharing concerns and as having the resources necessary to effectively contribute to the lobbying effort (Hojnacki, 1997), and public interest groups such as the NGA tend to form coalitions in the same manner (Marbach & Leckrone, 2002). Certainly, the three organizations involved in this effort – the NGA, the NCSL and the AAMVA – all brought important resources to bear on the lobbying effort.

For example, as a lobbying organization, the NGA was able to take advantage of its preferred place among interests in Washington, D.C. (Cammisa, 1995) to effectively communicate its displeasure with the ways in which the policy was developed, adopted and implemented. State legislators filled an important role in the lobbying effort, not only through the work of the NCSL, but also through state legislative efforts to pass legislation objecting to Real ID. It must be noted that the NGA does commonly work on issues with the NCSL, but it typically only does so on high profile issues such as this one. Finally, the AAMVA enlisted the expertise of the administrators of state identification apparatuses, and was thus able to provide the technical data and knowledge of the likely impacts of Real ID upon the licensing efforts of the states. Much of this technical knowledge drove the 2006 policy impact report.

While it is not uncommon for the NGA to work with other state lobbying organizations, this particular partnership represented an impressive ability of the states, and various institutional actors at the state level, to resist the Real ID by

---

6 In the 109th Congress (2005-2006), the NGA partnered with other state and local organizations by writing letters to federal officials on six occasions.
working together. From passing legislation and resolutions at the state level opposing the law, to working together through their lobbying organizations to produce the September 2006 report, the governors were effective in coordinating state legislatures and motor vehicle administrators in an effort to lobby Congress and the Bush Administration.

**A Univocal Approach**

Second, in addition to fostering cooperation among intergovernmental lobbying organizations, the governors maintained a united front with which it resisted the Real ID Act. From the time the policy was adopted, NGA leaders such as Huckabee and Napolitano were unwavering from their position that it was unrealistic to require states to implement Real ID and that the costs of implementation were prohibitive, particularly considering the fiscal circumstances of the states at the time. As the NGA lobbied both Congress and the Bush Administration, this message was carried throughout the time leading up to the May, 2008 deadline for state compliance with the law, and continues to be carried by supporters of Pass ID.

In addition, the policy report issued by the NGA and its allies in September, 2006 allowed state groups to drive much of the conversation surrounding Real ID. Indeed, the NGA noted that the report provided a way for state groups to streamline communications and speak with a unified voice as they had hoped (NGA Letter to Department of Homeland Security, November 29, 2005). The report estimated the costs of implementing the policy to be about $11 billion, most of which would be funded without help from the federal government. In numerous accounts of Real ID in the popular media, this $11 billion figure was cited suggesting that the dearth of information about Real ID from the Bush Administration left a vacuum in which the governors and their allies could fill with their own information regarding Real ID.

Furthermore, the governors had prominent and outspoken leaders from both parties who took the lead in stating the governors’ and the states’ case. Surely, as evidenced by the final rules that were adopted by DHS, this vocal opposition contributed to the Bush administration’s decision to collect input from the governors and to extend the deadlines for state compliance and has contributed to the Obama Administration’s early efforts to reform the law.

**The Executive Connection**

Third, a strong institutional connection between the governors, the NGA, and the federal executive branch (now occupied by the Obama Administration) opened the door for a possible revision of legislation the implementation of which at one point looked inevitable. As noted above, throughout the process of developing Real ID, the NGA largely took the lead in aggregating state arguments and communicating them to the federal government. Napolitano, being a former leader of the NGA, essentially embodied the concerns of the NGA, then and as well upon taking her place as Secretary of DHS. Her experience dealing with immigration and security policy in her home state of Arizona put her in position to be an effective leader of the department charged with handling such contentious issues. And her familiarity with the practical implications of Real ID allowed her to represent the interests of the governors in her role as Secretary.
Of course, Napolitano’s move from governor to secretary of an executive department is not entirely unique as numerous governors have reached important positions in both the executive and legislative levels in the federal government (Beyle, 1988; Camissa, 1995). For example, former Pennsylvania Governor Tom Ridge served as Secretary of Homeland Security from its inception in 2003 to 2005 – just after the adoption of the Real ID Act – and former Texas Governor George W. Bush held the presidency during the adoption and implementation of Real ID. In this particular case, the institutional connection of Napolitano as a recent officer for the NGA Napolitano and then with the federal government was especially salient as Napolitano was able to step into her role as Secretary of DHS and quickly convince senators and governors to support a piece of controversial legislation. It is difficult to recall any recent examples in which former state executives have been able to move into a federal executive role and impact policy in such a broad way as rapidly as Secretary Napolitano did in 2009. Moreover, it is difficult to recall a scenario in which a state organization’s concerns so significantly affected the policy decisions regarding a major piece of legislation. Perhaps because the policy area is so new, strong policy subsystems have yet to form allowing Napolitano to drive the decision making.

Conclusion

The events surrounding the adoption of the Real ID and the states’ resistance to the law provide an excellent case study for the examination of the NGA’s influence upon federal homeland security policy and allow for an opportunity to build upon the relatively scant research that examines intergovernmental lobbying more generally (Grady, 1987; Hays, 1991; Cammissa, 1995; Smith, 2008). Throughout the process, the NGA played a prominent role in voicing state concerns in an unequivocal manner. From the adoption of Real ID in 2005, the NGA and its allies had numerous concerns with the legislation, and were able to distill their arguments. Through the use of effective messaging and the utilization of state alliances, the persistent pressure from the governors and the states led the Bush Administration to back away from its earlier commitments to the law by extending deadlines and providing small amounts of federal money to fund portions of the program. Potentially significant changes to the legislation may be on the way as Napolitano – a former governor and leader of the NGA – has been put in control of the agency responsible for the administration of the law she had opposed both rhetorically as the leader of NGA, and formally as the governor of her state. As such, the institutional connection between state and federal executives has proved to be extremely important in determining the future of the bill.

There are, of course, a number of limitations to this examination of the NGA and its resistance to Real ID. First, this inquiry does little to address the lobbying activities of organizations in favor of Real ID. However, it mainly appears that the legislation was adopted partly out of the desire of congressional members to appear strong on security, rather than out of any organized efforts by lobbying groups (Posner, 2008). Thus, there is little evidence that a strong coalition of private organizations actually worked to advance the legislation. Second, the promotion of Pass ID took place after the 2008 election when Congress and the Presidency were Democratically unified for the first time in over a decade, making it appear as though party politics may have been responsible for the receptivity to Pass ID. While this interpretation of the situation is certainly a plausible one, it must also be recognized that many of concessions received by the state organizations were achieved during the time that the
Presidency was still under Republican control. Finally, because the situation around Real ID and Pass ID is still unfolding in 2010, we may learn more about the relationships between institutional actors as the situation unfolds. As it stands, this situation allows us to draw very general conclusions about the ability of NGA to shape federal policy in the homeland security domain. Nonetheless, the actions of the NGA in this realm certainly allow us to draw conclusions about the ways in which the governors work to shape policy in the federal arena.

While there has been much talk about the increase of coercive federalism (Kincaid, 1990), particularly in the post-9/11 era (Posner, 2007; Posner, 2008; Posner & Conlan, 2008), this case study provides one example of how stringent homeland security policies may actually contribute to state resistance to federal legislation that places undue burdens upon the states. In this instance, the strong resistance to Real ID appears to have galvanized the states to the point that a major piece of legislation might be significantly altered to mollify state concerns with this security policy. Furthermore, the federal structure of government in the U.S. has provided state groups with an “insider” – Napolitano – who may seek to significantly rework the bill.

Previous studies have also examined the factors that may predict the likelihood of state resistance to Real ID (Regan & Deering, 2009), and continued study in this area will allow researchers to better understand the federal-state relations that may dictate the ways in which homeland security policies are adopted and implemented in the future. Of course, Real ID represents only one aspect of homeland security policy, thus the policy adoption must be considered in the broader context in which the state and federal governments implement homeland security policy. However, this issue and its handling by both the federal and state governments has potentially critical implications for the future of federal-state relations particularly in relation to security issues. Clearly, in this case the states were willing to bring their case to the federal government through lobbying organizations such as the NGA, and many states were willing to pass legislation formally resisting the actions of the federal government. The lessons of this multi-year battle might provide valuable lessons for both the federal and state governments should homeland security policies need to be adopted more often in the future.

References


Frank, T. (2007, January 31). Montana moves to reject Real ID law; Critics of anti-terror law hope many other states will follow suit. USA Today.


National ID law needs adjustments; Governor, lawmakers should continue to negotiate on Real ID. (2008, April 25). Minneapolis Star Tribune.


**LEGISLATION**


**NGA LETTERS AND TESTIMONY**


National Governors Association. (2005). “Letter (from Governor Huckabee and Governor Napolitano) to Secretary Chertoff expressing Governors’ concerns about the implementation of the REAL ID statute and asking the Secretary to include Governors in the process for developing regulations,” October 6. Available online: http://www.nga.org/portal/site/nga/menuitem.cb6e7818b34088d18a278110501010a0/?vgnextoid=4d3a719bb8bc6010VgnVCM1000001a01010aRCRD. Accessed: October, 2009.

National Governors Association. (2005). “Letter (from Governor Huckabee and Governor Napolitano) to Secretary Chertoff expressing Governors’ concerns about the implementation of the REAL ID statute and asking the Secretary to include Governors in the process for developing regulations,” October 6. Available online: http://www.nga.org/portal/site/nga/menuitem.cb6e7818b34088d18a278110501010a0/?vgnextoid=5c8531b416dd7010VgnVCM1000001a01010aRCRD. Accessed: October, 2009.
National Governors Association. (2007). “Letter (from Governor Napolitano and Governor Pawlenty) to House Budget Committee Chairman Spratt and Ranking Member Ryan requesting that the committee provide adequate budget authority to fund Real ID,” March 19. Available online: http://www.nga.org/portal/site/nga/menuitem.cb6e7818b34088d18a278110501010a0/?vgnextoid=c07d526a59b61110VgnVCM1000001a01010aRCRD. Accessed: October, 2009.


National Governors Association. (2007). “Letter (from Governor Napolitano and Governor Pawlenty) to Senate Appropriations Committee Chairman Byrd and Ranking Member Cochran, and to House Appropriations Committee Chairman Obey and Ranking Member Lewis asking that the fiscal year 2008 Homeland Security appropriations bill provide $1 billion to cover the up front state costs of implementing Real ID,” May 17. Available online: http://www.nga.org/portal/site/nga/menuitem.cb6e7818b34088d18a278110501010a0/?vgnextoid=9ff34bd76b92110VgnVCM1000001a01010aRCRD. Accessed: October, 2009.

National Governors Association. (2007). “Letter (from Governor Minner and Governor Gibbons) to OMB Director Nussle requesting that he consider the release of the Real ID regulations in a timely manner and provide the significant investment necessary to meet the requirements of this federal mandate,” September 12, 2007. Available online: http://www.nga.org/portal/site/nga/menuitem.cb6e7818b34088d18a278110501010a0/?vgnextoid=d4da1239d46f4110VgnVCM1000001a01010aRCRD. Accessed: October, 2009.

National Governors Association. (2008). “Letter (from Governor Pawlenty and Governor Rendell) to House and Senate leadership asking for a commitment to REAL ID by providing $1 billion this year for states for their upfront costs and committing to cover ongoing state costs in the years to come,” March 20. Available online: http://www.nga.org/portal/site/nga/menuitem.cb6e7818b34088d18a278110501010a0/?vgnextoid=e9986c653ec8110VgnVCM1000001a01010aRCRD. Accessed: October, 2009.
CAN JUST WAR THEORY
SURVIVE THE WAR ON TERROR?

Hamner Hill*

In his Nobel Peace Prize acceptance speech President Obama delivered a defense of the war on terror that rests on the principles of just war theory. This speech stuck many as quite odd in that it is not at all clear that Just War Theory can be applied to the war on terror. This paper argues that Thomas Huxley’s famous aphorism “the great tragedy of science, the slaying of a beautiful theory by an ugly fact” applies with a vengeance to JWT. The nature of warfare has changed dramatically since the start of the cold war— asymmetrical warfare, denationalization, privatization, and the growth of non-state actors. States no longer maintain either legitimate or actual monopolies on warfare, but JWT presumes state actors as combatants. While JWT is a beautiful and alluring theory, its usefulness likely ended with the Cold War.

President Obama’s Nobel Peace Prize acceptance speech was essentially a defense of current United States action in Afghanistan through the normative lens of just war theory (JWT). Like President Bush before him, President Obama felt compelled to make the case for the justness of the United States use of military force. Despite the pragmatism and realism for which the United States is famous, all of our presidents have felt the need, as a part of our national identity, to justify military action. The legality of going to war is governed by a wide range of treaties and principles in public international law. The Hague Conventions of 1899 and 1907, the Kellog-Briand Pact of 1928 (Treaty of Paris), the United Nations Charter (particularly article 51), the Judgment of the International Military Tribunal at Nuremberg, and the Nuremberg Principles of 1947 are but a few of the legal agreements that constitute the laws of war. It is worth noting that each of these legal agreements concerning the legitimacy of going to war embodies or rests upon the moral foundation of JWT. JWT starts from the premise that morality indeed has an important role to play in international politics, and provides normative premises for

---

* © 2010 by author, reprinted here by permission. Please send your correspondence to author, hhill@semo.edu.


4 Hague Convention (IV) with Respect to Laws and Customs of War on Land, October 18, 1907, 36 Stat. 2277, 205 Consol. T.S. 277.


ethical arguments about going to war and the conduct thereof. Deeply rooted in the Catholic tradition of Augustine and Aquinas, JWT seeks to balance a general moral abhorrence towards war with the practical recognition that war is sometimes a necessary evil. But is JWT a useful or viable normative framework for evaluating modern warfare generally or the war on terror specifically?

This paper examines JWT in light of recent changes in the nature of war. In so doing it argues that ultimately the changes in the nature of war are so great that JWT no longer provides a useful analytic framework. Section I examines the substantive elements of JWT theory itself and the application of the theory to conflicts between nation states. JWT is divided into two components, *jus ad bellum* (which addresses the justness going to war) and *jus in bello* (which addresses the justness of methods by which legitimate wars may be fought). Section II examines the impact of changes in the nature of combatants, particularly the denationalization of war, on the *jus ad bellum* component of JWT. Section III examines the impact of changes in the nature of combat, particularly the asymmetrical nature of modern war, on the *jus in bello* component of JWT.

### I. Just War Doctrine and Nation State Conflicts

JWT holds that war is permissible if, but only if, it satisfies a set of moral or legal rules. JWT has roots in the Roman world. Cicero, for example, discussed the idea and its application. Despite these pre-Christian roots, JWT is most commonly associated with the Catholic tradition, tracing its origins to Augustine through Francisco Suarez and Hugo Grotius. JWT is a codification of the rules governing the justification for the war (*jus ad bellum*) and the conduct of the participants in the war (*jus in bello*).

While the details vary slightly between just war theorists, the rules generally hold that to be just, a war must meet the following criteria before the use of force (*jus ad bellum*):

---


10 St. Augustine, *The City of God*, Book XIX.


14 The six criteria listed here are representative. Jon Dorbolo, however, shortens the list to four criteria (just authority, just cause, just intention, and last resort), while The United States Council of Catholic Bishops 1983 Pastoral Letter includes comparative justice (which asks whether the values at stake are sufficient to override the presumption against war) as a seventh component of *jus ad bellum*. See Jon Dorbolo, *Just War Theory* available at:
• War can only be waged for a just cause, which may extend beyond the cause of self-defense against an armed attack. Humanitarian intervention and preemptive or preventive war are also often considered just causes.
• War can only be waged under legitimate authority. Usually the constitution and the laws of a nation state specify the institutions and personnel authorized to make war decisions. The U.N Charter authorizes the Security Council to make the international community's war decisions.\textsuperscript{15}
• War can only be waged with the right intention. Correcting a suffered wrong is considered a right intention, but seeking material gain is not.
• War can only be waged if there is a reasonable likelihood of success.
• War must be waged with proportionality in mind. The suffering which existed pre-war should not be overshadowed by the suffering the War may cause.
• War can only be waged as a last resort. War is not just until all realistic options which are likely to right the wrong have been pursued.

Once war has begun, just war theory also directs how combatants are to act (\textit{jus in bello}):

• Just war conduct should be governed by the principle of discrimination. The acts of war should be directed towards the infl ictors of the wrong, and not towards civilians caught in circumstances they did not create. The prohibited acts include bombing civilian residential areas that include no military target and committing acts of terrorism or reprisal against ordinary civilians.
• Just war conduct should be governed by the principle of proportionality. The force used must be proportional to the wrong endured, and to the possible good that may come.

Historically, the just war tradition has focused on working through the moral problems of wars between states rather than on wars within states. This traditional view of armed conflict in inter-state terms is captured well in the \textit{de jure} concept of war, in which war is described as a “conflict between states,” or an “international armed struggle.”\textsuperscript{16} Developed over several centuries, JWT provides a valuable and powerful analytic framework within which to evaluate the morality of war between nation states. War between nation states, essentially symmetrical conflicts pitting one uniformed army against another, are no longer the norm. Thomas Huxley's famous aphorism "the great tragedy of science, the slaying of a beautiful theory by an ugly fact" appears to apply with a vengeance to JWT. The threats to modern security posed by terrorism have lead many authors to question whether JWT is up to the task of providing a normative framework within which to fight a war on terror. Jonathan

\textsuperscript{15} Enforcing U.N. resolutions is both a just cause and a legitimate authority using force. Accordingly, Operation Iraqi freedom can be justified in light of Saddam Hussein’s failure to comply with the terms of the cease fire agreed upon at the conclusion of Operation Desert Storm, which was a just war under the terms of self defense and the defense of others.
Schonsheck, for example, concludes that JWT is inadequate for addressing the question of the morally permissible responses to suicide terrorism. Narrow questions about the applicability of JWT to suicide terrorism, or terrorism more broadly understood, have led Schonsheck to question whether JWT fits modern warfare at all (or enough to be of significant use). One doubts that it does. One suspects that the usefulness of JWT ended with the Cold War.

Much contemporary thinking about war generally, and the war on terror specifically, has been shaped by the experience of the 20th Century: Two world wars, the war in Vietnam, and a half-century of nuclear rivalry between the United States and the Soviet Union. Moral arguments supporting pacifism and conscientious objection; opposing forced conscription; opposing the development and deployment, even the very possession of nuclear weapons; and presuming that the use of military force for any purpose other than national self-defense is essentially unjustified (as reflected in the American Conference of Catholic Bishops' 1983 Pastoral Letter18) all reflect that experience. During the 1990s, however, the presumption against anything but a defensive war was challenged by events, inter alia, the conflicts in Bosnia and Kosovo, genocide in Rwanda, and the slaughter and starvation in Sudan and Somalia. Humanitarian intervention became a justification for the application of military force. All the while JWT remained the normative lens through which the legitimacy of war was viewed. And just war theorists struggled mightily to adapt the theory to the new phenomenon of war.19

The problems associated with attempting to force a particular set of facts into a pre-existing theoretical framework, whether or not that particular framework fits those facts, are well known. Old rules may have served quite well under old sets of facts, but no matter how well they may have once served, if the facts change dramatically, it is possible that the rules are no longer useful. As Harry Jones put it in his Invitation to Jurisprudence:

It has become a truism that law must be kept up to date, responsive to the continuing processes of social change. Present-day judges are very much aware that concepts and categories received from law's past--privity of contract, sovereign immunity, "fault" in divorce actions and many more--may not order contemporary phenomena effectively and justly. It is not that these concepts were necessarily wrong when they were handed down; we are, I think, too quick to assume that. It is simply that, whatever their original justification, they offer the wrong answers for today's problems. One hates, in a way, to see old friends like negligence,

---

17 Jonathan Schonsheck, Terrorism and the Ethics of War in Intervention, Terrorism, and torture, Contemporary Challenges to JWT, ed. Steven Lee (2007) pp155-170; but Neta Crawford argues that (a) a JWT model can properly be applied to the global war on terror, and if it cannot (b) we need to rethink the war on terror. Neta C. Crawford, Just War Theory and the U.S. Counterterror War, 1 Persp. on Pol. 5 (no. 1 March 2003).
18 United States Catholic Bishops. Supra note 14.
consideration and "state action" withering away in vitality and influence, but, to borrow a phrase from Justice Roger Traynor, "the number they have called is no longer in service."\(^{20}\)

II. Denationalized War and Jus ad Bellum

Anthony Gallo once said, speaking of medical ethics, that "Good ethics begins with good facts." Gallo's injunction applies with equal force to questions about the justness of a war. We might begin to look at the phenomenon of modern war by looking at the wars in Iraq and Afghanistan and the war on terror and how they are being waged. One focus of both national and international scrutiny in the war on terror has been on the fact that war is being fought like none other in history (there are the ugly facts of war that may slay the beautiful theory). Yet, despite the evolution of warfare, there has been new and corresponding thinking in JWT. True, there are more than enough attempts to evaluate the war on terror in terms of JWT, but are we using the wrong standard for measure?

Consider the ways in which warfare has changed in the last 60 years while JWT has remained relatively constant. Of all the wars waged across the world since 1945, a third at most have been the traditional kind of war between states. The other two-thirds were wars within societies or transnational struggles in which local militias, internationally recruited guerrilla groups, globally operative terrorist networks, and regional warlords fought one another. States no longer maintain either legitimate or actual monopolies on violence.\(^{21}\) War is no longer bound by shackles of statehood imposed on it by the Peace of Westphalia. War has been denationalized, even privatized.\(^{22}\) The State, which once had a monopoly on war, now competes with para-state and private protagonists, with warlords, mercenaries, and networked terrorist groups that wage war amongst each other and also against states.

The denationalization and privatization of war have taken several forms. On one level there is the simple outsourcing of war from one nation state to a client state. Many cold war conflicts fit this pattern, and more than a few observers assume that it will be followed if Iran continues in nuclear programs—the United States will outsource the destruction of Iranian nuclear capability to a client state much as it did in 1981 with Israel's destruction of the Iraqi nuclear facility at Osirik. At another level, states outsource war to non-state actors (Iran's support for Hamas and the Al-Aqsa Martyr's Brigade comes to mind). At yet another level, the outsourcing of war has come by means of privatization to corporate military providers. Some private military providers are little more than body guards, but others, for example Xe (nee Blackwater Security), several divisions within Boos Allen, CACI, and others, provide genuine military services with personnel trained (at very high cost) by the military. Private military contractors, sometimes called corporate warriors, enable a nation to engage in what are clearly war activities without actually doing those things that constitute making war, and with that great desideratum of plausible deniability. What is more, both private military services and even formally military units now routinely train in what are called Military Options Other Than War (MOOTW). Many


MOOTW are decidedly war-like (consider the armed, unmanned Predator, controlled by a civilian contractor, firing missiles into a convoy of vehicles) but the activities fall outside traditional definitions of war. The outsourcing of military operations creates a situation in which States can functionally engage in war while effectively escaping the constraints of JWT, making JWT irrelevant to the reality of modern conflict. Finally, the denationalization and privatization of war has lead to the emergence of non-state actors that not only wage but also declare war.

It is time to turn now to the significance of non-state actors waging and declaring war on their own behalf and not as proxies for States. Conflict is no longer limited to sovereign nation states battling each other. We are faced with questions of what to do with quasi-States like Palestine. We need to know how to confront sub-national aggressors, commonly called terrorists. Terrorists can be organizations, small, scattered groups or perhaps only a single individual. These organizations or individuals are not entities with their own national borders. Instead, they are hiding in and using some sovereign nation as a base of operation. They are possibly hiding with the support of the government, or perhaps without the government even being aware that it is hosting the enemy. All of this presents a direct challenge to several aspects of the *jus ad bellum* component of JWT. Most obviously, the assumption that only nations engage in war is demolished. Moreover, the notion that wars must be declared is undercut by the very nature of the activities necessary to fight an asymmetrical conflict against enemies using non-conventional means. Finally, the introduction of non-state actors as war declarers requires a rethinking of the just cause/right intention aspect of JWT. If one grants that nation states may declare war for humanitarian reasons (e.g. preventing genocide or ethnic cleansing), one at least needs to take seriously the non-state actors’ claim to act in cultural self-defense. Would not a group of Tibetan guerrillas trying to throw off the yoke of Beijing, end the destruction of the few monasteries left, and preserve what is left of Tibetan language and culture have a just cause?

Civil wars and acts of humanitarian intervention are particularly troublesome for JWT. Michael Walzer asserts that citizens have a right to rebel against illiberal, undemocratic or tyrannical governments. While intuitively satisfying, recognizing a right to rebel stretches the traditional core concept of a just cause, here self-defense against aggression, to the breaking point. Even if the just cause component of *jus ad bellum* can be satisfied in cases of civil war, there are still insurmountable problems concerning legitimate authority and right intention. A revolutionary group is, by definition, not the recognized, legitimate government of a state, so its use of force falls outside the permissible bounds of JWT. Moreover, the state that is rebelled against will insist that the revolution is not backed by correct intentions, and JWT provides no mechanism for adjudicating the dispute. Finally, Walzer argues that foreigners must make a “morally necessary presumption” that states are legitimate and hence refrain from intervention in civil wars. Even though there are many states the international community would find “objectively

---

illegitimate,” places where “the ‘fit’ between government and community is not of a
democratic sort, there is still a ‘fit’ of some sort, which foreigners are bound to
respect.” A presumption of legitimacy seems to lead to international impassivity
even in the face of extreme humanitarian suffering. To the extent that humanitarian
intervention and rebellion are sometimes justified and legitimate, JWT does not
provide a helpful analytic framework for establishing that legitimacy.

III. Asymmetrical War and Jus in Bello

What all of the denationalized forms of war discussed in the previous section
have in common is that they are asymmetrical. In asymmetrical conflicts the forces
are generally grossly mismatched and the chances of killing and being killed are not
(usually) equally distributed. The image of gentlemanly conflict is a thing of the past.
War is no longer simple, and many chivalric notions regarding the “honor and glory”
of battle are now lost, or dead. It is not that nation states no longer try diplomacy first
and then agree to settle their differences on the battlefield; rather it is simply the case
that battlefield conflict is no longer the only mode of warfare. The idea that wars will
be fought battle after battle with troops and tanks clashing with equivalent forces is an
outmoded notion. No longer are there only set-piece conflicts with determinate
targets, proportionate and reasonable conduct, uniformed soldiers, and clearly
delineated national boundaries to limit areas of conflict. In fact, for most non-state
actors participating in traditional combat with a modern army is suicidal, as would be
the case for state actors imprudent enough to challenge the United States in traditional
conflict.

One of the crucial lessons of the Tet offensive was that it was militarily
disastrous for either the Viet Cong or the NVA to fight pitched battles. Moreover,
most observers agree that the Soviet army won better than 90% of the battles it fought
in Afghanistan. But the traditional battles in Vietnam and Afghanistan were not
decisive, the grueling war of attrition was. Asymmetrical capabilities almost
inevitably lead to asymmetric conflicts, in which opponents use nontraditional
weapons and tactics. In Afghanistan and Somalia, readily available and extremely
low cost rocket propelled grenades were used with stunning efficiency against state of
the art military helicopters. United States military planners clearly recognized (and
then apparently forgot) the significance of the emergence of asymmetrical warfare
shortly after the First Gulf War. A major review of United States military planning,
capabilities, and strategy after the First Gulf War concluded:

27 Id. at pp. 214-218.
28 See, generally, Asymmetric Warfare (bibliography). Naval War College, available at
rfare.htm; Applegate, Melissa A. Preparing for Asymmetry: As Seen Through the Lens of Joint
Vision 2020. Carlisle Barracks, PA, Strategic Studies Institute, Army War College (2001); Blank,
Stephen. Rethinking Asymmetric Threats. Carlisle Barracks, PA, Strategic Studies Institute, Army
War College (September 2003).
29 The Tet offensive was a coordinated series of attacks on United States and South Vietnamese forces
launched on the eve of lunar new year (Tet) January 31, 1968, by the North Vietnamese regular army
(NVA) and Viet Cong.
30 Don Oberdorfer Tet: Who Won?, Smithsonian Magazine (November 2004), available at
31 Victor Sebestyen, West ignores lessons of Soviet humiliation in Afghanistan, The Sunday Times (July 19,
We can assume that our enemies and future adversaries have learned from the Gulf War. They are unlikely to confront us conventionally with mass armor formations, air superiority forces, and deep-water naval fleets of their own, all areas of overwhelming United States strength today. Instead they may find new ways to attack our interests, our forces, and our citizens. They will look for ways to match their strengths against our weaknesses.\(^\text{32}\)

The asymmetry of modern warfare includes changes in the aims of war (why groups go to war), changes in the combatants, changes in the tools of war (both in terms of weapons and strategies), and changes in the way war is conducted that are so extreme that the practices that characterized “modern” war, as it developed among industrial powers in the twentieth century, have given way to what some call “postmodern” war. Properly conveying the complexity of war and its transformation is far beyond the scope of this paper, and it has been done well elsewhere; \(^\text{33}\) the purpose of this paper is to examine the implications of the changes in the main features of war since JWT was articulated.

Today the world must confront asymmetrical warfare on a global scale, but JWT works only with sovereign nation states as the crucial players. Nations fighting on open but defined tracks of land or ocean with clear objectives and reasonable expectations for behavior by both sides—this is the model JWT proposes, and clearly this theory is no longer sufficient. The traditional requirement that a just war can only be waged by a legitimate authority rules out, de facto, any just wars of revolution. On the other hand, Walzer’s human rights approach provides little ground for finding any revolutionary or terrorist campaign unjust since they are invariably cast in the language of securing the human rights of the oppressed. The central principle in Walzer’s interpretation of the *jus in bello* requirement is that of non-combatant immunity.\(^\text{34}\) It is fairly straightforward to see how this principle emerges from a human rights theory. The problem, however, is that once terrorism is defined as a form of war, and the fact that terrorism explicitly denies any distinction between combatants and non-combatants is recognized, the principle of non-combatant immunity loses all its force. Everyone is a legitimate target.\(^\text{35}\) What is needed is a new theory that can propose reasonable restraints and allowances for the critical issues to follow, questions JWT cannot answer.

To see how Walzer’s human rights approach to JWT is inadequate to modern war, consider the nature of logistics and supply lines. Traditional military operations require an extensive "logistical tail." Much of the ‘revolution’ in the United States armed forces between the 1990 and today has involved attempts to radically shorten


\(^{35}\) Walzer argues, however, that historically terrorists have in fact discriminated between targets and that random targeting is a recent development. Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations,* Third Edition (2000).
the military's logistical tail, and for good reason. The logistical tails are ideal targets for both sides to a conflict. Severing or disrupting supply lines constitutes a major victory. When dealing with a guerrilla army or a terrorist insurgency, however, the logistical tail is both very short and rooted in the local community. The significance of this fact is that it becomes difficult, if not impossible, to attack the logistical tail of an insurgency or guerrilla army while respecting the principle of non-combatant immunity. On the other hand, the shortened logistical tail of a modern standing army is inextricably bound up with the civilian economy. In Iraq, for example, civilian contractors provide many of the supply and support services needed by United States forces there. Is an attack on a Haliburton mess tent an attack on a military or a civilian target? What about an attack on a Kellogg Brown and Root fuel tanker delivering diesel fuel to a forward operating base? Or an air strike against hijacked fuel tankers designed to deprive the enemy of the resource?

The presence of non-state actors as war wagers and declarers, which creates serious problems for the *jus ad bellum* component of JWT, also raises thorny problems on the *jus in bello* component of JWT. Requirements of discrimination, proportionality, and the use of no means evil in themselves are rules that assume roughly symmetrical traditional forces fighting traditional battles. Terrorists and freedom fighters simply do not have the means, even if they have the desire, to fight discriminately and proportionally (the Soviet bloc arms that now flood world arms markets are notoriously imprecise but cheap and deadly), and they may well find that some inherently evil means (kidnapping, random bombings, using children as combatants) are particularly effective tools. Expecting an insurgent force to play by the rules designed by a vastly superior force is naive. We might call this the paradox of military hegemony.

On the other side of the coin, too, superpowers (or even just big powers) may find that the demands of asymmetrical warfare are incompatible with *jus in bello* doctrines. Even if they accept discrimination and proportionality as legitimate constraints on superpower war making, they may find it necessary to use means which seem beyond the pale. Depending on the specific nature of the threat one faces, kidnapping, torture (sometimes carried out by a client state), assassinations, targeting specific individuals including civilian authorities, even attacking the family members of an enemy target, may all be deemed necessary. The moral compromises that the United States has made since September 11, 2001, or that Israel has made since Munich, indicate that even vastly superior force cannot fight an asymmetrical war according to the principles of *jus in bello*. One might hear, faintly, a distorted echo of the Athenians at Melos—JWT applies only to relative equals in power.

### Conclusion

---

In conclusion, JWT is inadequate as a conceptual moral framework for dealing with the war on terror. Recent analyses of Walzer’s work suggest as much: David Duquette\(^{37}\) is convinced that Walzer’s efforts to modify the theory to make it applicable to the war on terror go too far in the direction of realism, while Patrick Hubbard\(^{38}\) is convinced that Walzer has not gone far enough in the direction of realism. Taking this line of thinking further, however, suggests that JWT is inadequate as a conceptual moral framework for 21\(^{st}\) century warfare. This is not to argue, as Neta Crawford does, that “United States strategy needs to be reformulated to de-emphasize” military responses to terror.\(^{39}\) Rather, what is needed is a new normative framework for assessing the morality of war and the legitimate use of violence by the state that takes account of current realities. Hubbard argues that Walzer’s principle of non-combatant immunity is plagued by the critical defect that Walzer himself identifies in formal rules of war:

> Its decrees do not command intellectual or moral respect — except among the positivist lawyers whose business it is to interpret them. The lawyers have constructed a paper world, which fails at crucial points to correspond to the world the rest of us still live in.\(^{40}\)

The moral concepts JWT provides for evaluating the morality of going to war, and the morality of the means by which wars are fought, do not fit the realities of modern warfare, particularly the war on terror. While JWT is an elegant theoretical framework that has guided moral thinking about the morality of war for centuries, it just does not fit the modern world. This does not mean abandoning moral analyses of war in favor of realism, at least not yet. The situation for those thinking about the morality of war is similar to what Thomas Kuhn calls a crisis point in scientific thinking. What is needed is new, revolutionary thinking about the moral justification, if there be one, for the application of violence against new threats.

---


\(^{39}\) Crawford, Neta C., *Just War Theory and the U.S. Counterterror War*, 1 Persp. on Pol. 5 (no. 1 March 2003).

\(^{40}\) Michale Walzer, supra note 35 at p. xix.
The Middle East gave the world Judaism, Christianity, and Islam. These faiths had flourished at their respective dispensations. Their internal logic gave rise to the trajectories of their evolution. Judaism is an exclusionist faith, and that exclusiveness influences the political culture of modern day Israel. Christianity progressively declined, because it lacked the survival edicts that have enabled Islam to become the dominant faith in the region and beyond. This paper will discuss the dynamics of survival and lack thereof in these three faiths.

Judaism, Christianity, and Islam first emerged in the Middle East in their respective dispensations. The three monotheistic faiths are rooted in the same biblical ground; they acknowledge Yahweh God or Allah as the only creator of the universe and that the human races share the same ancestral parentage in Adam and Eve. The core message of the three faiths, the oneness of God, and the Day of Judgment, is the same, with Islam diverging into its own version of Quranic interpretations.

Over the centuries, the three faiths have elaborated the oneness of God and the Day of Judgment into extensive theological modifications. As they did so, they seem to rely on their respective schools of thought for highlighting more of their differences than their commonalities. Through these modifications, the prophetic messages they hold as cardinal, exclusive, and sufficient condition to please Yahweh/Allah vary in the intensity and emotional or psychological effects they engender among their respective believers. Whereas Judaism and Christianity uniformly accept the Old Testament in the form of the Torah and the Old Testament, they differ in the messianic dispensation and in the inerrancy of the New Testament messages. Islam defines its manners of worship primarily by the Quran as uttered and recited by the Prophet Mohammed. Islam’s link to the Old and New Testaments are referential and tangential. These theological differences lead to political, economic, and social positions that are immune to pragmatic and rational solutions. This paper gives a brief highlight of the three faiths and the political culture they each cultivated. This is reflected in the political participation and social interaction that had shaped modern Middle East. A brief summary of the historical background of Judaism, Christianity, and Islam will show that political and diplomatic rigidities between Israel and its Arab Muslim neighbors are largely, if not wholly, affected by religious orthodoxies.

The vast scholarship on religious studies must contend with being subjected to skepticism due to being based on inspirational instead of on rational or scientific thoughts. Religion should be studied and examined due to its impact and influence on the political, cultural, and economic policies of states. Religions are also taken as sources of sanctimonious pride by fundamentalist believers who regard other faiths as
inferior and obstacles to global domination. For these reasons, as for their merit as
guides to a godly life, religions are accepted as a serious topic of analysis. Judaism,
Christianity, and Islam are particularly subjected to extensive analysis by scholars for
the cataclysmic events they inspired throughout human history. While Christianity
may be largely resigned from directing and steering the modern state, Judaism and
Islam see themselves as integral parts the state. In Islam as in Judaism, the secular
state is a heretic; it must be supplanted by the ecclesiastical state. While Judaism is
domiciled in its tolerance of the secular State of Israel, Islam, in its scriptural
authenticity, yearns for the dispensation of the Caliphate state. Hugh Kennedy (1986),
referring to the Caliphate vision that hard-line Muslims anticipate, stated:

Islam was to be the religion of all humanity, not just the Arabs, and there was
no reason why the authority of the *Umma* in Medina should be confined to the
Arab speaking peoples; the Islamic conquests were natural continuation of the
Prophet’s work. (p. 49).

The fundamentalist groups whose terrorist acts are the primary concerns for
safeguarding homeland security and domestic tranquility believe that “Islam was to
take the religion of all humanity” ((Karsh, E. 200: 62). The “Islamic conquest”
will not have fulfilled the goals envisioned by the Prophet until the full conquest of
the world is achieved by all means necessary, including clandestine acts of violence.
The political critical statements with respect to the three faiths are:

1. Judaism is an exclusionist faith, and that exclusiveness influences the
political culture of modern day Israel. The “Chosen People” identity
given to the Jews creates symbiotic union of ethnicity and religion that
sets the Jews apart from other religions Citizenship is based on being born
to the faith. Such a belief creates a culture of parochialism that is
incompatible with political solutions to conflicts and harmonious co-
existence with others.

2. Christianity is a passive-inclusive faith governed by Old Testament
militaristic tendencies, but restrained to passivism by the teachings of the
evangelizing the world on a voluntarily basis.¹ Fundamental Christianity
differs little in its political stands from that of fundamentalist Judaism or
fundamentalist Islam. Christianity differs in its ability to adapt its
 Teachings to doctrinal innovations. The New Testament strengthens the
Old Testament’s positive teachings and harnesses its activist, violent
tendencies. New Testament injunctions on meekness, enlightenment
philosophies, and liberal political systems have neutered and pacified
Christianity into a push-over faith forcing it to cede its territorial
sanctuaries to Islam. Places that were once birthplaces of Christianity,
such as Turkey, Syria, and Egypt are predominantly Islam with little or no
 traces of Christianity.

¹ According to Aaron Tyler, Christianity rejected forced conversion. Its evangelistic and outreach
methods were based on the belief that “Faith must be approached by each individual voluntarily,
trusting in God’s power to avenge those who hold him in contempt.” See Tyler (2008 : 48.)
3. Islam is a hegemonic-universalist and expansionist faith. Islam’s political culture aspires for a greater vision of world domination to fulfill religious duties as spelled out in the irrevocable, scriptures as written in the Quran. Islamic societies consider Islam as the final word of Allah and it is the duty of all Muslims to spread Allah’s edicts on earth (Lewis, B. 1992: 174). This positions fundamentalist adherents of Islam as having the responsibility for global Islamization, a responsibility of divine proportions and seemingly impractical short of the application of violent force.

This analysis starts with Judaism, the oldest faith, and concludes with Islam the most recent. Even though the worldwide Jewish population is less than 20 million, the Jewish impact on global affairs is no less than that of Christianity or Islam (Johnston & Sampson, 1994).

**Judaism: The Faith**

The Patriarch Abraham of Mesopotamia began the Judaic faith. The Pentateuch or the five Books of Moses lay the groundwork on which the three faiths mentioned above flourished or floundered in their own dispensations. The books of Moses give an account of the creation of the earth, the emplacement of man in the Garden of Eden, and the establishment of an institutional tribe, the Chosen People, constituting a theocratic state under the leadership of Moses.

The Books of Moses are systematic blueprints for a godly life governing the behavior of a collective ethnic group, the Chosen People. God’s plan to have a most favored tribe from the human race separates the Jews from peoples of other religions. Being a specially favored people of God also places a standard of life that must be governed by strict rules and responsibilities. Within the Books, the Ten Commandments are particularly significant as guidelines to a godly life. The Commandments elaborated in Talmudic analysis are also the basis for the cultural standard of the Chosen People. These Commandments specify believers’ relationship with their God and with their fellow believers.

Moses received the Commandments from God and delivered them to the Hebrews. They are crafted in holy marble tablets as a divine constitution for the establishment of the first Jewish nation under the leadership of Moses. The Israelites were to observe and obey God’s Commandments or face God’s anger when they violate His divine Laws. The Commandments as rules for living a godly life are clear, precise, and simple enough even the shepherd boy or girl who has just learned how to shepherd a flock of sheep can understand them. The Israelites accepted the Ten Commandments as their constitutional guide with Moses as the tribal head chosen by God to lead His Chosen People. Soon the Israelites went against God’s Law when they worshiped idols. They proved perpetually incorrigible and habitually disobedient to Yahweh. Yet the affection of Yahweh never left them. He tolerated their transgressions and warned them to repentance saying:

I the Lord thy God, am a *jealous God*, visiting iniquity of the fathers upon the children unto the third and fourth generation of those that hate me and
showing mercy unto thousands of them that love me, and keep my commandments (Exodus 20: 5-6).

God’s mercies were shown to Israelites in spite of their repeated sins against Him. Finally when, on their way to the Promised Land, they persisted on sinning, breaching the Ten Commandments, and breaking God’s Laws, God denied them entry into Canaan, the Promised Land of “milk and honey”. Instead, God left them to wander in the Sinai Desert for forty years. Moses, their leader, too was denied entry to the Promised Land due to an outburst of pride he displayed when he credited himself with providing the Israelites with water to drink by striking the rock when they were wandering in the Sinai desert. It was left up to Joshua, the successor to Moses, to lead them to the Promised Land.

After Moses departed from them in death, the Israelites suffered defeat and exile at the hands of their adversaries, the Egyptians, Assyrians, the Nubians/Ethiopians, and the Persians. As they oscillated between dedicated faith and habitual backsliding, God continued to interact with them never abandoning them to perdition. He sent them messengers empowered with divine determination to admonish them for repentance and to instruct them to stay true to their special position as His Chosen People. The Prophets of the Old Testament, such as Isaiah, Jeremiah, Ezekiel, Daniel, communicated God’s word in ways that edified and rebuked the Chosen People. The timeless prophesies from their indomitable prophets, their sermons, songs, prayers, and commentaries represent the best and finest literary legacies of ancient days with astounding inspirational power for modern days.

The People

The biblical identity, the “Chosen People”, set the Israelites apart from their neighbors for their entire history. Such a burden of being a select people of God and still being part of the secular world must have made the Israelites self-aware of their peculiarity. Their sense of self, their uniqueness, and their innate tribal identity fused with their faith, were based on the sacred Laws. Yet their being human, no more human than the level of all human races, exposed the Israelites to a bitter conflict with their neighbors at the ghettos, at the trading centers, and at the institutions of governments. Perpetual exiles and yearning to return to their Zion – Jerusalem – always gripped their imagination. Their longing for Zion and the poignancy of their repeated exiles are reflected in the testimonials of the Book of Psalms (Psalms 137: 1-7).

Being a Chosen People of God also gave the Jewish people an elevated sense of self which was translated by the rest of humanity as a tribal arrogation of faith. To the Hebrews, their tribal identity as the Chosen People of God meant the expression of their faith; to the gentiles, Jewish identity meant a parochial peculiarity that had always bordered on a sense of superiority. A frame of mind affected by an exclusive faith on the part of the Jews, and a sense of resentment on the part of the gentiles with whom the Jews came in contact created a perpetual conflict that escalated to discrimination, persecution, massacres, and pogroms. A Schalit offers a broader explanation of the struggles and survival of the Jews as follows:
The tenacious survival of the Jewish people, its original culture intact and its spiritual integrity uncompromised is a story unique in history. It was made possible by a unique religion. In the course of three thousand years, Judaism has changed and developed but it has never surrendered its laws, its single-mindedness and its absolute faith in its own mission. It was Judaism, not any racial features, which gave the Jews their separate identity and it is Judaism that has kept them a separate identifiable people until today. (Schalit, 1969: 48).

As they struggled to survive and thrive, they had to maintain the boundaries of ethnic separation and struggled in all facets of economic, political, and social life. Even though they had adapted throughout their history, to the belief of a Chosen People as a faith and a culture, their humanity in living a godly or ungodly life was not different from that of other races or religions.²

The promise of God to give land to the Israelites and for the Israelites to find themselves dispossessed, scattered throughout the world in deserts, metropolitan ghettos, and hamlets is a part of their history. The need to have a place to settle and the struggle they have to go through to validate themselves as a nation and a people is interwoven in the history and culture of the Jewish people.

The Israeliitic attitude is, furthermore, still effective in the policy of the modern national states through the idea, not always rationalized and expressly formulated, that no member of the political community, however insignificant his status, can fall wholly outside the community (Voegelin, 1997: 113).

The inherent inability of the Israelites to form an abiding unity and common purpose with other races is also reflected in the creation of the state of Israel. Both fundamentalist Zionists and secular believers of the Jewish faith show substantial political and cultural differences, but share a common belief that the state of Israel is a Jewish state. In other words, the sovereignty of the land and the religion of the tribe are inseparable, indivisible, and nontransferable to non-Jews. Bernard Reich stated this as follows:

Israel’s special role as the world’s only Jewish state has had a manifold effect on its political system. Israel is interested in the well-being of the Jews everywhere and is concerned that all Jews who wish to immigrate are free to do so. The encouragement of Jewish immigration has left its mark on every aspect of Israeli life. The commitment to unfettered Jewish immigration was articulated initially in Israel’s Declaration of Independence, which proclaimed that ‘the State of Israel will be open to the immigration of Jews from all countries of their dispersion.’ (Reich, 1997: 270).

² Hannah Arendt makes extensive analysis of the Jews struggle between “emancipation and assimilation” in 19th century European societies. The more they assimilated, the more they became like the other races and religions resulting to highlighting the morphed nature of Jews religion and Jews race (Arendt, 1973, pp. 54-88).
The Culture

The political culture of modern day Israel is shaped by the history of the Jewish people. Their wandering in the Sinai Desert parallels their repeated exiles. Most significantly, the Jewish mindset of facing formidable odds against whom they must prevail is solidified into the Jewish culture of self-sufficiency within the exclusive community of the Chosen People (Cox, H. 1994). Their Babylonian exile and their return back to Jerusalem to rebuild the Second Temple are eternally celebrated as symbols of perseverance. The mandate for rebuilding the Temple, the vigilance, the songs of hope, and victory that the exiles had achieved as they completed the Temple remain sources of inspiration and dedication to an ancient tradition.

Their dispersal into all corners of the world after the cataclysmic destruction of Jerusalem by Titus in 70 A.D. was another episode that shaped their cultural values of struggle and survival. In the anxious centuries of the middle Ages, their survival was again assured by their political and economic savvy in making themselves useful bureaucratic and economic functionaries to European kings (Arendt, 1973: 16). Their return to Palestine after the First World War introduced a new dimension to the already uncertain Middle Eastern politics.

The Arab population was enraged over the eventuality of a Jewish state in their midst. Even before the First World War, the Ottoman rulers resisted Jewish immigration to Palestine. The declaration of the State of Israel in 1948 and the instant recognition of Israel’s sovereignty by the United States aroused Arab anger and resentment against the Jewish state. A series of wars in 1948, 1956, and 1973 heightened Israeli sense of vulnerability. They also served to mold a steely determination to struggle and survive. Eric Voegelin summarized the attitudinal mind set of the Jews as follows:

In the sentiments underlying Israelitic political thought, the two trends – the faith in the victorious community and the negation of the community as ultimately defeated and dissolved – do not separate, but enter into a unique blend. To understand the phenomenon fully, let us recall the elements of the situation. There is the original war confederation living in the expectation of ultimate victory under divine leadership. In eschatology, this phase expresses itself in the belief that the “Day” will bring some catastrophic events, through the intervention of Yahweh himself (Voegelin, 1997: 116).

The above statement can be interpreted as reflecting the common political belief and culture shaping different Jewish groups in their quest for global validation. The zealotry and fervency of faith expressed by the Zionists is a hard line stand determined to retain permanently a purely Jewish state. The envisioned Jewish state is Hebraic, traditional, and intolerant to the inclusion on non-Jews. On the other hand, the tempered aspiration of the secular and reform-minded Jews countenances diversity. They aspire for a Jewish homeland under the control of the Jews, but tolerant of minority groups. Both the hard line Zionists and the secular Jews never managed to find an easier path to achieve their quest since the struggle for a Jewish homeland is
began in the nineteenth century (Reich, 2002). Their common goal for a homeland, the diplomatic, military, and political resistances they faced in their struggle molded an embattled culture deeply immersed in acquiring survival capabilities. The struggle for survival also created a spillover into an untoward rigidity of culture. Hanna Arendt argues that this cultural rigidity and defensive mindset is ambivalent to the universality of human rights and is as crucial for other oppressed peoples as for the Jewish people. The human rights campaigns that contributed to the emancipation of Jews and allowed them to establish the state of Israel also contributed to the displacement of the Palestinian Arabs, but the Israeli Jews have learned to quietly accept the inconsistency of their values and beliefs (Arndt, 1997). Israeli culture is shaped by the blending of faith and tribal identity. When national duty calls for reconciliation and understanding with other faiths and cultures, the ancient cultural orthodoxy stands in the way as a unique symbol of steadfastness.

The Israelites, in all of their history remained a nucleus community, separate, distinct, and unrelenting in conformity to their faith; and when the intensity of their faith waned, as is obvious in today’s secular Israel, they transfigured their faith into a culture of separate existence. They are, in deeds and words, no different than other human races. What has become apparent throughout the Jewish life is that the religious practice has morphed into a political culture that reflects both of their separateness or uniqueness and their human attributes.

**Christianity: The Faith**

Christianity evolved through phases of scriptural modifications. At its inception when the first Disciples were struggling to constitute themselves as a religious community, their membership was composed mainly of Jewish converts and a handful of gentiles (Vogelin, 1997). Eventually the small community of believers, who were called by the epithet name “the Christians” at Antioch, Turkey, accepted that name and continued to spread Christianity in Palestine and Asia Minor.

In its historical evolution, Christianity’s role in world affairs soared as a faith of European kings and queens who considered themselves as divine rulers. Eventually divine rule gave way to liberal parliamentarian systems as did the ecclesiastical authorities that justified centralized authority in both of the secular and the sacred realms. The relaxation of authority opened up the door for scriptural analysis and interpretations that also extended biblical inquiry into multiple approaches and doctrinal analysis.

Christianity’s developments to its modern features are rooted in these scriptural and historical developments. They seem to have strong impact in its rise and fall. Specifically, three trajectories can be identified as affecting Christianity’s demise in the Middle East to its weakened state today. They are Christianity’s inclusive and voluntary methods of bringing believers into the Christian fold, its doctrinal flexibility, and the laissez faire method of interpreting scriptures. These three features served as determining factors in the rise and fall of Christianity globally in general and in the Middle East.

**A Modernizing Faith:** In medieval Europe, Christianity served as source of inspiration and a driving force for political agendas. European kings and queens sought spiritual rationalization for their political designs in order to justify even acts of injustices and inhumanity. Over the years, as modernization brought complete
transformation of societies, political manipulation of the faith stigmatized the faith and eventually eroded its Gospel and Apostolic credibility. Modernization of Christianity transformed the cultural values of its adherents into what came to be known as Christian civilization. As a form of faith and civilization, Christianity’s internal strength and its zealous militancy were restrained by the open and liberal interpretation of the scriptures.

Christianity and the remains of classical learning reached everywhere, touching the poor and illiterate, as well as kings and prelates. To villagers, these two influences eventually provided the lever for prying a modicum of independence from their lords (Cheyette, 1968: 9).

Christianity early abandoned its dogmatism and encouraged liberation of thought among the believers. Even before the Reformation, the early Church read scriptures in broader terms to facilitate salvation by grace. As rationalism and scientism proceeded, the binding strength of the Church loosened, and freelance interpretation of Scriptures resulted in the Reformation and the proliferation of denominations. Doctrinal interpretations was historically the vocation of scholastic clergy and monks offering myriads of exegetical interpretations on the doctrine of Trinity, the nature of Christ, the use of graven images, and endless other controversies (Gibbons, E. 1986). This resulted in a Christian culture universally discordant, united only in the triad doctrine of the Trinity. Even then, the internal logic that solidified the doctrine of Trinity is more of a source of cultural and theological fragmentation than a state of a harmonious Christian culture. The confusing theological disputes that raged in Christianity’s early rise required a series of conferences and the attention of high level ecclesiastic and royal authorities.

The Council of Nice in 325 CE, the Council of Constantinople in 381 CE, and the Council of Ephesus in 431 CE are a few of the many councils that had attempted to resolve doctrinal controversies. Even after intense debates and violent arguments, these gatherings and similar others were unable to consolidate a firm and universally accepted Christian doctrine. Instead, simmering disagreements erupted into violent episodes resulting in the utter decay of Christianity, particularly the Eastern Church whose main territory was Asia Minor. The decay and doctrinal stalemate persisted until the 6th century when Islam, with a burning zeal emerged to utterly destroy Christianity from Arabia, and continued unabated until the 9th century to completely Islamize Syria, Palestine, Egypt, North Africa, Turkey and Southern Europe (Lewis, 1994; Karish, 2006). The decentralization of authority disarmed Christianity and deprived itself from acquiring aggressive means for defending its turf from adversarial competition.

A Passive and Open Faith: Perhaps the most challenging obstacle to the sustenance and vitality of Christianity was its inability to garner the enthusiasm to create effective proselytizing strategies that go beyond simple persuasion. In Christianity forceful conversion was considered ex-scriptural; recruitment of believers had to be voluntary and a joyful proclamation of an authentic faith that needs no pressure. This
Isaac

is an important difference from Islam where persuasion, monetary remunerations, and even threat of sanctions are acceptable practices.\(^4\)

Christianity is an inclusive faith based on voluntary conversion with little pressure exerted for coercion. There are no scriptural dictates calling for implicit or explicit coercion. There are administrative and hierarchical structures separating church authorities, clergy, and lay persons. Administrative duties, teaching the faith, and tending the congregation of believers does not transcend to enforcing and forcing the faith. Believers join the faith voluntarily and if they decide to backslide and embrace other faiths, such as Islam, the administrative structure does not impose physical injury against the backslider. The rear-guard priesthood/Mullahs and iron laws of Islam that punish deserters and backsliders of the faith with capital punishment is a stark contrast to the Gospel instruction that tells the Disciples to preach but not to despair if their preaching is rejected. The Gospel says: "And whosoever will not receive you, when ye go out of that city, shake off the very dust from your feet for a testimony against them" (Luke 9:5, King James Version).

The Christian Culture

Traditionally, the cultural and religious values of Christianity evolved from Old Testament militaristic traditions, to the passive, conciliatory, and liberal faith with little sense of vision for expansion. Even during the colonial period, Christianity was a spent force resorting to halfhearted measures of missionary work with little efforts towards converting Islamic societies to Christianity. Such a posture was contrary to the crusading campaigns waged by Christian Europe in the 12\(^{th}\) century CE continuing to the 15th century CE when Granada, Spain, was re-Christianized by eradicating Islam from the Iberian Peninsula.

The zealotry for spiritual quest and conquest was replaced by secular values that defined the rights of the individual and the role of the state.\(^5\) Political values such as liberty, freedom, justice, and equality replaced religious values of faith, fasting, prayer and sacrifice. As modernization and the attendant debates of its theoretical and empirical effects raged, the faith that was soundly subjected to scrutiny and theological askance was Christianity.

First, its role in colonialism and imperialism was examined and often imputed as collaborative in the real or perceived schemes of exploitation of the Third World. The cultural values that Christianity extended to primitive and animistic societies were questioned by the radical scholars of modernization and dependency theory (Frank, 1978). In the Middle East, proselytizing and publicizing non-Islamic faiths to Muslims is illegal.

Second, the principle of separation of religion and politics removed religious values and cultural norms from the public sphere. Issues such as public prayers, religious symbols at public places, religious performances, and religious artistic displays have been severely restricted and often outlawed. The challenge to these

\(^4\) During the Prophet Mohammed’s rule and the rule of his three followers, Abu Bakar, Umar, and Uthman, the territory under the Umma expanded by conquest to include the whole Middle East, including Persia, and North Africa. See Kennedy (1986, Chapters 3-5).

\(^5\) Democracy is a political concept derived from the broad themes of the Sermon on the Mount where tolerance, consensus, and liberty of faith and culture are detailed in their purest form.
cultural values in European and North American societies is likely to have diminished the legitimacy and integrity of the faith.

**Islam: A Totalitarian Faith**

Islam started in Arabia in the seventh century and quickly spread to the Middle East, North Africa, and Asia. The Prophet Mohammed whose life began in toils and tribulations due to being an orphan as a child founded Islam. In due time, he married a rich widow, Khadija, who was also his great comfort when he was troubled by the mysterious visions he was receiving. She was one of a handful people from the town of Mecca who embraced the new faith. The rest of the townsfolk rejected Mohammed’s teaching and sought to kill him causing Mohammed and his followers to flee and seek refuge in another town, Medina. Mohammed gradually progressed at Medina as a founder of a new faith, an enforcer of the faith, and as a propagator of Islam and a conqueror.

**Proclaiming Islam:** The escape from Mecca to Medina is a monumental event in the foundation of Islam. The basic teachings and governing methods of scriptural Islam are based on Mohammed’s practices at Medina. The escape itself is known as *hijra* or *Hajj* - escape to safety. The followers who fled with Mohammed, mainly family members, friends, and first converts were known as *Muhajirun*. The *Hajj* which is a religious duty of travelling from Mecca to Medina is still practiced today by Muslims to commemorate Mohammed’s flight to Medina. At Medina, Mohammed and his followers found supporters known as the *Ansar*. The Ansar’s help was altruistic on account of traditional hospitality. Eventually, the Ansar accepted Islam, but were considered by the Muhajirun of lesser status.

The Medina people regarded Mohammed as a wise arbiter on local disputes. He wrote the Medina Covenant stipulating the ground rules of dealing between the *Muhajirun* and the town of Medina. The first Umma was formed at Medina composing of highly zealot and valiant fighters who mixed religious fervor and military valor to raid villages, markets, and trade routes.

As soon as Mohammed was safely sheltered at Medina, he made the best of the town’s hospitality. He gradually increased his influence in tandem with his teaching. Many of the townsfolk accepted Islam and his fame and fighting forces were dreaded in the surrounding districts, including Mecca from where he had fled to Medina. As soon as he consolidated his power to gain enough confidence, Mohammed embarked on war for economic supremacy and for enforcing Islam.

**Enforcing the Faith:** Mohammed, as a military leader, spiritual teacher, and the city of Medina’s first citizen was a fearsome figure. He mixed personal charm, mental agility, and heroic military feats to consolidate his power not only in Medina, but also in the whole of Arabia (Kennedy, 1996). As he did so, demonstrable acts of cruelty and inhumane treatment of his enemies were evident.

Before Mohammed and his followers arrived, Medina was a Jewish town. Mohammed enforced Islam and most of the population was converted with the exception of three Jewish clans, the Banu Nadir, Banu Qaynuqa and Banu Qurayza. When the Jews refused to accept Islam, they were given choice to pay poll tax, the
**jizya**, or leave Medina and go into exile. The ones who refused to embrace Islam were summarily massacred by Mohammed and his Muhajirun.

The Umma, the community of believers collectively and individually in the form of vigilant justice, enforce conformity and uniformity of faith. The Umma is structured to form the universal community of believers who have declared that Allah is one and only one and have acknowledged by their testimony (*Shahadah*) that Mohammed is the Messenger of Allah. The structure of the Umma does not allow for religious hierarchy. There is a body of the learned men, the *ulemma*, who may expound on the Quran’s teachings, but those learned men do not represent organizational hierarchy. It is the community within the neighborhood and its mosque personnel that enforce fidelity to the faith through community pressures. They ensure the believer is committed to his faith and once he had declared the Shahadah, he is not allowed to change his mind or his faith. Accepting Islam and then backsliding is considered a treasonous act against the community punishable by death.

Emboldened by a series of battle victories at Medina and the surrounding districts, Mohammed placed the foundation of the impending Umma during his stay at Medina. The basic governing and worship features of authentic and traditional Islam took shape within the context of intense battle fought and victories clenched. The victories were translated into Allah’s countenance to the Muslims who vanquished against all odds.

The prophecy that was given to Mohammed belongs to Allah, and the Prophet is a conduit, an instrument of Allah chosen to transmit Allah’s laws to man. The unflinching belief of the universality of Islam as a singular faith destined to become the faith of all mankind is a deeply held conviction of the community. The ideal member of the community should commit himself to its fulfillment.

Membership in the Muslim commonwealth required knowledge: knowledge of the revelation, the imposition of the law, and to some extent of the method by which authoritative decisions could be reached from the Koran and sacred precedent (Grunebaum, 1962: 18).

The duty of universalizing Islam is described in the multifaceted manifestation of the faith in the believer’s life. This duty is known as *jihad* or the struggle in exerting relentless fight to promote Islam as a universal faith for all mankind. Jihad also represents an inner fight to stay vigilant in the ways of Islam, such as fasting, alms giving, performing the Haj, agitating, campaigning, and praying five times daily.

The laws of the Umma as embodied in the Quran, Sunnah, Hadith, and Sharia are binding. They are eternal and timeless laws that the believer should observe faithfully. Fear, pressure, and conformity give Islam internal cohesion. Muslim activists and committed believers yearn for Islamic universal supremacy. The temptation of acquiring power and the illusion of believing that superior power can guarantee global supremacy is evident even in the secular “Islamic republics” such as that of Pakistan, Iran, Libya, and Sudan. Islam is a warrior faith. Throughout its history, it relished wars and conquests as sacramental duties to spread the faith and secure the dar al Islam from being infiltrated by infidels.

Islam is unique in that it is the only major faith whose validity was historically affirmed by military victories; theologically, it still utterly
depends on the promised martial superiority of its adherents – but that is a superiority that has often been disproved in the contemporary world at the hands of Christians, Hindus, and Jews alike, raising well – concealed but clearly exasperating doubts that, in turn, induce conflictual reductivism by area scholars and students of conflict (Luttwak, 1992: 16).

The religious duel between Christianity and Islam started in the 6th century, continued through the Crusades, and still continues to this day as frictions resurface throughout the Middle East and the world. Islam’s sense of the correctness of the Quran, the Sunnah, and the Hadith, closes the door for reconciliation of divergent theological doctrines even on those points where the two share commonalities (Farah, 1968: 18). Instead, the call for conversion of the unbelievers animates Islam to the point of relentless persecution of Christians and supplanting them with Islamic symbols. This is illustrated in the total eradication of Christians and Jews from Saudi Arabia where once upon a time, before the coming of Islam, Christianity and Judaism thrived.

The Islamic Culture

The culture that identifies Islamic societies, both in the Sunni and the Shia sects, is the letter and spirit of the Quran. These two sects differ in the administrative and technical issues of Islam. Muslim societies reflect a cultural dilemma due to their desire to modernize, but being unable to do so, because the tenets of Islam are incompatible with modernization. Regimes such as that of Egypt, Syria, Turkey, Jordan, Algeria, and Yemen consider themselves as “secular”. They follow governing practices that are not based on religion. Secularists prefer not to be bound by the original principles of Islam. Such governments are viewed by true Muslims as anti-Islam (Allawi, 2009: 48-50).

Islam is governed by unchanging principles ordered by Allah and sent to enlighten man. The believer must heed all of Islam’s principles as stated in the Quran, as demonstrated in the Sunnah, and as told in the Hadith. The cultural behavior of the believer and the community of believers must be governed by the combined force of these texts. The Quran and the Sunnah give divine direction to humanity. Their articulation in the daily life of the believer and the community is framed in the Islamic laws known as the Sharia, or the path. The Sharia is a body of constitutional, legislative, and statutory laws all combined into an amorphous legal compendium. The content of the Sharia include medieval practices such as public beheading for proselytizing, stoning for adultery, and amputation of arms and/or limbs for theft and petty crimes. Regardless of the method and extend of their practices, they are part of the culture that accepts them as legitimate.

Among the many methods of discipline that Islam used to increase its members and prevent its followers from backsliding is the draconian rule that it prescribes against apostasy. This vigil is a necessary part of the Islamic culture. Islam is an activist faith that is not hesitant to entice members of other faiths to its fold. It is incapable of allowing Muslim adherents to reject Islam. Apostasy is punishable by beheading. There is no freedom of choice in religion. Even the soundest logical grounds for the respect of individual liberty, freedom of conscience, and freedom of choice do not apply in Islam (see Tyler, 2008, pp. 32-33).
There must be a degree of embarrassment in the thin line that separates faith, culture, the family and the community as elements of the Sharia do tolerate cultural practices that appear to cross the line of human decency such as the unabashed trampling of the rights of women and children. These are normalized practices with the psychological effect of conditioning women to servile submission. This looked at from an outsider perspective may represent unwarranted criticism of the Umma and its adherents. As long as Islam and the Umma are incapable of self-criticism, the cultural values that seem to fetter the community to dogmatic cultural and religious practices will be too obvious for any rational analysis to ignore.

Implications on Homeland Security

Broadly speaking, attaining the high ideals of homeland security and the preemption of terrorism depends on whether diplomatic tools can be crafted to make peace attractive and uniformly condemn terrorism. All of the three faiths discussed above do claim peace as the central theme of their teachings. They also rationalize defensive war as a requisite tool of survival. The three faiths generate vast controversies and diametrically opposed political issues affecting regional and global security concerns. Their implication to homeland security may be contingent upon the determination of the three faiths taking scriptural stands that repudiate and directly condemn terrorist or violent acts.

Two challenging areas for homeland security that are the direct outcome of their differences come from Judaism’s exclusiveness and Islam’s expansionist aims. As was stated above, Christianity has retreated from the political space giving the state freedom from spiritual and scriptural influences. In relative terms, domestic insecurity inspired by religious fervor is less imminent in scriptural Christianity relative to scriptural Judaism and Islam.

Judaism and Islam being exclusionary and expansionist, respectively, in the letter and spirit of their scriptures are rigid, unbending, and recalcitrant to peaceful resolution of conflicts. They both believe that a true believer of the faith must aspire for a form of government that is rooted in the faith at the exclusion of other alternatives.

Judaism envisions an exclusive land in Israel designated for the Chosen People only with limited rights to non-Jews. The blending of faith and tribal identity disallows political accommodation outside those issues that are validated by the faith. Those who see themselves as equally entitled to the land find themselves resorting to violence as the door for equal accommodation is closed; their violence is directed at Israel, the United States, and against those countries and peoples who support Israel.

Similarly, those excluded from Israel, who are unwilling to seek alternatives other than the zero sum outcome of destroying Israel, such as Hezbollah and al Qaeda, endorse expansionist ideology in the form of dogmatic Islam. They see Israel as an obstacle to the impending Islamic rule that is proscribed by the Quran to unfurl the borders of the dar al Islam not only over Israel, but also the whole world. The quest for universal Islam has been fostered by various Muslim political leaders from the Middle Ages to the present, and whether or not all faithful Muslims have accepted this directive, it has been assumed by these leaders that all Muslims should. Though there are differing schools of thought on the methods and means of Jihad spelled out by Mohammed for the purpose of fulfilling the universal quest, these leaders have argued that jihad may include as legitimate tools, activities ranging from passive resistance,
agitation, networking, and public relations, to direct actions such as open war or clandestine acts of terrorism directed at civilians.\(^6\)

In the classical Islamic view, to which many Muslims are beginning to return, the world and all mankind are divided into two: the House of Islam, where the Muslim law and faith prevail, and the rest, known as the House of Unbelief or the House of War, which it is the duty of Muslims ultimately to bring to Islam. But the greater part of the world is still outside Islam, and the faith of Islam has been undermined and the law of Islam has been abrogated. The “obligation of holy war therefore begins at home and abroad, against the same infidel enemy” (Lewis, 1992:174).

The central thrust of this work discussed the internal dilemma of religious orthodoxy taking sanctimonious stand when it is convenient, but countenancing even violence to safeguard orthodoxy. In specific terms, Christianity’s ability to cede the secular grounds to the state has enabled it to remove its hands from politics. Judaism as a national tenet in Israel, and Islam in its ideal to bring the world under the Quranic umbrella of the Umma, seem to inspire and elevate institutional violence to the level of policy execution. The intractable odyssey of homeland insecurity prevails as irreconcilable political, cultural, and diplomatic differences in the Middle East must pass the hard test of Judaic and Islamic scriptural dictates, rather difficult feat.

References


\(^6\) Efraim Karsh emphasizes this point by quoting Ibn Kaldun, recording in the 15th century CE, “In the Muslim community, jihad is a religious duty because of the universalism of the Islamic mission and the obligation of every Muslim [to convert] every body to Islam. . . .” See Karsh, 2006: 62).
Macdonald, Duncan B. Development of Muslim Theology, Jurisprudence, and Constitutional Theory, New York, Charles Scribner’s and Sons, 1903.
THE FINANCING OF TERRORISM

Jeffery M. Johnson & Carl Jensen

The somewhat nebulous phrase “War on Terror” was invented after the attacks of 9/11 to make clear America’s resolve in confronting a militant adversary. While this phraseology no doubt conjures up images of soldiers and battles, wars are fought on many fronts. As with any enterprise, obtaining adequate financing is critical for al Qaeda and its allies. In 1977, Congress enacted the International Emergency Economic Powers Act (IEEPA); one part of this act permitted authorities to freeze the assets of terrorists. Since then, Presidents have used IEEPA and other statutes, along with Executive Orders, United Nations Resolutions and diplomacy to hit terrorists in their wallets. The world of financing terrorism has been likened to that of a “subterranean universe governed by secrecy, subterfuge, and criminal endeavors, but also a good measure of sophistication and understanding of the global financial system” (Raphaeli, 2003, p.59). The present paper details methods used by terrorists to fund their endeavors and steps being taken by the U.S. government to deny funding streams to terrorists.

Good morning. At 12:01 a.m. this morning, a major thrust of our war on terrorism began with the stroke of a pen. Today, we have launched a strike on the financial foundation of the global terror network…We will starve the terrorists of funding, turn them against each other, rout them out their safe hiding places and bring them to justice.

President George W. Bush, September 24, 2001

Many people believe the “war on terror” began following the events of September 11, 2001; that, however, is not completely true. The U.S. has been actively battling terrorism since well before the Bush administration; indeed, terrorist attacks have occurred with regularity throughout the latter part of the twentieth century. Each attack requires coordination, determination and support; however, each also requires a more fundamental commodity: money. This article focuses on different key areas with regard to the financing of terrorism, including the history of the U.S. in this area, different means that terrorists use to fund their activities, and present policies and problems inherent in the investigation and prosecution of terrorist financiers.

Most terrorist events can be viewed across many different levels. Any act can be examined in a political, social, or criminal context. Financing involves the use of banking institutions and the movement of funds, which have historical precedent in law enforcement. In addition, much terrorist financing is addressed through laws and treaties. To that end, in this paper, terrorism will be treated as a criminological construct. This does not mean we reject using other disciplines to develop a holistic understanding of the phenomenon and encourage others to pursue a different course than we have chosen.

* © 2010 by authors, reprinted here by permission.
Please send your correspondence to authors at johnson1@olemiss.edu or carlj@olemiss.edu.
Background

In order to gain a holistic understanding of U.S. policy with regard to terrorist financing, it is important to understand historical events of the past thirty years. In this section, we will provide a brief history of terrorist acts as well as U.S. attempts to curtail financing of adversary groups. We provide only a few examples to establish context; by no means do we attempt to chronicle each and every terrorist event.

The study of terrorism focuses on many different areas, which include terrorist recruitment strategies, their use of technology, weaponry, training, logistics, and other support mechanisms. While terrorist philosophies and tactics show a wide variation across groups, every terrorist has a common, inescapable need: funding.

During the Reagan presidency, an eclectic group of terrorist actors, generally remnants of Middle Eastern groups from the late 1960s and 1970s, held center stage. Organizations such as Fatah (Palestinian Liberation Organization), Black September, the Irish Republican Army (IRA) and various incarnations of the Popular Front for the Liberation Of Palestine (PFLP) were driven by nationalism and supported by various countries, which included the Soviet Union, China, Iran, Syria or Libya. According to Byman (2005): “[S]tates and terrorist groups have long had a deadly relationship. During the 1970’s and 1980’s, almost every important terrorist group had some ties to at least one supportive government.” (p.1)

However, despite support from individual nations, most groups suffered from a funding shortfall. Organizations like the IRA found they needed to rob banks, kidnap for ransom, and engage in other criminal acts to remain fluid (Zanini, 1999). The “new generational” terrorist organizations which arose in the 1980s and 1990s have a flatter organizational structure; as well, they often combine religion, politics and nationalism to form the basis of their ideology. While some of these organizations like Hamas and Hezbollah receive support from states like Syria and Iran, they still have to concentrate on raising large sums of money to keep their operations afloat (Zanini, 1999).

During the presidency of Ronald Reagan, the United States found itself in the crosshairs of various terrorist organizations. For example, Leon Klinghoffer, an elderly Jewish man who was confined to a wheelchair, was pushed off the side of the cruise ship *Achille Lauro* by Palestinian terrorists in 1985 (Berman, n.d.). In 1986, a nightclub in Germany containing American servicemen and women was bombed. As well, in 1989, a bomb detonated midflight aboard Pan Am flight 103, causing a huge loss of life in the air and on the ground; the government of Libya eventually admitted its involvement in the plot (United Nations, 2003). While these are but a few of the terrorist actions that were aimed at the United States during the 1980’s, they serve as good examples of the types of activities in which terrorists were engaged.

In addition to his hard-line policies directed at the Soviet Union, President Reagan took steps to confront terrorists and their supporters. Libya was brought to the world’s attention for supporting not only the IRA and numerous Palestinian groups, but for its support of other violent radical causes and its offer of sanctuary to terrorists (Byman, 2005). Among other tactics, President Reagan reinstituted military exercises in the Gulf of Sidra, which Libya claimed as its own; during these maneuvers, U.S. F-14s, after they were fired upon, shot down two Libyan aircraft. As well, Reagan authorized the bombing of Libya’s capital city, Tripoli, in 1986 in response to various Libyan supported terrorist attacks against U.S. targets. However, it was his use of the International Economic Emergency Powers Act (IEEPA) to freeze the assets of states...
suspected of supporting terrorist organizations, that may be his most significant counter-terror legacy (Kiser, 2005). During his time in office, President Reagan issued Executive Orders 12543 and 12544, which declared that the activities of Libya constituted a “national emergency.” This, in turn, allowed for the invocation of IEEPA and the initiation of economic sanctions against that country.

However, despite Reagan’s abhorrence of terrorism, he fully supported his own guerilla army, the Mujahedeen, in its struggle against the Soviet Union which had entered Afghanistan in 1979. One Mujahedeen fighter, who raised money for the cause and used his own personal fortune to fight the “infidel” Soviet Union, was a young Saudi millionaire named Osama bin Laden.

After President Reagan left office, his successor, George H.W. Bush, had his own share of terrorism crises. During the Bush presidency, the Cold War came to an end and the United States emerged as the world’s lone super power. While the bombing of Pan Am flight 103 over Lockerbie, Scotland occurred during the final days of the Reagan Administration, the first Bush administration had to deal with the investigation of the incident. Once it became clear that Libya had a supporting role in the bombing, President Bush signed Executive Order 12801, which prohibited air travel to and from Libya.

It was also during the first Bush administration that the U.S. fought what became known as the “First Gulf War” following the invasion of Kuwait by its neighbor Iraq. The Saudi Arabian government became convinced that Iraq would invade its kingdom as well. The aforementioned bin Laden, a Saudi by birth, offered the Saudi government the services of the mujahedeen, who had prevailed over the Soviets in Afghanistan. However, the Saudi government turned down his offer and instead asked for the assistance of the U.S. in protecting the Kingdom and dislodging the Iraqi forces from Kuwait. Although not recognized as such at the time, this proved to be a critical event in the history of terrorism: Osama bin Laden and others viewed the stationing of “infidel” troops in the Muslim holy lands as a grave insult to Islam. Up to this point, terrorism had a decidedly nationalistic flavor, driven in the Middle East by the existence of Israel and the plight of the Palestinian refugees. The U.S. was viewed by many Arabs as an imperialistic power that used Israel for its own benefit; now, however, it was also a foreign power stationing itself in the holiest of lands, defiling the sacred. This proved to be the final straw for bin Laden and his followers. A new mission was discovered for the Mujahedeen.

The Clinton presidency witnessed an increase in terrorist activities that ultimately brought the “war” from the Middle East to the U.S. The bombing of the World Trade Centers in 1993; the assassination conspiracy directed against former President George H.W. Bush in 1993; and the bombings of the Khobar Towers in 1996, the embassies in Kenya and Tanzania in 1998 and the USS Cole in 2000, all underscored the escalating threat that international terrorism presented to the U.S.

President Clinton and the Congress recognized the emerging threat of the “new” terrorism and expanded the Anti-Terrorism and Effective Death Penalty Act; one of its provisions strengthened the ability of the government to seize terrorists’ funds. According to Kiser (2005),

President Clinton expanded the financially centered counter-terrorism policies available to law enforcement and intelligence organizations through a variety of legal mechanisms, to include IEEPA, various money laundering statutes,
and most significantly, the Antiterrorism and Effective Death Penalty Act.”
(p.3)

The Clinton Administration put pressure on the United Nations to create four different UN Security Council Resolutions that focused on the Taliban regime in Afghanistan, which supported bin Laden’s nascent al Qaeda movement. These resolutions included 1189, 1193, and 1214, all passed in 1998. Later, in 1999 the UN Security Council passed resolution 1267 that specifically called for UN nations to freeze funds and other financial resources of the Taliban.

**Terrorist Funding**

Throughout history, terrorists have used a variety of techniques to obtain funding and disguise their activities. The present section describes several of these techniques, to include petty crime, kidnapping, state sponsorship and the use of charities. Readers will likely be impressed with the ingenuity of some of these fundraising strategies and will gain a further appreciation of the challenges facing governments and, in particular, law enforcement.

In years past, terrorist organizations depended on support primarily from states, charitable contributions and to a lesser degree criminal activity to fund themselves. After all, without funding, success is difficult, if not impossible, to achieve. Some groups still depend on criminal activity like bank robbery and extortion to support their activities. The fall of the Soviet Union and the influx of weapons that were stockpiled in former Soviet bloc countries has proven to be a boon to terrorist organizations. The combination of ill-trained law enforcement officers and porous international borders has allowed some terrorist organizations to develop their own in-house criminal capabilities (Sanderson, 2004).

When funding sources are hard to come by and groups are under constant pressure, they often turn to unconventional and asymmetrical forms of attack. This can include smaller, more focused operations (Raphaeli, 2003). To help raise funds, some groups like the IRA adopted a political front in order to legitimize and popularize their cause and went to great lengths to publically distinguish and separate their political and military actions.

By adopting the aura of political legitimacy, the IRA also hoped to win popular support for its causes. Other groups like Hamas and Hezbollah are known to receive state support from Syria and Iran and attempt to foster popular support from humanitarian projects such as supporting schools and hospitals. In the case of the IRA, Hamas and Hezbollah, the evolution toward politics has allowed them to gain seats in legislative bodies and legitimize their cause. Terrorists have proven time and again that they can adapt and overcome many obstacles in order to achieve their missions.

Terrorists are often not associated with sophisticated financial maneuvering. However, according to Raphaeli (2003), the world of terrorist financing is like a “subterranean universe governed by secrecy, subterfuge, and criminal endeavors, but also a good measure of sophistication and understanding of the global financial system” (p. 61).
Al Qaeda, in particular, is:

[R]un around the world by well educated men. We do not have a few hundred or a few thousands but hundreds of thousands of highly educated men who were well aware of these things and know the alternatives (Raphaeli, 2003, p.61).

Terrorists understand that they are under scrutiny and that any questionable financial transaction will be questioned. While the financing of terror will likely never be completely blocked, just as the threat of terrorism will likely never be eliminated, Nacos (2006) observes:

[T]o follow the money trail is a solid counterterrorist tactic in that the flow of money can help to identify donor’s middleperson’s and even recipient cells and their members, but there is no evidence that lack of money puts terrorist groups out of business.

Since September 11, 2001, governments throughout the world have been asked by the U.S. to assist in stopping the flow of funds to terrorist organizations. Raphaeli (2003) noted, "Shutting the flow of money to terrorist organizations will require international cooperation at all levels" (p. 59).

Raphael further claims that although there has been some success in regard to shutting down some terrorist funding, using conventional means will not ensure success. Major problems that countries like the U.S. face with the terrorist financing include:

1. It is part of the Islamic religion and culture to tithe or offer “zakat.”
2. The terrorist are taking advantage of zakat by organizing “charities” that support terrorism.
3. The finances of terrorist networks are “characterized by layers and redundancies.

In fact, Raphaeli (2003) suggests that in order to shut down funding, there has to be a change of culture in these countries in which they do not accept “zakat” for jihad; further, countries have to do a better job administering “charities” across the board. As he puts it (Raphaeli, 2003), “education systems that teach jihad (holy war) as the highest calling for the individual and breeds religious intolerance must be reformed" (p. 59)

Horgan and Taylor (1999) note that the IRA used kidnapping for ransom, armed robbery, extortion and illegal drug sales to fund its activities. While the IRA continues in its quest for a homeland, violence began to abate upon a successful ceasefire that would eventually become the Good Friday Agreement (GFA). A common theme at the time of the ceasefire was that Sinn Fein, and in particular Gerry Adams, kept peace negotiations alive by holding back the IRA military council from any actions that would threaten the process. Richards (2001), however, gives another account. He believes, as do Horgan and Taylor (1999), that key members in Sinn Fein were also key members of the military council who actually “called the shots” with regard to the Good Friday Agreement in 1998. Richards attempts to support his
argument in two ways. First, he asserts that, in the history of Sinn Fein and the IRA, Sinn Fein has always played a subordinate role to the military council. Second, during the Good Friday talks, Sinn Fein had to discuss everything with the military council. Thus, it was the military council that held ultimate authority.

Nacos (2006) provides a cogent overview of the funding of terrorism with regard to different terrorist-linked charities that have been identified and closed down. Even though some believe the al Qaeda leadership has been decimated by the War on Terror, it has been able to survive both ideologically and financially. One explanation for this is that many radical Islamic groups consolidated into an ally system known as the International Islamic Front (IIF). This system of “network arrangements” has led to some interesting alliances. For example, al Qaeda has reached out to non-Sunni groups in order to achieve maximum effectiveness. Originally designated as an organization exclusively composed of Sunni Muslims fighters, bin Laden has also recently reached out to various Shiite groups (Nacos, 2006).

According to Nacos (2006):

[T]errorists have proven crafty in finding organizational arrangements and financial resources that they deem most effective in their campaign of violence and least likely to be disrupted by authorities hostile to their design (p.160).

While it is disturbing that these natural foes can find common ground, it is not much different than Libya’s Mummar Qaddafi donating weapons and cash to the IRA in the 1980s (Byman, 2005). Terrorists have also proven quite adaptive. "[T]o get their hands on money, terrorists use different illegal methods in different parts of the world" (Nacos, 2006, p. 159).

It is obvious that terrorist financing is a problem that as yet has few really good solutions. To compound things, groups understand the power of the media and continually seek ways to “soften” their reputations. This aids them in many ways, not the least of which includes improving their image for the purpose of obtaining much needed funding for terror campaigns as well as more mundane day-to-day expenses. By way of example, both Hamas and Hezbollah have bolstered their reputations through the funding of education and schools; additionally, the IRA offers pensions to the widows and orphans of fallen fighters. The old saying “one man’s terrorist is another man’s freedom fighter” is proving to be true with these organizations.

Not all terrorist criminal activities to raise funds involve spectacular crimes, like kidnapping and bank robbery. According to a recent General Accounting Office (GAO) report:

[T]errorists use an assortment of alternative financing mechanisms to earn, move, and store their assets…to earn assets, they focus on profitable crimes or scams involving commodities such as stolen cigarettes, counterfeit goods, and illicit drugs and the use of systems such as charitable organizations that collect large sums of money, not to mention precious jewels…terrorists use a variety of alternative financing mechanisms to earn, move and store their assets based on common factors that make these mechanisms attractive to terrorist and criminal groups alike (GAO, No.- 04-163, 2003, p.3).
While the GAO report provides an overview of terrorist financing, it fails to give examples of the specific crimes that the terrorists commit. For example, according to the Department of Justice, terrorists in the U.S. have historically engaged in “minor” crimes, such as food stamp fraud; the counterfeiting of baby formula; insurance, prescription, and credit card fraud; retail and auto theft; and CD/DVD/computer counterfeiting. Terrorists often regard these as activities that will “fly below the radar” of law enforcement agencies. However, in terms of sheer monetary impact, the M.P.A (Motion Picture Association) and the M.P.A.A. (Motion Picture Association of America) estimate that the U.S. motion picture industry loses between $3 and 4 billion annually in potential worldwide revenues due to piracy (Department of Justice, 2005).

Terrorists also have a need to position their finances in such a way that they appear legitimate and give the impression that they will be used for lawful purposes. Terrorists are adept at discovering new ways to disguise their earnings; authorities, too, are becoming better at detecting illicit funds. Some basic ways to clandestinely move money include:

- Money Laundering
- Debit Cards
- Smart Cards
- E-Currencies
- Hawala
- Online Banking
- Money Remitters
- Bulk Currency Smuggling

While some of the above have existed for years (e.g., money laundering, hawala, money remitters) others, such as debit cards and smart cards, are new. Unfortunately, most financial services are built around customer convenience. This has allowed terrorist organizations to take advantage of the international financial system. One example of this is the increasing use of loadable debit or credit cards. These cards are available for purchase at retail and convenience stores and are virtually untraceable; a gift card is a good example of a loadable debit card.

Terrorist organizations also use a method of money laundering known as “smurfing” where actors make multiple short-term cash deposits in financial institutions, each below the $10,000 threshold which would otherwise trigger federal reporting requirements. According to the Department of Justice, after cash is deposited, terrorists endorse blank checks and then send them to their counterparts throughout the world. When the terrorists receive the checks, they simply fill in the desired amount and cash them (Department of Justice, 2005).

Because they are under such scrutiny, terrorists have to continually find new ways to earn, move, and store their assets to avoid detection. According to Sanderson (2004), "[W]ithin the United States, terrorist groups and their supporters have found a multitude of ways to raise funds through a range of illegal activities" (p. 52).

Since the fall of Afghanistan, the al-Qaeda network has become more reliant on the Internet to keep in contact with its global jihad movement. According to the Department of Justice, another way that terrorists can protect their assets is through on-line banking. Once again, this form of financial transaction is built around the
convenience of the consumer. Terrorists are able to execute financial transactions without going into a bank, or having contact with bank employees which allows them, in a sense, to remain anonymous.

**Current Policies and Problems**

As the tactics of the terrorist financers have evolved, so have those of the U.S. government. In the past decade, new laws and executive orders have been put in place to deal specifically with terrorist financing. The present section details some of those laws and tactics. While no one can predict the future, it seems certain that increasing globalization and the flattening of financial markets, along with ubiquitous, secure communications, will make shutting off terrorist finances that much more difficult as the 21st century unfolds.

Just as it does in the legitimate world, money is the engine that drives terrorist acts. It is therefore not surprising that the financing of terrorism has become a matter of serious concern for authorities (Raphaeli, 2003). Efforts by the U.S. to combat terrorist financing abroad include a number of interdependent activities, such as the designation of groups as terrorist organizations, increased cooperation between intelligence and law enforcement agencies, standard setting, training and technical assistance (GAO, No.-06-19, 2005). Currently the U.S. government defines the financing of terrorism as the “financial support, in any form, of terrorism or of those who encourage, plan, or engage in it.” (GAO, No.-06-19, 2005, p.6)

Throughout this article, the different laws and actions taken by the U.S. government have been discussed in terms of the manner in which they have been used to fight the financial support that terrorists need. Following 9/11, President Bush declared:

> Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the U.S. as a hostile regime (Byman, 2005, p.3).

According to the White House, 62 countries have committed to joining the effort to disrupt terrorist assets and have already have put blocking orders in force. Around the world, over $24 million is suspected terrorist assets have been seized since September 11, with the assistance of the United Nations, the International Monetary Fund and the World Bank (U.S. Department of Treasury, 2007).

Various administrations used different laws to give law enforcement greater power in investigating terrorist fund raising. In some cases, the laws used were not originally intended to be employed against terrorist entities; since 9-11, however, legislation specifically designed to battle terrorists has been enacted with increasing regularity. Major domestic and international initiatives in addition to IEEPA and the Anti-Terrorism and Effective Death Penalty Act include:

- Executive Order 13224
- USA PATRIOT Act
- Financial Crimes Enforcement Network
- UN Security Resolution 1373, 1390, 1617
Executive Order 13224 was signed by President Bush on September 24, 2001, with the intent to begin freezing assets of those that were connected to terrorism in any way; the order called upon the Secretary of State, the Secretary of the Treasury and the Attorney General to declare whether an individual or organization was supporting terrorism.

The USA PATRIOT Act acknowledges that cutting off terrorists’ funding is crucial in war on terror. This act expanded the ability of law enforcement and intelligence agencies to access and share financial information regarding terrorist investigations (GAO, No.-04-163, 2003). More specifically, the PATRIOT Act requires the Secretary of the Treasury to:

[A]dopt regulations that encourage regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected, based on credible evidence, of engaging in terrorist acts or money laundering activities.” (FinCen, 2007)

The Financial Crimes Enforcement Network, or FinCEN, is an agency of the Department of the Treasury that collects and analyzes information about financial transactions. Originally established in 1990, FinCen was first involved in drug and money laundering investigations. Since that time, its mission has expanded to include the investigation of terrorist financing. In 1995, FinCen sought to assist foreign jurisdictions with establishing new Financial Intelligence Units (FIU) to help with international corruption and money laundering (GAO, No.-06-483, 2006). Since 9/11, FinCen has been tasked with assisting law enforcement officials as well as financial institutions to identify those parties involved with the financing of terror. Since its inception, FinCen has seen the number of FIU’s increase from 14 to 101 (GAO, No.-06-483, 2006).

In addition to FinCen, the Treasury Department works with foreign institutions in furtherance of the Financial Action Task Force on Money Laundering (FATF). Set up in 1990, its “Forty Recommendations on Money Laundering” were eventually followed by “Eight Special Recommendations on Terrorist Financing” in October 2001. Finally, a ninth special recommendation with regard to terrorist financing occurred after the events of 9/11.

Since its creation, FinCen became one of 14 founding members of the Egmont Group 1995, which was designed to enhance information sharing among the FIU’s (GAO, No.-06-483, 2006). It is axiomatic that, with all the initiatives across various agencies, sharing of information is paramount.

According to the U.S. Department of State, “starving terrorists of funding remains a priority and a success of the war on terror” (Kiser, 2005, p.4). In accordance with that, the United Nations has approved resolutions 1373, 1390 and 1617, which collectively require member nations to join in the effort to disrupt terrorist financing as well as to target Osama bin Laden and the Taliban (Kiser, 2005). Because of the international effort, organizations like the World Bank and the International Monetary Fund have increased their scrutiny of financial transactions worldwide.

Despite the myriad laws, organizations, orders and guidelines that exist, countering the financing of terrorism remains problematic. In the first place, terrorist attacks are not all that expensive to mount. According to estimates by the 9/11
Commission, financing for the 9/11 attacks were estimated at between $400,000 and $500,000 (Roth, Greenburg, & Wille, n.d.). As well, the General Accounting Office found that the multiple agencies involved in detecting terrorist financing are not coordinating their efforts and in some cases are involved in turf wars. The problem of coordination may be due to the fact that the United States does not have an integrated strategy to coordinate the delivery of counter-terrorism financing training and technical assistance to countries in which much terrorist financing occurs (GAO, No. - 06-19, 2005).

With regard to turf issues, the Department of the Treasury does not accept the Department of State’s leadership or the State-led Terrorist Financing Group’s (TFWG) procedures for the delivery of training and assistance abroad (GAO, No.-06-19, 2005). While the GAO can make recommendations for the betterment of the program, the agencies simply don’t have to agree and can continue with the status quo; it is illuminating how many times this occurs.

The GAO also pointed out that currently the U.S. does not have a “strategic alignment for resources” and many agencies lack any type of instrument to measure performance. It is evident that the agencies involved do not even have timelines in order to prove that progress is being made in their assignments.

President George W. Bush did attempt to create a committee whose sole function is to ensure the proper coordination of counter-terrorism financing activities and information sharing among all agencies. This committee is known as the Policy Coordination Committee, which is controlled by the National Security Council. Despite the existence of this committee, turf wars continue (GAO, No. - 06-19, 2005).

Conclusion

After all that has just passed -- all the lives taken, and all the possibilities and hopes that died with them -- it is natural to wonder if America's future is one of fear. Some speak of an age of terror. I know there are struggles ahead, and dangers to face. But this country will define our times, not be defined by them. As long as the U.S. of America is determined and strong, this will not be an age of terror; this will be an age of liberty, here and across the world.


It has been nine years since the deadly 9-11 attacks; as with Pearl Harbor, everyone will remember where he or she was on that day. As President Bush said to the American people on the night of September 20, 2001, “all of this was brought upon us in a single day, and night fell on a different world, a world where freedom itself is under attack” (Bush, 2001). While this may be true, the threat of terrorism has long been a part of U. S. history.

Presidents Reagan, Clinton, Obama and both Bushes have dealt with terrorism, each in his own way. While some still marvel at the horror of 9/11, still others view with irony the fact that, by supporting the Mujahedeen in their fight against the Soviets, the U.S. was arming and training its next great enemy.

America will be faced with difficult policy choices in the next several years. Increasingly, even small groups and individuals will have the capability to wreak havoc on a large scale. In order to maximize the utility of financial investigations, several things must occur:
Discovering money trails and funding mechanisms may be the ideal place to thwart terrorist attacks; indeed, they may provide the most obvious clues as to group membership, organization and intention. Therefore, these types of investigations should become a primary rather than secondary focus of government efforts.

Terrorist groups are global entities; therefore, efforts to eradicate them must be global. The U.S. must continue its efforts to forge treaties and encourage legislation across the globe to address terrorist funding. This will be difficult to accomplish unless the U.S. also makes a concerted effort to deal with the enormous challenge of corruption that exists in many countries. Increasing fiscal transparency will pay twin benefits of exposing the clandestine financial networks that terrorists depend upon and hold up to scrutiny those individuals engaged in more fundamental forms of law breaking.

In addition to having a global reach, terrorist funding efforts can be extremely localized. As discussed earlier, such mundane crimes as counterfeiting baby formula and food stamp fraud have been used to fund terror operations. The government agents most likely to become aware of such activities are, of course, the local police. Federal agencies must understand the enormous role that state and local agencies place in counterterrorism. Fortunately, the expansion of federal task forces with local participation and the creation of state fusion centers is allowing for greater cooperation and sharing of information.

With regard to curtailing terrorist financing, what metrics should be used to gauge success? Seizures and arrests, to be sure, are an incomplete measure. The law enforcement community has set “prevention” of terrorist attacks as its goal, a high standard, indeed. Nevertheless, when all is said and done, that may be the one metric that really matters. Clearly, all parts of the system must work together to achieve that end.

No war unfolds exclusively on the field of battle; in today’s fight against terrorism, pencils and calculators are as important as armies and Predator UAVs. The enemy is not one that is conventional or sometimes even rational, at least by our standards. It does not fight in the traditional sense and know no boundaries. However, because it cannot defeat the U.S. in a conventional war, it will do everything possible to disrupt the American way of life. While the U.S. has made strides in identifying and freezing terrorist assets, the battle is far from over. Because many enforcement activities are classified and therefore beyond the scope of this article, it is impossible to assess their efficacy. Nevertheless, the U.S. and its allies must realize that accountants and analysts are as important as soldiers and spies in the war on terror and act accordingly.
References


RAPE AND WARFARE: ITS IMPACT ON FEMALE BODY—THE CASE OF THE DEMOCRATIC REPUBLIC OF CONGO

Drocella Mwisha Rwanika

Rape in the Democratic Republic of the Congo’s conflict is commonly referred to as a deliberate weapon used by various armed factions to sexually abuse women, girls, and men. Because of its nature, rape remains a taboo topic to be publicly addressed and thus, it does not receive much attention. This paper focuses on the aftermath of rape and discusses its impact on the victims.

Located in the heart of Africa, the Democratic Republic of Congo (DRC) is slowly recovering from a long war (1996-1998) and (1999-2003), which is considered to be the deadliest conflict since World War II, according to The International Rescue Committee (2006-2007, para. 2 line 6 p. ii). More than 5 million people have died in the past decade. As of April 2007, The International Rescue Committee study has calculated the war’s death toll to be 5.4 million. The current total is estimated at 6.9 million, according to an article by Nicholas Kristof (2010) published by *The New York Times*.

Not surprisingly, women and girls were raped, for wartime rapes are common. Once a taboo topic, rape in DRC has become a public matter. Since the beginning of the war, Congolese rape cases have made the headlines of numerous media sources, such as: IRIN (2010) and WeNews (Crossette, 2002); Radio broadcasts from Radio Okapi (2010), the only National UN sponsored Radio in Congo, has been reporting rape cases in Kivu regions, Eastern Shaba and Maniema provinces, through sponsored links such as the IRC (International Rescue Committee), the IRIN), and Radio Maendeleo1 (based in the city of Bukavu, capital of South Kivu Region province), and newspapers, for instance *The New York Times* (Gettlemen, 2009). Organizations that repeatedly denounce mass rape include: Amnesty International, Human Rights Watch, and the United Nations Population Fund (UNFPA). UNFPA (2010) reported on February 8, 2010, that more than 8,000 women were raped by fighters in eastern DRC in 2009. While all those who have denounced mass rape in the DRC have contributed to raise awareness about it, they fail to analyze rape as an intended tool of extermination. Systematic rape in DRC, also denounced by Stefan Kirchner (2007), is reminiscent of the colonial era rubber period during which Congolese women were brutalized until men could hand to King Leopold’s representatives the exact amount of kilogrammes of levied rubber. Referring to a former British consular account, Anstey (1966) notes:

---

1 Female journalist, Jolly Kamuntu continues her on-air work to denounce sexual violence on women despite death threats.
His method of procedure was to arrive in canoes at a village, the inhabitants of which invariably bolted on their arrival; the soldiers were then landed, and commenced looting, taking all the chickens, grain, etc., out of the houses; after this they attacked the natives until able to seize their women; these women were kept as hostages until the Chief of the district brought in the required number of kilogrammes of rubber. The rubber having been brought, the women were sold back to their owners for a couple of goats a-piece, and so he continued from village to village until the required amount of rubber had been collected (p. 6)

The cutting-off women’s lips and other body parts in the recent conflict is not that different from brutal methods that were in practice during Belgian colonization. Though the war in DRC officially ended in 2003, hostilities have continued and beyond those who have been killed, countless others continue to experience various forms of gender-based violence, including kidnapping, forced recruitment, forced prostitution, and rape. Among the issues explored in the paper are the interpretation of rape, not as traditional and cultural phenomenon, but as a security threat to women; the examination of rape myths in the context of massive armed conflict; and, the consequences of rape for women in war-torn DRC.

I. Congolese Mass Rape and Culture

Tied to power and control, rape in DRC has nothing to do with culture. Founder of Run for Congo Women, Lisa Shannon (2010) cogently asserts:

Any Congolese will tell you rape is not ‘traditional.’ It did occur in Congo before the war, as it does everywhere. But the proliferation of sexual violence came with the war. (para. 13).

If rape is still to be understood as “the crime of violating a woman forcibly” (Random House American Dictionary, 1957, p. 1003), then one cannot speak of rape as an act that reflects someone’s culture, for rape remains a crime against a person’s will. Contrary to old misconceptions that describe Africa as a dark continent without any kind of civilization, African people function within organized societies and have moral guidelines with zero tolerance for any wrongdoing. As Tempels (1959) put it:

For the Bantu, man never appears in fact as an isolated individual, as an independent entity. Every man, every individual, forms a link in the chain of vital forces, a living, active and passive, joined from above to the ascending line of his ancestry and sustaining below him the line of his descendants. It may be said that among the Bantu the individual is necessarily an individual within the clan. This relationship is not regarded as simply juridical dependence, nor one of parenthood. It should be understood in the sense of real ontological dependence. (p. 108).

Since in many African societies, a woman’s destiny is to get married and to have children, any family will do everything to have their women achieve this status. Marriage in African societies remains an institution that is governed by specific rituals. The virginity of the bride is one of them. Therefore, societies that require it
cannot tolerate rape, for it brings shame on the entire family and community. It also disrupts and destroys the social pride upon which family harmony depends. The assumption that rape in DRC is a tradition is false, because something becomes a tradition when the majority of community members accept it. Rape in DRC became epidemic only during the war for it is being used as a weapon, especially in Eastern Congo. Congolese women have been raped not only by their own country fellows, Congolese militiamen and government police officers and soldiers, but also by UN peacekeepers. WorldNetDaily (2010) reported:

U.N. "peacekeepers" from Morocco based in Kisangani – a secluded town on the Congo River – are notorious for impregnating local women and girls. In March, an international group probing the scandal found 82 women and girls had been made pregnant by Moroccan U.N. staffers and 59 others by Uruguayan staffs. One U.N. soldier accused of rape was apparently hidden in the barracks for a year. (para. 7).

II. Rape Myths

Because rape is among the numerous human behaviors that is regarded as incomprehensible, it remains least understood by the general public. This attitude can be explained by the general beliefs that surround it. Some of these myths listed by Bourke (2007) deny legitimacy for rape victims. Some of those beliefs are:

‘[I]t is impossible to rape a resisting woman’, ‘men risk being falsely accused of rape,’ and ‘some categories of forced sex are not rape.’ (p. 23).
‘[N]o can mean yes.’ (p. 24).
‘[A] fully matured woman, in full possession of her faculties, cannot be raped, contrary to her desire, by a sin man.’ (p. 25).

Bourke (2007) reported that it is commonly believed that under ordinary circumstances, rape victims are accused of being immoral women. Clearly, the idea behind these assumptions is that rape victims-mostly women-are accomplice in the act.” Seifert (1992) describes some other myths that legitimate rape:

[R]ape has something to do with an irrepressible male sexual drive while if not restrained, will regrettably but inevitably have its way; rape is part of the rules of war. […] In military conflicts the abuse of woman is part of male communication to show power and dominance (pp. 2-3).

Other myths surrounding rape link it to rituals, due to absolute trust in superstitions. Igbokwe (2008) reported in The Nigeria Daily News, that in South Africa, men infected with HIV believe that they will be cured by having sex with young girls. Most of these girls are forcibly raped. In China, continues the report, a former lawmaker and millionaire businessman resolved to have sex with 100 virgins in order to enhance his health. He was convicted and sentenced to death. This virgin cleansing myth has nothing to do with a cultural tradition, for some rituals are usually intended to allow a passage into adulthood. For example, female genital cutting in
some West African and Arabic countries, and breast ironing in Cameroun\textsuperscript{2} are rituals that are performed to fulfill a social purpose. On the contrary, rape of young girls does not function as a rite of passage. It destroys their future. Raping adult women, including old ones simply becomes a ritual of silencing women.

To better understand reasons that are behind mass rape committed in the Congo, one probably needs to link them with the following categories of rape identified by Rozée (1993) and quoted by Penn and Nardos (2003, pp. 54-55):

1) Punitive rape (used to punish to elicit silence and control)
2) Status rape (occurring as a result of acknowledged differences in rank-master/slave, nobleman/commoner; etc)
3) Ceremonial rape (undertaken as part of socially sanctioned rituals or ceremonies)
4) Exchange rape (when genital contact is used as a bargaining tool or gesture of conciliation or solidarity)
5) Theft rape (involuntary abduction of individuals as slaves, prostitutes, concubines, or spoils of war)
6) Survival rape (when young women become involved with older men to secure goods and/or services needed to survive)

One can infer from Seifers’s comments and Rozée’s rape categories that mass rape that occurred in the DRC was not a response to sexual impulse. Rather, it is a systematic mechanism of control and intimidation. With these assumptions in place, sexual assault of women can only be viewed as ‘normal’ behaviors when they occur during wars. Yet, mass rape has continued to take place in the DRC even after the termination of the war was declared. As evidenced by Human Rights Watch report (2002), mass rape has other motivations:

These combatants raped women and girls during military operations to punish the local civilian population for allegedly support “the enemy.” In other cases, Mai Mai rebels and other armed groups abducted women and girls and forced them to provide sexual services and domestic labor, sometimes for periods of more than a year (p. 2).

In another report penned by Pratt and Werchick (2004), with the contribution of five other USAID workers,\textsuperscript{3} mass rape that has destabilized the Congolese population is called ‘Sexual Terrorism.’ Echoed by Kirchner (2008), this term is an accurate description of the sexual ordeal the Congolese people are enduring, for not only victims are physically injured, but they also have to cope with other effects of rape, for instance, social, mental, economical and political impacts. Contrary to the myth, rapists who attacked Congolese women had nothing to do with an “irrepressible

\textsuperscript{2} The practice is intended to help to prevent girls from rape and early pregnancy. For further information related to the subject, see: Jamie Rich (2010), Tansa (2006), and Rich (2010). In some parts of Congo, teenage girls whose breasts develop early are given a medicine in a beverage instead. In those areas, the purpose is not only to protect girls from sexual assault, but also to prevent them from developing large breasts, for it is believed that their weight might cause health problems in the future.

\textsuperscript{3} Anaia Bewa (USAID/Kinshasa, OTI), Marie Louise Eagleton (USAID/Kinshasa, PO), Claudine Lumumba (USAID/OTI-Kisangani); Katherine Nichols (USAID/Kinshasa, Democracy and Governance), and Lina Piripiri (USAID/Kinshasa, Health) helped on the report.
male sexual drive.” Their act was not intended to seek erotic satisfaction only. Rapists have used rape to dehumanize women by treating them as mere “openings.”

III. Consequences of Rape on Women’s Bodies

Sexual violence haunts its victims long after the initial attack for each act of rape humiliates and traumatizes its victims, their families, and, in times of war, entire communities. Since it does not bring sexual gratification to the victim, rape only destroys and robs the body. Rape victims cope with their tragedy differently, but the consequences that they all share are physical and psychological.

A. The Physical Body

One common denominator to Congolese rapes is that women are treated like animals. In the UNHCR’s report, Fontanini (2009) who works for UNHCR in Kinshasa, DRC, recalled:

In my conversations with victims, I hear the details. Some were raped like animals, one after another; others were forced to be slaves of armed groups and raped every day for months. The women are of all ages, from eight years to the very old. (para. 7).

Additionally, Médecins Sans Frontières (2002) reports in one of their April 6 press release:

The youngest person treated by MSF was a 4-year old girl and the oldest a woman of 70, who was raped by three men in front of her children. The medical consequences of sexual violence include an increased risk of HIV/AIDS, physical injuries and serious complications in reproductive health. The women suffer from fear and nightmares, and often face isolation in their communities and rejection by their husbands (para. 4).

As an act of extreme violence, the first obvious post rape consequence is physical damage inflicted on the woman’s body. Among immediate reactions to rape Gilmartin (1994) describes:

[S]omatic complaints (“including pelvic pain, gastrointestinal difficulties, disrupted sleep and/or eating patterns, headaches, and muscular tension”), behavioral changes and sexual difficulties (“women may have less interest in sex, as well as experience less satisfaction with their sexual encounters”). (p. 105).

In the case of Congolese raped victims, their rapists have turned their bodies into a commodity to manifest their domination through violence. The bodies of Congolese rape victims have been exposed to severe torture and humiliation.\footnote{In their collective work, R D CONGO SILENCE ON MEURT TÉMOIGNAGES. (pp.161-172) [ D R CONGO: Quiet, We’re dying] Médecins Sans Frontières 2002, give an account of sexual atrocities that rape survivors had to endure. Victims remember witnessing gang rape; others were forced to watch their daughters being raped.}
ritualized atrocities aimed at the femininity of the body, like cutting women’s private parts, introducing guns, knives inside their private parts, opening pregnant women’s stomach so rapists could see how a fetus fits in it, burning women’s bodies to death have one goal which consists of destroying the Congolese social tissue. In its report, Human Rights Watch (2002) stated:

Some rapists attacked their victims with extraordinary brutality. In two cases, assailants inserted firearms into the vaginas of their victims and shot them. In other cases combatants mutilated the sexual organs of the women with knives or razor blades. Some attacked girls as young as five years of age and woman as old as eighty. (para. 2, p. 2).

All these acts are not manifestations of a form of sexual disorder nor hatred or revenge. These tortures were aimed to completely destroy women as human beings. Testimonies of a few of the rape victims reveal destroyed biological bodies that have become war trophies on display. Rape in the DRC has become a public event for mothers are raped in front of their children and husbands are forced to rape their own wives after the rapists. Congolese raped victims are worth less than sexual slaves of the Ancient Greek and Rome, for they do not have official masters who could have full control over them. If not rescued, they remain at the mercy of any rapist.

Lack of good roads makes survival difficult for rape survivors who are isolated from social support networks. Since they have no access to a health care system that could help them cope with untreated sexual transmitted diseases, including AIDS, they have to endure their altered bodies in progressive deterioration until they die. Those who found themselves pregnant after being raped, suffer even more from the shame of bearing unwanted children, who might be stigmatized for life.

B. The Social Body

Besides causing immediate physical pain, rape also affects women as subjects representing a social body. Since rape is first of all an act of transgression, in male-dominated cultures, where women are defined through social institutions (Family, Marriage, Religion), being raped means losing face. Sanders (1980) elaborated on this situation in these words: “in rape assaults, a woman loses her value as a person, for the rapist takes from her society’s expectation of an appropriate line of action regarding sexual conduct” (p. 127). The body of a raped woman becomes a repository of shame, guilt, and betrayal. Because of its nature, rape goes beyond sex. Husbands, whose wives have been raped, lose symbolically their masculinity, because of their incapacity for protecting their family assets. The only feeling that prevails on behalf of their ego, is, impotence. Because of rape, the woman becomes a repository of shame for she is identified as a sinner. In Congo, some of the rape victims, especially married women have been banished from their own homes because their physically ill and despoiled bodies are no longer valued by their families. Such bodies are condemned to be considered mere sexual objects. Recalling a visit in Kalehe, a small town in South-Kivu, Kristof (2010) shared this:

5 Other victims’ accounts are made public by Lisa Jackson (2007) in her documentary, titled The Greatest Silence: Rape in the Congo.
Counselors say that most raped women are rejected by their husbands, and raped girls [...] have difficulty marrying. In an area west of Lake Kivu where attacks are continuing, I met Saleh Bulondo, a newly homeless young man who was educated and spoke a little English. I asked him if he would still marry his girlfriend if she were raped “Never,” he said. “I will abandon her.”

A girl here normally fetches a bride price (a reverse dowry, paid by the husband’s family) when she marries. A village chief told me that a typical price would be 20 goats — but if the girl has been raped, two goats at most (para. 16-17).

This kind of situation allows more predators to continue to rape women, now abandoned by society, and therefore develops a culture of mass rape.

C. The Mental Body

Since public rape often leads to social rejection, the long-term aftermath of rape can be quite challenging, where rape victims will never feel the same any more. After coping with physical and social consequences, they have to go through another process of the rebuilding phase. Their mind needs to reconstruct a new mental body in order to heal their psychological injuries. As Burt and Katz (1987) put it:

After the immediate task of regaining equilibrium and simply being able to function in daily life, the much longer task of rebuilding begins. There is tension and exchange between a woman’s life as it was and as it looked to her before the rape, and all the new things that she is forced to learn and to confront in her post-rape life, [i.e.,] asserting control over the situation and accepting that there are in fact some things beyond her control (p. 62).

Before being raped, Congolese women could be compared to the so-called “savage” female character portrayed by Conrad in Heart of Darkness (1996). Although being a sexual slave herself, this woman lives life without fear of her body. Marlow, one of the narrators of the story, describes Mr. Kurtz’s mistress in these words:

She walked with measured steps, draped in striped and fringed cloths, treading the earth proudly, with a slight jingle and flash of barbarous ornaments. She carried her head high; her hair was done in the shape of a helmet; she had brass leggings to the knee, brass wire gauntlets to the elbow, a crimson spot on her tawny cheek, innumerable necklaces of glass beads on her neck; [...] She was savage and superb, wild-eyed and magnificent; there was something ominous and stately in her deliberate progress. (p. 77).

As in the case with their first masters, the colonizers, Congolese women’s new rapists have approached their bodies as their new dark continent to penetrate, and to destroy. Through their act, rapists continue to perpetuate patriarchal subjugation of women.

After being raped, Congolese women are condemned to live within a different body, a body of which they are afraid, a body that has become a stranger, a body that has lost its integrity. Unlike the savage woman, rape victims can no longer walk “with measured steps,” they can no longer carry their “head high.” Their face is condemned
to reflect “a tragic and fierce aspect of sorrow and of a dumb pain mingled with the fear of some struggling,” (Conrad 1996, p. 77) as long as justice is not done. Since rape victims lose their social identity, it is common that they face psychological long-term consequences. According to Gilmartin (1994), these consequences include:

[Intense fears (particularly of stimuli reminiscent of the attack), anxiety, phobias, tension, nightmares, anger, hostility, chronic depression, suicidal ideation and/or suicide attempts, dissociative symptoms (e.g. feeling disconnected and/or “outside” of our bodies), and chronic depression. (pp. 106-107).

Associated with other effects, these consequences might contribute to keep rape victims in a state of refusing to move on with a new life.

D. The Economic Body

Mass rape in DRC does not affect its victims only physically and psychologically. It also has an economic impact. Mass rape has caused economic loss for victims of rape who must refrain from their daily occupations due to physical injuries. The consequence of this situation is a deterioration of the country’s economy. Prior to the two wars, Congolese women have always been active and creative, serving as the main providers of the house. When the country was facing its strongest dictatorship years in the 1980s, while working men, such as teachers or civil servants, could not receive their salaries for three months or more, women were the ones who struggled to provide for the families. In order for women to continue to be powerful economically, they need to be strong, physically and mentally. Unfortunately, the two DRC wars have destabilized the entire nation, because an important part of the main workforce represented by women has been destroyed by rape. Severe medical problems and psychological trauma have condemned many rape victims to inactivity. Those who still live in war zones do not feel secure to resume their normal activities, since former familiar safe spaces have become threatening. For example, some women can no longer provide for their families through farming or trading. Thus, the economical power these women have always represented has disintegrated. Furthermore, the country has become subject to a slow death process as Mukwege and Nangini (2009) suggest: “The long-term outcomes translate into the slow death of a population incapable of reproducing” (para. 2).

For Duroch (2002) the stability and future of a country are associated with the women’s well-being:

Si les femmes sont les gardiennes de la stabilité domestique d’un pays car elles assurent la filiation et l’éducation des enfants, les atteintes à leurs droits doivent être considérées comme autant de coups mortels portés aux fondements mêmes d’une société et à son potentiel d’institution d’un avenir pacifié (p. 156). [If women are the guardians of the country domestic stability because they are the ones who assure filiations and children’s education,

---

6 Ngangura Mweze and Benoît Lamy (1987) have immortalized the economic power that Congolese women represent, in their film *La Vie est belle*. The film features very successful market women. If they decide to go on strike nationwide for a few days, the country could enter its official recession.
violations of their rights must be considered as a deathblow to the foundation of any society and to its potential as a future peaceful institution. (Translation by author).

Sponsored by the same organization, a panel, entitled “Call For Action to Stop Fighting in Dr Congo. Congo Panel, Women for Women International” was held in October 2008 in New York, NY. Below is a summary of what has been done so far:

Since 2003, Women for Women International has served more than 18,991 Congolese women and another 102,551 family and community members in this region. Through a holistic program that includes rights awareness and life skills training, income generation assistance, and vocational and skills development, women are able to create stability and self-sufficiency amidst an otherwise chaotic and volatile environment. In 2007 alone, the program reached 9,489 women in the communities of Bukavu, Goma, Fizi and Baraka in the Kivu provinces of eastern Congo. Women for Women International also conducts Men's Leadership Training programs that aim at educating religious, traditional, and civic leaders about the consequences of sexual violence on women and whole communities, with the aim of turning men into advocates of women's rights (2008, para. 9).

For many women, being in a classroom represents a chance for a new life and an opportunity to rebuild self-confidence. At the Panzi Hospital nearby the city of Bukavu in South Kivu region, rape survivors knit clothes and weave baskets to make a little money and thus to become a little economically independent, while their bodies heal. This situation illustrates a popular saying in Kiswahili, that is: “Kitumba ya nyoka haikufaki.” Literally, it means: a snake corpse never dies. Congolese rape survivors who are given the opportunity to make a difference in their lives, work hard to achieve new goals for, no matter what happens, women will remain the nation’s umbilical cord.

E. The Political Body

Among other reactions that follow rape is silence. Jaworski (1992) comments on rape victims’ silence in these terms:

The victims of rape, who are predominantly women, usually remain silent about the crime that has happened to them. Their silence is not voluntary. It is the silence of the shame and fear that they anticipate in case their rape case becomes public. Again, the reason for their behavior is that the status of rape victim is ambiguous. A raped woman is not “clean,” a raped woman is married, her status as the property of one man is altered; at the time of rape she became the property of another man. This means that now she: belongs” to neither. Moreover, a rape victim is very often portrayed as responsible for the crime (p. 127).

Although, silence linguistically means lack of speech, in some contexts it is observed to keep the channel of communication open, something that can sometimes
be terminated overtly by speech. In cultures that display very extensive use of communicative silence, the value of silence is more positive than in societies in which verbal communication is expected to occur most of the time during an interaction. In situations of anger such as rape, rape victims may resort to silence to avoid confrontation or discussions of such an unpleasant reality. Others may need more time for reflection and understanding, and for planning what action will be taken. In this case, silence functions as a strategic response to the victim’s psychological body that needs to rediscover itself. Paraphrasing Gilmartin (1994) noted that some rape victims have raised awareness regarding the political underpinnings of rape by breaking the silence about rape. In so doing, these rape victims become political activists:

[S]ome women attempt to facilitate their recovery by immersing themselves in “speaking out” about the issue of rape and trying to do something concrete about it (p. 110).

Since gender categories and distinctions are embedded in and perpetuated through language, language should be the medium through which perceptions on women can be changed. Thus, naming the horror will allow rape victims to speak their anger, their desire for justice, their cry for a better life, and their request to end impunity. Making rape public must become an act of searching for justice.

In DRC, despite the fact that speaking overtly about sexuality is taboo for women, the breaking of silence about rape by a small number of the rape victims can be viewed as a positive step toward their emancipation and empowerment. (Most rape cases occurred in remote parts of the country, where 80% of women are uneducated). Through the act of speaking, the physically injured body becomes a political one, a body that is determined to change the mentality toward women.

Naming the pain imposed by rapists is to create a feminine language, the only one that is able to express the unnamed. Stories by rape survivors are political acts, because they call out to the Congolese nation that it must address the rape issue. These stories allow their narrators to denounce male oppression, and to create a new sphere that will hopefully become a new place of improved opportunities. Kamate, a former raped victim explains to Adam Hochschild (2009), who interviewed her on August 13, 2009, why she became an activist:

What pushed me into this work, [. . .] is that I am also one who was raped. [. . .] Their main purpose was to kill my husband. They took everything. They cut up his body like you would cut up meat, with knives. He was alive. They began cutting off his fingers. Then they cut off his sex. They opened his stomach and took out his intestines. When they poked his heart, he died. They were holding a gun to my head. [. . .] They ordered me to collect all his body parts and to lie on top of them and there they raped me—twelve soldiers. I

Albert (1964:37-38) mentions the example of the Barundi (inhabitants of Burundi). While upper-class boys are trained to speak correctly, upper-class girls receive careful training in maintaining “artful silence and evasiveness.” “They are expected to be able to listen very carefully to what is said about their families and later to repeat it verbatim to the males in the household. The verbal skills in which the females are trained, and in which they excel, are: bargaining and negotiation skills for use behind scenes.”
lost consciousness. Then I heard someone cry out in the next room and I realized they were raping my daughters. (para. 4).

Speaking about rape becomes a political act because it is a reaction against the silencing of women as individuals and as a social group. From feeling abandoned, estranged, self-isolated, from being nothing but an opened door, naming rape allows rape victims to assert themselves as humans who refuse to continue to be dehumanized. Rape victims who come out, become self-advocates and in doing so, they may challenge existing legal obstacles that impede justice, and they may help to end climate of impunity, for rape remains a crime.

In Congo, rape victims who went ahead to seek help, have come to realize that fear and shame of public exposure, and family rejection do not help to heal a body that has been physically and psychologically assaulted. Making such pain public can help to educate families that need to understand that no one chooses to be raped and that family support must be restored. Also, since rape is not about numbers, breaking silence about few cases may help to raise global awareness on the most dehumanizing crime against women.

IV. Male Rape

If rape is an old phenomenon that does occur across cultures and time, as documented by various authors (Lalumière, Grant, Vernon, & Marnie (2005), Williams (1980); Price & Shildrick, 1999), some questions remain though. If women are often accused of being responsible for being raped, what about children? What about men raping other men?

Currently, men are being raped in the DRC as well. Gettleman (2009) notes in the August 4 New York Times’ article:

The male rape cases are still just a fraction of those against women. But for the men involved, aid workers say, it is even harder to bounce back. “Men’s identity is so connected to power and control,” Ms. Walker said. And in a place where homosexuality is so taboo, the rapes carry an extra dose of shame. “I’m laughed at,” Mr. Mukuli said. “The people in my village say: ‘You’re no longer a man. Those men in the bush made you their wife.’” (para. 18-21)

Being social bodies, male rape victims become ridiculed figures, referred to as “bush wives.” These emasculated persons have lost their male power and control; they are condemned to be castaways in their villages for their social identity does not exist anymore.

V. Conclusion

In modern societies, rape perpetrators, when convicted, must pay for their crime. The Congolese government is slowly starting to pay attention to the rape issue because of the high rate of rape victims in war zones, and because of some efforts from a few non-governmental organizations such as Gynecologist Denis Mukwege’s Center for Raped Women in Panzi (South Kivu region), Doctors Without Borders (MSF), and more. In 2006, its parliament passed a law criminalizing rape, with
penalties ranging from five to 20 years. Penalties are doubled under certain circumstances, including gang-rape and if the perpetrator is a public official. But between the promulgation of a law and its implementation, the path is still long. Many rapists are still at large and numerous Congolese rape victims who continue to be re-raped are still waiting for justice.

While rape exposes the victim to social rejection, with the attention to sexual violence in Congo, the stigma associated with rape is slowly decreasing. Some victims are determined to bring their rapists to justice. For instance, nine-year old Jeanne, was raped by a neighbor and her parents denounced the perpetrator to the local justice system. But because of corruption, justice was not served (allAfrica.com, 2010). The result of this kind of situation is lack of confidence in the justice system. Therefore, survivals of rape need first of all to confront stigma and fear that surround rape in order to move on with their lives and to reconnect with their families. On a larger scale, overcoming rape in the DRC as elsewhere remains an education matter. People need to understand that rape is and will always remain a crime, and not a cultural commodity. We can only hope that the DRC justice system will completely put an end to the culture of impunity. Otherwise, Congolese women will continue to be raped, any time new wars break out. Though silence can sometimes operate as a powerful communicative tool that may allow someone to express dissatisfaction, it does not work in the case of rape. Because rape is a crime, victims of rape must rather denounce it than keep the pain for themselves. It is through the power of words that seek justice that rape victims can hopefully recover from their dehumanization.

References


IRIN (July 20, 2010). (Integrated Regional Information Networks


Radio Okapi (2010, March 4). Rape on the rise in North Kivu as fighting displaces 70,000. Retrieved from congoplanet.com


26iht-edshannon.html.
HUMAN TERRAIN TEAMS AND COMMUNITY POLICING: THE MILITARY BASED EXAMPLE THAT U.S. LAW ENFORCEMENT AGENCIES CAN FOLLOW

Christopher R. Sharp*

The Human Terrain System of gathering intelligence, currently being utilized by the United States Military, exemplifies the marriage between military strategy, anthropology and sociology. This relationship allows for a significant reduction in the use of lethal operations and the resultant civilian and military casualties due to the socio-cultural understanding that the civilian social scientists provide to military commanders operating at a local level. Although the past shows incidents of the abuse of this information, the current human terrain system has been used effectively to allow communities in Iraq and Afghanistan to self govern through informal forms of social control, while teaching organic law enforcement agencies to provide the more formal forms of social control (when needed). This environment is similar to the development of the community policing model in the United States. Community-oriented policing is not a new phenomenon in the history of policing; however it, too, has had a questionable history at times, which has led to the current form of intelligence-led, problem-solving policing. The purpose of this paper is to provide a brief synopsis of the human terrain system in use by the military and identify some of the successes of this system that may aid local law enforcement in the United States.

At the current point in our nation’s history, to state that domestic law enforcement agencies have been heavily focused on anti-terrorism activities since September 11, 2001, would seem a relatively banal observation. Nevertheless, in the last several years since 2001, important issues have arisen that may inhibit law enforcement’s ability to combat terrorist activities at the national and local levels. The most glaring issue, and one with significant national security ramifications, is the fiscal crisis currently being felt across the country and the negative effect on financial resources for all government agencies. Although the current economic situation in the United States does not preclude the responsibility of domestic law enforcement to combat terrorism along with more traditional forms of crime, a reengineering of law enforcement agencies is warranted, and is already occurring through the use of intelligence-led policing, which has been noted as a response to the ineffectiveness of traditional policing techniques (Ratcliffe & Guidetti, 2008). The Department of Justice recently noted that the intelligence gathering practices related to combating terrorism and the response to more traditional forms of crime are not mutually exclusive, and that such intelligence gathering techniques can actually improve local law enforcement’s response to crimes (Peterson, 2005). Intelligence-led policing involves a proactive stance toward criminal investigations and crime fighting, such as the one taken by the New Jersey State Police, where several units within the agency are co-located according to geography in order to facilitate strategic planning (Ratcliffe & Guidetti, 2007).

* © 2010 by author, reprinted here by permission.
Please send your correspondence to author at crsharp@valdosta.edu
While it is admirable that agencies are recognizing the need for intelligence-led, proactive policing, this type of activity usually involves an immense amount of intelligence data that can be extremely difficult to interpret if not put in to the correct socio-cultural context (Ratcliffe & Guidetti, 2007; Crank & Rehm, 1994). Furthermore, the intelligence gathering mechanisms of the state and local police are routinely plagued by a lack of policies and procedures, and inadequate training in gathering and interpreting essential information (Peterson, 2005). The difficulty associated with interpreting the intelligence has the potential to lead to the reemergence of fiefdoms and intelligence hoarding (IACP, 2002). To combat this, engaging and involving the community in the intelligence gathering process, coupled with the use of objective socio-cultural researchers (such as sociologists and anthropologists) to assist in the interpretation of information could very well ease the burden of intelligence gathering and interpretation on local law enforcement (Peterson, 2005).

The inclusion of social scientists into tactical and strategic field operations is not a new phenomenon, and is currently in use by the United States military through Human Terrain Systems. When first heard, the phrase “military anthropology” seems an incompatible intersection of disciplines with divergent purposes. In fact, the practical application of anthropological study in military operations has historically spawned criticism from both military personnel and anthropologists (Gonzalez, 2007). However, this criticism fails to take into account the real meaning of both disciplines. For example, the study of military science explores many facets of waging war. These aspects include the technical and practical applications of military technology and expertise, which moves beyond simple tactical applications and maneuvers to the broader impact of those operations on the local population, environment, the enemy combatants, and even one’s own troops from a psychological as well as sociological perspective.

Conversely, the field of anthropology has been much less focused in that it encompasses several different areas of human civilization including: biological, archaeological, linguistic, and socio-cultural areas. In essence, the study of anthropology is the study of cultures throughout time, their forms of communication, customs, and social organization, and military strategists’ have found this study to be the most influential for understanding opponents’ cultures and potential motivations for behavior. Social scientists have not only been able to assist the military with intelligence gathering; more importantly, they have helped with the interpretation of the intelligence, which has led to a significantly reduced casualty rate for the United States military (HTS Impact on the Military, 2010, para.1). Necessarily, the military has not limited the impact of its social scientists to the study of culture and social organization only (which is not indicative of the holistic study that many anthropologists actually seek in understanding a people). To understand only one facet of a culture (the organization of a society or the cultural icons) precludes the ability to understand the evolution of a society leading up to the most modern forms of communication, belief systems, and tenacity in maintaining its sense of culture. Subsequently, the holistic approach (broadly defined through the U.S. Army Counter Insurgency Manual, Field Manual 3-24) described by the Army defines the human terrain as a struggle for the protection, welfare, and support of the people, and is carried out by culturally astute leaders.
Defining the Human Terrain Practically

In 2008, Andre van Tilborg, deputy undersecretary of Defense for Science and Technology said at a hearing before the House Armed Services Subcommittee on Terrorism, Unconventional Threats and Capabilities: "Battlefields are often civilian neighborhoods where American troops face an "indistinguishable mix" of enemy fighters and innocent civilians."

A similar definition holds true in the United States for domestic law enforcement agencies in working with local communities. Much like the insurgents engaged by the United States military, domestic criminals are incredibly adaptive in their tactics, and are able to readily hide among the civilian population (as in the current trend of gangs limiting the use of “colors”) (Trump, 2007). Therefore, the responding agencies must learn to be fluid in their decision-making, coordination and response, and must be coupled with other agencies as well as with the civilian population in a fully collaborative effort (Sharp, 2009).

Furthermore, as a result of globalization, and the growing linkages between terrorist organizations and “traditional” criminal behaviors in American cities, the focus of domestic law enforcement in the United States is becoming ever more convoluted, and the merits of intelligence-led policing becoming more pronounced (Stohl, 2008). For the most part, the marriage of terrorist and criminal networks is a result of a financial necessity as terrorist organizations are constantly seeking new forms of revenue to replace the declining number of nation states that will sponsor their activities (Stohl, 2008; Hamm, 2005). However, the mix of terrorist and criminal networks has provided the additional benefit of even greater flexibility and adaptability within the community which presents significant problems for law enforcement (Grabosky, 2008).

To combat this, information on social groups and their interests, beliefs, and leaders, and what drives a group of people to adhere to a commonly held set of rules for conduct is a core necessity for maintaining social order in both a domestic law enforcement setting and on the foreign battlefield through human terrain systems (Somerville, 2009). The social order of a community is maintained largely through the influence and enforcement of informal social controls which can be supported by the presence of agents that support both governmental and non-governmental partners within the community (Petraeus & Mattis, 2006). This was the driving force behind the creation of the Human Terrain System in the United States military when it was realized that the status quo of purely military responses to insurgents could not be maintained, and that a coproduction of public safety and anti-terrorism needed to be achieved through the creation of human terrain teams that worked closely with the local population to solve local problems. The coproduction of public safety inherent to problem-solving policing in the United States is no different.

Purpose of Human Terrain Systems

The purpose of the Human Terrain teams is to “conduct operationally-relevant, open-source social science research, and provide commanders and staffs at the BCT/RCT and Division levels with an embedded knowledge capability, to establish a coherent, analytic cultural framework for operational planning, decision-making, and assessment” (Human Terrain System, 2010, p. 4). This helps to ensure that the socio-cultural information provided to military commanders is relevant to that...
neighborhood, village, or town, that they are operating in and identifies gaps in intelligence as well as responsible courses of action for working with the local population. These courses of action often involve a significant reduction in the use of lethal force, and the subsequent societal reaction to that force, which provides legitimacy for and the acceptance of military operations (HTS Impacts on the Military, 2010).

In order to have an articulate discussion on how the concept of the human terrain system and community-oriented policing can be compared, first there must exist an understanding of community-oriented policing. Somerville (2009) posits that communities can be defined as a group of individuals that interact through living and/or working together in settings that would typically be called neighborhoods. This description is similar to the one used by the military to define neighborhoods or districts. Furthermore, Somerville (2009) states that social order is best achieved through self-policing coupled with self-regulating police institutions. However, the crux of social order is maintained by the neighborhood, and the agency merely provided guidance and oversight. Maintaining social order, conducted through community policing, is not merely a method of patrolling the community, but involves the methods that law enforcement agencies use to work with the public to identify and resolve problems in the neighborhood (Skogan & Hartnett, 1997).

This situation is similar to what the human terrain systems, in conjunction with the surge of military forces, are achieving in both Iraq and Afghanistan. The use of the human terrain system, and the subsequent positive interaction with the local community, coupled with enough troops to maintain peace has allowed the local neighborhoods the ability to begin the process of self-governance and regulation, thereby bringing about social order and a reduction in lethality for both military forces and civilians (HTS Impact on the Military, 2010). In the words of the first Brigade Commander to receive human terrain teams, “We estimate that, as a result of the HTT, we have reduced our lethal operations by 60-70%.” (HTS Impact on the Military, 2010, para.1). Furthermore, in this particular interview, the Brigade Commander recognized that through the efforts of the human terrain team in replacing a volleyball net, the military was now able to get vital information to protect their position as well as the civilian population from Taliban mortar attacks. This commander recognized that if he had not identified and addressed a community problem, albeit a simplistic one such as a lack of recreational resources, he would not have been able to achieve the same reduction of lethal operations.

The balance between formal and informal methods of social control through problem-oriented policing where monitoring and intervention is needed to discontinue anti-social behavior is grounded in mutual trust between the local populace and the more formal policing institution and is at the crux of intelligence-led policing (Somerville, 2009; Misztal, 2000). However, it is difficult to frame this complex relationship in simple terms as the term community-oriented policing does not take into account the development of the community into self-governance, which comes as a result of the individuals within the community taking responsibility for controlling those that deviate from the social norm (Somerville, 2009; Kooiman, 2003). This self-governance happens as a result of several factors, however the most important being that the decision to self-govern and coproduce public safety with formal law enforcement institutions is a result of whether the authorities are viewed as trustworthy, responsive to community needs and problems, effective in their roles, and supportive of the local populace (Silver & Miller, 2004). These characteristics are
indicative of a more proactive, problem-solving response from police agencies toward the local community, which is strikingly similar to the working environment of the human terrain systems in Iraq and Afghanistan.

The problem-solving approach has been an important facet of community-oriented policing for a significant period of time. However, there have been significant obstacles in the history of policing that have diminished the trust in the police/citizen relationship in noteworthy ways. To a great extent, this may be due to the methods of implementing community-oriented policing, which although based on social science research, did not necessarily involve social scientists actively working with law enforcement agencies to determine community needs and the correct response to those needs. Most importantly was the lack of effective collaboration with governmental and non-governmental entities in the community (Skogan & Hartnett, 1997). Successful implementation of the community-oriented policing would have involved the citizenry in identifying problems and allowed for an open relationship with law enforcement where these problems could be addressed (Skogan & Hartnett, 1997). This proactive stance is far different than the reactive model that defined policing for decades, and the actual implementation of community policing has been plagued with agencies that have ignored the personnel and organizational constraints that were placed on them along with the expansion of their roles as problem solvers (Lurigio & Rosenbaum, 1994). Law enforcement was unprepared for the breadth of problems that they would be expected to address once they took on the role of problem-solving, which resulted in half kept promises and a lackluster implementation of community policing (Skogan & Hartnett, 1997).

Similarly, the United States military has not historically done a good job of understanding the cultures and societies in which they have operated, nor sharing pertinent information among its subordinate units (Kipp, Grau, Prinslow, & Smith, 2006). Furthermore, history has illustrated the potential for abuse when gathering intelligence on a society or culture, as in the case of the Vietnam War where human intelligence-led to a neutralization campaign that resulted in the massacre of 26,000 Vietnamese (Gonzalez, 2008). It should be noted that the results of the most recent implementation of human intelligence gathering (the current Human Terrain System in use by the United States military) is in stark contrast to the problems that previously plagued human intelligence, although there is little empirical research to date to support this assertion (Human Terrain System, 2010). This is due, in part, to the deployed anthropologists and sociologists who work directly with the military personnel, as well as the lessons learned in implementing a responsible Human Terrain System model of intelligence gathering.

**Lessons Learned from the Military**

The historical use of social scientists working with the U.S. government, allegedly as spies, has cast a shadow over the current activities of the human terrain systems due to operations in several conflicts, such as World War I, World War II, and the Cold War (Fawcett, 2009). As military leaders continued to study the technological, psychological, and practical aspects of soldiering on a then modern battlefield, practicing (or applied) anthropologists were being utilized in espionage operations due to their ability to conduct highly detailed participant-observation (Gonzalez, 2007). However, this practice quickly received harsh criticism from noted individuals such as Franz Boas, the father of American anthropology who made the
accusation that the practical anthropologists had prostituted their science by using their studies as a cover for military operations (Fawcett, 2009).

World War II saw an expansion of practical anthropologists on the battlefield, specifically in the area of intelligence gathering and field operations. For instance, Carleton Coon, an anthropologist at Harvard, was instrumental in training Moroccan resistance groups insabotage techniques while working as an operative for the Office of Strategic Services (OSS) (Price, 2002). Gregory Bateson, the most notable OSS operative at the time, was instrumental in conducting psychological operations in the form of anti-Japanese radio propaganda (which he found distasteful due to the use of deceit and half truths), and went on to recommend to OSS director William Donovan that an agency be created to execute clandestine operations instead of relying on the use of conventional warfare tactics (Price, 1998).

Most importantly, Bateson’s spouse, Margaret Mead (also an anthropologist involved in the war effort), noted that the practice of using anthropologists to advise the military advisers was inefficient and in order to have the information be pertinent, anthropologists must work directly with policymakers. The combined work of Bateson and Mead helped to engage the work of anthropologists into military culture and laid the groundwork for the evolution of future human intelligence gathering (Price, 1998).

The current conflict in Iraq represents our second engagement with Iraqi forces, but the first prolonged engagement with Iraqi insurgents. During the current operation, the United States military has undergone some drastic transformations. These changes were not simply centered on the organizational make-up of the active Army, Army Reserve and Army National Guard, but also included a shift in ideals. More importantly was a resurgence of recognizing the importance of anthropological and sociological input into intelligence gathering operations. Initially, the effort to create intelligence teams consisting of military, anthropology, and sociology personnel was met with significant resistance because it was assumed that the Human Terrain Teams (HTTs as they are known) would be used simply as spies, or information would be used to prey upon the belief systems of indigenous peoples (as was the case during the Vietnam War) (Gonzalez, 2007). However, the current mission of the military has progressed from a tactical use of military might to one of rebuilding a nation, which is strikingly similar to the problem-solving mission of community policing. The human intelligence gathering that was needed to accomplish this new mission required a breadth and depth of understanding that was missing until the formation of the Human Terrain System that advocated intelligence-led military operations. Military leaders correctly saw this as an impossible feat without the use of expert observations from individuals who were trained in understanding and accommodating the culture of indigenous populations (Kipp, Grau, Prinslow, & Smith, 2006).

What came about was the creation of a counterinsurgency manual, United States Army Field Manual 3-24, which possesses significant contributions from trained anthropologists and sociologists, although the writing has been criticized for using outdated theoretical foundations (Gonzalez, 2007). Importantly, the manual acknowledges that commanders need to leave behind their long-held ideas of what constitutes normal behavior when dealing with individuals from different cultures or different societies. Furthermore, it recognizes that what American soldiers view as normal behavior is incorrect because it does not take into consideration the array of diversity within our own society. Subsequently, the anthropological study of Iraqi
culture allows American military forces to categorize interactions with the people of Iraq into a framework that accommodates the belief systems, interpersonal relationships, and social hierarchy from which the citizens come. In the same way, the implementation of community-oriented policing, due in large part to the law enforcement response to the unrest of the 1960’s, resulted in a series of canned responses to the community’s problems without an understanding of what was happening in American society in terms of diversity, growth, and “normal” behavior (Maguire, Kuhns, Uchida, & Cox, 1997).

Furthermore, due to the reemergence of human intelligence-led operations, military leaders can now effectively expand their sphere of influence within the local populace because they understand the framework of insurgent ideology and can offer an alternative ideology (which has a foundation in the practices of the indigenous culture as opposed to attempting to force American belief systems on a foreign society) (Human Terrain System, 2010). More than just attacking insurgent strongholds, which often breeds contempt for the occupying force, American forces can be led to insurgent leaders by the local populace that now understands the American’s purpose.

Similarly, domestic law enforcement experienced significant problems with implementing community-oriented policing because it is inherently reactive in nature, even though it is theoretically based on partnerships with the community (Moore, 1992; Deukmedjian, 2006). This reactionary response can still result in a military style response to crime fighting that involves the creation of specialized gang units and drug interdiction units (Deukmedjian, 2006). Furthermore, if the military style response is not understood by the local populace due to the lackluster implementation of collaboration previously mentioned, there is a greater propensity for the breeding of contempt and even active resistance, much like an insurgency. Alternatively, problem-solving policing focuses on the causes behind the incidents and not simply the resultant crime (Moore, 1992). This is due to the intelligence gathering aspect of the problem-solving movement.

Conclusion

In conclusion, several misguided assumptions were made regarding the alleged broken promises of community policing (as displayed by commissions such as the Audit Commission for the Royal Canadian Mounted Police in 1993 (Audit Commission, 1993)), which has led to the current view of intelligence-led policing as just the latest fad to fail (Deukmedjian, 2006). Most glaring was the assumption of many agencies that they could adopt the mantle of community-oriented policing without tackling the most important aspects of the movement; fully engaging the community in the co-production of public safety. Instead, the reality of the implementation of community policing was more of an aggressive form of “saturation policing” as the answer to being more proactive in crime fighting (Bucqueroux, 1995). However, administrators have identified the past failures of community-oriented policing—a lack of understanding of the mission, a lack of training--and are utilizing the most viable and valuable portions of community-oriented policing (namely the problem-solving perspective) coupled with an identified need for greater research and information sharing among agencies (Deukmedjian, 2006; Commissioner’s Office 2002). To the credit of American law enforcement agencies, the need for cultural diversity and depth of understanding of the neighborhoods in which officers operate
has been recognized. Leading law enforcement administrators continue to actively recruit college trained officers into their ranks in response to this socio-cultural understanding. What is yet to be determined is whether or not domestic law enforcement agencies will embrace the active engagement of social scientists into day-to-day intelligence gathering and response operations through a Human Terrain System in the way the United States military has. It is this question, as well as measuring the successes of implementing these models, that provides significant fodder for future researchers as the problem-solving policing movement continues to evolve.

References


