

# CHAPTER 1

## A STRATEGIC PERSPECTIVE ON U.S. HOMELAND DEFENSE: PROBLEM AND RESPONSE

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I am going to speak as though I were still Deputy Secretary of Defense for one last hour, if I may, with the presumption that I can do that. But, first, I must tell you that I was amazed that you asked me to offer this keynote address, and it reminds me very much of a story that was once told of the great Lionel Barrymore, who was a famous Shakespearean actor at the turn of the century in England. Barrymore was playing the part of Richard II in the play *Richard II* by Shakespeare at the Old Vic in London. You know Richard was the hunchbacked, deformed bastard son of Henry. He was an ambitious man who decided to wage war against his father and his legitimate brother to take over the throne. And the story is about the warfare of Richard and his insurrection against Henry. In the second act of the play, the scene takes place on the battlefield and he's in a pavilion. A young page was supposed to run into the stage and say, "Sir, they have captured Glouster." Richard is to stand up and demonically laugh and say, "Take him out and have him hung." Well, this one night at the Old Vic there was a very young actor who was playing the role of this new squire, and he was so nervous that he was appearing on the stage with the great Barrymore. He was backstage rehearsing his line, "They've captured Glouster." He tried to get it right so that he could be perfect in timing and that sort of thing. At the crucial moment, he ran out on the stage, and he said, "Sir, they've captured Glouster and hung him." And then he just froze; he realized what he had done.

Of course he had cut off the great Barrymore. Time stopped. And Barrymore stared at this kid with a look that

would melt a rock. There was a pause that lasted for what seemed an infinity. Then, after the longest silence, Barrymore raised himself up and said, "Well, I'll be damned." So when former Commandant of the U.S. Army War College Major General Robert H. Scales, Jr., called me and said, "Even though you are no longer Deputy Secretary, I'd still like you to come and give a talk at this conference," I said, "Well, I'll be damned."

Homeland Defense.

We are here to talk about homeland defense. Now this is a subject that has become quite current in the last several years. But frankly, it has been alien from American thinking for a very long time. Ever since the unpleasantness in 1814 when the British sailed up the Potomac and burned down the Capitol, we have not thought much about that. I remind people that it is quite an interesting new world we live in. We sing in our National Anthem, "And the rockets red glare, the bombs bursting in air." You know those were produced by Royal Ordnance, which is now a part of British Aerospace, our fifth largest defense contractor in the United States. So it is a very interesting new world we are living in.

But not really since 1812 or 1814 have we thought much about homeland defense. Now we have had some episodes where we have worried about it. During World War II, as you recall, if you were in California, there are still pictures that you can see of the dirigibles that were holding the steel cables up to provide a barrier against airplanes that might be attacking air fields. And if anybody is here from Boston, you probably remember that the gold dome, the Bullfinch Dome that is at the capitol of the Commonwealth of Massachusetts, was painted black at the outset of the war so it couldn't become a beacon for German bombers. But outside of a few specific and fairly limited instances, the United States has felt secure in its homeland for at least five generations. We really have not thought about it much.

## Reasons to Start Thinking about Homeland Defense Now.

Now it has come to be a matter of concern in the last 10 years. Certainly we are only starting to think about it intellectually in the last 2 or 3 years; it has become quite important to us. I think there are several reasons for that. First, the intellectuals in the defense establishment, all of you and your colleagues, have spent a fair amount of time talking about the asymmetric nature of warfare. When the United States is such a dominant force on the battlefield, especially conventionally, it is unlikely that another country will chose to do what Saddam did in 1990, which is to try to take on the United States or a coalition of Western powers in a conventional way. So we perceive that potential opponents would choose to confront us in a nontraditional manner. After all, why would a country like North Korea, which is a shattered country in all truth, go to the steps of building a 7,000-kilometers intercontinental ballistic missile (ICBM)? For what purpose, what plausible reason from a defense standpoint, would they need a missile that could reach 7,000 kilometers, if it were not to try to politically intimidate the United States? So we see this emergence of asymmetric threats where very small numbers of people can now wage war against the United States, at least in a political dimension. That is probably the first reason that we are focusing on it.

The second reason is that we are living with the residue of the Cold War. As the old Soviet Union broke up, it left an astounding inventory of bad things that are drifting into the hands of bad people—an enormous inventory of chemical, biological weapons and loose nukes. Just the other day there was a story of the Uzbeki border guards intercepting an illicit transfer of nuclear material. Equally, we are seeing the proliferation of knowledge. The huge infrastructure of knowledge that was built up in the old Soviet Union during the Cold War is now looking for employment and moving in directions that trouble us deeply.

The third thing is the emergence of a series of transnational actors like Osama bin Laden and his organization. These transnational actors do not seem to be susceptible to the classic instruments of deterrence. How do you deter an organization like Osama bin Laden's? So these things in combination have led to the United States thinking more creatively about the issues of homeland defense than at any time in the last 150 years.

We have a problem. First of all, I do not think we have a common understanding of what homeland defense really means. For some individuals, were we to take a poll, the first thing that would come to mind would be national missile defense, harkening back to Ronald Reagan's speech 15 years ago about national missile defense. That is what homeland defense means to a large number of members of Congress, for example. To others, it means defending the United States against threats by terrorist organizations using weapons of mass destruction (WMD), be they chemical or biological or nuclear. Yet to others, homeland defense means cyber defense, trying to protect America's infrastructure in an increasingly interconnected world. And there are others who think homeland defense is as basic as trying to stop the flow of illegal drugs into the United States.

### Two Cogent Issues in Homeland Defense.

Homeland defense means lots of different things to lots of people. One of the questions that we should come back to today is, "Is there a unified field theory for homeland defense?" I think that is an important question for us to talk about, especially for DoD to talk about. I think there are real problems about having a unified field theory for homeland defense, but we will talk about that later. I am not going to talk about the drug issue here. That is less my concern, not in a personal sense—obviously it is a great problem for the United States—but not for today's speech. I would like to talk about the first three meanings of homeland defense

noted above, and then come to the question at the end; that is, can we have a unified field theory for homeland defense?

First, let us examine the national missile defense issue. This, of course, is the one that is most familiar to a defense organization. It after all represents something that is most typical of a defense problem. We know how to operationalize the issue of homeland defense when it comes to missile protection. We can hypothesize a threat, operationalize it by putting time lines to an attack, characteristics to the nature of the attack, attack avenues or azimuth that we would have to worry about. We then could design a program to deal with that threat. This is a very classic military problem, with a very classic military solution. It is a matter of organizing resources to develop very sophisticated hardware, develop the command and control procedure, wire it together in reliable ways, work out the doctrine for its application, and so forth—a classic military problem. And it is one that engenders the least amount of confusion in the department when we think about it, not just because we have been thinking about it for 15 years, but because it is a classic military problem.

The second issue—that of WMD in the hands of terrorists—is inherently a much more complicated problem. First of all, it is not a purely military problem, even though it would on its face seem to be. There are two dimensions to this problem. One dimension is how do you stop the bad guys from doing something before hand? And then there is the second dimension; how do you cope with the consequences if we are not able to stop the terrorists, and what do we do as a defense department?

Let's take the first dimension. There are some very tough issues in this area of homeland defense. First, it gets to the core of some very serious fault lines that run up and down the American form of constitutional government, the fault lines between national defense and domestic security. After all, since 1873, when the *posse comitatus* law was put in place, DoD has been forbidden from undertaking law

enforcement actions inside the United States. *Posse comitatus* was narrowly defined at this start, as the lawyers here know. *Posse comitatus* really was passed because some members of Congress were fearful that the Federal Government was going to get involved in state politics in the South during the period of reconstruction after the Civil War. The law was passed to delimit the involvement of the Federal Government in state politics. But it has since transmogrified into an enshrined principle in American constitutional government where DoD does not do any civil law enforcement.

This is a very sharp fault line in the American form of government when it comes to the issue of WMD and the way that the government responds. Why? Well, if we postulate a significant terrorist event, a WMD-type event, we are dealing with an inherent limitation in local law enforcement. Law enforcement organizations are sized on a day-to-day basis for the normal load of crime and other problems in the neighborhood. They are not sized for the catastrophic event. There is no mobilizable capacity in local law enforcement organizations, other than to work overtime or borrow officers from a neighboring jurisdiction. I do not say this disparagingly. Local governments and state governments cannot afford and do not maintain mobilizable capability.

There is only one part of the government that maintains mobilizable resources, that are designed to be qualitatively different the day after an event compared to the day before. And that is DoD. We mobilize massive resources and put them into the field. That is what we do. And yet that is not what law enforcement lacks. This creates a very sharp friction point when it comes to a WMD event in the United States. How do we in DoD prepare for a catastrophic terrorist event like that when we have no authority to do so in peacetime? This is a very interesting problem.

There is a second problem fault line, and that is the fault line between our intelligence instruments as they relate to

threats outside of the United States and our intelligence instruments that relate to internal U.S. threats. As you know, DoD and its intelligence instruments are precluded from surveillance on any U.S. citizen. We are not allowed to undertake surveillance inside the United States, and we do not. That authority rests exclusively with law enforcement and especially with the Federal Bureau of Investigation (FBI). Similarly, the FBI lacks the capability to do things in a significant way outside of the United States.

We have this internal bureaucratic boundary as it were, with the border of the United States as it relates to the intelligence responsibilities. I saw this last December when we had very serious indications of a coordinated effort to detonate a device in the United States. We bumped up hard against this fault line on intelligence collaboration. Are we allowed to share information? Are we allowed to gather information? Under what authority are we allowed to do it? And when we examine cyber terrorism and cyber security, this becomes very problematic indeed. When you are talking about things that move at the speed of light and can move back and forth across that boundary at the speed of light, we have serious organizational problems.

There is a third fault line in this area, and that is inside DoD. As I said, we have two parts to the problem. The first part concerns stopping the bad guys before they can do something. The second part concerns dealing with the consequences after the fact. They take profoundly different skills. If you are trying to stop a terrorist organization before they have committed the act, DoD requires an organization of enormous agility, stealth, flexibility, and lethality. It takes special operations kinds of forces, forces that are able to quickly work in tight coordination with intelligence elements to locate the potential opponent.

But those critical skills are not helpful when it comes to dealing with the consequences after the fact. There you require an organization of transparency, public confidence, openness, massiveness, predictability. When you are

dealing with a society, you are dealing with a locality where literally thousands of people have potentially been exposed to an agent, when there is great panic in the community. It is not going to be the “snake eaters” that are going to be effective managers of that problem. I say that with affection and with enormous respect for the Special Operations people. These are very different sets of problems, and they require different organizational solutions. In sum, we have three fault lines that run up and down the government when it deals with this second area of homeland defense.

### How Do We Face These Issues?

The key question we now face is how do we tackle these issues. First, we have to find a solution to the way that the Federal Government is organized to deal with this problem. Part of our problem is that our entire federal response plan to emergencies at the local level revolves around the Federal Emergency Response Plan, which is run by the Federal Emergency Management Agency (FEMA). But FEMA has decided not to be actively involved in the issue of homeland defense. This is a serious problem. Everybody at the local level is used to looking to Washington with telescope lens, and they cannot see anybody at the other end. All of us in Washington are trying to communicate to the local levels through a different chain. We have a serious problem here. That is one of those problems that we have to solve.

How should the Federal Government organize to help local authorities? Because FEMA has not taken the lead, the Justice Department has stepped in. But as soon as this issue is channeled through law enforcement agencies, people on the ends of the spectrum get worried. On the right end, you find the “black helicopter” crowd that is all fearful that the Federal Government is going to come in and steal away their liberties. I do not understand this bunch, but we have a lot of them, especially west of the Mississippi. And east of the Mississippi, we have all of the leftist crowd. They watched the movie, *Siege*, one too many times, and they

have this fear that DoD just can hardly wait to come in and take over a city. Good grief. We in DoD have enough problems, let alone having to run Washington, DC. But nonetheless, the right and the left are paranoid about the Federal Government, and especially DoD, suspending civil liberties in time of emergency. So they do not even want us to prepare for catastrophic terrorism in peacetime.

Given these political realities, how do we organize the Federal Government to deal with homeland defense? Let me offer one point, and I say this with some passion. It reflects the arguments I have had on several occasions, especially with the American Civil Liberties Union (ACLU). The biggest threat to American civil liberties will come on the day that we have an event like this, and we have done nothing to get ready for it. If the only option available to the President is to declare martial law—to trigger the Insurrection Act and to declare martial law—that will be a tragedy in America that day. To avoid that terrible option, we must spend time now getting ready and tackle these tough problems.

There is a second issue we have to work on in this area, and that is the whole issue of federalism. We do not think about federalism much in the United States. Frankly, the people who do think most about it are the National Guard. I am referring to the relationship between the Federal Government and local government in dealing with a problem that transcends local political jurisdictions. This winter DoD undertook an exercise. We designed a stressful scenario in order to examine these issues. In this case scenario, a terrorist organization acquired a tactical nuclear device out of the old Soviet Union, brought it into the United States, and detonated it in a major metropolitan center. We conducted this exercise jointly with the Department of Justice and FBI to uncover some of these issues.

Let me share with you some of the problems we discovered. If the device goes off, the first reaction, of course, is the first responders rush to the site of the problem and

start doing what they can. During the first 2 hours, however, those first responders have used up their life-time supply of exposure to radiation. You've lost all your first responders in the first 2 hours. Second, how do you communicate to the 300,000 people that are within an hour's drive of the epicenter what to do? There is a plume of radioactive fallout that went downwind about 10 miles, and everybody who lives in that area is potentially exposed now to a dose of lethal radiation. Now the best thing for them to do is to stay in their basement for the next 24 hours. How do you find out on the ground where that plume went? How do you tell them? How do you become the one authoritative voice to tell people what to do? Every junior college physics professor in the country is going to be on the local television explaining what radiation is like. How do you establish the one voice that everybody listens to? Who is it? How do you tell a dad that he cannot drive into that area to pick up his kids in the day care center? And how are you going to stop him? These are tough issues.

Ultimately, these are federalism issues. At its core we are asking, "What is the legal authority in a geographical area in a time of an emergency of this magnitude?" Let me give you a very grim example. If there were such an event in this one scenario, we would have about around 48,000 radioactive human corpses in the area. What legal authority is needed to bury 48,000 radioactive individuals? Who has the authority? Currently, all legal authorities, of course, for burial are state and local. There are no federal authorities for burial. Does the President of the United States, for health and safety reasons, order the local National Guard to conduct open-trench burning? Who decides that? I know these sound terribly grim, but we have got to think our way through some of these issues. This is, by the way, what we call doctrine. We need to develop doctrine for consequence management.

At their core, these are federalism issues. Let me give you a very specific example. Do we federalize the National Guard? Of course, as soon as we do, we may not use them for

law enforcement because of *posse comitatus*. If the Guard remains under state authority, they may be used in law enforcement, but we now have split command and control. How are we going to work that out? We can find a solution, but we have to work it out in advance. This is developing the doctrine of consequence management, and we have to start working on it.

These are new problems to DoD. All war planning in DoD takes place in “CINCdoms” (combatant commanders’ areas of responsibility). Commanders in Chief (CINCs) do war planning. We do not do war planning in Service headquarters. We do not do it—and thank God we do not do it—in the Office of the Secretary of Defense. We do war planning in “CINCdoms.” The problem, of course, is that the United States has never been assigned to any CINC’s area of responsibility (AOR). I am excluding, of course, the Continental Air Defense mission. Aside from that, we have never put the United States into a CINC’s AOR. There are historical reasons for it, largely stemming from CINC and Service politics. The Services and the CINCs and the Chiefs wrestled with this problem recently when they developed the last Unified Command Plan. We could not get a consensus, again, in no small measure because of internal organizational politics.

There is also a larger question, which is this anxiety in the hearts of Americans, be they on the left or the right, of a military command over America. It fuels paranoia in people’s minds. For these reasons we have never assigned the United States to a CINC AOR. Of course, that means DoD has never developed war plans to defend the homeland. We have never developed training scenarios.

I think we have a temporary (and maybe long-term) solution when the Chairman and the Secretary recommended to the President that we create the Joint Task Force for Civil Support (JTF-CS). JTF-CS is working along with the Defense Threat Reduction Agency to come up with a series of operationalizing scenarios to try to define and

understand the nature of this problem, and to extract the lessons that we have to learn so that we can develop a new doctrine for homeland defense. That is why this conference is so important. We must assemble creative minds to think through such hard problems as this. So I commend you for holding this conference.

### The Third Issue of Homeland Defense.

The third issue of homeland defense is cyber protection. This is quite different, of course, from the national missile defense and from the WMD terrorism categories. First, there is a definitional problem. How and when do you know when this is a national security issue as opposed to a law enforcement issue? At what point is it ever clear that this is an act of war? Second, the infrastructure that is under attack is civilian, not military. A cyber attack is likely to be entirely against private sector infrastructure. For example, even DOD's command and control system is largely in the private sector. We no longer have big, complex, wholly-owned telephone switches and dedicated communication facilities. Now we contract for this from the private sector. So a cyber attack is most likely going to fall on the private infrastructure of the United States. And, frankly, they do not think this is a problem right now. Some companies have had problems, and they want to keep it very quiet. The last thing a Wall Street investment banker wants to acknowledge is that they have been hacked, for fear that the event will create bad publicity that might affect the company's financial standing. The private sector is not going to want to advertise that they just have had a problem. So how do we, the Federal Government, provide homeland defense in cyber space to a community that does not feel they need our help? You certainly cannot do it by federal mandate.

I believe we have to develop a very different approach for cyber security. We have to find a method that provides incentives for the private sector to want to find protection

for itself, rather than to mandate it. I think we need to find ways to create either tax incentives or indemnification incentives for companies that invest in protective infrastructure. So, for example, if a company invests in a virtual private network with encryption around its infrastructure, maybe its insurance company will give it a break on its insurance rates. In this instance the role for us, the Federal Government, is to delimit the liabilities of the corporations and the insurance companies through some sort of a secondary market. I think that is how we are going to have to fix the problem of protecting America's infrastructure in cyber space. It is not a classic military problem. So in this instance, ironically, homeland defense in cyber space probably means working through the Ways and Means Committee, not through the Armed Services Committee.

What is the appropriate role for the Federal Government, and especially for the defense establishment, when it comes to cyber space protection? My personal feeling is that, in this area, our role is probably one that deals with providing intelligence and surveillance of cyber space and providing that information reliably to people in the United States, be it to law enforcement or to private sector entities.

Here again, we confront the very difficult problem of what is the Federal Government's role regarding surveillance on U.S. citizens. It is very hard to distinguish in cyber space when a bad guy all of a sudden becomes an American citizen. As soon as we find that any of our surveillance activities overseas connects to an American citizen, we have to turn off surveillance in order to protect their privacy. This is a serious problem. We need to find ways to link the lawful authorities that exist for surveillance inside the United States and the authorities and responsibilities that we have for overseas intelligence. But this raises many difficult problems which we need to address.

## Conclusions.

Now let me wrap this up with a concluding observation. Is it possible to develop a unified field theory for homeland defense? I am dubious because of the very different nature of these three homeland defense problems. National missile defense is a classic military problem. WMD terrorism is a hybrid problem, especially in the area of consequence management. Here the problems are federalism issues, not exclusively or even largely in the jurisdiction of DoD. Finally, for cyber security issues, virtually none of it rests with the Federal Government. So, is it possible to develop a unified theory for homeland defense? I doubt it, because it will be extremely difficult. That does not mean we should not try to develop a unifying paradigm as the federal and state governments work through and think about all of these problems.

Right now, however, the most important thing was for us to create the Joint Task Force for Civil Support (CTF-CS). The CTF-CS only deals with the WMD terrorist incident. It is not dealing with the National Missile Defense (NMD) problem, and is not dealing with the cyber problem. Those two problems are assigned to the Space Command. I think it is still an open question as to how successful we will be by putting cyber protection at Space Command. But that is another issue for another day.

Ultimately, there is only one CINCUSA, and that is the President as the Commander in Chief. We have got to provide him the reliable staffing structure so that he can be effective in that role.

So what do we need to do, and what am I asking you to do? First, I think we need to properly define the homeland defense mission. Second, we need to develop military doctrine for these problems. That has to be grounded in the operationalization of the threat. I think some of that work is underway, work that needs to be done on the basis of exercise but grounded with a good theoretical underpinning

that a theory for homeland defense could be possible. That is what you should be doing at this conference. Third, I think we need disciplined thinking—a new paradigm of cooperation—on the tough federalism issues. How do the Federal Government and the state and local governments work together at times of extraordinary crisis? We know how to cooperate when there are natural disasters. We do not seem to know how to cooperate if there is a catastrophic terrorist incident. Finally, we in DoD have to figure out how we support law enforcement as the junior partners in the enterprise. DoD must act in a subordinate role to others who do have it as their primary responsibility to provide homeland defense.

It is absolutely crucial that you are holding this conference. I do not know when you made plans for this conference, but I am very grateful that you did. We are running on borrowed time. I think it is just a matter of time before we have an event in this country that will be absolutely the most stressful thing to confront the country since the War of 1812. We cannot afford not to be ready for it, because at that moment everybody in the country is going to be looking for their government to respond with competence and assurance.

We will either frighten them, or we will reassure them that we will get through it, depending on our preparations. This conference is the starting point. I hope that many of you in your respective organizations will see this as your responsibility to take this even further as we work through these issues. I thank you for the opportunity to be with you today.