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Should the United States Adopt a More Aggressive Strategy to Combat International Terrorism?

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ABSTRACT

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This paper examines whether or not the United States should adopt a more aggressive strategy to combat international terrorism. Although the United States has been virtually immune from international terrorist attacks on the homeland, the recent attacks on the USS Cole and the 1998 American Embassy bombings in Kenya and Tanzania have served as stark reminders that terrorism is a very real threat to US citizens at home and abroad. This paper highlights the level of public concern over the terrorist threat and examines what the past terrorist attack trends against US interests have been. The paper then discusses possible reasons terrorists attack US interests. Given the terrorist attack trends and possible reasons terrorists attack US interests, the paper offers a critique of the current US policy for combating terrorism. The paper concludes that the United States is not using all the means available to it to combat terrorism and should adopt more proactive policy options.

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SHOULD THE UNITED STATES ADOPT A MORE AGGRESSIVE STRATEGY TO COMBAT INTERNATIONAL TERRORISM?

> We predict a black day for America and the end of the United States as United States . . . [It] will retreat from our land and collect the bodies of its sons back to America. Allah willing.
>
> —Ramzi Yousef, convicted World Trade Center bomber

The United States has been immune to international terrorist attacks on the homeland with the exception of the 1993 World Trade Center bombing. However, the United States suffers a disproportionate number of terrorist attacks abroad. The recent attacks on the USS Cole and the 1998 American Embassy bombings in Kenya and Tanzania have served as stark reminders that terrorism is a very real and deadly threat to US citizens and interests at home and abroad. The terrorist threat is becoming more unpredictable and lethal. Terrorist groups are moving away from state sponsorship to autonomous, loosely organized transnational groups. Most disconcerting, terrorists now have access to weapons of mass destruction.

The current US policy for combatting international terrorism has been evolving since the 1970s. The United States is not using all the means available to it to combat terrorism and should adopt more proactive policy options.

BACKGROUND

Terrorism is the means employed by weaker nation-states to conduct their foreign policy because they are too weak to directly confront the United States or other major world powers. A leading expert made the following observation: "Remember that one driver in one suicide attack against our Marines in Beirut turned American policy 180 degrees and drove the greatest world power out of Lebanon,"[1]

Terrorism is a statistically successful endeavor. For example, if a group of terrorists planned to seize an embassy, take hostages, and make a series of demands that had to be met or they would start killing hostages, their chances of success would be:

- [an] 87 percent probability of actually seizing hostages;
- [a] 79 percent chance that all members of the terrorist team would escape punishment or death;
- [a] 49 percent chance that all or some demands would be met in operations where something more than just safe passage or exit for the terrorists themselves or for others was the sole demand;
- [a] 29 percent chance of full compliance with such a demand;
- [a] 67 percent chance that, if concessions to the principal demands were rejected, all or virtually all members of the terrorist team could still escape

alive by going underground, accepting safe passage in lieu of their original demands, or surrendering to a sympathetic government; and virtually a

- 100 percent chance of gaining major publicity.[2]

PUBLIC CONCERN OVER TERRORISM

Public opinion poll data taken from 1996-2000 indicate that Americans are apathetic about the terrorist threat. According to a May 1999 poll, a majority (64%) of Americans believed that terrorism was a major threat.[3] A disturbing 75% of Americans are not worried about themselves or a family member falling victim to a terrorist attack.[4] These opinions are inconsistent with the historical trend data shown later in this paper. The data shows that in the past five years, anti-US attacks accounted for almost a third (30%) of the international terrorist attacks. Over the last three years, anti-US attacks accounted for over 40% of the international attacks each year. The poll results are also puzzling given the following major terrorist incidents that occurred before the poll was taken: the 1993 Wold Trade Center bombing; the 1995 Oklahoma City federal building bombing; the 1996 Khobar Towers bombing; and the previously mentioned American embassy bombings in East Africa.

Over three-quarters (76%) of Americans are concerned about a terrorist attack occurring in the United States.[5] According to another poll, almost half (49%) believe the greatest terrorist threat is posed by people living in the US.[6] These perceptions may be explained by the Oklahoma City bombing and the arrest and conviction of the Unabomber, Theodore Kaczynski.

Just over half of Americans think there is a threat of a nuclear, biological, or chemical attack occurring in the US. Only 54% thought there was a danger of a nuclear attack by a foreign terrorist organization; 26% believed the attack would come from a domestic terrorist; and only 12% thought the attack would be perpetrated by a foreign military power.[7] In terms of the perceived chemical and biological threat, 52% thought that there would be a chemical or biological attack in the US.[8]

A slight majority of Americans (53%) have confidence in the US Government's ability to combat terrorism.[9] Over half (56%) believe current federal laws to combat terrorism are too weak, yet less than one-third (30%) are willing to give up some civil liberties to combat terrorism.[10]

DEFINITIONS

Antiterrorism seeks to combat terrorism by means of *defensive* measures taken "to reduce the vulnerability of individuals and property to terrorist acts, to include limited response and containment by local military forces."[11]

Counterterrorism Seeks to combat terrorism by means of *offensive* measures that include "preemptive, retaliatory, and rescue operations" taken to deter or respond to terrorism.[12] Counterterrorism missions require highly trained personnel because they are "high-risk/high-gain operations which can have a severe negative impact on US prestige if they fail."[13] Current joint doctrine and Title 10, United States Code, designates counterterrorism as a special operations mission.[14]

Domestic Terrorism refers to terrorist activities occurring within the United States proper, perpetrated by US citizens. An example is the 1996 Oklahoma City federal building bombing by Timothy McVeigh.

Foreign Terrorist Organization (FTO) is an organization, "regardless of size or espoused cause, which repeatedly commits acts of violence or threatens violence in pursuit of its political, religious, or ideological objectives."[15] The State Department currently lists 28 FTOs. This designation makes members of foreign terrorist organizations ineligible for US visas, requires financial institutions to block their assets, and makes it a crime for US citizens within US jurisdiction to provide material support to such groups.[16]

International Terrorism refers to terrorist activities that involve the citizens or the territory of more than one country.[17] An act of terrorism occurring on US soil is considered international terrorism when the perpetrator(s) are citizens of another country. An example of an international terrorist incident is the 1993 World Trade Center bombing by Islamic radicals.

State Sponsor is a Department of State designation of those countries who actively support or harbor known foreign terrorist organizations. The US sponsors sanctions against state sponsors of terrorism in order to isolate them from the international community and to coerce them from supporting foreign terrorist organizations. The Department of State currently lists the following seven countries as state sponsors of terrorism: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.[18]

Terrorism has no universally accepted definition. For purposes of this paper, the State Department definition will be used: Terrorism is the "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience."[19]

CURRENT COUNTERTERRORISM POLICY

US policy to combat terrorism has been evolving since the 1970s . Following the terrorist attacks during the 1972 Olympic games in Munich, President Nixon established a cabinet-level committee chaired by the Secretary of State to combat terrorism. The Carter Administration developed a more responsive program coordinated by the National Security Council and "established the lead agency concept for managing terrorist incidents."[20]

US policy became more formalized under the Reagan Administration, which established an organizational structure for crisis management chaired by the Vice President. The State Department was designated as the lead agent for incidents that occurred *outside US territory*. The FBI, through the Department of Justice was designated as the lead agency for incidents that take place *within US territory*. The Federal Aviation Administration was designated as the lead agency for incidents occurring aboard aircraft within the special jurisdiction of the US. The Reagan Administration also established a number of interagency groups, including the Interdepartmental Group on Terrorism, chaired by the Department of State, to develop and coordinate US policy on terrorism.[21]

The Clinton Administration built upon the previous administrations' efforts. In June 1995, President Clinton issued Presidential Decision Directive 39 (PDD 39) establishing the current policy, strategy, and management structure for combatting terrorism. PDD 39 reaffirmed the lead agency responsibilities of the Departments of State and Justice as well as the Federal Aviation Administration.[22]

The Department of State articulates the current US policy to combat terrorism:

> First, make no concessions to terrorists and strike no deals. Second, bring terrorists to justice for their crimes. Third, isolate and apply pressure on states that sponsor terrorism to force them to change their behavior. Fourth, bolster the counterterrorist capabilities of those countries that work with the United States and require assistance.[23]

The 1999 National Security Strategy clarifies the US response to terrorism: "[W]e reserve the right to act in self-defense by striking at their bases and those who sponsor, assist or actively support them."[24]

THE THREAT

Since the US Government first started keeping statistical records of terrorist attacks in 1968, terrorists have murdered 778 US citizens in 159 fatal incidents.[25] That is an average of five US citizens killed by terrorists each month since 1968. The Department of State keeps the data on international terrorist attacks and publishes two reports annually to provide information

on terrorist attacks. The first report, Patterns of Global Terrorism, is an annual report to Congress as required under Title 22 of the United States Code.[26] Although this report contains information on attacks against US interests, it focuses on international terrorism. The second report, Significant Incidents of Political Violence Against Americans, provides a more detailed account of terrorist attacks against US interests only.

HISTORICAL TRENDS

Figure 1 below shows the number of international terrorist attacks that occurred between 1987 and 1999.[27] The average number of attacks over the period was 420 attacks per year. Generally, there is a decreasing trend in the number of attacks over the period. However, in 1999, terrorists launched 169 attacks against the US, an increase of 52% over 1998. The increase in 1999 may be a short-term spike or the beginning of an upward trend.

	87	88	89	90	91	92	93	94	95	96	97	98	99	AVG
YEAR	666	605	375	437	565	363	431	322	440	296	304	274	392	420.8
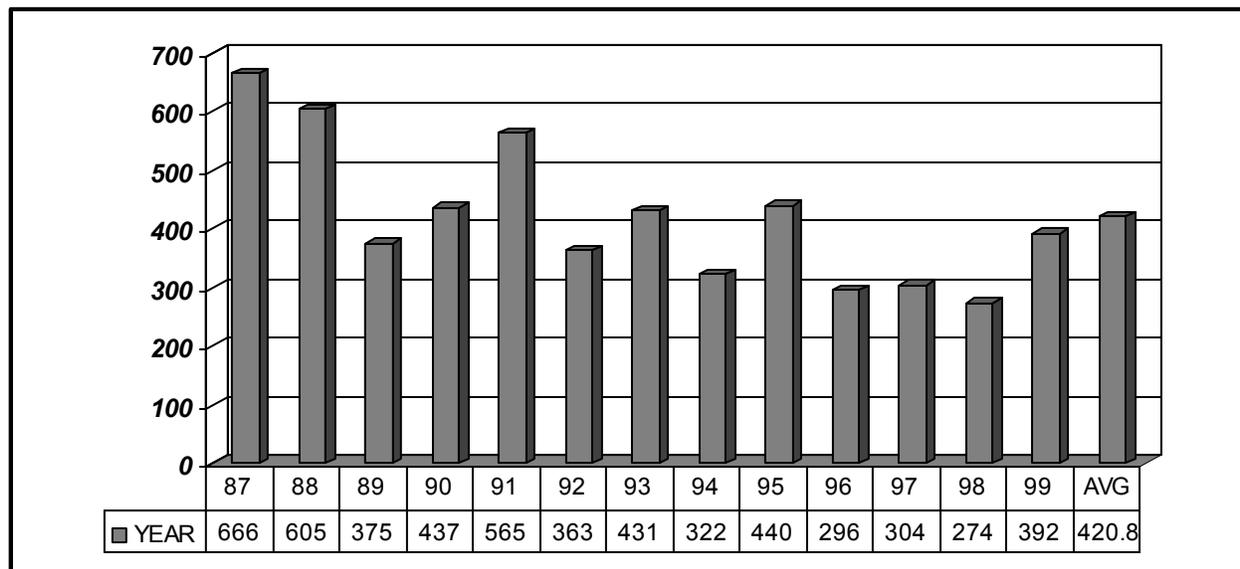
FIGURE 1. TOTAL NUMBER OF INTERNATIONAL TERRORIST ATTACKS, 1987-1999

Figure 2 compares the number and percentage of anti-US attacks with the total number of terrorist attacks from 1995-1998.[28] The chart shows that the US was the target of a disproportionate number of terrorist attacks over the past five years. There was almost a 16% increase in the percentage of anti-US attacks in 1997 over 1996. Over the last three years, over 40% of the terrorist attacks each year were directed at the US.
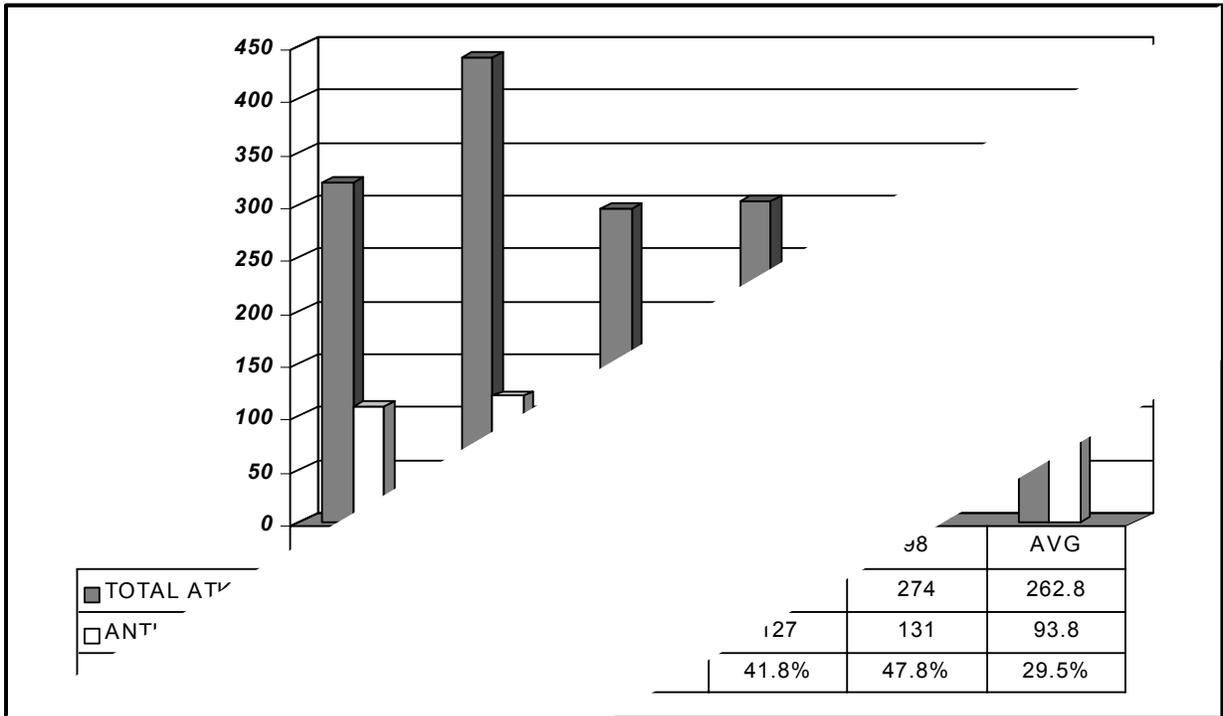
FIGURE 2. ANTI-US VS INTERNATIONAL ATTACKS, 1994-1998

	98	AVG
	274	262.8
127	131	93.8
	41.8%	47.8%	29.5%

Figure 3 shows the number of US citizens killed and wounded during international terrorist attacks from 1987-1999.[29] Over the 13-year period, the average number of American casualties was 23 killed and 136 wounded each year, or approximately five wounded and one killed every two weeks. Most of the casualties in the three spikes can be accounted for in three so-called spectacular terrorist attacks: the 1988 bombing of Pan Am flight 103 over Lockerbie, Scotland; the 1993 World Trade Center bombing in New York City; and the 1996 Khobar Towers bombing in Dhahran, Saudi Arabia.

	87	88	89	90	91	92	93	94	95	96	97	98	99	AVG
■ WOUNDED	47	39	18	34	16	1	1004	5	60	510	21	11	6	136.3
□ KILLED	7	193	15	9	7	2	7	6	10	23	7	12	5	23.3

FIGURE 3. US CASUALTIES, 1987-1999

6

Figure 4 shows the number of attacks broken down by world region for the period 1994-1998.[30] The most dangerous area is the Interamerican Region followed by Euro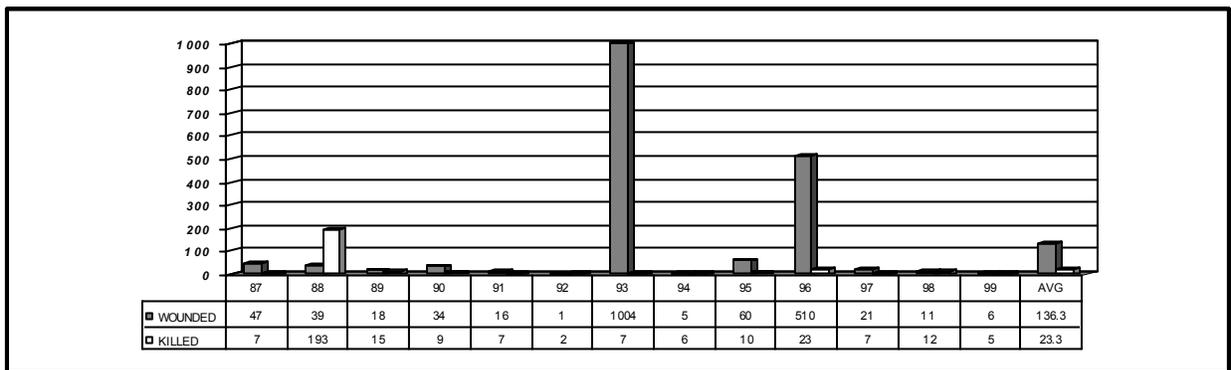pe. Interamerica includes Canada, Mexico, South America and the Caribbean Islands. Almost 70% of the attacks in this region were centered around attacks on the Cano Limon-Covenas pipeline in Colombia, perpetrated by the National Liberation Army (ELN) and the Revolutionary Armed Forces of Colombia (FARC).[31] The pipeline is a multinational venture supported by Ecopetrol of Colombia, Occidental Petroleum of the US, and other foreign oil firms. Guerrilla forces are opposed to foreign involvement in Colombia's oil industry and charge that foreigners are violating Colombia's sovereignty and are exploiting their country's natural resources.

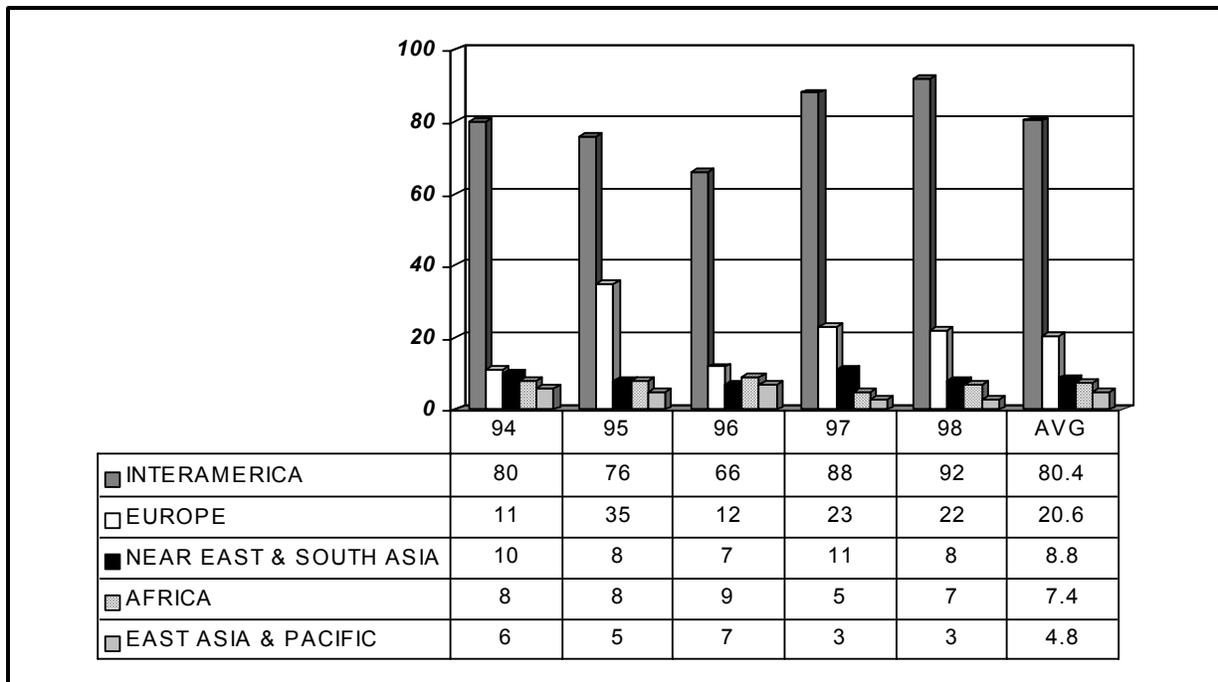|	94	95	96	97	98	AVG
▨ INTERAMERICA	80	76	66	88	92	80.4
☐ EUROPE	11	35	12	23	22	20.6
■ NEAR EAST & SOUTH ASIA	10	8	7	11	8	8.8
▦ AFRICA	8	8	9	5	7	7.4
▨ EAST ASIA & PACIFIC	6	5	7	3	3	4.8

FIGURE 4. ANTI-US ATTACKS BY REGION, 1994-1998

Table 1 shows the countries that averaged at least one terrorist attack against US interests from 1994-1998.[32] Even if the pipeline attacks were discounted, Colombia still would lead in the number of terrorist attacks over the period.

COUNTRY	REGION	5-YEAR TOTAL	YEARLY AVERAGE
COLUMBIA	INTERAMERICAN	351	70.2
GREECE	EUROPE	22	4.4
TURKEY	EUROPE	15	3.0
GERMANY	EUROPE	14	2.8
ISRAEL	NEAR EAST & SOUTH ASIA	10	2.0
SERBIA	EUROPE	9	1.8
HONDURAS	INTERAMERICAN	8	1.6
PERU	INTERAMERICAN	7	1.4
SOMALIA	AFRICA	7	1.4
YEMEN	NEAR EAST & SOUTH ASIA	7	1.4
CHILE	INTERAMERICA	6	1.2
INDIA	NEAR EAST & SOUTH ASIA	6	1.2
RUSSIA	EUROPE	6	1.2
BOSNIA	EUROPE	5	1.0
ECUADOR	INTERAMERICAN	5	1.0
EGYPT	NEAR EAST & SOUTH ASIA	5	1.0
FRANCE	EUROPE	5	1.0
PHILIPPINES	EAST ASIA & PACIFIC	5	1.0

TABLE 1. ANTI-US ATTACKS BY COUNTRY, 1994-1998

Table 2 shows the number of Americans killed, broken out by decade and world region.[33] The 1980s were the deadliest decade for Americans. Over 70% of recorded deaths due to terrorist attacks occurred then. The deadliest regions were Near East Asia followed by Europe.

REGION	1968	1970s	1980s	1990s	TOTAL	AVG
INTERAMERICA	3	10	33	17	63	2.0
SUB-SAHARAN AFRICA		7	18	20	45	1.4
EAST ASIA & THE PACIFIC		8	8	6	22	.7
EUROPE		54	238	6	298	9.3
NEAR EAST ASIA		31	272	36	339	10.6
SOUTH ASIA		3	3	6	12	.4
TOTAL DEATHS	3	113	572	91	779	

TABLE 2. AMERICANS KILLED BY REGION

Figure 5 shows the targets of anti-US terrorist attacks over the period 1987-1997.[34] Businesses were the most likely targets over this period. Over half of the business interests attacked over this period were the Cano Limon-Covenas pipeline in Colombia. FARC and ELN terrorists attacked the pipeline approximately 480 times from 1987-1997, causing a loss in revenue and damages estimated at $1.5 billion.[35] Targeted government facilities were primarily diplomatic personnel and facilities. Religious targets were not only churches, but also missionaries themselves. Attacks in the *private* category included attacks against American private facilities and citizens, such as residences, tourists, off-duty military and diplomatic personnel, and non-governmental organizations.

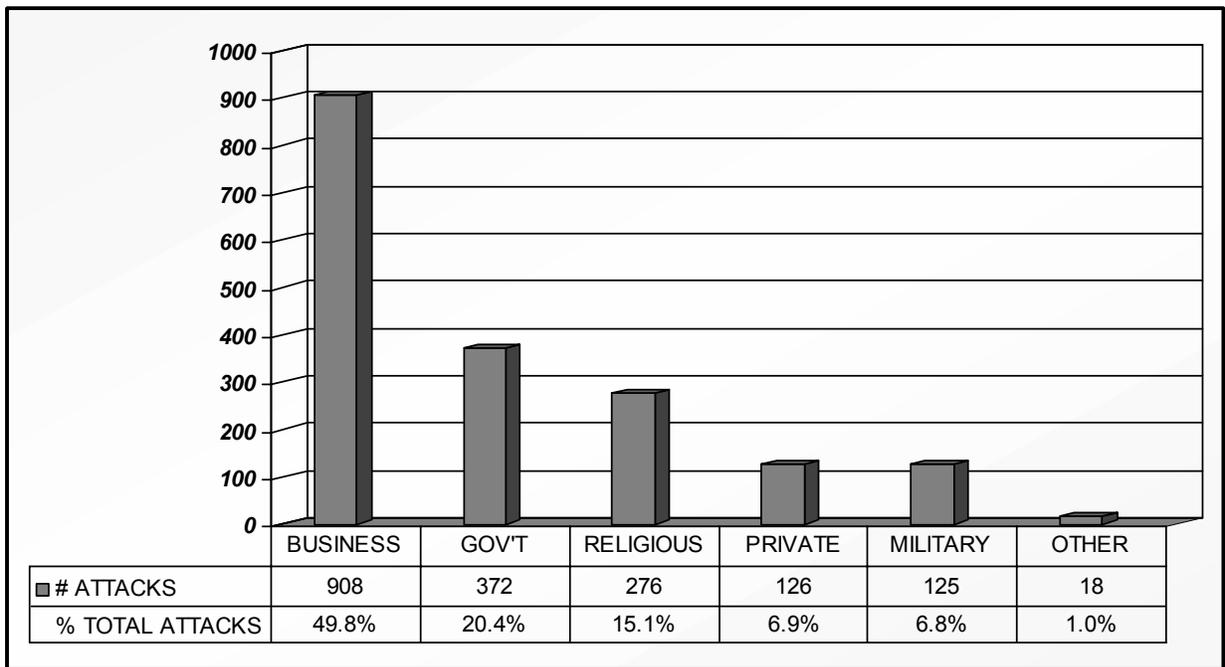|	BUSINESS	GOV'T	RELIGIOUS	PRIVATE	MILITARY	OTHER
# ATTACKS	908	372	276	126	125	18
% TOTAL ATTACKS	49.8%	20.4%	15.1%	6.9%	6.8%	1.0%

FIGURE 5. TARGET OF ATTACK, 1987-1997

Figure 6 shows the targets of attacks from 1994-1998.[36] Although significant progress was made during the period, the relative ranking of categories is similar with the exception of the religious and private categories, which switched places.
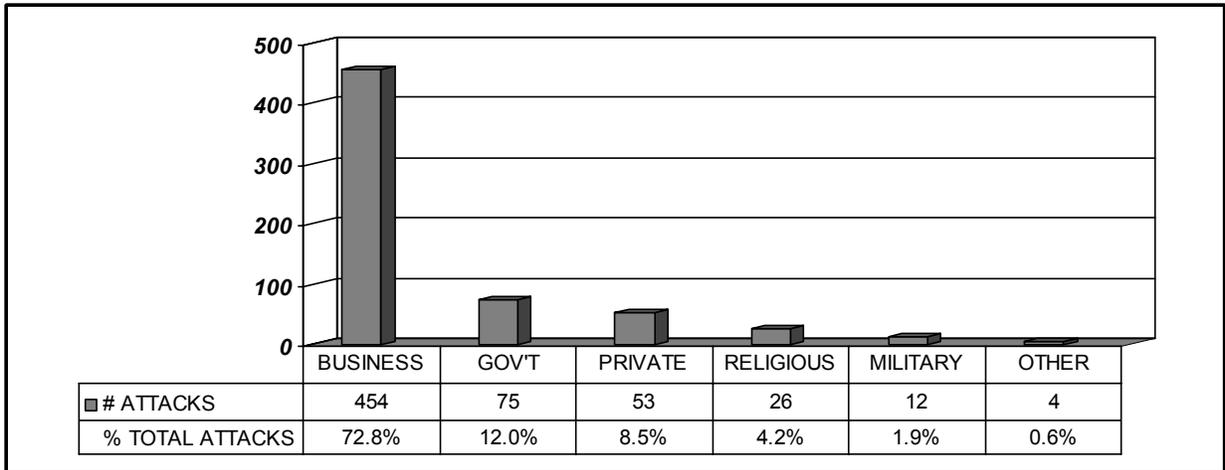
FIGURE 6. TARGET OF ATTACK, 1994-1998

Comparison of figures 5 and 6 reveals that significant progress has been made in reducing the number of terrorist attacks against all categories except businesses. The timeframe in Figure 6 is approximately half of the timeframe in Figure 5. The statistical expectation would be that Figure 6 (Target of Attack, 1994-1998) would indicate approximately half the number of attacks in each category as Figure 5 (Target of Attack, 1994-1998), as in the business category.[37] Although the Private Category shows a decrease over the statistical expectation, it is not as significant a decrease as in the remaining categories.

Table 3 shows the type of attack over the five-year period 1994-1998.[38] The table is broken down into the number of incidents by category of attack over the reporting period, as well as the percentage of the total number of attacks for each category. Bombing remains the means of choice for terrorists. The bombing category below includes bombing attempts where the bomb was defused or discovered before detonation, firebombs, truck bombs, and suicide bombings. There were 17 bombing attempts reported over the period. Kidnapping continues to be the second-favored type of attack by terrorists. South America continues to lead in the number of kidnapping incidents and number of persons kidnapped. The favorite targets are businessmen followed by tourists.[39] In violent demonstrations, participants assault people or damage property. Armed attacks include armed assaults and ambushes. The strafing/sniper attack category includes drive-by shootings. The *other* category includes sit-ins, banditry, chemical attacks, drugging and harassment.

	TOTAL	% TOTAL
BOMBING/ATTEMPTS	412	68.9%
KIDNAP/ATTEMPTS	58	9.7%
VIOLENT DEMONSTRATION	23	3.8%
ARMED ATTACK	19	3.2%
STRAFING/SNIPER	18	3.0%
ARSON	16	2.7%
VANDALISM	14	2.3%
GRENADE/ROCKET	13	2.2%
MURDER/ATTEMPTS	10	1.7%
HOSTAGE	9	1.5%
OTHER	6	1.0%
TOTAL	598	

TABLE 3. TYPE ATTACK, 1994-1998

FUTURE THREATS

Two sobering trends will likely govern future terrorist attacks: first, terrorist attacks will be more unpredictable; and second, when they occur, they will be more lethal.

Terrorist attacks will be more unpredictable because terrorist groups will move away from being highly organized, state-sponsored groups with clear political motivations to loosely organized, transnational groups with ambiguous motivations. During the Cold War, many terrorist groups were backed by the Soviet Union or one of her proxies, sharing her anti-democratic ideals. With the fall of the Soviet Union and the spread of democracy, state support and sponsorship for these types of terrorist groups have eroded. The National Intelligence Council's report Global Trends 2015: A Dialogue About the Future With Nongovernment Experts, confirms the trend away from state sponsorship of terrorism:

> . . . the trend away from state-supported political terrorism and toward more diverse, free-wheeling, transnational networks—enabled by information technology—will continue. Some of the states that actively sponsor terrorism or terrorist groups today may decrease or even cease their support by 2015 as a result of regime changes, rapprochement with neighbors, or the conclusion that terrorism has become counterproductive. But weak states also could drift toward cooperation with terrorists, creating de facto new state supporters.[40]

In the future, significant acts of terrorism may be carried out by *amateurs* who will be harder to identify, which will make terrorist attacks harder to predict. These amateurs can readily obtain information on weapons, particularly bombs, on the Internet. Amateur terrorists

can easily buy the materials to make crude, but effective bombs. Timothy McVeigh and Theodore Kaczynski devised their own destructive weapons. Amateur terrorists are not confined to the United States and domestic terrorism. Foreign amateurs operate beyond scrutiny of US law enforcement. They are no less erratic and have no less inhibition about killing.[41]

The number of people killed and wounded during terrorist attacks is increasing. The National Intelligence Council confirms this in Global Trends 2015: "Between now and 2015 terrorist attacks will become increasingly sophisticated and designed to achieve mass casualties. We expect the trend toward greater lethality in terrorist attacks to continue."[42] Two factors help explain this increased lethality. First, many terrorists' primary motivation will be to kill as many people as possible to maximize the damage of the attack and gain as much shock effect and publicity for their cause as possible. Second, terrorists will have access to weapons of mass destruction (WMD) and will have no moral inhibitions about using them.

Terrorists' increasing tendency to kill reflects a change in their motivation. Radical Islamic fundamentalist groups such as Usama bin Ladin's (UBL) group known as Al-Qaida, whose goal is to remove all westerners from Muslim countries, seem to have no moral limits on the violence they are prepared to use. Peter Probst, an expert on terrorism in the Pentagon's Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict claims that "Religiously motivated groups have no qualms about operations that cause mass casualties. In fact, they actively seek them. This, I believe, is because they have no constituencies which would really object to that. They report to a constituency of one, their God."[43] UBL and Al-Qaida are not unique. If UBL and Al-Qaida were suddenly eliminated, there are several other terrorist groups opposed to US hegemony ready to take their place. Additionally, new threats can suddenly appear from disgruntled individuals, isolated conspiracies, or obscure cults with no previous history of violence.[44]

Terrorist groups are actively pursuing the acquisition of weapons of mass destruction. Five of the seven countries identified as state sponsors of terrorism have programs to develop weapons of mass destruction.[45] The Central Intelligence Agency has estimated that there are about a dozen terrorist groups that have expressed an interest in obtaining weapons of mass destruction.[46] If the state sponsors with weapons of mass destruction development programs choose to provide weapons of mass destruction to the terrorist groups they support, they could easily do so without detection by the international community. The National Intelligence Council estimates in Global Trends 2015 that there in an increased likelihood that weapons of mass

destruction "will be used either against the United States or its forces, facilities, and interests overseas.[47]

WHY DO TERRORISTS ATTACK US?

To combat terrorism, one must acknowledge the reasons terrorists so frequently attack US interests. The reasons fall into three general categories, which are not presented in any particular order of precedence: religious, ethnic or cultural grounds—a hatred of Westerners in general and the United States in particular; perceived US hegemony over the entire globe; and the US' support for certain alliances and nations.

RELIGIOUS FUNDAMENTALISM AND HATRED OF WESTERNERS

Most anti-US terrorism will be based on religious, ethnic, or cultural grounds, coming from terrorist groups based in the Middle East and Southwest Asia.[48] Usama bin Laden's terrorist group Al Qaida is but one of several groups whose goal is to eradicate any western influence from the region. Almost every Muslim country hosts radical Islamic fundamentalists ready to wage a *holy war* (Jihad) against westerners and pro-western Arab governments in order to topple the present regime and install Islamic republics in their place.[49] Iran is perhaps the most active state sponsor of terrorism and Islamic fundamentalism. Iran continues to use terrorism as an instrument of state policy, assigning their Revolutionary Guard Corps and Ministry of Intelligence and Security terrorist activities and providing support to other terrorist groups worldwide.[50]

Islamic fundamentalists do not necessarily limit their attacks to US military and diplomatic facilities and incumbent pro-western governments in the region; they target private citizens as well. The Armed Islamic Group (GIA) in Algeria, which, according to the Algerian government, has killed approximately 100,000 people since 1992, is an example of an Islamic fundamentalist terrorist group that actively targets private citizens.[51] In addition to deliberately targeting French citizens in Algeria, the GIA is also bitterly hostile to other Western countries. Following their hijacking of an Air France airbus in December 1994, the GIA demanded that all western embassies in Algeria be closed and that all contact with Algeria be broken off.[52] American citizens are also more likely to be attacked because the United States is perhaps the most exposed nation in the world. For example, American citizens can be found all over the world as tourists, students, soldiers, diplomats, businessmen, retirees, missionaries, and Peace Corps volunteers, but to name a few.

RESENTMENT OF US HEGEMONY

Terrorists attack US interests because they resent US military and economic hegemony. The United States maintains the world's dominant military power. The United States military establishment enjoys a significant technological overmatch over any country in the world today. Many leading experts, along with potential enemies, believe that the United States will maintain that edge for the foreseeable future.[53] Potential opponents will not want to engage the United States in a direct confrontation, but will seek to engage the United States military on their own terms. Potential opponents—state and non-state actors such as terrorists—will actively pursue asymmetric capabilities to minimize US military strengths and exploit perceived US weaknesses.[54]

The United States is a global economic power and benefits greatly from recent globalization. Countries involved in a protracted conflict and those that suffer from rampant corruption, disease, and failed governmental systems often fall behind economically. Many nations in Sub-Saharan Africa, the Middle East, and some in Latin America have some or all of these problems: they are suffering economically.[55] Countries with failing economies view globalization as an unwanted challenge, seeing it as a Western phenomenon that primarily benefits the United States—and they bitterly resent it.

Failing economies also weaken the incumbent government's ability to govern. Failing and failed economies breed political instability and foster ethnic and religious extremism and the violence it often brings.[56] Such instability is a prime breeding ground for terrorists. Non-state actors such as Islamic fundamentalists, terrorist groups, and organized crime will often challenge current governments and render them ineffective. In the case of failed states, such groups rush in to fill the void.[57]

UNITED STATES SUPPORT OF CERTAIN ALLIANCES AND NATIONS

The United States supports certain alliances and nations and thus arouses the enmity of nations and groups opposed to the nationals and alliances. NATO often calls upon the United States to assume a leading role in an operation. That adds to the perception of US hegemony and arouses the resentment of some groups, including terrorists. During the most recent US-led NATO bombing campaign in the Balkans, western interests suffered some 40 terrorist attacks, while anti-US protests in Greece reached a 25-year high.[58] A similar phenomenon occurred during the Persian Gulf War, which precipitated some 135 anti-American attacks. Attacks came not only from terrorist groups based in the Middle East, but from terrorist groups

based in other parts of the world, such as the Tupac Amaru Revolutionary Movement (MRTA) based in Peru, and the Germany-based Red Army Faction. The following Red Army Faction quote demonstrates the hostility toward the United States and NATO: [We attacked the US Embassy] "because the USA has taken the lead in the war of extermination against the Iraqi people . . . with our action, we join the ranks of those throughout the world, who have protested this US-NATO genocide."[59]

US support of Israel generates numerous enemies in the Arab world. This support puts the United States at odds with several Middle Eastern-based terrorist groups, such as the Lebanon-based Hizballah and HAMAS based in the Israeli occupied territories. Hizballah is strongly anti-West and anti-Israel; their goal is the establishment of an Iranian-style republic in Lebanon. The Hizballah has been involved in several anti-US terrorist attacks such as the 1983 US Embassy and Marine Corps barracks bombings in Beirut.[60] HAMAS has the goal of establishing an Islamic state in place of Israel.[61] Their goal pits them bitterly against Israel. Since the United States supports Israel's right to exist as an independent nation, HAMAS opposes the United States as well.

CURRENT POLICY: A CRITIQUE

> We must avoid the temptation of taking the total elimination of terrorism as our goal. We can no more eradicate terrorism than we can eradicate crime.
>
> The West's strategic objective must be to reduce terrorism to a level at which it no longer dominates world policy.
>
> —L. Paul Bremer, III, US Ambassador at Large for Counterterrorism

Recall that the current US policy has five tenets:

- Make no concessions to terrorists and strike no deals.
- Bring terrorists to justice for their crimes.
- Isolate and apply pressure on states that sponsor terrorism to force them to change their behavior.
- Bolster the counterterrorist capabilities of those countries that work with the United States and require assistance
- Reserve the right to act in self-defense by striking terrorist bases and at those who sponsor or actively assist them.

MAKE NO CONCESSIONS TO TERRORISTS

Since 1973, US policy has prohibited negotiating openly with terrorists.[62] Once a terrorist group has seized hostages, the United States has three options. First, the United States can negotiate with the terrorists to obtain their release. Second, the United States can refuse to negotiate with the terrorists and hope that the terrorists will eventually release the hostages. Third, the United States can try to rescue the hostages or ask an ally to rescue them if the hostages are held in the ally's country and the ally has the necessary means to mount a successful rescue operation.[63]

Negotiating concessions can minimize the risk to the hostages. Negotiation avoids escalation that may result from an armed attack on the terrorists, from attempts to rescue the hostages, or from capturing or killing the responsible terrorists.[64] However, openly negotiating with terrorist groups may be seen as a sign of weakness by the terrorists and may encourage similar behavior from other parties who think that they will have something to gain by seizing hostages.

Some would argue that not negotiating with terrorists actually saves lives because it sends a clear message that they will have nothing to gain by taking them.[65] Holding hostages for an extended time benefits the terrorist group in some cases by providing the terrorist group with notoriety, political clout, and money. Consider the hostages held in Southern Lebanon. Holding the hostages then provided the terrorists notoriety and political influence. Every nation operating in the region had to consider what effect their actions would have on the hostages.[66] Holding the hostages assured the terrorists of continued Iranian support. The terrorist group holding the hostages was believed to be getting support from Iran. Iran was in turn using "its influence over the hostage-takers to obtain concessions for itself. The hostage-takers know that holding hostages is one way to ensure continued Iranian support: the Iranians cannot cut off the money because they won't be able to use their influence to their advantage."[67]

The United States has actually employed a more flexible approach than the current no-concessions policy would suggest. For example, the 444-day Iranian hostage crisis was resolved through US concessions to certain Iranian demands.[68] This tactic later failed when the United States gave Iran TOW anti-tank missiles in exchange for release of hostages held in Lebanon. After the exchange, the terrorist group quickly replenished its hostage supply by taking more American hostages.[69]

Hostage rescue operations are high-risk, high-gain operations that must be carried out by specially trained forces. Hostage rescue operations have produced mixed results. The US attempt to rescue the Iranian hostages during Desert One ended with a humiliating disaster. Israel has an announced policy of preferring an armed assault over negotiation.[70] However, this has proven costly. In 1974, Palestinian terrorists captured and held 90 Israeli teenagers hostage. Israeli security forces attacked the school and killed or captured all the terrorists but the terrorists had time to kill twenty hostages and injure the rest. Israel enjoyed more success two years later in the raid on Entebbe. Former Israeli Prime Minister Benjamin Netanyahu asserts the Israeli decision to apply force has been used by other governments.

> The German government forcibly liberated German hostages in the hijacked Lufthansa airplane in Mogadishu (1977), the Dutch successfully stormed a train hijacked by the South Moluccans (1979), and the British freed the occupied Iranian embassy in London (1980). For years afterward, these countries experienced no further hostage-takings. Experience shows that far from engendering a cycle of violence, the application of military force, or the prospect of such application, inhibits terrorist violence.[71]

USE THE RULE OF LAW TO PROSECUTE TERRORISTS

The current policy asserts that the United States will use the rule of law to prosecute terrorists. It is indeed unlikely that the American public or world opinion would allow the United States to act otherwise. There is disagreement on whether terrorists are combatants engaged in a form of warfare, common criminals, or both. Combatants are endowed with some legitimacy; criminals have none. Policymakers incorrectly believe that they must choose between treating terrorists as criminals and using a law enforcement approach to combat terrorism or treat terrorists as combatants under the law of conflict approach.[72]

The law enforcement approach treats terrorism as a crime and terrorists as criminals. This approach is not without its pitfalls. The law enforcement approach requires international cooperation and respect for state sovereignty. But bringing a terrorist to trial is not easy. Terrorists often commit their acts in one country and flee to another.

Consider the recent attack on the USS Cole as an example. The first problem is whether Yemen is willing to prosecute the terrorists. Once the suspected terrorists are caught, will Yemen prosecute the suspected terrorists? Or will they waive jurisdiction to the United States? The second problem is the gathering of evidence. If Yemen chooses to waive jurisdiction to the United States, it is likely that they would give permission to the United States to gather the necessary evidence. But what if Yemen elects not to prosecute the terrorists and not to waive jurisdiction to the United States? The United States would be unable to gather evidence without

Yemen's permission without breaking international law.[73] The third problem is extraditing the suspects to the United States. If the country in which the terrorist act occurred elected not to prosecute or waive jurisdiction to the United States, it likely will not grant extradition. Some countries will not grant extradition because they do not permit the death penalty, while the United States does. If the terrorists have fled to a country hostile to the United States such as one of the state sponsors of terrorism, extradition will be problematic. There have been successful extraditions of suspected terrorists, such as the extradition from Pakistan of Ramzi Yousef to the United States to stand trial for the World Trade Center bombing and the extradition from Libya of the suspected Libyan terrorists to the Netherlands accused in the Pan Am Flight 103 bombing.

The law of armed conflict approach does not preclude the prosecution of terrorists as criminals. It treats terrorists as unlawful combatants engaged unlawfully in a combatant activity.[74] The law of armed conflict offers a more aggressive and flexible approach to combatting terrorism. The law of armed conflict retains the victimized nation's right to prosecute terrorists as criminals and justifies the peacetime use of force to combat terrorism. The law of armed conflict approach "makes terrorism an international crime and established a universal obligation on the part of all nations to prosecute or extradite those engaged in terrorist conduct."[75] The law of armed conflict also "authorizes certain conduct (such as armed reprisal) not permitted in a peacetime context. It would justify more easily the use or threatened use of armed force."[76]

PRESSURE STATE SPONSORS BY ECONOMIC SANCTIONS

In April 1996, Congress passed the Antiterrorism and Effective Death Penalty Act of 1996. This Act provides broad authority to impose economic sanctions, freeze financial assets, and prosecute individuals and financial institutions that support terrorists. The Department of State designates the foreign terrorist organizations and state sponsors of terrorism subject to economic sanctions. The Department of state reviews and updates these designations every two years. The Department of Treasury's Office of Foreign Assets Control, along with the Customs Service, enforces the economic sanctions and embargo programs against state sponsors of terrorism, foreign terrorist organizations and their supporters. The Department of Treasury's ability to block assets depends on compliance by privately owned financial institutions and its ability to effectively enforce the penalties for noncompliance[77]

Pressuring state sponsors of terrorism by means of economic sanctions may be of limited value. Sanctions deliver a symbolic message, but they require multilateral agreement and cooperative action from numerous nations to be effective.[78] In order for economic sanctions to work, virtually all the countries on whose trade, assistance, investments, and travel the punished country depends on must participate in the sanctions.[79] This is a difficult proposition given that the punished country's trading partners will have competing national interests and will likely suffer economically from the sanctions as well. US allies do not normally use trade sanctions as a foreign policy tool because foreign trade is too important to their economies.[80] The United Nations has also had limited success in imposing economic sanctions in response to terrorism. The first time the United Nations Security Council was able to successfully impose sanctions in response to terrorism was in 1992, when it imposed economic sanctions against Libya for failing to turn over the terrorists responsible for the 1986 Pan Am Flight 103 bombing over Lockerbie, Scotland.[81]

The Antiterrorism and Effective Death Penalty Act authorizes the President to designate certain states as "not cooperating fully with [the] United States['] antiterrorism efforts."[82] This designation prohibits the sale or license for export of any defense article or service to that country. The President may waive this prohibition if he determines that a particular transaction is in the US national interests.[83] This designation could be used as a warning to those nations, including allies, that their behavior is objectionable, but has not reached the threshold of being designated a state sponsor of terrorism.[84]

The *not cooperating fully* designation could also be used as positive reinforcement to a state sponsor for changing their behavior. This designation would allow the lifting of economic sanctions and the unfreezing of their assets while still sending the message that further improvement in their behavior is required. Currently, Afghanistan is the only nation that the United States has designated as *not cooperating fully* because the United States does not want to designate Afghanistan as a state sponsor of terrorism. To do so would recognize the Taliban as the legitimate government in Afghanistan, which the United States does not wish to do.[85]

BOLSTER COUNTERTERRORIST CAPABILITIES OF COUNTRIES REQUIRING US ASSISTANCE

The Department of State is the lead federal agency in coordinating and funding the US counterterrorism training program. Several other federal agencies are involved as well in counterterrorism training assistance programs, both at home and abroad. The purpose of these programs is to help other countries manage their terrorist threats, including those coming from

threatening parties' acquisition and transport of weapons of mass destruction.[86] The Department of State reports that "more than 20,000 representatives from over 100 nations" had been trained as of August 2000.[87] The Department of State has also proposed the establishment of the Center for Antiterrorism and Security Training (CAST). This Center would train foreign security services and law enforcement agencies methods to combat terrorism.[88]

Bolstering the counterterrorism capabilities of other countries is a way of increasing counterterrorism capability at a relatively low cost. However, some cautions are in order. These programs, including the Center for Antiterrorism and Security Training, could be viewed by some as a surreptitious program by the United States to increase its influence in a particular region, thus fueling further resentment towards United States hegemony. What happens if these security forces return to their countries and later are accused of human rights abuses, as were former students of the recently renamed School of the Americas? Ensuring adequate, rigorous and public oversight of these programs, along with a thorough screening of prospective students, is essential to maintaining support for such activities.

US RESERVES THE RIGHT TO RETALIATE IN SELF DEFENSE

The Antiterrorism and Effective Death Penalty Act urges the President to "use all necessary means, including covert action and military force" to fight international terrorism.[89] The United States has adopted the position of anticipatory self-defense under Article 51 of the United Nations' Charter, which gives every nation the inherent right of individual or collective self-defense in case of an armed attack.[90] The possible ways a nation may act in anticipatory self-defense are preemption, retaliation, or retribution.

Preemption means striking an enemy in advance of an attack to prevent the attack from occurring. Since preemption is designed to prevent an attack from occurring, its goal is to avoid casualties and property damage on the part of the victim. Preemption is not designed to punish as is a reprisal. Preemption does not necessarily involve air strikes or special forces raids. Preemptive attacks may include more covert and nonlethal measures, such as information warfare. Preemption poses the risk that the United States will be viewed as the aggressor, running the risk of relinquishing the moral high ground as the victim who is entitled to some form of redress.[91] In order to minimize or avoid international condemnation, the United States must show that a terrorist attack was aimed at the United States; that the action was taken as a last resort; and that the response was proportional.

The United States must as well demonstrate that preemption was exercised as a last resort. The United States will need to show that a particular country either knew that the suspected terrorist group was operating in their country and that the host country was either unwilling or unable to take action against the terrorist group. Failure to prove these points will result in the attack being viewed as a an illegal form of aggression and a violation of state sovereignty instead of a legitimate use of force in anticipatory individual or collective self defense under Article 51. And what if the country is an ally such as Greece, which the Department of State has described as "one of the weakest links in Europe's efforts against terrorism."[92] In the event that Greece is unwilling to take action to prevent a terrorist attack and is also unwilling to give the United States permission to conduct the preemptive attack, the United States would be diplomatically strained to launch such an attack, even with the kinds of justification cited above.

The amount of force used in the preemptive strike must be proportional and minimize civilian casualties, enough to remove the threat and no more. A disproportional use of force may be viewed as an illegal act of aggression.[93] Preemptive strikes will likely be seen by some as just another case of US aggression regardless of the justification. That fear should not form the basis for rejecting preemption as an option. Hesitation by policymakers in the face of a bona-fide threat of terrorist attack will likely be roundly condemned by the American public, especially if the attack causes significant casualties and could have been prevented by judicious preemption.[94]

Retaliation is a form of reprisal. Reprisals are coercive actions taken by one state against another in response to an illegal act of the latter. Reprisals seek to obtain reparation or satisfaction for the offended state. For a reprisal to be legitimate, a prior illegal act must have occurred. A reprisal is justified only after an unsatisfied demand for peaceful redress. The act of reprisal must be in proportion to the damage or injury to the victimized state.[95] The United States has retaliated in response to terrorist acts in the past. Consider the US bombing of Libya in response for the Berlin disco bombing, the cruise missile attacks on Iraq for their plot to assassinate former President Bush, and the cruise missile attacks aimed at Usama bin Laden for the African embassy bombings.

There are several considerations in carrying out a reprisal. First, a significant burden of proof is required to maintain legitimacy. The United States must prove that a particular state or terrorist group carried out the terrorist act. The target should have a direct link to the terrorist attack and aimed at those specifically responsible. Second, the United States must prove that all peaceful remedies were tried in vain. There are few, if any, examples where this has been

successful. Seeking peaceful redress with Osama bin Laden would likely prove futile. Third, the reprisal must be proportional. The United States would be universally condemned if it conducted a "massive retaliation for a minor offense; it will be regarded as mean-spirited and beneath the dignity of a great power."[96] Certainly the reprisal should also seek to minimize noncombatant casualties. Although an attack on the United States or its interests will likely involve innocent civilian casualties, the reprisal must not be aimed at the offending state's civilian population. Lastly, reprisals must be overt rather than covert and must be publicly acknowledged if they are to have any deterrent value.

Carrying out a reprisal against a terrorist group or state sponsor of terrorism runs the risk of escalating the incident into additional terrorist attacks or triggering a state of war. However, a terrorism expert notes that:

> . . . if reprisals are to serve as a deterrent: the state that threatens retaliation in the event that it suffers some injury at the hands of terrorists must be prepared to carry out its reprisals expeditiously and without hesitation or vacillation if an attack occurs. Otherwise threats of retaliation will have little credibility, and the victimized nation will suffer the second indignity of being seen as a paper tiger.[97]

Retribution goes beyond preemption, the purpose of which is to prevent an attack and maintain the status quo. Retribution goes beyond reprisals, which seek redress in proportion to the wrong done by the offending state. Retribution is simple revenge that seeks inflicting pain on or annihilating an enemy. Many view such a strong reaction as illegitimate. The Israelis have used retribution and argue that it serves as a deterrent.

In response to a wave of terrorist attacks against its interests at home and abroad, the Israeli government formed an organization called the *Wrath of God* whose members were drawn from the Israeli defense and intelligence establishment.[98] The Wrath of God was formed to fight a PLO-affiliated group known as Black September. For months the Israelis relentlessly pursued and killed several important members of Black September. In July 1973, the Wrath of God mistakenly killed a Moroccan waiter who bore a striking resemblance to the leader of Black September. The Moroccan waiter had been set up by Black September, who believed that the death of an innocent man would bring public censure and lead to disbandment of the Wrath of God. Although the Wrath of God was reportedly disbanded after this incident, its work continued under supervision of the Mossad. By late 1973, Black September ceased to exist. Although the Wrath of God's operations did not end Palestinian terrorism, it certainly disrupted operations and undermined the PLO's effectiveness.[99]

Intelligence is essential in any response the United States chooses to combat terrorism. The National Commission on Terrorism declares that "Obtaining information about the identity, goals, plans and vulnerabilities of the terrorists is extremely difficult. Yet no other single policy effort is more important for preventing, preempting and responding to attacks."[100] Accurately predicting that a terrorist attack is aimed at the United States or one of its interests in time to forestall or defend against an attack is a difficult task for the Intelligence Community. After an attack occurs, reliable intelligence is required in order establish unimpeachable evidence of direct ties between the terrorist incident and the organization or nation that sponsored and delivered the attack.[101] Once this link has been established, the United States will have to make a strong case that a particular organization or state was responsible for the attack or risk international condemnation if the United States chooses to use military force. Quality intelligence is required to accurately find and target the targets of the strike; accurately estimate the chances of success or failure for the operation, and to accurately weigh the dangers of noncombatant loss of life or property damage.

The United States has an impressive array of technologically advanced equipment for gathering and processing intelligence. However, terrorist groups often operate at the low end of the technology spectrum, thereby frustrating the United States' advanced technology. It is hard to intercept face-to-face instructions issued by Usama bin Laden to one of his lieutenants.

Both the National Commission on Terrorism and the Rand Corporation recommend that the United States improve its human intelligence (HUMINT) capability. Inside information is essential to preventing attacks, which may require hiring agents who have committed terrorist acts or crimes in the past. The Central Intelligence Agency's current self-imposed restrictions prohibit the engagement of foreign intelligence informants who may have been involved in human rights violations in the past. Both the National Commission on Terrorism and the Rand Corporation recommended that the United States rescind the restrictions on the recruitment of informants and return to the guidelines used before 1995.[102] Recruiting informants is not tantamount to condoning their prior crimes, nor does it imply support for crimes they may yet commit. The National Commission on Terrorism observed that "The long-standing process in place before 1995 provided managers with adequate guidance to judge the risks of going forward with any particular recruitment."[103]

CONCLUSIONS AND RECOMMENDATIONS

The United States is not using all the legal means available to it to combat terrorism. The Antiterrorism and Effective Death Penalty Act of 1996 and the law of armed conflict approach provide great flexibility in taking legitimate actions to combat terrorism that are not being used to their full potential.

The State Department needs to make greater use of the *state sponsors of terrorism* and the *not cooperating fully* designations. Recall that currently only Afghanistan is listed in the *not cooperating fully* category because the United States does not want to recognize the Taliban as the legitimate form of government. Afghanistan openly supports Usama bin Laden's Al Qaida terrorist group; therefore, Afghanistan should be designated a *state sponsor of terrorism*. Several states are listed in the State Department's Patterns of Global Terrorism as not aggressively combatting terrorism or as providing tacit support to terrorists. Examples include Greece and Pakistan. The United States should consider placing these states in the *not cooperating fully* category and suspend military aid. An additional step, not specifically mentioned in the statute, would be to suspend all financial aid to a state designated in the not cooperating fully category.

Using the law of armed conflict approach; states that sponsor terrorism or who refuse to prosecute or extradite terrorists are breaking international law. Countries who fail to pursue terrorists are lending tacit support and therefore are violating international law. The United States should designate any state that fails to pursue and arrest known terrorists in their country or that refuses to prosecute or extradite terrorists in the *not cooperating fully* category as a minimum. In more serious cases, they should be designated as state sponsors.

The United States should adopt the National Commission on Terrorism recommendation on recruiting terrorist informants. There is universal agreement that it is enormously difficult to penetrate an international terrorist group and that quality, timely intelligence is essential to preventing terrorist attacks. Likewise, following a terrorist attack, quality intelligence is required to establish the perpetrators and select the appropriate targets and to provide unimpeachable evidence for the international community after the attack to minimize international censure.

The United States should consider adopting a more overt and aggressive policy to respond to terrorism. The National Security Strategy states the United States reserves the right to act in self-defense by striking at terrorist bases and at those that sponsor, assist, or actively support them.[104] A more aggressive policy would state that the United States will use preemptive strikes in anticipatory self-defense authorized under international law to strike at terrorists, and at those who sponsor or actively assist them to prevent an attack on American

citizens. The United States should also state that we *will*, instead of *reserve the right* to retaliate after a terrorist attack.

The United States should continue the declaratory no concessions policy. It should add a provision that the United States will use armed force if necessary to rescue US hostages. Part of this tenet should also state that if the United States elects to launch a rescue operation that all of the terrorists will either be captured and brought to justice or killed.

> Fighting terrorism will not be a clean or pleasant contest, but we will have no choice but to play it.
>
> —George Schultz

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ENDNOTES

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[28] US Department of State, <u>Patterns of Global Terrorism, 1999</u> (Washington DC: US Government Printing Office, April 2000), C-1. Office of Intelligence and Threat Analysis, Bureau of Diplomatic Security, United States Department of State, <u>Significant Incidents of Political Violence Against Americans, 1998;</u> available from <http://www.state.gov/www/global/terrorism/annual_reports.html>; Internet; accessed 19 January 2001. vi. Office of Intelligence and Threat Analysis, Bureau of Diplomatic Security, United States Department of State, <u>Significant Incidents of Political Violence Against Americans, 1997</u> (Washington, DC: United States Department of State, November 1998), 7. Office of Intelligence and Threat Analysis, Bureau of Diplomatic Security, United States Department of State, <u>Significant Incidents of Political Violence Against Americans, 1996</u> (Washington, DC: United States Department of State, July 1997), 5. Office of Intelligence and Threat Analysis, Bureau of Diplomatic Security, United States Department of State, <u>Significant Incidents of Political Violence Against Americans, 1995</u> (Washington, DC: United States Department of State, July 1996), v. Office of Intelligence and Threat Analysis, Bureau of Diplomatic Security, United States Department of State, <u>Significant Incidents of Political Violence Against Americans, 1994</u> (Washington, DC: United States Department of State, April 1995), iv.

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[37] Figure 4 is an 11-year period and Figure 5 is a five-year period or 45%. Statistical expectations for Business category is 409 attacks (908 X 45% = 409 incidents); Government category is 167 attacks (372 X 45% = 167 incidents); Private category is 57 attacks (126 X 45% = 57 attacks); Religious category is 124 attacks (276 X 45% = 124 incidents); Military category is 56 attacks (125 X 45% = 56 incidents); and the Other category is 8 attacks (18 X 45% = 8 incidents).

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[49] Paul Wilkinson, "Track II: Security and Terrorism in the 21st Century, The Changing International Terrorist Threat;" available from <http://www.st-and.ac.uk/academic/intrel/ research/cstpv/publications1a.htm>; Internet; accessed 19 September 2000, 5.

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