USAWC STRATEGY RESEARCH PROJECT

TERRORISM'S IMPLICATIONS FOR PREEMPTION AND LEGISLATION: A FUTURIST PERSPECTIVE

by

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ABSTRACT

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The author explored how terrorism may manifest itself as a threat to America in the coming years and identified corollary implications for two concerns likely to be center stage: preemption and legislation. Beginning with an environmental scan, the author determined there were overarching themes that could be impactors such as increased lethality, employment of Weapons of Mass Destruction (WMD), leveraging technology, and the possibility of cooperation between terrorist organizations and other actors with common interests and enemy. Based on these themes, the author then identified two impactors, the likelihood of WMD employment and technology, to construct a futurist scenario forecast model. As a result of the model, the author proceeded to construct a possible scenario and story reflecting results. Finally, as a result of the scenario outcome and story, the author explored strategic policy implications and considerations regarding preemption and legislation.

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TERRORISM'S IMPLICATIONS FOR PREEMPTION AND LEGISLATION: A FUTURIST PERSPECTIVE

Writing an essay previewing terrorism is risky business. First, there are volumes of manuscripts, essays, and studies with a wide opinion spectrum. Second, one cannot predict wild cards or dynamics that may significantly alter a given course. Therefore, the writer chose not to target a specific date such as a year, but explored a general near future. However, one can make reasonable judgments based on current research and literature review. The author's intent was to review current terrorism research and writings to develop a scenario forecast model to provide the impetus for thought regarding potential strategic implications. One should recognize there is an endless list of potential policy implications such as economic initiatives, relationships with allies, foreign diplomacy, and so forth. The essay's purpose was to provoke dialogue, discussion and thought regarding future terrorism's potential implications for two specific areas: preemption and domestic legislation. The manuscript's intent was not to identify a desired future with policy and strategy recommendations.

The author sought to construct a logical roadmap. Beginning with the big picture, it was important to begin with the overarching strategic context and methodically working to eventual future terrorism's implications for preemption and legislation. First, the essay included an environmental scan of current issues and writings regarding contemporary terrorism and outlook. The review included an array of experts and subject matter related agencies. Next, from these writings the author identified variables most likely to influence the future and constructed a scenario forecast model. The model yielded a "story" of one potential outcome. Finally, the essay explored potential strategic questions and implications specifically targeting preemption policy and legislation. Again, the intent was not to predict the future or make specific recommendations. The author's desire was to stimulate thought and further research on a topic vital to American national security for the foreseeable future.

ENVIRONMENTAL SCAN

First, it was appropriate to find a working terrorism definition. For the purpose of this essay, the author thought it necessary to include the extremism element to help focus the effort. Therefore, the following definition was applied:

> "Terrorist extremism is the use of criminal activity which promotes, or which claims to promote, a political, social or religious agenda coupled with the behavior designed to generate fear."[1]

Using this definition, research indicated several terrorism forms that could challenge future policy makers. This range included lone actors, non-state organizations, state-sponsored

movements, single-issue groups and domestic terrorism. Many writings attempted to categorize various organizations; however, the lines were blurry. One should note terrorism is in the eye of the beholder. One man's terrorist is another's freedom fighter. However, given the above working definition, it was then possible to proceed with a review to identify common themes that could shape terrorism's future.

INCREASED LETHALITY

Common denominators existed that will impact terrorism in the coming years. To begin, terrorism will become an even higher stakes game. An accelerating information age has enabled fewer people to inflict greater damage. Nuclear, biological, chemical materials and technology proliferation made this fact possible. Furthermore, relatively inexpensive lethal high explosives and delivery systems are readily available. Consequently, one may expect numbers of incidents to rise, coupled with more casualties and damage. For example, according to the Federal Bureau of Investigations (FBI) from 1980 through 1990, there were a total of 59 terrorist attacks resulting in 23 deaths and 105 injuries. From 1990 through 1999, there were 59 attacks that yielded 181 deaths and 1,929 injuries. Compare these statistics with the September 11, 2001 coordinated attack on the United States (U.S.). Employing aircraft as a weapon of mass destruction, Al Qaeda killed over 2,500 Americans.[2] One could argue that Al Qaeda's success was due to innovative tactics, and not driven by (WMD) proliferation or technology. Those assertions could be accurate; however, success, regardless of attributing factors, pointed to a more lethal enemy capable of great destruction.

WEAPONS OF MASS DESTRUCTION

The probability of WMD use was linked to increased lethality. Employment of WMD was a recurring concern and deemed a distinct possibility. This threat was apparent in two areas—nation-state and terrorist. The author focused on the latter threat independently, although one could assert rogue nation-states could be linked as suppliers to terrorist organizations. Before discussing the potential use of WMD, it was important to recognize the fact that a terrorist had already employed WMD within U.S. borders. In the fall of 2001, as the country dealt with the worst terrorist attack in its history, the nation experienced a biological attack. An infectious disease clinician and public health laboratory staff in Florida discovered that bacillus anthrax spores were intentionally distributed through the postal system causing 22 cases of anthrax, including five deaths.[3] Therefore, the question was not whether WMD would be used, but if another attack was likely. With the possible exception of China, the U.S. is poised to remain the dominant global hegemon. Therefore, it is unlikely any nation-state or non nation-state actor will

challenge the U.S. with conventional militaries. However, the use of chemical or biological weapons is one method by which terrorists could maximize impact, gain publicity, and instill fear. Extremist groups could use them as revenge weapons or as a means to leverage influence over America.[4] Further, the U.S. government held MWD posed a direct threat to the country and the probability of attack had increased significantly during the past decade. Moreover, citing Osama Bin Ladin's proclamation that acquisition of WMD was a religious duty, the government asserted that some terrorist organizations sought to develop the capability to use WMD to specifically attack the U.S. and allies.[5] Finally, Deputy Defense Secretary Paul Wolfowitz proclaimed WMD in the hands of terrorist organizations as the greatest security risk of the decade. According to Wolfowitz, "And yet as great as the impact of September 11th was, it would pale in comparison to a major bio or even chemical attack. We know that it is no longer a question of whether such an attack might conceivably be attempted, but more likely a matter of when."[6] The concern for potential use was apparent.

TECHNOLOGY

In addition to WMD, another variable coupled with WMD would further enable increased terrorist lethality and command, control and communications—technology. There was much written about how the U.S. could leverage technology as a countermeasure to mitigate the terrorist threat; however, it was apparent that terrorist organizations could also take advantage of technology to advance their pursuits. For example, it appeared likely terrorists would exploit information age technology. One can imagine the chaos and fear a widespread attack could generate. In fact, the August 2003 Northeast U.S. blackout revealed the vulnerability and effects of a potential attack on power grids. Power plants, nuclear facilities, air traffic control systems could be potential targets.[7] Until recently, there was little concern about risk to our information infrastructures because there was only a remote possibility these services could be knocked out. The physical breadth of the infrastructures made it difficult for a potential adversary to cause anything other than an isolated disturbance. Nearly all critical infrastructures now rely on computers for the management and operation of their own systems, and for their interaction with other infrastructures. For example, electric power grids and natural gas pipelines are controlled by computer systems and those computer systems may be linked to other publicly accessible telecommunications systems.[8] Former President Clinton summarized the potential threat

> As we approach the 21st century, our foes have extended the fields of battle from physical space to cyberspace, from the world's vast bodies of water to the complex workings of our own human body. Rather than invading our beaches or launching bombers, these adversaries may attempt cyber attacks against our critical military systems and our economic base."[9]

Lastly, the internet is likely to provide new targets of opportunity and facilitate terrorist communications, enhance coordination, and provide a conduit for financial transactions.[10]

DOMESTIC AND INTERNATIONAL COOPERATION?

Today, when one thinks of terrorism, it is usually the non-state sponsored international group that immediately comes to mind—Al Qaeda for example. However, domestic terrorism has not ceased, and there are indications hinting at a rise in activity and potential inter-relationships. Home grown American terrorism traditionally took the form of right-wing extremist groups or lone actors such as the Ku Klux Klan or Timothy McVeigh. These groups embodied real grievances and fears including perceived government infringement on civil liberties and opposition to globalization. For most right-wing extremist groups, membership declined in recent years. In its recent account, the Southern Poverty Law Center's Intelligence Project identified 194 anti-government Patriot groups that were active in 2000—a drop of almost nine percent from the year before, and the fourth consecutive decline since the Patriot movement peaked with 858 groups in 1996.[11] Although there has been a recent decline, with growing concern about recent legislation and its potential impact on civil liberties, one should not be surprised if the ground has been prepared for a revival of the right-wing extremist movement.

At the opposite end of the spectrum left-wing extremist groups reside; one such group is the Earth Liberation Front (ELF). As of early 2003, the ELF had carried out more than 100 acts of destruction in the last 5 years, yielding $37 million worth of damage. Members of the ELF are deep ecologists and believe in three essential tenets: 1) That ecosystems have an inherent worth that cannot be judged in relation to human needs; 2) that human actions are bringing the earth toward mass extinctions; and 3) political action is insufficient to bring about the wholesale social changes needed. By attacking the villains, such as lumber companies, industrial factories, gas guzzling car dealerships and luxury homes, they seek to create situations where companies simply find it unprofitable to continue business. By removing the threat, in the ELF's view, they remove threats to the environment and human existence.[12] According to the FBI, there are some 700 to 3,000 of these left wing type groups in the U.S.[13] Considering perceived

growing threats to the environment and the federal government response, there is potential for this movement to gain momentum in the coming years.

The FBI held there appears to be a merging of left-wing extremist groups joining teams against common adversaries.[14] For example, animal rights activists, environmental extremists, and anarchists could combine efforts to capitalize on individual group strengths. Moreover, would it be inconceivable for an international terrorist organization to elicit support of a domestic group to form an effort against the U.S. government? Consider the possibility of a marriage between a domestic extremist group and an international terrorist organization such as Al Qaeda. This arrangement would eliminate Bin Ladin's logistical challenge of smuggling operatives or weapons into the U.S. Concurrently, the domestic group would acquire resources such as funding to take on the U.S. government. Is this an unthinkable scenario?

SCENARIO FORECASTING MODEL

No one can predict the future. However, the study of futures research offered insights that may assist in forecasting and assessing trends that may affect future events. For example, in the 1980s, noted terrorism scholar Brian Jenkins assumed the mantle of futurist when he questioned whether terrorists would go nuclear. He concluded they would not as the consequences would outweigh the long-term benefit.[15] To this point, Jenkins has been proven correct. However, that may change if terrorist organizations gain access to nuclear devices. The point is not whether Jenkins will ultimately be correct or in error. He caused people to think about issues and consequences they would normally not have considered. In that spirit, the author developed a scenario model to ponder what form terrorism may assume in the year 2020.

The scenario-forecasting model required selecting two significant impactors on the topic in question. Once these two impactors were selected, they were charted along two graph axis. Peering through the futurist lens, the author selected one quadrant and constructed a story about the future, describing a plausible, possible world.[16] Based on the environmental scan and common themes, future terrorism contained many potential impactors. Increased lethality, WMD proliferation, technology, partnerships, population, international and national economies, the environment, America's role as a lone superpower, a widening gap between rich and poor, the rise or fall of radical Islamic fundamentalism, and globalization could all determine a future course. For the purpose of this essay, the author selected technology and WMD as the two impactors. Will there be an increase or decrease in terrorist utilization of WMD and technology?

THE MODEL

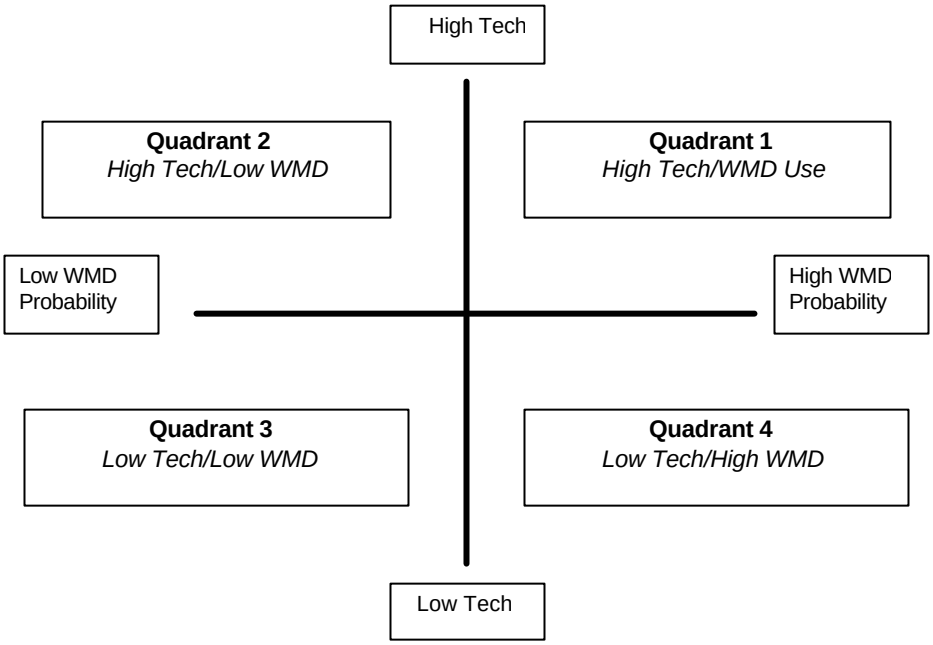

FIGURE 1

QUADRANT EXPLANATION

Quadrant 1, high tech/high WMD, envisioned a future whereby terrorist organizations exploited high technology and information age tools with employment of chemical, biological, radiological and/or nuclear materials. The author excluded explosives as a weapon of mass destruction. Given information reaped from the environmental scan, it was a logical step to posit terrorists may pursue this course of action. Terrorists would use technology to communicate, coordinate, and transfer finances around the world. If the United States can create secure communications, terrorists could achieve the same security level. This tool would allow a relatively flat, loose organizational command and control structure, thereby presenting a challenge for the U.S. intelligence community, law enforcement, and military. Furthermore, internet technology and ability to conduct cyber warfare through computer vulnerability exploitation could yield opportunity for attacks on American infrastructure. Coordinating attacks through enhanced technology, accessing potential targets and engaging through cyber warfare,

coupled with willingness and capability to deploy WMD to attack American will and instill fear within the population would be a potent, and dangerous recipe.

Quadrant 2, high tech/low WMD, revealed a world where terrorists would seek technological advantages, but would not use WMD. Two reasons could drive the decreased probability of WMD employment. First, the U.S. and her allies could successfully interdict attempts for terrorist organizations to acquire the needed materials or their delivery systems. Second, terrorist organizations could determine large scale use of chemical, biological, nuclear or radiological weapons would mobilize the world against them in a no-holds-barred operation. Consequently, the cost would outweigh the long-term benefit. Tactics would include historically traditional operations such as bombings, kidnappings, and assassinations.

Quadrant 3, low tech/low WMD reveals a scenario where the U.S. enjoyed an overwhelming technological advantage, rendering terrorists unable to leverage information age tools to effectively command, control, or communicate. Furthermore, the U.S. would be able to employ technologically superior countermeasures and physical security to mitigate cyber warfare attacks. Reasons for decreased WMD use probability are consistent with quadrant 2. Although different in many ways from the war on terrorism, one might experience flashbacks to Vietnam, where a far less advanced culture and country was able to employ low tech tactics to effectively impact U.S. resolve, and ultimately drive America from the area. In this scenario, terrorists were more likely to conduct uncoordinated, independent attacks such as car bombs, suicide bombings, kidnappings, and assassinations.

Quadrant 4, low tech/high WMD, constructs an environment whereby terrorists either do not have access to high technology or have been denied capability. However, they enjoy access to chemical, biological, nuclear and/or radiological materials. Isolated terrorist cells or individuals, usually acting independently, employ rudimentary tactics such as anthrax letters, “dirty” radiological bombs, or conduct chemical attacks by crashing large trucks laden with hazardous materials.

The next step was to select the most likely future based on the environmental scan and selected impactors. Each quadrant and its corollary world had merit. The author recognized one cannot expect the future to assume characteristics of one quadrant exclusively. It is probable an overlap will exist. For the purpose of this essay, the author chose a dominant quadrant 1; however, the reader is cautioned that elements of other quadrants may be visible in the following story.

SETTING THE STAGE

The near future still finds the United States of America at the top of the world's economic heap and predominant world power, although China closed the gap. The U.S. is the wealthiest nation on earth, but continually runs significant deficits to finance global operations against terrorism and counter aggressive domestic terrorist organizations. The preemption policy, initiated in President George W. Bush's first term, survived subsequent administrations and was strengthened. Consequently, America is heavily engaged along many fronts in the war on terrorism, and has existed in a near continuous state of war for the past 18 years. The military operates across the globe in places like the Middle East, Asia, and even Mexico and Latin America. Further, because the U.S. is one of the very few nations capable of global impact, she frequently assists emerging democracies and instable regions. This exposed America to more attacks and created more vulnerabilities. However, most attacks are not aimed at military targets. Increasing globalism led to an even larger American business footprint in foreign countries and emerging markets. This fact, coupled with a smaller military resulting from transformation in the Rumsfeld years, made American economic symbols more accessible targets. These soft targets provided terrorists the opportunity to kill Americans, discourage their presence in Muslim countries, and impact the American economy.

Internationally, there have been American foreign policy successes and failures. Although Iraq is democratic, it still suffers from ten years of civil strife following the 2003 American invasion and overthrow of the Hussein regime. The loss of American life and treasure were significant. To this day, some radical Islamic fundamentalist organizations operate within Iraq's borders. Another failure included the overthrow of the Saudi monarchy. In its place is a more fundamentalist form of government, not very friendly to the West, and particularly America. Terrorists are exported from Arabia across the globe to attack American interests. Radical Islamist fundamentalists now have what they wanted—a war with America on many fronts and a fragile American will.

International terrorist groups resent America's wealth, prestige, and overt attempts to influence Islamic affairs across the globe. They believe the U.S. has not delivered on a promise to facilitate an independent Palestine. Terrorist efforts to destroy Israel and America intensified. Although Osama Bin Ladin was captured and killed in 2009, he assumed the role of martyr. While his death was a short-term victory for America, others assumed the leadership role for the long-term. Because of American anti-terror legislation and aggressive tactics, it has been difficult to penetrate and carry out large-scale operations on U.S. soil. However, there may be opportunity to exploit growing domestic dissatisfaction. Further, means for secure

communication and internet messaging enabled command, control, and financing to continue relatively uninterrupted. International terrorist organizations seek to exploit vulnerabilities with technology to carry out a mass casualty attack using WMD on American soil.

At home, the military assumed a bigger share of the budget at the expense of domestic programs. While the American military is smaller, it is very lethal and agile. The military's focus has been international operations while domestic law enforcement assumed the lead role against domestic terrorism. The challenge has been to prosecute the war on several fronts. This special operations and space centric force was combined into a unified "purple" service known as the United States Defense Force. Persistent budget deficits and the growing defense budget crowded-out spending on many domestic and social programs such as social security, Medicare, and the environment. Consequently, ecological extremist groups believe the U.S. government is destroying the land. They are an active, destructive force. Traditional right wing extremist groups gained momentum and backing from disenfranchised citizens who perceived an aggressive, central government using the war on terrorism to trample their rights and privileges guaranteed under the Constitution. Crime rates and arrest rates for traditional measurable crimes rose as a result of law enforcement focus on domestic terrorism and prevention of international terrorist acts on home soil. Specifically, drug use and related crimes increased significantly.

THE STORY--OCTOBER 7, 2015

Several years of failures, punctuated by few minor victories led to a frustrated global terrorist effort. America's aggressive high tech special operations forces and energized intelligence apparatus kept his forces off balance. Afzal's organization had been limited to the traditional, banal bombing tactics, suicide bombers, and threats of global Jihad. The most notable success was the assassination of Pakistani President Musharraf in 2005. Islamic Freedom Fighters, from his own intelligence service, executed Musharraf for his treason against Islam. Further, the holy war forced American businesses in the Middle East and Europe to reduce their footprint. Kill a few American civilians, and they lose their mettle. Now, praise to Allah, after all these years, the pieces were in place to deliver a decisive blow to the American will, and restore Islam to its rightful place in the world order—made possible by technology and the ability to employ WMD. The West would pay for its crimes against Islam and the murder of Osama Bin Ladin. Fittingly, Afzal thought, we will use Americans to help execute the plan. Osama would live as a martyr, but the United States' long persecution of Muslims would die. As Afzal finished evening prayer, it was now only a matter of hours until the coordinated attack initiated. He

reflected over the past ten years, and how the pieces had been put in place to bring him and his followers to this point in history.

Because of America's aggressive operations across the globe, Afzal and his followers had what they wanted—a war of attrition on many fronts including U.S. soil. The American military had been highly successful at disrupting planning and operations throughout the world; however, they were now spread very thin. Traditional allies grew weary of continual war and ad-hoc coalitions. Many viewed American policy as too aggressive and one-way without consideration for their partner's regional concerns. Therefore, the nations and international organizations supporting the U.S. was greatly diminished. Moreover, the domestic law enforcement apparatus had been somewhat slow off the start, but ultimately was able to thwart introduction of Jihad warriors and weapons with the exception of a few. The handful that gained access to the U.S. through Canada and Mexico carried out small scale attacks on American business interests and high population targets but to no great, lasting effect. Now, U.S. law enforcement was engaged in an effort to stem the growing domestic crime trends, and had begun to lose focus on terrorism. Regardless, it was not necessary to sneak operatives and explosives into America anymore. A relationship, not really an alliance, had been forged between U.S. left wing extremists, the Central America and South American drug cartels and Afzal's organization. Indeed, Osama would have been happy to know they had formed their own "coalition of the willing." Strange bedfellows to be sure, but each had a common enemy that threatened their interests—the U.S. government.

Technology allowed Afzal and his new "partners" to effectively communicate, transfer funds, and identify vulnerabilities for key targets. The "terrorists" enjoyed the same technology America used to protect its communications. Furthermore, this enabled the organization to maintain a loose, flat, responsive structure, making it difficult for the American's to identify key leaders and operational teams. In addition to command, control, and communications, Afzal's warriors had become extremely computer capable. Consequently, because the U.S. had been slow to upgrade security procedures and utility infrastructure, it was relatively easy to access and manipulate systems key to the American economy.

Smuggling weapons material into the U.S. grew more difficult each year as Americans continued to leverage technology, physical security, and intelligence assets to protect avenues of approach to ports and harbors. However, this concern was no longer a significant obstacle. With the new arrangement between American environmental extremists and civil libertarians, all that was needed was a transfer of funds, and the American "terrorists" took care of the weapons

and logistics. Afzal allowed himself a slight smile at the irony of equating an American to the term “terrorist.” Soon, years of work and sacrifice would come to fruition.

The first of three attacks on America began at 0700 hours on October 7, 2015. A twenty-year-old girl sat at her Northwest Power Company computer terminal in a secure area of their facility in Tacoma, Washington. The company controlled a significant portion of the power grid throughout the Northwest United States and a portion of Canada. Known in the U.S. as a left wing extremist, she was an active, but secret member of the ELF. Over the past two years, this citizen became increasingly disenfranchised with perceived federal anti-environment actions, and lack of results from previous attacks on resorts, car dealerships and the logging industry. This operation would be more than just chopping down a couple of trees, and the government would never know who did it—there was no way to trace her action. She knew ELF had given her the authority to act, but did not know anything beyond that fact. At precisely 0700 hours, she initiated a virus attack that immediately shut down the entire Northwest U.S. power grid.

October 7, 2002, military-like elements of a Columbian drug Cartel sat off the approach to the runway and observed air traffic. The flight was on schedule. American aircraft had been landing at precisely the same time for years. The flights supported U.S.-Columbian government counter-narcotic operations in South America. Profits dropped significantly between 2005 and 2018, but now business was much improved, and there was opportunity to capitalize on America’s renewed drug appetite. Doubting American resolve, the Cartel believed a few well-targeted attacks on American interests would cause a retreat and ebb in regional influence. After all, they did not know of the Cartel’s arrangement with Middle East terrorist groups; anyway, the Americans were likely to blame terrorists, not drug operatives—it was a win-win situation. As the contracted C-17 Globemaster approached for landing, a gunman deployed a shoulder-fired missile, took aim, and engaged the target.

The centerpiece of the attack occurred later that evening at Yankee Stadium. The Yankees were in the 6 th inning of a playoff game with the Detroit Tigers, and the park was filled to capacity. A vendor’s van parked in the usual place, delivered more hot dogs and concessions. Nothing seemed out of the ordinary. It had not been difficult getting into the stadium, after all security wasn’t very thorough as the contract was awarded to the lowest bidder. The contractor, anxious to hire a foreigner eager for low wages, didn’t even conduct a background check. Even more amazing, theft of the radioactive material only one week earlier from a Western U.S. storage location had been relatively uncomplicated. A disgruntled employee, also believing in a government conspiracy to take away his privacy rights, was more than willing to help—but he had not known the ultimate purpose of the act. Now, with high explosives attached to

radioactive material hidden under the hood, one of the few members of Afzal's global terror organization remaining in America drove down the corridor at a high rate of speed with nothing between him, the main stadium support pillars and his heavenly reward.

IMPLICATIONS FOR PREEMPTION AND LEGISLATION

This essay began with an environmental scan, identification of themes and impactors, and then proceeded to construct a possible future with a scenario forecasting model and story. Considering a quadrant 1 dominant scenario, one should consider potential strategic implications. No doubt, terrorism will present significant policy challenges in many arenas. The author focused on two areas that will likely remain center-stage and particularly relevant to a possible quadrant 1 outcome. The remainder of the manuscript explored potential implications in two areas related to a quadrant 1 future: preemption and legislation.

PREEMPTION

> "The gravest danger to freedom lies at the crossroads of radicalism and technology. When the spread of chemical and biological and nuclear weapons, along with ballistic missile technology—when that occurs, even weak states and small groups could attain a catastrophic power to strike great nations. Our enemies have declared this very intention, and have been caught seeking these terrible weapons. They want the capability to blackmail us, or to harm us, or to harm our friends—and we will oppose them with all our power." [17]
>
> —President George W. Bush

The first strategic implication will be the impact of the Bush administration's preemption policy. The following section outlined the purpose and then discussed potential ramifications for terrorism 2020 as identified in a quadrant 1 scenario. In the years to come, combating terrorism will be a top national priority. According to the U.S. Strategy for Combating Terrorism, the approach will be direct, continuous and global. The strategy implied aggressive military operations across the globe to disrupt terrorist structure, planning, communications and havens. The battle will be taken to the enemy with the intent to engage in foreign lands rather than in the homeland. Furthermore, the strategy entailed denying adversaries' access and means to employ WMD. The apparent concern was that rogue states could supply terrorists with weapons capable of devastating effects.[18] Moreover, the National Security Strategy was clear. It asserted the U.S. must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries. Further, the document asserted the greater the threat, the greater the risk of inaction, making a more compelling case for anticipatory action in self-defense, even if

intelligence did not yield absolute information.[19] Therefore, the U.S. is likely to strike potential adversaries, nation-state or non-state actors, based on anticipated hostile intentions.

One should consider the advantages of an anticipatory defense policy. First, it would allow U.S. military forces to seize the initiative, and not be in a totally reactive or counter-strike mode. Second, if successful, threats to U.S. security will be mitigated outside her borders rather than on native soil. Perhaps mass casualty events caused by WMD could be precluded. Third, it could discourage rogue states from proliferating WMD. The 2003 Iraq war, a preemptive strike to rid Iraq of WMD capabilities and proliferation among other reasons, was an effort to prevent a rogue nation-state from supplying terrorist clients with the means to harm the U.S.[20] When Saddam's statues fell in Baghdad, one could assert that other states such as Iran, Syria, and North Korea took note. Consequently, preemption may also yield a deterrent dividend.

Although preemptive strikes could make America safer, the policy could prove problematic. First, the U.S. recognized the long-term value of coalitions and partnerships in the global war on terrorism. It would be very difficult to sustain an intense preemptive policy on a unilateral basis. A multilateral approach includes working with the United Nations (UN) non-governmental organizations.[21] Keeping a multilateral commitment could prove difficult and will require strategic leadership persistence to foster consensus. The nature of the problem already arose during the days preceding the 2003 Iraq war. The ineffectiveness of the UN Security Council and hesitancy to punish Iraq for long-standing violations of UN resolutions was a case-in-point. One could argue consensus will be inconsistent at best because nations tend to act in their own interests. However, the author believes the central focus of disagreement will revolve around the issue of preemption and whether U.S. actions meet the imminent threshold or fall short. The U.S. argues that WMD and terrorism have changed the game. The changing nature of the threat from large conventional army mobilization and indicators of attack, to WMD tactics that make it all but impossible to detect an action until underway or finished, requires American action in advance of an imminent attack by historical precedence. Keep in mind, the adversary may very well be a shadowy, non-state actor versus the nation-state. Therefore, America may determine hostile, imminent intent by less quantifiable means. As a result, there will be nations that will not support the preemptive policy. In fact, nations may view American action as a violation of international law and openly oppose the U.S.[22] It was not the author's intent to delve into specifics of the UN Charter or international customary law, but it was appropriate to note the substantial ambiguity that will likely lead to disagreement, and consequently lack of consensus regarding American preemptive attack over the coming years. This is a high strategic hurdle

U.S. strategic leaders must confront in order to build effective, long-lasting coalitions to preclude terrorist attacks and their use of WMD.

The second potential problem related to preemption is the tremendous operational tempo it may place upon the instruments of American power, specifically the military. Even if the U.S. sustains effective partnerships over the long-term, she risks exhausting resources in the continued struggle against terrorism. Has the U.S. fallen into a strategic trap? Will the U.S. allocate more resources for the Department of Defense to carry out the strategy, and if so at what expense? Following the apparent success in Afghanistan, Americans were almost giddy with excitement. Experts claimed Islamic extremism suffered a grievous blow, and the Taliban were figuratively and literally dead. Success led to exuberance that the tide of political Islam was being rolled back. True, the overall U.S. campaign in Afghanistan disrupted Osama Bin Ladin's logistics, and perhaps caused some uncomfortable nights in damp caves; however, patience is an Al Qaeda and Taliban virtue. In fact, Bin Ladin's forces may have the U.S. exactly where they wanted it—on the ground in Afghanistan, Iraq, Philippines, and other less public global hot spots. Bin Ladin and his followers may be banking on waning American will as a result of a protracted, casualty-producing conflict on many fronts.[23] An evolving school of thought held the U.S. was already engaged in World War III. This war differs from the previous world wars in that territory is not being pursued or held for the long term; however, there are many common characteristics. Battlegrounds zigzag around the world from Iraq, to the Philippines, U.S., Middle East and on to Africa and Asia. An U.S. and British led alliance with lesser allies on key fronts reinforced the surface parallels to 1935-1945. Consequently, the American forces are stretched thinly along many fronts around the globe.[24]

For the sake of dialogue, if the U.S. mounts a sustained, cohesive effort and funds such a long-term expense in terms of blood and treasure, it will likely do so at the expense of domestic programs. This decision could anger left wing extremist groups. The expense of massive deployments and an almost continuous state of war will fall on the American taxpayer. To the cost of deployments and preemptive operations, add the cost of homeland security and post-conflict reconstruction. America spends only about 3.5 percent of its gross domestic product on defense, but that will likely increase.[25] For example, if money is reduced from environmental programs to fund defense increases, it could energize a growing extremist movement on the left end of the spectrum. It isn't too far-fetched to believe that this could provide fertile ground for international terrorist groups to partner with domestic terrorist organizations. As Ignatieff observed, "What empires lavish abroad, they cannot spend on good republican government at home: on hospitals or roads or schools."[26]

LEGISLATION

> "They that give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." [27]
>
> —Benjamin Franklin

Laws and enforcement designed to defeat terrorism is a second strategic area with 2020 implications. Perhaps the most controversial recent act of Congress was the 2001 United and Strengthening of America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act. This act impacted the use of electronic surveillance and physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (FISA). [28] Proponents argued it is an indispensable tool in the war on terrorism. Opponents held it is a dangerous precedent that infringes on individual liberty. The subsequent paragraphs outlined what PATRIOT accomplished, and addressed areas of concern where caution should be exercised. Failure to recognize potential pitfalls could provide fuel to fire the right wing extremism movement in America. The government must be aggressive in its fight to prevent terrorism; yet, it must not overstep its bounds. Well-meaning, overzealous law enforcement efforts could provide the impetus to lend credibility to the claims of civil liberty violations.

There are reasonable concerns regarding infringement on Constitutional rights; however, a thorough review of PATRIOT Act provisions should mitigate fears. First, it was necessary to provide a brief history to understand PATRIOT rationale. The purpose of FISA was to identify requirements to establish probable cause to gather foreign intelligence information by electronic means (wiretaps, microphones, and so forth). The probable cause threshold requirement for a search under FISA was lower than specifics outlined in the Omnibus Crime Control and Safe Streets Act of 1968. FISA's probable cause threshold only required the government to certify the fact that the target of the intercept or search was a foreign power, agent of a foreign power, and that the facilities to be monitored or searched were being used by those powers. Further, the government had to certify that the specific purpose was to gather intelligence.[29] In contrast, wiretaps under the Safe Streets Act had to be supported by probable cause consisting of a specific individual, using an identified phone or locations were committing a particular crime.[30] Note that the latter pertained to criminal behavior, not foreign intelligence gathering. According to Bulzomi, concern arose that law enforcement would use FISA orders instead of Safe Streets Act Title III court ordered warrants to conduct monitoring, search and seizure, during criminal investigations of American citizens when there was not a sufficient level of Title III required probable cause. In an effort to avoid evidence from being illegally obtained, the FISA Court and

U.S. Department of Justice adopted a policy of building a “wall” between intelligence investigators and criminal investigators. The hope was that court orders and evidence would not be tainted. Unfortunately, over time, this led to near non-existent coordination between the intelligence community and law enforcement on matters of international terrorism.[31]

With passage of the PATRIOT Act, Congress broke down the wall and mandated information sharing between intelligence and law enforcement. The intent was to use all available resources, including FISA surveillances and searches, to investigate possible terrorism. Consequently, because of substantial media coverage, there has been a revival of concern regarding a powerful government intruding into areas of individual expectation of privacy. However, the PATRIOT Act sought to balance improved investigations with preserving individual liberty. The government burden to obtain an order/warrant is higher if the subject is a U.S. citizen.[32] Further, the act precludes simple exercise of First Amendment rights by a U.S. person as grounds to serve as the basis for considering that person to be an agent of a foreign power.[33] The USA PATRIOT Act also impacted searches in one other significant fashion. Contrary to popular belief, some federal courts established precedence by allowing government to delay notice of a premises search. Although not formalized, it was an accepted practice in most cases. The PATRIOT Act formally recognized immediate notification of execution of a warrant may have adverse effects in some instances. Therefore delayed sneak-and-peeks may be appropriate provided notice of the search is given in a reasonable period of time.[34] Domestic law enforcement must act to prevent terrorist attacks, particularly when they may leverage technology and WMD as outlined in the quadrant 1 scenario. At the same time, individual liberties must be protected from overzealous, yet well-meaning law enforcement. The danger is there may be a sort of legislation creep between now and 2020 that unwittingly infringes on individual Constitutional rights. For example, in September 2003, the Bush Administration sought broad new authority to allow federal agents, without the approval of a judge, to demand private records and compel testimony. While warrantless searches in civil and administrative actions are common, this action could lead to warrantless searches in criminal matters. The government asserted more robust Department of Justice subpoena power will expedite searches in terrorism cases. Further, they argue the process for judicial review to determine probable cause for these warrants is not agile enough for terrorism investigations.[35] The outcome of this new “PATRIOT Act II” had not been determined at present; however, caution should be exercised to ensure appropriate tools are given to law enforcement, yet avoid trampling liberties that could spawn domestic discord and provide fertile ground for terrorism partnerships and gains within American borders.

CONCLUSION

The author's crystal ball is cloudy; however, conducting an environmental scan to determine potential impactors on terrorism's future, then constructing a potential future with implications for preemption and domestic legislation was a worthwhile exercise. There is a wide spectrum of impactors, dynamics, and wild cards that will affect terrorism's form. The more likely future may reveal a dominant quadrant 1 scenario with aspects from the remaining quadrants. A high-technology terrorist organization capable of delivering WMD while maintaining some traditional tactics will likely be center-stage. Additionally, one cannot discount the possibility of growing left and right wing domestic terrorism, providing opportunity for cooperation and partnerships with international groups. This scenario will present strategic implications and challenges for U.S. policy-makers in many areas. Two high profile considerations will be preemption and legislation. U.S. policy in these two areas will have a significant influence on the story played-out in this essay.

Terrorism will continue to plague the U.S. and international community for the near future. Many unknowns remain, and perhaps this essay raised more questions than answers. For example, regarding anticipatory self defense and preemption, complex issues arise. Advocates argue the policy is absolutely necessary to combat rogue nation states and terrorist organizations capable of supplying or delivering WMD against American targets. Although arguably effective in the short-term, will preemption used unilaterally adversely affect international relations, coalitions, and effectiveness of international organizations such as the United Nations or North Atlantic Treaty Organization? If so, it could have harmful implications for the U.S. ability to prosecute a long term global preemptive strategy. Further, how effective is a preemptive strategy to achieve the desired strategic ends of precluding attacks at home and abroad, against a high tech adversary capable of delivering WMD? If the adversary is a shadowy, loosely organized organization with redundancy built into leadership, and without defined borders or infrastructure such as Al Qaeda, one could argue the value is marginal.

In American efforts to defeat terrorism in the coming years, Congress and the American people should be mindful not to implement overzealous legislative policies. Will the U.S. best counter a quadrant 1 terrorist through aggressive laws that may infringe on individual liberties in order to ensure security, or will it yield the opposite effect? One could argue that in order to fight a high tech foe, intrusive legislation is required. On the other hand, those opposed could assert such a policy could harm the very individual and collective freedom the laws are designed to secure. In fact, laws could dissolve cohesion and play directly into the hands of terrorists. In the end, these questions paint a less than clear picture; however, one should rest

assured that a high tech/WMD capable terrorist effort will hold complex implications that requires national dialogue and careful policy formulation.

While the essayist does not disagree with preemptive anticipatory operations to remove potential threats, care must be exercised to prioritize global actions, pick the right fights at the right time, and work with the international community to the maximum extent practical in order to sustain a long-term war. At home, legislative, executive, and judicial branches should give domestic law enforcement the tools to fight terrorism within U.S. borders, but must seek to balance with individual liberty and resist unnecessary restrictions.

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[15] Brian Michael Jenkins, "The Future Course of International Terrorism," The Futurist Online Jul-Aug 1987; available from ;<http://www.wfs.org/jenkins/htm >; internet; accessed 13 Sep 2003.

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[18] George W. Bush, National Strategy for Combating Terrorism, 1-2.

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[20] Colin L Powell, "Remarks to the United Nations Security Council," 7 Mar 2003; available from;<http://www.state.gov/secretary/rm/2003/18458.htm >; Internet; accessed 13 Sep 2003.

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[23] Anonymous, Through Our Enemies' Eyes (Dulles, VA: Brasseys, 2002), 255-256. The author recognizes anonymous sources are not normally used and cited; however, the writer of this particular work is identified as a senior civil servant intelligence analyst in the U.S. government. The source chose to keep their identity concealed to avoid reprisal for comments and opinions. Therefore, the author believed the source was credible.

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[30] Omnibus Crime Control and Safe Streets Act (1968), U.S. Code, vol 18, sec 2518 (3) (a).

[31] Bulzomi.

[32] Foreign Intelligence Surveillance Act, U.S. Code, vol 50, sec 1801 (b).

[33] Foreign Intelligence Surveillance Act, U.S. Code, vol 50, sec 1805 (a) (3) (A).

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