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THE USE OF MILITARY FORCE TO COUNTER  
INTERNATIONAL TERRORISM - A POLICY DILEMMA

A thesis presented to the Faculty of the U.S. Army  
Command and General Staff College in partial  
fulfillment of the requirements for the  
degree

MASTER OF MILITARY ART AND SCIENCE

by

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Fort Leavenworth, Kansas  
1987

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SECURITY CLASSIFICATION OF THIS PAGE

A186545

## REPORT DOCUMENTATION PAGE

1a. REPORT SECURITY CLASSIFICATION UNCLASSIFIED			1b. RESTRICTIVE MARKINGS				
2a. SECURITY CLASSIFICATION AUTHORITY			3. DISTRIBUTION/AVAILABILITY OF REPORT Approved for public release; distribution is unlimited.				
2b. DECLASSIFICATION/DOWNGRADING SCHEDULE							
4. PERFORMING ORGANIZATION REPORT NUMBER(S)			5. MONITORING ORGANIZATION REPORT NUMBER(S)				
6a. NAME OF PERFORMING ORGANIZATION U.S. Army Command and General Staff College		6b. OFFICE SYMBOL (If applicable) ATZL-SWD-GD		7a. NAME OF MONITORING ORGANIZATION			
6c. ADDRESS (City, State, and ZIP Code) Attn: ATZL-SWD-GD Fort Leavenworth, Kansas 66027-6900				7b. ADDRESS (City, State, and ZIP Code)			
8a. NAME OF FUNDING/SPONSORING ORGANIZATION		8b. OFFICE SYMBOL (If applicable)		9. PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER			
3c. ADDRESS (City, State, and ZIP Code)				10. SOURCE OF FUNDING NUMBERS			
				PROGRAM ELEMENT NO.	PROJECT NO.	TASK NO.	WORK UNIT ACCESSION NO.
11. TITLE (Include Security Classification) The Use of Military Force to Counter International Terrorism - A Policy Dilemma							
12. PERSONAL AUTHOR(S) Major Edward H. Houle							
13a. TYPE OF REPORT Master's Thesis		13b. TIME COVERED FROM 8-1986 TO 6-1987		14. DATE OF REPORT (Year, Month, Day) 1987 June 5		15. PAGE COUNT 179	
16. SUPPLEMENTARY NOTATION							
17. COSATI CODES			18. SUBJECT TERMS (Continue on reverse if necessary and identify by block number) International Terrorism, International Law, Military Force, U.S. Policy, Counter-terrorism, Proactive action.				
FIELD	GROUP	SUB-GROUP					
19. ABSTRACT (Continue on reverse if necessary and identify by block number) This study examines the use of military force as part of a proactive campaign to counter international terrorism. This study includes an examination of the threat from international terrorism as it has grown from 1968 to the present day. Initiatives by the international community to confront terrorism are reviewed to provide a framework for investigating U.S. counter-terrorist policy. Primary emphasis is placed on actions by the United Nations in this review of international initiatives.  The major portion of the thesis focuses on the development of U.S. counter-terrorist policy and the role of military force in that strategy. The study begins with the Nixon Administration. The review of national policy follows two tracks; the development of a government organization to deal with the problem and the evolution of the policy itself. With U.S. policy outlined, the study reviews possible options for overt military operations as part of a proactive campaign against international terrorism.							
20. DISTRIBUTION/AVAILABILITY OF ABSTRACT <input type="checkbox"/> UNCLASSIFIED/UNLIMITED <input checked="" type="checkbox"/> SAME AS RPT <input type="checkbox"/> DTIC USERS				21. ABSTRACT SECURITY CLASSIFICATION UNCLASSIFIED			
22a. NAME OF RESPONSIBLE INDIVIDUAL				22b. TELEPHONE (Include Area Code)		22c. OFFICE SYMBOL	

DD FORM 1473, 84 MAR

83 APR edition may be used until exhausted  
All other editions are obsolete.

SECURITY CLASSIFICATION OF THIS PAGE

UNCLASSIFIED

The author found that the threat from international terrorism has increased significantly over the past 15 years. More importantly, state sponsorship has emerged as the most significant threat development since 1980. Actions by the international community, specifically the United Nations, have not successfully met the challenge. Further, U.S. policy and organizational development has been marginally effective. Despite this, U.S. policy advocates the use of military force in proactive strikes against terrorism.

The study shows that U.S. policy and organizations must be updated to meet the growth and changing nature of the threat. Military force, to include proactive operations, should be included in this update as an option for U.S. leaders. However, the military option will be applicable in only a few cases. The decision to employ military force must be made very carefully. The execution of that option must then be conducted with clear objectives and under tight control.



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ABSTRACT

THE USE OF MILITARY FORCE TO COUNTER INTERNATIONAL  
TERRORISM - A POLICY DILEMMA.

By Major Edward H. Houle, USAF, 179 pages.

This study examines the use of military force as part of a proactive campaign to counter international terrorism. The study includes an examination of the threat from international terrorism as it has grown from 1968 to the present day. Initiatives by the international community to confront terrorism are reviewed to provide a framework for investigating U.S. counter-terrorist policy. Primary emphasis is placed on actions by the United Nations in this review of international initiatives.

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## CHAPTER 1

### INTRODUCTION

#### Purpose of Thesis

The purpose of this thesis is to examine the use of military force as part of a campaign to counter international terrorism. It will focus on the general use of military force as an element of United States counter-terrorist policy. However, the thesis will not address the merits of any specific element of that military force. The study answers the question: Should military force be used in a proactive way to counter the threat from international terrorism? Proactive actions include offensive military operations designed to interdict the terrorists' capability to execute attacks against the U.S. and its allies. They go beyond the defensive military options used to enhance security for personnel and facilities.

#### Background

Terrorism is not a new problem. The use of violence to terrorize is an ancient tactic dating back to the wars between Greece and Persia.<sup>1</sup> However, "international terrorism as we know it today had its

origins in the political circumstances that prevailed at the end of the 1960's."2 This thesis, while briefly reviewing history dating back to the League of Nations, focuses primarily on events beginning with the Nixon Administration in 1968. It ends with the current situation facing the United States today.

International terrorism captured increased interest after the May 1972 terrorist attack at Tel Aviv's Lod Airport and the massacre of eleven Israeli athletes during the Munich Olympic Games four months later. Since then, international terrorism has taken on new dimensions. As this study will show, it is characterized by advanced weapons, an expanded support base and state sponsorship.

The October 1983 bombing of the U.S. Marine headquarters in Beirut thrust the issue to the front of U.S. attention. Secretary of State George Shultz emphasized U.S. concerns about this growing threat when he wrote:

For we must understand, above all, that terrorism is a form of political violence. Wherever it takes place, it is directed in an important sense against us, the democracies, against our most basic values and often our fundamental strategic interests. The values upon which democracy is based - individual rights, equality under the law, freedom of thought and expression, and freedom of religion - all stand in the way of those who seek to impose their ideologies or their religious beliefs by force. A terrorist has no patience and no respect for the orderly

processes of democratic society and, therefore, he considers himself its enemy.<sup>3</sup>

On 14 June 1985, TWA Flight 847 was hijacked by members of the Shi'ite Moslem group, Hezbollah (Party of God). The non-American passengers, along with all the women and children, were soon released. However, during this highly publicized hijacking, U.S. Navy diver Robert Stethem was beaten then murdered by the hijackers. The 39 American passengers and crewmembers that were held captive were scattered throughout Beirut. After 17 days the Americans were also eventually released.<sup>4</sup> On 19 June 1985, terrorists attacked diners at a San Salvador sidewalk cafe killing 15 and wounding 13. The dead included four off-duty U.S. Marines and two U.S. businessmen.<sup>5</sup>

Four months later, Secretary Shultz opened the door for a more militant U.S. response to terrorism. In an October 1985 speech, he stated that the U.S. might use military force to "perhaps even retaliate before all the facts about a specific terrorist attack are known." He also noted that "we may never have the kind of evidence that can stand up in an American court of law."<sup>6</sup> This statement proved prophetic.

Secretary Shultz made his October statement during a new surge of terrorist activity. That same month terrorists murdered a wheelchair-bound American during the Achille Lauro hijacking. On 27 December 1985, dual

terrorist attacks on the Rome and Vienna airports left 19 dead, including five Americans, and 110 wounded. On 2 April 1986, a bomb exploded aboard a TWA Boeing 727 on a flight near Athens killing four American passengers. Three days later the terrorist bombing of a West Berlin nightclub killed three people, including two U.S. servicemen, and wounded 230 more (including 50 U.S. servicemen). The U.S. government uncovered a direct link between many of the terrorist attacks, most notably the West Berlin bombing, and the government of Libya.<sup>7</sup> The U.S. responded with military force.

In the early morning hours of 15 April 1986, eighteen F-111 tactical fighters from the 48th Tactical Fighter Wing, RAF Lakenheath, attacked targets in and around Tripoli, Libya. U.S. Navy aircraft simultaneously attacked targets near Benghazi. Primary targets included terrorist command and control centers, training facilities, logistics centers, intelligence posts and communications facilities.

The emphasis for the air strike was not retaliation for past terrorist activity. The administration called the attack a preemptive measure. Defense Secretary Casper Weinberger, while discussing the attack, stated "We are not interested in retaliation or revenge...What we are interested in is trying to deter any further terrorist attacks."<sup>8</sup> President Reagan had reportedly ordered the

strike to "preempt far reaching terrorist attacks that U.S. intelligence officials said have been planned since the first of the year by Libyan leader Colonel Muammar Qaddafi." The United States had evidence of planned attacks on 30 U.S. embassies, including ten in Africa, by Libyan backed terrorists.<sup>9</sup> The U.S. action demonstrated that American counter-terrorist policy now included proactive strikes against the centers of terrorism.

More recent events indicate that international terrorism has not diminished. In October 1986, Great Britain broke diplomatic relations with Syria. A British court convicted Jordanian terrorists Nezar Hindawi of plotting to blow up an El Al airliner. Evidence presented during the trial implicated Syrian officials in the plot. The U.S. and Canada indefinitely withdrew their ambassadors from Syria in a show of support for the British government.<sup>10</sup>

Moreover, terrorist activities were not limited to England. During the Fall of 1986, a wave of terrorist bombings and shootings left eleven dead and more than 100 wounded in France. Additionally, in late November a west German court convicted Palestinians Ahmed Hasi and Farouk Salameh for the March 1986 West Berlin bombing of the German-Arab Friendship Society offices. Evidence presented in the trial directly linked the Syrian embassy in East



Berlin with the attack. West Germany immediately downgraded diplomatic ties with Syria.<sup>11</sup>

As this thesis will show, international terrorism is intensifying. More importantly, it appears that international terrorism will continue to challenge U.S. national will and international policy in the future. Further, the United States has demonstrated that military force may be used in response to this threat.

### Scope

This study begins with a review of the terrorist threat and moves to the development of U.S. policy in the face of that threat. It finishes with a discussion of the military options available to U.S. policymakers. It does not address whether this use of military force violates any provisions of the U.S. Constitution or any current laws of the United States. The thesis assumes employment of military force in this scenario within the constraints outlined by U.S. law. Further, this study reviews the general use of military force but does not discuss the merits of specific elements of that military capability. Finally, this project is unclassified, limiting the use of current intelligence information on terrorist activities and capabilities.

## Methodology and Organization

The thesis is presented with a flow from a review of the threat to the development of U.S. policy to deal with the threat. It is completed with a discussion of the general use of military force as a part of that U.S. counter-terrorist policy. The study is based on a research of government documents and non-government literature. The research was conducted in four major blocks corresponding to Chapters Two through Five.

Chapter Two outlines the threat posed by international terrorism. It begins with a discussion of the definition of international terrorism, an item that has presented a major problem in efforts to develop a counter-terrorist consensus. Statistics are then used to illustrate the growth and scope of terrorism. Chapter Two then outlines the major trends and developments in international terrorism, its impact on the international community and the emergence of the key element bearing on policy development - state sponsorship. Finally, this chapter links Soviet activities to international terrorism to show how terrorism is becoming a foreign policy tool.

Chapter Three traces actions in the international community to deal with the problems of international terrorism. It begins with a short review of early international actions beginning with the League of Nations.

Primary emphasis, however, is placed on United Nations actions since 1968. Selected bilateral and multilateral international agreements are also outlined. The chapter concludes with an assessment of international actions to deal with terrorism. This information is provided to establish the international environment and the framework in which U.S. counter-terrorist policy was developed.

Chapter Four concentrates on the development of U.S. counter-terrorist policy. That policy is reviewed from its beginnings during the Nixon administration through its growth during the Reagan administration. It focuses on two areas; the development of the government organization tasked to deal with international terrorism and the evolution of U.S. counter-terrorist policy itself. A review and assessment of current U.S. policy completes Chapter Four.

Chapter Five reviews the military options available to the United States as part of the counter-terrorist policy outlined in Chapter Four. Considerations leading to a decision to use force are addressed first. Primary emphasis is then placed on discussing passive defensive options, reprisals and preemptive operations. Chapter Five concludes with a discussion of the 1986 U.S. action against Libya.

Chapter Six completes the thesis by outlining the conclusions drawn from the study. The results outline

what role, if any, military force should play in U.S. counter-terrorist policy. Finally, the thesis will answer the question, should military force be used in a proactive campaign against international terrorism? Recommendations for further study complete Chapter Six.

The review of literature is at Appendix A. It has two purposes. First, the review demonstrates the depth of research involved in the preparation of this thesis. Second, it serves as a guide to assist others conducting research in related areas.

## CHAPTER 1

### ENDNOTES

- 1 Ernest Evans, Calling a Truce To Terrorism: The American Response To International Terrorism (1979): 11.
- 2 Brian Jenkins, "The Future Course of International Terrorism," TVI Report (Fall 1985): S-3.
- 3 Charles Shultz, "The Challenge To Democracies," in Benjamin Netanyahu, ed., Terrorism: How The West Can Win (1986): 18.
- 4 Ray S. Cline and Yonah Alexander, Terrorism As State Sponsored Covert Warfare (1986): v.
- 5 Presidential statement on 20 June 1985, U.S. Department of State, State Department Bulletin (August 1985): 82.
- 6 Neil C. Livingstone and Terrell Arnold, Fighting Back - Winning the War Against Terrorism (1986): 15.
- 7 President Reagan's 14 April 1986 address to the nation, U.S. Department of State, International Terrorism (Selected Document No. 24) (1986): 1.
- 8 "Can Reagan Make Qadhafi Cry Uncle?" U.S. News and World Report (21 April 1986): 6.
- 9 "Attack On Terrorism", " Aviation Week and Space Technology (21 April 1986): 22; Robert Oakley, "International Terrorism," Foreign Affairs 3 (1987): 61-7. On 25 March 1986, Libya ordered its "People's Bureaus" in 30 countries to attack U.S. related targets. In early April, Libyan supported terrorists were observed by local police officials picking up weapons from the Libyan People's Bureaus in Ankara and Paris. They were arrested before carrying out attacks on the American Officers' Club in Ankara and the U.S. Consulate in Paris.
- 10 "Making the Syrian Connection," Time (3 November 1986): 39.
- 11 "Death at the Doorstep," Time (1 December 1986): 57.

## CHAPTER 2

### THE TERRORIST THREAT

#### Introduction

Chapter Two sets the background for the thesis by outlining the nature and growth of international terrorism since 1968. It begins with a basic yet controversial aspect, the definition of international terrorism. The international community has yet to agree on a single workable definition of terrorism. Next is a discussion of reasons for the growth of international terrorism and the trends that have marked that growth. The basic strategic objectives of international terrorism are also outlined. Chapter Two then addresses state sponsorship for terrorist organizations - the most significant development since 1968. The chapter concludes with a discussion of the Soviet connection to international terrorism.

#### Definition of Terrorism

A universally accepted definition of terrorism simply does not exist. The problem of defining terrorism has effectively hampered the development of a comprehensive counter-terrorist strategy at both the national and international level.<sup>1</sup> The Vice President's Task Force on Combatting Terrorism called terrorism a "phenomenon that is easier to describe than define."<sup>2</sup>

For example, the 1985 machine gun killing of four U.S. Marines and two American businessmen at a San Salvador sidewalk cafe was very similar to a 1985 shooting of several underworld figures on a crowded New York street. The San Salvador attack was labeled a "terrorist atrocity," while the New York killing was simply called a "murder."<sup>3</sup> On the international scene, the United States accuses Libya of supporting international terrorism while Cuba charges the U.S. with supporting anti-government terrorist groups in Nicaragua. This unending cycle continues. The definition battle is still being fought in international forums today.

For the purpose of this study, the definition found in the 1986 Public Report of the Vice President's Task Force on Combatting Terrorism is used. According to the report, terrorism is:

The unlawful use or threat of violence against persons or property to further political or social objectives. It is generally intended to intimidate or coerce a government, individuals or groups to modify their behavior or policies.<sup>4</sup>

There are three primary elements of international terrorism. The acts are essentially criminal, they are politically motivated and these activities transcend national boundaries.<sup>5</sup> Terrorism is often labeled mindless violence. However, when considered in an

international political context, it appears that terrorism is a planned, calculated series of acts designed to instill fear and intimidation. It is unique, however, in that while the attack may be part of a planned scheme of maneuver, the specific targeting is often random and mindless. Operations include bombing crowded public facilities, hijacking commercial aircraft, planting bombs on commercial transportation and executing innocent hostages.

#### A Form of Warfare

International terrorism has been characterized as a form of warfare. The late Senator Henry Jackson, in an address to the 1979 Jerusalem Conference on International Terrorism, said, "I believe that international terrorism is a modern form of warfare against liberal democracies. I believe that the ultimate but seldom stated goal of these terrorists is to destroy the very fabric of democracy."<sup>6</sup> More recently, Secretary of State George Shultz, in a statement before the House Foreign Affairs Committee on 5 February 1986, stated, "terrorism is a form of warfare waged by political forces - including some foreign states".<sup>7</sup> Many international terrorists and their supporters agree with Senator Jackson and Secretary Shultz.

International terrorist groups classify their activities as acts of war. It is not uncommon in writings



on the subject to find the phrase, "one man's terrorist is another man's freedom fighter". Terrorist groups often claim protection as combatants under the provisions of the Geneva Convention. Further, this has been the topic of intense debate at many international conferences. Many third world nations insist that organizations labeled as "terrorist groups" by western governments are, in fact, conducting struggles for national liberation and self-determination. Their supporters contend that the causes of terrorism and the political motivation of violent acts are instrumental to the definition of terrorism. The individual acts of violence can only be defined as terrorism if conducted for personal gain. Acts committed in connection with a political cause, especially against "colonialism" and for "national liberation", are outside the definition of terrorism. These acts constitute legitimate measures of self defense.<sup>8</sup>

Brian Jenkins, the chief terrorist expert for the Rand Corporation, disputed this in his 1985 study, International Terrorism: The Other World War. In the study, he drew a clear distinction between international terrorist activity and the rules of war. He pointed out that the rules of war define belligerents and neutral territory. They clearly prohibit the taking of hostages.

They also grant civilians not associated with valid targets at least theoretical immunity from attack and prohibit violence against those held captive.<sup>9</sup> However, terrorists do not recognize any rules or conventions of war for combatants, non-combatants and prisoners of war. They do not recognize neutral territory. They use "ruthless" methods and tactics to attack civilians, including foreigners, who are not even remotely involved with the controversy.<sup>10</sup>

According to past underground leaders, this has not always been the case for revolutionary movements. Michael Collins, the Chief-of-Staff for the Irish Republican Army (IRA) until his assassination in 1922, said of the early IRA campaign against the British:

We struck at individuals, and by doing so we cut their (British) lines of communication; and we shook their morale. And we conducted the conflict...as far as possible, according to the rules of war. Only the armed forces and the spies and criminal agents of the British government were attacked.<sup>11</sup>

Menachem Begin, former Prime Minister of Israel, was the leader of the Jewish underground group Irgun Zvai Leumi during the 1940's. He maintained that civilians were not targets of the Irgun. For example, he insisted that the occupants of the King David Hotel were warned prior to the 1946 bombing of the hotel by the Irgun. "There were many civilians in the hotel whom we wanted, at all costs, to avoid injury. We were anxious to insure that they

should leave the danger zone in plenty of time for their safety."<sup>12</sup>

There is a clear difference between the soldier and today's terrorist. The soldier employs violence in accordance with the law against an enemy identified by legally constituted authority. He is bound by the rules of war and, if he violates them, is held accountable for those actions. The terrorist, on the other hand, uses violence in violation of the law against persons who are not at war with him. In the case of the soldier, the status of belligerency is at least a condition known by all parties.<sup>13</sup> Senator Jackson highlighted the difference in his talk during the 1979 Jerusalem Conference, when he said:

Freedom fighters or revolutionaries don't blow up buses containing non-combatants; terrorist murderers do. Freedom fighters don't set out to capture and slaughter children; terrorist murderers do. Freedom fighters don't assassinate innocent businessmen, women and children; terrorist murderers do. It is a disgrace that democracies would allow the treasured word "freedom" to be associated with acts of terrorists.<sup>14</sup>

The discussion on who is a terrorist and who is not continues today. It is still the subject of debate in the United Nations. Chapter Three will address this issue in more detail. What is not debated is that international terrorism has grown in scope and violence over the past years.

### Growth/Scope of Terrorism

International terrorism is growing. From 1975 through 1985 more than 6,200 terrorist acts were recorded worldwide. These attacks left 4,700 dead and over 9,000 wounded. In 1985 alone, the number of terrorist attacks reached a record annual high of over 800. This was a 60 percent increase over the level of terrorism for the previous two years. These 800 plus attacks resulted in 2,223 casualties, of which 23 of the dead and 139 of the injured were Americans. Since 1969, terrorists have killed or injured over 1,000 Americans.<sup>15</sup>

Over the past ten years, terrorist attacks against U.S. officials and installations have averaged one every 17 days. In the past 17 years, terrorists have murdered as many U.S. diplomats as were killed in the previous 180 years. Additionally, almost 50 percent of the international terrorist incidents have been directed toward U.S. interests.<sup>16</sup> Further, 80 percent of the terrorist attacks in the 1970's were directed against property with 20 percent targeting people. Today, that relationship is 50/50.<sup>17</sup>

This upward trend is continuing. During the January-May 1986 time period, there were 346 international incidents, compared to 285 for the same period in 1985. These 1986 attacks resulted in 318 dead and 763 wounded.<sup>18</sup>

There are many reasons for this growth. Continued political unrest and socioeconomic problems create conditions of turmoil in the world. These problems are easily translated into acts of terrorism. Additionally, frustrated splinter groups are realizing they can make their own mark through acts of violence. Advanced communications technology almost assures instant publicity for those terrorist acts. Further, international travel is much easier today and weapons are becoming increasingly available to terrorists. Finally, governments see terrorists acts as a less costly way to strike a blow at their enemies.<sup>19</sup>

Terrorism has become a worldwide problem as well. The most deadly groups continue to operate from the Middle East. Attacks from the Middle East account for roughly 50 percent of the total worldwide terrorist incidents. Their main targets are Israel, western governments and their citizens (particularly the United States, France, Italy and Great Britain), and moderate Arab governments (especially Jordan, Egypt, Kuwait, and Saudia Arabia).<sup>20</sup>

Western Europe, on the other hand, suffered 200 of the over 800 worldwide terrorist attacks in 1985. There are indications that terrorist groups such as the Italian Red Brigade, French Direct Action, German Red Army Faction and Provisional Irish Republican Army are beginning to coordinate attacks throughout Europe.<sup>21</sup>

Social, economic, and political turmoil has prolonged patterns of terrorism in Latin America. Countries experiencing particularly high terrorist activity include El Salvador, Colombia, Guatemala, Chile and Peru. During 1985, more terrorist attacks were directed against U.S. citizens in Latin America than any other area of the world.<sup>22</sup>

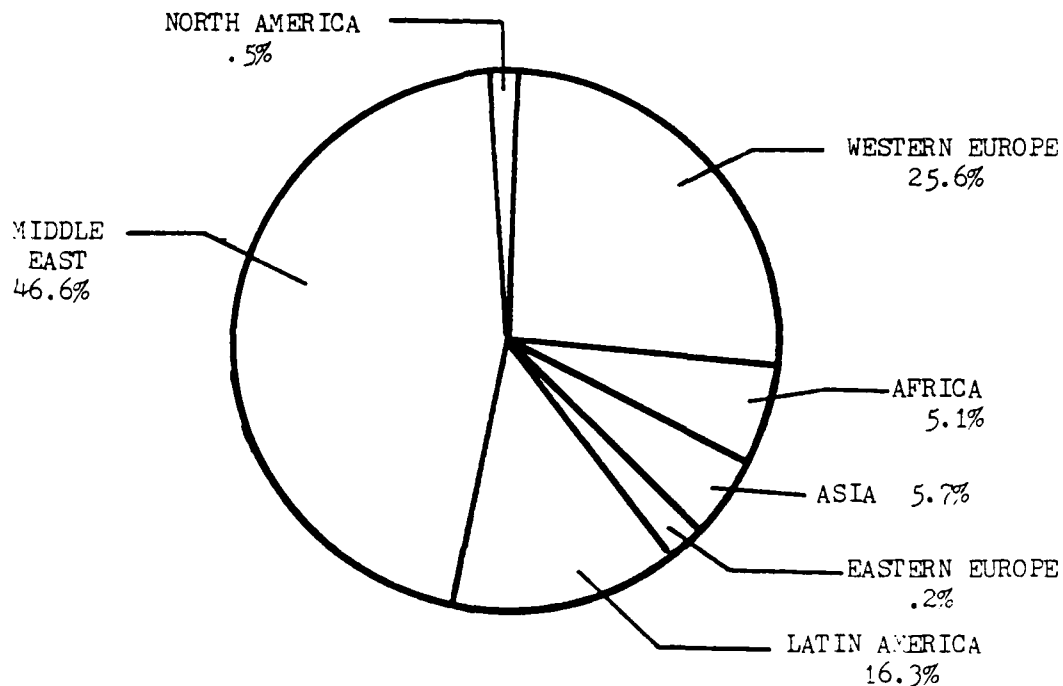


FIGURE 1  
Distribution of International  
Terrorist Incidents 1985<sup>23</sup>

But what is the real impact of these terrorist attacks? Has the United States inflated the threat from international terrorism?

#### Impact of Terrorism

Walter Laqueur, Chairman, Research Council of the Center for Strategic and International Studies at Georgetown University, claimed that the United States tends to magnify the importance of international terrorism. He admitted society is vulnerable to attack, but stressed it is also very resilient. While terrorism is very "noisy", he maintained that it has so far not been very "destructive". According to Mr. Laqueur, there were 169 U.S. civilian deaths from 1973 to 1985 as a result of international terrorist acts. He does not include U.S. soldiers killed overseas by terrorists. He implied this is not a significant number.<sup>24</sup>

Mr. Jenkins made a similar point. He compared terrorist casualty figures with the 200,000 individuals murdered over the past ten years in the United States. He also compared this with the 60 million deaths which occurred during two world wars.<sup>25</sup> Jenkins used this overall picture to emphasize the importance of perspective. He stated that "we must also remember that terrorism is largely a matter of perception, so that a few spectacular incidents may give the impression of a serious terrorism

problem."<sup>25</sup> He also maintained that, "within its present limits, terrorism is bearable. This is not to say that terrorism is tolerable, for it has become a more serious problem than anticipated. Yet, few governments are seriously imperiled."<sup>27</sup>

Laqueur and Jenkins did not say that terrorism poses no real threat and that it should be ignored. Laqueur acknowledged that if terrorism is neglected, "unpleasant and dangerous consequences will result."<sup>28</sup>

They both stressed, however, that the major impact from international terrorism is not found in casualty statistics, but rather in its impact on national policy.

While casualty figures are numerically smaller than for other trouble areas (such as domestic crime), terrorist casualties have a symbolic impact and are politically significant. "Its real and lasting effects cannot be measured in body counts or property damage but rather by its long-term psychological impact and the subsequent political results."<sup>29</sup> It has altered U.S. foreign policy, affected the ability to implement that policy, demonstrated U.S. difficulty in responding to terrorism and compelled the United States to divert resources to protect facilities and people. William Case, former Director of the Central Intelligence Agency (CIA), believes radical groups have a potential to force concessions not attainable through traditional diplomatic



means. Further, he stated that our "decision making process can be disrupted, confidence in the workability of our initiatives can be eroded, and - unless we deal effectively with terrorism - our international credibility will be seriously weakened."<sup>30</sup>

The threat from international terrorism has undermined U.S. Middle East policy and demonstrated U.S. vulnerabilities. The 1983 bombing of the Marine Corps headquarters in Beirut is a case in point. It demonstrated how a terrorist act could impact U.S. foreign policy. The attack provoked intense debate in the United States, eventually prompted a troop withdrawal from Lebanon and fatally wounded the multi-national peacekeeping force.<sup>31</sup>

Benjamin Netanyahu is the former Israeli Deputy Ambassador to the United States and current Israeli Representative to the United Nations. He stated that the major damage from international terrorism is not personal or physical damage. Instead, he maintained it is the "shaken confidence in government", the questioning of its "abilities and competence to insure a world subject to the rule of law."<sup>32</sup> But how successful have the international terrorist groups been?

Terrorist authority William Waugh wrote that these groups have become increasingly successful in disrupting

the West. Additionally, it appears their goals are expanding. The strategic objectives of international terrorism are to:

(1) Gain publicity and support for their cause.

(2) Disrupt social, political and economic interaction among western nations.

(3) Force the polarization of society by dividing the populace and fostering a breakdown of the status quo.

(4) Punish non-compliant civilians and government agents in areas that terrorists control or influence.

(5) Intimidate and harass authorities to force concessions.

(6) Provoke government overreaction.

(7) Eliminate instrumental targets.

(8) Provide for their own organizational needs by forcing governments to free prisoners and pay ransoms.<sup>33</sup>

Terrorism has grown because it has been able to fulfill many of these objectives. Terrorists have achieved political gains from their activity. They have also enjoyed crucial support from states. Further, they have come to believe they can spread fear in the general public and they perceive a hesitancy by governments to respond to their challenges.<sup>34</sup>

Lawrence P. Taylor, a career foreign service officer from the State Department, said the popularity of terrorism has been growing because it works, not all the time but often enough. In the gamble of human

affairs it is a relatively good bet."<sup>35</sup> Statistics appear to support Mr. Taylor.

The State Department indicated that terrorists are the least likely criminal to be caught and punished. They are hard to catch to begin with, and if captured, are often released or deported by governments fearful of retaliation from other terrorist groups. According to the State Department Office to Combat Terrorism, 146 individuals were arrested as international terrorists prior to 1976. Of that group, 140 were released without punishment.<sup>36</sup> A study by the Rand Corporation examined 63 major kidnapping and barricade events staged by terrorists between 1968 and late 1974. Conclusions summarized by a CIA research study showed:

(1) A 79% chance all terrorists would escape punishment or death.

(2) A 40% chance all or some of their demands would be met where something other than safe passage was demanded.

(3) A 29% chance for full compliance with demands.

(4) An 83% chance of success where safe passage or exit for themselves or others was demanded.

(5) A 100% probability of gaining major publicity whenever that was one of the terrorists goals.<sup>37</sup>

Ray S. Cline, a senior advisor at the Center for Strategic and International Studies at Georgetown University, outlined reasons for the apparent success rate of international terrorism. They include:

(1) There is no universal agreement within the international community about who is or is not a terrorist.

(2) The media assures terrorists of an almost immediate and extensive worldwide audience.

(3) The world's tolerance and sympathy has often permitted terrorist organizations to employ religious symbols, terms and ideas to support secular goals.

(4) Some states tolerate, appease and often glorify terrorists as heroes.

(5) Liberal democracies have often lost the resolve to deal with terrorists, despite the fact that they are aware of the threat.

(6) A history of weak response has made terrorism a low risk venture.<sup>38</sup>

The threat from international terrorism is growing. While it captures world attention with violent and spectacular attacks, international terrorism is targeting U.S. foreign interests and its ability to execute international policy. Despite recent U.S. actions and convictions in Great Britain and West Germany, western governments do not have a very good record of effectively responding to the terrorist threat. Further, the future will most likely present increased challenges to western nations.

### Trends - State Sponsorship

International terrorism is growing. In September 1985, Ambassador Robert B. Oakley, acting Ambassador at Large for Counter-Terrorism, outlined five major trends for this increased threat. According to Mr. Oakley, international terrorism is and will remain a "prominent" factor in the international political scene. He also stated that, for the United States at least, the problem will remain external. Terrorist activity in the United States is actually decreasing and accounts for less than one percent of the worldwide total. Moreover, open societies will remain the principal targets. While no government is immune, democratic societies are the most vulnerable. Additionally, terrorist groups will enjoy a greater lethality in the future. Finally, there will be a definite rise in state sponsorship of terrorist groups throughout the world.<sup>39</sup> State Sponsorship is the most significant trend identified by Ambassador Oakley.

Brian Jenkins identified two basic types of international terrorism. The first, what he called "ordinary terrorism", are acts by independent national terrorist groups. These groups have conducted attacks in 72 different countries since 1968. The local governments where these attacks occur tend to protect foreign nationals and vigorously pursue these terrorist groups.<sup>40</sup>

The second group includes terrorist organizations receiving significant state sponsorship. These groups are conducting a campaign of terror instigated and directed by a handful of state sponsors. This sponsorship ranges from ideological, political and propaganda support to diplomatic assistance. It also includes outright support with funds, training and weapons.<sup>41</sup>

Secretary of Defense Casper Weinberger supports this view concerning state sponsorship. In a recent article he stated, "terrorists have formed partnerships with radical regimes that offer funds, weapons, paramilitary training, sanctuary and a mouthpiece for propaganda and claims to legitimacy."<sup>42</sup>

There are a growing number of governments using terrorism as an element of foreign policy. Of the 500 worldwide terrorist attacks in 1983, approximately 200 targeted U.S. interests, and at least 70 percent of those "probably" involved significant state sponsorship.<sup>43</sup> The State Department reported that 93 terrorist incidents in 1985 "bore indications of state support."<sup>44</sup> Additionally, it appears that U.S. allies are reluctant to enter the battle against these groups for political and economic reasons.<sup>45</sup>

There are many reasons for this trend. Modern conventional war is too impractical and costly. Terrorism, on the other hand, is recognized as an inexpensive way to

wage war. It provides a cost effective alternative to open conflict and is considered a way for smaller nations to attack larger world powers. Further, responsibility for acts of terrorism can be easily denied by the suspect nation, thus reducing the risk of a direct confrontation. Moreover, it is no longer a weapon for just the weaker nations; major world powers are now including terrorism as a tool of their foreign policy.<sup>46</sup>

State sponsorship has introduced two major dimensions to the terrorist problem. As a result of this sponsorship, terrorist groups have experienced a qualitative leap in their sophistication of violence. They have also increased their "staying power". For example, state sponsored groups are eight times more lethal than "ordinary groups" and employ a wider range of options. State sponsored groups operate less frequently because they are not required to conduct operations to raise finances and weapons. "State sponsorship reduces the constraints on terrorists and permits them to operate at a higher level of violence, emboldened by more resources, money, intelligence and technical expertise." They also generally pick American targets.<sup>47</sup>

In addition to the improvements, it appears the potential utility of terrorism is also increasing. Terrorist groups are used more and more in combination with other tools of foreign policy.<sup>48</sup> Robert Sayre, former

Director of the State Department's Office for Combatting Terrorism and Emergency Planning, expressed this concern. In a TVI Journal interview he said, "what really bothers me is that nations will see terrorism as a cheap way to achieve political objectives."<sup>49</sup>

The list of nations accused of directly supporting international terrorism is growing. The United States has identified Libya, Iran, Syria, South Yemen, North Korea, Cuba and Nicaragua as the most active. They are accused of providing training sites, modern weapons, safe havens and financial and planning support.<sup>50</sup> A 1984 State Department brief outlined the situation.

International terrorism is becoming increasingly frequent, indiscriminate, and state supported. The countries that repeatedly support international terrorism are Iran, Syria, Libya, Cuba and the People's Democratic Republic of South Yemen. The Soviet Union provides heavy financial and material support to countries that sponsor international terrorism.<sup>51</sup>

Libya, Syria and Iran are depicted as the most active. John C. Whitehead, Deputy Secretary of State, specifically identified Libya during a statement before the House Committee on Foreign Affairs. He stated, "the long list of Libyan-inspired threats and actions directed against the United States and Europe demonstrates that Libya is systematically using terrorism as a matter of government policy."<sup>52</sup> Libya is suspected of spending up to \$100 million a year in direct support of



terrorist movements.<sup>53</sup> Libya is also suspected of training over 7000 terrorists. On 11 June 1985, Libyan leader Qaddafi boasted, "we are now in a position to export terrorism, arson and liquidation to the heart of America - and shall do so if necessary."<sup>54</sup>

Syria has assisted such terrorist groups as Abu Nidal, Sa'iqqa and the Popular Front for the Liberation of Palestine. They have stationed terrorists in Syrian embassies throughout Europe. The bomb used to destroy the U.S. Marine barracks in October 1983 was rigged by Syrian professionals in the Bekaa Valley. Syria also provided two terrorist experts to support the hijacking of TWA Flight 847 in June 1985. An Italian prosecutor's report contends that the December 1985 terrorist attack on Rome's airport was planned in Syria and carried out by Abu Nidal with Syrian support. More recently, Syrian officials have been implicated in terrorist activities during trials in Great Britain and West Germany.<sup>55</sup>

Former CIA Director Casey, while also naming Libya as a prime terrorist booster, claimed Iran is the top worldwide supporter. "Probably more blood has been shed by Iranian-sponsored terrorists during the last few years than all other terrorists combined."<sup>56</sup> Iran's Islamic Revolutionary Council oversees such terrorist groups as al-Dawa (The Call), Amal Islamic (The Hope), and Hezbollah.

Over 2000 terrorists from 20 different nations have been trained in Iran. Iran was also instrumental during the hijacking of TWA Flight 847 providing communications, training and weapons support to the hijackers.<sup>57</sup>

This state sponsorship is spreading beyond the Middle East and Europe as well. Libya is already cultivating violence-prone black Moslem groups in the U.S. and supports the Moro National Liberation Front and the New People's Army in the Philippines. Iran is supporting pro-Moslem groups engaged in terrorist violence in Indonesia.<sup>58</sup>

While these nations have been identified as direct supporters of international terrorism, it is the apparent support of the Soviet Union that concerns western leaders the most.

#### Soviet Involvement

The Soviet Union is increasingly linked with the causes and operations of international terrorism. Their support ranges from complete control of activities to supplies of money, weapons, training, technology and propaganda. The Soviets are charged with supporting or directing known terrorist training camps in Cuba, South Yemen, Libya, Syria and Lebanon.<sup>59</sup>

Mr. Casey charged that "the Soviets and their East European allies have provided intelligence, weapons, funds,

and training for Middle Eastern terrorists camps in the Soviet Union and elsewhere in Eastern Europe - East Germany, Bulgaria, and Czechoslovakia."<sup>60</sup>

The Central Committee of the Communist Party of the Soviet Union has established at least two facilities for terrorist training in the USSR. The Lenin Institute in Moscow is used to train third world "visitors" in armed combat and guerrilla warfare. The Patrice Lumumba Friendship University was established for the indoctrination and training of potential "freedom fighters."<sup>61</sup>

Documents captured in Lebanon during the Palestine Liberation Organization (PLO) evacuation of Beirut in 1982 provided concrete evidence of Soviet involvement. The documents outlined the scope of Soviet use of the PLO as a vehicle for destabilizing the Middle East and exporting terrorism worldwide.<sup>62</sup>

The Soviet Union has apparently included terrorism as an element of foreign policy to meet strategic goals where conventional armed force is deemed inappropriate, ineffective, too risky or too difficult to employ. Their broad goals for using terrorism include:

(1) Influencing the developments in neighboring countries. Recent Soviet activities in Iran are cited as an example. Additionally, Soviet support for Turkish terrorists is an effort to influence events in that neighboring country.

(2) Drawing non-communist states into the Soviet orbit. Soviet support of terrorist activities in Portugal almost enabled revolutionaries to seize power there.

(3) Helping to create new states where it will have considerable influence. Soviet support of Palestinian claims for self-determination is an example.

(4) Weakening political, economic and military infrastructures of anti-Soviet alliances such as NATO. Soviet support for the outlawed Irish Republican Army is seen as an attempt to weaken Great Britain's resolve.

(5) Initiating proxy operations in distant locations when direct conventional military activities are not practical. The Soviet manipulation of the South West African People's Organization (SWAPO) is a case in point.

(6) Stirring up trouble for the U.S. in the highly visible region of Central America by using surrogates, Cuba and Nicaragua. This presents the Soviets no significant financial burdens and is a low cost political adventure.

(7) Conducting a "secret war" against individuals considered mortal enemies of communism and the Soviet Union.<sup>63</sup>

Neil Livingstone summarized Soviet involvement with the following statement:

The Soviet strategy is clear. Moscow supports, sustains and abets international terrorism because it has proven to be a relatively low-cost strategy for nibbling away at the peripheries of the Western alliance, for undermining NATO and its member states, and for scoring major gains in the Third World that could potentially deny the United States and its allies access to critical sealanes and raw materials.<sup>64</sup>

State sponsorship has emerged as the single most significant development in the increasing threat from international terrorism. The potential impact is limitless when nations such as the Soviet Union, Iran, Syria and Libya use terrorist organizations as instruments of foreign

policy. Mr. Netanyahu recently wrote, "without the support offered by the Soviet Union and the Arab world, international terrorism would revert to its earlier, localized manifestations before the 1960's and would hardly dominate the global scene."<sup>65</sup>

### Summary

Western governments face significant problems in the future. The difficulties begin with the basic definition of terrorism; a seemingly simple problem but one that indicates how controversial this subject really is. Terrorism is clearly on the increase. This growth included a 60 percent jump in the last two years and U.S. interests are becoming a favorite terrorist target. There are many reasons for this growth, reasons that provide challenges for the U.S. in the future. However, the major threat development is what terrorist expert Yonah Alexander called the "new era" of state sponsorship.<sup>66</sup> Terrorism is becoming a tool used by governments as part of their foreign policy. The Soviet Union and other totalitarian states like Iran, Libya and Syria are actively and enthusiastically exporting terrorism into other countries whose governments they wish to injure or overthrow.<sup>67</sup> Robert C. McFarlane, former National Security Advisor to President Reagan, said,

State support on the scale that we are now witnessing has greatly altered the dynamics of terrorism as we saw it in the 1960's and 1970's. With the help of a sponsoring state, small groups of terrorists can achieve extraordinarily destructive power.<sup>68</sup>

This factor has a major bearing on U.S. counter-terrorist policy development. It will significantly impact on any decision to employ military force. Lawrence Taylor outlined the next concern:

The issue before us is what nations and which values are to establish the rules of the game regarding the use of international violence for the rest of the century? The international community should but won't; it will either be the U.S. and like minded countries or it will be the terrorist and their state sponsors.<sup>69</sup>

Chapter Three will review the actions of the international community to meet this challenge. It will concentrate on actions in the United Nations since 1968 to establish the background for U.S. counter-terrorist policy development.

## CHAPTER 2

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## CHAPTER 3

### INTERNATIONAL ACTIONS

#### Introduction

Chapter Two outlined the threat posed by international terrorism. Robert C. McFarlane, former National Security Advisor to President Reagan, summarized that threat in a 27 March 1985 speech.

Terrorism has been established as a fundamental challenge to our national security and that of our allies which promises to endure and to expand until together we find effective means for dealing with it.<sup>1</sup>

Chapter Three will trace actions by the international community to deal with that threat. This background is provided to establish the international framework in which U.S. counter-terrorist policy has evolved.

The chapter begins by reviewing actions taken by the League of Nations in 1937. This is followed by a review of the United Nations (U.N.) Charter as well as other declarations and conventions dating from 1948 to 1970. This provides a basis for the more detailed study of U.N. activities over the past fifteen years (1972-1987).

This detailed review begins with the 1972 draft resolution on terrorism proposed by the United States. This resolution finally surfaced the major international problem of defining terrorism, an issue that continues to plague the international community today. Additionally, U.N. actions from 1972 through 1987 are then outlined. Selected multi-national conventions and regional agreements are then discussed to provide additional background information on international initiatives. Chapter three concludes with an assessment of the response by the international community to the terrorist challenge.

#### League of Nations

The first real effort to deal with international terrorism by an international forum did not take place until the 1930's. On 9 October 1934, King Alexander of Yugoslavia and French Foreign Minister Louis Barthou were assassinated in Marseilles, France. The government of France immediately proposed that an international criminal court be established to prosecute "terrorist criminals." The League of Nations responded by hosting an international conference on terrorism in Geneva which produced two conventions. One convention established an international criminal court. The second, more importantly, defined acts of international terrorism and prohibited states from conducting any such acts.<sup>3</sup> On 16 November 1937, the

resulting Convention for the Prevention and Punishment of Terrorism defined terrorism as:

criminal acts directed against a state and intended or calculated to create a state of terror in the minds of particular persons, or a group of persons, or the general public.<sup>4</sup>

However, terrorism was apparently not considered a major international problem in 1937. The convention was not ratified by a sufficient number of nations to make it international law. The two conventions were eventually discarded, unratified, with the collapse of the League of Nations and the start of World War II.<sup>5</sup>

#### United Nations Charter

The original United Nations charter was designed to promote a peaceful world where international disputes were settled without the use of force. It did not directly address international terrorism, but various articles have since been applied to this issue. Article 2, paragraph 3 of the U.N. Charter essentially outlaws the use of force short of a declared war by calling on U.N. members to "settle their international disputes by peaceful means". The application of this "peaceful" resolution is further defined in Article 33, paragraph 1 which outlines a number of peaceful alternatives to armed conflict. Article 2, paragraph 4 of the charter supports the two previous articles by calling on member nations to "refrain in

international relations from the threat or use of force.' These three paragraphs, when combined, seem to prohibit any method of settlement involving the use of force, or threat of force, short of a formal declaration of war. "The use of armed reprisals, for example, is not to be regarded as a peaceful means, though technically it may not be war."<sup>6</sup>

Article 51 of the U.N. Charter provided the only exception to this rule. It states that "nothing in the present Charter shall impair the inherent right of individual or collective self-defense."<sup>7</sup>

The international community has, in the past, accepted the idea that self-defense against armed attack includes the right of the "victim" to end an attack, or even prevent or deter the attack, by "taking the war to the aggressor." This inherent right incorporates the traditional pre-charter concept of self-defense which was not limited to responses and did not have to await the actual armed attack. However, in cases where this pre-emptive or anticipatory" self-defense force was used, it had to be reasonable and proportional. Additionally, this concept of inherent self-defense presumed that it is the right of each nation, or of nations acting together, to decide when and for how long conditions exist which justify the exercise of this self-defense right.<sup>8</sup>

However, legal scholars today question this concept. Louis Henkin, an authority on international law

and diplomacy, wrote that Article 51 is more restrictive than "anticipatory self-defense" implies. The self-defense exemption applies only to emergencies. The nation must be under armed attack which is "clear, unambiguous, subject to proof, and not easily open to misinterpretation or fabrication." Nations should not be allowed to cry "vital interests" or "anticipatory self-defense" to justify military action under the right of self-defense.<sup>9</sup>

Yehuda Z. Blum, Israel's Ambassador to the United Nations from 1978 to 1984, raised the question of applying Article 51 to terrorism by classifying acts of international terrorism as "armed attack". He wrote that, while terrorist attacks viewed separately might not qualify as armed attack under Article 51, the campaign of international terrorism considered in its totality is another question.<sup>10</sup> Critics of applying Article 51 to terrorist attacks, on the other hand, question how governments that are not fighting for their existence against international terrorists can claim self-defense.<sup>11</sup>

Abraham Sofaer, legal advisor to the State Department, outlined the administration's stand on the application of Article 51. In discussing attacks by state-sponsored terrorist groups, he said:

International law recognizes the right to use force in self-defense against armed attack...To the extent that they are state supported, or beyond the capability of their governments to control, we (U.S.)



are entitled now to use necessary and proportionate force to end such attacks.<sup>12</sup>

He also stated that international law regulates the use of force in the territories of other states "whether to capture or attack terrorists or to rescue hostages located there, or against the states themselves for sponsoring terrorists or conspiring with them in specific terrorist activities."<sup>13</sup>

This debate continues today. The prohibitions of Articles 2 and 33, as well as the application of Article 51, remain hotly contested issues on the national and international scene. The Reagan administration has adopted an open interpretation of Article 51 insisting that the U.S. is under "armed attack" from international terrorism and, therefore, free to respond with military force.

In addition to the basic U.N. Charter, the United Nations specifically addressed terrorism as early as 1948. Through a series of declarations and conventions, the U.N. established a framework for later action on international terrorism.

#### Early Declarations - 1948 to 1972

Early actions by the United Nations, apart from the basic Charter, did address the problems of international terrorism. Four specific examples are outlined.

In 1948, the U.N. Declaration of Principles of International Law denounced the organizing, assisting or participation in acts of terrorism by one state in another country.<sup>14</sup> Similarly, Article 2, Paragraph 6 of the Draft Code of Offenses Against the Peace and Security of Mankind, drawn up by the U.N. International Law Commission in 1951, declared unacceptable "the undertaking or encouragement by the authorities of a State of terrorist activities in another state". In a 1956 declaration adopted by the General Assembly, the United Nations prohibited states from supporting international terrorists.<sup>15</sup> Finally, the Declaration of Principles of International Law Concerning Friendly Relations and Cooperation Among States, adopted by the General Assembly on 24 October 1970, further supported the ban on terrorism.<sup>16</sup>

This summary of United Nations declarations from 1948 to 1970, although not all-inclusive, shows that the international community clearly regarded terrorism as illegal. The wording of the declarations outlawed the use of terrorism and terrorist tactics by one nation against another. However, as this study will show in the next section, the key issue of defining "terrorism" had yet to be addressed effectively. This definition problem truly surfaced with the United States draft resolution and

convention on international terrorism submitted to the General Assembly on 25 September 1972.

1972 U.S. Draft Resolution

In addition to the U.N. declarations that addressed terrorism in general terms, the international community also approved four multi-national conventions. These conventions, adopted prior to 1972, addressed specialized threats from international terrorism. Three conventions dealt with the threat to civil aviation while the fourth was designed to protect diplomats from terrorist attacks.<sup>17</sup> The international community had addressed the problem of selected special cases of terrorism but a general convention on international terrorism had not been adopted.

On 25 September 1972, the United States introduced to the U.N. General Assembly the Draft Convention for the Prevention and Punishment of Certain Acts of International Terrorism. The proposal attempted to expand the range of crimes outlawed under international law to include acts not already covered under the four existing specialized conventions. The U.S. government believed that it was imperative to take action against terrorism to protect the lives of innocent people. Additionally, terrorism now posed a serious threat to the international order.<sup>18</sup> This action accompanied additional policy initiatives

within the Nixon administration to address the international terrorism dilemma.

The resolution attempted to protect all individuals from attacks by terrorists, not just diplomats or passengers on civilian air carriers. In Article 1, the draft convention identified an international terrorist as

any person who unlawfully kills, causes serious bodily harm or kidnaps another person, attempts to commit such acts, or participates as an accomplice of a person who commits or attempts to commit any such act.<sup>19</sup>

It attempted, however, to avoid "becoming enmeshed in the thorny issue of aggressive acts carried out in the context of a people's right to exercise self determination (for example, in civil wars or colonial insurgencies)." The proposal specifically excluded a discussion of domestic terrorism and tried to avoid placing constraints on legitimate wars of national liberation. The proposal applied only to acts of "international significance" which was defined in Article 1.<sup>20</sup>

Article 3 of the draft convention included a key provision. It pledged each signator to either extradite or punish individuals found guilty of "terrorist acts of international significance" as outlined by the convention.<sup>21</sup>

The draft convention met immediate resistance. The predominant objection was that, despite U.S. efforts to

the contrary, the resolution hindered "just" wars of national liberation. The objections focused on three main issues.

(1) Racist and colonial powers would exploit the issue of international terrorism to justify oppression.

(2) Colonial and racist regimes were terroristic themselves but their actions were not addressed by the proposed U.S. resolution.

(3) International terrorism was really not a major problem and the resolution distracted world attention away from the real issue of imperialistic oppression, racism and colonialism.<sup>22</sup>

Critics of the resolution also maintained that the proposal should be defeated because its definition of terrorism was unclear. They also said it was necessary to study the causes of terrorism further before taking action. Additionally, they maintained that the U.N. was being asked to act in haste, primarily as a response to the terrorist attack during the 1972 Munich Olympic Games.<sup>23</sup>

Once the U.S. realized that there was insufficient support in the General Assembly for the draft resolution, it shifted to supporting a compromise proposal sponsored by a group of western nations. Unlike the U.S. proposal, the compromise resolution included a paragraph specifically reaffirming the rights of wars for national self-determination.<sup>24</sup>

However, before this compromise draft was voted on, a third proposal was introduced. This third option,

sponsored by 16 African and Third World nations, focused attention on affirming the rights of self-determination and the legitimacy of national liberation struggles while condemning "repressive and terrorist acts by colonial, racist and alien regimes". The proposal recommended no immediate measures to deal with international terrorism but rather referred all action to an ad hoc committee to study the problem. The African-Third World draft was adopted by a 76 to 34 vote with 16 abstentions.<sup>25</sup>

As a result of the vote, the General Assembly established a 35 member ad hoc committee on international terrorism. It first met in July/August 1973. The meetings were characterized by fundamental differences on what the committee's focus should be, what measures were appropriate as responses to terrorism and what would be an acceptable definition of terrorism. The initial committee report was little more than a "summary of divergent views."<sup>26</sup> The committee was continued by a 1977 U.N. resolution and reconvened, but met with similar results. The ad hoc committee failed to develop any practical or specific measures to deal with international terrorism. It essentially killed any chance for an effective response with its final report, submitted in 1979.<sup>27</sup>

Although the U.S. proposal failed, it did highlight the major issue blocking the development of a consensus on international terrorism. The United States

saw the problem of international terrorism as primarily a humanitarian issue. Feeling that there was a broad international agreement on the nature of the threat, the U.S. concentrated on resolving disagreements over technical questions of how to deal with it. The third world and communist nations, on the other hand, saw the issue as primarily political. There was no agreement from them that the problem, as outlined by the U.S., even existed. The real problems centered on colonialism and repressive regimes.<sup>28</sup>

#### U.N. Actions 1972-1987

The problems of defining terrorism continued to impede the development of international norms and cooperation throughout the 1970's.<sup>29</sup> The international community did successfully ratify a number of multi-national conventions dealing with specific forms of terrorism, such as aircraft hijackings and hostage-taking. However, the developing Third World, with support from the Communist Bloc, sought to narrow the definition of international terrorism to preserve the legitimacy and legality of "terrorist violence" by national liberation movements. The third world continued to resist efforts to define terrorist acts as criminal. Instead, they changed the focus from the acts themselves to the "misery,

frustration and grievances" that allegedly caused terrorism.<sup>30</sup>

The Soviet Union did affirm its opposition to "acts of terrorism" such as murder, kidnapping and air hijacking. However, they frustrated western efforts for a comprehensive international convention for the prevention of terrorism. They refused to join western leaders in giving the term "international terrorism" a broad interpretation that may include certain acts by national liberation movements. Instead, the Soviets insisted that those who engaged in these wars of liberation, regardless of the tactics used, should be protected under international law. The west, which found violent acts aimed at innocent civilians unacceptable, refused to grant these movements legitimacy.<sup>31</sup>

Despite this refusal by western governments, terrorist groups have attempted to use the international legal system to claim equal status with sovereign nations and to posture as legitimate liberation movements. They have enjoyed some success.<sup>32</sup>

In 1974, Palestine Liberation Organization (PLO) chief Yasser Arafat was invited to address the U.N. General Assembly. The U.N. also invited the PLO to a convention called to improve upon the 1949 Geneva Convention on Humanitarian Rules of War.<sup>33</sup> During the conference the PLO lobbied for the adoption of a resolution that would



classify "struggles of people against colonial...and alien...racist regimes" as "international armed conflicts" under the Geneva Convention. Further, the protocol provided that combatants need not distinguish themselves from civilians until the actual point of engagement. This was an attempt to extend the rights afforded to uniformed combatants by the Geneva Convention to "irregulars" who may not be obliged to separate or distinguish themselves from the civilian population. The protocol was adopted by the conference in 1977. It effectively legitimized the terrorist practice of concealing themselves among the civilian population. As a result, the protected status of civilians, the core of the Geneva accords, was significantly weakened.<sup>34</sup>

Due to what Defense Secretary Weinberger calls a "grave lapse", the U.S. signed the 1977 convention. However, the convention has not been ratified by the United States. Further, Secretaries Weinberger, Shultz and Attorney General Meese have recommended to President Reagan that the convention not be submitted to the Senate for ratification in the future. In February 1987, President Reagan sent notice to the Senate Foreign Relations Committee that he would not submit Protocol 1, as the revision dealing with international armed conflicts is known, for ratification. The President did, however, urge that the Senate ratify Protocol 2, which deals with

non-international conflict. More than 100 nations signed the protocols and more than 40 have ratified them. The Soviet Union has not but NATO allies Denmark, Norway, Belgium and Italy have ratified the accords.<sup>35</sup>

From September 1972, when U.N. Secretary-General Kurt Waldheim first asked for the inclusion of international terrorism on the agenda, until 18 December 1982, seven resolutions dealing with terrorism were adopted. While they did express deep concern over increased violence, the resolutions actually condemned only one thing: "the continuation of repressive and terrorist acts by colonial, racist and alien regimes."<sup>36</sup>

Neil Livingstone further outlined the Security Council record of responses to terrorism during this period. He noted that,

from 1968 to 1978, eleven Security Council resolutions discussed Israel counter-fedayeen activities directed at Lebanon. All eleven condemned Israel for violating the territorial integrity of Lebanon or for engaging in forbidden military reprisals; none condemned Lebanon, the PLO or the Fedayeen; nor on their surface do they suggest that any violence on the part of the Fedayeen preceded the condemned Israeli attack.<sup>37</sup>

In 1985, the U.S. was more successful in obtaining agreements and stronger resolutions on international terrorism. On 9 October 1985, the President of the U.N. Security Council issued a statement condemning all acts of

terrorism and hostage-taking. Two months later, on 9 December 1985, the U.N. General Assembly adopted resolution 40/61 on international terrorism. In it the General Assembly acknowledged that terrorism was having a damaging impact on international relations and was reaching levels "which may jeopardize the very territorial integrity and security of States." The resolution, "unequivocally condemns, as criminal, all acts, methods and practices of terrorism." Further, it calls upon all nations to "refrain from organizing, instigating, assisting or participating in terrorist acts in other states."<sup>38</sup> It is noteworthy that this statement is similar to those adopted by the United Nations 30 years earlier.<sup>39</sup>

On 18 December 1985, the Security Council unanimously passed Security Council Resolution 579. The resolution, introduced by the United States, condemned "unequivocally all acts of hostage-taking and abduction."<sup>40</sup>

The United States was extremely pleased with these recent U.N. actions. Ambassador Vernon Walters, the U.S. Permanent Representative to the United Nations, called this "a historic step, almost without precedent in the entire 40 years of the United Nations."<sup>41</sup> The issue, however, is not closed.

In January 1987, Egyptian Foreign Minister Ahmed Esmat Abdel Meguid, asked the United Nations to begin

preparations for yet another international conference on terrorism. In his letter to Secretary-General Javier Perez de Cuellar, Mr. Meguid said "the international community continues to suffer the effects of terrorism by individuals and even U.N. member nations."<sup>42</sup>

The United Nations has been the most active international forum to address the problems of international terrorism. After almost 40 years of effort, wrought by diplomatic failures to reach a consensus, the General Assembly fully adopted a resolution on the general control of international terrorism. However, major issues remain unsettled. For example, the problem of defining terrorism is still not solved. Syria recently called for an international conference on terrorism with the focus on defining "the distinction between terrorism and the legitimate struggles of peoples."<sup>43</sup>

The international community has historically been more successful in reaching agreement on protocols to deal with specialized aspects of international terrorism such as aircraft hijacking and hostage-taking. Chapter Three continues with a brief review of selected multi-national agreements that deal with these specialized cases.

### Additional Conventions/Regional Agreements

In addition to the General Assembly Resolution 40/61 on International Terrorism and Security Council Resolution 579 on Hostage-Taking, the United Nations has adopted five other major conventions dealing with various aspects of international terrorism. Three deal with civil aviation and were developed under the auspices of the International Civil Aviation Organization.<sup>44</sup>

The Convention of Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo Convention), signed at Tokyo on 14 September 1963, pledged the signators to prosecute anyone for seizing or interfering with a civil aircraft in flight. It dealt primarily with the question of jurisdiction. The convention, however, did not include an obligation to extradite the hijacker. Further, although signed in 1963, it took six years for the required twelve nations to ratify the accord making it binding under international law.<sup>45</sup>

On 16 December 1970, the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague Convention), was signed at the Hague. This convention attempted to strengthen the international agreement on aircraft hijacking by requiring stiffer penalties for hijackers. More importantly, it expressly made hijackers subject to extradition. The detaining country had the

option to prosecute the hijacker or extradite him to either the country of aircraft registry or the country where the hijacked aircraft landed (if this country is different from the detaining country).<sup>46</sup>

The third aircraft convention, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, was signed at Montreal on 23 September 1971. It added sabotage to aircraft or civil air service installations to the list of crimes. It also included as crimes acts of violence against passengers or crews. Like the Hague Convention, the Montreal Convention incorporated a prosecute or extradite provision. These three conventions established a framework for international cooperation to prevent aircraft hijackings.<sup>47</sup>

The fourth agreement, the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (New York Convention), concluded at New York on 14 December 1973. This convention addressed specific acts, such as murder and kidnapping, but was limited only to protecting diplomatic personnel. The agreement also made attacks on the official premises, private homes, or transportation modes of diplomats criminal offenses.<sup>48</sup>

The last protocol, the International Convention against the Taking of Hostages, was adopted in New York on 17 December 1979. It outlawed the taking of hostages and

also included a prosecute or extradite provision. The 1985 Security Council Resolution (579) on Hostage-Taking reaffirmed the 1979 convention.<sup>49</sup>

However, there were significant political and legal barriers to overcome before many provisions of these agreements could be executed. The most significant was the Political Offense Exemption to extradition. This exemption first appeared in treaty form in the Franco-Belgian Convention of 1934. The 1972 United States-Spain extradition treaty illustrated the political offense exemption. Article V of the treaty states that extradition shall not be granted when the offense in question is of a "political nature".<sup>50</sup>

Abraham Sofaer, in a July 1985 address before the American Bar Association, outlined the political offense exemption as interpreted by U.S. courts. According to the court, the political offense exemption "prohibits extradition of persons whose crime, however serious, was committed in the cause or in furtherance of civil war, insurrection, or political commotion."<sup>51</sup>

More recently, the Supplementary Treaty Between the Government of the United States of America and the Governments of the United Kingdom of Great Britain and North Ireland highlighted the problem. This agreement proposed to modify the existing extradition treaty between the U.S. and Great Britain. The most important aspect of

this controversial supplementary agreement, which was eventually approved in 1986, is that it identified specific crimes that can no longer be exempted on political grounds.

Since 1979, U.S. courts have denied four British requests for the extradition of accused or convicted members of the Provisional Irish Republican Army. All four involved violent terrorist crimes. One case involved Joseph Patrick Doherty, who "blasted his way out of prison" while awaiting a British court's decision on charges including the murder of a British Army officer. Great Britain requested his extradition from the U.S. on charges of murder, attempted murder, possession of firearms with intent to endanger life and charges related to his escape. However, due to the "political conflict" existing at the time and finding that the offenses were committed "in the cause of and in furtherance of that struggle", the judge declared Doherty's offenses as political and denied the extradition.<sup>52</sup>

Mr. Sofaer identified the law as the core problem, not the judges enforcing the law. He stated,

The basic problem is the law itself, insofar as it is being applied so that the United States has become a sanctuary for terrorist murderers.<sup>53</sup>

In addition to just refusing extradition, it has also been custom since the 19th century for the detaining nation to provide "political offenders" asylum. Terrorist



groups have exploited this. The political offense exemption has been used extensively by international terrorists to avoid extradition to face prosecution for violent crimes.<sup>54</sup>

Countries have attempted to close the political offense exemption loophole, primarily through regional and bilateral agreements. With the 1977 European Agreement on Combatting Terrorism, the 26 member nations of the Council of Europe outlined violent crimes that could not be treated as political offenses. These included crimes such as murder, kidnapping, hostage-taking and the use of explosives or firearms. The 1986 revision of the extradition treaty between Great Britain and the U.S. excluded from the political exemption provision "murder, manslaughter, kidnapping, and other violent crimes, along with violations of international conventions on air piracy and hostage-taking."<sup>55</sup>

The 1977 European Convention on the Suppression of Terrorism is one example of regional cooperation. The 1971 Convention to Prevent and Punish Acts of Terrorism Taking the Forms of Crimes Against Persons and Related Extortion, approved by the Organization of American States in 1971, is another example. The convention focused on deterring the murder of public officials and kidnapping for ransom. These agreements were adopted by regional parties in the

absence of broader worldwide action on international terrorism.<sup>56</sup>

#### Assessment

Despite the apparent advances made by the international community, Ernest Evans, of the Brookings Institute, claimed that these agreements do not constitute a network of deterrence against terrorism.<sup>57</sup> The major problem centers around a fundamental weakness of most international conventions; there is no effective enforcement machinery. For example, Greece is a party to the Tokyo, the Hague, and the Montreal Conventions. As such, it was responsible to hold an accused would-be hijacker captured at Athens Airport during the June 1985 hijacking of TWA Flight 847. However, the alleged hijacker was traded by the Greek government in return for the Greek passengers of Flight 847. Mr. Sofaer argued that these conventions are not enforceable because "parties to the conventions have repeatedly refused to extradite or prosecute hijackers and, indeed, have supported their activities."<sup>58</sup>

More recently, a frenzy of hostage taking in Beirut has apparently slowed extradition proceedings between the U.S. and West Germany. On 13 January 1985, Mohammed Ali Hanadei, one of the four alleged ringleaders in the TWA Flight 847 hijacking, was arrested in Frankfurt.

West Germany. Hamadei is suspected of being one of the two original gunman that hijacked the flight and murdered Navy Diver Robert Stethem. Two West German businessmen living in Beirut were quickly kidnapped and offered in a hostage-for-prisoner swap. After initially indicating that Hamadei's extradition to the U.S. would be arranged quickly (with U.S. concessions to waive the death penalty), West German officials suddenly altered their position. They became concerned that the extradition might result in the death of the two businessmen. West Germany later suggested that the extradition proceedings may take several weeks or may not be possible at all.<sup>59</sup>

Mr. Maechling charged that politics permeate every level of international counter-terrorist actions. He cited the Italian release of terrorist leader Abu Abbas after the Achille Lauro hijacking as an example. He also stated that,

countries like Italy, France, and Spain have made bargains with terrorist groups giving prisoners early parole in exchange for release of hostages and promises that national territory would be immune from terrorist attack.<sup>60</sup>

In January 1987, three of the United States strongest allies refused to attend a proposed conference to discuss "coordinated responses to the continued hostage taking in Lebanon." The U.S. proposed the meeting between representatives of the U.S., Great Britain, Italy, France,

West Germany, Canada, and Japan. These nations had signed a statement at the May 1986 summit meeting in Tokyo "pledging international cooperation to combat terrorism." The U.S. suggested the January meeting to exchange information and views on the recent wave of kidnappings in Beirut. It was not intended to "elicit joint actions or a unified strategy." However, France, Great Britain and West Germany were unwilling to attend "because of concern that public knowledge of such a session would put them in an awkward position in terms of the safety of hostages from their countries."<sup>61</sup>

The impact of formal international agreements on the international terrorist threat has been minimal. Not a single terrorist has been brought to justice as a result of the three aviation conventions or the conventions on hostage-taking and protected persons. Some have been jailed under bilateral agreements and a few have been extradited. However, most captured terrorists have been prosecuted under the country's national laws or turned over to other nations using methods other than formal extradition.<sup>62</sup>

Mr. Wardlaw cited two reasons why nations have not been effective in regulating terrorism through international treaties and conventions. The primary problem focuses on the definition issue and the ambiguous nature of struggles for self-determination. The world

community has not agreed on what does and does not constitute a legitimate struggle for self-determination. Additionally, Wardlaw identifies the second problem as the reluctance of nations, including those who generally support counter-terrorist initiatives, to give up their right to grant political asylum to those who commit politically motivated acts of violence.<sup>63</sup>

The U.N. has been effective in developing law and marshalling support on those few issues in which the international community has reached a consensus; commercial aviation protection and the protection of diplomats. However,

its contribution has been limited because the difference in legal systems and political orientation results in strong disagreements over the definition of international terrorism and who is a terrorist.<sup>64</sup>

Paul Wilkinson identified the United Nations itself as the problem. "The United Nations has proved to be a broken reed on the whole subject of terrorism."<sup>65</sup> Vice President George Bush was more direct in his evaluation of the U.N.

To put it bluntly - which, as a former chief representative of the United States at the U.N., I may be forgiven for doing - that organization has shown neither the ability nor yet the willingness to come close to an acceptable definition of international terrorism to consider its causes and sources; or to give shape to

more than minimal cooperative measures designed to prevent or combat this brutal activity.<sup>66</sup>

In short, the United Nations cannot enforce peace. It simply has no mechanism for controlling international terrorism.<sup>67</sup>

Efforts at international cooperation for the control and punishment of international terrorism, even among close allies, have not been completely successful. This failure could eventually lead to more violent and dangerous responses by nations acting alone to fill the gap left by non-cooperation among sovereign states.<sup>68</sup>

#### Summary

Chapter Three reviewed the activities of the international community to deal with international terrorism. A number of declarations were outlined, beginning with the League of Nations in 1937. The major international protocols that were discussed are listed below.

Tokyo Convention (anti-hijacking)	1963
The Hague Convention (anti-hijacking)	1970
Montreal Convention (anti-hijacking)	1971
New York Convention (diplomat protection)	1973
International Convention Against Taking Hostages	1979

General Assembly Resolution on International Terrorism	1985
Security Council Resolution 579 (Hostage-taking)	1985

This is not an all-inclusive list but it does represent the major agreements. Of these, only the 1985 General Assembly Resolution on International Terrorism addresses the threat of terrorism as a whole. The remaining conventions focus on a specific manifestation of terrorism.

Chapter Four will trace United States counter-terrorist policy development from 1972 to the present in light of the international environment. U.S. policy was developed in concert with initiatives in the international community, such as the 1972 proposed convention.

## CHAPTER 3

### ENDNOTES

1 Robert C. McFarlane, address to National Strategic Information Center, Defense Strategic Forum, Washington D.C., 7 March 1985. Text in Terrorism - An International Journal 8 (1986): 319.

2 Paul Wilkinson, "Terrorism: International Dimensions," in William Gutteridge, ed., Contemporary Terrorism (1986): 44.

3 Ibid.

4 Ray S. Cline and Yonah Alexander, Terrorism As State Sponsored Covert Warfare (1986): 22.

5 Ernest Evans, Calling a Truce To Terror: The American Response To International Terrorism (1979): 107; Wilkinson: 44; Cline and Alexander: 22; Cline and Alexander list 23 signators to the convention while Wilkinson states there were only 13.

6 Leland M. Goodrich and Edward Hambro, Charter of the United Nations Commentary and Documents (1949): 101-102, 237.

#### Article 2, Paragraph 3

All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

#### Article 33, Paragraph 1

The parties of any dispute, the continuance of which is likely to endanger the maintenance of international peace and security shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.



Article 2, Paragraph 4

All members shall refrain in international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner, inconsistent with the purpose of the United Nations.

7 Ibid: 297.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.

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- 34 Weinberger: 10; Brian Jenkins, "The U.S. Response To Terrorism: A Policy Dilemma," Armed Forces Journal International (April 1985): 44.
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- 49 Ibid; Sofaer, "Terrorism and the Law": 915.
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## CHAPTER 4

### U.S. POLICY DEVELOPMENT

#### Introduction

Chapter Three outlined the history of the international response to terrorism. It showed that international actions, centered on the United Nations, have been marginally effective.

Chapter Four will review the development of U.S. counter-terrorist policy beginning with the Nixon administration. It begins with a short discussion of the strategic impact of international terrorism on U.S. policy. It then outlines the development of U.S. counter-terrorist policy from Presidents Nixon to Carter. There is no discussion of the Ford administration because there were no major developments during this period.

Chapter Four then concentrates on developments during Ronald Reagan's administration. This section first discusses the organizational development within the administration to deal with international terrorism. With the organization outlined, the chapter then reviews counter-terrorist policy development. The chapter concludes with an assessment of policy effectiveness.

### Implications on U.S. Policy

Chapter Two outlined the threat posed by international terrorism. Chapter three reviewed activities by the international community to deal with this threat. Two major policy implications were derived from these discussions. The threat from international terrorism constitutes a new form of warfare. Additionally, those national governments sponsoring international terrorism are conspiring to reduce and discredit U.S. influence worldwide.<sup>1</sup>

Further, despite U.S. efforts, international terrorism cannot be "defeated" in a way that a military enemy can be defeated in war. Terrorists cannot be forced to cease operations completely nor be compelled to disappear as an adversary.<sup>2</sup> Neil C. Livingstone wrote,

it must be recognized that terrorism is endemic to the modern world and will not soon disappear. It cannot, in any absolute sense, be defeated or eradicated.<sup>3</sup>

Additionally, as Anthony Quainton, former Ambassador to Nicaragua and former Director of the State Department's Office for Combatting Terrorism (1978-1982) pointed out, international terrorism is not the single most important issue to American foreign policy.<sup>4</sup> Vice President George Bush, in a recent article, wrote that "terrorism is not as great a danger to our national survival as, for example, the Soviet nuclear arsenal."<sup>5</sup>

U.S. efforts to contain international terrorism will inevitably conflict with other political, economic, commercial and humanitarian foreign policy objectives. Counter-terrorist policy must be developed in relation to these other foreign policy initiatives.<sup>6</sup>

However, the problem of international terrorism must be addressed by policymakers. It is apparent that if left unchecked, terrorism could become an important threat. Vice President Bush emphasized that, although it may not be as significant as Soviet nuclear weapons, "as far as the President and I are concerned, terrorism is a national threat."<sup>7</sup>

Lawrence Taylor, a career foreign service officer, outlined a series of points to consider in viewing counter-terrorist policy development.

(1) Terrorism will remain a problem for the foreseeable future. Attacks on embassies and staffs are certain to continue.

(2) Terrorists could paralyze the entire U.S. foreign policy establishment by a systematic reign of terror.

(3) Continuing to absorb attacks without developing a visible effective deterrent or reaction works to undermine general perceptions of U.S. credibility and power.

(4) State sponsored terrorism is part of a broader pattern of low-level violence directed at the West. It presents a strategic challenge to western values, policies and the U.S. role as a world leader.



(5) The level and intensity of terrorism has no natural limits. It could grow to threaten large populations with chemical and biological weapons.

(6) Any strategy must be aimed at controlling "the general terrorism phenomenon, not only its current threat."<sup>8</sup>

Brian Jenkins summed up the problem of developing a comprehensive counter-terrorist policy.

Such a strategy, in the case of terrorism, is particularly difficult to design not only because terrorists are ubiquitous, elusive, ruthless, and imaginative...but also because any effective defense against them must be of an international sort, binding together in common policies and actions nations and governments that often have vastly divergent views on almost anything, including some of the aspects of terrorism.<sup>9</sup>

This study has already reviewed the "international sort", the remainder of Chapter Four examines U.S. policy development.

#### History - 1968 to 1980

##### Nixon Administration

On 4 September 1969, Charles Burke Elbrick, the U.S. Ambassador to Brazil, was kidnapped by Brazilian terrorists. He was eventually released when the government of Brazil met terrorist demands and flew 15 prisoners to freedom in Mexico. Prior to Ambassador Elbrick's abduction, there was no real U.S. policy dealing with

international terrorism because few acts of terrorism involved U.S. citizens or interests.<sup>10</sup>

The beginnings of U.S. counter-terrorist policy can be traced to a series of terrorist acts in 1972. On 3 May, Japanese gunmen attacked passengers at Tel Aviv's Lod Airport killing 25 and wounding 76. The attack was conducted by the United Red Army of Japan which was recruited for the attack by the Popular Front for the Liberation of Palestine. In September 1972, Palestinian terrorists killed eleven members of the Israeli Olympic Team during the Munich Olympic Games. In addition, two U.S. diplomats were murdered in the Sudan and the U.S. Ambassador to Colombia was kidnapped.<sup>11</sup>

In September 1972, President Nixon directed Secretary of State William Rogers to establish a Cabinet Committee to Combat Terrorism. In a memorandum to Secretary Rogers, President Nixon tasked this new committee to coordinate and evaluate the government's counter-terrorist activities and to formulate overall administration policy. This included the worldwide collection of terrorist-related intelligence and the protection of U.S. personnel and installations abroad.<sup>12</sup>

The committee, chaired by the Secretary of State, included the Secretaries of Defense, Transportation, and Treasury, the U.S. Ambassador to the United Nations, the Director of the Central Intelligence Agency (CIA), the

Attorney General, the Director of the Federal Bureau of Investigation (FBI), and the Assistant to the President for Domestic Affairs. The U.S. also introduced its draft convention on international terrorism to the U.N. General Assembly during this month.<sup>13</sup>

The Cabinet Committee met only once. The committee endorsed an overall program strongly condemning terrorism, outlined a requirement for expanded intelligence cooperation with allies, and established a "no concessions policy."<sup>14</sup>

The committee did establish a permanent Working Group on International Terrorism under the direction of the Special Assistant to the Secretary of State. Between September 1972 and March 1976 the working group met 101 times, frequently in response to crisis situations.<sup>15</sup>

#### Carter Administration

President Carter abolished President Nixon's original Cabinet Committee to Combat Terrorism in 1977. In its place, he established the National Security Council (NSC) Special Coordination Committee. This committee, much like President Nixon's Cabinet Committee, was chaired by the Secretary of State and included the Secretaries of Defense, Treasury, and Transportation, the Attorney General, and representatives from the CIA, NSC and Joint Chiefs of Staff.<sup>16</sup>

Two interagency groups were also established to assist the NSC committee in policy development, agency coordination and information exchange. The Executive Committee on Terrorism included senior representatives from selected government agencies. The Working Group on Terrorism, on the other hand, included representatives from any agency with even a remote interest in the problem of terrorism.<sup>17</sup>

The State Department was identified as the "lead agency" for matters involving international terrorism and headed both interagency groups. The State Department's Counter-Terrorist Office, later known as the Office for Combatting Terrorism and Emergency Planning, had been established in 1972 to coordinate all State Department counter-terrorist activities.

This interagency approach outlined the Carter administration's "tri-level" organization for dealing with international terrorism. Figure 2 depicts the program.

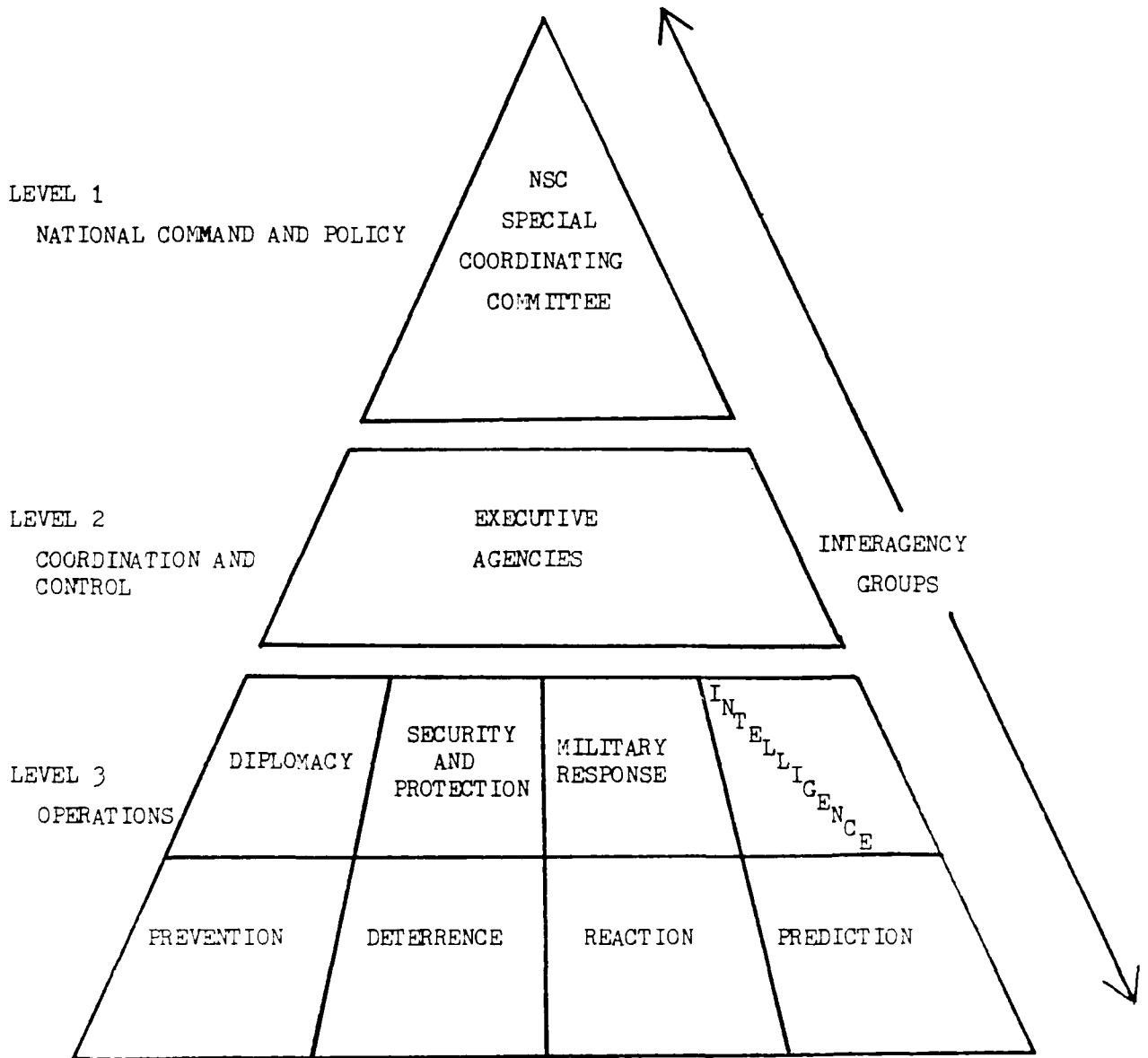


FIGURE 2  
Carter Tri-Level  
Counter-Terrorist program<sup>18</sup>

The four major components of the Carter program were Prediction, Prevention, Deterrence, and Reaction. Prediction was based on intelligence and counter-intelligence efforts. Prevention exercised international initiatives and diplomacy to make terrorism a matter of international law. Deterrence concentrated on the protection and security of personnel and installations. The "no-concessions" policy played a major role in deterrence. Reaction focused on the use of military force in specific cases.<sup>19</sup>

Despite these changes, the U.S. counter-terrorist organization under President Carter was ineffective. The groups became large and cumbersome with often disparate interests. The interagency Executive Committee grew from an initial 10 selected agencies to 31 agencies and departments by 1979.<sup>20</sup>

The State Department Office for Combatting Terrorism also suffered problems. From 1972 to 1978 the office had seven different directors. Those who left either retired or moved to relatively minor posts. Neil Livingstone charged that the Office for Combatting Terrorism had "traditionally been a dumping ground for foreign service officers with no special expertise in the field and without sufficient stature to merit appointment

to a diplomatic post."<sup>21</sup> As late as 1982, the Office for Combatting Terrorism was staffed by only six officers.<sup>22</sup>

The Carter policy was likewise ineffective. The administration concentrated on human rights as a "fundamental tenet" of U.S. foreign policy. It failed to respond decisively and to develop new initiatives to counter the growing challenge from international terrorism. Not wanting to appear inconsistent with its strong human rights position, the Carter administration focused on the "root causes" of terrorism and attempted to solve those problems. While tightening security at embassies and diplomatic missions to discourage terrorist attacks, President Carter softened his stand on terrorism by publicly disavowing the use of force and by appearing willing to negotiate with terrorist groups.<sup>23</sup>

#### Nixon to Carter - Summary

U.S. developments in counter-terrorist policy were marginal during the 1970s. In 1972, President Nixon did form a Cabinet Committee, a draft resolution on international terrorism was introduced in the United Nations, and the State Department Counter-Terrorist Office was established. However, progress was slow.

President Carter altered Nixon's structure by shifting responsibility to the NSC Special Coordinating Committee. He did expand operations with the interagency

groups employing a program that emphasized prediction, prevention, deterrence, and reaction.

However, the U.S. government responded slowly. The programs targeting international terrorism received only moderate attention and resources, and usually then only after a major terrorist incident. During the 1970s,

terrorism was treated mainly in the context of specific terrorist acts, with limited awareness of the significance of the patterns or trends, particularly state sponsorship of terrorists.<sup>24</sup>

The legacy of U.S. policy left for Ronald Reagan as he assumed office included an announced "no negotiation, no concessions" policy, a system that functioned with the State Department as the lead agency for international terrorism, an interagency structure for policy development, and the Delta Force.<sup>25</sup>

#### Reagan Administration - Organization Development

##### 1980 to 1983

Eight days after his inauguration, President Reagan welcomed home the Iranian hostages after their 444 days of captivity. On that occasion he remarked,

Let terrorists be aware that when the rules of international behavior are violated, our policy will be one of swift and effective retribution.<sup>26</sup>



In a later speech, the President said,

We must make it clear to any country that is tempted to use violence to undermine democratic governments, destabilize our friends, thwart efforts to promote democratic governments, or disrupt our lives, that they have nothing to gain, and much to lose.<sup>27</sup>

Brian Jenkins stated that, in tune with this new concern, the Reagan administration "politically elevated the problem of international terrorism to an issue of paramount importance."<sup>28</sup>

In its first year the Reagan administration refined the "lead agency" concept initiated by President Carter. The State Department still acted as the lead agency for international terrorism. The Justice Department, through the FBI, was responsible as the lead agency for domestic terrorism and the Department of Transportation, through the FAA, took the lead over terrorist acts aboard aircraft within the jurisdiction of the United States.<sup>29</sup>

The new administration also established a number of interagency groups to develop and coordinate overall policy. The Senior Interdepartmental Group on Terrorism was the primary organization. Similar to President Carter's Special Coordinating Committee, the Senior Interdepartmental Group met frequently to deal with issues such as international cooperation, research and

development, legislation, public diplomacy, training programs and exercises. Chaired by a senior representative from the State Department (the Director of the Office for Combatting Terrorism and Emergency Planning), the group included senior representatives from the Office of the Vice President, the NSC and Departments of Defense, Treasury, Energy and Justice. Senior representatives from the FBI, CIA, and Joint Chiefs of Staff completed the group. In addition, a number of working groups were established to support the Senior Interdepartmental Group. They operated in areas including technical support, exercises, training assistance and public diplomacy.<sup>30</sup>

Within the State Department, the Director of the Office for Combatting Terrorism and Emergency Planning reported to the Undersecretary for Management. This office worked to support internal State Department counter-terrorist programs and, as head of the Senior Interdepartmental Group, coordinated government-wide efforts to counter the terrorist threat.<sup>31</sup>

The lead agency/interdepartmental committee was used as a policy-developing body. In a specific situation, however, an ad hoc group of senior officials was formed to advise the President on a specific situation.<sup>32</sup>

Neil Livingstone's article on the use of the rhetoric of the national interest in the

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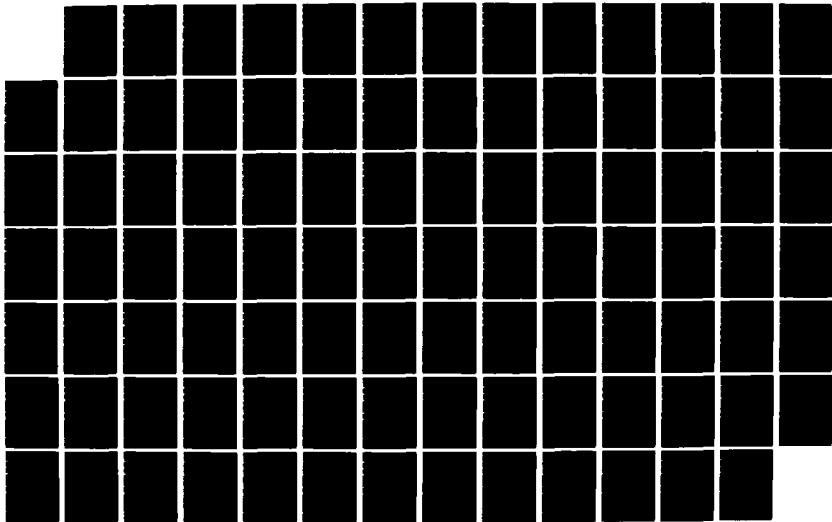
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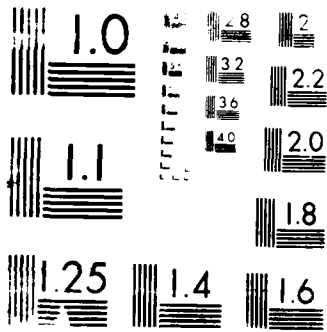
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significance was accomplished during the first years of the Reagan presidency. Mr. Livingstone quoted Richard Allen, President Reagan's National Security Advisor during this period, as saying that the U.S. was "way behind the power curve" in developing a counter-terrorist policy.<sup>33</sup>

Three factors were identified to explain this lack of national direction. Powerful voices in the foreign policy community maintained that terrorism was not a major problem and not a significant threat to the security and interests of the U.S. Additionally, despite the administration's organizational changes, there was no real institutional machinery in the U.S. government to address the terrorist threat as a total entity of strategic importance. A vast majority of actions were handled on an individual case-by-case basis. Finally, the control and suppression of international terrorism was regarded by past administrations as "inimical" and somehow "antithetical" to other foreign policy goals.<sup>34</sup> Brian Jenkins charged that during this period the U.S. government,

had not paid serious attention to the problem of terrorism, despite the strong rhetoric emanating mainly from the White House. Most regarded terrorism as a kind of nuisance.<sup>35</sup>

### October 1983 - Marines Bombed

The October 1983 bombing of the Marine Barracks in Beirut changed this situation. This was the turning point that pushed the Reagan administration to increase attention and resources towards fighting terrorism.<sup>36</sup>

After the Beirut bombing, a 1983 Special Presidential Study outlined new policy guidance. It provided for a program based on unilateral, bilateral and multilateral actions using a variety of tools to counter terrorism. These tools included diplomatic, economic, legal, intelligence and military options.<sup>37</sup> In addition, the Vice President was named as head of a newly formed Special Select Group to function as part of a new crisis action program. The Special Select Group included the Secretaries of State and Defense, the Assistant to the President for National Security Affairs, the Director of the CIA, the White House Chief of Staff and the Chairman of the Joint Chiefs of Staff. The Senior Interdepartmental Group, outlined earlier, supported this Special Select Group in an advisory capacity during crisis situations.<sup>38</sup>

In addition to these actions, the President sought support from Congress. On 6 March 1984, he sent a package of four anti-terrorist bills to Congress designed to deal with various elements of international terrorism. Two bills proposed to ratify and implement international

conventions signed earlier by the U.S. These included the Montreal Convention on aircraft hijacking, originally signed in 1971, and the 1979 Convention on the Taking of Hostages. Neither convention had been approved by Congress. The third bill proposed paying a reward for information leading to the location of hostages or the resolving of a terrorist incident. The final bill sought to prohibit individuals or groups within U.S. jurisdiction from supporting or training terrorist groups in other nations. Congress passed three of the four bills. The proposal outlawing support and training of terrorist groups failed because it appeared to infringe on individual rights guaranteed by the U.S. Constitution.<sup>39</sup>

3 April 1984 - NSDD 138

The single greatest change in administration policy, however, was the move towards the use of force to counter terrorism. On 3 April 1984, President Reagan signed National Security Decision Directive 138 (NSDD 138). The directive tasked government agencies to develop options for using military force, to include preemptive, punitive and retaliatory operations, against the "instigators and perpetrators" of terrorist attacks.<sup>40</sup>

Prior to NSDD 138, U.S. policy primarily emphasized defensive measures to counter the terrorist threat. "Although absolutely necessary, these measures

alone do not constitute a strategy against terrorism."<sup>41</sup>  
This changed with NSDD 138. The chief themes of the  
classified directive are listed below.

- (1) No nation can condone terrorism.
- (2) Every country has the right to defend  
itself.
- (3) Terrorism is a problem for all  
nations.
- (4) The U.S. will work with other  
governments to deal with terrorism.
- (5) U.S. policy aims to deal with all  
forms of terrorism but regards state terrorism as a  
special problem.
- (6) States that use or support terrorism  
cannot be allowed to do so without consequences.
- (7) The U.S. will use all available  
channels to dissuade states from supporting  
terrorism.
- (8) The U.S. will heighten efforts to  
prevent attacks and to warn and protect its  
citizens and allies.
- (9) The U.S. will seek to hold up acts of  
state terror to the strongest public condemnation.
- (10) Where these efforts fail, the U.S.  
has the right to defend itself.<sup>42</sup>

The directive reaffirmed that terrorists were  
criminals and that U.S. actions to counter them would be  
guided by the rule of law. Nevertheless, the  
administration asserted that the U.S. may take military  
action before each and every fact was known. Policymakers  
hoped to deter terrorists by clearly proclaiming that the  
U.S. response would be swift and sure.<sup>43</sup>



The same day that President Reagan signed NSDD 138, Secretary of State Shultz delivered a major foreign policy address to the Trilateral Commission. The Secretary stated that to effectively combat state sponsored terrorism, the U.S. must be prepared to use force.<sup>44</sup> Secretary Shultz said,

We have publically put terrorists on notice that they can expect no concessions from us. We will not pay ransoms or release prisoners. We will not bargain for the release of hostages...Governments which engage in or actively support acts of terrorism against us can expect rapid and certain response. We will use all appropriate resources at our disposal, be they diplomatic, political, economic, or military, to respond to such acts of international intimidation and extortion.<sup>45</sup>

Brian Jenkins, referring to NSDD 138 and the Secretary's speech, said that "together they constitute a declaration of war against an unspecified terrorist foe, to be fought at an unknown place and time with weapons yet to be chosen." He called it a major development with significant policy and organizational implications.<sup>46</sup>

In addition to these statements, the Anti-Terrorist Assistance Program (ATA), which was initiated earlier, received greater support. The program was designed to train foreign civilian law enforcement agencies in anti-terrorist techniques. The program, which focused on areas such as airport security, bomb detection/disposal, and hostage negotiations/rescues,

provided training to over 2000 participants from 32 countries by January 1986.<sup>47</sup>

Further organizational developments took place in 1985. On 4 March 1985, the State Department Office for Combatting Terrorism and Emergency Planning was reorganized. The director's position was upgraded to the level of Ambassador-at-Large for Counter-Terrorism. This new ambassador now reported directly to the Secretary of State, bypassing the Undersecretary for Management who had been an intermediate echelon. The office was tasked to develop and recommend policies on terrorism, to conduct liaison with other governments and work directly with U.S. intelligence agencies. Following the initial leadership turmoil in the counter-terrorism office of the early 1970s, the recent leadership provided stability. Anthony Quainton, former Ambassador to Nicaragua, headed the office from July 1978 to May 1982. Robert Sayre, former Ambassador to Brazil, directed the office from May 1982 to 1984. Ambassador-at-Large Robert Oakley has filled the position since replacing Ambassador Sayre in 1984.<sup>48</sup>

However, according to recent news accounts, the administration was bitterly divided on U.S. policy execution. A Washington Post report stated that leaders in the Department of State and Department of Defense united against a "risky and unrealistic" White House and CIA plan aimed at removing Moammar Gadhafi from power in Libya. The

1985 plan reportedly called for a combined U.S.-Egyptian invasion of Libya. The proposal was rejected by Egyptian President Hosni Mubarak.<sup>49</sup>

#### Vice President's Task Force

Despite the adjustments made in 1983-1984, international terrorism continued to impact U.S. foreign policy. Prompted by frustrations during the June 1985 hijacking of TWA Flight 847, President Reagan asked the Vice President to form a task force to review the problem. The Vice President's Task Force on Combatting Terrorism was formed because of concern for the increasing loss of American lives as well as repeated terrorist threats against U.S. citizens. Headed by Vice President Bush, the task force was comprised of fourteen senior government officials with major responsibilities for U.S. counter-terrorist policy. This cabinet level task force spent the last six months of 1985 evaluating U.S. policies, programs and capabilities for combatting terrorism.<sup>50</sup>

The task force focused on two main areas, organization and strategy/doctrine. It attempted to answer questions relating to bureaucratic organization, the application of the "lead agency" concept and the role of the National Security Council. It also addressed questions concerning the scope of the threat and the level of attention and resources that should be dedicated to this

area of foreign policy. The Public Report of the vice President's Task Force on Combatting Terrorism was released in February 1986. It made strategic proposals that included a wide range of military and non-military options. The task force made 44 specific recommendations to the President which later became codified by Presidential directive.<sup>51</sup>

Additionally, in January 1986 President Reagan signed a secret directive authorizing the CIA to abduct suspected terrorists in foreign countries and return them to the U.S. for trial. The directive also reportedly authorized "covert actions against terrorists, including pre-emptive strikes against those" preparing for an assault against U.S. interests. The President signed the directive, which was supported by then CIA Director Casey, Attorney General Meese and Secretary of State Shultz, "despite fierce opposition from some officials in his administration."<sup>52</sup>

Ambassador-at-Large Oakley insisted that progress has been made in the U.S. effort to counter international terrorism. In a 16 June 1986 speech, he outlined Reagan administration counter-terrorist initiatives over the past two years. They include:

(1) Intensified bilateral relationships with some fifty governments.

(2) Dedicated more resources and given higher priority to intelligence activities abroad.

(3) Improved security for embassies and consulates.

(4) Improved intelligence collection.

(5) Wider range of unilateral sanctions against state sponsors such as Syria, Libya, Iran, Cuba and Nicaragua.

(6) Strengthened covert and military capability.

(7) Greater cooperation with the private sector.

(8) Expanded work with international forums like the United Nations to establish the principle that terrorism is a threat to all nations.<sup>53</sup>

#### Organization - Overview

From President Nixon to President Reagan, some form of interagency approach has been used to develop and coordinate policy. The current counter-terrorist planning, coordination and policy formulation process runs from the President through the National Security Council to many executive departments and agencies responsible for some aspects of terrorism counter-action. The Senior Interdepartmental Group on Terrorism, chaired by the Director of the State Department Office for Combatting Terrorism and Emergency Planning, is the principle coordinating committee for counter-terrorism under the NSC.<sup>54</sup>

In a national crisis, the Vice President assumes crisis management authority as head of the Special Select

Group. During this crisis situation policy decisions are made by this NSC-Cabinet level group. This group maintains direct contact with the President during the crisis. The Senior Interdepartmental Group becomes a support and advisory element for the Special Select Group during times of crisis. (see Figure 3)<sup>55</sup>

The Reagan administration's counter-terrorist organization expanded over the six years from 1980 to 1986. Growth was slow during the first three years but it was accelerated by two major events, the 1983 bombing of the Marine Corps headquarters and the June 1985 hijacking of TWA Flight 847. The counter-terrorism organization evolved to eventually include an ambassador level post in the State Department to coordinate U.S. efforts. The next section will review the actual U.S. counter-terrorist policy.

### Reagan Administration - Policy Development

#### Background - Considerations

U.S. counter-terrorist policy development has been influenced by many factors. They include the development of the threat, the nature of U.S. society, the obligations of a democratic nation, and the responsibilities of a world leader. U.S. policymakers have attempted to balance a natural desire for retaliation with other U.S. interests at

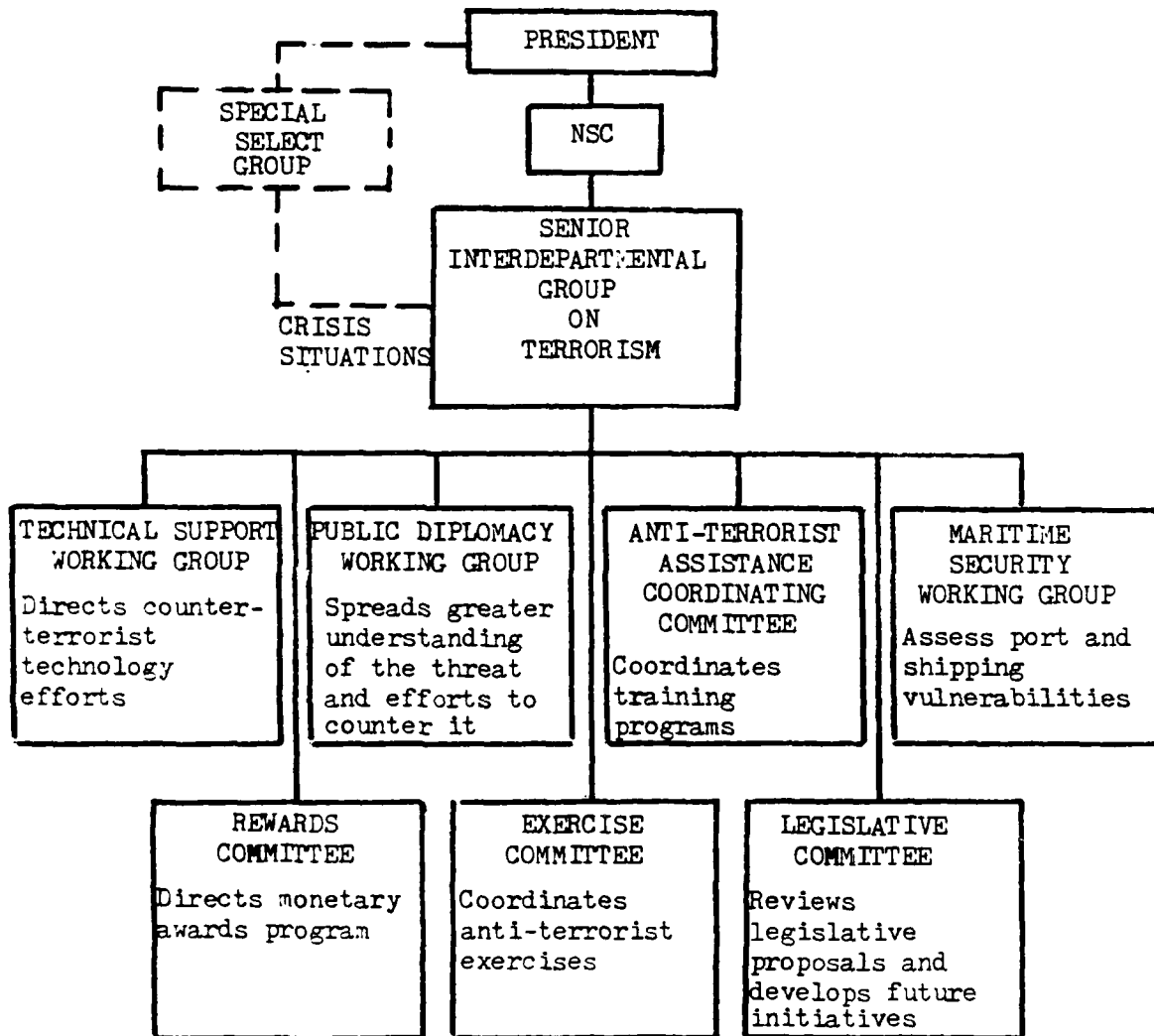


FIGURE 3  
 Reagan Administration  
 Counter-Terrorist Organization<sup>56</sup>

home and abroad. A failure to do so could perpetuate terrorism and actually undermine U.S. interests.<sup>57</sup>

For this reason, among others, U.S. options for dealing with terrorism must be as broad as possible. To implement an effective policy, particularly against state sponsored international terrorism, decision-makers must be able to draw from a full range of options. This is difficult when state sponsored terrorists succeed in disrupting the fabric of democratic societies yet do not reach the point of open war.<sup>58</sup>

The U.S. has two primary problems in developing an effective counter-terrorist policy. The policy must deal with a wide variety of terrorist groups which operate outside U.S. borders. Additionally, as outlined in Chapter Two, state sponsorship provides the U.S. with a major policy problem.<sup>59</sup>

The administration has a full range of options available for responding to the terrorist threat. They include intelligence programs, international cooperation, economic/security assistance, political and diplomatic pressure, economic sanctions and information campaigns, foreign broadcasts.<sup>60</sup>

Military force is also a tool which is a necessary aspect of policy development. However, there appears to be a dichotomy in democratic governments between the possible



need to use military force and the desire to find other ways to address the problems of international terrorism.<sup>61</sup>

In addition, these "responses" to terrorism are only part of the solution. Neil Livingstone stressed that terrorism neither occurs in a vacuum nor is it generally the product of outside influence, although foreign influence may contribute to its growth and development.

At the root of most terrorist outbreaks are real grievances such as the unequal distribution of wealth, the inability to participate in the political process, and systematic government oppression. If no channel exists for the peaceful resolution of social grievances, violent change often becomes inevitable.<sup>62</sup>

He also quotes W.T. Mallison and S.V. Mallison, who wrote in the Harvard Law Journal,

There is considerable historical evidence that no governmental attempt to suppress terrorism has been successful in the absence of a political program designed to eradicate the cause.<sup>63</sup>

Bruce Laingen, former Iranian hostage and State Department official, indicated that long-term policy efforts should focus on the "grievances and pain" that are the root causes of terrorism.<sup>64</sup>

These writers did recognize that in some cases temporary measures, to include the use of force, may be necessary to "purchase" the time required to implement reforms. Further, barring drastic social and political reforms that remove the stimulus for terrorism, the U.S.

cannot appear weak and vacillating in the face of the terrorist challenge. This would provide a powerful incentive for future attacks. A policy of concessions and appeasement will not deter terrorists. "State sponsored terror will increase through our submission to it, not from our active resistance."<sup>65</sup>

#### Past Policy

U.S. policy prior to NSDD 138 had been characterized as "deterrence" oriented; a strategy of defense and reaction. It stressed "deterrence" over "prevention", defensive actions versus offensive initiatives.<sup>66</sup>

There is a critical distinction between "deterrence" and "prevention", as defined by Arnold DiLaura. "Deterrence" focuses on manipulating the terrorists' calculations on relative costs, benefits and the risk of a certain act. It involves the credible ability to deny the terrorist his objectives while also imposing costs disproportionate to any gains he might hope to achieve. However, the ability to impose these conditions rarely exist for the U.S., particularly overseas and when dealing with groups which employ suicide tactics.<sup>67</sup>

"Prevention", on the other hand, keys on the terrorists' capabilities. It seizes the initiative and

seeks to disrupt, diminish or destroy the terrorist capability to perform hostile acts. Prevention involves a variety of tactics to include infiltration, psychological warfare, and preemptive and preventive military strikes.<sup>68</sup>

Stephen Passony, of the Hoover Institute, stressed the need for "deterrence" over "prevention". He was discussing U.S. policy when he made the following statement at a terrorism conference.

Prevention is an attractive but unworkable idea...At best it is feasible to minimize danger and damage and to exact punishment. Anti-terrorist strategy should aim at deterrence. This means that a security capability of such an effectiveness is created that it persuades many terrorists that their actions will not be successful, that they will be caught or killed if they attack.<sup>69</sup>

Ambassador Quainton responded to Mr. Passony by stating, "that's our (U.S.) policy; you couldn't have stated it more succinctly."<sup>70</sup> The U.S. apparently had a defensive "deterrent" oriented policy.

#### Policy Development - Post NSDD 138

The Reagan administration's approach to updating U.S. counter-terrorist policy was to develop an estimate of the problems and threat international terrorism posed to society and national security. The administration then examined U.S. national policies and reviewed the government

organization and structure for responding to terrorism on both the international and domestic levels.

Finally, the U.S. continued efforts to address different aspects of terrorism in coordination and cooperation with other governments. This evaluation resulted in the judgment that international terrorism was a significant threat and that, as of yet, there was no effective means to counter it.<sup>71</sup>

Ambassador Oakley identified the general counter-terrorist policy goals in a 5 March 1985 speech. They were to,

(1) Attain effective coordination and action among all agencies involved in combatting terrorism.

(2) Effectively integrate more passive defensive measures and proactive operations to deter or preempt terrorist activity.

(3) Secure international cooperation in the fight against terrorism.

(4) Use the full U.S. intelligence capability against the terrorist threat.<sup>72</sup>

Finally, the 1986 Vice President's Task Force Report outlined the current U.S. counter-terrorist policy.

The Vice President's report stated that

The U. S. position on terrorism is unequivocal: firm opposition to terrorism in all its forms and wherever it takes place. Several National Security Decision Directives as well as statements by the President and senior officials confirm this policy.

(1) The U.S. government is opposed to domestic and international terrorism and is prepared to act in concert with other nations or unilaterally when necessary to prevent or respond to terrorist acts.

(2) The U.S. Government considers the practice of terrorism by any person or group a potential threat to its national security and will resist the use of terrorism by all legal means available.

(3) States that practice terrorism or actively support it will not do so without consequences. If there is evidence that a state is mounting or intends to conduct an act of terrorism against this country, the United States will take measures to protect its citizens, property and interests.

(4) The U.S. government will make no concessions to terrorists. It will not pay ransoms, release prisoners, change its politics or agree to other acts that might encourage additional terrorism. At the same time, the United States will use every available resource to gain the safe return of American citizens who are held hostage by terrorists.

(5) The United States will act in a strong manner against terrorists without surrendering basic freedoms or endangering democratic principles, and encourages other governments to take similar stands.<sup>73</sup>

While stressing that U.S. policy must be unambiguous and must make full use of non-military tools, Secretary Shultz emphasized that the strategy must also have a military dimension.<sup>74</sup> William Casey said that "we cannot and will not abstain from forcible action to prevent, preempt, or respond to terrorist acts where the conditions justify - indeed, our knowledge justifies - the use of force."<sup>75</sup> Further, the effectiveness of

non-military approaches is increased if those who use and export terrorism understand that behind these peaceful initiatives stands the U.S. armed forces.<sup>76</sup>

#### Policy Effectiveness

At a 7 January 1986 news conference, President Reagan responded to a question regarding the effectiveness of U.S. counter-terrorist policy by stating, "we have actually recorded in the last year, and know, that we have aborted 126 terrorist missions".<sup>77</sup>

However, despite advances like these, some writers charged that the U.S. response "still lacks a credible strategy of counter-terrorism, particularly against state sponsored terrorism."<sup>78</sup>

#### Balance

The U.S. response to terrorism is accused of being out of balance with the actual problem. It lacks an "historic perspective" and is "prone to substitute anger for policy." U.S. responses to individual acts of terrorism tend to be "spasmodic" rather than "judicious". The administration is charged with buffeting the public with "sensational news accounts on one hand and incendiary public rhetoric on the other." The public is badly informed and subject to "bouts of hysteria."<sup>79</sup>

According to Gary Sick, a member of the Ford Foundation and former NSC advisor under Presidents Ford, Carter, and Reagan, this "hysteria" serves to magnify rather than diminish the visibility and impact of terrorism. "Succumbing to our own sense of outrage, we do ourselves more damage than the terrorists could ever hope to accomplish by themselves." He also maintained that this public preoccupation with terrorism and increased government rhetoric recently led the American people to conclude that terrorism is the single greatest threat to the nation.<sup>80</sup>

The results of a New York Times/CBS News Poll conducted in April 1986 showed that Americans considered terrorism the most important problem facing the nation (21 percent of those polled), as compared to the economy (11 percent) and unemployment (11 percent). This was a significant jump from a poll conducted four months earlier. In December 1985, a New York Times Poll found that only one percent of those surveyed considered terrorism as a major concern. However, between the two polls, terrorists had attacked the airports in Rome and Vienna, a bomb had exploded aboard a TWA flight near Athens and terrorists had recently bombed the West Berlin discotheque.<sup>81</sup>

Additionally, U.S. policy has been charged with being unbalanced because it has concentrated on dealing with the "threat" of terrorism. It does not address the

causes of terrorism, as recommended by experts such as Livingstone and Laingen.<sup>82</sup>

### Credibility

The United States also faces a credibility gap in its counter-terrorist policy. The U.S. has predominantly viewed each terrorist act as an individual incident without a practical pattern or strategic dimension. Some writers charged that this is a "naive view" in light of the growing evidence of collusion among states sponsoring terrorism.<sup>83</sup> The perception is that no real strategy exists. According to Brian Jenkins,

Terrorism diverts government attention for brief moments of crisis. When not under the gun, most governments treat terrorism as no more than a nuisance... In the United States and most Western European governments, the rhetoric against terrorism almost always exceeds the amount of resources devoted to combatting it.<sup>84</sup>

The U.S. policy of "no negotiations, no concessions" has also come under fire. The hijacking of TWA Flight 847 in June 1985 preoccupied U.S. leaders and paralyzed the national security decision making process. The terrorists' condition for releasing the 39 American hostages was the release of 1000 Lebanese and Palestinian prisoners held by Israel. Those prisoners were released about the same time as the American hostages. The administration insisted that no deal had been struck and



that the release of the Israeli prisoners along with the Americans was incidental. However, the incident was viewed by the international community as a concession by the U.S.<sup>85</sup>

A recent New York Times story quoted Brian Jenkins as saying,

We may reiterate our no-concessions policies but in fact, if one looks at the history of hostage incidents, in the vast majority American hostages are taken to make demands on other governments. In the majority of those cases, these governments make concessions.

That same story reported that the U.S. had pressured Kuwait to release imprisoned terrorists in exchange for American hostages in Lebanon.<sup>86</sup>

More recently, the November 1986 report that the U.S. sold arms to Iran in an attempted "arms for hostages swap" was a severe blow to U.S. credibility. According to the Tower Commission Report, the initiative "ran directly counter to the Administration's own policies on terrorism."<sup>87</sup>

On 20 January 1984, Iran was officially designated a state sponsor of international terrorism by the State Department. The U.S. actively pressed allies to take action against Iran, to include a prohibition on arms shipments. Despite this public stand, the U.S. action was in fact a series of arms-for-hostage deals. These

"trades rewarded a regime that clearly supported terrorism and hostage-taking".<sup>88</sup>

This action contributed to a serious credibility gap with Western allies and friendly Middle East governments and damaged the Administration's role as the leader of the international effort against terrorism. The secret arms deal appeared to be a "blatant contradiction with highly publicized U.S. policy".<sup>89</sup>

#### Consistency

U.S. policy has also been called inconsistent. Louis Beres, a professor of Political Science and International Law at Purdue University, charged that the U.S. has "subordinated every principle and goal to the sterile dualism of U.S.-Soviet rivalry." The U.S. is accused of using ideology, not tactics employing "wanton violence", as the measure to distinguish between the terrorist and legitimate guerrilla fighter.<sup>90</sup>

An example of this perceived inconsistency is U.S. aid to the Contras. Mr. Beres charged that the U.S. is supporting an organization that is "widely and authoritatively" involved in the execution of non-combatants in Nicaragua and Honduras.<sup>91</sup> The administration maintained that, contrary to terrorists, the Contras are organized in military units, wear uniforms,

clearly outline their objectives and accept responsibility for what they do.<sup>92</sup>

Despite these charges, some authorities believe that U.S. policy is unambiguous and no drastic changes are needed. U.S. policy may require refinement, but the basic foundation is established.<sup>93</sup> Vice President Bush did highlight some areas requiring improvement, but the Public Report of the Vice President's Task Force on Combatting Terrorism stated that "the U.S. policy and program to combat terrorism is tough and resolute."<sup>94</sup>

#### Summary

U.S. counter-terrorist policy has grown since terrorism was identified as a major threat by the Nixon administration. The government organization to deal with international terrorism has expanded and matured, particularly under the Reagan presidency. U.S. policy has also developed over the years and has taken an increased proactive tone since 1983.

However, problems exist. The organization has grown to include multiple agencies and departments and is often cumbersome and slow. Further, the administration has been charged with allowing a small group of officials within the NSC to run U.S. policy. In the case of the Iran initiative, "the NSC process did not fail, it simply was largely ignored." It is a "case study in the perils of

policy pursued outside the constraints of orderly process .  
The administration is still attempting to recover from the  
Iran-Contra controversy.<sup>95</sup>

U.S. policy is sometimes seen by the world as  
vacillating and inconsistent. Much of the planning for the  
Libyan bombing and the weapons transfer to Iran took place  
simultaneously. "The result taken as a whole was a U.S.  
policy that worked against itself."<sup>96</sup>

Nevertheless, with NSDD 138, the administration  
established military force, used in a proactive way, as one  
tool to counter international terrorism. Defense Secretary  
Weinberger outlined the policy.

Our government reserves the right to strike  
as a last resort, against a state or foreign  
organization that willfully orders the  
murders of U.S. citizens or the destruction  
of U.S. installations...The use of force  
against international terrorists...is a  
matter of national self-defense consistent  
with the principles of international law and  
with Article 51 of the UN Charter.<sup>97</sup>

Chapter Five completes a detailed review of the  
use of military force as an element of this  
counter-terrorist policy.

## CHAPTER 4

### ENDNOTES

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## CHAPTER 5

### MILITARY OPTIONS

#### Introduction

The use of military force to counter international terrorism cannot be discussed outside the context of U.S. policy. Military force is a "means to an end", not an end in itself.<sup>1</sup> Chapters Three and Four provided the background on international initiatives and U.S. policy evolution. This chapter moves from that general discussion to focus on the use of military force as a part of the overall U.S. policy.

While this chapter discusses "defensive" operations such as hostage rescues, it primarily addresses the use of "offensive" military operations to counter the threat. Chapter Five will first review considerations leading to a possible decision to use force in a proactive campaign against international terrorism. After the discussion of considerations, the chapter outlines the primary military options open to U.S. policymakers. With the options outlined, Chapter Five then concludes by reviewing the most current U.S. military action in its confrontation with international terrorism, the 1986 bombing of Libya.

## Background

Chapter Four noted that military options to counter international terrorism cannot be separated from diplomatic and economic initiatives. Further, the success of diplomatic and economic efforts often rests upon the perception of U.S. military power.<sup>2</sup>

The Reagan administration experienced a five year debate concerning the use of military force as a element of U.S. counter-terrorist policy. The debate focused on five major issues.

(1) Did the U.S. have irrefutable evidence to prove that accused state sponsors were involved in terrorist attacks?

(2) Could the U.S. identify targets directly linked to a specific terrorist act?

(3) Was it possible to employ high technology and lethal conventional military power in a discrete and "surgical" manner to destroy these targets?

(4) Would the American public support military action?

(5) Could the U.S. obtain support from its European allies?<sup>3</sup>

Secretary of Defense Casper Weinberger, along with the Joint Chiefs of Staff, raised serious questions concerning the use of force. They were primarily concerned with issue Number 3, the application of high technology and conventional military power. They expressed deep concern over plans that would task military units to execute

so-called "surgical strikes" against targets identified in highly populated urban areas.<sup>4</sup>

Speeches by the Secretary of State, the Secretary of Defense and the President's National Security Advisor finally clarified U.S. policy on the use of force. The U.S. position included the following points.

(1) If a country or group persists in mounting terrorist attacks against U.S. citizens and facilities, or its friends and allies, the United States may revert to military force.

(2) If the U.S. elects to use force, it will not use more force than the case requires and will seek to limit both military and civilian casualties.

(3) Before using force, the U.S. will discuss the matter as fully as possible with other interested countries.

(4) The aim will be to stop terrorist attacks, and any use of force will be confined to the pursuit of that objective.

(5) Force will be used as a last resort, but it will be used if no other option proves workable.<sup>5</sup>

Other nations had already used military force in response to terrorist acts. In 1972, Israel used military force to free 97 passengers of a hijacked Belgian airliner parked at Ben Gurion Airport. In July 1976, Israeli commandos flew over 2000 miles to Uganda to rescue 104 passengers and crewmembers of a hijacked Air France airliner. The military forces of West Germany, Indonesia, Venezuela, and Great Britain have also conducted successful rescue operations. However, in 1985 two military

operations failed. In November 1985, an Egyptian attempt to rescue passengers of a hijacked Egyptian Air airplane after it landed in Malta resulted in 59 deaths. That same month Colombian army units stormed the Palace of Justice in Bogota after terrorists captured it. Over 100 died in the military operation.<sup>6</sup>

These military actions, however, were reactive in nature. They were directed against terrorists in a specific crisis situation with the single ultimate goal of freeing the hostages. These acts may indirectly counter the terrorist threat by showing that hostage-taking is not productive. Nevertheless, they are not proactive military actions designed to destroy the terrorist infrastructure and cripple the terrorists' ability to conduct operations in the future.

Schlomo Gazit, former Director of Israeli Military Intelligence, stressed that a defensive, passive strategy is "doomed" to failure. A government faced with the threat of international terrorism should not concentrate its resources only on defensive measures.<sup>7</sup> Moshe Arens, a prominent minister in the Israeli government, stated

Preventive measures, good preparation, and good intelligence are not enough...to force ourselves into a defensive posture, to exclude the option of taking the offensive, is as suicidal in the case of terrorism as it would be in any other form of warfare.<sup>8</sup>

Both these gentlemen have extensive experience dealing with the international terrorist threat. U.S. terrorist experts Neil Livingstone and Brian Jenkins appear to agree with this assessment. In order to effectively manage the increase in international terrorism, governments must turn the tables on the terrorists and make "the hunters also the hunted".<sup>9</sup>

The threat of proactive military force places psychological pressure on terrorist groups and the nations that support them. It creates a climate of doubt for the terrorist and acts as a deterrent by putting pressure on the state sponsors. Further, the psychological and symbolic use of force can have an influence on terrorist groups and their supporters far beyond the immediate destruction resulting from any specific military action. However, any country contemplating the use of military force must address many difficult problems.<sup>10</sup>

#### Problems For Military Action

The U.S. must address a number of problems when contemplating military action against international terrorist groups. Many of the problems are related to the five issues outlined earlier that were debated by members of the Reagan administration.

### Intelligence

The U.S. will often be required to make a decision or operate with inadequate intelligence information on the proposed terrorist target. This is partly due to the strict controls imposed on the intelligence community by the Carter administration and congressional oversight committees in the late 1970s. Many of these intelligence gaps have been filled by the Reagan administration. However, intelligence information of the quality required for a military operation is still too often not available.

### U.S. Public Opinion

The administration must be conscious of U.S. public opinion. The American people subscribe to a system of individual rights and fair play. Further, Americans traditionally reject the first use of military force. The U.S. has historically given the "enemy" the first blow and takes pride in the fact that the U.S. does not start wars. Proactive military operations directly contradict these traditions.<sup>11</sup>

Despite this traditional base, a majority of Americans appear to support stronger action against terrorists. In an April 1986 Gallup Poll conducted after the Libyan bombing, 80 percent of individuals questioned said that the U.S. should take military action against Libya conducted or sponsored terrorist attacks against the



U.S. Ten percent said no; ten percent had no opinion. In the same poll, 64 percent said that the U.S. should conduct bombing raids against Syria or Iran if they commit terrorist acts.<sup>12</sup> The U.S. people, at least in 1980, appeared to support military action against terrorist groups to include "military reprisals, the assassination of terrorist leaders, capital punishment and summary executions."<sup>13</sup>

#### Who To Attack?

If military force is considered, the U.S. must clearly identify the specific target. In the case of the terrorist group themselves, there are few lucrative military targets to attack. Terrorist groups have little or no political structure. In terms of foreign investments, territory, capital assets and sovereign obligations, they have little to defend and less to attack. Further, it is relatively easy to restore a terrorist group once it has been attacked.<sup>14</sup>

Targeting state sponsors of international terrorism has certain advantages but also presents problems. Nations have more military targets and are more vulnerable to attack. The military nature of the targets should decrease damage and injury to the civilian sector. Additionally, U.S. attacks on state sponsors will have a stronger impact by imposing costs on terrorist supporters

and disrupting the terrorist base. However, the U.S. requires clear proof that the targeted nation supported international terrorism. This is a difficult task, it takes time and may require the compromise of sensitive intelligence sources. Further, there is a great political liability in violating a nation's sovereign territory to conduct proactive military operations. The U.S. is also running the risk of escalating the conflict to open war.<sup>15</sup> Former CIA Director William Casey outlined the U.S. position concerning attacks on state sponsors.

We (U.S.) should be prepared to direct a proportional military response against bona fide military targets of those states which direct terrorist actions against us. And we need not insist on absolute evidence that the targets were used solely to support terrorism.<sup>16</sup>

#### Legal Questions

From an international law point of view, an attack on terrorist groups is justified. Further, attacks on state sponsors can be justified if the U.S. can prove the nation's complicity with international terrorism. The victim of a terrorist attack can consider the state sponsor as the aggressor "whether or not that state has been unwilling, or unable, to curb terrorist activity from its territory".<sup>17</sup> According to Secretary of State Shultz, "a nation attacked by terrorists is permitted to use force to prevent or preempt future attacks, to seize terrorists,

or to rescue its citizens when no other means is available."<sup>18</sup>

This view is not universally accepted by the international community. However, history does support the argument for the use of military force. Andrew Jackson conducted military operations in the Spanish possession of Florida to stop attacks against the southern United States. The U.S. also conducted military operations in Mexico to neutralize Pancho Villa. The historic and legal precedent for using military force does exist.<sup>19</sup>

#### Decision To Use Force

Many of the problems and considerations critical to the decision to employ military force were discussed earlier in this chapter. The U.S. must show that it has exhausted all other measures to deal with the problem before using force. The U.S. must clearly proclaim a determination to uphold the rule of international law and must demonstrate this political will by its actions. Further, government officials may be required to divulge sensitive intelligence information and detailed evidence against the terrorist group or the state sponsors to justify the action. The military action should be timely, appropriate and have a high chance of succeeding. It should not be allowed to degenerate into a blow-for-blow response with the terrorist group. Finally, the U.S.

should not over-estimate the possible gain from using military force. The effects from these actions are unpredictable.<sup>20</sup>

In addition to these general considerations and guidelines, there are two principles that impact on the use of force. The U.S. should not undertake any military action against international terrorism that would undercut the political stability of friendly governments. The U.S. should also avoid operations that would damage U.S. foreign policy interests in other ways.<sup>21</sup>

Secretary of Defense Weinberger outlined a test for the use of military force. The test was designed to identify the circumstances under which the U.S. would employ its military power.

(1) The U.S. should not commit military force unless the issue was vital to U.S. national interests or those of its allies.

(2) If the U.S. decides to use force, it should do so wholeheartedly. If the government is not willing to commit an adequate force to do the job, it should not commit it at all.

(3) The force should be committed with clearly defined military and political objectives.

(4) The operation should be flexible enough to allow leaders to reassess the size, composition and disposition of the force and make adjustments as necessary.

(5) There should be some reasonable assurance that the American people will support the operation.

(6) Military force should be a last resort.<sup>22</sup>

Robert McFarlane, former National Security Advisor to President Reagan, added to the Secretary's criteria when he stated that the use of force should be "proportionate to the threat", that it should be "judiciously" applied and be "targeted as precisely as possible". More importantly, the U.S. must "want to succeed". Further, the United States has not and will not use force "indiscriminately".<sup>23</sup>

The U.S. has attempted to outline criteria for the use of force against international terrorism. Questions concerning intelligence, public support and legality must be answered for each case. If these questions are answered satisfactorily, the U.S. must then decide what form that military force will take. The remainder of Chapter Five reviews the options open to the U.S. government.

#### Military Options

A military response to terrorism can take two forms. The response can be "defensive" in nature concentrating on the protection and security of individuals and property. The administration has introduced widespread defensive initiatives such as personal security training for diplomats and has increased the security and fortification of overseas installations. These have produced positive results but these barriers to terrorists are not unsurmountable.<sup>24</sup> As noted earlier, many experts believe that defensive measures are simply not enough.<sup>25</sup>

The most effective policy to counter international terrorism incorporates the second option, proactive "offensive" actions. This option includes "appropriate preventative or preemptive actions" against international terrorism. The strongest deterrent to terrorism appears to be a government's "demonstrated will and ability to capture and kill terrorists and destroy their operations." Additionally, this proactive strategy extends beyond prevention and includes neutralizing terrorism by imposing some penalty or punishment to deter the terrorist from acting again.<sup>26</sup>

This pro-active offensive campaign can involve a variety of operations. It could include the clandestine infiltration of terrorist organizations to neutralize their operation. It could also involve covert support for counter-terrorist operations by friendly governments. These options require little active involvement by U.S. military forces. However, the U.S. could also employ overt military force to directly attack terrorist organizations. This could involve strikes by U.S. forces against identified terrorist bases or personnel used in past attacks against Americans. It could also include military operations to preempt future terrorist activity. This chapter will discuss the two overt military operations, more commonly referred to as reprisals and preemptive strikes.<sup>27</sup>

## Reprisals

Reprisals are coercive measures used by one nation against another nation, or group, in response to or in retaliation for some "illegal" act. The purpose is to obtain "reparations or satisfaction of the illegal act". Reprisals are recognized under international law if certain conditions are met. The reprisal cannot be "capricious and open-ended" and it must conform to certain carefully defined conditions and limitations. For example, it must be precipitated by an illegal act on the part of the offending state or group. The reprisal must also be preceded by an "unsatisfied demand for peaceful redress of the injury". Finally, the response must be "proportional to the initial offense."<sup>28</sup>

*In relation to terrorist attacks, reprisals should meet additional guidelines. The reprisal should be conducted as soon as possible after the terrorist attack. The government should also provide a direct and provable link between the target and the terrorist incident. Additionally, the military operation must comply with the law of proportionality. Massive retaliation for a comparably minor incident will not be accepted by the international community. Finally, the government should make every effort to avoid civilian casualties and damage to civilian property.*<sup>29</sup>

The objective of reprisals against terrorist groups is to reduce the terrorists' capability to continue attacks in the future. They also demonstrate that continued terrorist activity will bring U.S. action and show that the U.S. is not impotent in the face of the terrorist threat.<sup>30</sup>

The theory behind reprisals is based on the concept of "collective responsibility". Under collective responsibility, all members of a particular community or group are held accountable for the actions of a few members. It is based on the belief that the majority either support the terrorist group or is incapable or unwilling to restrain the terrorist organization.<sup>31</sup>

Israel has a long history of systematic reprisals against international terrorist groups and their supporters; at least as Israel sees them. In 1966, the government of Syria encouraged the newly organized El Fatah Palestine Liberation Organization to establish bases in Syria. Syria also encouraged El Fatah to make terrorist incursions into Israel from those bases. The tempo of those raids increased in the later part of 1966. Israel appealed to the United Nations Security Council seeking actions against Syria. The Security Council responded with a "mild resolution suggesting only that Syria should take stronger measures to prevent such incidents". The USSR



vetoed the resolution. Israel turned to the military option.<sup>32</sup>

Since then, Israel has adopted a number of military measures to counter terrorism. Israeli military forces have conducted air attacks and shellings of settlements and camps believed used as terrorist bases. They have conducted commando raids to avenge terrorist attacks such as the 1973 raid by the Militant Islamic Group's Wrath) which killed three Palestinian guerrilla leaders in Beirut. Israel has also employed assassinations to hunt down and execute Palestinian operators worldwide in foreign countries.<sup>33</sup>

From the end of the 1973 Yom Kippur war until early 1978, 2000 Arab men, women and children had been killed during Israeli reprisal raids against Palestinian villages and refugee camps in Lebanon. During that same period, 143 Israeli citizens were killed in terrorist attacks. In November 1977 alone, 192 Arabs were killed and wounded during retaliatory air strikes and guerrilla rocket attacks that killed three Israelis.<sup>34</sup>

In 1982, military forces from Israel invaded Lebanon and drove to Beirut in an effort to dislodge the Palestine Liberation Organization (PLO) from the city. In 1985, Israeli warplanes attacked the PLO headquarters in Tunis, Tunisia. More recently, on 28 January 1986, Israel attacked the headquarters of the Syrian supported PLO in

faction headed by Abu Musa. These operations were conducted as reprisals for terrorist attacks against Israel and Israeli citizens.<sup>35</sup>

However, the effectiveness of these military campaigns against terrorism is questioned. The Israeli policy of immediate reprisals "has not curbed terrorist attacks against Israel and its citizens." Instead, it has resulted in "repeated escalations" culminating in a series of wars with surrounding Arab states.<sup>36</sup> Arnold DiLaura, a consultant on defense and foreign policy issues, wrote

Although the spectrum of violence includes air strikes and naval bombardment of terrorist positions, there is little evidence that the use of such higher levels of violence has had either a preventive or a deterrent effect.<sup>37</sup>

Israel's actions were challenged in international forums because they were not preceded by a request of redress and they did not meet the rules of proportionality. However, Israel sees efforts to seek peaceful redress as futile and a "waste of time". In 1966, Israel petitioned the U.N. Security Council seeking relief from international terrorist attacks. The U.N. did not act. Further, a formal state of war still exists between Israel and most of its Arab neighbors. Israel claimed that Arab support for these terrorist groups were acts of war under the current conditions. Israeli military operations were conducted as part of this formal state of war.<sup>38</sup>

The Israeli policy of using military force to counter international terrorism has also been politically costly. Terrorist attacks have continued and support among the Arab people for these attacks against Israel has strengthened. Israeli bombardment of refugee settlements, often resulting in the death of women and children, has resulted in Israel forfeiting the right to international sympathy for its own losses to terrorism.<sup>39</sup>

However, the U.S. has gained some lessons from the Israeli experience. Unlike the policy of Israel, which uses military force immediately, the United States views the use of military force against international terrorism as a last resort option. The legitimacy for the use of that force is based on America's willingness to make dedicated efforts to initially deal with the problems by means short of force. Further, U.S. policy is based on a careful analysis in order to maximize the chances for effective action while minimizing the chances for government overreaction or misuse of force. An overreaction may set in motion a "vicious cycle of escalating violence" that plays into the hands of the terrorist group and its sponsors. This could turn a tactical success into a strategic defeat.<sup>40</sup>

Reprisals, however, may not be the answer. It appears that reprisals have not been very effective in the past. Indiscriminate military operations usually

antagonize a large group when the reprisal is an effort to combat a small minority. Experiences in Algeria, Cyprus and Greece are good examples. After World War II, harsh actions by the British in Palestine drove more Jews to support the violent Zionist movement than would have normally been the case. Terrorist activities may be "cost effective" but using massive conventional forces in retaliation for terrorist acts is not. It usually causes the violence to escalate and, to the terrorists' delight, raises the issue to involve "global politics".<sup>41</sup>

Further, the West rejects the notion of collective responsibility. A policy that adopts indiscriminate reprisals against a group for the terrorist crimes of a few "is to accept the distorted value system of the terrorist and become like him."<sup>42</sup> Admiral James D. Watkins, Chief of Naval Operations, indicated that reprisals actually compromise the U.S. moral position.

Retribution and punishment are not part of a moral cause, and will not suffice as reasons to take action against the terrorist.<sup>43</sup>

According to President Reagan, "you have to be able to pinpoint the enemy. You can't just start shooting without having someone in your sights". Reprisals against international terrorist groups can be considered an operation that attempts to "strike a blow in a general

direction', and this could be considered a 'terrorist act in itself.'<sup>44</sup>

Reprisals, while based on international law, seldom provide a sufficient answer to international terrorism. They have not been effective, they tend to antagonize an entire population and generally result in an escalation of the violence despite their objectives. However, preemptive strikes, based on clear evidence of a future terrorist intent, that carefully target the terrorists themselves, their infrastructure and state supporters may present U.S. policymakers with a better option.<sup>45</sup>

#### Preemptive Operations

Preemptive strikes are military operations conducted in advance of suspected terrorist attacks to prevent their occurrence. They are not intended to punish the terrorist but rather to prevent future attacks. However, preemptive strikes raise many difficult issues. They involve a military operation without a prior illegal action by the terrorist group. The U.S. runs the risk of 'relinquishing the moral high ground that derives from being the victim of an attack'. Further, it will require a strong public case to justify such action.<sup>46</sup>

Preemptive strikes could be considered self-defense consistent with Article 51 of the UN Charter.

Charter.<sup>47</sup> However, they must comply with certain rules. Like other military operations, preemptive strikes are a last resort option used only when all other measures to solve the problem have been exhausted. Before conducting operations, the U.S. should attempt to persuade the host nation to deal with the threat. Uninvited military action by the U.S. could be considered a violation of a nation's sovereignty and thus a violation of international law. This issue is particularly difficult when the host nation is identified as a state sponsor of international terrorism. Further, the force used should be proportional, designed only to remove the threat. The operation should be highly discriminating and clearly defined to prevent the needless loss of life.<sup>48</sup>

Admiral Watkins identified five principles that justified preemptive military action against international terrorists.

(1) The U.S. should have just cause to believe that it is truly threatened.

(2) The decision to use force must be based on competent authority.

(3) Military force must be a last resort tool.

(4) The U.S. must have a reasonable hope for success otherwise the risk of life involved is not acceptable.

(5) The U.S. must foresee more good than evil resulting from the action.

Further, the operation must not degenerate into a retaliation attack based on a desire for revenge. The action must be moral and legal and must be closely tailored to meet the desired objectives.<sup>49</sup>

The question of employing preemptive strikes is viewed in a new light by the prospect of terrorists armed with weapons of mass destruction, such as chemical, biological and nuclear weapons. There have been no mass casualties or widespread disruptions of vital public systems resulting from a single terrorist attack to date. The 23 June 1985 terrorist bombing of Air India Flight 182, which resulted in 329 deaths, may be an exception. But, while growing in scope and violence, most terrorist attacks have been relatively small.<sup>50</sup>

Terrorists have experimented with chemical weapons in the past. In 1975, the West German government received a threat that Stuttgart would be attacked with mustard gas which had been stolen from an ammunition storage bunker. In 1976, U.S. postal authorities intercepted a package, "presumably mailed by Arab terrorists", designed to dispense nerve gas when opened. In 1978, terrorists poisoned Israeli grown oranges. This caused fear among European consumers and the loss of the European fruit market caused significant financial burdens for Israel. Despite these isolated cases, terrorists have generally refrained from using these types of weapons.<sup>51</sup>

There are a number of reasons for this. Governments have established strong protective measures to keep mass destruction weapons away from terrorist groups. Terrorist groups also face internal constraints concerning the use of such weapons. State sponsors have not provided nor encouraged their use because this may cause a deterioration in their control and influence with the terrorist organization. Further, terrorists, as do their state sponsors, fear retaliation if they use mass destruction weapons. However, there is no guarantee that these self-imposed constraints will continue. Chemical weapons are easy to obtain and relatively easy to deliver. Biological weapons are currently within the technological capability of terrorist groups and their state sponsors.<sup>52</sup>

Terrorist groups will find it much more difficult to obtain or build a nuclear device than a chemical or biological weapon. The terrorist group must obtain fissionable material and then design, produce, assemble and deliver the bomb to its target. There is a high probability that this effort would be detected at each stage. Further, it is unlikely that a terrorist group would undertake such a project. Nevertheless, a CBS Gallup Poll indicated that many Americans view a nuclear incident involving terrorists as a more imminent danger than nuclear war with the Soviets.<sup>53</sup> Additionally, Justice Arthur J. Goldberg remarked,



Modern terrorism, with sophisticated technological means at its disposal and the future possibility of access to biological and nuclear weapons, presents a clear and present danger to the very existence of civilization itself.<sup>54</sup>

Preemptive strikes, like reprisals, raise serious operational, legal and public relations questions. These problems tend to discourage U.S. policymakers from using military force except in cases with "high consequences and solid documentable circumstances". The April 1986 U.S. attack on Libya was one such occasion.<sup>55</sup>

#### Attack On Libya

The military strike against Libya marked a turning point in the Reagan administration's policy on the use of military force as a response to international terrorism.<sup>56</sup> In discussing Libya, President Reagan stated,

By providing material support to terrorist groups which attack U.S. citizens, Libya has engaged in armed aggression against the United States under established principles of international law, just as if he (Qaddafi) had used its own armed forces.<sup>57</sup>

The decision to use military force against Libya was not made in a "cavalier manner". It followed a seven year history of Libyan support for international terrorism and a graduated response by the U.S. In 1979, Libya was officially designated by the United States as a country supporting international terrorism. Over the next six years, the U.S. initiated a number of diplomatic and

economic actions in response to this support. In May 1981, the U.S. ordered Libya to close its diplomatic mission in Washington D.C. In 1982, the U.S. placed an embargo on Libyan oil and curtailed technology exports to Libya.<sup>58</sup>

On 7 January 1986, President Reagan imposed strict economic sanctions on Libya after he linked Libya to the December 1985 terrorist attacks on the Rome and Vienna airports. The President declared a national emergency, prohibited purchases and imports/exports from Libya, barred U.S.-Libyan aviation and maritime relations and froze \$2.5 billion of Libyan assets. A White House statement on 8 January 1986 called for worldwide cooperation with economic and political sanctions against Libya. Italy banned a portion of its arms sales to Libya and Canada provided support for the U.S. initiatives. However, the remaining U.S. allies did not respond. The economic ties that connected West European nations to Libya were apparently "stronger than their political and moral commitment to oppose terrorism".<sup>59</sup>

The U.S. conducted a "preemptive" military strike on Libya in the early morning hours of 15 April 1986. The attack was directed to preempt reported plans by Libyan leader Qaddafi to attack up to 30 U.S. embassies throughout the world.<sup>60</sup> The administration claimed the inherent right of self-defense under Article 51 in justifying the

attack. President Reagan, in his address to the nation regarding the action, said

Self-defense is not only our right, it is our duty. It is the purpose behind the mission undertaken tonight - a mission fully consistent with Article 51 of the U.N. Charter.<sup>61</sup>

The bombing left 61 dead and 97 wounded. It was widely criticized throughout the world. It created dissension within the European alliance and a wave of anti-Americanism in Europe. Critics charged that the attack clearly lacked proportionality to the threat. Further, the civilian casualties were "inevitable, given manifold strikes near urban centers performed in the middle of the night". The military operation was called "the product of the frustration of a superpower unable to handle a convoluted problem in a patient manner".<sup>62</sup>

However, U.S. public opinion clearly supported the air strike. A New York Times/CBS News Poll showed that the action had popular support and a Gallup Poll revealed that 71 percent of Americans approved of the mission. The U.S. military action followed years of non-military efforts to persuade Libya to stop its support for international terrorism. These economic and diplomatic efforts failed. The U.S. had evidence Libya was supporting the recent escalation of terrorism and had indications that Libya was planning additional attacks against U.S. foreign missions.

As a result, the Reagan administration turned to the military option.<sup>63</sup>

### Summary

The military option has become an element of U.S. counter-terrorist policy. Passive defensive measures have been combined with proactive offensive operations to form the overall military element of U.S. strategy. The 1986 Libyan operation demonstrated this proactive element.

However, as Chapter Five discussed, it is not an easy decision to employ military force. There are a number of problems that must be addressed. The two main overt operations, reprisals and preemptive strikes, raise serious concerns. These issues are further compounded when state sponsorship for international terrorism is introduced.

This chapter outlined the major problems and options facing U.S. policymakers who contemplate the military option. It is one thing to adopt a strategy that includes a military option but quite another to actually employ that force. Chapter Six will outline the conclusions drawn from this study and comment on the practical application of military force.

## CHAPTER 5

### ENDNOTES

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## CHAPTER 6

### CONCLUSIONS

#### Introduction

This project was prompted by the April 1986 U.S. attack on Libya. Like many Americans, I was happy that the U.S. had finally done something to respond to the growing threat of international terrorism. However, after completing initial research on the mission, to include a classified briefing on the attack, I was less convinced that the attack accomplished the desired objectives. Therefore, I decided to investigate this issue further.

The initial focus for the project was the use of tactical airpower, such as the F-111s and Navy A-7s used in the Libyan action, in a counter-terrorist role. However, the issue quickly shifted to the general use of military force, regardless of its form. It really did not matter if ground forces or tactical airpower were used. The key issue is the use of military force at all. Chapters two through five are the results of that research.

#### Conclusions

Should military force be used in a proactive campaign against international terrorism? The answer to that question is yes. Military force must be included as an element of U.S. counter-terrorist policy and that includes the proactive use of that force. However, the

U.S. does not have a blank check to use force under just any circumstances. These proactive military options must be executed under very tight controls, subject to U.S. and international law and with clearly defined goals and objectives. While this study only discussed open military action, this proactive military option should include both covert and overt operations.

However, overt reprisal operations do not have a place in the U.S. policy. They provide little in the way of deterrence and foster a poor international image of the U.S. They have not worked in the past and actually play into the hands of the terrorist groups which attempt to portray the U.S. as an evil aggressor.

Carefully planned preemptive military strikes, on the other hand, should provide the backbone to the proactive military option. These operations are very dependent on accurate and timely intelligence information. This is not always readily available. Nevertheless, they must be considered in light of the growing threat from international terrorism, the increased state sponsorship and the prospect of mass destruction weapons.

However, the proactive military option will only be applicable in a very few situations, many less than I would have originally thought. The fact that members of the Reagan administration struggled with the possibility of

of force for five years indicates that the decision was not made in haste. The military option is not a panacea for this very serious world problem nor should it be used as a tool to simply release U.S. anger and frustration. The use of military force is also not a cause for rejoicing. Military force must be used very carefully as part of a comprehensive counter-terrorist policy.

The major question facing U.S. policymakers is not whether military force should be included as an option, but rather who to attack if military force is called for. It appears that very little will be gained in attacks on the terrorists themselves, given the risks involved. They do not generally represent lucrative military targets for overt military force. However, the state sponsors do have military targets. Further, it appears that attacks on these sponsors might have a major impact on international terrorism by interdicting the terrorist infrastructure and dissuading nations from supporting terrorism. State sponsorship may represent the center of gravity for the more sophisticated terrorist groups today.

I am not naive enough to believe that this would eliminate international terrorism. However, recent major terrorist operations were conducted with state support. They most likely could not have been executed without that support. U.S. initiatives that isolate terrorist groups

from these state sponsors will reduce the terrorists capability to conduct many high destruction/ high publicity attacks. Nevertheless, the decision to strike the state sponsors will be very difficult and will involve complicated legal, moral and international issues: many without precedents.

This raises the issue of U.S. policy because policy should rule the decision to use force. However, the United States has not been completely successful in its counter-terrorist strategy. At times it appeared that no cohesive policy even existed. It also seemed that what we had was more reactive than proactive. Two major terrorist incidents forced the U.S. to react during the 1980s. The 1983 bombing of the Marines in Beirut and the June 1985 hijacking of TWA Flight 847 prompted the administration to take action. As a result, the administration published National Security Decision Directive 138, which incorporated military force as a policy option, and formed the Vice President's Task Force, which conducted a complete evaluation of U.S. policy.

The U.S. has also suffered failures in its policy execution. The 1987 controversy over arms sales to Iran illustrated how policy execution can go wrong. This failure was not so much a policy/organization problem as it was an execution failure. However, a policy is only as good as its execution. Policy is not made up of

pronouncements alone, it must include action. The repercussions from the Iran-Contra affair could produce a severe blow to U.S. efforts to counter international terrorism. Further, the Iranian failure involved only the transfer of arms. The U.S. must guard against future policy or execution problems that involve the unwarranted employment of military arms under the auspices of U.S. counter-terrorist policy.

The attack on Libya was not an end to U.S. military involvement in counter-terrorism. It opened a new era and introduced a shift in U.S. strategy. It is the beginning of what could become a protracted confrontation, one the U.S. does not want but one it is obliged to fight.

#### Recommendations For Further Study

The subject of international terrorism and the U.S. response to this threat encompasses a great number of issues and questions. A writer could investigate any number of areas concerning this subject.

One area not addressed by this study was U.S. law. I assumed that any U.S. military action against international terrorism would be conducted within the constraints established by the U.S. Constitution and existing federal laws. I did not investigate the impact of U.S. law on the use of military force in this case. I did not address the legal basis for this military action nor

did I review the constraints U.S. law places on the executive branch. This would be a worthy subject for research in the future.

This study reviewed the general use of military force. However, different components of the armed forces may have different applications in the counter-terrorist role. A future study could outline the conditions that would prompt the U.S. to employ a specific military tool, such as tactical airpower or special forces. A study outlining the strengths, weaknesses and applications of various elements of the military would be very interesting and may help identify major military shortfalls in this area.

Lastly, I cannot help but wonder what the future holds. What are the projections for the growth of international terrorism? What are the suspected causes for this growth? Will the threat adopt weapons of mass destruction? A study along these lines may provide insights to the future which could direct a policy change to accommodate this new threat. It could move the U.S. to a more predictive mode rather than the reactive situation that has existed in the past.

## Summary

This study opened with a review of the threat posed by international terrorism. It showed how terrorism is growing in scope and violence. More importantly, terrorism has become a foreign policy tool used by nations throughout the world, to include the Soviet Union.

The study also examined the response of the international community to terrorism. The record is not good. The nations of the world have yet to agree on a definition of international terrorism. They have been successful in reaching agreements on how to deal with the problem in only a few specialized cases, such as civilian airline hijacking and attacks on diplomatic personnel.

U.S. policy has developed in the void created by the inaction of the international community. After being identified as a concern in 1972, U.S. organizational and policy development was slow. Even the first three years of the Reagan administration yielded little of substance. Only after the Marines were bombed in Beirut were steps taken to develop a comprehensive policy. Further, the execution of that policy as late as 1987 has been severely flawed.

Military force, used in a proactive way, is clearly an element of U.S. counter-terrorist policy. And it should be. However, military force is not the only



option, and not even the main option, for countering international terrorism. Further, there are a number of problems with using military force.

Nevertheless, preemptive operations appear to be the best option for employing overt military power. Even then, the use of force must be done very carefully and with strict guidelines. On the other hand, if U.S. leaders decide to use the military option, it should not be a half-hearted effort. If the target is not important enough to risk the consequences of combat, then U.S. leaders should not launch the operation. Neil C. Livingstone summed it up in his book, The War Against Terrorism, when he wrote, "force, however odious, must always remain the ultimate sanction in dealing with terrorists".

## REVIEW OF LITERATURE

### Introduction

The Review of Literature demonstrates that research was conducted in sufficient depth to support this thesis. Hopefully, it will also assist others conducting research on this and other related subjects.

The review is organized along topical lines. The first major section outlines references of general value to the study. A single reference listed here provides information spanning the entire thesis. It did not focus on just one area of the study.

The remaining sections identify references that apply to just one area of the thesis. These sections include the threat, actions by the international community, and U.S. policy development.

### General References

#### Books

International Terrorism: A Bibliography, by John Lakos, is a detailed bibliography on issues related to international terrorism. It was extremely helpful in developing my own bibliography. It is a comprehensive

APPENDIX A

references by general subject and by areas of the world, including specific countries.

A number of books contained a collection of articles, papers and speeches by terrorist experts. The editor of the book usually include an introduction. Terrorism, edited by Steven Anzovin, is an example. It includes articles by noted experts such as Brian Jenkins, Ambassador Robert Oakley and former CIA Director William Casey that proved very helpful. Fighting Back - Winning the War Against Terrorism was also extremely valuable. In addition to articles by the book's editors, Terrell Arnold and Neil Livingstone, the book included writings by prominent experts in the field of policy development.

Perspectives On Terrorism, edited by Lawrence Freedman and Yonah Alexander, included a collection of papers addressing a wide range of terrorist related activities while focusing primarily on the psychology of terrorism. It was useful for background but its direct application to this study was limited.

International Terrorism In the Contemporary world, edited by Marius Livingston, also included a number of articles by prominent experts in the field of international terrorism. The article by Ernest Evans, "American Policy Response to International Terrorism: Problems of Deterrence", was particularly helpful. Despite being

published almost nine years ago, this book provided excellent background information on the 1972 to 1979 time period.

On Terrorism and Combatting Terrorism was a review of the proceedings of an international seminar of terrorism held in Tel-Aviv in 1979. Edited by Ariel Merari, an associate at the Jaffee Center for Strategic Studies, the book focused on the Palestinian issue and was slightly dated. However, the contributors are noted experts and provided valuable insights into the problem of international terrorism in the Middle East.

Benjamin Netanyahu, former Israeli Deputy Ambassador to the United States and current Permanent Representative of Israel to the United Nations, edited two collections of writings. The two books, International Terrorism: Challenge and Response and Terrorism: How The West Can Win, provide an excellent collection of writings from current world leaders and international experts on terrorism.

David C. Rapoport and Yonah Alexander, editors for The Rationalization of Terrorism, also provided an excellent collection of articles. The article by Ambassador Anthony C.E. Quainton, Moral and Ethical Considerations in Defining a Counter-Terrorist Policy, was especially useful.

The last collection of writings on international terrorism, Terrorism: Threat, Reality, Response, was edited by Robert Kupperman and David Trent. While dated, it did provide valuable information in the technological and management aspects of anti-terrorism.

The references listed above are collections of articles and speeches by experts in terrorism. Two other books, Political Terrorism: Theory, Tactics and Countermeasures, by Grant Wardlaw, and International Terrorism - How Nations Respond To Terrorists, by William Waugh, also proved extremely valuable. These two books are not collections of writings by other experts but were written by the authors.

#### Government Documents

Three major government references had a wide application to the thesis. The Public Report of the Vice President's Task Force on Combatting Terrorism outlined the threat from international terrorism, discussed past U.S. responses and, more importantly, documented the current U.S. policy on international terrorism.

International Terrorism Selected Document Number 24, published by the U.S. Department of State, was a very valuable collection of official statements and speeches by administration officials. Finally, the monthly Department

of State Bulletin proved invaluable in tracing U.S. actions regarding counter-terrorist policy.

### The Threat

In addition to the references listed as general sources, three books provided valuable information on the nature of the threat from international terrorism. They would be extremely valuable for anyone researching this topic. Claire Sterling's The Terror Network was a very important general reference on the threat. Ray S. Cline, former Deputy Director for Intelligence for the CIA and now a senior advisor at the Center for Strategic and International Studies at Georgetown University, and Brian Alexander, Director of the Institute for Studies in International Terrorism at the State University of New York, teamed up to write two books on the threat. Terrorism As State Sponsored Covert Warfare and Terrorism: The Soviet Connection, provided critical background on the major threat development, state sponsorship.

### Actions By The International Community

#### Books

Charter of the United Nations Commentary and Documents, by Leland Goodrich and Edward Hambro, was the primary reference on the U.N. Charter. It provided a

background on the U.N. organization, the system and the provisions of the charter. The commentary, written in 1949, was an excellent review of the original articles.

Louis Henkin, a distinguished author on international law and diplomacy, added his insights on the U.N. Charter and their application in How Nations Behave: Law and Foreign Policy. While good, it was not as valuable as the first book mentioned.

John Murphy, a professor of Law at Villanova University and consultant on international terrorism to the American Bar Association and the State Department, provided a more updated reference for terrorism and international law with Punishing International Terrorists: The Legal Framework for Policy Initiatives. It focused on legal issues rather than policy questions.

Two books were outstanding sources for the transcripts and copies of international documents regarding international terrorism. Terrorism: Documents of International and Local Concern, edited by Robert Friedlander, and Control of Terrorism: International Documents, edited by Yonah Alexander, provided sources for important documents. However, they both included references up to 1979. After 1979, the Department of State Bulletin provided the best source for international documents.



### Articles

Three magazine articles proved valuable in providing the latest information on the legal ramifications of the counter-terrorist campaign. "Terrorism and the Law", by Abraham Sofaer, legal advisor to the Department of State, was an outstanding article tracing the background of international law pertaining to terrorism. "Handcuffing Terrorism", by former State Department official Charles Maechling, was a superb discussion highlighting problems of multi-national agreements, particularly as they relate to extradition treaties. Finally, Arnold DiLaura's article, "Preventing Terrorism: An Analysis of National Strategy", was extremely valuable in outlining issues of international law.

### U.S. Policy Development

#### Books

Governmental Responses To Terrorism, edited by Lonan Alexander and James Denton, is a 1987 collection of articles by prominent figures discussing government policy on international terrorism. It was valuable in updating earlier writings.

Gayle Rivers, The War Against the Terrorist: How To Win It, is more of a tactical discussion on how to employ special forces to fight terrorists. It was valuable

for this study in that it provided the best detailed history of the terrorist's war with Israel.

Neil C. Livingstone, The War Against Terrorism, and Ernest Evans, Calling A truce to Terror: The American Response to International Terrorism, were both good references for outlining the history of U.S. actions and policy development from 1969 to 1979. They also discussed U.S. activities in international forums to deal with terrorism.

Brian Jenkins, noted terrorist expert for the Rand Corporation, published a number of works that were extremely valuable in tracing U.S. policy development. They include Combatting Terrorism Becomes A War, A Strategy for Combatting Terrorism, and International Terrorism: The Other World War. These also included implications for the use of military force.

The Tower Commission Report, published by the New York Times, was a key source in outlining recent problems with U.S. counter-terrorist policy.

#### Articles

Magazine articles provided needed information and filled many gaps left by other references in the area of policy development and the use of military force. The primary problem was that many events have occurred since

January 1986 and most of the books on the subject pre-dated this. The articles filled that gap.

Many articles by government officials outlined current U.S. policy initiatives. The following four articles were especially valuable - "Prelude to Retaliation: Building A Governmental Consensus on Terrorism", by Vice President George Bush; "Framing An Appropriate Response To Terrorism", by Defense Secretary Casper Weinberger; "Terrorism and the Nature of Free Society", by former National Security Advisor Robert McFarlane; and "U.S. Options to Combat Terrorism", by Ambassador Bruce Laingen, the ranking diplomat among the 52 hostages held by Iran. These men provided interesting insights on U.S. policy and the use of military force. Brian Jenkins, "The U.S. Response to Terrorism: A Policy Dilemma" is an additional article worth reading by anyone interested in this subject.

Robert Oakley's article, "International Terrorism", outlined U.S. progress in 1985 and 1986. It was written after the weapons sales to Iran became public and provided a timely assessment of the impact of this controversy on U.S. counter-terrorist policy.

Three articles provided important, but opposing, views of the U.S. action against Libya. "Can Democratic Governments Use Military Force In the war Against Terrorism?", by Richard Shultz, is a good review of U.S.

policy and the decisions leading to the April 1986 attack on Libya. Constantine Melakopides, "Libyan Raids and the Western Alliance", and Louis Rene Beres, "The End of American Foreign Policy", are very critical of U.S. policy and the actions against Libya. All three articles provide interesting insights on the use of force against international terrorism.

#### Unpublished Works

A number of unpublished research papers also helped fill gaps on recent policy developments. Larry Berlong and Paul Gerard provided an excellent summary of U.S. responses to terrorism and general ideas on the use of military force with their U.S. Army War College research paper,

Combatting The Terrorist Threat. Walter Hogle's National War College paper, United States Counter-Terrorist Policy and Organization: Able to Meet the Challenge, was a very good review of the Reagan administration's policy development since 1980. Michael Mahoney wrote a paper for the Naval War College entitled Military Responses To Terrorism that discussed the dilemmas of attempting to use conventional military force against an unconventional enemy. All four papers were very valuable to this thesis.

Lastly, Lawrence P. Taylor, a State Department foreign service officer, wrote two papers that were extremely valuable to this project. International

Terrorism and U.S. Diplomacy was a good review of policy options and policy development. The Impact of International Terrorism To U.S. Embassies and Foreign Policy, written for the National War College, was also an excellent review of U.S. policy development.

#### Summary

There were no significant gaps of information on this subject. Quite the contrary, the major problem was establishing a priority for the great volume of material available.

However, sources for U.S. policy development since 1984 were somewhat scarce. Primary references included magazine articles and unpublished research papers by students at the military senior service schools. Additionally, U.S. counter-terrorist policy is currently the subject of controversy with new material being revealed daily.

The Combined Arms Research Library (CARL) at Fort Leavenworth provided outstanding support. The CARL personnel are experts with the Defense Technical Information Center (DTIC) system. The staff obtained critical references within seven days of my request. My research for this thesis would have been significantly hampered without their excellent professional help.

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