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Fixation upon WMD terrorism, reinforced by the recurring need to manage the consequences of other manmade or natural disasters, has conditioned the homeland security community to focus upon prevention and consequence management, with scant attention paid to resolving an ongoing terrorist incident of a paramilitary nature. The seizure of national assets by an armed paramilitary group is a possibility that should not be ignored. Terrorist seizure of either a soft target, like Russia's Beslan No. 1 school in 2004, or a hard target such as nuclear materials or facilities, could have enormous strategic consequences. It would demand swift, decisive response probably beyond the capability of local agencies. Domestic counterterrorist capabilities are poorly postured for response to such an incident. Standing, regionally based, swiftly responding federal forces with a streamlined command and control structure are needed, along with a reorientation of homeland security guidance, training and exercises to include response to threats of this nature.

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# Paramilitary Terrorism: A Neglected Threat

**by**

**George W. Tallen, Jr.**

**U.S. Department of Energy**

**A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.**

**The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.**

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## Abstract

Fixation upon WMD terrorism, reinforced by the recurring need to manage the consequences of other manmade or natural disasters, has conditioned the homeland security community to focus upon prevention and consequence management, with scant attention paid to resolving an ongoing terrorist incident of a paramilitary nature. The seizure of national assets by an armed paramilitary group is a possibility that should not be ignored. Terrorist seizure of either a soft target, like Russia's Beslan No. 1 school in 2004, or a hard target such as nuclear materials or facilities, could have enormous strategic consequences. It would demand swift, decisive response probably beyond the capability of local agencies. Domestic counterterrorist capabilities are poorly postured for response to such an incident. Standing, regionally based, swiftly responding Federal forces with a streamlined command and control structure are needed, along with a reorientation of homeland security guidance, training and exercises to include response to threats of this nature.

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## INTRODUCTION

*Scenario: At 0830 on an otherwise normal autumn morning, a wave of violence erupts at locations across the American heartland, targeted upon schools and schoolchildren. Improvised explosives detonate in sidewalk trash bins; school buses are bombed; lone snipers target campuses and first responders in hit and run attacks. As confusion and panic spread from local venues to the national consciousness via the 24-hour news media, thirty or more armed terrorists take over an elementary school in a small Midwestern city. City and county SWAT officers respond to the scene before the scope of the event is clear; trained to respond to a Columbine-like active shooter incident, they stage a hasty assault which is bloodily repulsed.*

*Executing a score of adult hostages as evidence of their resolve, the terrorists then herd hundreds of schoolchildren and staff into the school gymnasium, which they prepare with explosives. They upload video and still photographs of their action onto the Internet. Postings identify the perpetrators as al Qa'ida jihadists. Intelligence from the police perimeter indicates a large number of fighters, with military small arms, explosives, and heavy weapons, rapidly improving their defenses.*

*The terrorists announce their intention to execute their hostages and their willingness to accept 'martyrdom' in the event of another assault, or if the U.S. government does not take immediate steps to meet their single, non-negotiable demand: withdrawal of all American forces from Iraq, Afghanistan, Saudi Arabia, and the rest of the House of Islam.*

This fictional scenario is based loosely on the 2004 takeover by Chechen separatists of a school in Beslan, in the Russian republic of North Ossetia, where over a thousand hostages were taken, and hundreds of schoolchildren and other innocents were ultimately killed.[1] At the time of this writing, heightened concerns over the possibility of a similar attack in the United States have received public and media attention.[2]

The scenario illustrates the threat of an attack on the U.S. homeland by multiple armed terrorists using conventional weapons, explosives, and tactics, and technical expertise less challenging than the piloting skills that guided commercial jets into American buildings on September 11, 2001. The adversary remains active after the moment of attack initiation, in firm physical control of high value assets, exploiting them for propaganda value, and threatening worse consequences to come.

Related scenarios are not difficult to construct, using similar means of attack against a range of soft targets of great iconic, political, or economic value. Attacks on hardened or well-protected targets such as nuclear power plants, nuclear materials shipments, or seats of government are generally considered less likely, although reports of surveillance and other sources suggest a continuing terrorist interest.[3]

From the standpoint of preparedness and response planning, such scenarios bear little resemblance to the Weapon of Mass Destruction (WMD) scenarios that command so much of our national attention.[4] Assaults by armed groups, employing improvised explosive devices (IED) as enablers or force multipliers rather than primary mechanisms of attack, are commonplace tactics of terrorists and insurgents worldwide. By contrast, effective WMD attacks, no matter how theoretically attractive to terrorists, and how extreme their potential consequences, remain so far the stuff of fiction. While the first order effects (casualties and physical damage) of paramilitary attacks may not approach those of WMD, their psychological and strategic impact could be enormous.[5]

A fixation upon the threat of WMD terrorism, and upon consequence management in the wake of either natural or manmade catastrophe, has left America ill-prepared to respond quickly and effectively to a terrorist paramilitary attack. Measures should be taken to narrow this gap in preparedness before it can be exploited by an intelligent, opportunistic enemy.

## LIKE A DEER IN THE HEADLIGHTS

Although there is informed debate over the attractiveness of WMD to al Qa'ida and its jihadist affiliates, the horrific effects of WMD attacks on the homeland have led U.S. homeland security policy, planning, organization, and operations to concentrate on

preventing or—should prevention fail—mitigating the consequences of such attacks.[6] The technical, law enforcement, and intelligence challenges of prevention, and the massive costs and organizational requirements of consequence management, have dominated the attention, efforts, and assets of the interagency community charged with homeland security. The national trauma of Hurricane Katrina in 2005 drew official attention away from terrorism as a causative agent, but reinforced the fixation on consequence management. Agencies charged with response to domestic terrorism are largely the same that have been mandated, since Katrina, to better prepare for the aftermath of future natural disasters.

Since the September 11, 2001 terrorist attacks brought a sense of urgency to U.S. counterterrorist (CT) planning, a large body of official policy and doctrine has emerged. While successive generations of guidance show increasing sophistication in many areas, they are quite consistent in ignoring modalities of terrorist attack other than WMD, isolated IEDs, and suicide terrorism—with only minimal attention spared the last two categories. A selective review of the literature will provide illustrative examples.

Homeland Security Presidential Directive-5 (HSPD-5) in 2003 provided course corrections and guidance for most subsequent efforts in the field of federal emergency preparedness. It called for a National Incident Management System (NIMS) to guide the response to domestic incidents "regardless of cause, size, or complexity."[7] It required the development of a National Response Plan to "integrate Federal Government domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan."[8] Significantly, it directed that crisis management and consequence management, previously treated as separate yet related functions, be approached henceforth as an

integrated whole.[9] Conflating terrorist attacks with natural or other manmade disasters, and failing to differentiate response to an ongoing incident from mitigation of its after-effects, HSPD-5 set the tone for future policy and planning.

The *National Response Plan* (NRP) was first promulgated in 2004, was revised in 2006 to address shortfalls identified in the Hurricane Katrina response, and is soon to be replaced by the *National Response Framework* (NRF).[10] Both documents consistently profile the terrorist threat as a nexus of suicide terrorism and WMD—9/11 writ large—leading to a logical emphasis on prevention as the first line of defense. They pay scant attention to resolving an ongoing crisis of a non-WMD nature, in the event that prevention fails. Both NRP and NRF are largely devoted to consequence management, either of WMD attacks or natural disasters.

The lack of attention paid to resolution of an ongoing terrorist incident is also evident in the *National Planning Scenarios*, designed to provide focus for exercises and contingency planning by all levels of government.[11] The fifteen scenarios include two natural disasters, an outbreak of pandemic influenza, and twelve terrorist attacks: one improvised nuclear detonation, one radiological dispersion device, four biological and four chemical attacks, one cyber, one radiological, and one attack using multiple conventional explosives. In several scenarios, terrorists conduct multiple simultaneous or closely sequenced attacks, at varying distance from one another. Effects, especially in the biological and radiological attack scenarios, are spread over time depending on levels of transmissibility or exposure, but attack execution is essentially instantaneous, and the scope of government response is limited to consequence management and criminal

investigation.[12] Nowhere in the National Planning Scenarios is there a requirement for a tactical response to resolve an ongoing situation or disrupt terrorist actions in progress.

DOD and Department of Homeland Security (DHS) guidance, with only rare exceptions, describe a terrorist threat based primarily on mass-casualty WMD attacks.[13] This fixation upon WMD terrorism combines with the recurring national experience of other manmade or natural disasters to focus planning efforts overwhelmingly on consequence management.

## COMMAND, CONTROL, AND (UN)RESPONSIVENESS

Unity of command and clearly defined command and support relationships, across a wide spectrum of responding agencies, would be essential in the event of a time-sensitive and ongoing terrorist incident. The NRF and other national response guidance offers an architecture for command and control (C2) that could well prove cumbersome, confusing, and unresponsive in such a crisis, however sensitive it may be to political and statutory relationships, and however workable under the less constrained timelines of disaster response or consequence management.

When terrorist involvement in an incident is identified, or when local law enforcement capabilities prove inadequate, these agencies are expected to request assistance from the U.S. Department of Justice. DOJ's Federal Bureau of Investigation (FBI) is the Lead Federal Agency (LFA) for response to domestic terrorist incidents. This delineation of responsibility is, however, somewhat muddied by the designation of DHS as lead agency for coordination of incident response generally, across all levels of government.[14] It is made no clearer by DOD's status as lead agency for homeland

defense: the seam separating homeland defense from homeland security is not well defined, particularly in the context of an ongoing attack by foreign-based terrorists.[15]

Planning guidance identifies these seams and ambiguities as strengths, which they might well be, if national decision makers have the time and situational awareness to capitalize on the flexibility and adaptability of a vaguely defined system, tailoring it to the exigencies of the moment.[16] In the critical early stages of a terrorist incident, with vital national assets at stake, this ambiguity may seriously challenge the nation's ability to produce a coordinated, effective response.

Critical real-time intelligence, requests and authorizations for assistance, deployment orders, and assignment of command responsibility must flow through the "wiring diagrams" of NIMS among local agencies and three federal departments (DHS, DOJ, and DOD) with overlapping responsibilities, and then to their component agencies, services, and commands. It is perhaps a gross understatement to suggest that this may not occur smoothly in the early hours of a crisis.

A Request for Assistance (RFA) by military forces, for instance, can originate from a state governor's office, or from a federal agency on scene. It will travel through federal law enforcement channels to the Attorney General, from there to the Office of the Secretary of Defense for approval, and then to U.S. Northern Command (NORTHCOM), which only then receives operational control of active duty forces from other combatant commands.[17] If the forces allocated for response include National Guard—which will likely be mobilizing simultaneously under state authority—further coordination of their status and chain of command will be necessary. There are ample opportunities in this

process for confusion and delay, which could have particularly (and literally) fatal consequences in an ongoing terrorist incident of the type envisioned here.[18]

The National Incident Management System promotes the concept of Unified Command, a tool for consensus decision-making that can help defuse conflict and integrate civilian agencies with overlapping responsibilities and jurisdictions.[19] Military forces, however, do not operate under the Unified Command structure at all, and each civilian agency, while participating, maintains a separate chain of command for its own forces, so Unified Command at best provides only unity of effort.

Under conditions of ambiguity, overlapping responsibilities, compressed timelines, and cascading consequences that will prevail in the event of an ongoing terrorist attack, mission success will require high levels of coordination, shared assumptions, and good will among a multitude of agencies unaccustomed to cooperation in a crisis. Tactical responders will also require true unity of command, but there is no construct in NIMS that will enable it.

The NIMS command structure has proven useful, or at least usable, in the consequence management scenarios for which it was primarily designed. When rapid, forceful, coordinated tactical response is required to resolve an ongoing terrorist action, convoluted routing of requests for assistance, parallel chains of command, and the consensus decision-making of Unified Command will likely fall short of the need.

## A PAUCITY OF MEANS

One lesson starkly evident in the aftermath of Beslan is that tactical response to such an incident requires discipline, proficiency, and precision. To deny an adversary time to consolidate his position, cause further damage or loss of life, or exploit the

propaganda value of his action, the response must also be swift – measured in hours, not days. Rapid deployment of tactical forces capable of resolving the situation is therefore vital.[20]

Local law enforcement agencies (LLEA) would respond quickly, but in most cases lack the ability to defeat numerous, heavily armed, well-prepared adversaries like those that attacked Beslan's School No. 1 in 2004.[21] Hostage rescue or asset recovery on the scale envisioned by this scenario is beyond the capability of most LLEA SWAT (Special Weapons and Tactics) teams.[22] Typical local and state agencies field teams composed of patrol officers who receive additional specialized training and equipment, but train and operate as a team only on an occasional basis, and require time to assemble and orient to a crisis situation. Only the largest metropolitan jurisdictions possess full-time SWAT teams which can respond quickly and in strength to local incidents with a high level of cohesion and tactical proficiency. Whether full-time or part-time, LLEA SWAT teams quite understandably tend to focus their limited resources and training time on the scenarios they most frequently confront, such as high risk warrant service, active shooters, and barricaded suspects; tactics and techniques suitable for these situations are often dangerously incompatible with the requirements of combat against multiple, dedicated, well-prepared, hostage-holding terrorists.[23]

Collaborative efforts by teams from different jurisdictions are theoretically possible, but the unfortunate reality is that in the time and resource-constrained world of law enforcement, such actions are seldom trained or exercised. The likelihood of cooperation among local agencies resolving a situation of this magnitude is small, thanks to dissimilar tactics, techniques, and procedures (TTP), incompatible communications,

and a general lack of experience in planning and conducting dynamic, multi-agency tactical operations on this scale.[24]

The FBI represents the next echelon of response. It is unlikely, however, that the Bureau could quickly field a tactical capability commensurate with its authority. Its field offices, in 56 U.S. cities, can mobilize SWAT teams composed of Special Agents who volunteer for this ancillary duty and receive appropriate specialized training. Team size varies, but at the larger field offices may include as many as twenty agents, including sniper teams, breachers, and assaulters. As with most LLEA SWAT teams, their personnel have other primary duties, and are seldom afforded the opportunity to train together as a tactical team more than a few days a month. A larger regional SWAT team can be assembled from these field office elements, but assembly alone could require days, and a composite regional team is even less likely to be capable of fully integrated tactical operations without additional time for training and rehearsal. Although they have proven adequate for the wide range of federal law enforcement contingencies for which they were created, FBI SWAT teams may offer only a limited enhancement of local capabilities in time-sensitive terrorism scenarios.[25]

The FBI's Hostage Rescue Team (HRT), the tactical component of its Critical Incident Response Group, is a large, full-time tactical team: a highly capable national asset. There may, however, be critical limitations on its ability to resolve the sort of CT scenario envisioned here. Without specific prior warning of an imminent attack, it would not be deployed forward from its base in Virginia, and could therefore require many hours of air and surface travel to be mission ready at an incident site, particularly one in the central or western United States. The HRT lacks sufficient strength, as well as

redundant command, planning, support, and transportation capabilities, for response to several simultaneous or closely sequenced attacks in dispersed locations.[26]

Other federal agencies possess tactical teams with varying degrees of proficiency and availability. Designated military Quick Response Forces (QRF), as well as the tactical teams of installation security forces, are capable of providing support to civil authorities, given either completion of the RFA process described earlier, or a local commander's determination that immediate response, on his own authority, is necessary. Few of these forces, however, are trained or equipped for CT operations even to the level of FBI or LLEA SWAT teams, and they would introduce additional interoperability and chain of command issues to offset any incremental advantage they offer, beyond assistance in perimeter control and other supporting roles.

DOD special operations forces (SOF) that have a particular counterterrorism focus possess a robust capability for tactical response, but their utility is limited by time, space, and force considerations in much the same way as the FBI HRT. The demands of wartime operations overseas further limit the readiness of these military assets. Forces tasked with domestic civil support in terrorism contingencies are unlikely to be fully dedicated to training and preparation for that mission, carrying it instead as an ancillary responsibility during periods of reconstitution, while rotated stateside out of combat zone deployments.

The Posse Comitatus Act or PCA (Title 18, U.S. Code, Section 1385) limits direct involvement of most Title 10 (active duty) military forces in domestic law enforcement.[27] The extent to which it restricts the utility of military assets in domestic CT roles is by no means resolved. As noted earlier, the seam between homeland security, where civilian

agencies lead and counterterrorism is seen as a law enforcement function, and homeland defense missions where DOD leads and possesses considerable freedom of action, is imprecise and largely untested by real world applications. Some DOD guidance claims that statutory exceptions to PCA, or direct Presidential authorization, will result in minimal restriction on its forces' freedom to assist law enforcement even during civil support missions. Other guidance is less sanguine, and the boundaries and authorities are not portrayed consistently.[28]

Academic studies, as well as common perceptions among civil authorities and even in the DOD community, reflect the same ambivalence displayed in DOD guidance.[29] Readiness of local authorities or lead federal agencies to request DOD tactical assets, to integrate them rapidly and effectively, and to entrust them with local command of tactical operations would require a remarkable and apparently not universal degree of confidence in the legal basis for their participation.

Legal issues aside, military CT teams in a domestic role would find themselves in an operating environment very unlike those that pertain to most overseas warfighting missions. They would be called upon to work in close cooperation, on compressed timelines, with civilian agencies that do not share their doctrine, equipment, TTP, or C2 structure and methods.

Conflicts over jurisdiction, responsibility, and capacity among responding local agencies, the FBI, and military assets are a form of friction that must be expected – particularly in the absence of frequent joint and interagency tactical response exercises involving all critical stakeholders. These stakeholders include LLEA nationwide, all FBI

field offices, the National Guard of every state, and the full range of Title 10 (active duty military) forces discussed earlier.[30]

In summary, tactical teams that could respond effectively to a terrorist paramilitary threat within the United States are limited in number, size, interoperability, and the speed with which they could respond to many incident sites. They would be hard-pressed to respond to multiple simultaneous or closely sequenced contingencies—a limitation that could be exploited by an adversary's use of diversions or secondary efforts. Their ability to coordinate their actions with supporting agencies in a hostage rescue or asset recovery mission against significant opposition, in a domestic environment, remains largely untested.

## RECOMMENDATIONS

The foregoing discussion has identified three significant gaps in the nation's preparedness to meet a paramilitary terrorist attack on U.S. soil: inattention to the threat in scenarios, exercises, and guidance that drive training and preparation at all levels of government; limited availability and slow deployment times of capable CT forces; and the unwieldiness of the command and control structure which would authorize and coordinate their employment. In the context of an ongoing competition for time, resources, and attention—that is, within the art of the possible--several recommendations are offered.

Great returns can be achieved from modest investments, by reorienting the considerable efforts of the homeland security community to an approach more inclusive of the full range of terrorist threats. Even without major force structure, funding, or top-down C2 and doctrinal changes (although all of these may ultimately be necessary), the

gaps in preparedness may be narrowed considerably. Simply widening the focus of exercises to include paramilitary terrorist attack scenarios would highlight areas requiring policy attention, identify work-arounds, and prepare key decision makers for their roles in this type of situation. Proper critiques of such exercises, and wide, effective dissemination of lessons learned to agencies at all levels from local police to DHS, DOD, and DOJ would be critical, and is the most often neglected part of the training process. After-action reviews must be brutally honest, fully documented, and devoid of blame. Participants must set aside egos as well as personal and interagency rivalries and welcome the use of their failures, along with their successes, to educate their counterparts nationwide.

Three more components of a likely solution emerge from the preceding analysis. Implementation will require careful consideration of where the domestic counterterrorist mission should reside, but should be shaped by the following assumptions:

- Dedicated, full-time CT units can best provide the key tactical competencies required to resolve an ongoing incident.
- Streamlined C2, cutting the Gordian Knot of the NRF authorization process, could promise the rapid commitment of CT units in a crisis.
- Regional basing could drastically reduce deployment time to all parts of the country, compared to the current reliance on centralized assets located on the coasts, while also promoting area familiarity and interoperability with local, state, and other federal agencies in each region.

## A Military Solution

Studies of the DOD role in homeland security, much like the official literature, focus primarily on support to civil authorities in natural or manmade disasters and WMD terrorism scenarios. Certain of their recommendations could nonetheless contribute to improving counterterrorist capabilities. These include the constitution of standing, regionally based response units with a primary civil support mission, each based on an Army Brigade Combat Team or a Marine Air Ground Task Force, substantially augmented with specialties such as Military Police, Engineers, and Civil Affairs from both active and reserve components. To address the deficiency in CT capabilities posed by this analysis, they might also include dedicated CT teams drawn from U.S. Special Operations Command (USSOCOM). One study suggests a total of three of these reinforced brigades.[31] Another more ambitiously proposes one for each of the ten Federal Emergency Management Agency (FEMA) regions.[32]

Both studies conceive of these response forces as full time, federally funded Title 10 forces, assigned to USNORTHCOM. Under the current system, USNORTHCOM only receives operational control over active and reserve component formations during a crisis, in response to a Request for Assistance. While active duty forces assigned permanently to USNORTHCOM could presumably respond more quickly once committed, processing RFAs through civilian interagency channels could still delay their commitment, despite their relative proximity to an incident site and their simplified chain of command.

Issues relating to Title 10 versus state active duty or Title 32 status for National Guard components of the proposed regional response forces are not particularly relevant

for their counterterrorist components. Maintenance of proficiency in complex perishable skills, and the requirement for swift deployment in a crisis, both argue for full-time, Title 10 active duty status for the CT teams. For Title 10 forces, however, the ambiguity discussed earlier concerning legal authority—is the mission homeland defense or support to civilian law enforcement—would still beg resolution.

The advantages in response time gained from regional basing would be somewhat offset by the difficulties of ensuring consistent, high quality training and support for dispersed SOF elements no longer centrally based or assigned to USSOCOM. Regional reproduction of the training facilities and infrastructure of USSOCOM is unlikely, suggesting either reduced opportunities for training or regular travel out of region to training sites. Team size would have to be large enough to maintain a capable, responsive element on call for crisis deployments, while accommodating training and administrative requirements. These would not be small teams.

Reliance on DOD for improved domestic CT capabilities would also require funding for further expansion of SOF, in order to avoid a negative impact on war fighting capabilities and commitments; fencing these units from diversion to other missions; time to identify and assign cadre, and then to recruit, train, and attain operational capability for new CT teams; and finding or improving appropriate basing facilities with ready access to air and ground transportation covering the assigned region. These requirements would also pertain more broadly to the larger project of standing up brigade-size regional response forces, and could introduce significant delays in implementation.

## A More Civil Approach

A better solution to this problem may be found in an expansion and redeployment of existing FBI counterterrorist capabilities. The HRT offers a model for an expanded, regionally based Federal CT force. Depending on how regional boundaries were drawn, two or three additional teams of similar strength and organization would constitute a significant improvement in capabilities and responsiveness, for a relatively modest investment in 200-300 additional special agents, plus administrative and support echelons as required. New teams could be built on cadre recruited from Field Office SWAT teams and the existing HRT, and augmented as necessary from those sources until additional recruitment and training filled their ranks.

This approach would provide a simplified C2 structure, unambiguous jurisdiction and legal authority, and a clear orientation to the domestic operating environment in doctrine, tactics, and training. These teams might contribute to the non-CT missions of the Bureau's current SWAT and HRT teams so long as readiness for CT contingencies remained their first priority. They could relieve DOD special operations forces of responsibility for domestic CT missions in all but the gravest circumstances.

Such an expansion of agent end-strength, and the necessary support staff and infrastructure, would require a significant increase in FBI budget, but is not disproportionate in the context of other ongoing increases in federal law enforcement manning and capability, for instance in the effort to improve border protection. Shifting current efforts or personnel without expanding end-strength, beyond the use of existing technical expertise and tactical leadership for cadre, could only damage the Bureau's ability to conduct other vital tasks. Rather than a diversion of resources from other

efforts, this should be undertaken as a necessary increase in the nation's investment in security from terrorist threats.

## CONCLUSION

In the gap between prevention (where we stake many of our hopes, and count many successes) and consequence management (where we currently devote a preponderance of our resources) lies the risk of a technically unsophisticated paramilitary attack on assets we are not prepared to lose, and which might offer tremendous leverage to a ruthless and dedicated adversary. It may be time to heed our own counsel, as stated in JP 3-07.2, *Antiterrorism*:

> Terrorists choose their targets deliberately based on the weaknesses they observe in our defenses and in our preparations. They can balance the difficulty in successfully executing a particular attack against the magnitude of loss it might cause. They can monitor our media and listen to our policymakers as our Nation discusses how to protect itself - and adjust their plans accordingly. Where we insulate ourselves from one form of attack, they can shift and focus on another exposed vulnerability. We must defend ourselves against a wide range of means and methods of attack.[33]

Political, legal, and budgetary considerations will continue to bound the art of the possible; there can be no perfect or impenetrable defense. Prioritization of threats to homeland security will remain a calculus of probability and consequence; but the threat we neglect may well prove most appealing to the adversary.

## END NOTES

[1] Dunlop, *The 2002 Dubrovka and 2004 Beslan Hostage Crises*, 17-101; Giduck, *Terror at Beslan*, 111-143.

[2] National Terror Alert Response Center, "The Terrorist Threat To Our Schools Pt. 1."

[3] U.S. President, *National Strategy for Combating Terrorism*, and Libicki, et.al., *Exploring Terrorist Targeting Preferences*, 74, articulate the belief that hard targets – those protected by passive and/or active defenses – are less likely to be targeted, while recognizing the appeal of soft targets of symbolic as well as material value.

[4] WMD are often referred to by the more descriptive acronym CBRNE: Chemical, Biological, Radiological, Nuclear, or High Yield (conventional) Explosives

[5] The modern lexicon of terrorism offers no broadly inclusive, commonly accepted terminology for the sort of attack suggested here. Terrorist hostage-taking, asset seizure, siege, and assault are all variations on a theme, sharing a key characteristic central to this analysis: the perpetrators are a sizable group of highly motivated individuals trained, organized, and equipped much like an infantry or special operations force but without the status or accountability of a state-controlled military force. The author uses the term "paramilitary" to describe this set of attributes.

[6] Paz, "Global Jihad and WMD: Between Martyrdom and Mass Destruction," 74-86, argues that despite discussion among Islamist scholars and declarations by certain al Qa'ida leaders and cadre, WMD are less attractive than more conventional 'martyrdom' operations for both technical and ideological reasons.

[7] U.S. President, *Management of Domestic Incidents*, HSPD-5.

[8] Ibid.

[9] It is interesting and somewhat reassuring to note that despite HSPD-5's guidance, DOD continues to differentiate crisis management from consequence management; see JP 3-28, *Civil Support*, I-9.

[10] U.S. Department of Homeland Security, *National Response Framework (DRAFT)*. The replacement of a "plan" with a "framework" reflects a realization that the scope of issues and agencies addressed is too broad to permit detailed planning at the national level. The NRF offers more broadly couched conceptual guidance for planning by lower echelons of government.

[11] U.S. Homeland Security Council, *National Planning Scenarios.*

[12] The sole exception is in one of the biological warfare scenarios, in which infected individuals travel through the country over an extended time period in order to spread contagion.

[13] Representative samples of the bias toward WMD scenarios include U.S. President, *National Strategy for Homeland Security;* U.S. Department of Homeland Security, *Guidelines for Homeland Security* and *Homeland Security Threat Assessment;* and USNORTHCOM, CONPLAN 2501-05. The threat of terrorist use of IEDs on a less apocalyptic scale is gaining traction in recent guidance, including for instance U.S. President, *Combating Terrorist Use of Explosives in the United States*, *HSPD-19* and *National Strategy for Homeland Security*, 20; and U.S. Department of Homeland Security and Federal Bureau of Investigation, *Background Information on Potential Terrorist Targeting of Public Facilities.* Attention is still directed overwhelmingly to either prevention or post-attack consequence management.

[14] U.S. Department of Homeland Security, *National Response Plan*, 9, and *National Response Framework*, 21-22 reflect the specific guidance of *HSPD-5* regarding the responsibilities of the Attorney General and the Secretary of Homeland Security as heads of their respective agencies.

[15] U.S. Department of Defense, *Homeland Defense and Civil Support Joint Operating Concept*, 5-8. USNORTHCOM, CONPLAN 2501-05, Paragraph 1d(1), indicates that enemy forces are not expected to be encountered during defense support of civil authorities (DSCA), and that their presence would trigger CONPLAN 2002-05 *Homeland Defense* (U)*;* notes that antiterrorism measures can still be applicable during DSCA; but emphasizes (ibid., Paragraph 1g(3)) that terrorist acts do not fall under any of the

exceptions to legal and policy restrictions on military support to law enforcement, discussed further elsewhere in this paper. Counterterrorism is clearly considered part of the homeland defense task set under certain circumstances—but DOD is unambiguously lead agency for homeland defense in any form. A tour through the guidance raises more questions than it answers.

[16] U.S. Department of Defense, *Homeland Security Joint Operating Concept*, 8.

[17] JP 3-28 *Civil Support*, II-3–II-7, and USNORTHCOM, CONPLAN 2501-05, Annex A (not paginated).

[18] Military commanders are authorized to respond without prior authorization through the RFA process in time-sensitive situations, although it appears unlikely that specialized counterterrorist forces hundreds of miles from the incident scene would deploy on this basis. JP 3-28 *Civil Support*, II-7.

[19] Federal Emergency Management Agency, *National Incident Management System*, 47-50.

[20] Assorted Russian Federal Security Service and military units arrived at Beslan throughout the 28-hour period between the initial takeover and the poorly conducted assault which resulted in hundreds of dead hostages. Armed local militia proved even more resistant to command authority, and less attentive to rules of engagement, than the security forces. During this time, inconsistent attempts to negotiate with the terrorists, and the lack of rest or sustenance degraded terrorist morale and discipline. Hostages were abused and killed throughout the siege. Terrorist preparations to resist assault were continuous from the time of the takeover. There is no indication that the passage of time worked to the advantage of the authorities in any fashion. Dunlop, *2002 Dubrovka and 2004 Beslan Hostage Crises*, 51-82. If the seized assets were instead nuclear, radiological, or other CBRNE materials, they would require recovery at the earliest possible moment to prevent catastrophic exploitat-ion by the terrorists.

[21] Thirty-two terrorist bodies were recovered on the scene, but eyewitness reports and professional critiques suggest that the total terrorist force may have numbered between 50 and 70--with the balance escaping during the poorly coordinated assault. Dunlop, *2002 Dubrovka and 2004 Beslan Hostage Crises*, 41-42.

[22] "SWAT" is employed for convenience here to describe a variety of designations, e.g. Special Response Team, Special Operations Team, or Emergency Response Team.

[23] Giduck, *Terror at Beslan*, 289-316, offers a detailed analysis of the inadequacies of routine domestic SWAT practices when confronting a Beslan-like threat. Author's experience as a trainer in the Special Response Force Program of the U.S. Department of Energy confirms the importance of a counterterrorist focus for responders to such incidents.

[24] Author's observation of Operation Urgent Response, sponsored by the Transportation Security Administration in northwest Arkansas in 2004. In this exercise portraying a terrorist takeover of a passenger train, SWAT teams from neighboring jurisdictions demonstrated poor interoperability, and Unified Command in the ICS command post did not result in effective assault planning in the limited time available. The conclusion is further reinforced by the author's experience planning and conducting numerous training exercises 2001-2005 involving Department of Energy tactical teams and interagency counterparts nationwide.

[25] Federal Bureau of Investigation, El Paso Division, "SWAT and ERT," supported by Special Agent David J. Raymond, telephone call with author, 16 October 2007, and by author's observations based on joint training and interaction with FBI regional SWAT team members 2001-2004.

[26] Federal Bureau of Investigation, "Investigative Programs, Critical Incident Response Group: Tactical Support Branch," further explicated by Special Agent David J. Raymond, telephone call with author, 16 October 2007.

[27] U.S. Navy and Marine Corps forces are restricted only by customary DOD policy, not by the letter of the law.

[28] For instance, U.S. Department of Defense, *Homeland Defense and Civil Support Joint Operating Concept*, 40, and JP 3-28 *Civil Support*, F-2 assert broad authority for Title 10 forces under various statutory exceptions or direct Presidential authorization; but JP 3-28, I-9 cites "legal restrictions which generally preclude DOD from participating in CrM [crisis management] law enforcement investigations

and operations." USNORTHCOM, *Defense Support of Civil Authorities*, Paragraph 1g(3) also provides a narrower interpretation of the circumstances permitting military involvement in law enforcement during civil support operations.

[29] Stevens, *U.S. Armed Forces and Homeland Defense: The Legal Framework*, 3 and 22-27, argues for broad Title 10 authority, while a more restrictive view is expressed in Brake, *Terrorism and the Military's Role in Domestic Crisis Management*, 11.

[30] Author's observations of Department of Energy Joint Training Exercises 1994-present are illustrative of these frictions. In one case (Exercise Digit Pace II, 1997) conflicting assertions of authority by a DOE tactical commander and State Police Incident Commander on-scene resulted in the passage of several hours before the two first met to begin discussions regarding unified command. On another occasion, an FBI Special Agent in Charge (SAC) arrived at an incident scene and asserted immediate LFA command authority in the midst of ongoing tactical operations despite the absence of Bureau resources, communications capability, or situational awareness. Every such occasion generates valuable lessons learned and should contribute to a steep learning curve for all involved – but are these experiences frequent and inclusive enough, or disseminated widely enough, to have broad utility?

[31] Davis, et.al., *Army Forces for Homeland Security,* suggests integration of these three brigades with the forthcoming DHS regional structure. A counterterrorist team is part of the organization proposed by this study.

[32] Johnson, "Active Component Rapid Response Force," envisions ten Regional Response Units, a number difficult to provide in an era of limited forces and heavy overseas commitments. Fencing ten brigades out of the overseas deployment cycle may be impossible for at least the near future. However, the alternative of assigning the civil support mission to units reconstituting from a deployment or preparing for their next one would not meet the need for dedicated forces with focused training and planning for their domestic responsibility. A more modest number of dedicated response units, based upon broader regional boundaries than FEMA's, might be advisable.

[33] JP 3-07.2 *Antiterrorism*, II-08.

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