The Future Is Built upon the Recurring Lessons of History

Michael Buerger

Those who do not remember the lessons of history are condemned to repeat them.
-- Georges Santayana

It is commonplace to refer to September 11, 2001, as the day that "everything changed" for American citizens. The attacks on the World Trade Center, the Pentagon, and the unknown target of the terrorists aboard Flight 93 placed the nation "at war," but in a war like no other. We face a stateless agency and a world-wide insurgency linked to ideological rather than national goals. The federal government has undertaken a massive reorganization effort in the name of homeland security, and the national budget priorities have been realigned.

Before 9/11, the United States military had made the most effective effort to adapt to the new reality of international terrorism. In the public eye, military victories in the combat theaters of Iraq and Afghanistan (and the less-publicized covert operations elsewhere) stood in stark contrast to what was depicted as the bumbling of civilian agencies that failed to prevent the attacks. As more and more failures and shortcomings of domestic agencies were revealed, the military seemed to provide a viable alternative to the "stovepipes" of the intelligence communities. In some areas of public discourse, a new commonplace was being floated: if there was to be another successful large-scale terrorist attack, the military might be asked take over the protection of America's domestic security from the police.

That assumption and those factors comprised the starting point for this volume of the Proceedings of the Futures Working Group. In our April 2006 meeting in Orlando, Florida, FWG members identified the threat of international terrorism and the attendant "role of the military" issue as the most visible of a number of trends that already do or soon will affect the American police.

Prior to 9/11, two of the authors in this volume had previously published articles on what was then the emerging concern about the "militarization" of the police—the growing use of police paramilitary units (known more familiarly as SWAT teams in the United States). The issue was first raised by Kraska and Cubellis (1997) and Kraska and Kappeler (1997), whose work was grounded in earlier criticisms of the "war on crime" metaphor. Cowper (2000) addressed the errors that result from the police clinging to a nostalgic and incorrect understanding of "the military model" in their pursuit of legitimacy as a quasi-military force. He proposed that there is greater value in examining the changes wrought within today's military establishment, against which the police vision is but a distorted cartoon. Buerger's (2000) rejoinder examined the potential impact on the police of adopting the newer military model. Both authors (who are also contributors to this volume) are aware that succeeding events have added new dimensions to the issue.

The events of 9/11 moved the debate beyond those propositions and arguments. More important, the new mission of "nation-building" that followed the initial military successes in Afghanistan and Iraq changed the military role. While a new political structure was being created for the nation of Iraq, the

peacekeeping functions required in the face of asynchronous warfare placed the military occupying force in a role much closer to that performed by American police. The greater dangers of an insurgency, sectarian militia, and an uncertain (if not eroding) mandate make the military situation much more perilous, of course. Nevertheless, the command and the troops have responded to their new mission of being a de facto police force as well as military defenders of a nation.

While the organizing theme of this volume is the issue of these evolving roles of the military and the domestic police in the shadow of a terrorist threat, both institutions are touched by much broader social and economic trends. The larger question is whether the respective roles of those two institutions will change from their currently understood dimensions and to what extent: a fundamentally radical shift or more subtly in a series of minor adjustments?

Futures work is not a matter of prediction but an analysis and extrapolation of trends. Though we perforce alter our extrapolation in the face of "wild card" contingencies, futures work examines the arc of important social trends and their potential divergent paths, then attempts to identify intervention points or strategies that might shape the more desirable futures.

Within such a framework, we recognize the possibility that the "war on terror" may be the least important of the social trends affecting the police. Terrorist groups and networks can be tracked, infiltrated, suckered into a honey pot trap, or otherwise interdicted. They can be outlasted, kept on the run by enforcement pressure until the heart and spirit of the organization collapses or drifts back into the shelter of the mainstream, as the domestic radicals of the 1960s and 1970s did. And they may

be neutralized by social changes that remove the social support that provided cover for them, as we have seen in Northern Ireland, Spain, and elsewhere (including the erosion of support for the once-nearly mainstream white supremacist organizations, like the Ku Klux Klan in the U.S.).

The international terror of al-Qaeda (Osama bin Laden's organization), its network of sympathetic movements, and the more diffused network that takes ideological inspiration from the organization affects most Americans only at the symbolic level. While far too many Americans have been touched personally by the events of 9/11, the bombing of the U.S.S. *Cole,* and other attacks against American targets, Al-Qaeda is for most of us this generation's Symbolic Assailant (Skolnick, 1966). It is the wolf that lurks on the fringes of the forest and which might attack again somehow, somewhere. As such, it has shattered our complacent feelings of invulnerability and forced us into defensive postures and expenditures that affect our lives. Those impacts are attenuated, however, watered down across time and distance from actual events. The longer we go without another effective attack, the more the danger recedes, and "Condition Orange" becomes the new "Condition Green."

Other trends have a far more substantial impact on our everyday lives, even if we have little or no more awareness of their ongoing influence than of al-Qaeda. Many of those trends are in some way linked to the rise of international terrorism, of course, but they are more easily discussed as individual trends in the first instance. More important to our purposes, each is linked to the present and developing capabilities of the police and the military, though in varying degrees and forms for the two institutions.

Technology

At the core of almost all of the changes in trends is the exponential growth of technological capabilities. The last half-century has seen the slowly rising curve of development arc sharply upward in what futurists refer to as "accelerated change" (Smart, 2004). Microcircuitry, the advance of computer technology, robotics, and a host of associated developments have been bolstered by advances in chemical sciences that have improved agricultural efficiency, medicine, and manufacturing capacities. These advances have changed the world's economy and with it the world's politics.

Military needs have driven many of these technological advances, and the U.S. government has made a concerted effort at technology transfers from the military to the police of the nation. The police also represent a secondary market for equipment that the military rejects or no longer needs, as well as for surplus. Whether the technology is appropriate for police use in a domestic theater, worth the price, or simply an enticing new toy that leads to shortcuts and problems are ongoing discussions.

Cyberspace

The rise of the Internet rapidly led to the creation of an entirely new shadow world we call cyberspace. From the comfort of their home or office people can seek information sources from the world's greatest libraries as well as new entities, communicate verbally and visually with people in almost any corner of the globe, renew old associations, create new identities; and exercise magical powers in virtual worlds once confined to text. They can also trade pornography and blueprints for infernal devices, hatch nefarious plans with confederates, locate and stalk former intimates who fled violent or constricting relationships, troll the ever-expanding universe of chat rooms to groom underage sex partners, and empty my bank account from somewhere in Bulgaria.

The Declining Significance of Work

More important, as robotics and efficiencies in global shipping erode the traditional labor functions of manufacturing, the Internet has led to an increasing number of social dislocations related to the workplace. Some 15 years ago, Joel Garreau described the earlier phases of the relationship between technology, work, and residence:

- early factories were built near rivers for power, and people walked to work from company-owned tenements;
- railroads and trolleys made it possible to reach work from farther distances, as cities began to expand;
- the development of an efficient internal combustion engine led to the mass-produced car, allowing people to live farther from work; the post-WWII rise of suburbia relocated the middle class outside the core cities, leaving the inner cities to the very rich and the very poor;
- as the cities became more crowded and more expensive, more and more corporations built new headquarters where their employees lived, creating new cities ("Edge Cities" in Garreau's term) that served a more homogeneous population of the middle and upper classes, and abandoned the older core cities;
- highly efficient robotics have since eliminated the need for human labor in many manufacturing processes, shifting the emphasis of human input toward design and development ("cleverness," in Garreau's term).

Since the publication of *Edge Cities*, the Internet and other increases in communications technology (satellites, fibre optic lines, etc.) have broadened the divide between work and home. The concept of telecommuting and teleconferencing have been added to our vocabulary as people contributed to companies' work first from the rural and outer suburban areas and now from overseas. Entire industries have been relocated to nations where labor is much cheaper than in America, and the American police inherit some of the social consequences of the loss of meaningful employment.

The rise of globalization has also been paired with the rise of new markets, which benefit at least those Americans wealthy enough to own substantial shares in the prospering companies. Culture travels on the coattails of commerce, however, and has contributed to the clash of cultures, which fuels the present Islamic fundamentalist backlash against American interests. Most dangerous of these is al-Qaeda because Osama bin Laden has ties to both worlds. His operatives are driven by ideological views that reject and are inimical to the technology-driven West, but they are nonetheless technologically savvy and capable of using the West's technologies against us. While the military uses technology with increasing effectiveness against traditional insurgencies around the globe, they must still cope with the intricacies of culture. The intelligence community supporting the military mission has similar challenges. As effective as high technology can be, there are still gaps that must be filled with human efforts, and the role of culture is paramount.

Globalization

Economies are no longer local or national. The American economy was the strongest in the world at the end of the Second World War, primarily because the homeland was protected by physical distances that outstripped the existing mechanical technologies of the age. The Marshall Plan and foreign aid helped rebuild substantial parts of the world destroyed by bombs and invasion, while the Cold War tensions between the United States and the Soviet Union held our attention under the threat of mutually assured atomic and nuclear destruction. By the time the Berlin Wall was torn down and the Soviet Union dissolved into the Russian Confederacy, much of the world had been recast in the American model.

We now live in an era of global economies with stock markets in New York and Chicago but also in London, Tokyo, Kuala Lumpur, and elsewhere. Europe has coalesced from a fragmented group of states into the European Union, with a common economy for most member states, more permeable borders, and free trade. A comparable entity is being forged in the Association of South East Asian Nations (ASEAN). The North American Free Trade Alliance has lowered trade barriers and tariffs in the western hemisphere and spawned efforts for duplication in the southern part of the hemisphere.

Free trade agreements and economies in transportation (the emergence of the cargo container that travels by ship and by rail) have reduced the costs of transportation to the point where capital can move its manufacturing base easily to areas of low labor costs, ship the manufactured products back to the U.S. and Europe, and still make a profit. High-technology jobs and service jobs that operate by telephone and the

Internet have been outsourced to foreign labor markets as well.

The Declining Significance of National Borders

Immigration patterns have also changed. Large numbers of persons from South America, Africa, and the poorer Asian states still seek economic advantage in America, Europe, and the oil-rich Middle East. In the United States, immigration is no longer a one-way street thanks to improved technology, lower transportation prices, and freer passage across international border for legal immigrants. Not only does money travel from America to the immigrants' homelands but often the immigrants themselves travel to and from their country of origin. The creation of the Schengen Zone in eastern Europe, for example, is one of the last acts of dismantling the former Soviet Union, but it signifies a very different approach to the balance between national, regional, and global citizenship. Recognized political boundaries are also becoming increasingly nebulous as "human affiliations" that include everything from legal and illegal trade agreements to financial and familial alliances transverse established lines of governance.

Law

Globalization and the war on terror, each in their own way, are creating fundamental changes in the structure of law. As the economy is more and more anchored in global markets, American law no longer serves as the sole standard for conduct. Recent headlines have highlighted Microsoft's conflict with the European Union's laws on intellectual property, which are markedly different from our own, and there is an ongoing debate with the People's Republic of China over their vast market of pirated software, DVDs, CDs, and other "knock-off" goods.

Also in recent headlines has been the conservative uproar over the 2005 United States Supreme Court case of *Roper v. Simmons* (543 U.S. 531), in which Justices noted the evolving world-wide sensibilities against the death penalty. As American law enforcement increases its overseas presence in an attempt to combat international crime (both traditional enterprise crime and the more free-lance cybercrime), they must operate within and cooperate with systems vastly different from our own in order to be effective. While parallel efforts in the political sphere seek to alter the rules in the long term, law enforcement's ability to protect American citizens from predators overseas is still dependent upon an ability to work with and within legal cultures with radically different rules, standards, and expectations from our own (e.g., corruption, political ideologies).

The war on terror has brought similar changes. To extradite terrorists apprehended in foreign lands to the United States, we have been and most likely will be required to forego the option of the death penalty. Because our military actions are now directed against a stateless adversary that rejects Western principles, the rules of war of the Geneva Convention have no grounding. The gap has been filled by a new language of "unlawful combatants" and political maneuvering to create what is essentially a new form of law. This "new law" constitutes a structured approach to crafting appropriate responses to the new situations created by the al-Qaeda movement; it fills the shadowy gap between the battlefield rules governing state agents, criminal law governing offenses against domestic codes, and the realities of the new phase of international terrorism. The language that fills the American media, Guantánamo, military

tribunals, renditions, and the like, all reflect an *ad hoc* attempt to fashion effective responses to armed aggression in an arena that standing law has not addressed and for which current legal conventions are deemed insufficient, while still remaining tethered to the principals governing existing law.[1]

Domestically, there has been a shift away from traditional notions of enforcement. Even regulation has been weakened, giving way to a different form of negotiated conciliation. That model dominates the business sphere and has made inroads even in the realm of criminal justice through restorative justice, community circles, community service, and other forms of non-punitive resolutions of wrong.

An additional wrinkle is the withdrawal from participation in the criminal justice system by the corporate world. Because public trials and the publicity attending investigations can reveal corporate vulnerabilities and intellectual property (read "trade secrets"), many corporate entities elect not to report crimes to the police. They are resolved through civil processes and negotiations, removing (perhaps) important elements of criminal justice from the public sphere.

Cyberspace
The creation of a virtual world has parallel developments in the physical world. Identity theft has become easier and more prevalent as the essential codes that represent individual people (strings of ones and zeros that are the

computer code for names, addresses, social security numbers, bank and credit card accounts, and so on) reside in an ever-expanding number of databases, accessible to an ever-expanding number of legitimate users and illegitimate hackers. Internet phishing scams, countless variations of the Nigerian Oil scheme, work-at-home frauds with multiple facets, and a growing list of predators' intrusions expand the reach of age-old bunco operations by reaching exponentially greater populations of potential marks with less effort than ever before. Because cyberspace knows no borders, legitimate and illegitimate commerce alike can span the globe with ease.

The rapid transformation of commerce in cyberspace and of the crime that follows close on its heels dislocates all of our traditional notions of jurisdiction anchored in physical space. The historical expectation that the perpetrator and victim meet at a particular crime, in a particular space over which a certain court and agency has jurisdiction does not apply in cyberspace. While all of the new cybercrimes have analogs in the older crimes of physical space such as theft, fraud, harassment and stalking, and destruction of property, their consequences are of a far different order. The boundaries of physical space were originally broken by the telegraph, and laws dealing with mail fraud have long been a staple of criminal investigation, but they pale before the scale of cyberspace. The sheer volume of Nigerian Oil Scam letters, phishing e-mails, work-at-home schemes involving victims in multiple jurisdictions, and other forms of technology-enabled crime is one distinction. The "hot potato" game of police denying jurisdiction, based in a dual lack of legal authority and financial resources to pursue such cases, is another. The capacity for damage to the

---

[1] The debate over what does and does not constitute torture, or, more kindly, where the border lies between "pressure" to develop high-value intelligence and outright torture, reflects the extreme edge of that process. We recognize its importance, both in instant and second- and third-level effects on both sides, but it does not fall within the purview of the Futures Working Group's focus for this volume.

nation's banking systems and power grid, for forgery of documents and destruction of any number of electronically-based assets, is substantial. The concept of an "electronic Pearl Harbor" directed against the nation's defense systems and electronic infrastructure is one of the staple "what-if" scenarios of the war on terror.

In some ways, cyberspace is indeed a "wild west" type of frontier in this regard, with modern-day Pinkerton agents (those with the technical savvy to follow a trail in cyberspace) available to those who can afford their services. The average citizen, whose loss is well under the threshold limits that legally-empowered public agencies will accept, have little or no recourse. The more endowed entities, including the military and the corporate world, still play a "Spy vs. Spy" game with the black-hat hacking underworld, with the average citizens the electronic version of the "mushrooms," their communications and finances at risk of a drive-by hacking. The local police forces, the normal agents of prevention, interdiction, and investigation, have little capacity—whether intellectual, technological, or financial—to turn the tide of cybercrime on behalf of the citizens in their jurisdiction.

Privatization

Independent of the other trends, we have also seen a shift in the philosophy of government. Long-held assumptions about the proper division of public and private spheres have been challenged. A conservative belief in the greater efficiency of the private sector (compared to the perceived calcification of the civil service-protected public sector) has been joined to a desire to limit the responsibilities of government,

and especially the tax burdens such services create.

As a result, over the last quarter-century, many of the functions traditionally reserved for "The State" have been given over to the private sector. There is now a wide network of private prisons and increasingly of private police. While those agencies employ persons in a limited capacity with training that meets the minimum standards of the state, they have the power to enforce the laws of the state, but only within the bounds (usually defined by property) of a private, proprietary employer.

Limited-jurisdiction police are not a new development. Railroad police have long had limited jurisdiction over a private enterprise that crossed through multiple jurisdictions. Universities have employed their own police; the special considerations attending a self-contained residential city justify dedicated resources, both supplementing the broader powers of the city police and easing the burden on them. What is new in the present day is the increasing number of special police forces and private security guards tending gated communities. Some commentators suggest that the rapid growth of private police is both a symptom of a lack of confidence in the public police and a harbinger of their ultimate marginalization.

Privatization has begun to affect both standard police services and those of the military. Private contractors now provide guards for prisoners in medical facilities and even transportation in some cases. Some guard crime scenes, freeing police officers for other work or to pursue the main investigation. Civilian contractors also provide security for military bases at home and abroad, even in contract zones, like Iraq. Private laboratories provide some analysis of evidence and

forensic services in areas, like compu-ters, where police capacities are weak.

Against the tapestry of the modern age, the pundits aver, the old institution of a professional police is under siege from private competition. Corporate investigation services, not bound by the restrictions of the fourth amendment, have at their disposal a wide array of tools, such as data-mining, which public sentiment denies to law enforcement. Wealthier citizens prefer to pay additional money for private police/security services over which they can exercise more direct control and receive more dedicated services than the public police provide them. Against such a backdrop, perhaps it is time to ask whether we need a "New Police," and if so, what form it might take. Some of the possibilities are explored in this volume.

A New Challenge

This introduction proposes a vision that encourages the reader to turn back the clock to a similar period in history when rapid advances in technology had radically changed the nature of commerce, work, and the daily expectations of life. The existing organs of civil law enforcement, born of earlier ages, proved inadequate to the demands of the new social conditions of mechanization, urbanization, and industrialization.

A similar debate over the need to control a perceived threat took place in England in the 1820s—the rise of "the dangerous classes," dispossessed individuals without adequate employment or social support. It was a period of massive social change, as the new technologies of the Industrial Revolution concentrated a population formerly occupied in agriculture. It

created dense urbanization that dehumanized its new, desperate residents: the cities of the Charles Dickens novels, full of David Copperfield orphans and Bill Sykes villains. Crime was running rampant, and a labor movement was growing stronger, agitating for the opportunity to earn a fair living. Mass demonstrations were frequent, crime seemingly unchecked, and riots a constant threat.

The old policing institutions—the Watch, the Constable, and the Justice of the Peace—were all relics of the Agricultural Age, a time when crime was rare. A patchwork of new quasi-policing institutions had grown up in London during the 18th century to try to fill the gap: private police in the form of a paid watch in some of the wealthier parishes and privately paid guards on the private highways and in river warehouses. They protected private interests against highwaymen and thieves, but there was little benefit to London's citizens. In that time, too, there was talk of the need for the military to take over the duties of keeping the peace. They had strength of numbers, discipline, and, if necessary, force of arms. Moreover, they commanded the respect of the country.

Two factors stood in the way. First, the military did not want the duty of policing domestic conflicts. The commanders of the army and navy understood their role as defending the nation against foreign enemies, not defending Englishmen from Englishmen. Second, the public and the military both had vivid memories of two events in which the military had intervened in public affairs with catastrophic consequences. In 1780, the army had suppressed the Gordon Riots in London, firing on the mob and killing a number of English citizens. When the army refused the commission to disperse a large labor rally in St. Peter's Field in 1819, factory owners

appealed to the Yeomanry, a force of retired military cavalrymen who were small landowners. In today's terms, the Yeomanry would occupy a niche between the legitimate National Guard or Ready Reserve and the self-appointed militia groups. When the Yeoman forces dispersed the rally with a cavalry charge, Englishmen again died at the hands of their own.

At that time, Sir Robert Peel proposed that a civilian police force organized along military lines but under civilian control be mobilized to help restore order in the cities. Because the term "police" was associated with the secret police of the French Revolution (especially the Terror and the Directorate), the parliament and the populace alike were resistant to the idea. After a series of compromises and refinements, however, Peel finally won the battle for a "New Police," and in September 1829, the London Metropolitan Police force held its first muster.

There are, of course, significant differences between the two eras. The dislocation of labor during the Industrial Revolution was far more dramatic than the shift from the Industrial Age to the Information Age. The latter is buffered by the emergence of a service economy and a more well-developed social safety net of government assistance than existed in London in the 1820s. Much of the existing infrastructures are able to absorb and enable the transformation; the suburbanization of America produces nowhere near the dire impact that the urbanization of England created.

Nevertheless, there are certain parallels. The existing institutions of law enforcement are ill-prepared to deal with much of the emerging cybercrime, limited as they are by matters of jurisdiction, technical knowledge and capacity, and mandate. For similar reasons, their ability to deal with international terrorist infiltration is scant at the local level, almost limited to happenstance discovery (though the capacities of the federal intelligence networks are more robust in this regard). Although it is under challenge, the Posse Comitatus Act (itself an artifact of a 19th century political situation in fact, but ingrained into the public consciousness, as well as the respective ethos of the police and the military) constrains the use of the military for domestic law enforcement.

There is also a tremendous difference between creating a new institution (which Peel, Rowan, and Mayne did in establishing the Metropolitan London Police) and radically changing an existing one. It seems far likelier that the local police would find themselves in one or another of the alternative scenarios considered herein. They might be subsumed under a larger effort (Homeland Security), extensions of an increasingly federalized system in which local controls are eviscerated. They might be relegated to insignificance, only dealing with crimes of public disorder and remaining (or returning) to the low repute of their 19th-century forebears. They may undergo a collective epiphany that leads them to define, adopt, and pursue a new form of professionalism that allows them to take on the problems of cyberspace, globalization, nanotechnology, the changing demographic and financial profiles of the nation and whatever new challenges present themselves at the turn of the next corner.

It is to these possibilities that the members of the Futures Working Group devote themselves in this volume.

REFERENCES

Buerger, M. E. (2000). Reenvisioning police, reinvigorating policing: A response to Thomas Cowper. *Police Quarterly*, *3*, 451–464.

Cowper, T. J. (2000). The myth of the "military model" of leadership in law enforcement. *Police Quarterly*, *3*, 228–246.

Kraska, P. B., & Cubellis, L. B. (1997). Militarizing Mayberry and beyond: Making sense of American paramilitary policing. *Justice Quarterly*, *14*, 607–629.

Kraska, P. B., & Kappeler, V. E. (1997). Militarizing American police: The rise and normalization of paramilitary units. *Social Problems*, *44*, 1–18.