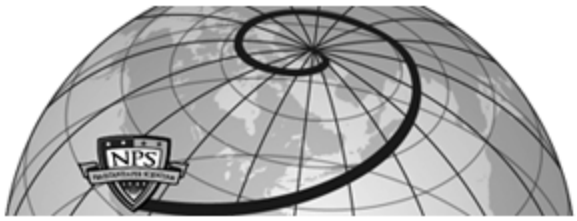

NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

LESSONS ON POLICING TERRORISM: STUDYING POLICE EFFECTIVENESS IN ITALY AND GERMANY

by

Phillip Glenn Born

December 2011

Thesis Advisor: Carolyn Halladay
Second Reader: Rodrigo Nieto-Gomez

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LESSONS ON POLICING TERRORISM: STUDYING POLICE EFFECTIVENESS IN ITALY AND GERMANY

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Submitted in partial fulfillment of the
requirements for the degree of

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ABSTRACT

As terrorism threatens a democratic nation, there tends to be an aversion to deploying military forces to combat the internal threat—rightfully so, as it speaks to democratic principles of rule of law. Because of this tendency, democratic nations tend to focus on law enforcement as the key to a successful counterterrorism strategy. This research effort studies the use of police in two comparable western democracies, Italy and Germany, to determine areas in which police effectively supported the national counterterrorism strategy. It suggests a model for analysis that posits police professionalism, preventative methodology, adaptation of technologies, and interagency cooperation as four areas in which improvements can be made to make police more effective. It finds that despite different political and social conditions in each country, changes made within these four areas consistently contributed to successful national counterterrorism efforts. These findings are further relevant to the current state of counterterrorism efforts in the United States. Lessons from these case studies indicate that Homeland Security efforts should focus on centralization of police efforts, legislation to encourage preventive policing, integrated technology efforts, and more interagency cooperation to ensure a successful internal security environment.

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LIST OF ACRONYMS AND ABBREVIATIONS

APO	*Außerpalemetarische Opposition*
BePo	*Bereitschaftpolizei*
BGS	*Bunesgrenzshutz*
BKA	*Bunderskriminalamt*
BMI	*Bundesministerium des Innern*
BR	Red Brigade
CC	*Carabinieri*
DC	Christian Democratic Party
DHS	Department for Homeland Security
FRG	Federal Republic of Germany
GF	*Guardie di Finanza*
INPOL	Electronic Police Information System (Germany)
JTTF	Joint Terrorism Task Force
Kripo	*Kriminalpolizei*
LMI	*Landerminsterium des Innern*
MSI	Italian Social Movement
NCIC	National Criminal Information Center
NPD	National Democratic Party (Germany)
PCI	Italian Communist Party
PS	*Guardie di Pubblica Sicurezza*
RAF	Red Army Faction
RZ	Revolutionary Cells
Schupo	*Schutzpolizei*
SdS	*Servizio di Sicurezza*
SIFAR	*Servizio Infomazioni delle Forze Armata*
ViCAP	Violent Criminal Apprehension Program
HSIN	Homeland Security Information Network

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I would like to first thank my family, in particular Kelly, Jade, Theresa and Zachary who have been with me through this venture into academic life for a short time. Secondly I am thankful to the great professors at Naval Post Graduate School and the Department for National Security Affairs. I have learned more in this short period than any other time in my adult life. Finally, to my thesis committee, Professor Carolyn Halladay and Professor Rodrigo Nieto-Gomez, I am deeply indebted for your editorial prowess, quick responses, and expert guidance in my research effort.

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I. INTRODUCTION

While the armed forces figure prominently in international efforts to combat terrorism outside of national borders, the truth remains that democratic nations tend not to employ a military solution to terrorism within their borders. Instead, the typical response to domestic threats is based on law enforcement, and specifically on police agencies to deter, detect, and investigate terrorist threats. Some might also add that the public expects police involvement as the localized means of response in keeping citizenry safe and achieving justice in the face of a security threat.[1] This circumstance places an importance on understanding how police agencies undertake this effort and, more importantly, points to a need to identify which policing methods have been effective in democratic states against terrorist threats.

A. IMPORTANCE AND RELEVANCE

This debate is current and timely, considering the spread of terrorism across the globe in the past ten years. The problem of police effectiveness is applicable to the United States specifically, with its thousands of jurisdictional departments and numerous other state, regional, and national police agencies whose jurisdictions overlap or, in some cases, conflict. In such a system, divergent ideas, methods, and strategies might be employed to various effects. This decentralization and compartmentalization also may discourage communication and discussion of approaches and their effectiveness. Other democratic states have faced similar challenges and arrived at solutions that could provide valuable insights to U.S. counterterrorism officials. The present work analyzes police activities in successful counterterrorism campaigns in two such states, Italy and the Federal Republic of Germany (FRG), to find effective means of combatting terrorism, both homegrown and exogenous, through the criminal justice system.

A theoretical debate not only addresses the involvement of the police in counterterrorism, but it begins more broadly from the point of view that a democratic

1 Vincent E. Henry, "The Need for a Coordinated and Strategic Local Police Approach to Terrorism: A Practitioner's Perspective," *Police Practice & Research* 3, no. 4 (December 2002): 321.

nation must protect its citizenry while also upholding the rule of law and liberal values on which the state is founded. This viewpoint accepts that terrorists pose a threat to national security, but it also insists that the actions a state takes to deal with the threat could degrade democracy and civil liberties. This anxiety, well founded in the early counterterrorism experience of most democracies, including the United States, limits the means and methods available to counter terrorist threats.[2] Thus, the democratic response to terrorism tends to treat terrorism as a crime, or at least something that can be addressed within criminal justice systems. Lindsay Clutterbuck describes this approach as the "criminal justice" theoretical framework for counterterrorism strategy, emphasizing the need for democratic countries to deal with terrorism within the rule of law in order to protect liberal democratic values.[3] An unchecked police force, which does not observe these limits of democratic governance, might lead to the very threat that democracies try to avoid by restricting domestic military force—authoritarian-type rule.

The tension between the military solution and the law-enforcement option plays out at every level of the counterterrorist response. As a practitioner of criminal justice and counterterrorism from within the military of the United States, the author has seen instances where the immediate reaction of local police to a threat has been to place overwhelming forces within a troublesome area in hopes of suppressing nefarious activities. This method, as an example, focuses on military tactics of battlefield saturation and denial instead of tried-and-true policing methods for learning about and dealing with the threat at its source. While there is a certain short-term charm to the former approach, only the latter suggests a longer-term solution that addresses the root of the problem.

This research effort will attempt to further the knowledge of police effectiveness in counterterrorism by specifically seeking out areas of police effectiveness exhibited in the counterterrorism efforts of the FRG and Italy. Which areas of police effort were

2 Boaz Ganor and David Weisburd, "Trends in Modern International Terrorism," in *To Protect and To Serve: Policing in an Age of Terrorism*, eds. David Weisburd et al. (New York: Springer, 2009), 33.

3 Lindsay Clutterbuck, "Law Enforcement," in *Attacking Terrorism: Elements of a Grand Strategy*, eds. Audrey Kurth Cronin and James M. Ludes, (Washington DC: Georgetown University Press, 2004), 142.

effective in diminishing the terrorist threat for the countries of Italy and Germany in their respective counterterrorism campaigns against right- and left-wing terrorist groups? This thesis will investigate the effectiveness of their strategies, with an eye toward generalizing the experience for a wider consideration in the United States and elsewhere.

The study of FRG and Italy allows the reader to identify effects of police contributions to counterterrorism within stable and higher-income democracies that were affected by domestic terrorist attacks as perpetrated by nationally and internationally based terrorist organizations. Unlike the efforts in the United Kingdom, which centered on a military response, the German and Italian efforts use domestic law enforcement agencies exclusively. The United States is likely to continue further improvements in homeland security and defense that rely heavily on police participation. Thus, from the Italian and German experiences, one may be able to draw conclusions as to the areas where resources and policy can be applied to better inform police efforts in current counterterrorism campaigns.

B. PROBLEMS AND METHODOLOGY

This thesis shows successful counterterrorism campaigns as a product of improvements in both the structure and methods of policing within Italy and Germany during their counterterrorism campaigns against left-wing and right-wing terrorism. Both of these countries went through a transition of all-encompassing strategies of counterterrorism over distinct periods that also coincided with changes in police activities and styles.

1. A Model for Analysis

The research develops a model for analysis that attempts to track changes in police behavior based on common recurring themes in successful national strategies for counterterrorism. These four areas, which tend to be conventional areas of policing effort, are: the ability to adopt a professional policing model, use of preventive investigative tools versus oppressive techniques, adaptation and use of technology, and increased cooperation amongst police agencies inside and outside of the state. This model allows for the creation of measures of effectiveness in these areas and the analysis

of them in the context of the counterterrorist activities of the FRG and Italy, answering the question of what has been effective in policing terrorism.

A further possible benefit of the research may be ways to increase effectiveness of the police, based not on the type of terrorist threat or structure of policing organizations exhibited within a certain country but on finding ways to increase police capabilities to support national counterterrorism strategies. Bruce Hoffman and Jennifer Morrison-Taw suggest that there are four themes in successful overall governmental strategies for countering terrorism: effective command and control structures, legitimizing measures on the part of government including legislation sensitive to public opinion, coordination within and between intelligence services, and cooperation between different countries.[4] Governments, have additional measures used to combat terrorism, including but not limited to military, defensive measures, and infrastructure protection. However, it makes sense, given a national strategy that seeks to maintain rule of law that a similar set of qualities should be sought out in looking at police effectiveness, which will allow for linkage of police effectiveness to national strategy. This research effort focusses on how police can increase effectiveness as part of a broader national strategy. The key indicators in this study—police professionalism, methodology, use of technology, and cooperation—provide this link.

a. Police Professionalism

For our purposes, professional policing relates to how police are able to adopt standardized methods and procedures. The best place to find police professionalism is in the structure and training of an organization that, optimally, allows police both to look the part and to act in a manner that produces results; such a structure also must avoid the image or substance of a system easily corrupted or excessively powerful. The structure, organization, and training reveal whether or not there similar characteristics and rules across the spectrum of law enforcement agencies. Thus efforts should be coordinated and even-handed, without difference based on race, color, or

4 Bruce Hoffman and Jennifer Morrison-Taw, "A Strategic Framework for Countering Terrorism," in *European Democracies Against Terrorism: Governmental Policies and Intergovernmental Cooperation*, ed. Fernando Reinares (Aldershot, UK: Ashgate, 2000), 9–10.

creed—in line with the ideals of liberal democracy and national counterterrorism strategies that rely on a public accounting of how the government reacts swiftly and without bias to deal with threats to law and order internally, supporting a legitimate government that meets democratic norms. It follows that as law enforcement agencies establish common methods, the command, and control of a nation's counterterrorism efforts should also improve. Similarly, legitimacy of the government is bolstered by its ability to show control and restraint over all police agencies through standardization and education, which protects against the idea that two different officials or organizations may act arbitrarily based on personal or political preference.[5]

b. Preventative Policing

Preventative policing is a hard concept to pin down due to divergent definitions of what might be preventative, lumping in measures which attempt to form a barrier or prophylactic effect. Such measures should better be thought of as deterrent or deflective of the threat, meaning the threat is not just defended at the point of occurrence. For the purposes of this research, "preventative" explains the ways in which police address the underlying causes of terrorism or, more importantly, the criminal nexus that leads to or fosters terrorism. It is one thing to bolster security around sites and conduct random searches as *deterrence*; it is another thing entirely to seek out those who might plan, coordinate, and carry out terrorist acts in an attempt to disrupt and destroy the cycle of violence—crime. Especially today, a simple look at open news sources shows that society worries about the "lone-wolf" terrorist, or criminal who does not belong to a network, as it is difficult to detect and disrupt the actions of a single person. However, in my experience and that of law enforcement in general, cases of terrorism and organized violence exhibit a support network and association of people with the same values. At a minimum, any action on a large scale requires some level of planning and preparation. A

5 Ibid., 11. An indication of weak command-and-control structures is an uncoordinated response among government agencies and can also lead to suggestions of corruption and illegitimacy. Given that public relations are considered a battleground in counterterrorism and distrust of the government is counter to legitimacy in conducting counterterrorism campaigns systems within the national government should seek to present as even-handed, well-trained, and highly coordinated agencies.

thorough investigation of these networks can aid the police in reducing occurrences and thwarting terroristic or criminal plans.

The idea of building a case against a particular suspect is at the heart of the democratic principle of justice, which focuses on individual culpability and responsibility. Intelligence-led efforts are the strongest characteristic of the investigative concept, purporting that analysis of information to target specific criminal behaviors, are better than reactionary measures based on crimes that have already occurred.[6] The study of how police investigate and attempt to prevent terrorism within the laws of the land has direct bearing on the legitimacy of the government, and its dedication to criminal prosecution as a premise of democratic norms.

c. Adaptation of Technology Components

Technology should be thought of as an enabler for law enforcement and a necessary component in meeting national counterterrorism strategies. Police must be able to communicate with each other, and they must also have a way of storing the investigative data they collect. Additionally, technology allows the collection of information, especially in light of surveillance techniques, which have developed rapidly in the latter part of the twentieth century. Police technologies, especially in communication and information sharing, directly affect how information is transformed into action, ideally in a coordinated effort. The coordination and dissemination of intelligence is considered the most important feature in building intelligence capabilities critical to national counterterrorism strategy.[7] Studying police technologies adapted to this end shows how police agencies have brought the information to the field and how technologies have aided in interoperability and coordination with other organizations. Finally, the way police work within the law to utilize technology to gather intelligence bolsters police investigative capabilities and supports democratic norms and criminal

6 The concept of investigation has long been a premise of crime fighting requiring that police attempt to determine the roots of the criminal nexus if they are to have a chance at ending a particular trend or putting a specific criminal entity out of business. Kristof Verfaillie and Tom Vander Beken, "Proactive Policing and the Assessment of Organized Crime," *Policing* 31, no. 4 (2008): 535.

7 Hoffman and Morrison-Taw, "A Strategic Framework," 17.

prosecution for the overall counterterrorism strategy. The adoption of technology and law which enables its exploitation becomes even more important as the ever increasing evolution of technology becomes available to terrorists and the public.

d. Interagency Cooperation

Interagency cooperation is pretty simple inasmuch as without it, coordinating actions is impossible. The actions of the police may follow the textbook to the letter, but if the agency at issue does not cooperate with other law enforcement agencies, such other governmental functions as the judiciary branch, or within an international framework, their actions will not contribute to the overall national counterterrorism strategy. The setup of international organizations, cooperation with prosecutions, and interaction with national and public agencies can all be indicators of police cooperation. Cooperation is vitally important as a means of not only demonstrating a government strategy, which promotes democratic norms of compromise and cooperation, but also in indicating a proactive approach. Especially in the international aspect, cooperation also shows that the police are seeking out a solution to the terrorist problem by all means legally available.

2. Methodology

As this research effort will attempt to compare police effectiveness in the counterterrorism campaigns in Italy and the FRG, the basic analytical method will consist of comparative case studies. These studies will focus on both states from the 1960s through the 1980s, corresponding with the campaigns of each country against right-wing and left-wing terrorism during this period. The purpose of this comparative analysis is to identify empirical factors that indicate effective use of police in combatting terrorism. The choice of Italy and Germany as subjects for this study allows comparison of two countries with similar democratic forms of government, facing and mitigating similar forms of terrorism, in order to isolate positive effects on a singular dependent variable, namely police effectiveness.

The dependent variable is affected by such independent variables as state policies, terrorist actions, police organization, agency collaboration, and introduction of

technology. The study of police effectiveness will show which independent variables most influenced successful counterterrorism campaigns. By studying police effectiveness, conclusions may be drawn as to how a state and its police organizations might set policy, distribute resources, and organize forces to be effective in countering terrorist threats.

The research will rely on a range of books and articles published on the subject. Additionally, many source documents are available (in translation) from the respective governments that can provide helpful in factual representation of how the counterterrorism campaign was conducted. The research model does not include interviews of participants or the establishment of new sets of first-hand data. Instead, this work relies on published records and studies of the subject area, as the basis of interpretation. The focus is on data that is peer-reviewed, which may come from subject matter expertise and provide a legitimate test for the framework of analysis proposed in this research. The author has developed this framework through this study of counterterrorism strategy and exposure to both military and civilian policing techniques, tactics, and procedures resulting from a fourteen-year career in military law enforcement.

C. THESIS OVERVIEW

The overall purpose of this thesis is to identify methods by which countries can successfully implement police policies against terrorist threats. While it would be too much to ask to find a silver bullet or golden arrow for successfully combatting terrorism, it is always beneficial to attempt to find historical evidence that may help guide one in making decisions about the future. This thesis will be structured to identify best the characteristics of effective policing that might be applicable today and in the future.

It begins by developing a method for analysis, which can then be used for a comparative look at the characteristics of counterterrorism strategy in Germany and Italy. This will help to portray the similarities and contradictions in governmental structures, police agencies, terrorist groups and public reaction that will form the basis for comparing police effectiveness between the two countries. By describing the underlying conditions of the two countries, the research joins the discussion of the problem with a

common starting point that allows for specific study of polices and methods that were introduced or refined to combat terrorism.

The research will focus on policies of the state carried out by police against terrorism. Each problem area identified—police autonomy, investigative methodology, use of technology, and police cooperation—will be compared between the states to identify their specific effectiveness. Together, these case studies provide the evidence of effective use of police, revealing how actions of the police disrupted the terrorist organizations and normalized the threat of terrorism.

Finally, the thesis will draw conclusions about what can be learned from this study, for all democracies confronted by terrorism and for the United States especially. In particular, the intent is to answer the overall question of what policing methods can aid in a successful counterterrorism campaign. This answer is best conceived by setting the conditions, identifying the ways in which the system was coerced and then studying the results of these changes. The hope is that by first describing the countries that fight terrorism, then dissecting the methods by which they sought success, a reader can draw conclusions as to how these methods might be changed or adapted to allow for use in similar situations.

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II. POLICING FOR COUNTERRORISM

The study of policing terrorism has been documented to a large extent with the concentration on how and why police are involved in combatting terrorism. The primary areas of study include theoretical frameworks for adopting police models of counterterrorism, the use of police as an institutional response to terrorism, and arguments as to methods of policing that might be effective in fighting terrorism. The study of how police become effective in counterterrorism is a subset of the latter area—and is relatively less studied than the areas of counterterrorism strategy and institutional responses. The following chapter will highlight the area of police effectiveness as it flows from the three major research areas: theories of counterterrorism strategy, the state or institutional response and policing models.

A. THEORIES OF COUNTERTERRORISM STRATEGY

While the subject of police and terrorism is not a common theme in developing a strategic counterterrorism framework, it is an implied outcome of what most scholars refer to as the criminal justice theory of counterterrorism. Study in this area shows that protection of civil liberties and government legitimacy in the eyes of the public dictates that the rule of law should prevail in framing responses to terrorism.[8] The supposition here appears to be that working within an established framework for application of law and order, the state can minimize the grievances of a terrorist group and counter public support for the terrorist's campaign of violence. In fact, some also argue that many of the actions of terrorists—murder, kidnapping and arson—easily qualify as criminal acts when removed from the political goals that terrorism pursue.[9] As such, many states typically choose to pursue a criminal justice model, arguing that terrorists have the chance to seek redress for their grievances through established (peaceful) democratic processes and any violent acts are merely criminal outbursts. In contrast, when the state treats terrorists as enemies of the state and activates a military or militarized solution, the

8 Ibid., 13.

9 Ganor and Weisburd, "Trends in Modern International Terrorism," 21.

argument runs, the group has achieved some measure of legitimacy for its political goals through the use of violence.

Many scholars point to the counter-theory to criminal justice, or the "counterterrorism as war" model. This model relies on the use of force and suspension of some rights as a basis in the name of fighting terrorism; this approach does not place the same emphasis on protecting civil liberties and maintaining rule of law.[10] This approach typically takes counterterrorism as a military matter—a matter of national security, after all—and, thus, puts the response on a very different footing, institutionally, legally, and culturally. The difference underscores the divergent approaches to the problem of terrorism and points to an important decision that governments face between utilizing police over military institutions, with an emphasis on keeping the two separate to prevent the militarization of democratic states.[11]

B. THE STATE OR INSTITUTIONAL RESPONSE

One might frame institutional responses to terrorism as the policies put in place to combat terrorism or political violence, placing value in the effectiveness of their results.[12] The study of these policies within democratic states tends to focus first on the implementation of legislation to support the counterterrorism strategy of the state and then on the implementation of that legislation. This development coincides with what some characterize as the primary duty of the government—protection of its citizens—and differs mostly in steering state action to counter the terrorist threat, as opposed to trying to isolate the widely varying causes of terrorism.[13] In short, the study of institutional responses advances the idea that states are more apt to adopt policies to counter terrorist acts and bring to justice terrorists for their actions than they are to address political grievances.

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10 Clutterbuck, "Law Enforcement," 142.

11 Mathieu Deflem, "Social Control and the Policing of Terrorism: Foundations for a Sociology of Counterterrorism," *American Sociologist* 35, no. 2, (Summer 2004): 77.

12 Donatella Della Porta, "Institutional Responses to Terrorism: The Italian Case," *Terrorism and Political Violence* 4, no. 4 (1993): 152.

13 Juliet Lodge, *Terrorism: A Challenge to the State*, (New York: St. Martin's Press, 1981), 227.

Another notable trend in this debate is a logical focus on political influence and public debate in policies for implementing counterterrorism strategy. Alternatively, the focus of politicians and public in demanding protection from terrorists, particularly in Europe, is invoked as evidence that the terrorist threat is not based on what citizens would consider a plausible grievance by the terrorists.[14] Much of the literature that focuses on the implementation of criminal-justice–based strategies emphasizes the ability of the state to pass laws that target the terrorist actions while continuing to protect the rights of its citizens. Germany demonstrates this type of "rallying around" government policies toward terrorism, where political debate turned toward focus on finding consensus so the government could act swiftly rather than ride out repeated debate over the merits of addressing terrorist grievances.[15] Another scholar similarly argues that the sole responsibility of the government when facing a threat of political violence is to ensure political argument can prevail and that reasoning replaces violence.[16] Debate is key to democracy, but this debate must find compromise and move forward or run the risk of making the government ineffective. The study of institutional responses seems to focus on the ability of the state to deal with terrorism as a part of its normal functions, honing in on those areas where policy is tweaked to allow the state to apply resources to the problem. To this end, democracy continues on unhindered despite a terrorist threat.

C. RECONCILING CRIME AND TERRORISM AS CHALLENGES TO THE POLICE

If policing has effects on terrorism as a means of supporting national counterterrorism strategies then the study of terrorism would benefit from a model that attempts to categorize police methods and techniques as they are engaged to combat terrorism. The areas of organization, methodology, technology and cooperation all are keys, in both addressing a threat and aligning to take action.

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14 Ibid.

15 Geoffrey Pridham, "Terrorism and the State in West Germany During the 1970's: A Threat to Stability or a Case of Political Over-Reaction?" in *Terrorism A Challenge to the State*, ed. Juliet Lodge (New York: St. Martin's Press, 1981), 37.

16 John Finn, *Constitutions in Crisis: Political Violence and the Rule of Law* (New York: Oxford University Press, 1991), 41.

Figure 1 suggests that the overarching counterterrorism strategy of a nation can be supported by elements of four policing areas. The areas have specific qualities that can support or hinder the five characteristics of a democratic counterterrorism strategy. See Figure 1 for a specific listing of these characteristics.

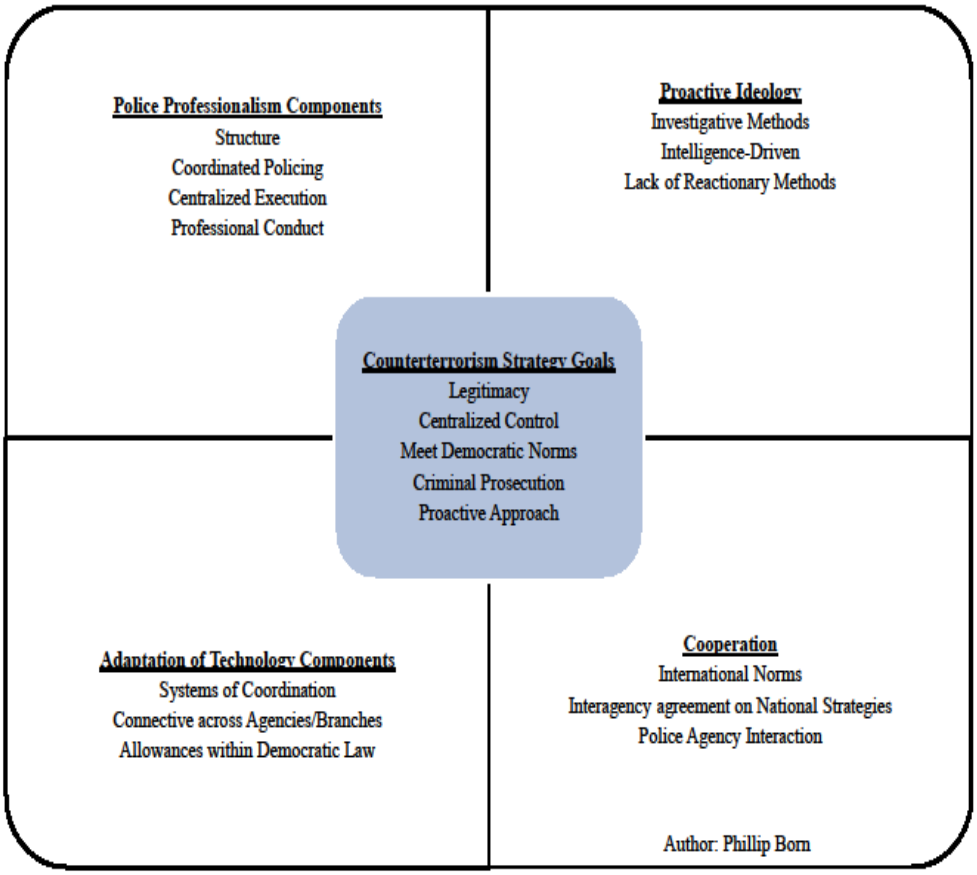

Figure 1. Policing Characteristics for National Counterterrorism Strategy

1. Professional Policing

The idea of professional policing begins with a police force that is structured to conduct a policing mission, capably resourced, trained, and in possession of consistent standards. The mere fact that police are political entities of the state indicates that this standard is sometimes difficult to achieve. Budget constraints, public relations, and personal preferences all play a role in shaping policies. As one author notes, the power of

the police extends from the sovereignty of the state and is always distinguished by "political, social, economic, and legal systems and cultures."[17] However, to be effective against a terrorist threat, the influence of these factors must be constrained to a point that they do not adversely affect the national counterterrorism strategy. The data gathered in this research shows that some centralization of police forces to act autonomously from splintered local politics and in a common manner towards a national strategy is needed. This proposition supports the idea that a professional police force might take the form of common minimum standards, professional associations, or national-level coordinating structures and should result in a coordinated or at least similar level of effort across all jurisdictional levels.

In Italy, the early post-World War II police system was a loosely controlled system, mainly concerned with public order in local areas where the police lived and worked, barely able to vary techniques and tools for law enforcement.[18] As the threat of terrorism grew, the approach moved to more centralized national control and less party-dictated oversight, culminating in centralization under the minister of the interior.[19] This development indicates that successful raids, captures, and disrupted plots flowing out of this transformation were results of a professionalized police model. In Germany, similarly, the 1983 model police code defined the extent of police powers and the rights of citizens, synchronizing police practices and taking political or personal nuances out of the equation.[20] From this background, establishing common standards for policing either through centralization or with minimum standards resulted in a more professional agency, better able to carry out the domestic counterterrorism functions and protect the legitimacy of the national government.

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17 Ethan Nadelmann, *Cops Across Borders: The Internationalization of U.S. Criminal Law Enforcement*, (University Park, PA: Pennsylvania State University Press, 1993), 5.

18 Luciana Stortoni-Wortmann, "The Police Response to Terrorism in Italy from 1969-1983," in *European Democracies Against Terrorism: Governmental Policies and Intergovernmental Cooperation*, ed. Fernando Reinares (Aldershot, UK: Ashgate, 2000), 155.

19 Vittorfranco S. Pisano, "Terrorism in Italy: The 'Dozier Affair'," *The Police Chief 49*, no. 4 (April 1982): 40.

20 Peter Katzenstein, *West Germany's Internal Security Policy: State and Violence in the 1970s and 1980s* (Ithaca, NY: Center for International Studies Cornell University, 1990), 47.

2. Investigative Versus Reactive Methods

A measure of how police implement legislation designed to find and target terrorists reveals the extent to which a government is affecting the public it is trying to protect. A measure of effectiveness of police trying to eliminate terrorism without detrimental effect to the society might be found in the extent to which police use reactive and sometimes coercive means in combatting terrorism. Intrusive and aggressive security measures characteristic of robust reaction to a threat, no matter how effective, have repercussions for the general public. An initial focus on organizing police for paramilitary-type responses to terrorism was seen following Germany's failure to mount a successful response to terrorist attacks during the 1972 Munich Olympics.[21] But a police force focused on creating units that use military techniques and tactics might give the appearance of a state that is concerned with order and control more than rule of law and civil liberties. For example, the Italian refusal to demilitarize police forces after World War II left them unprepared for investigating and dealing with organized political violence during the early 1970s when terrorism saw its greatest rise as the military structure was better designed to react to demonstration and to maintain order through control of territory.[22] Systematic investigation and mitigation of the threat through gained insight was more beneficial in legitimizing the government.

This aspect might be particularly revealing for police effectiveness in the case of Italy where in 1980 legislation was passed that reduced sentencing for those who had renounced their violent adherence to a terrorist group's ideology and would provide help to the government in seeking out yet-to-be revealed offenders. This policy differed from oppressive measures that allowed warrantless searches of neighborhoods suspected to contain terrorists and had a positive effect in that it put pressure on clandestine terrorist organizations for fear of being revealed and in turn prosecuted.[23] By this method, the police were able to focus on investigation and information gathering against individuals

21 Pridham, "Terrorism and the State in West Germany," 33.

22 Della Porta, "Institutional Responses to Terrorism," 159.

23 Leonard Weinberg and William Lee Eubank, *The Rise and Fall of Italian Terrorism,* (Boulder: Westview Press, 1987), 129.

based on informant information rather than on a reactive model targeting large portions of the population. Thus, as police focus moves from reactionary steps and escalating violence to a model that investigates and gathers information effectively to prevent violence, democratic values are promoted and government legitimacy is affirmed, benefitting counterterrorism strategy.

3. Adaptation and Exploitation of Technology

With national counterterrorism strategy focused on intelligence and information as keys to the understanding and countering terrorist threats, it follows that police need this information to be successful in their efforts. Thus, they also require reliable methods and techniques for receiving and processing intelligence that is useful to investigations. The sheer volume of information that is in use by police means law enforcement must leverage technology not only for producing actionable intelligence, but also to communicate information to coordinate actions.[24] The question here is whether or not improvements in technology with regards to identifying, tracking, and developing cases against terrorists make the police more effective in supporting national counterterrorism strategies or not. While this research focusses on periods prior to the explosion of personal computing and interconnectivity, it is applicable as it speaks to the importance of police utilizing the latest tools available.

In Italy, a Centre for Computerized Information was developed in 1981 and centralized under the Ministry of the Interior, providing an archive that collected all data with regard to police activities that proved helpful in coordinating counterterrorism activities.[25] Germany also leveraged technology. Computer databases and mobile technology allowing individual police officers to access information in the field were introduced in the late 1970s into the early 1980s and are being credited with improving the usefulness of police information.[26] This thesis will argue that technologies designed

24 Jack R. Greene and Sergio Herzog, "The Implications of Terrorism on the Formal and Social Organization of Policing in the US and Israel: Some Concerns and Opportunities," in *To Protect and To Serve: Policing in an Age of Terrorism*, eds. David Weisburd et al. (New York: Springer, 2009), 166.

25 Della Porta, "Institutional Responses to Terrorism," 160.

26 Katzenstein, *West Germany's Internal Security Policy*, 19.

to improve policing effectiveness did in fact support national counterterrorism strategies for coordinated intelligence efforts and centralized control of efforts to combat terrorism. The following chapters examine the ways in which technologies were introduced and utilized to bring information to action within this context, to illuminate the impact of technology on police effectiveness against terrorism. Technology that enables the police to coordinate and share intelligence increases coordination vital to the overall effort and allows for more productive investigations.

4. Increased Cooperation

The problem of cooperation among policing activities can be seen on multiple levels and comes primarily from two sources. The first area of concern is within the state, resulting in disjointed efforts of the different police agencies both national and local. In the case of Italy, the lack of cooperation domestically resulted in an internal security system characterized by police agencies that acted as rivals in an uncoordinated manner.[27] The second problem of coordination stems from a terrorist threat that can move across borders, requiring a level of coordination across countries. Specifically, terrorists take advantage of movement across borders that exacerbate the problem of jurisdictional friction and the lack of interoperability.[28] In Germany, this realization led to a strong push in the 1970s toward developing European collaboration in countering terrorism.[29] As terrorism becomes more and more a global phenomenon, the importance of international efforts to combat transnational terrorism is magnified. The increase in domestic cooperation in Italy and international cooperation in Germany further improved police effectiveness against terrorism and aided in successful counterterrorism campaigns.

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27 Paul Furlong, "Political Terrorism in Italy: Responses, Reactions and Immobilism," in *Terrorism: A Challenge to the State*, ed. Juliet Lodge (New York: St. Martin's Press, 1981), 81.

28 Nadelmann, *Cops Across Borders*, 6.

29 Katzenstein, *West Germany's Internal Security Policy*, 53.

C. THE EFFECTIVENESS OF POLICE

Two schools of thought appear to be born of the study of how state agencies, and specifically police, carryout counterterrorism policies. One supposes that despite politically set priorities, the bureaucracies that carry out the functions of the state have some degree of autonomy and will seek the best outcome.[30] The second tends to support the argument that the actions of state agencies are likely to change over time, coinciding with changes in public perception, state strategy, and policy as a new threat is realized.[31] Both efforts have been studied and continue to be debate, however it seems that institutional change is more supportive in explaining how a nation might overcome a terrorist threat.

The bureaucratic model for policing considers the actions of police independent of the state. As one author puts it: "Police institutions achieve institutional autonomy in the means and objectives of their activities because they rely on a purposive-rational logic to employ the technically most efficient means."[32] This argument suggests that despite state efforts to hone policy for action, the effectiveness of police is not influenced by the state as much as it is by the ability of the police to develop their own methods to combat terrorism. Additional support for this proposition comes in the growing research on interstate cooperation and regional responses to terrorism. The key to success is finding a common language and set of rules for dealing with terrorism. As an example, similar questions of political and public debate arise with regard to the European Union and its law enforcement agency, Europol. The political vow of state cooperation allows police agencies to cooperate and determine effective means of countering terrorism, sometimes despite continued argument over the specific policies of the European Union in its overall response to terrorism.[33] Similarly, despite the best policies and intentions, a

30 Mathieu Deflem, "Global Rule of Law or Global Rule of Law Enforcement? International Police Cooperation and Counterterrorism," *The Annals of the American Academy of Political and Social Science* 603, no. 1 (January 1, 2006): 242.

31 Henry, "The Need for a Coordinated and Strategic Local Police Approach," 321–322.

32 Deflem, "Social Control and the Policing of Terrorism," 77.

33 Mathieu Deflem, "Europol and the Policing of International Terrorism: Counter-Terrorism in a Global Perspective," *Justice Quarterly* 23, no. 3 (September 2006): 348.

specific agency of the state may seek to make personal or organizational gains at the expense of the larger state. As one article points out, the use of right-wing terrorism to further the cause of police in Italy indicates that one cannot always study a state's response to terrorism as a "unitary body."[34] While this point supposes that police effectiveness might be studied independent of a state's policies, evidence also supports the direct study of policing as it adjusts to changes in state strategy and institutional responses.

A number of studies have shown how police effectiveness has improved or decreased after changes in state policy. By 1976 in Italy, the police had minimized the ability of the Red Brigade to continue its terrorism actions until changes in political power resulted in the dismantling of Italy's primary police counterterrorism entities; the group then could regain its foothold.[35] Some go as far as to say that until state policy addresses the abilities of the police, counterterrorism actions will falter. Particularly in Italy, some point to the recognition of terrorism as a threat by policymakers and the establishment of policies to assist the police as key to the defeat of left-wing terrorism.[36] The particular effectiveness of the police in this case is not a specific method, but one that is supportive of the state's policies and strategy.

While both arguments indicate a basis for effective policing, there appear to be gaps in specifically linking effective policing methods to policy and strategy. Instead the actual subject of police methods tends to be considered independent of discussions of state response. This research effort will discuss the methods of policing terrorism in the context of their relation or (absence of relation) to the strategy and policy of the state in combatting terrorism.

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34 Herbert Reiter and Klaus Weinhauer, "Police and Political Violence in the 1960s and 1970s: Germany and Italy in a Comparative Perspective," *European Review of History* 14, no. 3 (September 2007): 385.

35 Tom Parker, "Fighting an Antaean Enemy: How Democratic States Unintentionally Sustain the Terrorist Movements They Oppose," *Terrorism and Political Violence* 19, no. 2 (Spring/Summer 2007): 167.

36 Weinberg and Eubank, *The Rise and Fall of Italian Terrorism*,131.

The benefit of creating a model of analysis comes in the structure it will provide the reader for looking at the problems of police in counterterrorism. This model supposes that the structure of the police force—national, multijurisdictional or federalized—is less influential than the standardized methods and overarching strategies of policing applied, allowing for study of policing in countries with varying organizational structures. This model allows the study of successful counterterrorism campaigns in Italy and Germany for lessons in policing terrorism that might be universally applied to counterterrorism strategies within democratic nations.

D. POLICING MODELS

Policing methodologies have been the subject of debate for many years in the terms of analyzing how police styles and ideologies have an effect on crime. Typically, discussions of policing to turn toward "Broken Windows" and the "Kansas City Experiment" as proof that some methods work better than others.[37] From the study of police methodology, we see three distinct styles of policing: traditional, community-oriented, and intelligence-led.

Traditional policing or standard-model policing tends to be thought of as the old way of doing business. This concept underpins the history of policing, as each community that springs up can form a police force, put officers on the beat, and, through their diligent patrol of the community, prevent crimes. The best description of this effort alludes to a one-size-fits-all application:

> The standard model is based on the assumption that generic strategies for crime reduction can be applied throughout a jurisdiction regardless of the level of crime, the nature of crime, or other variations. Such strategies as increasing the size of police agencies, random patrol across all parts of the community, rapid response to calls for service, generally applied follow-

37 The "Broken Windows" article authored by James Wilson and George Kelling supposed that a community needed to address its level of maintenance of order to realize reduction in severe crimes. The sociological supposition in this article is that areas where the community had failed to address petty crimes such as vandalism and vagrancy were hot beds for more violent crime. It countered that community efforts led by police could clean up the neighborhoods. This was the basis for community oriented policing and came on the heels of the "Kansas City Experiment" which had debunked previous thinking that police presence itself had an effect in reducing crime. James Q. Wilson and George L. Kelling, "Broken Windows," *Atlantic Monthly*, March 1982, 31.

> up investigations, and generally applied intensive enforcement and arrest policies are all examples of this standard model of policing.[38]

The traditional model also rests on the assumption that just by their presence police can prevent crime. As officers of the law move throughout a community and react rapidly to calls for service, criminals will take note, choosing not to commit a crime rather than face with the credible possibility of being caught and apprehended. However, in traditional policing, police tend to be reactive, patrolling areas in which crimes are committed in hopes of happening upon a crime or responding rapidly enough to catch the criminal when a crime is reported. The much-touted Kansas City Preventative Patrolling Experiment, conducted during the winter of 1972 and 1973, confirmed the reactive nature of traditional policing. It showed further that the addition of extra police in some areas (saturation) and the lack of patrolling in other areas (response only), had no effect on crime rates, citizen perceptions of police, or the fear of crime.[39] Moreover, as a product of municipalities or local governments that saw a need for some sort of order maintenance, traditional policing historically was highly subject to political influence as a direct component of the government to influence its jurisdictions.[40]

Both community-oriented policing and the closely related approach of problem-oriented policing arose to address the perceived and experienced shortcomings in traditional policing. The primary goal of these types of policing is determining where problems are and addressing them proactively. In community-oriented policing, this approach takes the form of a police entity that accounts for "the wishes of the public" in determining strategy and collaboration "with the public in identifying and solving local problems."[41] In this model, the police and the public comprise teams that, through interaction and resolution of problems at the lowest level, address the social circumstances that cause crime. The possibilities of crime reduction in this model were

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38 David Weisburd and John E. Eck, "What Can Police Do to Reduce Crime, Disorder, and Fear?," *Annals of the American Academy of Political and Social Science* 593 (May 1, 2004): 44.

39 Jerry Ratcliffe, *Intelligence-Led Policing* (Portland, OR: Willan Publishing, 2008), 21. The Kansans City experiment measured reported crime in areas based on number of patrols. Some areas had no patrolling while, others were saturated with constant police presence.

40 Ibid., 28–29.

41 Ibid., 67.

widely popularized by "Broken Windows" as the need to build a community that cares for itself. (A broken window indicates that no one cares and will soon lead to more broken windows—and then to more serious criminality.[42]) This type of policing was of great prominence during the post-World War II era in the United States, when such social conditions as poverty, racial strife, and falling public confidence in government highlighted a need to engage the public.[43] The underlying preference of police departments became not the reaction to and mitigation of disorder, but the redress of community challenges that led to disorder. The major outcome of this focus on problems within a community was the realization that, through analysis of criminal and symptomatic activities, the police could begin to form an idea of which specific problems most affected a community. This is why community-oriented policing is also termed "problem-oriented policing," flowing from a propensity to track statistically problem areas as part of the community's efforts.

The development of problem-oriented community policing, which uses criminal analysis to formulate plans for solving problems, laid the groundwork for the intelligence-led policing that dominates today.[44] Intelligence-led policing address crime across communities by careful analysis of patterns and agency interconnectivity, overcoming disconnects that occur as crime crosses traditional community and jurisdictional boundaries.[45] As such, policing has become less focused on specific community problems, especially in light of criminal trends that are not tied to singular issues. Instead, intelligence-led policing attempts to address the problem of crime without reverting to methods that are reactive and based solely on the number of police officers or resources a particular location can muster.

Intelligence-led policing sets the context for law enforcement as a tool against terrorism. Policing has transformed from simply a watchman function, reacting to

42 Wilson and Kelling, "Broken Windows," 31.

43 This can be seen still today in the tone of departmental slogans such as "to protect and serve." Ratcliffe, *Intelligence-Led Policing*, 29.

44 Ibid., 30.

45 Ibid., 32, 36.

dangerous situations. Policing now relies on robust methods for detecting and disrupting activity in its infancy. This emphasis has resulted in expectations that crime can be challenged and defeated before it unleashes its negative effects on the public. Democracy treats terrorism as a crime and relies on law enforcement to combat it suggesting that intelligence-led policing should be the method for dealing with terrorism, as opposed to a "defense of position" and security-minded approach.

III. BALANCING POLICE AND DEMOCRACY: A GERMAN NARRATIVE

National security—and specifically counterterrorism policy and practice—take as its core mission the protection of state and society. Yet the same measures and methods that preserve the state may impinge on or even imperil democratic values, norms, and constitutional requirements. Thus, in a democracy, law and especially law enforcement exist both to combat security threats and to preserve the values and liberties on which the state is based. In times of relative peace and stability, this dual obligation plays out as a series of balances struck between the requirements of security and civil liberties. In times of violence or upheaval, however, this process and its necessary compromises may seem ponderous, if not wrong-headed. Why should the legal or justice system trouble itself with the niceties of free speech, for example, when the nation faces attack or subversion? More broadly: Does national crisis allow for any curtailment or suspension of civil liberties, or does rule of law prove require that the full measure of individual rights must be maintained at all costs?[46] Even in the face of a terrorist threat, government, law, law enforcement, and the public must calibrate every response to ensure that neither goal overtakes the other.

The FRG provides a case study of this balance in many respects. Specifically, the German experience demonstrates ways in which law enforcement successfully combatted terrorism, and a government used—and uses—law and law enforcement to both protect and appease the public.

In the FRG, the constant balancing of security and liberty has a particular urgency in a society very much aware of the Nazi legacy—anti-liberalism, aggression, authoritarianism, annihilation. Since the state's formation in 1949, the FRG has been a resolute champion of peace, stability, and human rights. Indeed, the first article of the *Grundgesetz*, the Federal German constitution, enshrines the guiding principle of all state action in the words: "Human dignity is inviolable." Civil liberties are foremost in the

46 Karrin Hanshew, "Daring More Democracy? Internal Security and the Social Democratic Fight against West German Terrorism," *Central European History* 43, no. 1 (March 2010): 121.

constitution, which reflects the centrality of these ideals to the Federal Republic. In all, the German constitution has what many might call an affirmative protection of individual rights—and a distinct suspicion of any policies or measures by the government that might restrict these rights.[47]

On the other hand, the FRG also has been subject to acute and sustained terrorist threats in its history. Perhaps the most spectacular episode of terrorism on German soil—the 1972 assassination of Israeli athletes at the Munich Olympics—represents something of a watershed in the German legal and law enforcement counterterrorism framework. Other threats, including political extremism funded and fostered by the FRG's ideological opponents in Eastern Europe, posed consistent and existential challenges that the Bonn and later Berlin governments had to surmount—all without lapsing into approaches or mindsets that even hinted at Germany's annihilatory and authoritarian past. In the process, the Germans have honed both their legal structure and their law enforcement approaches to meet the intertwined challenges of terrorism and democratic self-preservation. Broadly speaking, these developments have played out in the realms of professional policing, preventive models, technology, and cooperation. Even as the terrorism threats in and to the FRG have changed, these four pillars as played out in the German approach have ensured both the effectiveness of the law enforcement response and the consistency of its democratic nature. The police effectiveness of Germany was aided by a realization that the organization of the police, which was initially demilitarized and extremely limited, needed to be manipulated to best support democratic government. What followed was enhancement of this organization, through training, equipment and methodologies to defend against the greatest threat to the fledgling democracy, terrorism as a challenge to the government's authority.

A. BACKGROUND AND CONTEXT

In essence, a state can respond to terrorist threats on one of two bases: military or police. Perhaps more so than other countries, the FRG has clearly favored the law

47 James Beckman, *Comparative Legal Approaches to Homeland Security and Anti-terrorism* (Aldershot, England: Ashgate, 2007), 90.

enforcement model. In fact, the German constitution and subsequent rulings by the Federal Constitutional Court have rejected any use of the military that might be disruptive internally or incite war-type reactions internationally.[48] German law and public opinion supports the use of the military only when Germany is threatened by state-to-state violence of an existential nature or, within ever narrower parameters, in conjunction with internationally sanctioned operations within an alliance. As a precursor to discussion of this struggle in Germany it is important to note some of the important events in Post-World War II Germany. Table 1 provides a brief history:

Year	Event
1949	*Grundgesetz*, ratified, accepted by Allies (Basic Law of 1949)
1955	West Germany (FRG) becomes sovereign state, allied occupation ends.
1951	Changes to Basic Law define roles for federal law enforcement, established Bundeskriminalamt
1966	Grand Coalition between the two big-tent political parties of the center-right and center-left—the Christian Democratic Union and Social Democratic Party, respectively—controls parliament and prompts the advent of the *Außerparlemetarische Opposition* (APO) or extra-parliamentary opposition, sparking period of student movement for radical social and political changes.[49]
1967	Student shot and killed during protest against visit of Iranian Shah. Widely held to be climax of escalation in clashes between students and police.
1968	Baader Ensslin of Baader-Meinhoff Gang fame commits arson attack in Berlin, marking the start of organized, ideological terrorism in Germany and point of formation for the Red Army Faction (RAF)[50]
1968	Basic Law amended to allow surveillance of telecommunications and mail in cases when anti-government activities are suspected.
1971	RAF kills police officer, first murder attributed to RAF
1972	Resolution enacted prevents those who pursue anti-constitutional activities shall not be appointed to public service.
1972	Israeli athletes taken hostage by Palestinian group "Black September" and subsequently killed along with terrorists in botched rescue attempt. Considered the wake-up call in FRG in realizing and addressing terrorist threat.
1976	Penal code updated to increase criminalization of terrorist related actions
1976	Law enacted criminalizing relationships with terrorist organizations. Actions included speaking out for, or supporting in any way banned organizations.
1976	European Political Cooperation establishes Terrorism, Radicalism, and International Violence council for police in investigating terrorist related

48 Ibid., 93. Despite changes in boundaries and population after reunification, the FRG still relies on the 1949 constitution as its guidance on rights and democratic methods.

49 This author offers an excellent look at how terrorism grew from student movement, towards domestic terrorist groups, and finally into extra-national groups with international contacts and political messages. Christoph Rojahn, Left-*wing Terrorism in Germany: The Aftermath of Ideological Violence* (Warwickshire: Research Institute for the Study of Conflict and Terrorism, 1998), 2.

50 Ibid., 3.

Year	Event
	violence.
1977	UN convention on terrorism
1984	Interpol sets up International Terrorism Unit for cooperative investigation of international terrorism.

Table 1. Chronology of The Federal Republic of Germany[51]

1. FRG Demilitarization

Of course, this same skepticism of armed state action, wrought of defeat and demilitarization in the immediate post-World War II years, applies to some degree to law enforcement, as well. In particular, the FRG mounted an effort to demilitarize policing so as to foster stability and democracy at home and abroad. The primary purpose was to "defang" the police as an external threat, yet also an effort to re-create the police as champions of a peaceful, democratic state.[52] It stands to reason that in the aftermath of Nazi rule and the excesses of the Gestapo (the secret police) as well as the role of the gendarmerie and the reserve police in the Holocaust,[53] the FRG would strive to make police as innocuous as possible. The wider world took the same view, as evidenced by allied plans for the fledgling government that included changes to armament, uniforms, and police concentrations, in all cases reducing the size of police forces and distinguishing law enforcement from standing armies.[54]

These measures both informed and drew from the simultaneous undertaking to overhaul and democratize the justice system in post-war West Germany—which policies

51 This table highlights some dates of importance but does not specify every event. A notable pattern is internal reaction to strife during the 1960s and a distinctly criminal and international flavored reaction to terrorism during the 1970s. For further information readers should reference Katzenstein, *West Germany's Internal Security Policy*, 43–64.

52 Erika Fairchild, *German Police: Ideals and Reality in the Post-War Years* (Springfield, IL: C.C. Thomas, 1988), 63.

53 The literature on the security and police apparatus in the Third Reich is almost endlessly voluminous. One of the earliest (originally published in 1961) and most authoritative summaries appears in Raul Hilberg, *The Destruction of the European Jews*, 3d ed. (New Haven and London: Yale University Press, 2003); see especially pp. 49–60 (Vol. I, Ch. 3) and pp. 275–407 (Vol. I, Ch. 7). Hilberg updated and refocused his own research on the topic in Hilberg, *Perpetrators, Victims, Bystanders: The Jewish Catastrophe 1933-1945* (New York: HarperCollins, 1992), which treats both the Gestapo and the gendarmerie. A more recent trend in the scholarship has undertaken to examine the role and effects of Nazi law enforcement and security forces within society. See, e.g., Eric A. Johnson, *Nazi Terror: The Gestapo, Jews, and Ordinary Germans*, (New York: Perseus, 2000).

54 Fairchild, *German Police*, 63–64.

included the categorical rejection of the death penalty and the institution of a prison system firmly oriented toward rehabilitation. In line with this approach, the criminal code was revised along widely accepted democratic lines, including the designation of crimes as felonies, misdemeanors, and offenses. Such categories rest on the concept that different bad acts in the community have different effects on society and therefore require varying degrees of response from the justice system.[55] And, of course, the punishments or penalties must be commensurate with the severity of the offense, as well as available to the public, and so on. Police methods similarly were brought into line with the accepted norms and standards of western democracies. In a word, the law and law enforcement no longer served to preserve the party-government.

At the same time, the generation that rebuilt Germany after the war imparted to the fledgling Federal Republic its trepidation about unrest incited by foreign and domestic enemies of the state. To be sure, the "werewolves"—Nazi true-believers who were feared to have marched into the young German democracy aggrieved and unwilling to assimilate—never materialized in any number, defanged perhaps by the process of effecting and then enjoying the West German "economic miracle." But Germany's turbulent interwar years, riven by political violence and extremism that ultimately put Adolf Hitler in the chancellor's office, remained fresh in the collective memory and represented exactly the kind of turmoil that Germans wished to avoid. As such, the founders of the Federal Republic were at pains to create a legal and justice system that favored peace and stability as the ultimate expression of civil liberty.[56] For example, Article 18 of the Grundgesetz clearly strips an individual of many liberties in the event that he or she seeks to use these freedoms to subvert the Rechtsstaat, or rule of law. John Finn refers to this stance as "militant democracy," not in the sense of a strong military, but rather as a democracy that is forceful or proactive in protecting itself—against both any authoritarian impulses of the state and of individuals who would work within and

55 Harold K Becker, *Police Systems of Europe: A Survey of Selected Police Organizations* (Springfield, IL: Charles C. Thomas, 1973), 109.

56 Miklos Radvanyi, *Anti-terrorist Legislation in the Federal Republic of Germany* (Washington: Library of Congress Law Library, 1979), 105–106.

without of democracy to upend the system. In other words, the FRG is particularly sensitive to any attempts to use its democratic apparatus against the democracy.[57]

2. Terrorism in Post-war FRG

Terrorism came to the Federal Republic in earnest in the late 1960s. Until the West German recession of 1965, the country had posted consistent and considerable economic successes while also integrating refugees and displaced persons following World War II.[58] As a new generation came of age—the first "wave" of Germans born after the war and therefore without the onus of a personal stake in the Third Reich—student movements became more and more vocal, calling for protest to demand social and political change. The German "68ers" resembled their French counterparts in broad strokes, especially in their critique of U.S. "imperialism" in Vietnam and their socialist-inflected view of social justice. The German movement had particular concerns, as well, including democratizing university admissions (heretofore a more or less elite reserve) and a more forthcoming reckoning of the National Socialist past.[59] As the unrest grew, the government considered ever more sweeping measures to quell it, including a series of Emergency Acts that would suspend civil liberties in the event of a national crisis. The protest movement gained additional fervor when a student was killed by a policeman during a demonstration against a state visit by the Shah of Iran in 1967.[60]

Presently, the 68ers splintered, with some groups and individuals listing toward extremism. This development sparked a period of socio-revolutionary terrorism or terrorism that seeks to "overthrow constitutional government as part of social transformation."[61] Some of the major proponents of socio-revolutionary terrorism in West Germany at this time received money, material, and safe harbor in East Germany,

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57 Finn, *Constitutions in Crisis*, 136–137.

58 Rojahn, *Left-wing Terrorism in Germany*, 1.

59 Paul Wilkinson, "European Police Cooperation," in *Police and Public Order in Europe*, ed. John Roach and Jurgen Thomaneck (London: Croom Helm, 1985), 152.

60 Rojahn, *Left-wing Terrorism in Germany*, 2.

61 Noemi Gal-Or, "Revolutionary Terrorism," in *Encyclopedia of World Terrorism*, ed. Martha Crenshaw and John Pimlott, vol. 1 (Armonk NY: Sharpe Reference, 1997), 194.

which had rather more to gain from a destabilized Federal Republic than from whatever ideological affinity may have existed between the stodgy, Stalinist party dictatorship and the would-be revolutionaries. In the radical left of the late 1960s and early 1970s, then, the FRG faced a terrorist threat that had both domestic and cross-border aspects.

This upheaval spawned myriad groups, some of which merit particular mention in the context of this chapter. The Red Army Faction (RAF) is the oldest of the specific terrorist groups in Germany, born from the infamous Baader-Meinhof gang.[62] The RAF viewed all facets of the FRG government as puppets of U.S. imperialism, intent on promulgating an imperialist feudal system in Germany and, therefore, subject to violent overthrow in the name of far-left social justice.[63] On the same side of the extremist spectrum, the Revolutionary Cells (RZ) espoused communism and advocated the violent rejection of the capitalist tendencies of democracy. This group felt that imperialism in the world was a product of multinational corporations exerting influence on governments. Its main point of disagreement with the RAF had to do with the correct next steps in the revolution. The RZ favored the overthrow of the government by the masses, while the RAF tended more toward the implementation of a new government by the younger academic elite.[64] Then there was the *Guerrilla Diffusa*, a small and less threatening group that nonetheless used revolution as a rationale for terrorism and a fair amount of garden-variety criminality.[65]

The right-wing brand of terrorism in Germany was not necessarily an effort to latch onto a fascist past but was more a reaction to the left-wing terrorism by the new right. The National Democratic Party (NPD) was a last bastion for fascists in post-World

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62 The Bader-Meinhof gang is sometimes used interchangeably with the Red Army Faction. The group became notorious after Ulrike Meinhof broke Andres Baader out of prison in 1970. Baader had been serving time for bombings he carried out in Frankfurt. The gang was known for carrying out bombings and bank robberies across Germany. Meinhof, known for writings on armed struggle, wrote regular communiques and from these writings the group became known as the Red Army Faction. "Who Were the Baader-Meinhof Gang?," *BBC*, February 12, 2007, sec. Europe, 1, http://news.bbc.co.uk/2/hi/6314559.stm.

63 Hans Josef Horchem, *Terrorism in West Germany* (London, England: Institute for the Study of Conflict, 1986), 1–2.

64 Ibid., 6.

65 Ibid., 12. The *Guerrila Diffusa*, appeared to mostly spout revolutionary rhetoric as a means of justifying anarchical violence. Members were responsible for minor crimes such as Molotov cocktail attacks in Berlin and on British Army bases in Germany.

War II Germany but had become increasingly insignificant due to the fact that fascism as a part of the political process was forbidden, leaving those who still harbored facist ideals to fall in with the neo-Nazi groups of the time.[66] These smaller right-wing revolutionary groups, such as *Aktionsgemeinschaft Nationaler Sozialisten* and *Deutsche Aktionsgruppen*, were not as active as groups on the left, but nonetheless contributed to the incidence of fringe violence in Germany

Together, the extremists of the left and right accounted for widespread fire bombings, killings, and kidnappings throughout the 1970s and into the late 1980s. Interestingly enough, both left-and right-wing groups also expanded their international flavor, seeking to communicate and cooperate with similarly minded groups in other Western European countries. The RAF and the French Action Directe worked to organize a European guerrilla movement in the mid-1980s, while the RZ had already been known to have done freelance work for other groups. (The latter aided directly in the Olympic attack of 1972, providing logistical support to the Palestinian terrorist in Germany; by the 1980s members of the RZ were training in the Middle East.[67])

Terrorism, especially of the revolutionary flavor, subsided in the mid-to late 1980s as the government counterterrorism efforts continued to hinder terrorist action and the terrorist groups ideologies started to lose steam in drumming up support.[68] And by 1991 the integration of the German Democratic Republic (GDR), or East Germany, coupled with the fall of the Soviet Union had all but eliminated support for extreme ideologies and participation in revolutionary terrorism. Today Germany still sees a terrorist threat from extremism characteristic of transnational terrorism, especially as Germany has become more and more saturated with immigrants. In fact, it is well known that members of the group responsible for the September 11, 2001, attacks in the United States used Germany as a haven to plan and then travel to the United States.

66 Ibid., 13.

67 Ibid., 11–12.

68 Ibid., 20–21.

B. POLICE PROFESSIONALISM

While Germany's home-grown terrorists may have espoused grand ambitions to change all of society, neither their message nor their methods corresponded with majoritarian views.[69] As such, the government could measure its response, with an eye toward keeping this division alive and well. A basically well-conceived strategy effectively ensured that the terrorists remained criminals rather than, for instance, symbols of the government's failure. This stance also kept—and keeps—law enforcement at the forefront of the FRG's counterterrorism efforts. In other words, police are effective in capturing terrorists, which in turn bolsters the government's stance that the response to terrorism is coordinated and legitimate.

The FRG's police forces are organized on a decentralized and coordinated basis, meaning that its police forces are not necessarily nationalized or under the direct control of the national government, though the federal authorities have a few key roles. One author describes Germany further as exhibiting a "decentralized multiple coordinated system," with several forces under different levels of government but with a federal law enforcement structure that controls intelligence and coordinates activities among lower level jurisdictions.[70] Either way, this structure bespeaks, on the one hand, Germany's federalism, which it adopted after World War II to ward off any concentration of power in the central government along the lines of either Wilhelm II's Second Empire or Hitler's Third Reich. On the other hand, it also shows how the FRG has streamlined and integrated its law enforcement functions in the name of effectiveness and efficiency. The worry of a police force that acts only at the whim of a supreme government is overcome by a structure that disperses police administration to the federated state level,

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69 One of the keys to the threat is the movement's association with society and the support that the movement receives. Primarily, their violence is intended to deliver a message to a repressed group and their goal is to transform society by empowering those who are not in power. Such left-wing groups as the RAF and RZ were not necessarily closely aligned to the "downtrodden" groups they claimed to represent especially given their attempts to align with more international causes. For more information reference, Peter Waldmann, "Ethnic and Sociorevolutionary Terrorism: A Comparison of Structures," in *Social Movements and Violence* , by Donatella Della Porta *Participation in Underground Organizations* (Greenwich, CN: JAI Press, 1992), 244.

70 Philip Reichel, *Comparative Criminal Justice Systems: A Topical Approach*, 5th ed. (Upper Saddle River NJ: Pearson Prentice Hall, 2008), 212.

thus increasing democratic legitimacy. At the same time though, coordination ensures that a counterterrorism strategy is consistent and can be maintained. In this sense, the very structure of Germany's law enforcement agencies demonstrates the same balance between effective security and protected liberties that the police are charged with upholding in their actions. Figure 2 describes the relationship between police organizations in Germany:

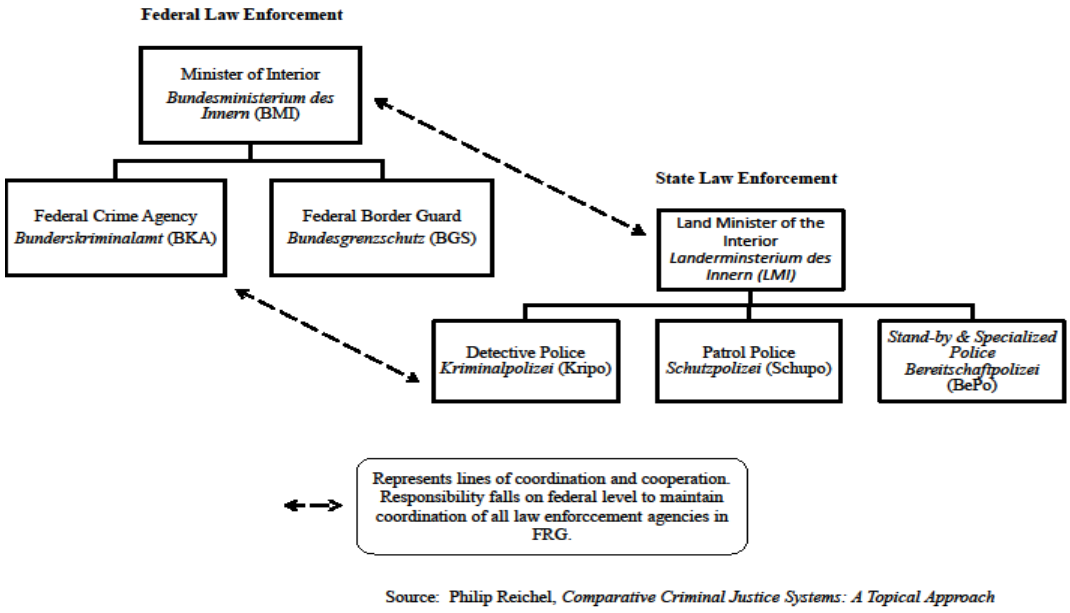

Figure 2. German Police Structure[71]

71 The FRG underscores their decentralization of the police system with a strong statement towards coordination across all jurisdictions. While each of the FRG's states controls its own police force (*Landerpolizei*) the Federal law enforcement level under direct control of the Federal Ministry of the Interior is the responsible group for overseeing federal level criminal investigation, crime data management, border security and coordination of all police activities in the FRG. Federal Law Enforcement consists of the *Bundeskriminalamt* (BKA), or Federal Crime Agency and the BGS, or Federal Border Guard. Their relationship is not hierarchical over the state police forces as they do not specifically direct actions, but do set standards for policing and training while also coordinating efforts across federal and state jurisdictions. The state police forces consist of the uniformed (*Schupo* or Municipal police) responsible for normal on-the street policing and the non-uniformed (*Kripo* or Criminal Police) similar to a detective force charged with criminal investigations. Another key aspect is the *Berietschaftspolizei*, commonly referred to as "Stand-by Police." This is more aptly put specialized policing and trainees. Named for their propensity to be used in large scale crisis, it consists of specialized units such as SWAT teams, negotiators and trainees that are in attendance at the mandatory, federally standardized 2 year police academies, each police officer must attend before assignment elsewhere. Adapted from figure "Germany's Police Organization."

At first blush, this structure seems to suggest breakdowns in investigation because of a proliferation of jurisdictions. However, the requirement that the federal law enforcement agencies act as coordinator was and is vitally important to the prevention and investigation of terrorism as it contributes to the command and control of efforts. What the coordination did for Germany, was eliminate the friction and competition among agencies of the *Länder* and give focus to the overall counterterrorism effort.

A credible and legitimate counterterrorist response must begin with such public satisfaction in the overall professionalism of the German law enforcement agencies. By and large, the prevailing perception in Germany is that police act appropriately. An indication of this perception can be seen from a public opinion survey conducted in the early 1980s by a German marketing group seeking to gauge the general desire for a completely nationalized police force. The survey revealed an even, 50/50 split in responses to the question of whether the states or the federal government should handle terrorism and violent crime.[72] This statistic shows that the public was satisfied with the handling of law-and-order activities, with no major consternation over the conduct of the federal or state governments. Thus, the requirements of federalism are fulfilled, while the decentralized police forces are sufficiently coordinated to have relatively consistent practice across the police forces. The effective structure of police forces that led to consistent policing, coordinated response, and general public satisfaction resulted in a police force that complemented a strategy of coordinated response and government legitimacy.

Of course, legitimacy and acceptance comes down to individual law enforcement agents, as well. One study of German police officers in Hamburg published in 1975, showed prevailing perceptions viewed police to be more steady, conventional, and examining than the average German citizen.[73] For the most part, Germans believe that

72 Fairchild, *German Police,* 115.

73 This data, taken from sociological study of the *Schupo* in Hamburg can shed light on the public opinion and confidence in police forces and is an indicator that police carry some positive common values. The study looked at the police from the eyes of the citizens during some of the most active periods of domestic terrorism. It indicates that despite a period of fear on the part of the public, there was public confidence in the ability of the police to deal with the threat. The same study indicated the people saw police as "less nervous, depressive and excitable," in the execution of their duties. Ibid., 133.

police officers are better able control a situation by thinking on their feet and apt to calm a fraught situation by not overreacting to stress; these qualities are vital in situations such as terrorism that may cause chaos and public fear.

German law enforcement reform in the 1970s—following the upheavals of 1968, as well as the assassination by Palestinian terrorists of several members of the Israeli Olympic team at the Munich Games in 1972—enhanced this fundamental embrace of democracy and consistent values in the police forces. To be sure, the police reforms most directly addressed the key flaw in the West German response to the terror attack at the Munich Olympic games, namely the inability to coordinate and act with common purpose. (Perhaps the most searing example of this failure to interoperate arose when Munich police opened fire on the Olympic terrorists as they attempted to leave German soil—in contradiction to efforts the FRG had made to negotiate the hostages' release.[74]) But the whole program of reforms addressed the criminal justice system, human rights, and more technical training for dealing with threats other than general public disorder.[75] As a result, all police training is organized into one curriculum, extinguishing the difference between uniformed, criminal and border guard security and encouraging common tactics across all agencies.[76]

An educated police force both legitimizes the actions of law enforcement in the eyes of the public but also makes officers better able to respond to increasing levels on threat through logical adaptation and reasoning. In this sense, the standardized training and education of police in the Federal Republic of Germany serves the perceptual and the substantive aspects of police professionalism. The centralized police institute, which is

74 The entire Munich affair along with the kidnapping of Peter Lorenz a Christian Democratic Party leader in 1975 highlighted that the police and FRG were not trained to deal with political violence from terrorism. German Chancellor Brandt stressed the need for "units, who are trained for such cases, and would probably have a higher likelihood of success." Pridham, "Terrorism and the State in West Germany," 33.

75 Fairchild, *German Police,* 151–152.

76 Ibid., 152.

required of all members of German law enforcement agencies, focuses on civic responsibility and the enlightened independence necessary to voice original opinions.[77]

These training efforts were—and are—overseen by the Research and Training institute of the *Bundeskriminalamt*, a centralized approach that has resulted in "uniform, specialized training focused on current central issue and problems of combating crime."[78] That is to say, all such police training—at both the federal and state level—is coordinated through this agency. In this way, the professional structure of German policing attempted to address the critique of the middle-1970s, when, various levels of government were calling for a one-leader system of police oversight, while retaining what worked for German federalism.[79] Thus, the police still function at a local level, providing for the public need to have a community security force free of national political influence, while at the same time uniting the efforts of police across the country, which contributes to the systematic internal security of the FRG through common tactics, techniques, and procedures.

C. PREVENTION, INVESTIGATION, AND PROSECUTION

One study classifies action against terrorism as pre-emptive, preventative, or reactive. On the tactical level this categorization can be seen as an indication of a police agency's propensity to use force to combat terrorism. In the pre-emptive stage, the focus is not on use of force but on intelligence to identify and possibly arrest the threat, whereas during the preventative and reactive stages, force is used to either block terrorist

77 Ibid., 150. In this regard, the civic education of German law enforcement echoes the critical/democratic "citizen in uniform" curriculum of the German soldier, embedded in the notion of Innere Fuehrung, http://www.innerefuehrung.bundeswehr.de/portal/a/zinfue.

78 Karl-Friedrich Koch and Hedwig Risch, "The Bundeskriminalamt: The German Federal Criminal Police Office," in *Police Research in the Federal Republic of Germany: 15 Years Research Within the "Bundeskriminalamt,"* ed. Edwin Kube and Ronald V. Clarke (Berlin: Springer-Verlag, 1991), 10.

79 Albrecht Funk, "The German Police System in a European Context," in *Comparisons in Policing: An International Perspective*, ed. Jean-Paul Brodeur (Aldershot, England: Ashgate, 1995), 73.

actions in the case of the former or to defeat them in the latter instance.[80] The adoption of preventative measures therefore indicates a police force that is trying to limit the amount of force used as such measures as checkpoints, assaults on terrorists, and deployment of paramilitary forces present a danger in public safety. The efforts to support investigation as a means to prevent terrorism, also bespeaks a readiness to limit civil liberties in order to facilitate preventative policing.

German law is very supportive of preventative measures in policing. In fact, despite its focus on the rights of the individual, the German constitution allows—and, in fact, requires—the police to seek out those who are a threat to society and communities. For example, as noted, Article 18 of the Basic Law allows the infringement of the human rights listed in Articles 1–16 to defend the state from individuals who would use these freedoms to the detriment of state or society. The counterterrorism strategy of the 1970s resulted in the adoption of laws that furthered preventative action and prosecution. A Criminal Code revision in 1976 brought changes to section 129a: it is now illegal even to hold membership in an organization that supports terrorism, and terrorism prosecutions may now proceed as ordinary criminal offenses as well as crimes against international law and humanity.[81] Significantly, the law also allows police to act *before* the commission of an ordinary crime, arresting persons who *may* incite or lead violence.[82]

In 1977 and later 1989, the federal German government adopted additional preventative laws, making illegal the formation of terrorist groups, allowing

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80 This study deals primarily with how police tactically employ force in facing political violence. Pre-emptive is a dangerous term as it hints towards a current trend of using pre-emptive force to challenge states and groups prior to the commission of crime. For the purposes of this paper, the term preventative will be used as the term this author uses pre-emptive, those actions taken to determine the threat and interdict through non-forceful means before use of physical force is warranted. Francis Gregory, *Policing the Democratic State: How Much Force?* (London: Centre for Security and Conflict Studies, 1986), 6.

81 Specifically, the new Criminal Code under Article 129 and 129a dictated up to a five year sentence for anyone "who forms and association whose aims or activities are direct towards the commission of and offense, or who participates as a member of, recruits for or aids such an (terrorist) association." Markus Rau, "Country Report on Germany," in *Terrorism as a Challenge for National and International Law: Security versus Liberty?*, ed. Christian Walter et al. (Berlin: Springer, 2004), 347.

82 This is counterintuitive to the liberal basis of democracy. Taking action against something that has not yet caused damage is critical to providing safety, but making accusations based on rhetoric and intentions is dangerous to protecting civil liberties of the person if means and capabilities are not yet evident in their intended actions. Reichel, *Comparative Criminal Justice Systems*, 224.

incommunicado detentions, and providing for plea-bargains—up to and including exemption from prosecution—for persons accused of membership in a terrorist group if they diverge details of the clandestine organization and its members.[83] The detention of prisoners incommunicado allows the police to act clandestinely against the terrorist organization without fear of the investigation being corrupted by the arrest, while exemption from prosecution allows the police to gain additional knowledge that might allow them to completely disrupt terrorist organizations through further arrests. In addition, Article 138a specifically disallowed defense council "at the request of the prosecutor, the police, or the court," if it could be established the defense could be involved in the criminal action or might be interfering in the justice process.[84] These laws appear heavily to favor detection; at a minimum, they advance the ability of police to identify potential terrorists before an incident occurs.

In addition to the legal framework, the structure of the German police forces reflects the push by the FRG to combat terrorism by criminalizing actions of terrorists and those who supported them. Most notable in this regard was the expansion of the anti-organized crime units at the state level as well as an overall increase in the size of the BKA at the federal level.[85] The BKA was also bolstered by the addition of an anti-terrorist unit in 1975, with responsibility to combat "this type of criminality across the Federal Republic of Germany and in cooperation with other countries," and to provide forces to the state Kripos in order to carry out investigations.[86] This reform resulted in a robust capability to track and investigate crime in general and more specifically terrorism, across the whole of Germany.

The changes in police operations flowing from the increased threat of terrorism in the 1970s has been described as a "course of action directed at prevention and early

83 Rau, "Country Report on Germany," 313–314.

84 In Germany the fear that specifically drove this law, was that lawyers for the accused were acting as couriers, complicit with the terrorists. By holding the accused without representation the police were able to follow up investigative leads without fear of compromise. Beckman, *Comparative Legal Approaches,* 100.

85 Funk, "The German Police System," 80.

86 Koch and Risch, "The Bundeskriminalamt," 11.

detection."[87] This further hints at the ideal that forces should be preventative in nature and showed that police were now intent on pursuing those who might conduct terrorism as identified in the criminal tools at their disposal. The new focus on investigation and its enabling legislation allowed the police to uncover the terrorist underground. Through trailing and investigation of supporters, couriers and their contacts the police began to make a dent in the growing terrorist problem, with over 215 terrorist-related convictions between 1970 and 1978 with most of the first generation of the Red Army Faction neutralized.[88] In other words, the FRG adequately attempted to maintain a limited response by legislation that sought to address the foundations of terrorism instead of reacting with large-scale restrictions on movement and other civil liberties

Intelligence gathering might form one interesting comparison at this point. As a part of learning about those who might conduct harmful operations, intelligence by its nature is conducted in secrecy and is widely debated when it comes to light, as such secrecy is perceived as contradictory to democratic openness.[89] While the FRG did suppress liberties and restrict some of the rights of its own in the name of securing criminal prosecutions of terrorists, the legislative backing anchored these measures in the German democracy. The resulting police methodology simply identified terrorist supporters, followed this nexus to the terrorist, and then utilized information gained from these individuals to pursue other terrorists. This approach is well within the laws of the FRG and has had positive effects in reducing the terrorist threat without upsetting the delicate balance between pursuing the threat and suppressing democracy.

87 Hanshew, "Daring More Democracy?" 124.

88 Not all of these arrests and convictions came as a direct result of FRG police investigations, but as an idea of effectiveness of the system, the fact that an entire generation of terrorists had been unearthed, the number points to a policy which had direct effects on terrorism. It could be argued that more stringent measures and different tactics by the police may have been more effective. However, as maintaining a balance is the narrative of the FRG and democracy in general, the results show positive progress toward mitigating the terrorist threat while protecting democratic rule. Katzenstein, *West Germany's Internal Security Policy*, 66.

89 Daniel B. Silver, "Intelligence and Counterintelligence," in *National Security Law*, ed. John Norton Moore and Robert F. Turner, 2nd ed. (Durham, NC: Carolina Academic Press), 935.

D. TECHNOLOGY TO SUPPORT STRATEGY

Police may be properly trained and have intricate plans for how to deal with the terrorism, but a plan is just that when the agencies are not properly resourced to function effectively. In the fight against terrorism this element of having appropriate equipment and resources is supportive of police structure and ideology. As discussed, the police of the FRG went through broad sweeping changes in response to terrorism. The extent to which changes in structure and ideology were effective was influenced by the ability of the police regime to adapt technology to meet requirements as a result of this change. In looking at police used technology as a facilitator to state action against terrorism it might be best to inquire as to how technology first facilitated a preventative posture and second aided in the coordination of police efforts. Both of these areas point to automated information systems that can provide intelligence and widely distribute information pertinent to counterterrorism operations and prosecution of criminals.

The reliance on technology in successfully combatting terrorism for the FRG came as a result of a commitment to finding and tracking those that would perpetrate terrorist activity. To put this development in perspective, it might be helpful to think of your own address book today. Ten years ago, you might have maintained a rolodex of your contacts on your office desk. But as the world has become more networked, and with the help of technology, your contact list is now available on the electronic device of your choosing, at the time and place you would like it. This has not only expanded the size of your rolodex, but has allowed you to make new contacts in place you would have never thought. This is precisely the effect that the terrorist problem in Germany posed for FRG police agencies. What once had been a force charged with maintaining order at a local level now was required to track many potential criminals, that did not necessarily confine themselves to one place.

In trying to determine those who would most likely incite or participate in terrorist activities the government had in effect established characteristics that would indicate what activities were in line with terrorism and had criminalized them forcing the police to add them to their “contact list.” To this purpose the legislative changes put in place in 1976 allowed for better definition of activities that would meet this threshold.

Notably changes in the penal code and the advent of the "Law for the Protection of Communal Peace," resulted in the criminalization of forming, participating in, supporting (financially or otherwise), and glorifying groups or actions defined as terrorism.[90] Legislative actions seen here further underscored the importance of breaking up terrorist groups as well as their planning and support in an attempt to address the problem in its earliest form, as a group of disenfranchised people attempting to organize against and threaten the government through use of violence. The advent of these laws also suppose though that something must be done to find, track and log the activities which meet this criminal threshold.

The tracking of terrorism-related activities is where a need for technology comes into play. Having established a guideline for intelligence gathering or indicators of terrorism, the government must then undertake a system able to track the networks which support terrorist actions, cataloging the information and then presenting it in an actionable form for police to make arrests and the judicial system to prosecute. There is difficulty in each step of this process that begs for some sort of automation which can assist in the efforts.

As part of a 1973 update to the Bunderskriminalt act of 1951, the FRG established the BKA as "the central office for the electronic data network that links the federal level with the state level in police matters."[91] Part of an effort to professionalize the police and consolidate police information in general, the requirement had the effect of providing a system that could be leveraged to support the tracking of criminal activity now supported by more stringent terrorism legislation. The technological centerpiece of the system was an electronic police information system (INPOL), run jointly by state and federal police agencies, and capable of being queried down to the small unit level.[92] The automation of data greatly increases the capability to actually collect meaningful data, enabling it to be used by all involved in the search and apprehension of suspects vice a hard copy file system maintained at a certain level, whether that be municipal, state or federal. An

90 Beckman, *Comparative Legal Approaches*, 98–99.

91 Koch and Risch, "The Bundeskriminalamt," 6.

92 Ibid., 7.

interesting feature of the INPOL systems was its ability to provide nationwide alerts for the identification and location of criminal suspects and illegal immigrants along with the ability to utilize biometric information such as fingerprints in those identifications.[93] This advancement of technology and the laws to support its use against terrorism became the backbone to support the structure and methodology of policing in the FRG.

The argument against technology, in particular the gathering of data on private citizens comes in the form of critics who contend that information can be used to harass or target those who are not actually criminals, threatening the public support for the government and furthering the cause of terrorist elements.[94] Evidence of waning public support is found in the FRG narrative. In particular, an automated system of video cameras set up in the 1980s to observe neighborhoods where terrorist members are suspected to operate drew criticism as a system bent on "catching the innocent as well as the guilty, and abuse is (inherent) in the system."[95] However, any new technology, offering the government capabilities to monitor once unobtainable mediums, can draw criticism.

For this reason, it is important that the government used appropriate legislative tools to ensure that legal boundaries are set. The FRG with its established sensitivities to criticism of the democratic process addressed these concerns early. The previously discussed laws, which criminalized support of and participation in terrorist groups, legalized the gathering of data related to affiliation with terrorist groups. This criminalization in effect made speeches for terrorist groups, donations and other forms of support for banned groups, criminal actions which could then be cataloged. Additionally, Article 10 of the *Grundgesetz* allowed for the secretive monitoring of mail and phone communications to investigate these crimes.[96]

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93 Ibid., 7–8.

94 Peter Chalk, *West European Terrorism and Counter-terrorism: The Evolving Dynamic* (New York: St. Martin's Press, 1996), 108.

95 Fairchild, *German Police,* 180.

96 The law states that in curtailing the inviolable right to privacy in post and telecommunications, "such law may lay down that the person affected shall not be informed of any such restriction if it serves to protect the free democratic basic order...and that recourse to the courts shall be replaced by a review of the case by bodies and auxiliary bodies appointed by Parliament." Radvanyi, *Anti-terrorist Legislation*, 118.

In supporting the narrative of balance, the advance of technology should increase the capabilities of the police, without generating a case in which this technology has allowed illegal intervention. The FRG appears to have met this guideline as there is limited evidence of information gathering operations and their use being outside of the boundaries of law. In fact, cases brought forward charging individuals with supporting terrorism under the new laws outlawing such activities were upheld during judicial review.[97] The lesson to be learned here is two-fold. First police need to have available the systems by which, coordination and intelligence gathering can be effectively carried out. Second, the policies and more importantly the laws for its use should not render ineffective the efforts of police to use this technology.

E. LEGITIMIZING GERMANY'S ACTION THROUGH COOPERATION

Up to this point, this analysis has focused on the German government's steps to enact a counterterrorism strategy and the specific police efforts to support that strategy. A major theme of this effort has been the ability to meet democratic values and as such maintain legitimacy with the public by which the government gets it power. The balance that a government strikes must be supported by cooperation at all levels internal and external. As alluded to a cornerstone event in the FRG struggle against terrorism was the attack on Israeli athletes at the 1972 Olympics. This event kick started cooperative efforts to combat terrorism.

First, as previously discussed, cooperation was a main point of the Bundeskriminalamt Act revision of 1972. The focus did not solely fall on the police. The intent to combat enemies of constitutional democracy throughout the government was solidified by Resolution of the Prime Ministers of the Federation and the Länder of January 28, 1972, in which it was decreed that "only persons who support the constitutional system may be appointed to the civil service."[98] Intended to root out opposition to its policies the effect of this resolution ensured those who operated within the government were focused on protecting the young democracy. As one author puts it

97 Beckman, *Comparative Legal Approaches,* 99–100.

98 Radvanyi, *Anti-terrorist Legislation,* 62.

the "bureaucracy continues to buffer direct political contact with the police."[99] If this is true, then cooperation among police and other agencies is able to take place in the context of what can be done to support their counterterrorism efforts vice focus on the benefits a particular organization sees in the cooperation. This is a minor point eliminates the infighting and lack of service that results from politics being played out in bureaucracies.

The second and most important efforts toward cooperation came as a direct result of the threat of international terrorism experienced by the Olympic attacks. This effort was a concerted diplomatic effort to seek international cooperation against terrorism. The FRG took lead in both the greater International community and the European community. A press release in Germany following the attack in Munich stated "The German Federal Government hopes that international—as well as its own—efforts will induce hesitant governments to cooperate in the world-wide fight against terrorism … confrontation (between countries) would not yield results here."[100] The FRG was faced with both an internal threat of socio-revolutionary terrorism as well as the new phenomena of terrorism that crossed borders. The response primarily took the form of major pushes in establishing a cooperative agreement and legal framework for fighting terrorism in Europe.

The major product of efforts by Germany and other European countries, was the Convention on the Suppression of Terrorism adopted by the European Council in 1976. The majority of the convention attempted to define terrorism and moreover exempted terrorist activities from political asylum rules that prevented extradition to countries where the violence occurred.[101] This appears to represent a definition of terrorism across Europe in some form and forced a responsibility on the part of countries to address terrorism that might occur in neighboring states as a result of actions occurring within

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99 David Bayley, *Patterns of Policing: A Comparative International Analysis* (New Brunswick NJ: Rutgers University Press, 1985), 174.

100 Press Release of the Federal Government of Germany, November 9, 1972, in Radvanyi, *Anti-terrorist Legislation*, 91.

101 Ibid., 94–95.

their own territory. While the European efforts may not have been a perfect document, it did point toward a need for cooperation in countering terrorism internationally.[102]

This new found international cooperation benefitted policing in the FRG by adding an ability to increase its influence over those who would support and conduct terrorism in the homeland. The threat in the FRG, coupled with an intent of the German police to track terrorist support in France, Netherlands, and Switzerland, led to policing practices which sought liberal information sharing, agreements on police cooperation and easing of extradition complications.[103] The product of these efforts was a European policing network. The Terrorism, Radicalism, and International Violence cooperative (TREVI) was created in 1976 and allowed networking of information and provided a method by which security chiefs and police leadership could exchange information.[104] By undertaking efforts to increase international cooperation and agreement on the threat of terrorism, the FRG enabled police agencies to further prevent terrorist actions. Of sixty major terrorists wanted by the German government and subsequently prosecuted, twenty were arrested in foreign countries.[105] Thus efforts by countries to cooperate must support police efforts to recognize and address the international connection of terrorist groups.

F. LEARNING LESSONS FOR TODAY

The FRG offers a strong case of establishing balance between dealing with terrorism and strongly protecting its democratic values. In this regard, Germany is similar to the United States, which is known for its adamant protection of civil liberties and abhorrence of any efforts which may hint towards invasion on personal rights. In particular, this chapter has highlighted three points worth underscoring and seeking to apply today.

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102 Ibid., 97.

103 Katzenstein, *West Germany's Internal Security Policy*, 48.

104 Wilkinson, "European Police Cooperation," 282.

105 Katzenstein, *West Germany's Internal Security Policy*, 66.

First, democracy in its purest form is government by the people, and when government fails to meet the needs of the people, it no longer is valuable. The protection of democracy almost always presents a conflict between the maintenance of order and the protection of liberties. As such, law and policy should support what is being asked of the police. If prevention is the goal and there is a need to adopt technologies to support the intelligence efforts and coordination of police to this effect, then laws should support this program. In the case of Germany, a focus on laws that defined terrorism activities and criminalized certain actions allowed police to act on these activities. It is similar to the debate today on what should be done to seek out terrorists. While there might be debate and some public dissent over things such as wiretaps and police fusion centers in the United States, the fact is that the law allows these efforts to a limited extent. It is when the actions of the state or the police do not follow the rules that trouble occurs.

This observation leads to the second point about keeping legitimacy in police efforts. The mere appearance of organizations failing to cooperate or adopting differing rules allows for additional dissent and fosters the perception of corruption or inconsistency on the part of the government. For FRG police, a decentralized structure was made more centralized and coordinated by the adoption of policies that directed its organization, directed common technologies, and pushes to assign the goal of maintaining the democracy to all levels of the state. Similarly, the decentralized execution of such efforts as the "Global War on Terrorism" must be guided by some policy that centralizes the goals. Directing lead agencies for investigation, forcing all police agencies to comply with use of a centralized data system and depoliticizing bureaucracies appears to be an effective means in making this requirement a reality.

Finally, cooperation is fundamental both inside and outside. As noted, common direction is obtainable within the country. However, while international terrorism was a relatively new threat for the FRG, a globalized world now makes international terrorism the primary threat. As Germany realized, coordination with other governments needs a legal basis to be effective. Efforts today must focus on some common definitions and depoliticizing of terrorism in order to allow effective cooperation.

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IV. CENTRIST POLITICS AND THE POLICE: AN ITALIAN NARRATIVE

Italy presents an interesting case as it highlights the attempt of a government to satisfy all sides of a broad political spectrum, while responding to threats that come from both political extremes. In contrast to the Germans, with their staunch rejection of all vestiges of their authoritarian past in the name of continually perfecting democracy, the Italians concerned themselves less with democracy in general than with trying to find a governmental system that would allow for reconstruction and stability. At the same time, the peculiarities of the Italian political system often allowed short-term, partisan considerations to distract the government from recognizing or responding to threats. In the worst cases, Italian leaders even tried to use crises to their own political advantage, rather than finding real solutions to a national security problem.

As a result, the Italian approach—to counterterrorism and policing for it— might best be described as "conflicting and confused strands of political culture that result in a wide variety both of forms of political violence and of attitudes towards political violence on the part of political actors."[106] Amid such confusion, the question then becomes whether or not this swirl of political practices and expectations adversely affects the ability of police to be effective tools for countering terrorism. The case of Italy highlights the process of democracy, over the protection of rights and lofty ideals of liberty in finding effective means to combat terrorism.

A. BACKGROUND AND CONTEXT

Like Germany, Italy spent most of World War II (and the decade-plus that preceded it) as a fascist country, on the side of the Axis powers. Although the Italians essentially liberated themselves from Mussolini (first when the king fired the Duce in 1943 and ultimately when communist partisans executed the former dictator and his party in April 1945), Italy emerged from the war defeated, disgraced, and struggling to find a governmental form that could manage a divided society in turbulent times without

106 Furlong, "Political Terrorism in Italy," 61.

resorting to authoritarian or anti-democratic measures. Defeat also highlighted to the people and newly formed governments that Italy did not have the economic capacity and infrastructure to make the leap to functional liberal capitalism, the basis of Western European integration, as well as democracy.[107] Therefore, Italy focused on industrial reconstruction and economic recovery and did not immediately address social divides as they developed in the post-World War II environment.[108]

In these circumstances, post-war Italy arrived at a centrist system of government that tried—and tries—to balance the desires of a strong Christian Democratic Party (DC), which includes elements of both the liberal and fascist parties of the past, and a large and active Communist party.[109] Thus, the political narrative of Italy tells of a country that has leftist socialist leanings due to its economic structure and traditions of oppression but that must also recognize many years of fascist, right-leaning political traditions—"torn between its liberal-democratic constitution and origins and its authoritarian heavy-handed tradition."[110] In this divided and divisive political realm, Italy's home-grown terrorists also found their respective niches, causes, and targets. Table 2 provides a brief chronology of developments in post-World War II Italy.

Year	Event
1948	Italy's new Republican Constitution takes effect on 1 January, leading to election of bicameral legislature on 19 April and its first president on 11 May.
1968	Right-wing terrorists explode a bomb in Milan killing 12 and injuring 80, considered starting point of domestic terrorism in Italy.
1969	Widespread student and labor strife is evident with many demonstrations and sit-ins across the country as a result of economic stagnation.
1974	*Ispettorato Generale per la Lotta al Terrorism* (Antiterrorism Office) created within the Ministry of Interior to be the primary intelligence gatherer and coordination of efforts for combatting terrorism.
1975-1976	The PCI moderates its communist ideas and gains participation in parliament. This move toward the middle intensifies the extremist left violent response.
1977	Intelligence reform in Law No. 801 creates separate intelligence organization

107 Vittorfranco S. Pisano, "Terrorism in Italy" (The Heritage Foundation, March 27, 1978), 6, http://www.heritage.org/research/reports/1978/03/terrorism-in-italy.

108 Pisano, "Terrorism in Italy," 5–6.

109 Mario Einaudi, "The Constitution of the Italian Republic," *The American Political Science Review* 42, no. 4 (1948): 662.

110 Furlong, "Political Terrorism in Italy," 61.

Year	Event
	for military/national intelligence and domestic intelligence.
1978	Red Brigade (BR) kidnaps and later kills after "trial," Aldo Moro President of the Christian Democratic Party and former Italian Prime Minister.
1978	Law Decree No.59 (21 March) and Law Decree No. 191(18 May) criminalize terrorism for the first time, increasing penalties for crimes motivated by "terrorism or subversion of the democratic order." Also relaxed electronic surveillance restrictions and broadened powers of police to detain, question.
1979	Law No. 625 allows reduced sentences to those terrorists that aid police in investigations.
1981	American General James L. Dozier kidnapped by BR.
1982	Dozier freed during operation by Nucleo Operativo Cetrale di Sicurezza (NOCS), police antiterrorism task force.
1982	Law No. 304 offers clemency to repentant terrorists who contribute to Italian counterterrorism operations.

Table 2. Chronology of Italy[111]

1. Finding a Political Identity

The political environment requires some explanation as the centrist position characteristic of Italian government is a result of the give-and-take of multiple political parties across the political spectrum. The Christian Democrats came to power by trying to join the center-leaning elements of both the left and the right in the kind of less ideologically charged "big tent" party that predominated in post-war western Europe. Primarily, the party roster was made up of those Catholic militants who had supported the Italian People's Party, banned by the facist party before World War II, along with the upper and middle classes, who wanted to ensure bourgeois values and capitalism.[112] The party also was the more palatable of the parties in light of support from the West and particularly the United States, which, of course, viewed the communist-inflected left-wing parties much more dimly. Even so, the DC came to be the majority party, but only

111 This table provides a brief look at those events pertinent to counterterrorism in Italy. It does not reflect all instances of terrorism or governmental events to address the crisis. Of note is the period from 1978-1979 when the issue of dealing with terrorism seemed to experience a flourish of activity as a result of the Moro affair. For further information refer to Vittorfranco S. Pisano, *Terrorism and Security: The Italian Experience*, Report of the Subcommittee on Security and Terrorism of the Committee on the Judiciary United States Senate (Washington DC: U.S. Government Printing Office, November 1984), and Vittorfranco Pisano, *Contemporary Italian Terrorism* (Washington: Library of Congress Law Library, 1979). *Analysis and Countermeasures*

112 Lawrence L. Whetten, "Italian Terrorism: Record Figures and Political Dilemmas," *Terrorism* 1, no. 1 (December 1977): 380.

by a slim margin. This fact, too, increased its centrist tendencies, as the party strove to reach out to and keep a wide range of Italian voters.

The far left was dominated by the Italian Communist Party (PCI), which had been important to the defeat of the fascists and liberation of the country from Nazi control during the war, causing it to be popular with laborers and leading to its status as the second-largest political party.[113] In the fractious years between the world wars, the PCI had split from the other party of the left, the Socialists, who favored a more moderate, trade-unionist ideology—or, as the PCI founders put it when they spun off their own party in 1921, the Socialists lacked of "revolutionary resolve."[114] To post-war Italian sensibilities, the Socialists also lacked the PCI's dramatic anti-fascist credentials and strident claim to the future. As such, the Italian left embraced its Communist party more warmly than most other western European polities, which tended to favor the center-left.

2. The Political Effect on the Constitution

The delicate balance and compromise between the right and left is reflected in the constitution that Italy ratified in 1947. Debate over the constitution took great care to find compromise so that neither political side felt disadvantaged—nor inclined to opt out of the democratic order the constitution sought to establish. The primary product of this debate came in the structure of the government. The Italians chose to adopt a bicameral, parliamentary form of legislation that ensured neither of the houses, the Senate or the House of Deputies, was superior to the other. Similarly, members of both houses would be popularly elected to prevent the influence of interested parties in determining representation.[115]

As expected in an occupied country following a fascist regime, the constitution has a lot to say about individual rights. In Article 2, the Constitution of the Italian

113 Robert C. Meade, *Red Brigades: The Story of Italian Terrorism* (London: The Macmillan Press LTD, 1990), 25.

114 Ibid.

115 Einaudi, "The Constitution of the Italian Republic," 666–667.

Republic "recognizes and guarantees the rights of the person both as an individual and in social groups where human personality is expressed," expecting that "fundamental duties of political economic and social solidarity be fulfilled."[116] Two interesting points should be made here. First, on the basis of this statement, the state is admonished to observe and uphold to the democratic principles of freedom of assembly and freedom of participation in political groups. Second and more importantly, the new Italian civil rights had truly socialist leanings. The constitution specifies that "public and private economic activity may be directed and coordinated toward social ends," hinting at an attempt to balance the pursuit of happiness by the individual with the idea of collective action.[117]

It seems there was also intent to instill democratic requirements on the people as well as the government in light of Italy's history as well. Under Title IV, the Constitution enumerated political rights and duties for the citizenry, specifically noting that all parties were welcome if they adhered to democratic principles in determining national policies and charging all citizens with "the duty to be loyal to the Republic" and its laws.[118] The balancing act continued in the development of a constitution, trying to assure the ability to govern while trying to place the government in the hands of a people that saw government as a burden to their more pressing social desires.

To be sure, the constitutional resolve to protect worker and socialist movements ran contrary in many ways to building a government that could be just as muscular in the protection of the rights of all and ensuring a capable democratic nation. The Italian constitution did address the possibility that individual rights may have to be curtailed in the interests of preserving the national security. In particular, the constitution takes up the issue of attempted revolution by restricting the right to assembly given in Article 18; it forbids political association that either directly or indirectly possesses a military character.[119] This prohibition indicates that in framing its constitution, the Italians

116 "Constitution of the Italian Republic" (Italian Parliamentary Information, Archives and Publications Office of the Senate Service for Official Reports and Communications, December 27, 1947), 5.

117 Einaudi, "The Constitution of the Italian Republic," 673.

118 Ibid., 15–16.

119 "Constitution of the Italian Republic," 8.

recognized a past that was checkered with political violence, which begat political instability.

In effect the political system was one in which all parties wanted to move toward the center, leaving those disenfranchised from the parties to seek redress elsewhere. The post-war exercise in tolerance that sought to absorb all of society into a common political framework was precisely what caused those on the right and left extremes to turn toward terrorism as they perceived they were excluded from government.[120]

3. Terrorism in Italy

Like the FRG, Italy experienced a terrorist threat from the fringes of the left and right, characteristic of revolutionary terrorism, or political violence aimed at addressing social problems through the dissolution of its government. What made Italy unique, though, is the ambiguous ideologies that resulted in confusing jumble of terrorism intertwined with political parties and platforms. This situation can best be described as a "thin line of demarcation," where ideas of fascism, feminism, internationalism, separatism, and communism are used by multiple, often mutually antagonistic, groups; sometimes these -isms are professed within the groups as combined ideologies.[121] The confusion between politics and terrorism does not affect the landscape of the terrorist threat as much as it bears on the political and social environment in which a counterterrorism strategy is pursued, but because this connection is relevant to the analysis that follows, a short survey of the major groupings and their messages is in order here. This description of the threat does not include the mafia as an element of organized terrorism. The focus is solely on the message and aims of political violence, rather than a description of the criminal enterprise.

Right-wing terrorism found its support or refuge in a strong group of industrialists, civil servants, and landowners who had grown up under the fascist regime and felt misrepresented in their interests. As a group, they tended to support low-level

120 Furlong, "Polictical Terrorism in Italy," 69.

121 Vittorfranco S. Pisano, *Terrorism and Security*, 2.

violence to right the political direction of the country.[122] They aspire to bring back totalitarian rule with nationalistic and "community" goals—and a political order in which their constituencies would come out more clearly on top. The problem with right-wing terrorism in Italy was its close and almost direct ties to right-wing elements of government and the Italian Social Movement (MSI), better described as the neo-fascist party, which has stood for (and won) elections more or less legitimately. In this sense, then, terroristic violence represents an extreme expression of a more broadly held ideology. On the one hand, the line is very hard to draw between "regular" neo-fascists and right-wing terrorists. On the other hand, actual incidents of right-wing terrorism appear to be for the most part, ineffectual. "As far as right-wing terrorism is concerned, it is enough to recall that only very few neo-fascists responsible for terrorist massacres and their protectors have been discovered."[123]

Interestingly enough, the blind and indiscriminate nature of the attacks by which the right-wing terrorists hoped to show the inability of the government to govern ultimately proved beneficial to the Christian Democratic party. During the late 1960s and early 1970s, right-wing groups tended to target public conveyances and public places to create panic and goad the state into adoption of strong measures that they hoped would call into question the actions of the government.[124] The DC was able to leverage a popular fear that terrorism from the fringes would result in anarchy and could threaten sovereignty of the nation.[125] Nonetheless, neo-fascist terrorism seems to have kick-started the use of violence as a political tool in Italy and, in this process it forced the country to acknowledge terrorism as a threat, demanding action by its institutions The new-found public support for a government response, coupled with political agreement by both sides, led to legislation that actually pursued terrorism openly.

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122 Furlong, "Political Terrorism in Italy," 69.

123 This characterization of the right-wing threat is supported by the fact that General De Lorenz, head of the *Servizio Informazioni dell Forze Armata* (SIFAR), the military intelligence service was protective of the right-wing movement. From the late 1960s to early 1970s neo-fascists relied on large scale bombings to increase demands for order from the public in attempts to increase the political power of MSI. Della Porta, "Institutional Responses to Terrorism," 152.

124 Pisano, *Terrorism and Security*, 36–37.

125 Ibid., 154.

The left-wing terrorist threat flowed from the political environment of the late 1960s and early 1970s in Italy. The right-wing posturing with anti-government violence had the effect of pushing the left to adopt violent tendencies as well. The legitimate left-wing political movements also experienced a period of internal strife that excluded some elements, which opted for violence instead. This dynamic was most evident in the student movements of the left, which started in 1965 and extended into the 1970s. During this time, student and, to a lesser extent, labor protests had been put down, sometimes with lethal force by the government. The attempts on the part of the left parties within the national government to reform the official response to the protests did not succeed, which further increased the dissatisfaction with those who represented the left in government, primarily the PCI.[126] Thus left-wing political violence became entrenched, if somewhat self-reflexive, in Italy.

B. POLICE PROFFESSIONALISM

Despite distaste for fascism, Italy did not see a mass demilitarization of the police forces in an effort to pacify state power after World War II, perhaps because the leadership focused more on power sharing among the major political parties. Italy could best be described as a militaristic state for law and order. In fact, Italian police could be thought of as very powerful within the newly formed democracy, intervening with force on many occasions, and notably using escalated force to combat protests and labor disputes.[127] The Italian police, as a professional force, thus bears some resemblance to its counterpart in an authoritarian or fascist state, serving in this connection as a tool of the government to put down opposition. At the very least, the Italian police have worked in an environment that prioritizes order and stability. The real story here, though, is how

126 The government at this time was considered left-center due to its majority representation by the Socialist party. During this period the government was at best neutral to the cries of students and labor engaged in protest. As a result of this immobility the PCI became popular and won more and more influence in the parliament. However the PCI toned down many of its communist influences in an attempt to make accommodations in government further enraged the far left and those protesting for social change. For more information see Reiter and Weinhauer, "Police and Political Violence in the 1960s and 1970s," 383 and Vittorfranco S. Pisano, "A Survey of Terrorism of the Left in Italy: 1970-78," *Terrorism* 2, no. 3/4 (1979): 177.

127 Reiter and Weinhauer, "Police and Political Violence in the 1960s and 1970s," 381.

political inaction led to informal police coordination, that later flourished when political action led to more formal efforts to combat terrorism.

The militaristic organization of the police in Italy derives from its affinity with the French system, especially the *Gendearmerie*. (This model has remained, with variations for political-ideological developments, since the foundation of the modern Italian state in 1860.) In such system, the police are heavily influenced by the military, and, in fact, a number of the day-to-day patrolling operations within Italy are undertaken by the military arm of the police, the *Carabinieri*. Additionally, after World War II, the Italians deemed limits placed on the size of the Italian army as reason to maintain a civil police force organized in a military style so as to be able to respond to threats against Italy.[128]

This arrangement created rival police forces, civil and military, national in flavor and falling within the jurisdiction of a number of ministries within the government. Today, the Italian system is still characterized as a "centralized multiple uncoordinated" law enforcement system with no one force dedicated or detailed to deal specifically with one type of crime or the other.[129] This structure has remained mostly in tact since 1969. Figure 3 depicts the structure of police forces within Italy:

[128] Herbert Reiter, *Police and Public Order in Italy, 1944-1948: The Case of Florence* (Florence, Italy: European University Institute, 1997), 9.

[129] Reichel, *Comparative Criminal Justice Systems,* 213.

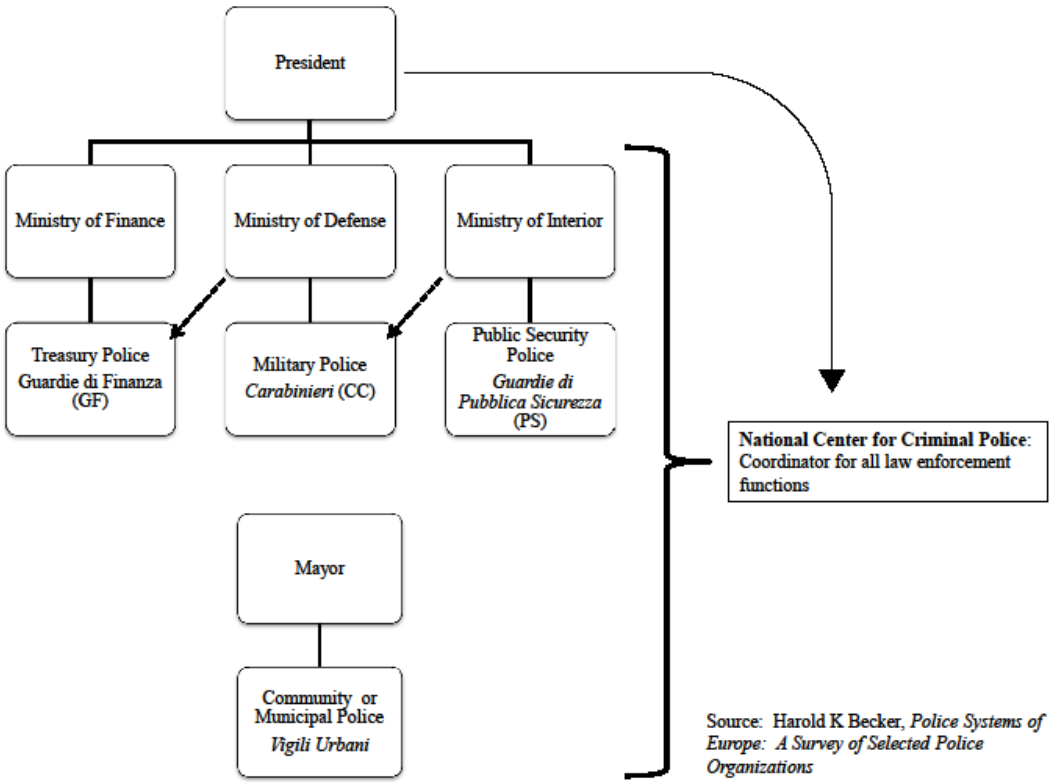

Figure 3. Italian Police Structure[130]

The early failure to demilitarize and address functions across law enforcement agencies resulted in chronic lack of coordination during the rise of terrorism in Italy in the 1970s.[131] Some of this friction could have been as a result of a need to maintain the ability to police organized crime in the south, as the use of military police was the only

130 Adapted from figure in Becker, *Police Systems of Europe*, 119. The police in Italy are conglomerations of multiple agencies that have varying jurisdictions. The major police forces are the three national level forces the Treasury Police under the Minister of Finance, the Military Police, part of the Defense Ministry and the Public Security Police or State Police falling under the purview of the Interior Minister. In the case of the *Carabinieri* and *Guardie di Finanza*, there may be missions and operations in which their direction comes from the Interior Minister and Defense Minister respectively. This makes sense in tactical terms as the *Guardie di Finanza* includes border and customs police and the *Carabinieri* are the major force providers in protest and public order situations that exceed PS capabilities and resources. The National Center for Criminal Police (Criminalpol) is overseen by the President and has the responsibility to coordinate the four police systems of Italy, including the municipal police forces. Additional information can also be found in John Cammett and Mary Gibson, "Italy," in *World Encyclopedia of Police Forces and Penal Systems*, by George Thomas Kurian (New York: Facts on File, 1989), 197–203.

131 Della Porta, "Institutional Responses to Terrorism," 159.

effective means to fight the mafia in areas where the local police were under the control of corrupt government officials. Nonetheless the lack of coordination and the inability of the government to utilize police effectively resulted in many changes to the ways the government attempted to fight terrorism. While the Italian police did not necessarily adopt a structure that was fully coordinated and centralized, they did take advantage of efforts of the government to understand what was going on.

In light of the right wing having been able to influence the military intelligence service, *Servizio Informazioni delle Forze Armata* (SIFAR), there was established a new intelligence agency under the Minister of Interior, the *Ispettorato Generale per la Lotta al Terrorism*, which allowed the *Carabinieri* and State Police to gather under one banner to coordinate activities.[132] This group was effective in the early quest to combat terrorism on a limited scale. Despite a left-of-center coalition in parliament that was concerned with police accountability, the increasing violence and the efforts of police to combat them led to some limited increase in police powers, including increased sentences for bombings and arson, generally tools of terrorism.[133] The *Ispettorato,* renamed the Servizio di Sicurezza (SdS) in 1976, along with a *Carabinieri* specialized terrorism investigative unit, the *Nucleo Dalla Chiesa*, succeeded in coordinating and leading police action. By 1976, such smaller left-wing groups as the *Gruppi Armati Proletari* and *Nuclei Armati Proletari* had been decimated, and the *Nucleo Dalla Chiesa* had gained crucial insight into the structure and organizational features of the Red Brigades.[134]

132 Ibid., 154. The effort to create a new antiterrorism unit was not as much a move to concert police efforts but a political bid to do away with previous structures which had been a bastion for neo-fascist support within government. The advantage for police was that they now had a structure which brought them together. This would become more helpful as the government began to move politically towards actual legislation and common direction to fight terrorism. See also; Dilip K. Das, "Impact of Antiterrorist Measures on Democratic Law Enforcement: The Italian Experience," *Terrorism* 13, no. 2 (January 1, 1990): 92.

133 Stortoni-Wortmann, "The Police Response to Terrorism in Italy from 1969-1983," 152.

134 Ibid., 158.

Unfortunately, the political structure within Italy still failed to grasp fully the threat of terrorism and almost inexplicably disbanded these groups in 1976.[135] In effect, the government had finally realized the need to centralize control and specialize police for counterterrorism, but had done it at the expense of systems, which had already proven effective in fighting terrorism.

This new found need to professionalize the police, was given a big boost in 1978 by the Moro kidnapping incident. The Moro kidnapping incident gave unity of effort to the Italian counterterrorism campaign by making terrorism a political priority and increasing public support for national efforts.[136] As a consequence, the political culture of blame and consolidation of position was no longer an impediment to the efforts of policing in Italy after 1978. The specialized police units and the coordination they brought to the system were now able to flourish, evident in CC efforts under the second Nucleo Dalla Chiesa controlled by the Interior Minister under the direction of General Dalla Chiesa, which was responsible for providing "wide information about structure and composition" of terrorist groups, used in-turn by the territorial and municipal police to conduct detailed investigation of terrorist groups.[137] The outcome of the efforts to specialize and coordinate was a professionalized police force.

The centralized nature of the police under specialized police units is the key indicator of a move toward an effective professional force as a result of the terrorist threat. Even though Italy had a decentralized police structure, the police began to find

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135 The best explanation for disbanding the specialized units was a political need to control the specialized police agencies. In the place of the previous specialized units were created the *Ufficio centrale per le investigazioni e le operazioni speciali* (UCIGOS; Central Office for the Special Investigations and Operations) with the PS and a new 2nd *Nucleo Dalla Chiesa* within the CC. Additionally, in 1977, the government created two new intelligence services the *Servizio informazioni sicurezza* (SISMI) for national security and the *Sevizio informazioni sicurezza democratica*, (SISDE) for internal security. Della Porta, "Institutional Responses to Terrorism," 159–160.

136 Moro, a former Prime Minister and leader of the DC, was kidnapped by the Red Brigade and executed in 1978. The Moro event stunned the government, now led by the PCI, and created public outcry resulting in "emergency legislation" to combat terrorism and put overall control of the counterterrorism effort under General Carlo Dalla Chiesa of the CC. This step enabled the specialized police to realize real progress eventually resulting in the capture of most of the Red Brigade leadership and led to the end of the right and left wing threat by the end of 1982. Richard O. Collin, "The Blunt Instruments: Italy and the Police," in *Police and Public Order in Europe*, ed. John Roach and Jurgen Thomaneck (London: Croom Helm, 1985), 200–201.

137 Stortoni-Wortmann, "The Police Response to Terrorism in Italy from 1969-1983," 158.

methods to coordinate action centrally once the government embraced a unified effort to combat terrorism. This structure was not perfect, nor could it boast perfectly clean lines of command, but it does provide some semblance of a coordinated command and control structure by which the state can pursue a counterterrorism strategy. The structure was intended to demonstrate the "the increasing commitment of the state to fight against terrorism," responding to citizens needs to be secured; in the end it also allowed a level of trust that the police were doing their jobs.[138] The actions of the police then supported the legitimacy of the government and further bolstered its coordinated effort. By the spring of 1983, the police in particular the CC, were no longer seen as tools of oppression but as a professional force trusted publicly to maintain law and order.[139]

C. INVESTIGATIVE EMPHASIS

As the heavy-handedness of the police force gave way to a coordinated effort to assess the situation, there was also a move away from the reactive nature of forceful order maintenance. A clear relationship exists to changes in legislation that better attacked terrorism through a preventative approach. While the generalized terrorist menace had been primarily used as political bargaining tools, starting in the mid-1970s, the Italian government started to target terrorism as a specific threat that wanted specific measures and policies. This legislation, widely studied as "emergency legislation," had two themes: harsher punishment for crimes of subversion carried out toward violent ends and increased investigative powers for the police.[140]

After the Moro kidnapping, Law No. 191, amended by referendum in 1978, allowed police to seek out terrorists rather than waiting for the terrorists to strike. The law empowered police to detain those who failed to identify themselves, relaxed judicial control on wiretaps, and required landowners to notify police within forty-eight hours of transferred ownership or tenancy.[141] The latter measure allows police specifically to track

138 Ibid., 162–163.

139 Collin, "The Blunt Instruments," 200.

140 Aldo Grassi, "Terrorism in Italy and Response by the Government," *EuroCrimonology* 3 (1990): 167.

141 Pisano, *Terrorism and Security*, 50.

movements of persons and alerts law enforcement to possible new cells setting up shop—literally and figuratively—within an area. Put together with lists of suspected terrorists or known associates, the transfer of tenancy can lead to identifying threats before those groups have a chance to organize in the area. The referendum for this new law was also broadly supported by the right and the left wings, with more than 75 percent of voters supporting the new measures.[142]

The important part of preventative nature of democratic counterterrorism is that it supports democratic ideals and legitimizes the government by establishing rule of law. The police in Italy adopted this methodology in their actions. To build cases against terrorists and their supporters, Italian police relied heavily on papers seized in safe havens, on surveillance of identified and escaped terrorists, and in some cases on informants, especially members who had been marginalized by the terrorist organizations.[143] This methodology seeks out information on a problem and then takes action to disrupt the criminal nexus before it is able to attack. The effort to build cases and investigate terrorists resulted in 2000 convictions by 1987 and a reduction of terrorist incidents from 2243 in 1978 to 412 in 1983.[144] Additionally, much like the efforts in the German case, the Italian investigative ability was enhanced by legislation that rewarded terrorists' repentance. The Italian recompense law of 1979 allowed for substantial reductions in penalty for those terrorists who collaborated with police and judicial authorities.[145]

By the late 1970s and early 1980s, police effectiveness in Italy had increased thanks to its reliance on such investigative means, fostered by the emergency legislation. In fact, some terrorists reported that they started to become disillusioned with their organizations because the groups were splintered and many of the people they had started with were now imprisoned.[146]

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142 Meade, *Red Brigades*, 180.

143 Pisano, *Terrorism and Security*, 54.

144 Das, "Impact of Antiterrorist Measures," 93.

145 Ibid., 96.

146 Della Porta, "Institutional Responses to Terrorism," 166.

D. TECHNOLOGY

Italy saw a huge benefit in centralized intelligence and coordinated efforts brought on by technological adaptation. The basis for technology adaptation was set in 1980, when Law No. 23 was passed by the parliament. It directed the Ministry of Interior to set up a Center for Computerized Information, and all "data relevant to the protection of order, public security, and prevention and repression of crimes had to be collected, classified, and archived there."[147] Essentially, the law required Italian law enforcement to pool all information in a single database, regardless of which agency initially collected the material. Because the law was enacted more or less at the beginning of the computer age, law enforcement could leverage the latest in technology and maintain a truly modern repository of relevant information. While it is difficult to find direct evidence of the quantitative effect the establishment of the Center had on the police efforts, it is easy to suppose that it benefitted the ongoing efforts to coordinate among police forces.

Despite a fractured, or at least highly decentralized, policing structure in Italy, the control of the information allows for centralization of command and control, by giving all agencies the most complete and accurate information possible—and, of course, the same information. Many times, terms like "controlling the information" have a negative connotation, hinting that the intent behind controlling information is to keep someone out of the information loop. In this case, information control means that information is integrated and formatted for use by all officials who require it.

The benefits of technological updates to the way police did business were also increased when the "emergency legislation" addressed the use of technology, as well. As part of the laws passed in 1978, police now were able to tape phone calls and receive information on banking transactions in excess of $25,000.[148] Such information was key to increasing the government's ability to undertake robust intelligence operations to support a proactive approach. During the late 1970s, the police also benefitted from an increase in information about the structures, compositions, targets, and ideological

147 Della Porta, "Institutional Responses to Terrorism," 167.

148 Das, "Impact of Antiterrorist Measures," 96.

positions of terrorist groups allowing, in which further improved their record of thwarting terrorist operations, highlighted by the successful rescue of General Dozier[149]

In light of new laws this success seems to have also circumvented the traditional argument that use of technology can be burdensome on the public by threatening privacy rights. Despite some mixed public response to the "emergency legislation" and the laws that allowed electronic monitoring, there was no particular outcry about police abuse. In the end, the system allowed for "a bit of trust to the policeman and to the carbineer" when in the past "he was blamed because … he went beyond the permitted limits."[150] The Italian people were more interested in their overall safety and the effectiveness of the government response, satisfied that new rules adequately protected their rights and technologies were being appropriately integrated by the police.

E. FRAGMENTED STRUCTURES BECOME PARTNERS

If one thing is evident in the narrative of Italy, it is the surfeit of political, social, and institutional competition. As this chapter has already shown, the different political parties competed with one another for power in government; the police forces had varying chains of command; and the public could be expected to shift in its support of the many different factions. However, the period of cooperation on a national and law enforcement level, coming in response to the Moro affair, marked a turning point allowing for the counterterrorism campaign to reach a successful conclusion. Working together and in concert, police units in Italy were able to completely dismantle the Front Line leftist terrorist group, successfully rescue General Dozier, capture the majority of second generation BR leadership.[151] General Dalla Chiesa, formerly responsible only for CC, was put in charge of over-all command of counterterrorism efforts in 1978 and was unanimously supported for reappointment in 1979 by all parliamentary political

149 A US Army General, assigned in Verona, Brigadier General Dozier, was kidnapped by the BR in December 1981. He was rescued after 42 days, and the situation is considered a success, showing how the police had adapted utilizing investigative tools and intelligence to combat terrorism. See Stortoni-Wortmann, "The Police Response to Terrorism in Italy from 1969-1983," 160; Pisano, "Terrorism In Italy: The 'Dozier Affair'," 40–41.

150 Reactions of CC Chief Corsini, in 1985 as referenced in, Stortoni-Wortmann, "The Police Response to Terrorism in Italy from 1969-1983," 163.

151 Pisano, "Terrorism In Italy: The 'Dozier Affair'," 41.

parties.[152] The importance of a unifying personality to force cooperation must be highlighted. The new efforts saw immediate results in coordinated efforts to raid BR apartments in Rome and Milan along with a broad campaign to ensnare supporters of terrorism across the country allowing police to gain information and arrest the major BR "columns" by 1980.[153] The end result of appointing a chief executive for the police efforts was to ensure cooperation. The common cause under a unified command is notable in eliminating competing interests amongst police forces as success against terrorism becomes the goal of all.

The government's counterterrorism policy gained momentum and support as the efforts became more successful. The unanimous approval of the efforts against terrorism and overwhelming support for the "emergency legislation" are strong indicators that once the government had decided as a whole to address the threat of terrorism, cooperation followed. The successes seen in the early 1980s also showed how the government had enabled cooperation and further legitimized its efforts, allowing the "Italian polce and intelligence agencies to work in the respect of the law free of politically motivated constraints."[154] Cooperation in the Italian narrative indicates the tendency of organizations to work together when a common goal and unifying structure are developed. This process took a while in the Italian experience but eventually proved fruitful.

F. OUT OF THE CHAOS: LEARNING A LESSON OF UNITY

Centralized control of a national counterterrorism strategy seems to suggest that the country has a unity of vision. In Italy, such was not the case early in the crisis of terrorism that was characterized by an inability of the government to produce other elements of a successful strategy—laws that support a proactive approach, organizations for centralized control, and unity of political effort that would legitimize its efforts.

152 Collin, "The Blunt Instruments," 201.

153 Ibid.

154 Ibid.

Not surprisingly, police floundered in early efforts to find some of the tools that would make their operations successful. Despite attempts to formulate specialized groups that would allow centralized investigative efforts, the political environment proved schizophrenic at best and even disbanded some of these early efforts. The indication here is that the efforts of police to specialize or seek a more professional approach must be complimented with a uniting strategy at the national level. This observation has relevance even today, when disagreements among political entities may result in reduced budgets or prohibition of certain efforts.

Another lesson is that despite a decentralized structure, police can find means of cooperation that overcome this structure. This point sets the stage for countries that have numerous systems of police control, varying from singular coordinated structures to those with various, decentralized and uncoordinated police forces. The key in Italy appears to be that there is a singular national direction and tools adapted to allow coordination of effort. In the case of Italy, this coherence, however late-breaking, came from a unified command and control element and adaptation of technology that allowed for a common operating system. Unity of effort is required, enabled by technology and cooperation.

V. CONCLUSION—MAKING A DIFFERENCE IN HOMELAND SECURITY

Democracies tend to respond to internal security problems with law enforcement. The roles and methods of law enforcement in counterterrorism should be rendered in a strategy which protects the legitimacy of the government by establishing centralized control and democratic norms, addressing the prosecution of terrorism, and maintaining a proactive posture against the internal threat. Germany and Italy provide case studies of exactly such a system.

A. LINKING THE HISTORIC THREAT TO TODAY'S TERRORISM

What becomes, then, of the democratic response to terrorism in the current decade and beyond? First, the violence associated with terrorism can be traced to a criminal or organized nexus. Even, in the case of lone-wolf terrorism, there is always a process of planning, accumulating the resources necessary to conduct the operation, and then the carrying out the operation itself. All of these phases require the active or passive support and connivance of friends, allies, and fellow-travelers. In other words, those who would say that "it's a different kind of terrorism, so it demands a new strategy" are seeking to justify measures that not only run counter to democratic principles but also may very well miss the chance to deal with a terrorist threat at a meaningful level. Despite the revolutionary flavor of terrorism in Italy and Germany, the subject of their democratic strategy was not to eliminate revolutionary thought or to destroy all who would disagree with the majoritarian mainstream. The response to terrorism was democratic in that it sought out criminals, to protect "peace and prosperity," and to uphold the democratic principal of "rule of law."

Second, a terrorist, at all levels, has some beef with government and establishment. Some will say that terrorists target a people or the public, but the target is a message of non-support for some structure, leadership, government, or community hierarchy. This assumption eliminates the argument that people do bad things, and those people have no position to which a claim can be staked. These goals may change over

time and be confusing (or internally conflicting), but the goals continue to justify both the terrorist (or criminal) acts and the response. Again, failing to consider and address this broader aspect of any terrorist threat means that the response will be incomplete, temporary, and possibly ineffective.

These fundamentals of a terrorist threat to democratic countries brackets what is many times referred to as the globalization of terrorism, or a threat from without that challenges a country. The truth is, though, that terrorism still relies on operatives within a nation and attempts to challenge a nation's authority or ability to govern in the message it intends to send. In other words, even international terrorism remains an overwhelmingly national concern.

B. LESSONS FOR THE UNITED STATES

Police professionalism, preventive policing, technology adaptation, and cooperation were effective in combating terrorist threats in Germany and Italy. These same areas each have applicability in the United States as Department of Homeland Security continues to develop the direction and control of internal security for a democratic nation.

1. Police Professionalism

Police, as an agency, must be structured to support counterterrorism strategy, and the police agencies must be able operate in a manner that speaks to the democratic values of a country in order to provide legitimacy to the government's response. Germany achieved an effective state of police professionalism in a centralized structure that put a number of federal controls on its police force and training in order to assuage public opinion about the police force acting against terrorism. The centralized nature of the system made command and control relatively easy. Italy provides a picture of a decentralized system as a matter of democratic organization; but when law enforcement recognized the practical pitfalls of such decentralization, Italy established specialized units that had the effect of consolidating command and control of terrorist operations within the system. From these two examples, we see first that the precise structure of the police forces is less relevant to the effectiveness of the counterterrorist response. What

matters is that professionalization within that structure seeks a common goal and ensures that police address terrorism in a similar manner across the entire structure.

The United States has focused heavily on the failure of law enforcement to identify a terrorist threat and respond to investigative leads as the major contributing factor to the September 11th terrorist attacks. As such, the emphasis has been on attempting to fix this lack of coordination among law enforcement and federal agencies– nowadays couched in terms of a "reciprocal relationship, in which state and local agents understand what information they (the federal government) are looking for, and in return, receive some of the information being developed about what is happening, or may happen."[155] While this idea is a step in the right direction, the manifestation of this suggestion has been a loosely controlled collection intelligence fusion centers run by the states, with some states even having multiple fusion centers. Whatever the level of cooperation or coordination within the walls of these fusion centers, they hardly bring an overarching framework for this vaunted "reciprocal relationship" in any practical sense. Indeed, the system retains the culture and practices that cause police to compete with each other rather than to collaborate on a national counterterrorism strategy. The fusion centers have become cash cows for state and local governments, with more than $460 million in federal grants for this effort since 2004.[156]

To be sure, the concept of the fusion center is "intended, to broaden sources of data for analysis and integration beyond criminal intelligence, to include federal intelligence as well as public and private sector data."[157] This programmatic statement indicates a move toward a massive effort to structure police for countering terrorist threats, but has focused too much on collecting data and not enough on directing or encouraging police agencies toward a common goal of stopping the terrorist threat. In

155. National Commission on Terrorist Attacks Upon the United States, The 9/11 Commission Report (Washington DC: U.S. Government Printing Office, 2004), 427.

156 Ken Dilanian, "' Fusion Centers' Gather Terrorism Intelligence and Much More," The LA Times (Los Angeles, November 15, 2010), 1, http://docs.newsbank.com/s/InfoWeb/aggdocs/AWNB/133AB21021F29CE0/0D0CB5FC0F5C3AD5?s_lang.

157 Todd Masse and John Rollins, A *Summary of Fusion Centers: Core Issues and Option for Congress*, CRS Report for Congress (Washington DC: Library of Congress, Congressional Research Service, September 19, 2007), 2.

fact, one of the biggest critiques of the current system is the fixation on collecting data, which may not have anything to do with a terrorist threat. Moreover, the use of these entities as gatherers of domestic intelligence has the potential to infringe on citizens' constitutional rights by collecting private and public data without due cause.[158] The system is not uniform across the board and loose controls make the system somewhat questionable in the eye of the public.

As the cases of Italy and Germany attest, the control of the police agencies is key, eliminating the ability of local police to choose arbitrarily the ways in which they pursue terrorism and ensuring that response is common across jurisdictional boundaries. The fusion centers must become coordination centers that direct, control, and coordinate activities, instead of focusing exclusively on gathering and disseminating information.

2. Preventive Policing

Reactive methods of policing, for example, blanket security measures, are a major stumbling block to democratic counterterrorism strategies. The more preventive efforts of police to investigate and apprehend terrorist elements disrupt terrorist organization more effectively and addresses terrorism before violence happens. In other words, preventive policing addresses both the need to address a terrorist threat and the balance of the police response within a democratic society. In Italy and Germany, counterterrorism efforts were only truly effective after police attempted to understand the terrorist elements, gather information on their operations, and take action within the rule of law to arrest those who were complicit. As mentioned, information-gathering has been a focus of fusion centers, but the failure comes in not incorporating this into a system of investigation and action, which has the added benefit of legitimizing data collection. Laws must be put in place to support this ability of the police to target acts of terrorism or support to terrorism as a crime, otherwise the strategy may erode the democratic ideals and norms it is looking to support. Another lesson of preventive policing was that information garnered from terrorists already captured is of major value in future

158 Michael German and Stanley, Jay, What's Wrong With Fusion Centers - Executive Summary (New York: American Civil Liberties Union, December 2007), 6, http://www.aclu.org/technology-and-liberty/whats-wrong-fusion-centers-executive-summary.

investigations. In the case of Italy and Germany, the use of laws that encouraged terrorists to cooperate through reduced penalties was extremely helpful to law enforcement success.

The United States has acknowledged that terrorism as a crime and requires the backing of laws that allow the police to investigate and prevent terrorism. The USA PATIOT act is our very own version of "emergency legislation" that enabled an investigative approach, criminalizing attacks on mass transportation among other infrastructure, and punishing those who harbor or conceal terrorists.[159] The thing that must be addressed in this cycle though is our continued reliance on reactive means. It seems that every time a new technology in detection is rolled out, much debate ensues on what the threat is that requires such invasive security measures. A prime example is continued controversy over airport security. On the one hand, there seems to be a constant effort to increase security at what some would argue, on the other hand, is the continued repression of individual rights for no obvious increase in security. Vast sums of money—some estimate up to $2 billion—have been put toward "questionable" prevention measures that have little effect on ability to deter terrorism.[160]

Italy and Germany took a bit of a different path, as their starting point was a categorical rejection of reactive and blanket measures of investigation and deterrence. In both cases, the public demonstrates a high degree of faith in the institutions of counterterrorism—and law enforcement has enjoyed some significant successes. Now, it's not that the United States eschews the investigative approach altogether. Rather, the United States has tended to develop new measures both investigative and reactive in parallel. For example, the U.S. Congress has mandated that all cargo bound for the United States be scanned for radiation while in foreign port, along with other similar attempts to detect terrorism this has led to a ballooning of money spent to conduct the proverbial search for "a needle in the haystack."[161] Based on the Italian and German

159 M.E. Bowman, "Domestic Terrorism," in National Security Law, ed. John Norton Moore and Robert F. Turner, 2nd ed. (Durham, North Carolina: Carolina Academic Press, n.d.), 977.

160 Jeffrey Rosen, "Man-made Disaster: Five Years on, the Department of Homeland Security is Still a Catastrophe," New Republic 239, no. 11 (2008): 23.

161 Ibid., 22.

experience, it might be worth reconsidering the reactive measures as a cost savings so that more effort can be put into coordinated police efforts and intelligence-led preventive measures which have proven effective and are more supportive of a democratic counterterrorism strategy.

3. Adoption of Technologies

Despite varying structures, both Italy and Germany decided on the centralized and coordinated control of technologies to collect and disseminate information. This centralization presupposes that national standards for the entry and retention of data exist. By controlling the information, this structure assures a common operating picture for all those charged with investigating and combatting terrorism. The key should be dissemination to the lowest level, and control of the technology to ensure the information is not compromised by variations in entering and interpreting the information. In both Italy and Germany, it was determined that this effort would be done at the level of the Interior Ministry and shared across jurisdictional boundaries. This approach also reduced competiveness associated with some agencies having information and others without, which would lead to a fractured command and control of counterterrorism efforts.

The United States has a multitude of data collection and dissemination programs. The lead one of these programs is the National Criminal Information Center (NCIC), run by the Federal Bureau of Investigation. Along with the Violent Criminal Apprehension Program (ViCAP), another FBI administrated database, these systems are considered "exclusive, regulated sets of information, for specific purposes."[162] Unfortunately, many levels of data within this system are restricted to certain investigative agencies at the federal level. Additionally, most states have additional data systems that allow them to gather information from NCIC but also offer compartmentalized data structures with differing standards for entry and dissemination. This information, considered low-level police information includes, suspect information, suspicious activity reports, evidence, police records of interview, calls for service and may also include information from local

162 Ernest D. Scott, Police Information Sharing: All-Crimes Approach to Homeland Security (El Paso, TX: LFB Scholarly Publishing, 2009), 11.

justice actions, such as restraining orders, probation and parole information.[163] Precisely the information that is beneficial for sharing to apprehend criminals, and the type of information that Italy and Germany sought to control. This system indicates a desire to utilize technology to coordinate efforts but speaks of the difficulty in maintaining common means of entry, dissemination, and storage of information so that a law enforcement entity can access and understand the same data another can on the other side of the country.

This difficulty is surely the product of some 16,600 different police jurisdictions, comprising 678,000 full-time police officers.[164] It might almost be an insurmountable obstacle given the expected issues in acquiring a system that is common to all. However, it is worth study in this area, to determine the feasibility in putting together a database that is capable of supplying each with the same information. In fact DHS has attempted to bring online a national database for terrorism information. The Homeland Security Information Network (HSIN) attempts to consolidate information collected across the United States, but limits inclusion to those reports reviewed by DHS and as having a clearly established nexus to terrorism.[165] By limiting the data and having multiple systems with only specific amounts of data in each, the United States is failing to adopt the technology to make police more effective. At a minimum, if a system of regional control centers takes the place of the current intelligence fusion centers, they could well use the development of a common database and central depository of information to equip these centers. The attempt should be to devise a system that can be accessed to the local level, which allows criminal information, and as a subset, information on terrorists to be shared anywhere in the country.

4. Cooperation

Cooperation may already be present, but ad hoc practices benefit greatly from formalization of the process. It is expected that police forces talk across boundaries, both

163 Ibid., 12.

164. Henry, "The Need for a Coordinated and Strategic Local Police Approach," 324.

165 Laura Manning, Homeland Security Information Network Database, Privacy Impact Assessment (Washington DC: US Department of Homeland Security, April 5, 2006), 2.

locally, nationally, and internationally. Therefore it is important to leverage these relationships and build structures around them that have common goals.

This has occurred on a limited basis within the United States. A prime example of cooperation at the local level is New York City, which has formalized its counterterrorism bureau in a manner which bonds together international and local partners. In response to a threat received by the Central Intelligence Agency in October 2001, that never made its way to city officials, the city has created a bureau which coordinates full cooperation with all aspects of counterterrorism, including agreements with major international cities and private companies that allows New York to address threats from origin to protective measures and arrest of terrorist suspects.[166] This level of cooperation is the premise for ensuring the police are able to do their job, incorporating the international, national, local and private levels towards one goal. The structure provided in putting its control in a single place ensures uniformity. The problem lies in that this structure at one locality does not necessarily match another at the national level.

The federal government has similar structures in the form of Joint Terrorism Task Forces (JTTFs). The JTTFs are designed to be clearing houses where national and local level law enforcement are able to collude on cases, but have suffered from a feeling that the FBI is exclusionary in some cases, a lack of definitive rules for their structure, and a failure to link to some federal agencies in which other crimes, specifically drug trafficking may be explored for nexus to terrorism.[167] The multiple cooperative efforts underway are indicative of a system that is not integrated. Add in the fusion centers and the numerous other local collaboration efforts by cities or states and it appears that in working towards a common goal, local, regional and national interests have each attempted to create their own cooperative environments. The system needs to be

166 William Finnegan, "The Terrorism Beat: How is the N.Y.P.D. Defending the City?," *The New Yorker*, July 25, 2005, 60.

167 This information comes from an evaluation of the US Department of Justice's internal review of the information sharing and cooperation structure for antiterrorism. The report indicates that while information is shared better, cooperation is not fully developed and codified. Interestingly pages 45–55 detail the level of cooperation between the FBI and the city of New York, indicating that the FBI is excluded from information developed by the NYPD. See, Department of Justice's Terrorism Task Forces (Washington DC: United States Department of Justice, Evaluation and Inspections Division, June 2005).

analyzed to indicate how a national level cooperative effort can bring all agencies into agreement on what their goals are, and in-turn inform and collude with international, regional, and local partners in a structure hierarchical system.

The Italian case shows that despite attempts to cooperate early in their struggle against terrorism, the police suffered from a political system that did not support this cooperation. Similarly, the police efforts in Germany benefitted from international governmental efforts to reconcile the terrorist threat, which established formal structures for cooperation. The goal therefore should be to establish formal means of cooperation at a national level that will therefore reduce barriers to cooperation, such as political disagreement and differing interpretations of the threat.

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