

- Stafford County, Virginia, developed a Homeland Security Neighborhood Watch to train participants living near railroads, airports, and other key areas to note license plate numbers, directions of travel, and descriptions.¹³⁴

Local police have continued to pay increased attention to terrorism. In 2005, the Palm Beach County, Florida, Sheriff's Office formed its own homeland security department and has instituted around-the-clock marine patrols, created an intelligence operations center, and added strategic intelligence agents. In 2006, it announced officers would be riding trains and buses in plainclothes, blending in with riders in an attempt to stop terrorist or any other threats to or from other passengers. Other Florida law enforcement agencies, including the Broward County Sheriff's Office and Miami-Dade police, have uniformed and plainclothes officers riding the transit systems.¹³⁵

Miami police adopted the Miami Shield program in 2005 to attempt to thwart terrorists by staging random "in-your-face" security operations at so-called soft targets, such as city buses and sports arenas. For example, a group of officers might surround a downtown bank building and check the identification of each person going in and out.¹³⁶

In 2008, the NYPD, using federal funding, continued their counterterrorism strategy by assigning roving teams of NYPD officers armed with automatic weapons and accompanied by bomb-sniffing dogs to the NYC subway system, which carries nearly 5 million people a day along 656 miles of tracks. The subways have long been considered a potential target for terrorists. These teams, under a tactical plan known as Operation Torch, consist of officers from the Emergency Service Unit who are outfitted in heavy bullet-resistant vests and Kevlar helmets and carry automatic weapons, including M-4 rifles or MP5 submachine guns. After the July 2005 London bombings, NYPD officers began doing random inspections of train riders' backpacks and packages. Since 9/11, the NYPD has used similar heavily armed officers patrolling NYC's streets, particularly around Wall Street and landmarks such as the Empire State Building.¹³⁷ As many as 100 police officers in squad cars from every precinct converge twice daily at randomly selected times and at randomly selected sites, like Times Square or the financial district, to rehearse their response to a terrorist attack. NYPD

officials say that these operations are believed to be a crucial tactic to keep extremists guessing as to when and where a large police presence may materialize at any hour.¹³⁸

In March 2008, the LAPD opened its National Counter-Terrorism Academy to teach local law enforcement about the roots of terrorism and how to combat it nationally. The five-month course takes mid-level managers from 30 local agencies, including Los Angeles fire and Long Beach police departments and the FBI, through the historical roots of terrorism to culturally sensitive interviewing techniques. Courses include lessons on religious extremism, homegrown terrorist groups, and the evolution of al-Qaeda. The goal of the academy is to shift police officers away from the idea that they are only first responders and train them on prevention techniques.¹³⁹

State and local law enforcement agencies are also participating in increasing their own awareness and training. The Federal Law Enforcement Training Center (FLETC) mission is, "We train those who protect our homeland." Over one million state and local law enforcement officers have been trained through FLETC since its 1970 inception; 70,000 students were trained during the fiscal year 2012. The DHS initiative of "If You See Something, Say SomethingTM" asks citizens and law enforcement to report behavior that is reasonably indicative of criminal activity related to terrorism. This activity will be shared with the federal government.¹⁴⁰

This training is enhanced by a number of websites that provide awareness training (the lowest level) up to and including very specific training (Law Enforcement Training Network) on various homeland security subjects. Also available to law enforcement is the FEMA training website, which provides free training in NIMS and Incident Command.

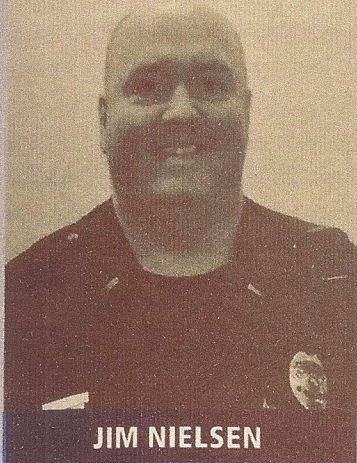
Since September 11, 2001, the California Highway Patrol (CHP) has spent more than a million hours in homeland security-related activities. Among CHP efforts are aggressive traffic enforcement, visible patrol, and investigations.¹⁴¹ In a 2006 article, Dennis M. Rees wrote that patrol officers have become more aware of and alert to possible terrorist targets and signs of terrorist planning in the communities they serve.¹⁴²

Terrorism also affects officer safety. Michael E. Buerger and Bernard H. Levin wrote that because

GUEST LECTURE

HOMELAND SECURITY

Photo courtesy of Rosie Machado

**JIM NIELSEN**

Jim Nielsen is a lieutenant with the Moorhead, Minnesota, Police Department. He has been a police officer for more than 27 years and is a graduate of the Southern Police Administrative Officers Course.

I am a lieutenant employed by the Moorhead Police Department in Moorhead, Minnesota. The 50 sworn officers in our department serve a population of 33,000 residents within a larger metropolitan area of 175,000 along the borders of Minnesota and North Dakota. Our department is highly service oriented, and we do not experience a large amount of serious crime.

Our experiences with homeland security have been positive. New initiatives have allowed us to purchase a great deal of needed equipment and to improve communications among our regional emergency service providers. We also receive much more intelligence information than we did prior to 9/11, via two fusion centers. One of these is the Minnesota Department of Homeland Security, which sends us regular e-mail bulletins containing statewide, regional, and national intelligence information related to homeland security, including information from federal law enforcement agencies. We also receive e-mail intelligence bulletins from a regional center encompassing Minnesota, North Dakota, and Manitoba, Canada, that are focused on our immediate region. They contain information specific to the nearby border crossings into Canada, some of it provided by the Royal Canadian Mounted Police (RCMP).

In a broader sense, our officers now realize they cannot take any suspicious activity for granted. Five years ago I did not believe that our city's water supply was a high-security issue, but today it obviously is. Our city does not have any installations that have required an increase in our staffing or a significant increase in our calls for service, but we do place an increased emphasis on planning our involvement in major community events since 9/11.

However, the greatest benefit our department has obtained as a result of homeland security efforts is the purchase of radio equipment that allows all emergency personnel in our region to instantly communicate with each other. Through a combination

of three grants, the Fargo Metropolitan Statistical Area has received over \$8 million of funding for radio equipment. Our region includes all emergency services provided in Clay County, Minnesota, and Cass County, North Dakota. This includes the cities of Moorhead, Minnesota, and Fargo, North Dakota.

Prior to receiving the grant, some of the area's law enforcement agencies were using VHF radio frequencies, while others were using UHF radio frequencies. VHF radios could not communicate with UHF radios. The region's two full-time fire departments also used radios operating on different radio bands. These grants allowed us to purchase mobile radios, portable radios, and voting repeaters, which allow all of the region's law enforcement agencies, EMS providers, and fire departments to communicate instantly with each other.

The channels on all mobile and portable radios in our region are now uniformly labeled, allowing officers to easily find the channel they are directed to use in an emergency. The radio system is digital and operates on VHF frequencies. Law enforcement agencies can also send encrypted communications from both their mobile and portable radios. Formerly, there were some small areas of our city where the portable radios we used did not always transmit reliably. We now have clear communication on portable radios throughout the city, because the grants allowed us to replace our existing voting repeaters with new digital voting repeaters, and to add two additional voting repeaters.

Prior to receiving this funding, the Red River Valley SWAT team, the regional tactical team to which our department belongs, had to purchase portable radios just for their team's use. The different agencies' radios were not compatible because of their different frequencies, and they could not send encrypted transmissions. Now the team can not only send such transmissions, but also use the same portable radios their members use as part of their routine law enforcement functions. In addition, they can use any agency's repeaters to speak directly to any assisting agency.

Our region already had a joint dispatch center called the Red River Valley Regional Dispatch Center, a shared law enforcement records system, and a joint mobile data computer system. Obtaining the funding for a regional radio system was another step in making our regional providers of emergency services better able to routinely work together. In the event of a disaster, this new radio system will dramatically improve our ability to serve the citizens of our region.

Source: Reprinted by permission of Jim Nielsen.

of the potential scope and deadliness of a terrorist attack, particularly one that involves biological or chemical weapons, concerns for officer safety should focus on prevention and extensive preplanning for officer protection against the effects of extraordinary weaponry. Buerger and Levin also stated that law enforcement can prevent terrorist attacks by their intelligence gathering. Using their community liaisons, cultural awareness, and close relationships with immigrant communities, police can develop channels for information sharing that can help them detect terrorists' planning activities.¹⁴³

Buttressing Bodrero's emphasis on the importance of local police in the fight against terrorism, Earl M. Sweeney wrote that terrorists are already in this country and likely moving about on our roads and highways, putting patrol officers in a unique position to observe and interdict suspicious vehicles and their occupants during traffic stops. Sweeney stresses that there must be research-based standardized training for all patrol officers in terrorists' tactics.¹⁴⁴

Smaller and mid-sized agencies have attempted to become more involved in terrorism training and equipping their agencies for possible terrorist activities in their communities. Timothy McVeigh, the Alfred P. Murrah bombing terrorist, was caught by a local police officer making a traffic stop on McVeigh's vehicle. With terrorism activity occurring at the local level, agencies are turning to the federal government for assistance with training and equipment. The Federal Excess Property Programs, known as 1033 programs, allows law enforcement agencies to obtain extra military equipment from the Department of Defense at no cost to assist with their limited budgets. In this way, agencies have been able to obtain weapons, vehicles, night-vision equipment, boats, safety equipment, and more. The programs are administered through state point of contact officers (SPOC) who review all applications for the equipment to ensure they meet the necessary qualifications. This equipment allows smaller

and mid-sized agencies to participate in terrorist training at a comparable level as their larger agency counterparts.

Major police professional organizations, such as the International Association of Chiefs of Police (IACP), the National Sheriff's Association (NSA), the National Organization of Black Law Enforcement Officials (NOBLE), the Major Cities Chief's Association, and the Police Foundation, with the cooperation of the U.S. Department of Justice, have cooperated to form the *Post-9/11 Policing Project* to help bring domestic preparedness to the top of the law enforcement agenda.¹⁴⁵

The terrorist attacks of September 11 highlighted the inadequacy of information sharing among many law enforcement and intelligence agencies. Since 2004, state, local, and regional fusion centers have been formally established across the United States. The philosophy behind the **fusion center** concept is that by integrating various forms of information and intelligence, including intelligence from the federal government, governmental entities will be better able to assess the risk of terrorist attack and to respond to both terrorist attacks and natural disasters. A fusion center is defined as a collaborative effort of two or more agencies that provide resources, expertise, and information to the center with the goal of maximizing its ability to detect, prevent, investigate, and respond to criminal and terrorist activity.¹⁴⁶

The original idea of the fusion centers was embraced by the 9/11 Commission. Most centers are run by state police or other law enforcement agencies. Many also have representatives from a range of other agencies, as well as analysts from the FBI, the Department of Homeland Security, and local fire and public works departments. The centers potentially can tap into state, local, and federal databases containing files on investigations, reports on suspicious incidents, and research material on terrorist weapons and tactics.

Because fusion centers also look at information from local-level criminal activity, they can analyze it to determine whether any connection exists between low-level crime and terrorist activity. One such center, the Joint Regional Intelligence Center in Norwalk, California, has more than 80 full-time staff analyzing this type of information in over 166 law enforcement agencies in southern California.¹⁴⁷ This information has led to further investigations by the LAPD's counterterrorism bureau.¹⁴⁸

fusion center An organization composed of individuals from various federal, state, county, and municipal law enforcement agencies in an area. These individuals facilitate the gathering and sharing of intelligence information and the evaluation of this information. The primary goal of these organizations is in the area of homeland security.

A 2005 report from the Rand Corporation, based on a survey of law enforcement preparedness after 9/11, revealed that most state and local law enforcement agencies had conducted terrorism threat assessments; about one-third of local law enforcement agencies had collaborated with the FBI's JTTFs; and about 16 percent of local law enforcement agencies and 75 percent of states had specialized terrorism units.¹⁴⁹ Counterterrorism is now a part of most law enforcement agencies nationwide, in addition to their other law enforcement duties. This shift in responsibility has cost billions of dollars and changed not only the equipment used by officers, but also the methods used in law enforcement.¹⁵⁰

In 2008, a leading law enforcement official, Chief John Batiste of the Washington State Patrol, reported that he sees a problem with maintaining an appropriate alert level in regard to potential terrorist threats. Batiste said,

We are entering the seventh year since the Twin Towers fell. As time goes on, without another significant terrorist attack, it becomes increasingly challenging to convince the public and even our own personnel that risk still exists.¹⁵¹

On the other hand, some believe that the police are spending too many resources on terrorism and that it soaks up both police attention and resources. Some police executives have deemed it "the new normal," and others talk about "terror-oriented policing."¹⁵² In 2008, Ronald Ruecker, president of the International Association of Chiefs of Police (IACP), in a report calling on the president of the United States to shift money back to crime fighting, said, "The simple truth is that average Americans are much more likely to find themselves victims of crime than of terrorist attack. . . . In terms of day-to-day crime fighting, we're far worse off than we were before 9/11."¹⁵³

YOU ARE
THERE

New York City's Counterterrorism Initiative: Operation Atlas

Since September 11, 2001, the NYPD has instituted numerous counterterrorism initiatives, including Operation Atlas. Core elements of Operation Atlas are increased personnel deployment, transit system security, patrol operations, intelligence, and airspace security.

Increased Personnel Deployment

- Increased deployments of Harbor, Aviation, and Emergency Service Units
- COBRA (Chemical, Biological or Radiological Actions) team deployments
- SAMPSON team deployments
- Harbor units providing increased protection of commuter ferries
- Bomb-sniffing dogs assigned to the Staten Island Ferry
- ARCHANGEL teams, composed of emergency services personnel, bomb experts, and investigators, staged strategically in the city

- HAMMER teams, police, and fire department experts in hazardous materials deployed jointly
- Heavily armed HERCULES teams deployed randomly through the city
- Counterassault teams in unmarked armored vehicles with heavily armed officers deployed
- Counterterrorism inspectors coordinating mobilization drills

Transit System Security

- Transportation Bureau working closely with the Metropolitan Transit Authority and the Port Authority to ensure war-related precautions are in place
- National Guard assisting in patrolling the subway system
- Train Order Maintenance Sweeps (TOMS) deployed to arrest fare evaders and others whose initial low-level offenses are often

(continued)

YOU ARE
THERE**New York City's Counterterrorism Initiative: Operation Atlas** *(continued)*

precursors of more serious crimes in the subway system, and to discourage or even intercept a terrorist attack

- Mobile Arrest Processing Centers (MAPC) buses on standby
- Additional police officers patrolling high-density transit locations such as Times Square, Grand Central, and Penn Station
- Undercover teams riding the subways
- Radiation detection being used in the subways
- "Surge responses" being conducted in which large numbers of officers saturate a given subway station
- Highway patrol officers on 12-hour tours
- Checkpoints in place along 96th Street and at all bridges and tunnels into the city, with checkpoint locations subject to unannounced change
- Vehicles parked in front of sensitive locations being towed

Patrol Operations

- Counterterrorism inspectors working 12-hour shifts, guaranteeing round-the-clock coverage by executive staff
- Critical response vans deployed to events or simply stopped at certain locations such as hotels, restaurants, landmarks, or tourist attractions
- Financial District under intense 24-hour coverage
- Counter-Terrorism Bureau supplying terrorist-related updates to APPLE, an association of New York City Corporate and Institutional Security Directors
- Ensuring each patrol borough commander has stand-alone plans in place to act as an autonomous police department should police headquarters command and control become disabled

- Systematic citywide search for any radioactive material or devices
- Prepared to use up to 4,000 school safety officers in event of an emergency to evacuate children and adults from schools, transport police resources throughout the city, and staff emergency shelters

Intelligence

- Daily assessments to determine which synagogues and other houses of worship may merit additional protection
- Daily assessments to determine which hotels, museums, landmarks, and other attractions merit additional protection
- Use of greater surveillance at fuel depots in the greater metropolitan area
- Intelligence personnel briefing garage owners and attendants about suspect vehicles that might be left at parking lots in Manhattan
- In cooperation with New Jersey authorities, inspecting sites in New Jersey where radioactive material could be stored clandestinely in close proximity to NYC
- Daily assessment regarding which foreign missions merit additional protection and which dignitaries may need added security
- Review of security at smaller airports in the metropolitan area to make sure general aviation is not used as a weapon against New York City

Airspace Security

- FAA-imposed restrictions on air traffic over Manhattan
- Department of Defense assignment of combat aircraft to protect NYC airspace

Source: New York City Police Department, "Operation Atlas," retrieved August 12, 2006, from www.nyc.gov.

Increased Security since September 11, 2001

ON THE JOB

Since my retirement from the New York City Police Department, I have continued to live in the metropolitan New York City area, about 25 miles from midtown Manhattan. I travel about the country often to attend conferences and visit colleagues and relatives. I have seen major changes in security since 9/11 and truly appreciate the efforts of our law enforcement agencies and private security professionals. Improved security is extremely important. I have heard some people complain about the many layers of security they now have to endure and the delays it causes them. I don't agree with these people and believe that if we are to prevent another terrorist attack and ensure our safety, we have to cooperate with these improved security measures and appreciate the efforts of the professionals who are there to protect our security. It might take a few more moments out of one's daily routine to comply with these measures, but they are entirely necessary.

One particular improvement I have noticed is security at the airports. It is completely different than it was before September 11. I see uniformed police and security employees everywhere throughout the airports I travel to and much more professionalism and effectiveness in security and screening processes. Having to go through several layers of security screening may help to prevent the opportunity to commit crimes. I also have noticed that the behavior of passengers has improved greatly since the terrorist acts of 9/11. Before then, I used to hear many passengers making silly comments about security measures and causing inconvenience to other travelers. Since 9/11, I think most people have matured a great deal.

I use local mass transit often in New York and truly appreciate the presence of military, police, and security personnel on these systems. I always go out of my way to say hello and "Thanks for being here" to these people when I pass them. They have a tough but necessary job to do, and a smile and a hello might make their day a little more bearable.

As a former police officer, I am continually amazed at the current operations of my former department, the NYPD. I sense that the very obvious surge responses and HERCULES and Atlas operations involving the massive presence of uniformed officers truly emphasize the importance of local police in our homeland security operations and keep the public aware of the constant possibility of terrorism. Most New Yorkers are used to them by now, but the tourists always seemed awed by them. I think the NYPD is very good for tourism in the city.

Private security is also extremely obvious in the city. I am a big sports fan and often go to ballparks in New York City with my grandchildren from Virginia when they come to visit us. On the way into Madison Square Garden in the city to attend WNBA, NBA, college games, and other events, all patrons are screened and packages they are carrying are searched. Several years ago my 13-year-old granddaughter, Nikki, was subjected to a search of her bag as she was coming into the Garden with me to attend a WNBA New York Liberty game. After the search was completed, I asked her how she felt about the security officer going through her bag. She said, "I feel safe." That is the whole point of security screening, for people like Nikki to be safe.

—John S. Dempsey

Security Versus Civil Liberties

Although no one questions the importance of fighting terrorism, there has been a continuing debate since September 11, 2001, over the tools being used by law enforcement to fight this evil. Many believe that since 9/11 the government has been given too

much ability to affect citizens' constitutional rights and civil liberties while combating terrorism.

Recall from Chapter 13, "Police and the Law," that the former colonists wrote the U.S. Constitution to govern themselves as newly freed people after the American Revolution. They then wrote the first 10 amendments to the Constitution, the Bill of Rights, which form the basis of our criminal justice system—the rights and freedoms we possess

that can be used against government tyranny. Our Constitution was based on a fear of unreasonable government power, and our criminal justice system evolved based upon this fear. Americans have a long tradition of attempting to strike a balance between security and individual liberty.

According to Thomas Rossler, a paradigm shift has occurred within the American justice system as a result of the terrorist attacks of 2001, and the ensuing legislation has expanded police and governmental powers. This paradigm shift, according to Rossler, involves a change in perspective from post facto responses to criminal activity to an aggressive stance on preventing criminal activities before they are carried out.¹⁵⁴

As indicated earlier in this chapter, the USA Patriot Act was enacted in the immediate aftermath of the 9/11 attacks. The act has 10 sections or titles outlining new powers for government operations. Titles I, II, III, IV, and VII specifically affect law enforcement's role in antiterrorist activities.¹⁵⁵ (See Table 15.2.)

One of the main objectives of the Patriot Act was to remedy a lack of communication between the federal law enforcement agencies and intelligence agencies that were individually trying to fight terrorism. The 9/11 terrorist attacks demonstrated how critical inter- and intra-agency communications are to prevent and respond to such attacks. The Patriot Act attempts to establish a coordinating mechanism to combat terrorism by employing the combined efforts of all U.S. law enforcement and intelligence agencies.

According to Professor Jim Ruiz, a professor at the Pennsylvania State University at Harrisburg, and Kathleen H. Winters, a Ph.D. student at Ohio State University, the lack of interagency communication was a by-product of multiple federal law enforcement and intelligence agencies gathering information on terrorism but failing to share the intelligence gathered with other departments and even within their respective agencies. The CIA often compartmentalized its information to lessen the likelihood of interception, and the National Security Agency (NSA) exhibited an "almost obsessive protection of sources and methods," thus forcing other agencies to possibly duplicate investigations to obtain information that had already been collected by other federal agencies. Also, "pressure from the Office of Intelligence Policy Review, FBI leadership, and the [Foreign Intelligence Surveillance Act of 1978] FISA Court built barriers between agents—even agents serving on the same squads."¹⁵⁶

TABLE 15.2 Overview of the USA Patriot Act

<i>Title I</i> Designed to Enhance Domestic Security. Creates a counterterrorism fund, increases technical support for the FBI, allows law enforcement to request military assistance in certain emergencies, expands the National Electronic Task Force, and forbids discrimination against Muslims and Arabs.
<i>Title II</i> Designed to Improve Surveillance. Grants authority to federal law enforcement agencies to intercept communication about terrorism, allows searches of computers, allows intelligence agencies to share information with criminal justice agencies, explains procedures for warrants, creates new definitions of intelligence, allows for roving wiretaps, and provides for expanding intelligence gathering.
<i>Title III</i> Designed to Stop Terrorism Finances. Grants expanded powers to law enforcement agencies to seize financial records, provides access to financial records, forces transactions to be disclosed, and expands investigative power in money laundering.
<i>Title IV</i> Designed to Protect U.S. Borders. Outlines measures to protect the borders, tightens immigration procedures, allows foreigners to be photographed and fingerprinted, and gives benefits to victims of terrorism.
<i>Title V</i> Designed to Enhance Investigative Powers. Provides a reward program, calls for sharing of investigative findings among law enforcement agencies, extends Secret Service jurisdiction, and forces educational institutions to release records of foreign students.
<i>Title VI</i> Designed to Compensate the Families of Public Safety Officers Killed during a Terrorist Attack.
<i>Title VII</i> Designed to Expand the Information Sharing Network. Provides for the expansion of law enforcement's nationwide information exchange, the Regional Information Sharing System (RISS).
<i>Title VIII</i> Designed to Strengthen Criminal Laws. Defines terrorist attacks, defines domestic terrorism, provides the basis for charging terrorists overseas, criminalizes support for terrorism, criminalizes cyber-terrorism, allows investigation of terrorism as racketeering, and expands bioterrorism laws.
<i>Titles IX and X</i> contain miscellaneous addenda.

Source: Jonathan R. White, *Terrorism and Homeland Security*, 5th ed. (Belmont, Calif.: Thomson/Wadsworth, 2006).

Ruiz and Winters also reported that the national security strategy upon which the United States had been operating was created in the late 1940s, and because the national and international scene had changed dramatically since the end of the Cold War, the nation was in need of a new national security policy, mostly due to the new climate of terrorism.

Since the Patriot Act was signed into law, civil liberties groups have been in an uproar over violations of privacy, and debates have raged concerning whether the act goes too far and allows the capture of too much information on people. Although the jury is still out, some are sounding the alarm. Nicholas Merrill went to court and got a court order allowing him to talk about the Patriot Act. In 2004, Merrill was visited by the FBI, and in 2010, he was partially released from a gag order prohibiting him from talking about the incident.¹⁵⁷

FBI Special Agent and legal instructor at the FBI Academy Michael J. Bulzomi writes that the Patriot Act changed the way foreign intelligence gathering is conducted, allowing intelligence officials to work with law enforcement officials to investigate possible threats to national security. Bulzomi writes, "The government must use its new tools in a way that preserves the rights and freedoms guaranteed by America's democracy, but at the same time, ensure that the fight against terrorism is vigorous and effective. No American should be forced to seek safety over liberty."¹⁵⁸ Bulzomi concludes that although it has now become easier to protect the nation with the Patriot Act, care must be taken to ensure any actions against terrorism are employed within the constraints of the Constitution.¹⁵⁹

Ruiz and Winters, however, have questioned the necessity of the Patriot Act:

One of the main issues underlying the Act involves balancing individual rights with governmental power. Proponents assert that the Act is necessary to combat terrorism, and that certain rights may be conceded to the government during a time of war. In 1944, the Supreme Court ruled that in times of war Congress has the authority to compromise certain rights if the circumstances warrant it (*Korematsu v. United States*, 323 U.S. 214, 1944). Conversely, opponents claim that it gives too much weight to the government's side of the balance. Furthermore, the Act is not limited solely to times of war. In fact, the "war on terrorism" is an ongoing war;

whether or not it will ever end remains to be seen. A balance must be struck between the pursuit of justice and protection of the innocent.¹⁶⁰

Melanie Scarborough, in a briefing paper for the Cato Institute, seemed to agree with Ruiz and Winters:

Radical Islamic terrorists are not the first enemy that America has faced. British troops burned the White House in 1814, the Japanese navy launched a surprise attack on Pearl Harbor, and the Soviet Union deployed hundreds of nuclear missiles that targeted American cities. If policy makers are serious about defending our freedom and our way of life, they must wage this war without discarding our traditional constitutional framework of limited government.¹⁶¹

Jonathan R. White has summarized each view of the Patriot Act as follows. Supporters of the Patriot Act believe it increases federal law enforcement's ability to respond to terrorism and creates an intelligence conduit among local, state, and federal law enforcement agencies. They believe counterterrorism is strengthened by combining law enforcement and national defense intelligence. Opponents of the law argue that it goes too far in threatening civil liberties while expanding police powers and are concerned about sharing noncriminal intelligence during criminal investigations and the increased power of the government to monitor the activities of its own citizens.¹⁶²

According to the ACLU, President George W. Bush and the Congress, in the aftermath of the 9/11 attacks, acted to amass an overabundance of new laws, executive orders, and regulations that expanded government powers, with little thought to their impact on traditional civil liberties or an assessment of whether the actual threat warranted such drastic measures. The ACLU believes that there is no evidence that statutory gaps in the powers of federal and state law enforcement and investigative agencies contributed to the failure to detect and prevent the attacks of 9/11.¹⁶³

Anna R. Oller of the University of Central Missouri has asserted that the Patriot Act and the Bioterrorism Preparedness Act have curtailed academic freedoms, as teaching and research have been impacted by restrictions set forth in these laws that forbid teachers to provide to students from the restricted nations list information that could possibly be used in any terrorist manner.¹⁶⁴ Former FBI

Special Agent James Burnett, a professor of criminal justice at Rockland County Community College, also has expressed concern about curtailment of freedoms by the act, as well as the ultimate effect on our democracy:

The concern over our government's responses to the very real threat of terrorism goes far beyond the Patriot Act to NSA data mining, detentions of immigrants, material witnesses, and enemy combatants, and the use of coercive interrogation techniques. In these and other policies our government's post-9/11 actions and the justifications for them have raised fundamental concerns as to whether our deliberately inefficient system of checks and balances and limitations on government power can get the job done in this new environment. Will the system itself become a casualty of this so-called war on terror and thus allow the enemy yet another powerful blow against our institutions and values?¹⁶⁵

Many critics of the Patriot Act question the constitutionality of national security letters. **National security letters** can be issued if a local FBI official certifies that the information sought is relevant to an international terrorism or foreign intelligence investigation. In 2011, the FBI sent 16,511 national security letters concerning 7,201 individuals to finance, telephone, and Internet companies asking for records.¹⁶⁶ National security letters can be used to retrieve the following:

- Internet and telephone data, including names, addresses, log-on times, toll records, e-mail addresses, and service providers
- Financial records, including bank accounts and money transfers, provided the FBI says that they are needed to "protect against international terrorism or clandestine intelligence activities"
- Credit information from individuals' banks, loan companies, mortgage holders, or other financial institutions

national security letters Information requests issued by a local FBI official who certifies that the information is relevant to an international terrorism or foreign intelligence investigation.

Foreign Intelligence Surveillance Act (FISA Court) Bill passed in 1978 requiring the NSA and the FBI to seek a special court's (the FISA Court's) permission to conduct searches and electronic surveillance in terrorism and spying cases.

- Consumer, financial, and foreign travel records held by "any commercial entity," if the investigation's target is an executive branch employee with a security clearance¹⁶⁷

In 2010, the Department of Justice's Office of the Inspector General (OIG) reported that the FBI illegally collected more than 2,000 U.S. telephone call records between 2002 and 2006 by invoking terrorism emergencies that did not exist or simply persuading phone companies to provide records. FBI officials issued approvals after the fact to justify their actions.¹⁶⁸

The court created under the **Foreign Intelligence Surveillance Act (FISA Court)**, which authorizes search warrants and electronic surveillance in terrorism and spying cases, approved 2,072 warrants and wiretaps and 155 applications for business records in 2005.¹⁶⁹ From 1995 through 2004, FISA received 10,617 such applications and approved all but 4 of them.¹⁷⁰ In 2007, the FISA Court approved 2,370 requests to search or eavesdrop on people in the United States believed to be linked to international terror organizations. This represented a 9 percent increase over 2006. The court denied three warrant applications in full and partly denied one.¹⁷¹

In 2005, it was disclosed that the National Security Agency (NSA) had been secretly keeping track of phone calls that millions of ordinary Americans made every day. This information had been collected since 2001 from the nation's three largest phone companies and had produced what was reported to be the largest such database ever. The reasoning behind this huge database was that the NSA could sift through all that data, using a process called link analysis, searching for patterns that indicated terrorism threats. Intelligence experts said figuring out the patterns of communication would help in understanding al-Qaeda. If the NSA came across a call pattern that warranted further investigation, it could take other investigatory actions. When asked about this newly revealed data-mining program, President Bush stated, "We're not mining or trolling through the personal lives of millions of innocent Americans. Our efforts are focused on links to al-Qaeda terrorists and its affiliates." The day after the NSA story broke, a *Washington Post*-ABC News poll found that 63 percent of persons polled said they found the NSA program to be an acceptable way to fight terrorism, and 44 percent said they strongly approved of it.¹⁷²

In March 2010, a federal judge ruled that the NSA's program of surveillance without warrants