

**POLICE ANALYSIS AND PLANNING
FOR HOMICIDE BOMBINGS**

ABOUT THE AUTHOR

John W. Ellis is an enlisted veteran of Vietnam who has both bachelor's and master's degrees in administration of justice. He has twenty-nine years of military duty (nine active and twenty reserve), seven years of law enforcement duty as a local police officer and Deputy U.S. Marshal, seven years as a private security officer, and eleven years as a licensed private detective. He is certified as a firearms instructor and currently serves as the President for the Kansas Association of Private Investigators (www.kapi.org). He maintains professional memberships in Infragard, High Tech Crime Investigators Association, International Association of Law Enforcement Firearms Instructors, and National Council of Investigative and Security Services.

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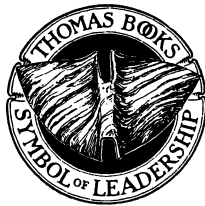
POLICE ANALYSIS AND PLANNING FOR HOMICIDE BOMBINGS

Prevention, Defense, and Response

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*On June 25, 1996, Building 131 Khobar Towers, Al-Khubar,
Kingdom of Saudi Arabia partially disintegrated in a truck bomb
blast. I felt it half a world away.*

*This text is dedicated to those who stand guard and to
those who stand behind them.*

INTRODUCTION

In 1991, I was activated in my capacity as an Army Reserve Officer during the cease-fire phase of DESERT STORM. One of many reservists sent to the Persian Gulf to assist in the closeout of the war effort, I drew two assignments that lasted nearly a year. First, I was assigned as the Army Provost Marshal to the largest troop billeting facility in the area at the time. I held this position during the October peace talks. I brought to this assignment six years of active and 12 years of reserve military duty, seven years civilian law enforcement experience at local and federal levels, and seven years of private security experience in large hotels as well as a lengthy list of educational and training schools. I needed all of this background.

It is hard to accurately describe the transition from the American civilian security setting to the Mideast security setting, and even tougher to describe the impact of being placed in charge of a military police force whose primary duty is to protect several thousand people from possible terrorist or commando attack. Calling it a “reality check” does not even begin to address the feeling. As I performed the various functions required of a Provost Marshal in this setting, I slowly grew the uncanny feeling that virtually everything I had ever done or learned had been preparing me for this assignment. I applied knowledge and experience that ran the gamut from my enlisted experience in Vietnam through personal security assignments performed as a Deputy U.S. Marshal to attendance at weekly staff meetings of a large hotel. In spite of all this background, I found that the assignment was simply more than one person could effectively handle. Had it not been for the assignment of an excellent Deputy Provost Marshal, John R. Murphy, the job could not have been accomplished with the level of proficiency that we attained. Some of the knowledge I include in this text was gained by reviewing “Murph’s” work and the work of several Air Force Security Police Officers, and comparing it to what I would have done myself. I also benefited quite strongly from contact with a Saudi Arabian Military Police Officer with some direct experience in counterterrorist operations.

At the completion of this duty, which disappeared due to planned downsizing of the military operations, I drew a second assignment as an Operations Officer with the forward headquarters element of ARCENT

(Army Forces Central Command). In this position, I found myself drafting a set of Rules of Engagement for an infantry unit placed into Kuwait for a short time period for security duties. This required review of and blending of the Rules of Engagement for DESERT STORM and the Army's regulations on the Use of Force and Counterterrorism. When the draft was complete, I watched the review process by various high-level headquarters and embassies. It was an informative experience. This was followed by drafting the initial rear security plan for Army forces remaining in country for a limited time.

On return to the United States, I continued in the private security sector, conducting research for a publication and attempting to start a business. Unexplained illnesses of mine and the terminal illness of my father slowed this process significantly. I became certified as a firearms instructor for Private Detectives and Security personnel, and began to study more closely the issues in this area. Out of long habit, I continued reading about and watching world events relating to military operations and terrorism, analyzing them as I did so. I found the events in Somalia and Haiti interesting, particularly as they related to Rules of Engagement and Use of Force, an area becoming more and more sensitive in the public view.

As the summer of 1995 neared, I was working at my computer one morning on some of my research. I had the television on in the background when the show was interrupted for a news bulletin concerning what the announcer said was "a natural gas explosion" in Oklahoma City. I looked at the rather poor, initial aerial shots of the Federal building and was immediately skeptical. The destruction appeared to be too great for a natural gas explosion. As the event unfolded, the pictures improved in quality and the report changed to "a bomb of possibly 1,000 pounds." Having seen the damage much better, I felt that this was probably incorrect. Subsequent reports in the media confirmed this. Like most other Americans, I watched the reports from and the actions occurring in Oklahoma City. Unlike most others, I had a much different response.

It took me nearly two days to realize that I was having virtually no emotional response to the situation; a result of the many years of training and several months of planning for this exact possibility. I found myself simply comparing the planning that I had done in the Persian Gulf to the actual requirements occurring at the scene, mentally noting what we had done well and what we had not. My sole emotional response was to attempt to contact Murph; he had come from Oklahoma when he was activated. Also, unlike many others, I did not immediately suspect Mideast terrorists as the prime possibility. I considered them as one of three likely possibilities, and not the most probable. When I noticed the emotional response of the people around me, it started me thinking about why I wasn't responding and others were. I

realized that the difference was my psychological preparation for battle. With me, the intended effect had not been obtained. I had defeated the enemy in advance of his attack; I was not “terrorized” by the incident.

As I thought about the significance of this, the uncanny feeling that I had during my DESERT STORM service came back. I recalled the article I had written for a military publication on rear battle and the tremendous response that I had received to them. I realized that I had exactly the right educational and experience background to write a planning text for police and other emergency services dealing with this topic. My career path has alternated between military service, civilian law enforcement duty, and private security operations. I understood the problems, limitations, and resources of all three to address attacks by vehicular bombings, which meet the definition in the United States Code of “weapons of mass destruction.” In 1999, the first edition of this text, focused on vehicular bombs, was published to benefit those officers and officials that have never had to confront this type of problem, to help build the psychological preparation for battle that prevents the attack and enables effective response.

Since the publication of the textbook, I have maintained my interest in the topic. When the attack on the World Trade Center was reported in 2001, my initial reaction to the first report of an airliner crashing into a building was skepticism. I thought that it would prove to be deliberate, then left for my morning run. The initial impression proved to be correct, and again, I found that I reacted differently than those around me; I was not “terrorized.” In early 2002, the US Army found my name on the fabled reserve list in St. Louis, and decided to borrow me for Operation NOBLE EAGLE. This was later extended into Operation ENDURING FREEDOM. I served first as a Battle Staff Officer in the Emergency Operations Center, Headquarters, US Army Medical Command, and was then transferred to an Anti-Terrorism Staff Officer position in Headquarters, Central Command. Needless to say, the work provided a good update on the topic of vehicular bombings. Since 1999, the threat has continued and has evolved. Now, the vehicle bomb is used primarily by attackers willing to use a high risk delivery technique frequently referred to as suicidal. The attack technique has expanded to include a variety of vehicles ranging from bicycles to aircraft and to include attackers on foot. Consequently, the focus of this text has been shifted to homicide bombers rather than just limiting it to vehicle attacks. It will also expand the range of attack techniques rather than just limit itself to those mounted primarily with cars or trucks. While the simple emplacement of vehicle bombs for later detonation has not totally ceased, it is no longer the only method nor even the predominate method. Most attackers are delivering the bombs personally and detonating while still within the zone of destruction.

This second edition is oriented toward planning police operations in the public sector, but will be usable by other public officials as well as some mil-

itary and private sector police operations. It addresses police threat assessment of, vulnerability assessment to, defense against and response to attacks by homicide bombers. It begins with comments on the focusing of the terrorist attack along the lines of authority and organization between military and police operation and includes an examination of the U.S. counterterrorist policy, assessment of the various types of homicide bombs and the terrorist ability to make and use them, the legal limitations of police response operations in the United States, and defensive response to this form of attack. It concludes with commentary on actions that may be needed if this threat continues to develop in the United States.

In preparing this text I am attempting to provide the local police, security and emergency officials the basic considerations in these areas. This will enable those officials to provide the best level of protection that they can with the resources they have available, and will provide indications of the possible response to such situations or the threat of such situations.

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Chapter 1

POLICE OPERATIONS NEAR THE BORDER OF WARFARE

I have served in both active and reserve status as a Military Police Officer. The significance of this statement becomes obvious when you examine the role contrast inherent in the designation. The term “military police officer” is both a contraction and a contradiction of terms. This evolves from the duality of roles and missions that they are expected to perform. In a wartime setting, they serve as military officers in a police structure to wage and win a conflict, and in a peacetime setting, they serve as police officers in a military structure to prevent and rectify conflict. In both settings, they are required to do so for the defense of the people of the United States. It is, perhaps, this dualistic role undertaken for the same purpose which prompts this essay. The flexibility required to perform such changes of duty creates the opportunity for possible insights into the problems which occur for police operations as the internal conflicts in a society approach, but do not cross, the border to open warfare among the civil populace of a country. Since I intend to address some police operations within the United States during such a situation, it will be of value to review some historical background prior to examining the requirements for conducting such operations.

Since the inception of the United States, the government has operated “to form a more perfect union, establish justice, insure domestic tranquility, provide the common defense, promote the general welfare, and ensure the blessings of liberty . . .”¹ to the people as its basic purpose. The founding documents laid out basic guidelines and structures which affect the provision of these common goals and the development of the services necessary to provide them to the American society. The provision of the included common defense goals (justice, tranquility, common defense) occurs, primarily, through the military services, the civilian public sector emergency services, and the private sector security services. Each of these services has limited, different authority and a consequent limited, different scope of activity with

all generally working to fulfill the same purpose. These different limitations have influenced the development of each service and its primary components: organizational structure (personnel and equipment), operational patterns, and support requirements; simultaneously, the common purpose has worked to produce similarities among the three services. This dual-influence process has created a more refined set of parameters within which each service operates, but has also confused when, how, where, and why the three services operate, overlap, and interact in support of the common purpose. In order to understand their interrelationship and its impact, let us examine the pertinent basic authority structures, historical development, and current parameters. The result can be used as a basis for projecting the limitations and capabilities for each of these services in furtherance of justice, domestic tranquility, and common defense.

THE LEGAL FOUNDATIONS OF THE COMMON DEFENSE SERVICES

The authority and structure of the military services is founded clearly in the Constitution. The President is delegated the responsibility to command the army and navy as well as to appoint its officers.² The Congress is delegated the responsibility to raise and support armies, to provide and maintain a navy, to regulate the land and naval forces, to declare war, to finance the common defense, to define offenses against the laws of nations, and to make laws necessary to carry out these powers.³ This basic structure has been furthered in the United States Code by the creation of the Department of Defense with its various military departments, personnel regulations, acquisitions regulations, and so forth. The only other significant limitation of the military services is that contained in the Posse Comitatus Act⁴ which prohibits members of the Army and Air Forces from being used for civilian law enforcement. Its initial purpose is presumed to have been to prevent local sheriffs from summoning soldiers as a posse, but it is used and interpreted differently in this era. Now it is widely presumed by the average person that military personnel are totally prohibited from enforcing civilian law, a presumption which is not accurate. There are circumstances where it is appropriate and legal for them to do so.⁵

The second group to examine is the militia. The U.S. Constitution does not directly authorize or establish a militia; it simply assumes that the militia already exists. It authorizes Congress to provide for calling the militia forth; organizing, arming and disciplining it; and for governing such part of it as is in federal service (as happens when the militia is called forth).⁶ The

Constitution reserves the appointment of militia officers and the actual training of the militia to the States, but specifies that the Congress shall prescribe the discipline for the militia.⁷ The actual legal foundation of the militia structure is in the United States Code.⁸ This legal foundation is repeated, and, in some cases, amplified in the Constitutions and Statutes of the various states within the union. Basically, the legally-defined militia of the United States consists of an organized militia (National Guard and Naval Militia) and an unorganized militia (all other able-bodied males aged 17-45 except those specially exempted).⁹ Most states retain this structure in their individual constitutions and statutes with some adding other classifications such as a military reserve (retired members of the Armed Services, etc). The organized militia is included in the definition of the Reserve Components of the Armed Forces,¹⁰ but the unorganized militia is not. This distinction is important when examining other portions of the United States Code or state statutes.

The basic constitutional authority to call forth the militia is delineated in the United States Code¹¹ and supplemental federal regulations. The organization, location and command of the organized militia is basically established within the United States Code.¹² The training of the organized militia is also addressed¹³ by the United States Code as is the provision of uniforms, arms, and supplies.¹⁴ Various Department of Defense regulations elaborate further upon these guidelines which form the basis for the state statutes and regulations of the various state national guard units. The final portion of the discipline of the organized militia is provided by Congress through the Uniform Code of Military Justice enacted under Executive Order.¹⁵ The final constitutional limitation concerning the militia is to recall that the 2nd Amendment guarantees the right of the people to keep and bear arms to preserve a well-regulated militia.

The basic framework for the militia is, then: Congress provides for the discipline, regulation, etc., but it is the States that actually control the discipline, training, etc. according to the standards established by Congress. The standards are established primarily through the United States Code; the militia is not a direct Constitutional structure. The unorganized militia is not part of the Armed Forces and its discipline, arming, equipping, etc. is not directly provided for in the United States Code. Both the organized and unorganized militia may, under the Constitution, be called forth "to execute the laws of the Union, suppress Insurrections, and repel Invasions."¹⁶ When called forth to federal service, it becomes part of the Armed Forces and is commanded by the President.

Public sector emergency agencies and officers have no direct legal foundation in the United States Constitution; their existence and authority is established in the United States Code. It is derived from the Constitutional powers granted to the Executive and Legislative branches of government

under Articles I and II. Congress uses its authority to make all laws necessary and proper to establish the agencies, and the President utilizes the executive powers to appoint and commission officers. This direct constitutional authority is supplemented by authority delegated through the United States Code to various subordinate executive agencies, department heads, or independent agencies which also establish regulations as needed. No federal law enforcement, state law enforcement, or municipal law enforcement agency or officer can demonstrate direct constitutional authority, only derived authority.¹⁷

Private sector security agencies have no clear legal foundation in the U.S. Constitution and virtually no mention in the United States Code. The only portions of the Constitution which somewhat pertain to the private sector are the Ninth and Tenth Amendments. This reservation of rights to the people and the states is only a background foundation. Examination of the United States Code finds no direct reference to private sector security agencies, but does contain some sections which control activities typically performed by them as well as others. Examples would include United States Codes pertaining to Fair Credit Reporting,¹⁸ Debt Collection,¹⁹ Employee Polygraph Protection,²⁰ or information privacy restrictions found in the Social Security Act and various other statutes. The most direct reference is found in a section²¹ which restricts private sector security use of certain names, badges, identification, etc. that might indicate a federal government connection. In the final analysis, almost all authority for private security is actually based upon the personal rights enjoyed by a private citizen under common law. The two common law concepts which are usually relied upon are: the right of personal self-defense and the right of the personally accountable owner to control either property or employees. The various states have developed statutes which define and elaborate upon these rights. Some states and local jurisdictions have also developed statutes and ordinances which regulate private sector security operations.

Having established the basic framework under which the military, the public sector, and the private sector operate, a short review of trends in the development and use of these services is the next step. The order in which these trends are addressed is not of any particular significance.

PROFESSIONALIZATION

The first easily identifiable trend over the last several decades is a conscious attempt to professionalize the people providing the core of the emergency services. This has taken various forms depending upon the type of