

NEW YORK STATE  
REPORT OF THE POLICY STUDY GROUP  
ON TERRORISM

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ISION OF CRIMINAL JUSTICE SERVICES

RICHARD J. CONDON COMMISSIONER

REPORT OF THE NEW YORK STATE  
POLICY STUDY GROUP ON TERRORISM

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Richard J. Condon  
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Dear Commissioner Condon:

I am pleased to transmit this Report of the Policy Study Group on Terrorism to you. This report presents a synopsis of terrorism as it relates to New York State, and provides a description of the work of the Policy Study Group over the past year. Establishing the Policy Study Group on Terrorism in the Criminal Justice Institute represented a concrete step toward responding to the threat posed by terrorists. The activities described in this report further demonstrate the State's determination to address this critical problem.

The members of the Policy Study Group appreciate the opportunity afforded them to undertake this important task. We believe that we have made a credible beginning. With your continued support, this important work will go forward.

Sincerely,

*Sherwood E. Zimmerman*

SHERWOOD E. ZIMMERMAN  
Deputy Commissioner  
Chairman - Policy Study Group

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## INTRODUCTION

In recent years, there has been a dramatic increase in terrorism, primarily in Europe, the Middle East, and Latin America. Many acts of terrorism have been directed at U.S. citizens, businesses, and military targets. The number of terrorist incidents committed in the United States has averaged between 20 and 30 in recent years. While fewer than the number abroad, these domestic incidents have been serious acts of terrorism. However, because terrorism has largely been directed at American targets abroad, the problem of domestic terrorism has been overshadowed and, perhaps, underestimated.

Domestic terrorist groups operating within the United States such as the Black Liberation Army, May 19 Communist Organization, Weather Underground, FALN, New Afrikan Freedom Fighters, and the United Freedom Front have been responsible for bank and armored car robberies, bombings, prison escapes, and police killings. The threat posed by these domestic groups is augmented by the possibility that transnational terrorism may be imported to the United States. This potential was highlighted by the recent TWA hijacking, during which the viability of military intervention was tempered by concerns that the terrorists would retaliate with violence in this country.

Because of its role as one of the major cultural, business, and media centers of the world, New York State is a particularly attractive target for terrorist activity. It has been estimated, for example, that during 1982 and 1983, 40 percent of all terrorist attacks within the United States occurred in the New York City metropolitan area. In addition, this state has been an organizing and training site for numerous terrorist groups.

Responding to the threat of terrorism is a serious and legitimate concern of government, of law enforcement, and of private industry. In June 1984, the New York State Division of Criminal Justice Services, under the auspices of the Criminal Justice Institute, established the Policy Study Group on Terrorism. The initial objectives of this group included assessing the level of threat that terrorism poses for New York, and determining the current resources and

capabilities for responding to this problem. Also included as primary objectives were facilitating information sharing among agencies and developing the cooperative relationships that are critical to strategic planning efforts. The Policy Study Group represents a step toward developing a strategy that responds to the threat of terrorism in New York State.

The Policy Study Group members were drawn from Federal, State and local agencies that are involved in the field of counter-terrorism. In addition, an internationally recognized authority from the State University of New York system is a member of the group. Participants were selected on the basis of their expertise and direct involvement in responding to the range of problems posed by terrorist activities.

This report summarizes the work of the Policy Study Group since its establishment. Included are the operational definition of terrorism developed by the group, an assessment of the level of threat that terrorism poses for New York State, and proposed basic operating principles for use in responding to terrorism. Additional sections outline the specific accomplishments of the group and recommended future directions for the Policy Study Group. Copies of working documents produced by the Policy Study Group are appended.

## TERRORISM: A DEFINITION

Terrorism is often defined as a criminal act undertaken for political purposes. It usually entails the use of violence as a means of attaining political and/or ideological goals. Terrorist acts often may appear to the public as random acts of violence, however, they are actually planned activities intended to achieve some specific result. The ability to intimidate or shock the populace is one of the primary tools of terrorist activity. As a result, publicity is a crucial factor in most terrorist incidents. Because the terrorist group is seeking that publicity (at least in this definition) they will, in effect, define themselves as terrorists, through either public statements or by the obvious nature of their actions.

However, as in the October, 1981 Brinks armored car robbery (see Appendix A), there are times when radical political groups prefer to keep their involvement in certain violent criminal acts shrouded from the public. These types of incidents do not fit as simply into the usual definition of terrorism. Their less than obvious nature does not make them any less serious. From a policy perspective, it is necessary to meaningfully respond to economically motivated criminal acts perpetrated by terrorists as well as to the more easily identifiable political terrorist acts.

In their 1976 Report of the Task Force on Disorders and Terrorism the National Advisory Committee on Criminal Justice Standards and Goals stated that terrorism is "a tactic or technique by means of which a violent act or the threat thereof is used for the prime purpose of creating overwhelming fear for coercive purposes (p.3)." Five types of terrorism were identified by this Committee:

- o political terrorism;
- o nonpolitical terrorism;
- o quasi-terrorism;
- o limited political terrorism; and
- o official or state terrorism.

A number of similar typologies have been developed that are designed to encompass the range of terrorist acts. Such definitions are valuable for scholarly studies of terrorism, but a more specific focus is needed for an operational definition to be used by policy makers.

In formulating an operational definition of terrorism, caution must be exercised to guard against being so broad as to threaten the rights and values that are central to our democratic society. As one expert working in this area warned, "... some of the potential responses to terrorism pose an equal, if not greater, threat to democratic freedoms than does terrorism itself."

An important distinction that should be made is the difference between "terror" and "terrorism". Violent acts carried out by criminals or by mentally disturbed individuals can create terror, but are to be distinguished from politically motivated violence. The use of techniques that create terror does not necessarily signal the involvement of a terrorist group, and grouping all terror-inducing acts together has the effect of over-estimating the threat of terrorism. For this reason, a number of categories in the typology presented earlier are excluded from the operational definition of terrorism to be suggested here.

It is extremely difficult to specify what type of political opposition constitutes an element of terrorism. An obvious distinction can be made, for example, between passive resistance and an assassination. There are, however, a range of other actions not so clearly distinguished. The critical element is the use or willingness to use violence to further the ideological goals of the group. In that sense, terrorists define themselves as terrorists.

Any discussion of terrorist activities is ultimately a discussion of criminal acts. The concept of criminality is one of the distinguishing characteristics of a terrorist. If the persons involved have not engaged in the planning or execution of criminal acts they cannot be classified as terrorists. However, terrorist activities are not limited to a few specific violent acts, but rather, encompass a broad spectrum of criminality.

Assassinations, bombings of government or corporate buildings, kidnappings of public officials, or the taking of hostages are a few of the crimes that are most often undertaken as a form of terrorism. What distinguishes these acts from other similarly violent acts is that these are usually carried out for some overt political purpose. In carrying out these crimes, demands or communiques are frequently issued, and a group (or groups) will often publicly acknowledge responsibility. One key element of this type of terrorism is publicity. Without the media attention associated with these activities, terrorist groups would fail in their primary objectives. Those objectives include creating a public awareness of the group's existence and goals, and utilizing tactics of intimidation to develop or enhance an aura of power. Ultimately, these types of terrorist activities are designed to communicate a strong political message to the community.

However, there are a number of other actions carried out by terrorists that are equally criminal in nature, but not intended to immediately draw attention to the group or its long-range goals. These activities are designed primarily to provide material support for the group. Extortion, fraud, burglaries to obtain weapons or to uncover intelligence information, and armored car robberies such as Brinks, are examples of this type of terrorism. The political purpose behind these crimes is more covert in that they are not designed to draw attention to the group. In these cases it is probable that the groups would prefer law enforcement agencies to respond as if they were discrete criminal incidents and not part of a broader ideological conspiracy. The underlying purpose of these crimes is not message, it is means. That is, the goal of these crimes is to provide the terrorist groups with the necessary means to undertake more overt terrorism at some later date.

It is by viewing the October 20, 1981 Brinks armored car robbery in that context that it can be understood as a terrorist act. The motive behind the robbery was clear. The groups involved were attempting to "expropriate" funds to be used in support of their continued existence as violent, politically radical organizations. The ultimate goal of the crime was not riches, it was revolution. That critical distinction separates a bank robbery undertaken for

personal gain by a career criminal like Sam Brown, from a bank robbery committed by Sam Brown as a member of the radical group the Action Five.

Accordingly, the New York State Policy Study Group on Terrorism has identified the following elements as being central to a working definition of terrorism:

- o an organized group of individuals who profess opposition to an established political order, or a government policy; and
- o a willingness to use violence or to put people at risk in order to attain goals; and
- o organization, planning and conspiracy; and
- o the use of criminal acts to attain goals.

The effort to develop an operational definition of terrorism is important, and the questions raised transcend semantic issues. For the State to formulate appropriate policies, the range of criminal activities that fall under the umbrella of terrorism must be understood. Then responses must be designed that address incidents of terrorism at whatever stage they are discovered.

## THREAT ASSESSMENT

The United States, thus far, has experienced fewer terrorist incidents than many other areas of the world. According to data provided by the FBI, terrorist acts within the U.S. have declined drastically during the last five years; 1981-42, 1982-51, 1983-31, 1984-13, 1985-3. However, the problem of terrorism is particularly relevant to New York State. In any given year, New York State (primarily the New York City metropolitan area) is the site of 30 percent to 50 percent of all terrorist acts that occur in the United States. This is due to several factors:

- 1) New York City is the media capital of the world. Events in New York City get immediate attention and world-wide distribution.
- 2) New York State presents an inviting array of targets for terrorists: diplomatic premises and personnel; financial institutions; Fortune 500 corporations; defense contractors; transportation facilities; and energy systems.
- 3) The diverse population and geography of New York State allow for clandestine activities to be performed with little opportunity for observation. Rural areas of the State permit members to meet and train with minimum possibility of detection. These areas often provide easy access to New York City or the surrounding metropolitan area.
- 4) New York State provides an infrastructure of supporters, and havens for a broad range of radical groups.

For these reasons, some level of terrorist activity can be expected to continue, despite recent arrests and prosecutions.

Domestic Groups: Domestic left-wing groups such as the BLA, Weather Underground and May 19 Communist Organization have been seriously disrupted by the FBI/NYCPD Joint Terrorist Task Force through recent arrests and prosecutions. However, some of the support structure remains intact, and there

is a constant process of recruitment. Projecting from the history of these groups, two types of activity can be anticipated. Attempts will be made to rescue imprisoned terrorists, and attacks on Federal or local law enforcement facilities may be mounted for revenge, and to show that the groups remain active. Any major intervention by the United States in Central America could provoke activist and terrorist responses similar to those experienced during the Vietnam war.

Ethnic radical groups remain somewhat active, primarily attacking targets affiliated with foreign nations. In addition, new groups, such as right-wing or neo-Nazi organizations are growing in numbers, and may pose a threat in the future.

International Groups: The FBI/NYCPD Joint Terrorist Task Force has also been successful in disrupting international terrorist groups. According to FBI data, no terrorist incident has been perpetrated by an international terrorist organization in more than two years in the New York area. The leaders of the Croatian, Cuban, and Armenian terrorists organizations have been incarcerated. However, the lessons of Northern Ireland, Lebanon, and Armenia, would indicate that when one faction of revolutionaries are neutralized, another faction will eventually resurrect the organization. It is anticipated that Cuban, Croatian and Armenian terrorists will become active again in the future.

New terrorist organizations, such as the Sikh factions opposed to the Indian Government, are also forming. Other such movements could surface without warning in the future. Perhaps more ominous is the presence of support structures for state supported international terrorist groups in this country. Networks of Libyan, Iranian, and Palestinian supporters currently in place can be called into action by foreign powers. For example, if the United States were to undertake major retaliation for the recent TWA hijacking, Iranian or Palestinian sympathizers might initiate terrorist incidents in this country.

Probabilities for these scenarios are impossible to predict, since they are largely contingent on independent or external events. However, any number of "trigger" events could precipitate terrorist activity. Presidential visits to

Europe, Israel's invasion of Lebanon, and the assault on the Sikh temple in Amritsar have all occasioned various terrorist actions. Those terrorist actions only become predictable after the "trigger" event happens or is publicly announced.

## BASIC OPERATING PRINCIPLES

Controlling terrorism is one of the most critical challenges facing our society today. While it can be argued that terrorism should be viewed as simply another form of violent crime, the threat posed by terrorists is in many respects far more serious than that posed by non-political criminals. Terrorists have not only opted out of our accepted socio-political structure (as many other criminals have done), they have, in a sense, declared war on it.

This is why as a civilized society we are both threatened and perplexed by the increasing use of terrorism. It is difficult for us to understand how groups that profess to be concerned with bringing about a more fair and just society can at the same time display such callous disregard for human life. Terrorists refuse to recognize our most basic precepts regarding the value of "innocent" life. They see their victims as nothing more than casualties in a war pitting the all powerful State against "freedom-fighters" struggling for the oppressed masses.

It is their desire to produce fundamental changes in our system that allows terrorists to rationalize their view of people as mere objects to be manipulated and discarded in the cause. Our western society has developed a moral code that ranks individual human dignity and freedom among our highest values. Terrorists, through their violent activities, reject that code. They believe that the moral rules representing the foundation of our society do not apply to them. Terrorist organizations operate under a simple premise -- the ends justify the means. The means they employ is violence that is designed to bring down the established political and moral order.

Our immediate response to this attitude is to "declare war" on terrorists, much as we have declared war on drugs or organized crime. This firm reaction symbolically displays the high level of priority we ascribe to halting terrorism. However, our resolve in this area must be cautiously applied. The revulsion we feel over the tactics of terrorists cannot be used to justify actions by the State that violate our precepts of law and traditions of civil

liberty. This extremely perplexing moral dilemma highlights the need to develop an ethically acceptable, but rational set of basic operating principles.

The process of determining the role of the State in responding to the problem of terrorism must be based on carefully defined and firmly held principles. It is critical that these basic operating principles are developed and used as the moral "high ground" to look back to as we are called upon to act in terrorist-related situations. Guiding principles, derived from the widely accepted moral code of our society as well as the laws and procedures under which we operate, are necessary to ensure that we do not respond from relative values when dealing with terrorism. The constraints under which we must operate need to be clearly understood.

In this context, a response that allows us to suspend our moral and ethical values becomes unacceptable. While terrorists are not constrained by our value system, we cannot respond in a like manner without jeopardizing the very moral order that we want to protect. However, our self-imposed restraints must be realistic in light of the actual level of threat. A balance must be achieved between overly zealous or overly cautious responses. The use of risk assessment techniques are thus important in determining the level of threat and for informing decisions as to appropriate reactions.

As an open society we have a responsibility to address any legitimate issues raised by individuals or groups. Many formal and informal mechanisms exist to guarantee citizen access to the political decision-making process. Terrorists refuse to avail themselves of these measures and instead resort to violence and destruction. Thus, the methods utilized by terrorists preclude us from entering into any meaningful dialogue with them. Until they renounce the use of violence, they can only present us with a list of demands. Our policy must clearly show that our society cannot accede to terrorist demands.

Based on these facts, the following operating principles should be the foundation for New York State's response to terrorism:

- o the State must effectively respond to terrorist threats and be perceived by the public as effectively dealing with terrorism;

- o the State must be guided by the basic moral principles that are the foundation of our society as well as by the laws and procedures under which we operate;
- o A clear line must be drawn between addressing legitimate grievances and acceding to terrorist demands;
- o the response of the State should be firm, timely, carefully measured and consistent with the actual level of threat, and the legal framework for counter-terrorism must reflect these needs; and
- o the State must engage in ongoing planning activities to ensure that it is prepared to meet any threat or actuality of terrorism.

## FUTURE DIRECTIONS

The nature of terrorism is such that it is difficult to predict future trends. Perhaps the only predictions that can be safely made are that terrorism will continue to be the chosen mode of operation for a number of independent and state-sponsored groups, and that those groups will continue to see the United States as an inviting target. In fact, some experts contend that terrorist activity within the United States is likely to increase dramatically in the near future. In order to respond to the threat posed by terrorist groups, it is prudent for State policymakers to address this issue on an ongoing basis.

The first step that needs to be undertaken as part of a State strategy to respond to terrorism is a careful assessment of both the level of threat posed by terrorists groups, and the attractiveness of potential targets within the State. New York State has been identified as a prime target for terrorist activity due to its position as a cultural, financial, political and media center. These factors have contributed to the operations of certain terrorist groups in New York. Fortunately, the State also possesses a number of resources that will be useful in assessing the problem. ①

One of the premier investigatory groups currently dealing with terrorism is located in New York State. That group, the Joint FBI/NYCPD Terrorist Task Force has developed a wealth of operational expertise in the field of counter-terrorism. Members of that Task Force are active participants in the Policy Study Group, as is a member of the NYCPD Intelligence Division. Another valuable resource housed in New York State is the Institute for Studies in International Terrorism of the State University of New York. This Institute sponsors and encourages academic endeavors focusing on the incidence of terrorism in this country and abroad. The director of the Institute is also a member of the Policy Study Group. The Policy Study Group also includes the Director of Special Planning for the Port Authority of New York/New Jersey. That Office has been involved in examining security issues related to the various Port Authority facilities located throughout the New York City metropolitan area.

The representation of these groups, as well as the Division of Criminal Justice Services, the New York State Police, the Association of Chief's of Police, the Sheriffs' Association, the Department of Correctional Services, and the State Emergency Management Office provide the Policy Study Group with a high level of expertise in the issue of terrorism. Also, this diversity in membership allows for a wide-ranging exchange of differing viewpoints and perspectives. This unique composition makes the Policy Study Group an ideal resource to utilize in coordinating a statewide assessment of the terrorist threat.

Some State agencies have already undertaken efforts to determine the threat posed by terrorists and the vulnerability of associated facilities. However, those studies are limited to the specialized interest of particular agencies or groups. For example, the Energy Department has begun to look at the threat to the energy supply and power grid in New York State. For State policymakers to have a clearer picture of the potential for terrorism, a comprehensive study should be undertaken. Such a study would draw on the expertise developed in these other efforts and would present an assessment of the overall level of threat posed by foreign and domestic terrorist groups. A most valuable activity that the Policy Study Group could undertake in the future would be to coordinate the myriad resources currently available in New York State to complete such a task. With the information acquired through this effort, the Policy Study Group could begin evaluating the State's ability to react to terrorist incidents and developing recommended response mechanisms.

It is important that the State develop a mechanism to ensure an appropriate response to terrorist events as they begin to evolve. The potential consequences of an unwise State response are so grave that the mechanisms for response by the criminal justice system must be prepared in advance and must be integrated with other governmental responses. Specific procedures that facilitate communication and cooperation among various levels of government must become an integral component of State counter-terrorist policy. The Policy Study Group will examine the State's planning and preparedness for criminal justice interventions.

4

In addressing the problem of terrorism, one area that must be examined closely is intelligence gathering. At this time the major counter-terrorist intelligence organizations are operated by the Federal government. New York State has not taken an active role in developing intelligence information regarding terrorism. Legislative pressures, resource limitations, and logistical constraints, are among the reasons why New York and other states have left the role of intelligence gathering to the Federal government.

5

As with other law enforcement activities, the probability of success of any intelligence operation is greatly enhanced by coordination and cooperation among different levels of government. The Policy Study Group proposes to examine the relationship between the State and the various intelligence gathering groups. As part of this study, the Policy Study Group will also examine the lines of communication between local, State and Federal authorities to assure that relevant and necessary information flows in a complete and unimpeded fashion. At the conclusion of this study, the Group would recommend what role, if any, the State should assume in intelligence gathering.

6

One crucial area related to intelligence gathering is Freedom of Information (FOI) accessibility. One of the most fundamental principles of our democratic system is the right of all citizens to enjoy open access to their government. In keeping with that concept, the Freedom of Information Act was signed into law. That legislation allows for broad access to government documents upon request. At times those documents may include information regarding confidential sources, security plans, law enforcement strategies or intelligence data. The level of access allowed to those files through FOI legislation is viewed as overly broad by many in the law enforcement community. Similarly, court decisions regarding discovery proceedings are also seen by some law enforcement personnel as a serious problem. For example, confidential information obtained by defense attorneys in a Chicago case was later found in a suspected terrorist safe-house.

7

Because law enforcement activities by their nature involve confidential information, allowing access to government files can hamper the success of those operations. However, many people believe that open access provisions serve to

protect the citizenry from overly zealous police activities. The Policy Study Group proposes to undertake an in-depth examination of this complex area, in order to provide policymakers with a useful discussion of this difficult and important issue.

8) The Policy Study Group will also continue to examine some of the areas that were highlighted during this past year. Based on its work this year, the Policy Study Group has determined that in most cases, the emergency response systems of the State are adequate to deal with the effects of most terrorist acts. This is because the emergency response to a blackout or airplane crash would be the same if it were caused by accident, or the actions of terrorists. Even in barricade or hostage situations, the initial response is basic and transferrable across a variety of incidents, including terrorist incidents. It is only after the actors are identified as terrorists that special personnel or skills would be required. However, other related areas identified by the Policy Study Group require closer examination.

9) The prosecution and incarceration of terrorists demand special responses and resources. The "Brinks" case clearly illustrates the special problems involved. The additional data on escape attempts involving radicals (see Appendix F) reinforce the magnitude of this problem. In many respects, the aspect of counter terrorist activities that today most affects State government is the prosecution and detention of terrorists. An example of the seriousness of this problem arose recently when 17 terrorist prisoners (representing four major terrorist groups) were confined in one facility in New York City at the same time. This potentially explosive situation was allowed to develop by a lack of communications among the official actors involved. Therefore, the Policy Study Group will continue to address the issues surrounding the incarceration of terrorists. It is hoped that the Policy Study Group can assist correctional officials in developing new understandings of how best to handle this unique segment of their prison populations.

10) Providing security at the local level is also a crucial area in dealing with terrorism. The Policy Study Group has developed a preliminary proposal for assuring that local law enforcement officials are provided with adequate

security advice and assistance where appropriate (see Appendix B). The Policy Study Group will continue to work with State officials to bring some form of assistance to localities faced with terrorist incidents.

Probably the most important endeavor undertaken by the Policy Study Group in its first year of operation was the facilitation of communications among various agencies involved with counter-terrorism. By bringing together, often for the first time, these disparate groups, the Policy Study Group provided a valuable and timely service to the State. The Policy Study Group will expand its activities over the next year to include active interface with other State, local, Federal and private groups. It is anticipated that this new cooperation will continue to provide benefits for the people of the State.

## ACCOMPLISHMENTS OF THE POLICY STUDY GROUP

### Brinks Case Study

During the initial meeting of the Policy Study Group, it was agreed that a case study of the Brinks armored car robbery and subsequent killings of two police officers that took place in Nyack, New York on October 20, 1981 would be a useful vehicle for examining our level of preparedness for responding to crimes involving terrorist organizations. This case provided law enforcement officials with their first real insight into the current structure, activities, and sophistication of domestic radical groups that were assumed by some to no longer be operational. Evidence was obtained that indicates various domestic terrorist groups have begun to cooperate and pool their resources. As a result, the Brinks case was viewed by the Policy Study Group as an opportunity to study many of the critical issues involved in effectively responding to terrorism. These issues include appropriate law enforcement response, interagency coordination, resource availability and management, trial security, case prosecution, and correctional security. The Policy Study Group's report, Description of the Brinks Incident (see Appendix A) was grounded in an extensive series of interviews with a range of law enforcement officials directly involved with various aspects of the case.

### Mobile Radio District Radio Program Support Memo

The 1981 Brinks incident highlighted the problem of inadequate police radio communication systems. Specifically, the various police radio agencies within Rockland County that were involved in the Brinks incident experienced radio transmission and reception problems, which resulted in confused and incomplete information exchanges as well as critical delays. This type of problem is being addressed through the Mobile Radio District Program, which was established to improve inadequate police communication systems throughout the State. To date, this program has been established in approximately 80 percent of the counties in New York State, but successful implementation in the remaining areas is dependent upon adequate funding. The Policy Study Group submitted a formal memo of support for sufficient funding of the program in order to enhance the ability

of law enforcement agencies to respond to a full range of emergency situations, including terrorist incidents (see Appendix C).

### Disaster Preparedness

The Policy Study Group studied the possible need for amendment of Executive Law Article 2-B, State and Local Natural and Man-Made Disaster Preparedness to include major criminal acts or terrorism under the definition of disaster. After careful examination, the Policy Study Group concluded that the existing statute is sufficiently broad to encompass any conceivable catastrophe that terrorists could create.

### Expansion of Jury Pools/Change of Venue

The Policy Study Group identified a need for legislation allowing for expansion of jury pools in cases accompanied by an excessive amount of publicity that might jeopardize the provision of a fair and impartial trial. It was determined that this legislative change would significantly reduce the costs associated with prosecution of major cases, such as the trials of the Brinks defendants. Rather than resorting to a change of venue with resulting high costs of duplication of security measures, the group recommended maintenance of the original venue, with the ability to bring jurors in from other locales within the judicial district. Legislation to this effect had been introduced in New York on previous occasions, but was not passed. The Policy Study Group strongly endorsed this concept and actively participated in drafting new legislation that ensures the provision of a fair and impartial trial and also meets the needs of the localities. This legislation was signed by Governor Cuomo during the 1984-1985 session (see Appendix D).

### Security Advisory Board

The Policy Study Group proposed the establishment of a Security Advisory Board to help counties develop and implement the extraordinary security precautions required during the prosecution of major criminal figures, such as terrorists. The Security Advisory Board would assist counties in reducing or

avoiding excessive costs by providing expert advice regarding security arrangements. This Board would also provide a mechanism for facilitating reimbursement of extraordinary expenditures incurred in providing an appropriate level of security, based on implementation of the security plan developed by the Board. The need for such a mechanism was evidenced by the problems associated with the trials of the Brinks defendants. It is estimated that the cost to Rockland County for the Brinks trials was between five and six million dollars. A major portion of those expenditures was related to security measures. The Security Advisory Board would be a valuable resource for aiding counties in developing and implementing a prudent and effective security plan (see Appendix B).

#### Threat Assessment

A preliminary proposal for a terrorism threat assessment study for New York State was developed. The Policy Study Group would work in conjunction with the Institute for Studies in International Terrorism of the State University of New York to develop a threat assessment for this State and to formulate recommendations for specific approaches and policies for dealing with the terrorist threat (see Appendix E).

APPENDIX A  
Description of the Brinks Incident

W

## INTRODUCTION

### Background

At the initial session of the Policy Study Group on Terrorism, a decision was made to examine the Brinks armored car robbery/murder case that occurred in Nyack, New York on October 20, 1981 as an example of a situation involving members of domestic terrorist groups. It should be clarified that this incident was not designed as a terrorist act but was, rather, a criminal act carried out by terrorists for the economic gain of their organizations. The Brinks case was selected for study because it provides a rare chance to examine the responses of the various elements of the criminal justice system to a real case. As a result, this provides an opportunity for studying issues such as law enforcement response, interagency coordination, resource availability and management, security and prosecution.

### Methodology

In order to reconstruct the facts of the Brinks robbery/murder and subsequent related events, interviews were conducted with criminal justice agency officials who were involved in various aspects of the case. In addition, the events have been reconstructed by reviewing newspaper articles covering the time period ranging from the occurrence of the crime, through the arrest, detention, prosecution and sentencing of the offenders. In particular, the Rockland Journal-News provided extensive and accurate reporting of events related to the Brinks case.

The following individuals were interviewed regarding their involvement and perspectives on this case:

Kenneth Gribetz - District Attorney, Rockland County  
James Stewart - Chief Investigator, Rockland County District Attorney's  
Office  
Harvey Eilbaum - Chief Assistant DA, Rockland County  
James Curtis - New York State Police  
Jack Whittel - New York State Police  
David Wedlick - Clarkstown Police Department

Philip Human - Lieutenant, Nyack Police Department  
Thomas Coffey - Chief, Nyack Police Department  
Thomas J. Brown - Investigator, Rockland County BCI  
Thomas Sullivan - Investigator, Rockland County BCI  
James Kralick - Chief of Patrol, Rockland County Sheriff's Department  
Nicholas Solfaro - Assistant Superintendent, Rockland County Jail  
Elijah Coleman - Superintendent, Rockland County Jail  
John Egbertson - Chief, Goshen Police Department  
Bill Cooper - New York State Police  
Delbert George - New York State Police  
Roger Philips - Sheriff, Orange County  
Keith McLean - Jail Administrator, Orange County Sheriff's Department  
Joseph Remer - Undersheriff, Orange County Sheriff's Department  
Thomas McDonald - Orange County Sheriff's Department  
Daniel Guido - former Sheriff, Westchester County  
Brian Malone - Inspector General, Department of Correctional Services  
William Bodner - New York State Department of Correctional Services  
Gary Gardner - FBI/NYCPD Joint Terrorist Task Force  
Kevin Hallinan - FBI/NYCPD Joint Terrorist Task Force

An unstructured interview format was utilized in order to obtain information regarding each subject's role in the Brinks case, their reconstruction of events, impressions, and recommendations stemming from this experience.

## THE INCIDENT

On the morning of October 20, 1981 a sequence of events was initiated that, by the end of the day, would result in the murder of two police officers and one security guard; the theft and recovery of \$1.6 million dollars in cash; and the arrest of four members of a radical collective with roots that could be traced to the anti-war and black-power movements of the 1960's. According to information obtained by Federal authorities, five persons involved in the Rockland Brinks robbery met at the Black Acupuncture Association of North America (BAANA) on the morning of October 20th. Their meeting place at West 139th Street in Harlem has since been exposed as a central meeting place for various radical groups including the Black Liberation Army (BLA), the Republic of New Afrika (RNA), the Weather Underground Organization (WUO), the May 19th Communist Organization, the FALN (a Puerto Rican Nationalist group) and others.

The five men who met at the acupuncture clinic, Matulu Shakur, Donald Weems, Edward Josephs, Cecil Ferguson and Samuel Brown, then drove to an apartment in the Bronx where they picked up a member of the BLA, Nathaneal Burns, who would not be an active participant in the robbery that day. From the apartment in the Bronx, the group then moved to a Mount Vernon safe-house which had been rented under an alias by Marilyn Jean Buck. It is probable that all of the people who would participate in the ambush of the Brinks armored truck outside the Nanuet Mall were present at the safe-house to finalize plans for the operation which they had code-named "The Big Dance". The persons present at that meeting included: Marilyn Jean Buck, Kathy Boudin, Judith Clark, Samuel Smith, David Gilbert, Susan Rosenberg, the six persons who had arrived from the acupuncture clinic, and others who have yet to be identified.

The members of the robbery team then left Mount Vernon and proceeded to the vicinity of the Nanuet Mall in various vehicles including a tan Honda, a white Oldsmobile, a rented red van and a U-Haul truck. They assumed positions around the entrance to the Nanuet National Bank with Sam Brown stationing himself in the lobby of the bank and Donald Weems sitting on a bench near the point where the Brinks truck would park. After the Brinks truck driven by James Kelley

arrived, two guards, Joseph Trombino and Peter Paige, entered the bank and returned with a handcart containing currency bags. As the bags were being loaded into the rear compartment of the Brinks truck, the red van pulled up and three individuals carrying weapons and wearing ski masks exited. Another person, also wearing a ski mask, remained in the driver's seat of the red van. The three masked individuals, along with Donald Weems and Sam Brown, converged on the Brinks guards and began firing. Peter Paige was killed instantly and two others, Joseph Trombino and James Kelley, were wounded during the ambush.

After transferring the cash to their vehicles the robbery team fled the scene in the Honda, the Oldsmobile and the red van. They drove a short distance to a pre-arranged rendezvous with the U-Haul behind an unused Korvette's department store. It was their intention to abandon the red van in the Korvettes parking lot and leave the vicinity undetected in the U-Haul and smaller vehicles. However, the switch of vehicles was observed by a person in the neighborhood, Ms. Sandra Torgerssen, who informed police that she saw a group of armed persons abandon a red van and leave in a U-Haul truck and tan Honda (apparently the white Oldsmobile was not reported to police).

As the robbery team members were fleeing the Korvette's site, various police units were beginning to converge on the area. The officers had been alerted by radio to look for the U-Haul and the Honda. The robbery team traveled east along Rt. 59 towards an entrance to the N.Y.S. Thruway located on Mountainview Avenue. The Honda turned north onto Mountainview Avenue undetected, while the U-Haul truck was stopped at a roadblock that had been set up by the Village of Nyack Police Department. It is unclear whether the Oldsmobile also stopped at this point or continued along Rt. 59 for a short distance and then returned to the Thruway entrance.

At the scene of the roadblock the police began questioning the driver of the U-Haul, who has yet to be identified, and Kathy Boudin who was riding in the passenger seat. While the police were attempting to ascertain whether or not the U-Haul was related to the Brinks ambush, several members of the robbery team exited from the rear compartment of the U-Haul truck firing automatic weapons and handguns. In the gun battle that ensued, Sergeant Edward O'Grady and

Patrolman Waverly Brown were mortally wounded and Detective Arthur Kennan received wounds from which he eventually recovered. Kathy Boudin and the unidentified driver of the U-Haul took advantage of the pandemonium and fled the scene on foot. Boudin was apprehended by an off-duty New York City corrections officer, Michael Koch, who happened to be passing the scene. The unidentified U-Haul driver escaped into the woods and has yet to be apprehended.

The rest of the robbery team left the scene of the shootout in the Honda, the Oldsmobile and two vehicles which they commandeered from passing motorists. They traveled approximately two-tenths of a mile up Mountainview Avenue and stopped in the driveway of a home owned by a local family named Scott. It is theorized that they stopped in this driveway to meet another group member, tentatively identified as Cheri Dalton, who was waiting with another escape vehicle. From the Scott driveway the gang members fled at high speed along Mountainview Avenue. Cecil Ferguson, however, had turned into the wrong driveway and had to escape into the woods on foot.

South Nyack Police Chief Alan Colsey was responding to the scene when he observed the escape vehicles traveling at a high rate of speed in the opposite direction along Mountainview Avenue. Chief Colsey immediately turned his vehicle around and gave pursuit. During the ensuing high speed chase the tan Honda failed to negotiate a curve and crashed into a wall on Christian Herald Road. The occupants of the Honda (David Gilbert, Judith Clark and Samuel Brown) were taken into custody by Chief Colsey with the assistance of other police officers who arrived at the scene at that time. All other participants successfully escaped the area and eluded police capture on that day.

The events of October 20, 1981 had taken a heavy toll. The coalition of radical groups were unsuccessful in their attempt to rob \$1.6 million dollars in cash. Their efforts, however, resulted in the violent deaths of one Brinks guard and two Nyack police officers and the wounding of two other Brinks guards and two police officers. Of the original robbery team, four persons, Kathy Boudin, Samuel Brown, Judith Clark, and David Gilbert were taken into custody. An unknown number had escaped and became the subjects of an intensive law enforcement investigation.

## THE INVESTIGATION

As the initial reports of the robbery and shootings at the Nanuet Mall were being broadcast over police airwaves, law enforcement agencies from surrounding (and overlapping) jurisdictions converged on the area to seal off routes of escape and undertake the initial investigation. It was this immediate police response that thwarted a clean escape via the Mountainview Avenue Thruway entrance. This resulted in the arrest of Kathy Boudin at the Thruway entrance, and of three other suspects (Gilbert, Clark, and Brown) whose vehicle crashed during the subsequent high speed chase. With those four persons in custody, and an undetermined number still at large, police efforts during the first 24 hours focused on positively identifying the four suspects, securing the various crime sites in order to collect physical evidence for processing, obtaining eyewitness statements that could be of immediate use in the search for other participants, and developing a mechanism to assure that the investigation would be effectively coordinated.

The issue of agency coordination was pivotal. Because the robbery, vehicle switch, shootout, and escape traced a path that cut across different jurisdictions, the local police forces in the area (Nyack, South Nyack, and Clarkstown) all had immediate roles to play. Eventually, other enforcement agencies became involved in the investigation, including the State Police (who were first informed of the incident when Correctional Officer Koch flagged down a State Police vehicle shortly after his arrest of Kathy Boudin at the site of the shootout), the Rockland County Sheriff's Department, the Rockland County District Attorney, the New York City Police Major Case Squad, the Bureau of Alcohol, Tobacco, and Firearms (ATF), and the Federal Bureau of Investigation (FBI).

Because of the complexity of events surrounding the incident, different police agencies immediately began to assume the responsibility for different tasks. At the Nanuet Mall site, the Clarkstown Police initially took charge of securing the area and collecting physical evidence. The Rockland County Sheriff's Department Bureau of Criminal Investigation performed a similar task

at the Thruway entrance scene. Since it was known that at least one of the suspects had escaped on foot into a wooded area adjacent to the Thruway entrance, a search of that area was commenced. The search operation was coordinated by the State Police with assistance from various local police agencies.

The police received their first indication that they were faced with more than a "garden variety" bank robbery when the Rockland County BCI identified the suspects in custody as fugitive members of the Weather Underground. This information, added to the frantic pace and confused activity during the hours immediately following the robbery, caused District Attorney Kenneth Gribetz and other enforcement officials to set up a special task force for coordinating the investigation. The task force was composed of the State Police, Rockland County Sheriff's Department, Nyack Police, Clarkstown Police, Rockland County District Attorney, New York City Major Case Squad, ATF and the FBI. Among the first decisions made by the task force were that the Rockland Sheriff's Department would be responsible for the control of all physical evidence, that the FBI's laboratory facilities would be used for the processing of all evidence from the crime scenes, and that the DA's office would coordinate the interviews of all potential witnesses (who at that point numbered in the hundreds).

The broader implications of the Brinks robbery did not come as a complete surprise to some of the enforcement agencies that became involved in the investigation. The New York City police had already begun piecing together information which eventually led them to theorize that there was an organized coalition of radical groups planning and executing armored car robberies in the New York metropolitan area. That theory grew out of investigations into similar armored car robberies in the Bronx, Nassau County, and an attempted robbery in Danbury, Connecticut. As part of an unrelated investigation into the shooting of a New York City police officer more than three months prior to the October 1981 Brinks robbery, the New York City Police Department had begun an active surveillance of the Black Acupuncture Association of North America (BAANA), which was later described as the headquarters of a radical coalition. The information gathered in relation to these earlier crimes led law enforcement officials to begin circulating a list in September 1981, which included names of 50 persons, some of whom were later to be involved in the Brinks robbery.

Shortly after the robbery, some unfounded speculation arose among local law enforcement authorities regarding the role of the FBI/NYCPD Joint Terrorist Task Force in the months and days immediately prior to the October 20, 1981 robbery. That speculation was fed by the appearance of FBI agents at the Nanuet Mall within an hour of the robbery. Some contended that this rapid response was more than coincidental. However, the Task Force has categorically stated that they had no previous knowledge of the possibility of this incident. The rapid response of the FBI was the result of several agents leaving a meeting in New Rochelle and traveling through the general area of Nyack while returning to their home office in Newburgh. The agents heard a police radio transmission about the robbery at Nanuet Mall, responded to the scene and offered whatever assistance they could provide.

The situation at the end of the first day was that four suspects were in custody and had been identified; a Brinks robbery task force composed of various enforcement agencies had been established; an ultimately unsuccessful search of the woods surrounding the Thruway entrance was underway; and there were a number of leads based on intelligence information, physical evidence and eyewitness accounts that needed to be followed up.

On the day after the robbery, the FBI and New Jersey State Police searched an apartment in East Orange, New Jersey which they uncovered through a trace of the license plate on one of the group's escape vehicles. At that location they discovered weapons, explosive materials, sketches of police stations and of the Queens House of Detention, and information that led them to other safe-houses. The following day the FBI and local police searched the house in Mt. Vernon that had been used as a staging area on the day of the robbery. They found the white Oldsmobile that had been used in the robbery, and interviewed some of the neighbors who were able to provide them with descriptions of people they saw emptying the house of all of its contents the day before.

On October 23, New York City police officers engaged in a pursuit and exchanged shots with two suspects in Queens, during which Sam Smith was killed and Nathaneal Burns was captured. A bullet fragment found on Sam Smith's body was identified as having been fired during the Brinks robbery. As a result of

that discovery, Nathaneal Burns was charged with crimes related to the Brinks incident.

A few days later, on October 27th, Eve Rosahn, the owner of the tan Honda used in the robbery, was arrested and charged with criminal facilitation. Also on that day, police officers raided a farmhouse in Mississippi which had been identified as the location of one of the group's many safe-houses. That raid, which included approximately 250 officers, was coordinated by the FBI/NYCPD Joint Terrorist Task Force. They arrested Cynthia Boston based on information (later proven incorrect) that she took part in the emptying of the Mt. Vernon safehouse. Ms. Boston's husband, William Johnson (Bilal Sunni-Ali), who was not at the house during the raid, was also implicated as an accessory after the fact.

On November 15, the Federal and State grand juries began their investigations. The federal grand jury undertook a wide-ranging investigation into the "criminal conspiracy" of these groups using the Racketeer Influenced and Corrupt Organizations (RICO) Statute. A number of persons were called before the grand jury to testify, many of whom refused to do so and were incarcerated for criminal contempt. Between November and December, the FBI/NYCPD Joint Terrorist Task Force began to uncover a network of safe-houses across the country, and they also started identifying persons believed to have taken part in the planning or execution of the Brinks robbery. Those individuals included Joanne Chesimard (on the FBI's 10 Most Wanted List for her escape from a New Jersey State prison) and Marilyn Jean Buck as ringleaders; and Donald Weems, Anthony LaBorde, and William Johnson (Bilal Sunni-Ali) as participants.

Two events occurred in December 1981 that had a profound effect on the investigations surrounding the Brinks incident. First, Samuel Brown, a participant in the robbery, decided to provide detailed information to the Joint Terrorist Task Force. That information included names and places important to the investigation. As a result, investigators were granted authorization to conduct electronic surveillance at a number of safe-houses and front organizations used by various members of the terrorist groups under investigation. Also, on December 21, a bank robbery took place in Metter, Georgia. Among those

suspected of the robbery were Anthony LaBorde, Donald Weems, Emma and Tyrone Rison and Yvonne Thomas, all of whom were involved in some aspect of the Brinks investigation.

On January 7, 1982 Anthony LaBorde was arrested in Philadelphia after police officers observed him trying to discard a gym bag containing a 9mm handgun and ammunition. The police were unaware of LaBorde's true identity and possible connection to the Brinks crimes. However, investigators in New York City became aware of LaBorde's arrest after hearing a phone call from LaBorde's wife to BAANA headquarters. He was charged with the Brinks crimes, and with the April 16, 1981 murder of a New York City police officer. (It was in part an earlier search for LaBorde that had triggered the New York City Police stakeout of BAANA starting in July, 1981). Two weeks later, on January 20, 1982, Donald Weems was arrested at an apartment in the Bronx. Based on eyewitness testimony and fingerprint evidence, Weems was indicted by New York State for the Brinks murders and robbery.

In February 1982, other major events occurred. On February 8, Tyrone Rison and Yvonne Thomas were arrested for the Georgia robbery, and shortly thereafter, became FBI informants. Rison, who eventually was a key witness at the Brinks trials, provided investigators with a description of a group known as the "Action Five." This group was composed of Rison, LaBorde, Weems, Smith and Matulu Shakur (who was the director of BAANA and a prime suspect in the Brinks investigation) and was responsible for the planning of a number of armored car and bank robberies. One week prior to that, on February 2, one of the FBI wiretaps yielded information that Shakur had returned to New York City.

Investigators were able to ascertain his whereabouts, but chose not to take him into custody at that time. Instead, they initiated physical and electronic surveillance intended to develop leads into the location of other radical leaders. During that same time period, the Joint Terrorist Task Force also arrested a number of non- participants and minor figures and charged them as co-conspirators or accessories. The convictions obtained as a result of the investigation include: 12 for murder; 1 for attempted murder; 12 for contempt

of Grand Jury; and 6 for robbery. Three fugitives were also arrested as a result of the Task Force investigation.

After monitoring the movements of Shakur and his associates for a period of weeks, investigators arrested the suspects in March 1982. At dawn, on the morning of March 26, the Joint Terrorist Task Force and New York City Police staged simultaneous raids on two apartments and BAANA headquarters. During those raids, Edward Josephs and Cecil Ferguson were taken into custody without incident. However, Matulu Shakur successfully eluded capture and has remained at large. Because the arrests of Josephs and Ferguson were largely based on information provided by Sam Brown, they could not be charged in the State case. New York State law prohibits the use of information obtained from a defendant over the objections of his or her attorney. As a result, Ferguson and Josephs were charged in Federal court with conspiracy, bank robbery, and felony murder.

The March 26th raid also put investigators in contact with Dr. Peter Middleton, who worked out of BAANA and was a confidant of Matulu Shakur. In exchange for sentencing consideration, Middleton decided to cooperate with Federal authorities and agreed to provide testimony against other Federal defendants. He also verified the roles played by other individuals, including Cheri Dalton, who had tentatively been identified as the driver of an escape car that was waiting in a driveway about two-tenths of a mile away from the scene of the Thruway shootout. Middleton was placed in the Federal Witness Protection Program.

Over the next few months, Federal investigators completed their cases against persons already in custody and followed up on information that was provided by informers or developed through other investigation. On November 10th, the FBI arrested Silvia Baraldini, a legal aid assistant employed by one of the defense attorneys on the case. Baraldini was charged with driving an escape vehicle in robberies carried out prior to the Brinks incident, and providing Donald Weems with information useful for planning an escape from custody. Shortly thereafter, authorities in the Central American country of Belize arrested William Johnson (Bilal Sunni-Ali) on drug-related charges. He

was extradited to the United States and charged in Federal court with conspiracy and related charges.

Since that time, a number of other arrests have also been made. Nilsa Cobeo was taken into custody in August of 1983 and charged as an accessory after the fact. Susan Rosenberg was arrested in late 1984 when she was found with more than 700 pounds of explosives in her possession. Dr. Alan Berkman was also recently arrested as was a major figure in the robbery, Marilyn Jean Buck. Other participants, including Matulu Shakur, Cheri Dalton and the unknown driver of the U-Haul remain the subjects of continued investigation.

## THE TRIALS

The Brinks robbery-murder trials were complex, controversial, lengthy, and fraught with technical problems associated with various legal issues that were raised throughout. Widespread interest followed the Brinks crimes and subsequent trials in part because defendants were identified as members of such radical organizations as the Black Liberation Army, the Weather Underground, and the May 19 Communist Organization.

Both the State and Federal governments prosecuted defendants who were linked to the Brinks incident. While the trials conducted by the State and Federal governments had many parallels, the underlying premise for prosecution differed for the two cases. In keeping with the role of his office, Rockland County District Attorney Kenneth Gribetz focussed the prosecution of this case on the criminal/technical aspects. The State's interest was in securing convictions for robbery and murder. At various times Mr. Gribetz and Judge David Ritter, who presided over the State trials, found it necessary to caution jurors to consider only the criminal case and emphasized that "politics have no place in the courtroom." These instructions were given in response to statements made by the defendants regarding their political ideology. During their trial, Donald Weems (Kuwasi Balagoon), Judith Clark, and David Gilbert declared themselves to be "freedom fighters" who were at war with the U.S. government which they believe promotes imperialist exploitation of Third World Countries and oppresses racial and ethnic minorities in this country. These defendants and others involved in the Federal case also contended that they were prisoners of war and that as such, the proceedings against them were fundamentally illegitimate and illegal.

In contrast to the criminal/technical basis of the State's prosecution of the Brinks defendants, the Federal government approached their case from a broader conspiracy standpoint. On October 27, 1981 the FBI announced a Federal grand jury probe of conspiracy by radical organizations to finance their activities, including the maintenance of a network of safe-houses for fugitives, through violent crimes. A nine count indictment resulted from the 13 month

investigation and was the basis for the Federal trial. The indictment included charges relating to four murders, fourteen robberies and attempted robberies, and the 1979 jail break of BLA leader Joanne Chesimard. Five defendants (Cecil Ferguson, William Johnson, Nathaneal Burns, Edward Josephs, and Silvia Baraldini) were charged with taking part in a racketeering conspiracy as defined by the Federal Racketeer-Influenced Corrupt Organizations Statute. A sixth defendant (Iliana Robinson) was charged with acting as an accessory after the Rockland County Brinks robbery. Prosecutors in the Federal case used informants, including Peter Middleton and Tyrone Rison, to testify about the activities of the "Brinks gang" and the events of October 20, 1981. During the investigation period, witnesses who were sympathetic to various terrorist groups refused to cooperate with the Federal grand jury probe into the radical organizations and were jailed. In addition, the admissibility of wiretap evidence and allegations that FBI agents coerced Samuel Brown into cooperating with the prosecution became major issues.

In September 1983, after the five month Federal Brinks trial, the anonymous jury returned a verdict that convicted only two of the defendants, Nathaneal Burns (Sekou Odinga) and Silvia Baraldini, on charges of racketeering and conspiracy. Defendants Edward Josephs and Cecil Ferguson were found guilty only of acting as accessories after the October 20, 1981 crime for harboring fugitive Matulu Shakur, who has been described as the "mastermind" behind the Rockland operation. Shakur remains at large and is on the FBI's 10 most wanted list. William Johnson (Bilal Sunni-Ali) and Iliana Robinson were acquitted of the charges against them.

The working relationship between the State and Federal governments during the Brinks proceedings was strained by the sometimes conflicting interests of the two prosecutions. This conflict of interest was particularly evident when Federal investigators wanted to use Samuel Brown as an informant for the purpose of indicting other individuals on broader conspiracy charges. The Rockland County District Attorney's Office, on the other hand, did not want to give up their strong case against Brown for the Brinks robbery and murders. Brown did remain a defendant in the State case, but provided testimony to the Federal grand jury.

The State case was initiated with the arrests of Kathy Boudin, Samuel Brown, Judith Clark, and David Gilbert on October 20, 1981. Nathaneal Burns was arrested two days later after a shootout with New York City detectives during which Brinks suspect Sam Smith was killed. In November, the Rockland County grand jury also indicted Marilyn Jean Buck and Anthony LaBorde. Charges against LaBorde were later dismissed for lack of evidence. A final indictment was brought against Donald Weems (Kuwasi Balagoon) on January 15, 1982 and he was captured in the Bronx five days later.

Pretrial hearings for the State case began on September 13, 1982 in New City, Rockland County. These hearings were conducted under tight security and were accompanied by extensive publicity and demonstrations by supporters of the defendants. Judith Clark, Nathaneal Burns, David Gilbert, and Donald Weems refused to participate in the preliminary proceedings and their trial, referring to this strategy as political rather than legal. Attorneys representing Ms. Boudin, however, worked at building an orthodox criminal defense and sought to have the case transferred from Rockland County on the basis that it would not be possible to receive a fair trial there. On December 15, 1982 a State appeals court ruled that the Brinks trial should be moved to Orange County (Goshen) due to deep community resentment in Rockland, extraordinary security measures, and the extensive local media coverage. This change of venue decision caused major delays as Orange County prepared to handle a trial of this magnitude. District Attorney Kenneth Gribetz also cited the failure of the State judiciary to assign one judge to handle the case from start to finish as an important factor behind the lengthy trial delays.

Although the decision for changing the trial site was made in December 1982, the actual transfer of the defendants to the Orange County Jail did not take place until June 23, 1983. During the interim, Orange County was involved in training additional officers hired to provide security during the trial, and in developing the jail and courthouse security plans they believed to be necessary.

It should be noted here that neither Rockland County nor Orange County officials were comfortable with the change of venue. By the time that this

decision had been made, Rockland County had already incurred considerable costs and had gone to great efforts to prepare for the Brinks trial. When the trial moved to Goshen, Rockland County was still responsible for expenditures made by Orange County related to this case. As the high cost of the Brinks trials became apparent, Rockland County taxpayers grew increasingly upset and relations between the two counties deteriorated when Rockland officials accused Orange County of making overly zealous security arrangements and of excessive expenditures.

On July 1, 1983, Judge Ritter ruled that Sam Brown would be tried separately from Weems, Clark, and Gilbert who considered him to be a traitor for turning Federal informant. At that time, the judge offered Kathy Boudin the option of being tried along with Brown, as both Brown and Boudin intended to utilize a traditional criminal defense. This offer was accepted by Boudin, although her attorneys later tried to sever her case from Brown's but were denied.

Because of their self-defined status as prisoners of war, Weems, Gilbert, and Clark refused to participate conventionally in their trial. With the exception of making opening and closing statements which were political in nature, they listened to the daily proceedings over a loudspeaker in the basement of the courthouse where they were confined in holding cells. After a two-month trial, which ended September 14, 1983, these three defendants were found guilty of the Brinks triple murders and robbery. On October 7, 1983 Judge Ritter imposed the maximum possible sentence on each defendant: consecutive terms of 25 years-to-life for each of the three second-degree murder convictions.

Mr. Gribetz highly commended the work of the FBI crime lab and indicated that the evidence they provided in the form of ballistic identification, microscopic and instrumental analysis, and most important of all, glass fragment comparisons, was critical to obtaining convictions in this case.

Following the convictions of Weems, Clark, and Gilbert, attorneys for Ms. Boudin requested a change of venue, stating that she could not receive a fair

trial in Orange County due to the notoriety surrounding the first trial. Attorneys argued that it would not be possible to impanel a second impartial jury in that County. Defendant Sam Brown joined in this request and on December 3, 1983, the State Court of Appeals ruled that this second trial would move to Westchester County. Subsequent to this decision, Kathy Boudin was transferred from the Orange County jail back to the Rockland County jail, from which she would be transported on a daily basis to court proceedings in Westchester. Rockland County officials cited cost factors as the reason behind this arrangement, preferring not to pay Westchester for housing their prisoner. Sam Brown was eventually transferred to Fishkill Correctional Facility in an effort to save the \$15,000 a week that Rockland was being charged to house him in Westchester. State Police then assumed responsibility of transporting Mr. Brown to and from court, which was an additional cost savings for Rockland.

It took over three weeks to form an acceptable jury for the trial of Boudin and Brown in Westchester. More than 2,600 potential jurors were screened before a final selection was made. The State opened its case against Brown and Boudin in early April in Westchester County. In a dramatic reversal, Ms. Boudin pleaded guilty on April 26, 1984 to a single count of robbery and second-degree murder. On May 3, 1984 Ms. Boudin was sentenced to serve a 20-years-to-life prison term as was agreed to by prosecutors in exchange for her plea of guilty. Had Ms. Boudin not pleaded guilty, but instead, been convicted as charged, she would have faced a possible sentence of 75 years-to-life.

In order to continue the case against Sam Brown, a total of 60 prospective jurors who had qualified to hear the original case were questioned regarding the impact of Kathy Boudin's guilty plea. This process was completed during the second week of May, 1984 and Mr. Brown's trial began on May 21. A request was made by Mr. Brown's attorney for transfer of the case out of Westchester due to possible prejudice related to Ms. Boudin's guilty plea. That request was rejected on appeal. On June 14, 1984 the jury pronounced Sam Brown guilty of three counts of second-degree murder and four counts of robbery for his part in the Rockland County Brinks case. Sentencing for Mr. Brown took place on June 26, 1984 when he received a prison term of 75 years-to-life.

State charges against Nathaneal Burns (Sekou Odinga) which had been pending during the trials of the other Brinks defendants were dismissed on July 10, 1984. Mr. Burns is currently serving a prison term after conviction on Federal charges of conspiracy and racketeering.

## COST

The issue of the costs associated with the Brinks trials has been extremely controversial. A combination of State Court of Appeals decisions to change trial sites (2 changes of venue) and unprecedented security precautions resulted in a great financial burden for Rockland County. Herbert Reisman, Chairman of the Rockland County legislature, contends that "Rockland is paying for sluggishness in the courts and flaws in a legal system unable to reconcile the rights of the defendants with the financial toll on the Rockland community." (Journal News, March 31, 1984.) A two percent increase in county sales tax as well as increases in property taxes have been imposed in Rockland County in part to offset the costs of the Brinks trial. The financial controversy that resulted from the costs that were incurred during the Brinks trials resulted in ill feelings among the three counties involved in the case (Rockland, Orange and Westchester).

Final cost estimates for the Brinks case which began in Rockland County on October 20, 1981 and ended with the sentencing of Samuel Brown in Westchester County on June 26, 1984 range from \$5-7 million. The most significant costs were related to security, housing, transportation and personnel. Rockland County officials have claimed that Orange and Westchester Counties had no incentives to economize in this situation since they were not responsible for the costs associated with the trials.

## SECURITY

Perhaps the most controversial expenditures incurred during the Brinks trials were those associated with security. From the initial identification of the radical affiliations of the defendants, great concern surrounded the issue of security precautions. Law enforcement officials were fearful that attempts might be made to free the defendants, with the successful jailbreak of BLA leader Joanne Chesimard being a recent example of the potential for such an incident. The possibility that sympathizers might retaliate with other acts of violence also added to the perceived need for intensified security arrangements.

At the onset of the Brinks case, defendants were held in the Rockland County Jail. Correctional officials developed a security system that essentially involved running a separate unit within the main jail for the Brinks prisoners. Hand-picked corrections staff received special training and were assigned to work exclusively with the Brinks inmates.

The Rockland County Sheriff's Patrol was responsible for transportation and courthouse security. In order to provide the level of coverage deemed appropriate, approximately twenty retired police officers were employed and, in addition, off-duty police officers from neighboring towns and villages were hired by contract.

The State Police were also involved in providing security during the preliminary hearings in Rockland County. In order to relieve the burden of the Sheriff's Patrol, State Police officers assumed responsibility for twenty-four hour coverage of the courthouse on weekends. This coverage consisted of two officers within the building, two others on a roving patrol outside, and a back-up unit. On the days when there were court proceedings, State Police officers emptied the courthouse two hours prior to the hearings and searched the area with a dog trained to locate explosives. Internal courtroom security was provided by the State Office of Court Administration.

As the Brinks trial proceeded, two changes of venue were ordered (Orange County and Westchester County). Each of these transfers was accompanied by the need to develop and implement new security plans. Expenditures associated with the security arrangements became a center of controversy and criticism, as the cost of the trial rose well above any original estimates.

When the first change of venue from Rockland to Orange County (Goshen) was ordered, law enforcement officials from the two areas met to discuss security issues and plans. This same transition procedure was followed when the trial was transferred from Goshen to White Plains.

In Orange County, security coverage provided by the State Police and the Office of Court Administration was similar to the arrangements in Rockland. The State Police increased their patrol outside the courthouse and assigned an escort detail to assist with transporting defendants and jurors. A bus was used to carry jurors from an undisclosed location to the courthouse and then back again. The Orange County Sheriff's Department was responsible for the security of Judge Ritter. When the trial moved to Westchester County, Judge Ritter's security detail was provided by the State Police.

In addition to their normal staffing pattern, the Orange County Sheriff's Department hired approximately 54 individuals to work in the jail and 117 for patrol duty. The training of new recruits placed a tremendous burden on supervisory staff. Because of lengthy delays in the trial date, this recruitment and training process occurred twice (an original group was trained, but when the trial date was set back, had to be let go).

When the trial of Kathy Boudin and Sam Brown was transferred to Westchester County (White Plains), new security plans had to be made. The Westchester County Department of Public Safety was responsible for the coordination of security efforts. Once again, the State Police and the Office of Court Administration were involved in security activities.

The building in which the courtroom was located in White Plains was surrounded by a wall of traffic barriers. Some other security measures used in

the previous trial locations were modified based upon an assessment by the FBI/NYCPD Joint Terrorist Task Force. Their recommendations for less extensive security implicitly suggested that the arrangements in Orange County had been overly elaborate.

Kathy Boudin was housed in the Rockland County Jail and transported to White Plains on a daily basis by the Rockland Sheriff's Patrol. Sam Brown was transferred to the State operated Fishkill Correctional Facility and brought to court from there. These detention arrangements represented savings to Rockland as compared to the cost of housing these defendants in the Orange County Jail.

## ISSUES

The Brinks incident had two unusual features that distinguish it from previous terrorist incidents in the United States. First, it was not a traditional terrorist act. It began as a robbery intended to gain operating funds for terrorist groups. There was no intention to publicize the robbery as a terrorist activity, in contrast with usual terrorist crimes. Second, Brinks was the first incident that had been identified as involving collective action by a coalition of terrorist groups.

Despite these differences, the Brinks incident is instructive for identifying a number of issues that relate to the system's responses to terrorist activities.

### **Response to the Incident**

The immediate response to the Brinks incident is an example of effective local law enforcement cooperation in an emergency situation. Local police were not prepared for this confrontation with a group of heavily armed individuals, later to be identified as terrorists. There had been no specific contingency planning for such a situation, and it is unrealistic to expect planning for this type of incident outside of larger police agencies. The immediate response of law enforcement officers to the robbery, the search for the U-Haul, the shootout, and the chase, was characterized by confusion. Again, this is not unexpected because the circumstances were so extraordinary for the personnel involved. The initial confusion was quickly resolved as senior officers from different agencies took charge of the various crime scenes and began coordinating their efforts. A command structure was established with virtually no interagency conflict, and all agencies gave whatever assistance they could to the investigation. The level of cooperation among law enforcement agencies was undoubtedly enhanced by the fact that police officers had been killed and wounded. In addition, the various local police agencies involved had worked cooperatively in other cases, and many of the police officers had attended the same county-wide police training institute.

The primary problems in the initial police response to the incident involved the inadequate radio communications system, and the preparedness of the police at the Thruway shootout site. The Rockland County Sheriff's Department radio frequency was the primary communications channel for coordinating the Brinks robbery response and its aftermath. During the incident this communications channel, and the communications channels of the other Rockland County police agencies, experienced transmission/reception problems, incomplete and inaccurate reporting, and extraneous non-emergency transmissions. In addition, there was no direct radio link to the State Police. This latter problem resulted in a delay in closing off the various primary access routes (e.g., the Thruway and the Tappan Zee Bridge) and contributed to the eventual escape of other vehicles involved in the incident. These problems point to the need to have an effective system of radio communications available for responding to major incidents.

The response of the Nyack police at the Thruway entrance roadblock points out the need for ongoing vigilance in police officers' daily preparation for duty. None of the officers involved in the shootout at that site were wearing soft body armor, some did not have reloads for their weapons, one was using inappropriate ammunition, and one was carrying an off-duty revolver. Ongoing inservice training and careful supervision is needed to ensure that officers are properly equipped to respond to situations in which the use of deadly force is required.

### Investigation and Prosecution

Agency coordination was critical during the investigation and prosecution stages of the Brinks incident. There was a need to collect and analyze physical evidence, to identify and interview potential witnesses, to search the wooded area adjacent to the Thruway entrance, and to apprehend the individuals who had escaped. Under the direction of the Rockland County District Attorney's office, a unified investigation system was developed. This involved the creation of a task force composed of local and State law enforcement agencies. A liaison was established to coordinate the activities of this task force with the Joint Terrorist Task Force.

The task force provides a model that might be used in future situations of this nature. It resulted in the elimination of many jurisdictional issues, facilitated an efficient and effective use of available resources, and probably improved the prosecution of the Brinks cases.

The Rockland County BCI, in conjunction with the FBI laboratory, developed the physical evidence that was used in the trials. The BCI had responsibility for collecting and cataloging physical evidence. The FBI laboratory, with their sophisticated analysis technologies, assumed the task of evidence analysis. The process of interviewing witnesses was coordinated by the District Attorney's Office, and involved staff from the local police departments and the State Police. Over 450 potential witnesses were interviewed, and this pool was sequentially narrowed through the use of progressively specific interview instruments. The critical factors for success of the task force were the unified control provided by the Rockland County District Attorney, the cooperation of participating agencies, and the formal communications among responsible officials that was maintained through weekly meetings.

A major problem that developed in the Brinks case involved a conflict between the Rockland County District Attorney's Office and the FBI/NYCPD Joint Terrorist Task Force. The source of conflict was that the two agencies had different objectives, and this led to differing perspectives about what should be done. Rockland County was responsible for prosecuting the in custody Brinks defendants on State murder and robbery charges. For the Joint Terrorist Task Force, Brinks was a major break in their efforts to obtain information about, and bring conspiracy charges against members of the terrorist organizations who were involved. This difference in orientation came to a head over the interviews that the Joint Terrorist Task Force conducted with Sam Brown. Brown did not have consent from his attorney for the interviews and the Rockland County District Attorney believed that the interviews could impair the State prosecution. The information elicited from Brown was needed by the Task Force, however, to further their broader investigation into the terrorist groups.

The conflict was ultimately defused when the Rockland County District Attorney and the Federal Prosecutor met and developed a working agreement.

Brown was permitted to testify before a Federal grand jury and remained a defendant in the State case. Tension continued between Federal and local officials after the understanding was reached, but further public confrontation was avoided.

Similar conflicts could arise in future State prosecutions of terrorists. One procedure that might be adopted to minimize such problems would be early and formal contacts between local and Federal prosecutors. This could provide a mechanism through which the parameters of each case could be established, and would thereby help avoid subsequent public confrontations. If appropriate, a third party might help to mediate such discussions. In addition to formal prosecutorial contacts, informal investigator-to-investigator communication should be encouraged. This informal communications channel would assist the investigation of cases at both levels and would be available for discretely communicating sensitive information. However, informal contacts would have to be undertaken with extreme caution to assure that prohibitions against sharing certain types of information are not violated.

### Security

The defendants in the Brinks trials, due to their terrorist affiliations and their suspected involvement in the successful prison escape of Joanne Chesimard, were perceived to be high security risks. As a result, special security measures were implemented for the courtroom, the jail, prisoner movement, and for various individuals involved with the case. These complex security problems were beyond the expertise and the existing resources of local law enforcement and corrections officials. Consequently, local officials looked to consultants, the State, and the Federal government for assistance. The State provided assistance in the form of personnel and equipment, and the Federal government provided limited financial assistance.

The security problem was exacerbated by two changes in venue. These changes ultimately involved three counties and the State in providing security. The enormous expenses involved in providing this security generated conflicts between the counties. Rockland County contended that Orange County had no

incentive to economize, and that the costs associated with the Orange County security arrangements were excessive. Orange County contended that the security provided was consistent with the threat posed. The security plans implemented in all three counties were adopted in an atmosphere of immense pressure to ensure adequate security. During that time, there was no formal mechanism available to provide officials with a comprehensive risk assessment.

One suggestion that has been made as a result of the security issues that arose during the Brinks trials is that a mechanism for recommending security measures be available. Such a mechanism should provide a realistic assessment of the level of threat and provide expertise for security planning. This type of assistance may help in limiting costs by removing some of the pressure on local decisionmakers. The State might broker these services for a locality and underwrite the costs of providing these planning services.

Given the unique problems involved in trials of terrorists, it has also been suggested that the State and Federal governments assume more responsibility for the associated security costs. Rockland County had the primary responsibility for security costs associated with the Brinks trials, while the assistance provided by the State and Federal governments was comparatively limited. Greater financial assistance would certainly be welcomed, and could be tied to a comprehensive security plan.

#### Continuing Security Issues

Since the conviction and sentencing of the Brinks defendants, the New York State Department of Correctional Services (DOCS) has been responsible for their custody. The Brinks offenders are currently being housed in several maximum security facilities. Kathy Boudin and Judith Clark are both at Bedford Hills Correctional Facility, the only female facility in this state with the necessary level of security. Correctional officials are concerned that the Bedford Hills facility is a tempting target for an escape attempt because both Boudin and Clark could be broken out with one effort. In fact, at the time of Marilyn Jean Buck's arrest, investigators discovered blueprints and various documents relating to the facility's security.

The confinement of inmates with connections to a terrorist infrastructure presents unique security problems for correctional officials. The Central Monitoring Case system (CMC) currently in use by DOCS, is the primary mechanism for monitoring the movement of such offenders throughout the correctional system. The CMC procedure, which is operated out of the DOCS Central Office, identifies inmates who, by nature of their crime or status, require special evaluation and tracking. CMC designation does not, however, preclude consideration for transfer or assignment. It should be emphasized that the CMC classification cannot be used to the detriment of an inmate's program involvement.

An inmate may receive a CMC classification if he/she meets any of the following established criteria (DOCS Directive #0701):

- o The inmate has been convicted of criminal behavior that has a high degree of sophistication or planning, or was a part of a large scale criminal conspiracy or a continuing criminal enterprise, and/or;
- o The inmate requires close supervision because of his/her past criminal history or because of the notoriety of the crime, the inmate, or the victim, or because of an escape or attempted escape, or history of absconding from lawful custody/supervision, and/or;
- o The inmate requires special supervision/protection while in custody because of his/her status as a former criminal justice official, public official, or informant, and/or;
- o The inmate has become a severe management problem.

While the CMC system allows for monitoring of designated cases, inmates with connections to terrorist groups continue to present correctional officials with security problems. For example, visits from attorneys or paralegals are immune from scrutiny. As a result, the exchange of information between legal representatives, inmates such as the Brinks offenders, and underground connections enables the radical groups to remain operational on both sides of the prison walls.

The DOCS Inspector General has indicated that the development of a threat assessment mechanism to be used when dealing with avowed revolutionaries would significantly aid in making decisions regarding security arrangements. Proper

evaluation of the level of threat involved and enhanced intelligence gathering are both viewed as essential elements in dealing with incarcerated terrorists.

The Inspector General points to the excellent relationship between DOCS and the FBI/NYCPD Joint Terrorist Task Force as being critical in working successfully with these exceptional cases. Further collaboration between the Federal government and State officials involved in planning and analysis related to handling of terrorists is viewed as a positive step in controlling this national problem.

#### Other Issues

The State prosecutions and trials of the Brinks defendants raised three problems that can also exist in cases not involving terrorist defendants.

When the trial was moved from Rockland to Orange County in March of 1983, Judge Stolarik was removed from the case and Judge Ritter was assigned. This change of judges resulted in additional trial delays as Judge Ritter assimilated the details of this complicated case. Such problems could be avoided by adopting an individual calendaring system or by assigning a single judge to follow through on major cases such as Brinks. This problem did not recur with the subsequent change of venue to Westchester County, as Judge Ritter continued his assignment to the case.

The two changes of venue in the Brinks trials created numerous coordination problems, resulted in lengthy trial delays, and necessitated substantial additional trial and security expenses. Based on this experience, a number of criminal justice officials have recommended revisions in the existing change of venue statutes. One recommended change is to allow trials to remain in the county of origin and to secure jurors from another county. Had such arrangements been possible at the Brinks trials, Rockland County would have been spared considerable expense and impartial jurors could still have been obtained. Another recommendation made by legislators who represent Rockland County, is to place a \$500,000 cap on a County's liability for expenses incurred after a change in venue.

Finally, the prosecution costs for the Brinks cases were very high due to the complex evidentiary issues and the formidable defense offered by some of the defendants. This cost factor contributed to Rockland County's decision to decline prosecution of Marilyn Jean Buck. It has been suggested that the State should assist in financing such costly prosecutions. Two options seem possible: State financial assistance to counties for underwriting at least part of excessively expensive prosecutions, and State assumption of such prosecutions. If the Brinks trials had been the responsibility of a county with a poorer resource base, this problem would have been critical. There are some counties in New York State that might not be able to afford the expenditures required for the successful prosecution of such cases. In such counties, the choices may have been between financial aid and non-prosecution.

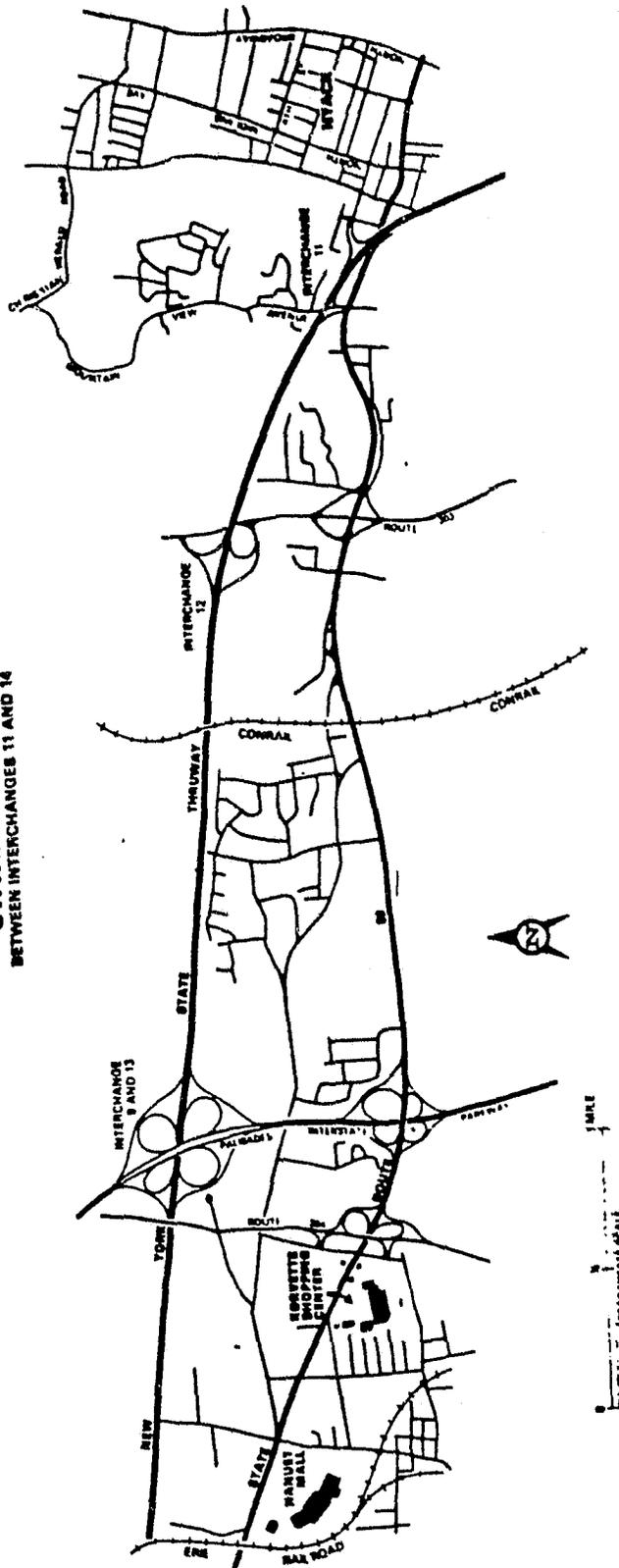
There are two additional issues that were not directly raised by the Brinks incident, but which are relevant to the State's ability to respond to terrorism.

The first issue revolves around determining the appropriate State role in dealing with terrorism, and in defining the scope of legitimate State concern. The State needs to begin developing consistent policies regarding terrorism. To be useful, these policies should be broad enough to provide guidance for the variety of responses that may be necessary, and should provide a framework upon which contingency planning can be based.

The second issue involves the collection and dissemination of intelligence about terrorists. Good intelligence is perceived to be the most important tool available to law enforcement in dealing with terrorism. The current constraints on domestic intelligence gathering may impede the ability to respond to terrorism. On the other hand, the actual level of threat may be below the threshold that would necessitate reducing these constraints. Similarly, the dissemination of intelligence about terrorists involves difficult problems in the areas of Federal, State, and local coordination, information security, and defining who really needs to know.

ATTACHMENT A  
MAP

MAP OF A SECTION OF THE  
**NEW YORK STATE THRUWAY**  
 AND  
**STATE ROUTE 89**  
 BETWEEN INTERCHANGES 11 AND 14



ATTACHMENT B  
CHRONOLOGY OF EVENTS

## CHRONOLOGY OF EVENTS

- October 20, 1981 A Brinks armored car guard and two Nyack Village police officers are killed during the Nanuet National Bank robbery, escape and shootout. Law enforcement officials recover \$1.6 million and four suspects (Kathy Boudin, Judith Clark, David Gilbert and Samuel Brown) are captured. The other suspects escape and an extensive investigation is initiated.
- October 21, 1981 Law enforcement officials raid an East Orange, New Jersey apartment linked to the Brinks robbery and discover weapons, bomb-making materials and the sketches of six New York City police stations and the Queens House of Detention.
- October 22, 1981 Law enforcement officials raid a Mount Vernon, New York safe-house that is believed to have been used as a hideout after the robbery/shootout. A white Oldsmobile that was used during the robbery is recovered. Authorities reveal that the investigation links together a coalition of various radical groups (i.e., Weather Underground, the Black Liberation Army and the May 19th Communist Organization).
- October 23, 1981 The four captured suspects face preliminary court hearings on second degree murder charges and are held without bail.
- Samuel Smith and Nathaneal Burns, suspects in the Brinks robbery, are involved in a shootout with New York City police. Smith is killed. Burns is wounded and apprehended.
- October 26, 1981 The four suspects are moved from Rockland County Jail to federal prisons in Orange County and New York City. Burns is still held by New York City police.
- October 27, 1981 Two more suspects, Cynthia Boston and Eve Rosahn are arrested. The FBI announces the initiation of a grand jury investigation of conspiracy by radical organizations to finance their activities through violent crimes.
- October 28, 1981 New York City Police link Anthony LaBorde, a reputed Black Liberation Army member, to the Brinks robbery.
- October 30, 1981 Kathy Boudin and David Gilbert are linked to previous bank robberies in Nassau County and the Bronx.

November 5, 1981 Cynthia Boston is released after it is established that she was in New Orleans at the time the police placed her in New York. The US Attorney's Office identifies William Johnson (Bilal Sunni-Ali) and Donald Weems (Kuwasi Balagoon) as participants in the Brinks robbery/shootout.

November 15, 1981 Grand juries in New York City and Rockland County begin hearing evidence.

November 19, 1981 Seven suspects - Kathy Boudin, Samuel Brown, Marilyn Jean Buck, Nathaneal Burns, Judith Clark, David Gilbert, and Anthony LaBorde - are indicted in Rockland County on 13 counts of murder, grand larceny, robbery, and assault.

November 21, 1981 An FBI investigation names fugitives Joanne Chesimard and Marilyn Jean Buck as leaders of a radical coalition consisting of the Black Liberation Army, the Weather Underground, and the May 19th Communist Organization.

November 23-24, 1981 David Gilbert and Samuel Brown plead innocent to the Brinks charges. County Court Judge Harry Edelstein enters pleas of not guilty for Kathy Boudin and Judith Clark after they refuse to answer charges.

December 7, 1981 Cynthia Boston is jailed for contempt of court after refusing to cooperate with the Federal grand jury.

January 7, 1982 Anthony LaBorde is arrested in Philadelphia. He pleads innocent at arraignment on the 13-count Brinks indictment.

January 20, 1982 Donald Weems (Kuwasi Balagoon) is captured by the FBI and New York City police in an apartment in the Bronx.

January 26, 1982 Donald Weems (Kuwasi Balagoon) pleads not guilty at arraignment on the Rockland County charges.

January 29, 1982 A lawyer for Kathy Boudin requests a change of venue, claiming that she cannot receive a fair trial in Rockland County.

March 10, 1982 Rockland County officials request \$1.7 million in state money to cover the projected cost of the State trial.

March 26, 1982 Edward Josephs and Cecil Ferguson, two suspects believed to be connected to the Brinks robbery are arrested in dawn raids in New York City. The FBI contends that fugitive Matulu Shakur directed the planning of the Brinks robbery.

April 21, 1982 The State defendants are transferred to Rockland County Jail for the first joint conference with their lawyers.

May 19, 1982 Bernadine Dohrn, a former radical fugitive, is held in contempt of the Federal grand jury for refusing to testify.

May 26, 1982 Dr. Alan Berkman, a physician suspected of treating Marilyn Jean Buck for gunshot wounds, is jailed by a Federal judge for refusing to cooperate with the grand jury.

June 1, 1982 The State Court of Appeals refuses a defense motion to move the Brinks trial out of Rockland County.

June 15, 1982 The Rockland County Legislature provides \$625,000 to the Sheriff's Department to help meet the cost of the Brinks case.

July 13, 1982 Federal, State and local law enforcement officials initiate a search of a Central Nyack wooded area in hopes of finding an M-16 automatic rifle that Cecil Ferguson allegedly hid in the woods. During the search, they find a coat that belongs to Ferguson. The search is called off without finding the rifle.

July 23, 1982 The FBI places Matulu Shakur on its 10 most wanted list.

August 9, 1982 Anthony LaBorde is convicted in New York City of the attempted murder of a police officer.

September 3, 1982 The newly formed Coalition to Defend the October 20th Freedom Fighters promises a demonstration in support of the Brinks defendants on the day pretrial hearings begin.

September 7, 1982 The Rockland County District Attorney moves to drop Brinks-related murder and robbery charges against Anthony LaBorde.

September 10, 1982 The US Department of Justice contributes \$509,000 to help defray the cost of the Brinks trial. County officials, however, estimate that an additional \$7.5 million is needed for security and court costs.

September 13, 1982 Pretrial hearings open in Rockland County under tight security. An estimated eighty supporters demonstrate outside the courthouse.

September 27, 1982 Sources close to the Brinks case reveal that four suspected members of the FALN visited the Brink suspects on September 20 and observed pretrial hearings.

October 7, 1982 The defense accuses District Attorney Gribetz of "prosecutorial misconduct" in pretrial presentation of evidence.

October 8, 1982 State Supreme Court Justice Robert Stolarik bars Rockland County officials from moving any of the defendants out of the County.

November 10, 1982 Silvia Baraldini is arrested in New York City by the FBI and charged with racketeering and conspiracy.

November 17, 1982 Brinks suspect William R. Johnson (Bilal Sunni-Ali) is returned to the United States following his arrest in the Central American country of Belize.

November 18, 1982 A six-count Federal indictment charges that the group responsible for the Rockland County Brinks robbery participated in 11 similar events and assisted Joanne Chesimard in her escape from New Jersey's Clinton State Prison.

November 23, 1982 Tyrone Rison admits in Federal District Court that he helped plan the Rockland County Brinks robbery and enters a plea of guilty to racketeering conspiracy and murder/robbery charges. The FBI announces that Rison had been cooperating with them since September of 1982.

November 24, 1982 Defense attorneys file motions with the Appellate Division of the State Supreme Court to have the State Brinks case moved from Rockland County.

December 15, 1982 The New York State Appellate Division rules that intense publicity and hostile community pressure warranted the moving of the robbery/murder trial from Rockland to Orange County.

December 16, 1982 Rockland and Orange County law enforcement officials meet to develop plans for the movement of the State Brinks robbery-murder trial from Rockland to Orange County.

January 6, 1983 Brinks defendant Samuel Brown states to State Supreme Court Justice Robert J. Stolarik, that he has volunteered to testify before the Federal Grand Jury that is investigating a possible robbery conspiracy among underground radical organizations.

January 18, 1983 Samuel Brown is turned over to Federal Marshals for a Grand Jury appearance in Manhattan. This ends a month-long dispute between Federal and State officials regarding his custody.

March 14, 1983 The Brinks robbery murder case is formally transferred from Rockland to Orange County.

March 17, 1983 State Supreme Court Judge David S. Ritter replaces Judge Robert J. Stolarik as the trial judge for the Brinks case.

April 20, 1983 The Federal Brinks trial begins in New York City. Nathaneal Burns (Sekou Odinga), Edward Josephs, Cecil Fergusen, William Johnson (Bilal Sunni-Ali), Silvia Baraldini, and Iliana Robinson are charged with a series of armored car robberies and the escape of Joanne Chesimard from prison.

May 2, 1983 During testimony at the Federal Brinks trial, Tyrone Rison details the plan used to free Joanne Chesimard.

May 18, 1983 The Rockland County Legislature announces that the cost of the Brinks case could result in a one percent increase in the County sales tax.

June 6, 1983 A confrontation occurs between demonstrators and court security during hearings for the State Brinks case in Orange County.

June 15, 1983 During the Federal Brinks trial Dr. Peter Middelton (Kamau Bayete) provides testimony regarding the Rockland County Brinks robbery.

July 1, 1983 The State Brinks cases of Kathy Boudin and Samuel Brown are separated from the trials of David Gilbert, Judith Clark and Donald Weems (Kuwasi Balagoon).

June 19, 1983 Four of the defendants, Kathy Boudin, David Gilbert, Judith Clark and Donald Weems (Kuwasi Balagoon) are transferred from Rockland County Jail to the Orange County Jail.

July 11, 1983 Under tight security, jury selection for the Brinks trial begins in Orange County.

July 21, 1983 The three defendants - David Gilbert, Judith Clark and Donald Weems (Kuwasi Balagoon) boycott the proceedings.

August 7, 1983 Jury selection for the State Brinks trial is completed.

August 10, 1983 Two guns, an ammunition clip and a ski mask allegedly used in the Rockland Brinks robbery/murder are recovered in a wooded area near the Nyack intersection of the New York State Thruway.

August 13, 1983 First week of testimony is completed in the State Brinks case in Orange County.

August 22, 1983 Prosecution rests the State version of the Brinks case. The defense portion of the trial is held up pending completion of the Federal case.

September 3, 1983 The jury in the Federal Brinks trial reaches a verdict. Nathaneal Burns (Sekou Odinga) and Silvia Baraldini are convicted of racketeering and conspiracy charges. Edward Josephs and Cecil Ferguson are found guilty of acting as accessories in the Rockland Brinks robbery. Iliana Robinson and William Johnson (Bilal Sunni-Ali) are acquitted of all charges.

September 12, 1983 The State version of the Brinks trial resumes.

September 14, 1983 The jury in the State version of the Brinks trial convicts David Gilbert, Donald Weems (Kuwasi Balagoon), and Judith Clark. They were each found guilty on three counts of second degree murder and four counts of first degree robbery.

September 20, 1983 Defense attorneys for Kathy Boudin file a motion seeking a change of venue out of Orange County.

October 6, 1983 State Brinks defendants David Gilbert, Donald Weems (Kuwasi Balagoon), and Judith Clark are each sentenced to 75 years-to-life.

December 3, 1983 The Appellate Division of the State Supreme Court in Brooklyn agrees with the attorneys for Kathy Boudin that a fair trial cannot be obtained in Orange County. The trial is to be moved to Westchester County.

December 4, 1983 Rockland County Brinks trial cost exceeded \$3 million.

December 16, 1983 Tyrone Rison is sentenced in Federal Court.

February 3, 1984 Kathy Boudin is moved from Orange to Rockland County.

February 10, 1984 Samuel Brown is removed from Federal custody and returned to Rockland County.

February 16, 1984 Those convicted in the Federal Brinks trial are sentenced. Silvia Baraldini and Nathaneal Burns (Sekou Odinga) each receive forty years. Cecil Ferguson and Edward Josephs each receive twelve and one-half years.

April 12, 1984 Marilyn Jean Buck is indicted by Federal authorities for her role in the Rockland County Brinks robbery and the prison escape of Joanne Chesimard.

April 26, 1984 State Brinks defendant Kathy Boudin pleads guilty to murder/robbery.

May 3, 1984 Kathy Boudin is sentenced to 20 years-to-life for second degree murder and first degree robbery.

June 5, 1984 The prosecution rests its case against Brinks defendant Samuel Brown.

June 14, 1984 The jury in the State Brinks case finds defendant Samuel Brown guilty of three counts of murder and four counts of robbery.

June 26, 1984 Brinks defendant Samuel Brown is sentenced to 75 years-to-life for murder/robbery.

July 10, 1984 State Brinks charges against Nathanael Burns are dismissed.

November 29, 1984 Susan Rosenberg is arrested by the FBI.

May 11, 1985 Marilyn Jean Buck is arrested by the FBI/NYCPD Joint Terrorist Task Force. Documents obtained as a result of this investigation included information related to security arrangements and the physical plant of the Bedford Hills Correctional Facility, where Judith Clark and Kathy Boudin are serving their sentences.

APPENDIX B

Security Advisory Board Proposal

## Security Advisory Board Proposal

The provision of adequate security, and the associated costs during the prosecution of major criminal cases can create a serious burden for localities. For example, it has been estimated that the total cost of bringing the defendants in the Brinks case to trial were somewhere between \$5 and \$6 million. A major portion of those expenditures were security related. Even when a county enjoys a relatively healthy economic base, such extraordinary expenditures can be damaging. For a smaller or poorer county, the added strain on the local budget can be devastating.

To address this critical problem, the Policy Study Group on Terrorism recommends the creation of a Security Advisory Board (SAB) at the State level. This review board would be responsible for helping counties develop and implement extraordinary security precautions incurred during the prosecution of major criminal figures, such as terrorists. The primary objective of this board would be to provide local law enforcement and correctional agencies with appropriate security assessment in these cases. Ancillary to that function, the SAB will assist counties in reducing or avoiding excessive costs related to security in these cases. Also, the SAB could ultimately provide a mechanism for reimbursing extraordinary expenditures incurred in providing an appropriate level of security.

Because these types of cases occur infrequently, the operational component of the SAB should be housed in an existing agency which can utilize existing resources. The Division of Criminal Justice Services (DCJS), through its Bureau for Municipal Police (BMP), has both the statewide network of contacts, and access to security related expertise necessary to efficiently operate this program. Under this proposal, DCJS would not be acting in a policy setting capacity to determine which cases are appropriate for State assistance. The DCJS role would be to rapidly coordinate the development of a security plan, utilizing in-house and external security experts.

The policy setting component of the Board would include a representative of the Governor, the Commissioner of DCJS, the Budget Director, the Chairperson of

the Assembly Ways and Means Committee and the Chairperson of the Senate Finance Committee. It would be the role of this executive advisory panel to determine which cases are appropriate for State involvement. After that determination is made, the executive advisory panel would authorize DCJS to begin providing assistance to the affected locality.

Functionally, counties faced with detaining major criminals who require unusually intensive security measures would contact the Governor's office and request assistance in developing a threat assessment/security plan. The SAB would be convened to consider the locality's request. Upon approval of the request, DCJS would be given responsibility for establishing and coordinating an ad hoc group of security experts located both within and outside of State government to assist in formulating an appropriate security plan. The State Office of Emergency Management will be part of the ad hoc group where appropriate. The security plan would serve as a recommended blueprint for local officials. It would build on the expertise in the ad hoc consulting group in developing appropriate security measures. After formulating the plan, the security experts would continue to be involved in coordinating the security services provided by various levels of government.

Due to the need for immediate response in these cases it is recommended that DCJS, in consultation with the Sheriffs' Association and other appropriate groups, form a pool of security consultants which can be drawn on rapidly to formulate the ad hoc group assigned responsibility for the security plan. One of the primary roles of the SAB would be to ease the burden on local resources by assuring that expertise and resources available at the local, State, and Federal levels are utilized whenever possible. It is anticipated that through this process local expenditures can be controlled, and unnecessary expenditures avoided. For the SAB to also be able to grant direct reimbursement to counties, specific budgetary authority would be required.

There are some examples of panels that have the statutory authority to disburse funds, however, the amounts of the individual awards do not approach the size that would be required in a Brinks type case. One example of a State authorized reimbursement panel is the Hazard Abatement Board operated in the New York State Department of Labor. This Board was established in 1981 and is

responsible for reimbursing capital expenditures necessary to rectify some condition deemed unsafe for local employees. Whenever a locality must expend more than one thousand dollars to bring a facility into compliance with health or safety standards, it may request State assistance. The Board then reviews the case for appropriateness and cost effectiveness, and assists in architectural design (where necessary). The Board has the authority to reimburse up to 75% of the total project cost. Thus far, the Board has made awards ranging from \$900 to \$100,000. Most of the awards, however, fall into the \$10-15,000 range. In 1981, the Legislature appropriated fifteen million dollars for this purpose. That amount was reduced by five million dollars the following year. The Board is still working with that ten million dollar appropriation.

It is unlikely that the Legislature would create a body that has absolute authority to disburse funds in substantial amounts to localities across the State. The multi-million dollar costs incurred in the Brinks case probably exceed the level of budgetary authority the legislature would grant. It is probable that the Legislature would want to undertake their own review on a case-by-case basis before appropriating funds.

Beyond its ability to aid in the reimbursement process, the most useful aspect of the SAB would be in its ability to assist in security efforts. The security experts involved with each case would be primarily concerned with assuring an appropriate level of security is implemented. By developing plans that also reduce "unnecessary" expenditures, this group would be filling a critical role.

If, after undertaking cost containment measures, the county is still faced with excessive costs, the SAB would lend weight to the locality's attempts to secure external financial aid. With respect to reimbursement decisions, the SAB would essentially be serving in an advisory capacity by making recommendations and attesting to the county's implementation of the recommended security plan. Because it would be involved with the original security plan development, a request for special financial aid coming from the SAB might be looked upon as having merit. Even if the SAB were not able to secure additional funds, the original planning function would be a valuable service.

APPENDIX C  
Mobile Radio District Program Endorsement

## Mobile Radio District Program

A primary problem that was identified as a result of the Brinks incident was the inadequacy of the Rockland County police radio communications system. During the incident the various police agencies in the county experienced radio transmission and reception problems. As a result of these problems, confusing and incomplete information was relayed and critical exchange delays occurred. Had an adequate and integrated radio communications system been in place in Rockland County on October 20, 1981, the law enforcement agencies involved would have been better able to coordinate their response to the Brinks incident.

The problem of inadequate police communications systems has been apparent in New York State for some time. In 1970, the Mobile Radio District Program (MRD) was established to improve inadequate and outmoded police communication systems. The establishment of this program was based on the finding of a study commissioned in 1968 by the New York State Crime Control Planning Board. Until the implementation of the MRD program, law enforcement agencies were unable to coordinate their radio communications. Enhancement of existing systems can lead to a reduction in response time, greater coordination among law enforcement agencies, reduced radio interference, and improved provision of services.

The MRD program is being implemented statewide on a county-by-county basis. At this time, approximately 80 percent of the State has been completed. It is projected that the program will be concluded by the end of fiscal year 1987. To date, an estimated \$20 million in Federal funds administered under the former Law Enforcement Assistance Administration (LEAA) and \$4 million in State funds have been expended on this program. An additional \$8 to \$10 million in State funding will be required for continued implementation of the program over the next four years. It is possible that this amount may be raised as earlier program cost estimates are modified.

The order in which counties are brought into the MRD Program was decided jointly by the Sheriffs' Association, Chiefs of Police and the Director of MRD in an effort to avoid the possibility of political pressure. An exception to this order has been made in the case of Rockland County, where, as a result of

the construction of the nuclear power facility at Indian Point and the concomitant need for a sufficient emergency response system, MRD will be implemented earlier than scheduled. Funding for the Rockland program will be separate from the amount allotted for the overall program.

The successful completion of the MRD Program in New York State will greatly enhance the ability of law enforcement agencies to provide services and respond to a variety of emergency situations. According to the MRD Program administrators, the new systems have been very well received wherever implemented and the program is considered to be successful and essential.

The Policy Study Group on Terrorism fully supports the MRD Program and recommends its continued funding at levels that are sufficient to complete its implementation.

APPENDIX D  
Change of Venue Legislation

## CHANGE OF VENUE

Change of venue is a significant problem that was highlighted by the Brinks trials. Considerable controversy arose over the unexpectedly high costs of those trials, with the two venue changes accounting for a large proportion of the extraordinary costs. Because of the intense media exposure surrounding the trials, defense attorneys argued successfully for a change of venue from Rockland County to Orange County on the basis that the defendants would not receive a fair and impartial trial. On that same premise, the venue was later changed from Orange to Westchester County. Under the provisions of Criminal Procedure Law (Section 230.20), all costs associated with the preparation for the trials and their conduct at each of these alternative sites were the responsibility of Rockland County.

A number of county officials who were involved in the Brinks case suggested that it would have been a much more efficient and cost effective process if, in lieu of the venue changes, jurors could have been selected from other areas within the judicial district and transported into Rockland County. If such a procedure had been possible, the twice replicated costs for security, jury selection and other associated items would have been eliminated.

During the 1984 session of the New York State Legislature, a bill (S.8020/A.9449) was introduced calling for the expansion of jury pools in certain cases. This legislation was passed by both the Assembly and the Senate, but was recalled from the Governor on December 19, 1984. As proposed, this legislation would have amended the Criminal Procedure Law and the Judiciary Law by enlarging the jury pool in order to ensure a fair and impartial trial. Specifically, Section 230.20 of the Criminal Procedure Law would have been amended to provide that "a superior court in which the matter is to be tried may, upon motion of either the defendant or the people demonstrating reasonable cause to believe that a fair and impartial jury cannot be selected from within the county in which such court is located, order that the commissioner of jurors

of such county expand the pool of jurors to encompass prospective jurors from the jury lists of all the counties of the judicial district in which such trial court is located." Section 520 of the Judiciary Law would likewise have been amended to permit trial jurors to serve in an enlarged jury pool within the same judicial district.

Supporters of this legislation believed that this type of change would provide a helpful alternative to counties faced with prosecuting controversial and highly publicized cases. In the case of the Brinks trials, Rockland County law enforcement officials had developed thorough security arrangements and provided formal training for personnel who were to have been involved in the procedures. If the option of enlarging the jury pool had been available at that time, the duplication of effort and cost resulting from the subsequent venue changes would have been avoided.

Critics of this legislation contended that although the bill was designed to provide an alternative to a change of venue, the administrative burdens that would be imposed on the courts and the inconveniences that might be added to jurors would outweigh potential advantages.

Under previous law, a change of venue motion had to be made at the appellate level. However, the proposed legislation would have allowed the motion to be made at the trial court level. According to opponents, this change would have resulted in an increase in the judicial workload as applications for venue change would become more routine and granting of relief more frequent. Concern was also expressed regarding the burden that would be placed on potential jurors who would be required to travel considerable distances to serve on a jury. Critics additionally noted that such legislation would be ineffective in cases where widespread publicity impeded the selection of an impartial jury within a county, as this same influential media attention would most likely have spread throughout the entire judicial district.

The Policy Study Group on Terrorism worked with the bills sponsors and the Governor's Office to revise the proposed legislation to address the conceptual and technical flaws that were identified. The bill that emerged (S-3460) passed both houses and was signed into law (chapter 257). Specifically, the Policy Study Group on Terrorism proposed that applications for a change of venue continue to be made at the appellate level rather than moving the decision to the trial court level. The appellate court would have responsibility for determining whether a fair trial could be held by empaneling a jury from the county's existing jury pool, whether the situation warranted moving the trial to a new jurisdiction, or whether it would be more appropriate to bring in a jury from another county. Defense and prosecution attorneys will be able to argue in favor of either position. When implemented, this system will eliminate the concern regarding increased judicial workload and at the same time address the need for provision of a fair trial without incurrence of excessive costs.

APPENDIX E  
Threat Assessment Proposal

## THREAT ASSESSMENT PROPOSAL

One of the most dangerous and perplexing problems facing government in modern times is the increasing incidence of terrorism. The widespread use of terrorism as a propaganda tool of isolated groups or as a foreign policy tool of certain totalitarian regimes is a relatively recent phenomenon. However, organizations undertaking acts of terrorism have become highly adept and sophisticated in a short span of time. This increasing level of sophistication poses a serious threat for western society in general and the United States in particular. As a result, the short term outlook is not promising.

In recent testimony before a joint congressional committee hearing, Professor Yonah Alexander, Director of the Institute for Studies in International Terrorism at the State University of New York, and an internationally recognized expert on terrorism, stated:

"Although predictions are hazardous, it is safe to assume that terrorism is an established mode of conflict. It will continue to persist through the 1980s and 1990s because many of the causes which motivate terrorists will remain unresolved and new ideological and political confrontations will emerge among nations."

Yet, despite the increase in acts of violence by terrorists directed at American targets, our government and the general public have been slow to recognize the nature and scope of the terrorist threat. Because the largest percentage of terrorist activity occurs abroad, it is difficult for those without specific involvement in law enforcement intelligence to perceive the potential domestic threat. As a result, efforts to assess the level of threat in this country or to develop strategies for responding to this problem, are still in their infancy.

Thus far, those efforts have primarily been undertaken by Federal level organizations such as the State Department, the Pentagon or the National Security Council. Those agencies rightfully fulfill the preeminent role in establishing a national strategy for responding to terrorism. However, the effects of terrorism extend beyond the Federal government and impact the various states and localities where acts of terrorism occur.

New York State is particularly prone to terrorist attack. In fact, it has been estimated that during 1982 and 1983, 40 percent of all terrorist attacks in the United States occurred in the New York Metropolitan region. There are many reasons for this concentration of activity. New York State is one of the major cultural and media centers in the world. Any terrorist attack directed at a New York target is almost guaranteed to garner a high level of publicity. Since the generation of publicity and fear are among the primary objectives of terrorists, New York is particularly suited to their goals.

With a population of over 17 million people, the New York City Metropolitan region poses an attractive target for attack. For example, the threat of nuclear contamination (which some experts believe to be a possible next wave of terrorism) would hold this densely populated area hostage. Nuclear or chemical blackmail on this scale would give any terrorist group instant, worldwide status.

Beyond the concentration of population, New York also contains a number of symbolic targets. The establishment of the United Nations focused international attention on the New York City area. The United Nations facilities are, therefore, susceptible to attack. The numerous embassies, homes or hotels which house visiting dignitaries present highly tempting targets. The Statue of Liberty, the various museums, Wall Street, and the World Trade Centers are also examples of primary symbolic targets.

Since New York is a major financial center, large sums of cash are routinely transported within the State. As the Brinks armored car robbery in Nyack demonstrated, terrorist organizations are eager to attack financial institutions to provide funding for continuing operations. The complex system of transportation, particularly in the downstate region, can aid terrorists in escape from these attacks. Also, because of New York City's unique location, any disruption of transportation via bridges and tunnels could result in chaos.

New York State's vast geographic area allows terrorists to maintain residences or safe-houses in various regions. Additionally, New York's commonly shared border with Canada, as well as its numerous airports, offers terrorists

an opportunity to enter or exit the country with relative ease. As a result of these and numerous other factors, policy makers must undertake an in-depth analysis of the potential for terrorism, and of the appropriate government response in New York State.

### Proposal

The Policy Study Group on Terrorism proposes to conduct a comprehensive study of the potential for terrorism in New York State. In its role as a leader in this nation, New York State should adopt strategies for interdicting or responding to terrorism. As part of this effort, it is important that State officials work to raise public awareness regarding this problem.

The Policy Study Group will work in conjunction with the Institute for Studies in International Terrorism of the State University of New York to develop a threat assessment for New York State, and to formulate recommendations for specific approaches and policies dealing with the terrorist threat. It is also expected that the Policy Study Group will draw upon the expertise of other groups working in this area such as those sponsored by New York State's Department of Health, Department of Energy, and the Port Authority of New York and New Jersey. It is recognized that the scope of a comprehensive threat assessment goes beyond normal State agency activities and requires the combined expertise of those working in this newly emerging field of study. Staff support would be provided by one full-time staff person from the Office of Policy Analysis, Research and Statistical Services within the Division of Criminal Justice Services.

In addition to providing a New York State specific threat assessment, the Policy Study Group intends to look at such issues as: the need for developing educational programs aimed at raising public awareness regarding the problem of terrorism; the need for training for both private security personnel as well as law enforcement officers; and the possibility for restructuring existing intelligence mechanisms in order to more effectively respond to this problem. It is estimated that the entire threat assessment project will require \$100,000 in funding.

APPENDIX F

Escapes/Rescues by Radicals in the United States

ESCAPES/RESCUES BY RADICALS IN THE UNITED STATES

- September 7, 1970      Jonathan Jackson, James David McClain, William Christmas and Ruchell Magee on trial for the killing of a guard in San Quentin Prison, attempted an escape from custody at the Marin County Courthouse, Marin County, California. During the escape attempt, a Superior Court Judge was killed, as were Jackson, McClain and Christmas. Magee was wounded. Angela Davis was indicted for purchasing the weapons used.
- September 13, 1970      Dr. Timothy Leary scaled a twelve foot chain link fence in the minimum security section of the California Men's Colony, San Luis Obispo, California, and walked away. The Weather Underground (W.U.) in their Communique #4, dated September 15, 1970, signed by Bernadine Dohrn, stated that the W.U. had the "honor and pleasure of helping Dr. Timothy Leary escape from the P.O.W. camp at San Luis Obispo, California."
- September 27, 1973      Donald Weems, Black Panther Party (BPP) member and associate of the Black Liberation Army (BLA) escaped from Rahway State Prison, Rahway, New Jersey.
- July 27, 1973            Henry "Sha Sha" Brown and Pedro Monges, BLA members, were incarcerated in the Brooklyn House of Detention for Men, when correction officers uncovered hacksaw blades and discovered five steel bars had been cut from their cell.
- September 27, 1973      Henry "Sha Sha" Brown, BLA member, escaped from the Kings County Hospital Clinic where he was taken for treatment of an alleged peptic ulcer.

December 27, 1973

Bernice Jones, Michael Alston, Neil Knox and Harold Simmons, all known BLA associates, were arrested at 377 Broadway, New York City. This building houses the Design and Engineering Division of the Department of Correction, the repository for blueprints for all their facilities. Prior to these arrests, the four subjects were observed entering the sewer system which would have led them to the Manhattan House of Detention for Men (Tombs) where BLA members, Albert Washington, Francisco and Gabriel Torres, Anthony Bottoms and Herman Beil were awaiting trial for the murder of two New York City Police Officers.

April 17, 1974

BLA associates, Michael Alston, Harold Simmons, Collette Ali and Frankie Mae Adams attempted to aid the escape of BLA members, Francisco Torres, Albert Washington and Henry "Sha Sha" Brown from the Manhattan House of Detention for Men, by disarming a correction officer and attempting to burn through cell bars with an acetylene torch. When the torch failed, the visitors fled.

May 3, 1974

BLA associate, Jerry Long, attempted to escape from the Brooklyn House of Detention for Men with three other inmates using a rope made of bed sheets. Long, with one other, was captured immediately. Another was apprehended two days later, and the fourth inmate escaped.

May 5, 1974

Donald Weems, fugitive from a prison break on May 27, 1973, attempted to free BPP member, Richard Harris, from custody of a New Jersey Correction Officer while Harris was attending the funeral of his grandfather in Newark, New Jersey. Both Weems and Harris were injured, then captured during the escape attempt.

August 15, 1974

BLA members, Henry "Sha Sha" Brown, Pedro Monges and Melvin Kearney attempted to escape from the Brooklyn House of Detention for Men, using a handcuff key which may have been smuggled to one of them during their court appearances. The defendants removed their handcuffs while in the van that returned them from Brooklyn Supreme Court, and attacked the two correction officers who opened the van's door. Brown was shot by an officer. All were recaptured.

February 16, 1975

BLA members, Herman Bell, Gabriel and Francisco Torres, Robert Vickers, Victor Cumberbatch, Albert Washington and two associates, Mark Clancey and Gilbert Lugo attempted to escape from Rikers Island. Bell, using a piece of wood shaped like a knife, took a guard hostage and obtained his keys. At the same time a diversion distracted another officer who was overpowered by the inmates. Attempts to break windows were interrupted by responding officers, who restored order. A telephone caller to the 41st Precinct reported seeing five males, dressed in black, getting into three inflatable rafts at the Tiffany Street Pier. One male wore a wet suit and four were armed with shotguns. The rafts headed towards Rikers Island. Subsequently, one raft was recovered and found to contain ammunition, scuba diving fins, oars and a map of the Bronx and East River with pencil marks tracing a route from Rikers Island to Hunts Point.

May 25, 1975

Pedro Monges and Melvin Kearney, BLA members, attempted to escape from the Brooklyn House of Detention for Men. They gained access to air vents during the lock-out period between 1800 and 2200 hours. Using bed sheets and blankets, Monges and Kearney attempted to lower themselves to the ground. Kearney fell to his death and Monges was recaptured.

January 19, 1976

John Clark, BLA member, was slain attempting to escape from the Trenton State Prison, Trenton, New Jersey. Clark Squires, a fellow inmate and BLA member, was also involved in the unsuccessful attempt. On Clark's person was a handwritten note from Squires detailing the exact location of a van to be used in the get-a-way. The van was located and found to contain three shotguns, two pistols, ammunition, medical supplies, food, cash, identification cards and instructions.

June 22, 1977

Marilyn Jean Buck, BLA member, absconded from the Reformatory for Women, Alderson, West Virginia, after a week's furlough. Buck had been imprisoned following her conviction on federal weapons charges.

May 21, 1979

William Morales, a member of the Fuerzas Armadas de Liberacion Nacional Puertorriquena (FALN), despite mutilated hands, escaped through a third floor window of Bellevue Hospital's Prison Ward, using bolt cutters and Ace bandages.

November 2, 1979

Joanne Chesimard, BLA leader, was freed from Clinton Reformatory, Clinton, New Jersey, when her visitors, armed with handguns, overpowered guards. The guards were taken hostage and released at a nearby location where the escapee and her rescuers were met by another female and additional vehicles. Among those indicted for this escape were Sylvia Baraldini, Mutulu Shakur, Susan Rosenberg, Nathaneal Burns, Edward Joseph, Cecil Ferguson and Cheri Dalton. All were subsequently charged in the \$1.6 million Brinks armored car robbery in Nanuet, New York, on October 20, 1981.

October 18, 1984

On this date, New York City Police and FBI Agents arrested nine members of the New Afrikan Freedom Fighters (NAFF). The charges included conspiracy to raid the Bronx Courthouse where Donald Weems was being tried for killing a Brink's guard during a robbery in a Bronx shopping center on June 2, 1981. Officials also charged that the NAFF had plotted the jailbreak of Nathaneal Burns, convicted in the Nanuet Brinks case.

APPENDIX G  
BIOGRAPHIES OF POLICY STUDY GROUP MEMBERS

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## TERRORISM POLICY STUDY GROUP

Professor Yonah Alexander  
Center for Strategies and  
International Study  
Georgetown University

or

Professor Yonah Alexander, Director  
The Institute for Studies in  
International Terrorism  
State University of New York  
College at Oneonta

Yonah Alexander is Professor of International Studies and Director of the Institute for Studies in International Terrorism, State University of New York; a Fellow of the Institute for Social and Behavioral Pathology, University of Chicago; and a Senior Research Staff Member, the Georgetown University Center for Strategic and International Studies. Educated at Columbia University (Ph.D.) and the University of Chicago (M.A.) in International Affairs, he was a Visiting Professor at American University, Hebrew University, and Technion. Professor Alexander is Editor-in-Chief of Terrorism: An International Journal, and Political Communication and Persuasion: An International Journal. He has published twenty-two books on the subjects of international affairs, psychological warfare, and propaganda. His articles and interviews have appeared in numerous magazines, newspapers, and journals in the United States and abroad. During 1978-84, Professor Alexander has participated in conferences on terrorism in Berlin, Oxford, Jerusalem, Rome, Tel Aviv, and Buenos Aires.

Gary Gardner, Supervisory Special Agent  
Joint Terrorist Task Force  
Federal Bureau of Investigation

Supervisory Special Agent Gary Gardner is an 18-year veteran of the FBI. His service has included assignments in the Explosives Unit of the FBI Laboratory, Cincinnati Division, and for the last eight years, the New York Office. For the last three years he has been Co-Commander of the Joint FBI/NYCPD Terrorist Task Force. The Task Force is composed of detectives from the New York City Police Department, and FBI agents assigned to the New York Office. Over the last three years, the Task Force has aided in reducing the number of terrorist incidents from 51 to 3 nationwide.

Thomas J. Goldrick, Sheriff  
Rockland County

Thomas J. Goldrick currently serves as Sheriff of Rockland County. Sheriff Goldrick has gained a level of expertise in the area of terrorism through his personal involvement in the Brinks robbery case. As part of his responsibilities, Sheriff Goldrick organized a Brinks management team to plan, design and implement the massive security measures necessary to house prisoners, provide interior and exterior security for the Rockland County Jail, courthouse and other public buildings. The Sheriff also organized and coordinated the personnel assistance from the New York State Police, Rockland County Town and Village Police Departments, County Sheriffs' Departments and the New York City Police Department. In addition to his duties, Sheriff Goldrick also chairs the Criminal Justice Department of Rockland Community College.

**Daniel P. Guido, Executive Director  
New York State Commission on Criminal Justice  
and the Use of Force**

Daniel P. Guido currently holds the position of Executive Director of the New York State Commission on Criminal Justice and the Use of Force. Prior to this appointment, Mr. Guido served as Deputy Commissioner of the Bureau for Municipal Police. In that capacity, Mr. Guido was responsible for the administration of training, technical assistance, and services to the State's 600 county and municipal law enforcement agencies. Mr. Guido has also served as Commissioner of the Westchester County Department of Public Safety and as Police Commissioner in Yonkers, New York, and Nassau County. Daniel P. Guido graduated with Distinction from Hofstra University School of Law in 1975, and with Highest Honors from Hofstra University in 1972. He has extensive training in police science and completed course work at the National Executive Institute of the FBI.

**Kevin Hallinan, Lieutenant  
Joint Terrorist Task Force  
Federal Bureau of Investigation**

Lt. Kevin Hallinan is a 24-year veteran of the New York City Police Department and is presently assigned to the Federal Bureau of Investigation in New York. His position for the past three and one-half years has been as Co-Commander of the Joint FBI/NYCPD Terrorist Task Force. This Task Force is composed of detectives from the New York City Police Department, and FBI agents assigned to the New York Office. It is the largest Task Force in the United States formed to meet the threat of domestic terrorism. The Joint Terrorist Task Force has been the lead unit in the successful investigation and prosecution of the nation's most active and dangerous terrorist groups.

**David Luitweiler, Inspector  
New York State Police**

David M. Luitweiler currently holds the position of Staff Inspector at Division Headquarters, New York State Police with particular assignment involving the Bureau of Criminal Investigation and criminal investigative activities. Inspector Luitweiler is a 23-year veteran of the State Police, with 14 years in the Bureau of Criminal Investigation. Until recently, Inspector Luitweiler served as Major (Detail Commander) of the Special Investigations Unit of the New York State Police.

**Brian F. Malone, Inspector General  
Division of Correctional Services**

Brian F. Malone has been the Inspector General of the New York State Department of Correctional Services since June, 1978. The Inspector General's Office is responsible for conducting investigations in the States Correctional Facilities of any purported violations of the Penal Law or the Department's Rules and Regulations and is the liaison point for Federal, State, and Local Law Enforcement Agencies. Mr. Malone is an attorney and has served previously as the Inspector General of the New York City Department of Correction and as a Special Assistant Attorney General subsequent to the Attica Prison riot of 1971.

**Joseph Monteith, Assistant Chief Inspector  
County of Suffolk  
Police Department**

Joseph L. Monteith currently holds the position of Assistant Chief of the Patrol Division, Suffolk County Police Department. His duties involve administrative responsibility for almost 1,500 sworn personnel divided among nine bureaus. Responsibilities also include budget review and preparation, assignment and allocation of personnel resources, monitoring crime and accident trends throughout the County and acting as the Department's liaison with various state and local agencies such as the State Liquor Authority, N.Y.S. Police, etc. Assistant Chief Monteith is also an adjunct professor for the State University of New York at Farmingdale.

**Donald E. Moss, Deputy Inspector  
Public Security Section  
Intelligence Division  
New York City Police Department**

Donald E. Moss currently holds the position of Deputy Inspector in the New York City Police Department. A 27-year veteran of the Department, Deputy Inspector Moss has spent the past eight years in the Intelligence Division. His present assignment is as the Commanding Officer of the Public Security section. This duty entails the protection of foreign dignitaries and elected officials in New York City, and the coordination of related intelligence gathering and threat assessment activities.

**Kevin P. Neary, Training Coordinator  
State Emergency Management Office**

Kevin Neary currently holds the position of program representative with the New York State Emergency Management Office (SEMO). In that position he is responsible for the coordination, preparation and delivery of training programs in New York State. Mr. Neary is also a member of the SEMO crisis team. This team serves as the focal point for the SEMO Director to ensure that disaster response and recovery activities are effectively implemented during emergencies in New York State.

**Edward O'Sullivan, Manager  
Office for Special Planning  
The Port Authority of NY and NJ**

Edward J. O'Sullivan currently holds the position of Manager in the Office of Special Planning, Department of Public Safety for the Port Authority of New York and New Jersey. The Office for Special Planning is the counter-terrorist unit of the Port Authority. The combined police/professional staff of this office is responsible for identifying the degree of exposure of Port Authority facilities to the possibility of attack by terrorists and for developing recommendations designed to reduce such a possibility to the maximum practical extent. This Office is responsible for maintaining a high level of expertise in state-of-the-art and advanced electronic security technology and security techniques. Mr O'Sullivan has attended Counter-Insurgency Training, U.S. Marine Corps, as well as Special Warfare School, Fort Bragg, N.C. and other courses in U.S.M.C., John Jay College, University of Delaware, Penn State University, etc. Mr. O'Sullivan holds a B.S. in Engineering for the U.S. Naval Academy and a Masters in Public Administration from New York University.

**Barry C. Sample  
Special Assistant to the  
Director of Criminal Justice**

Barry C. Sample currently holds the position of Special Assistant to the New York State Director of Criminal Justice. In that position, Mr. Sample has responsibility for the development of short-term and long-term plans which identify strategies for dealing with problem areas identified as priorities by the Division of Budget, the Legislature or the Governor's Temporary Advisory Commissions. These plans include comprehensive inter-agency criminal justice plans, as well as more focused plans for dealing with problems specific to certain agencies. Mr Sample works closely with legislative and State agency officials to enact and implement these plans. Prior to this position, Mr. Sample served as Chief of the Bureau of Program Development and Planning for the New York State Division of Criminal Justice Services. Mr. Sample holds a Masters Degree in Criminal Justice from SUNY at Albany and is currently completing his Doctorate.

**Sherwood E. Zimmerman, Deputy Commissioner  
Division of Criminal Justice Services  
Office of Policy Analysis, Research  
and Statistical Services**

Sherwood E. Zimmerman currently holds the position of Deputy Commissioner in the New York State Division of Criminal Justice Services. His responsibilities include management of the Office of Policy Analysis, Research and Statistical Services. Mr. Zimmerman brings strong academic credentials, as well as experience in policy development to his position of Chairman of the Policy Study Group on Terrorism. He has completed a Ph.D. from the State University of New York at Albany and was also a Post Doctoral Fellow at Carnegie Mellon University.