

# The French Experience of Counter-terrorism

Jeremy Shapiro and Bénédicte Suzan

On the evening of 3 October 1980, a motorbike was parked outside the synagogue on the Rue Copernic in an upscale section of Paris. Several minutes later a bomb packed into the motorbike's saddlebags exploded, killing four passers-by and wounding 11. It was the sixth and most serious attack on a Jewish target within a week. The bombing sparked a protest rally in Paris against anti-Semitism and intensified debate about the influence of the neo-Nazi movement in France, which the authorities blamed for the wave of attacks. In fact, as the investigation would reveal in the coming weeks, Middle Eastern terrorists had perpetrated the wave of bombings. The attack at Rue Copernic was eventually seen as the opening salvo in a long campaign by foreign terrorists whose purpose was to influence French policy in the Middle East.<sup>1</sup> None of the various French intelligence and police agencies had given any warning that such attacks were imminent or even possible. They were, moreover, unable to immediately identify the attacks as coming from foreign terrorists, despite the perpetrators wanting them to know.

Nearly 20 years later, on 14 December 1999, an Algerian named Ahmed Ressay was arrested on the US–Canadian border with a trunk full of explosives intended for use in an attack on the Los Angeles International Airport. Ressay grew up in Algeria, resided in Canada and plotted attacks against the United States, but despite having few French connections, French authorities knew who Ressay was and what he intended. French anti-terrorism investigators had been tracking Ressay and his associates in Canada for over three years and had repeatedly warned Canadian authorities of Ressay's intention to carry out terrorist attacks in North America. After his arrest, French investigators were able to provide the FBI with a complete dossier on Ressay and to aid US authorities in identifying his associates, eventually sending an official to testify at his trial.<sup>2</sup>

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*Survival*, vol. 45, no. 1, Spring 2003, pp. 67–98 © The International Institute for Strategic Studies

In short, in 1980, French authorities could not even identify a foreign terrorist attack in the middle of Paris after it had happened. In 1999, they possessed a detailed understanding of a terrorist cell in another country plotting attacks against yet a third country. This striking contrast reflects a more general increase in the French capacity to prevent and fight terrorism, both at home and abroad. Throughout the 1980s and much of the 1990s, France was considered a haven for international terrorists, both for those operating in France and those using France as a base for operations elsewhere.<sup>3</sup> By the late 1990s, in contrast, France had scored notable successes in preventing planned terrorist attacks on the World Cup in 1998, against the Strasbourg Cathedral in 2000 and against the American Embassy in Paris in 2001.<sup>4</sup>

The improvements in the French capacity to fight terrorism are the result of hard-won lessons. France has a long history with terrorism that dates from the coining of the word during the French revolution. Since that time, France has always been on the 'bleeding edge' of terrorism, confronting terrorism in all its guises, from bomb-throwing anarchists to transnational networks. In the last 20 years, France suffered repeated waves of terrorism of both domestic and foreign origin, each of which spawned a variety of reforms to an already complex system for combating terrorism.

As a result, France has developed, largely by costly trial and error, a fairly effective, although controversial, system for fighting terrorism at home. That system, of course, is uniquely French, tailored to France's particular threats and capacities as well as to France's distinct civic culture. Nonetheless, there may be lessons in the French experience for other countries, including the United States, in its relatively new struggle to prevent terrorist acts in its homeland.

### **A schematic of terrorism in France**

Since 1980, terrorist acts perpetrated on French soil have come from three fairly distinct types of groups. Most prominent at the beginning of the period were groups that espoused a radical leftist philosophy, similar to the Red Brigade in Italy and the Red Army Faction in Germany. As in other European countries, these groups were home grown and ideologically committed to the overthrow of the capitalist system and to the downfall of American-led 'imperialism'. The most prominent of these groups in France, Action Directe, was active in France from approximately 1979 to 1987. At first attacking only material targets, they eventually evolved towards political assassination. Although France has a long tradition of violent revolutionary activity that Action Directe hoped to tap into, it never gained much of a popular foothold within France,

even relative to similar groups in other parts of Europe. French authorities had effectively rolled up the group by the end of the 1980s.<sup>5</sup>

The second type of terrorist group in France are regional separatist groups that advocate independence or autonomy for specific regions of France, primarily the Basque Country, Brittany and in particular, Corsica. Such groups have been the most persistent and consistent perpetrator of terrorist acts in France, committing hundreds of attacks over the years. However, they are also the least deadly, usually concentrating their attacks against property. In Corsica especially these groups have a degree of popular support in their regions; however, as in other Western European countries, they have, over time, tended to evolve into criminal organisations, presenting an extremely difficult but different problem than that of purely politically motivated terrorism.<sup>6</sup>

Finally, and most importantly for the purposes of this article, the Rue Copernic incident introduced a third type of terrorism into France: international terrorism, overwhelmingly of Middle Eastern origin.<sup>7</sup> Although French authorities were already quite familiar with the problem of leftist and separatist terrorism in the early 1980s, they had little experience with international terrorism. Indeed, there was so little interest in the problem within the French intelligence services that, in 1981, the introductory briefings for the new head of the French foreign intelligence agency, the Service de Documentation Extérieur et de Contre-Espionnage (SDECE), contained hardly a mention of the problem.<sup>8</sup> Similarly, the Direction du Surveillance Territoire (DST), the internal French intelligence agency, had in 1981, according to one agent, 'only the most derisory means' for combating international terrorism.<sup>9</sup>

### **The sanctuary doctrine**

In part, this lack of attention to international terrorism within the French intelligence services stemmed from the government's policy on the issue. Prior to the 1980s, successive French governments had applied what can best be described as the 'sanctuary doctrine'. The sanctuary doctrine attempted to isolate the country from international terrorism by creating within France a sanctuary both for and from international terrorists. This policy required making French policy and soil as neutral as possible with respect to the issues that motivated international terrorism. As a result, international terrorist groups would have nothing to fear and nothing to achieve in France, where their members could operate with impunity, as long as they did not perpetrate acts of terrorism within France or against French interests.<sup>10</sup>

Whatever the moral implications of such a policy, it was a fairly successful tactic for preventing terrorist violence in France. Even after the

Rue Copernic incident in 1980, it was applied to achieve, fairly successfully, the quiescence of the Palestinian Liberation Organisation (PLO) within France.<sup>11</sup> The sanctuary doctrine was based on the belief that international terrorism was ultimately a political and foreign-policy problem distinct from law enforcement and as such had to take into account both the interests and capacities of the French state abroad. It allowed France to maintain good relations with important states that

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might have taken exception to French crackdowns on groups that they supported, while simultaneously acknowledging that the French ability to prevent foreign-inspired attacks and to punish states and groups outside of French borders was limited. Such attacks were therefore better avoided.

At the same time, the sanctuary doctrine had serious drawbacks. These became evident as the 1980s progressed. Firstly, the sanctuary doctrine tended to create political problems with the opponents of the terrorists that France sheltered, particularly Spain (in

the case of the Basque terrorist group ETA), Israel (in the case of the PLO) and later the United States (in the case of the Fractions Armées Révolutionnaires Libanaise, a Middle Eastern group that had assassinated an American diplomat in Paris), somewhat offsetting any foreign policy gains. Secondly, the sanctuary doctrine required the political authorities to maintain secret contact with terrorist groups who therefore had to be identifiable and reachable. Moreover, this contact did not play well in the domestic political arena and was often politically damaging to current government parties during French political campaigns. Perhaps more fundamentally, the sanctuary doctrine could only effectively protect France when terrorist groups did not directly challenge French interests or seek to change French policy. At the same time, the sanctuary doctrine was an expression of weakness and a lack of confidence in the ability of the French state apparatus to prevent or respond to foreign terrorist attacks.

As France, over the course of the early 1980s, became the European country most affected by international terrorism, the sanctuary doctrine clearly ceased to be effective.<sup>12</sup> Nonetheless, French authorities were slow to abandon the doctrine. For the most part, the increasing inefficacy of the sanctuary doctrine resulted from international political circumstances that brought France into direct conflict with groups and states that used terrorism as a political tool. In retrospect, however, it is also clear the sanctuary doctrine contained the seeds of its own destruction. The expression of weakness that the sanctuary doctrine represented was not lost upon terrorist groups and their state sponsors

and, therefore, encouraged them to use terrorist methods when they decided that their goals demanded a direct challenge to French interests. Moreover, in giving sanctuary and therefore effective support to one terrorist group, France inevitably angered its often equally violent rivals. Finally, the freedom that terrorists had to operate within France, even for the purposes of conducting operations outside of French borders, allowed them to accumulate logistical and operational networks that could easily be turned upon their host when the moment was ripe.

This failure of the sanctuary doctrine first manifested itself in attacks that reflected the anger of splinter Palestinian movements at French support for Yasser Arafat's control of the PLO. Thus, for example, the Rue Copernic attack appears to have been motivated in part by the struggle between Abu Nidal and Yasser Arafat for leadership of the Palestinian cause. Similarly, an attack at the Rue Marbeuf in the middle of Paris in 1982 was part of a Syrian–Iraqi dispute. The Syrians took advantage of existing Palestinian networks within France to plant a car bomb outside the offices of a pro-Iraqi newspaper in Paris that killed one person and wounded 63.<sup>13</sup> These types of attacks were part of rather subtle signalling campaigns whose targets were often other groups or other states. As such, the purpose of these attacks was often not clear to the French authorities. They thus had little success in tracing the attacks back to their original instigators or in achieving any capacity to prevent future attacks. Such attacks continued fitfully throughout the early 1980s, exhibiting little pattern or apparent purpose, at least from the French perspective. Because of the extremely random nature of the attacks, terrorism began to become a major source of public anxiety and an issue of considerable political controversy within France.

The sanctuary doctrine was only abandoned in the wake of a series of terror attacks that nearly paralysed Paris in 1986. Three waves of attacks in February, March and September targeted large Paris department stores, train, subways and public buildings (See Table 1). In all, at least 14 attacks caused 11 deaths and more than 220 injuries. Most of these attacks were claimed by a previously unknown group called the Committee for Solidarity with Near Eastern Political Prisoners (CSPPA) whose announced aims were to secure the release of three apparently unrelated terrorist leaders then in French custody.<sup>14</sup> As these attacks progressed, a variety of security measures were introduced, including the offer of a \$150,000 reward and the requirement that all non-EU citizens, except the Swiss, acquire a visa to visit France. The government authorised random identity checks by police and extended from 24 hours to four days the time a suspected terrorist may be held for questioning before being charged. In addition, police instituted bag

**Table One Attacks in France Claimed by the CSPPA, 1986  
(Committee for Solidarity with Near Eastern Political Prisoners)**

<b>3 February</b>	A bomb explodes in a shopping gallery in the Champs-Elysées, injuring eight people. An hour later, a second bomb is discovered and defused atop the Eiffel Tower.
<b>4 February</b>	A bomb explodes in a Left Bank bookshop, injuring four persons.
<b>5 February</b>	A bomb explodes in an underground sporting goods store in Paris, wounding nine people.
<b>17 March</b>	An explosion and fire in the Paris–Lyons high speed train injures 10 people.
<b>20 March</b>	A bomb explodes in the Point Show shopping arcade on the Champs-Elysées. Two people die, 28 are injured. A few minutes later, a second explosive device is found and defused at the Châtelet subway station.
<b>4 September</b>	A bomb is found in a subway train at the Gare de Lyon. The detonator explodes but does not ignite the bomb.
<b>8 September</b>	A bomb explodes in the post office in Paris City Hall, killing one employee and injuring 18.
<b>12 September</b>	A lunchtime bomb in a crowded Paris cafeteria injures 40 people.
<b>14 September</b>	A bomb is found in a pub on the Champs-Elysées. It explodes when a staff member and two policemen take it to the basement. One policeman dies.
<b>15 September</b>	A bomb explodes at police headquarters in Paris, killing one person and injuring 51 others.
<b>16 September</b>	One person is wounded in an explosion in a restaurant in northern Paris.
<b>17 September</b>	A bomb thrown from a passing car explodes in front of a crowded department store on the Left Bank, Rue de Rennes, killing five people and wounding about 52. One of the injured later died of his wounds.

searches at major stores and government offices, and the government began to reorganise the police administration to get more uniformed officers on the street, especially areas considered possible targets for attack.

As a result of these measures and increased public vigilance, French police were able to abort some attacks and to make some arrests associated with specific bombings, but the attacks continued, often claimed by the shadowy CSPPA, at other times by other equally unknown groups such as the Partisans for Right and Freedom. Overall, the French authorities appeared powerless to stop them: perhaps because the terrorists were so well implanted within France; perhaps because they had powerful state sponsors. As the attacks progressed, a defector informed French officials that the demand for the release of the prisoners was actually a cover for an overall coordinated terrorist offensive explicitly linked to French interests in the Middle East. The campaign involved not just the bombings on French soil but also attacks against French interests abroad, particularly the taking of French hostages in Beirut.<sup>15</sup>

In the early 1980s, French policy in the Middle East began to conflict directly with the policies of Syria, Iran and Libya, the principal state sponsors of terrorism in the Middle East. For Syria, French participation in the multinational intervention and the civil war in Lebanon was seen as a direct threat to Syrian interests. For Libya, French opposition to the Libyan invasion of Chad had occasioned friction with the Libyan government. Finally, the most serious frictions existed with the government of Iran, which, in the midst of a devastating war with Iraq, resented France's role as the principal supplier of high-tech weaponry to Saddam Hussein's regime. Iran also claimed more than \$1 billion owed due to contracts broken by France in the wake of the Iranian revolution.<sup>16</sup> According to the defector, all three regimes worked in concert with existing Palestinian and Lebanese networks in France to prosecute attacks aimed at forcing the French government to alter its policies in the Middle East.<sup>17</sup> The most devastating of this series of attacks was the October 1983 suicide bombing of the French contingent of the Multinational Force in Lebanon that resulted in the death of 58 French troops. A simultaneous attack on the US contingent killed 242 marines.

### **From sanctuary to accommodation**

Under circumstances in which there was such a direct clash of interests, there was little chance of reviving the sanctuary doctrine as a method of preventing terrorist attacks in France. Indeed, the attacks had created enough anger among the French population to make the idea of negotiating with or harbouring terrorists of any sort ever again far too politically risky. More fundamentally, it had become clear that the constant

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interactions between terrorists groups of all types and potential state sponsors, as well as the constantly changing nature of terrorist political goals, meant that allowing such networks to establish themselves on one's soil only invited future attack. Unfortunately, the inability of the French

counter-terrorist services to suppress the attacks, either through protective measures at home or through direct action abroad,<sup>18</sup> left the French government with few options for ending the attacks at home or for achieving the freedom of French hostages in Lebanon.

Speculation at the time and since has been that this series of attacks ended because the French government decided that the solution to terrorism was accommodation rather than sanctuary or suppression. According to *Le Monde*, a visit to Damascus by French government officials in September 1986 resulted in a

deal whereby the Syrians would cease support for terrorism in France, secure the release of French hostages in Lebanon and provide intelligence on Lebanese terrorists in return for arms, economic aid and French diplomatic support. Three hostages in Lebanon were released in November 1986, and all were released by the time of the next French presidential election in May 1988. Terrorist attacks in France also ceased, although that no doubt resulted in part from the information provided by the defector mentioned earlier. A similar deal was apparently struck with the Iranians the next summer when Wahid Gordiji, a translator attached to the Iranian embassy in Paris who had been found to have masterminded many of the 1986 attacks and who had taken refuge in the Iranian embassy, was allowed to leave France.<sup>19</sup> After years of sporadic waves of attacks, France remained largely free of international terrorist attacks on its home soil from 1987 until 1994.

The French government has always denied that such deals took place and the existence of any arrangement with state sponsors of terror attacks in France remains highly controversial to this day.<sup>20</sup> Nonetheless, it is clear, as Michel Wieviorka points out that 'faced with international terrorism, France, we might say, followed a policy of diplomatic activities that was guided by the will of terrorist states'.<sup>21</sup> The French withdrew from Lebanese affairs, dramatically scaled back their support to Iraq during the Iran–Iraq war and settled their debts with Iran in the context of re-establishing diplomatic relations with that country.

**From accommodation to suppression**

The French policy of accommodation may have been successful in ending the 1986 spate of attacks in France, but accommodation – that is, coerced



changes in French foreign policy – could hardly have been the preferred outcome of French policymakers. The failure of the sanctuary doctrine, the lack of capacity to attack terrorist targets abroad and the inability to prevent attacks at home had revealed a variety of shortcomings in the French system for fighting terrorism on its own territory. As a result, French policymakers decided to vastly increase the French capacity to suppress attacks on French soil by strengthening the French police and judicial apparatus in the field of counter-terrorism. While suppression of terrorism can never be a perfect science, the French efforts addressed two interrelated problems that had made suppression particularly difficult in France: a lack of coordination and centralisation of anti-terrorist policies internally; and politicisation of the struggle against terrorism.

### **Lack of coordination**

The fight against terrorism at home was not in any sense institutionalised within the French governmental structures in the early 1980s and therefore was very badly coordinated. At least seven different police services in four different cabinet ministries had a variety of overlapping responsibilities in matters relating to terrorism.<sup>22</sup> Worse, these agencies rarely met and often actively distrusted and misled each other, to such an extent that the interior minister in 1981 refused, in the presence of the prime minister, to share intelligence about terrorism with the foreign intelligence agency, the Direction General de Sécurité Extérieure (DGSE), because he claimed it was ‘a nest of Soviet spies’.<sup>23</sup> In another example, the domestic intelligence agency, the DST, actively cooperated with the New Zealand police in their efforts to prove the complicity of the DGSE in the 1985 bombing of the Greenpeace ship *Rainbow Warrior* in Auckland harbour.<sup>24</sup> In the judicial sphere, local prosecutors and investigators in the location of the attacks handled terrorism cases. Unfortunately, terrorist attacks were rarely isolated incidents and the specific location of the attack was of little relevance to its investigation or prosecution. With little contact between prosecutors of different jurisdictions who were working on related cases, there was little capacity to integrate information and to discover patterns.

### **Politicisation**

Things were little better on the political level. After the election of François Mitterrand and the Socialists in 1981, there was a deep level of distrust between the political authorities in the president and the prime minister’s offices and the police and intelligence services. After 23 years of right-wing rule, the Socialists viewed the security services as bastions of right-wing sympathisers. During the 1950s, Mitterrand’s own political

career had nearly been destroyed by false accusations emanating from the security services.<sup>25</sup> Similarly, the security services distrusted the new government and resented the Socialists' decision to issue an amnesty for many imprisoned terrorists after their election in 1981. They even suspected the socialists of harbouring sympathies for some of the extreme leftist terrorist groups, including Action Directe – a prejudice that was reinforced by the fact that one of Mitterrand's advisors, Régis Débray, had fought with Che Guevara in Latin America.<sup>26</sup>

At the same time, the ability to protect the French population from terrorist attacks and to secure the freedom of French hostages abroad became a highly fraught political issue in France during the 1980s.<sup>27</sup> The intense political saliency of the issue in combination with the Socialists' distrust of the existing intelligence services convinced Mitterrand, following a long tradition in France, to create an *ad hoc* cell within the Presidential palace devoted to the problem of terrorism and staffed with operatives he felt he could trust. The presence of this cell, greatly resented by the established police and intelligence agencies, did little to promote coordination and trust between the numerous agencies necessary to combat the complex phenomenon that terrorism had become by the 1980s. In the end, this cell achieved minimal progress in the struggle against terrorism and caused a public relations disaster when it was revealed to have planted evidence in order to arrest some suspected Irish terrorists.<sup>28</sup>

## **Responses**

The French response to what had become an overwhelming public outcry for increased security was embodied in the legislation of September 1986.<sup>29</sup> That legislation created a variety of new organs within the French government that specialised in dealing with terrorist issues and coordinated or centralised the problem of terrorism within the French government. In general, the legislation signalled the move away from accommodation by empowering the justice and interior ministries and sidelining the foreign affairs ministry, which had tended, in retrospect, to place too high a value on maintaining amicable relations with states that sponsored terrorism.

New and specialised organisations were created within the interior ministry (Unité de Coordination de la Lutte Anti-Terroriste – UCLAT) and the justice ministry (Service pour Coordination de la Lutte Anti-Terroriste – SCLAT)<sup>30</sup>, and were specifically charged with maintaining relationships and information flows. The purpose of these organisations is to make connections between all of the various intelligence and police services with the French government bearing on the question of

terrorism. Previously, no single service had specialised in terrorism and thus no one was responsible for assembling a complete picture from the various different institutional sources, for assuring information flows between the various agencies, or for providing coordinated direction to the intelligence and police services for the prevention of terrorism.<sup>31</sup> According to one of the authors of the legislation, this system was in part explicitly modelled on the US National Security Council and the interagency process it oversees.<sup>32</sup>

The 1986 legislation also centralised all judicial proceedings relating to terrorism. In 1963, during the spate of terrorism associated with the Algerian War of Independence, the government had established a similarly centralised system by setting up an entirely new and special court, the State Security Court (*Le Cour de Sûreté de l'Etat*). However, that court was partly composed of military officers, its proceedings were secret and it had no provision for appeal. In short, it stood completely outside the normal system of French justice and was often seen as an instrument of political oppression, particularly by the political opposition on the left.<sup>33</sup> On assuming power in 1981, before the new round of terrorist attacks had gained much force, Mitterrand eliminated the State Security Court, but did not replace it with any specific judicial system for dealing with terrorism.

The 1986 legislation filled this void, but did not repeat the mistake of creating a new specialised court outside of the normal judicial system. Although the legislation did take note of the special nature of terrorist crimes by providing for longer jail terms for acts committed for the purposes of terrorism, and for longer periods of detention and investigation in such cases, it nonetheless left the prosecution of terrorist cases within the normal procedures of French justice. Rather than creating an entirely new court, the legislation centralised proceedings relating to terrorism in the existing Trial Court of Paris and left to normal judges the ultimate decision as to the outcome of the cases.

Under this system, a local prosecutor decides if a crime committed within his geographic area of responsibility is related to terrorism, based on a definition of terrorism as 'acts committed by individuals or groups that have as a goal to gravely trouble public order by intimidation or terror'. If an incident meets that definition, he refers the case to specialised prosecutors or magistrates within the Paris court. This system gets around the problem of the small size of local prosecutor's offices and minimises the dangers of reprisals against local officials (particularly a problem with separatist terrorist groups in Corsica). More importantly perhaps, it created within the Trial Court of Paris a small section of prosecutors and investigating magistrates that only dealt with terrorism

cases and that were eventually established as the lead actors in the French struggle against terrorism.

The investigating magistrate, somewhat of a cross between a prosecutor and a judge, has no precise analogue in the Anglo-Saxon system of justice. An investigating magistrate (an inexact translation of *juge d'instruction*) is not an advocate for the prosecution or the defence, but rather is charged with conducting an impartial investigation to determine whether a crime worthy of a prosecution has been committed. Once that determination is made, the investigating magistrate hands the case over to a prosecutor and a defence attorney who, on the basis of the magistrate's investigation, act as advocates in front of a judge (or *juge de siege*). Because these magistrates are intended to be impartial arbiters, they are, at least in theory, not answerable to any political authority and are granted fairly wide powers to open judicial inquiries, authorise search warrants and wiretaps, and issue subpoenas – powers that in the US would require specific judicial authorisation. Within the French judicial system, such magistrates are not at all unique to terrorist cases. Nevertheless, this institution, which in many circumstances serves merely as an unwieldy extra step in the judicial process, has proven uniquely adaptive to the complex investigations necessary to use judicial procedures to punish and even prevent terrorist actions.<sup>34</sup>

This adaptation occurred because the establishment of a small, specialised corps of anti-terrorism magistrates created, over time, a competency that almost amounted to an intelligence service in and of itself. The individual magistrates, after years of conducting connected investigations, many of which specifically resulted from evidence gleaned in prior investigations, became the type of expert on the subject of terrorism that is difficult to create within normal judicial institutions. The individual magistrates even tended to specialise in cases related to specific classes of terrorism such as separatist or Islamic.

Finally, the system of specialised investigating magistrates also helped to de-politicise the issue of anti-terrorism, although this perhaps was not intentional in the legislation. As these magistrates became more publicly visible, they achieved a greater capacity to assert their statutory independence from political authorities, if necessary through resort to the media. Indeed, over time, the investigating magistrates gained a public reputation for implacable opposition to terrorism that stood in stark contrast to the craven image of politicians in the 1980s. As a result, the existence of the magistrates – informed, independent and pitiless adversaries of terrorism in all its forms – meant that any return by the French government to a policy of sanctuary or accommodation was unlikely to achieve the necessary level of secrecy or public support.

Although this denied French politicians a degree of control over an important aspect of state policy, it also relieved them of public responsibility and, therefore, blame for failing to solve what they saw as an intractable problem.

### From suppression to prevention

The new French counter-terrorism system was first really put to the test as a result of the spill-over of the Algerian civil war in France. In 1989, the government of Algeria had authorised multi-party elections. However, in 1992, when it appeared that an Islamist party, the Islamic Salvation Front (FIS), was going to win those elections, the army suspended the entire process and declared martial law. The FIS, outlawed by the military government, retreated into a clandestine existence and began to organise an armed struggle. By 1994, a more radical grouping, the Armed Islamic Group (GIA), had succeeded in rallying all of the Algerian Islamist movements under its banner and in gathering external support from Islamists in Tunisia, Libya and Morocco. This support gave them access to a variety of militants already residing in Europe.<sup>35</sup>

The ascendance of the GIA in Algeria caused the French authorities to re-evaluate the threat posed to France by the Algerian civil war. Unlike the FIS, the GIA did not merely aim at seizing political power in Algeria. Rather, the GIA adhered to the political doctrine of *jahiliyya*, developed by the Egyptian Islamist thinker Sayyid Qutb (1906–66) who held that the Algerian people and their government exist in a pre-Islamic state. All Algerians are therefore considered *takfir* (impious ones) and must submit themselves to the restoration of Islam or die. Through holy war, or *jihad*, the GIA wanted not just to take power in Algeria, but also to re-establish the Caliphate, the only form of government recognised by Islamic tradition. After Algeria, the Caliphate would be extended to the entire world.

Towards this end, it is considered the right and indeed the duty of Muslims throughout the world to refuse Western laws and to make war against the West at any moment. This view meant that, for the GIA, Algeria was only one theatre in a wider war against the West. For the Islamists of the GIA, if the hatred of the West was virulent, their hatred of France was absolute. France represented, 'the mother of all sinners'<sup>36</sup> because France had destroyed Algeria with its colonialism, despoiled its riches for more than a century and continued, through its support for the junta ruling Algeria, to reduce Algerian Muslims to slavery and to move Algeria away from religion. For

*The corps of magistrates almost amounted to an intelligence service*

the French authorities, this meant that there was little doubt that French territory from now on would be a target.

The extension of the Algerian crisis into France began with the kidnapping of three French consular agents on 24 October 1993 in Algiers. The message carried back by one of the hostages was explicit: the security of French citizens in Algeria is under threat from this moment forward.<sup>37</sup> In response, on 9 November 1993, French authorities launched *Operation Chrysanthemum* within France. In two days, 110 people in France were questioned and 87 were taken into custody. This wave of arrests was certainly motivated by the hostage taking, but they responded also to a general disquiet by the French authorities, who, since 1992, had noticed the arrival in France of numerous members of the FIS as well as other Algerian Islamist groups. For the Interior Minister, Charles Pasqua, these interrogations also served the purpose of sending the message that the French government intended to suppress Islamist activity within the borders of France. On 8 November 1994, the Chalabi network, the most important support group for Algerian fighters struggling against the Algerian government, was dismantled. Ninety-three people were arrested, 15 were soon released and 78 were held for trial.

In response, on Christmas 1994, an Air France flight from Algiers to Paris was hijacked. With this hijacking, the GIA announced their willingness and even desire to strike directly on French soil. To release the plane, the GIA demanded the cessation of French aid to Algeria and financial reparations for the damages inflicted on Algerians by France between 1945 and 1962. They also demanded the liberation of the leaders of the FIS as well as that of a former emir of the GIA.<sup>38</sup> On 26 December, French commandos assaulted the plane on the tarmac in Marseille, killing the hijackers. Documents found in London showed that the terrorists intended to crash the plane over Paris, probably into the Eiffel Tower.

Expecting further attacks, French authorities decided to increase the pressure on the Islamist networks in France and through Europe. On 2 June 1995, 400 police officers were mobilised to arrest 131 people in Paris, Marseille, Perpignan, Tourcoing and Orléans – dismantling a vast European network of support for the GIA and other Algerian groups. Unfortunately, the French intelligence services did not know of the existence of parallel networks in Lyon and in Lille, which launched a series of attacks in reprisal.<sup>39</sup> The authorities were thus taken by surprise by the wave of attacks that began on 25 July 1995, and killed 10 and wounded over 150 between July and October (see Table 2 opposite). In contrast to the wave of attacks in the 1980s, however, the French authorities were able to track down those responsible and role up the networks that support them within four months.<sup>40</sup>

## Responses

Throughout the 1990s, the French magistrates in charge of counter-terrorism tried to use their judicial powers to prevent as well as to

**Table Two Attacks in France by the GIA (Armed Islamic Group), July–October 1995**

<b>11 July</b>	Assassination of the Imam of the Mosque on the Rue de Myrrha. Moderate and close to FIS, he had protested against the use of violence on French territory.
<b>25 July</b>	A bomb explodes in the regional transit system at Saint-Michel station in Paris. Eight people die, and 86 are wounded.
<b>17 August</b>	A bomb laden with nuts and bolts explodes in a trash can near the Arc de Triomphe, wounding 17. Police increase security at public places and interview witnesses to the attack, which is believed to be related to the earlier attack at the Saint-Michel station.
<b>26 August</b>	Authorities discover a bomb planted on a high-speed train track north of Lyons. It fails to detonate.
<b>3 September</b>	A pressure cooker bomb partially explodes in an open market near Place de la Bastille in Paris. Four people are wounded.
<b>4 September</b>	A potentially powerful bomb fails to explode and is found inside a public toilet near an outdoor market in Paris' 15th arrondissement.
<b>7 September</b>	A car bomb explodes outside a Jewish school in a Lyons suburb, 10 minutes before school lets out. 14 people are wounded.
<b>6 October</b>	A gas canister containing nuts and bolts hidden in a trash can explodes near the Maison Blanche subway station in southern Paris, wounding 16 people.
<b>17 October</b>	In the eighth terrorist attack or attempted attack in the last three months, a bomb explodes in an underground commuter train at the RER Orsay, wounding 30 people.

respond to terrorist attacks. The different investigations led by the magistrates throughout the 1980s and early 1990s had given them an holistic, almost cultural understanding of the Islamist movement. That knowledge turned out to be critical because it permitted them to reduce the time of the investigations, to more quickly arrest the members of a network and thus to better prevent attacks.

Given the threats facing France at the beginning of the 1990s, the magistrates decided to give priority to attacking the logistics networks that they saw as the weak link of terrorist organisation. The networks of the diverse armed Algerian groups supported themselves through armed robberies and trafficking in credit cards and false documents such as passports. New legislative initiatives in 1995 and 1996, while not making any major changes to the French counter-terrorism system, helped the magistrates to target the logistics networks by codifying the notion

*Tight  
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that conspiracy to commit to terrorism was itself terrorism.<sup>41</sup> This refinement in the law allowed the investigating magistrates to open investigations and to deploy their expertise and judicial tools before terrorist attacks took place, thereby enhancing their competence not just for punishing terrorist attacks, but also for preventing them in the first place.

Nonetheless, in confronting the Algerian threat, the French authorities still found themselves facing the old problem of a lack of coordination and communication, now particularly between the intelligences agencies and the investigating magistrates at the Ministry of Justice. The investigating magistrates usually availed themselves of the Judicial Police as their investigative arm. At this time, however, the Division Nationale Anti-Terroriste of the Judicial Police (DNAT, previously known at the 6<sup>th</sup> Section of the Judicial Police) was facing an increase in

Basque and Corsican separatist terrorism, culminating in the unprecedented 1998 assassination of the highest French government official in Corsica, the prefect Claude Erignac. They consequently did not have the internal resources devote themselves to the Islamist dossiers in the manner the magistrates would have preferred.

The magistrates working on Islamist cases thus began to work directly with the domestic intelligence agency, the DST, which previously had communicated with the magistrates primarily through the intermediary of the Judicial Police. The magistrates had decided to make use of the fact that DST officially had a dual role as an intelligence agency and as a judicial police force that could be placed under the authority of a magistrate.<sup>42</sup>



The process of these investigations created a continuing relationship between specific judicial authorities and the DST. This, in turn, inspired a degree of confidence within the DST that they were dealing with people in the judicial arm who understood and shared their concerns about protection of sources and the threat that judicial procedures pose to intelligence operations. The combination of expertise, effective relationships with the intelligence services and the judicial powers already mentioned eventually created a formidable body for combating terrorism.

As a result, DST agents now go directly to the magistrate and the prosecutor when they have information that they feel warrants a judicial investigation. If the magistrates decide from the intelligence obtained that there has or might be a criminal act, they have the power to transform the intelligence investigation into a judicial investigation. While information acquired before a judicial investigation is opened is not admissible in French court, the opening of an official investigation provides various advantages because the agents in question can from that point onward avail themselves of the magistrates' extensive powers to issue warrants, subpoenas and wiretaps, the results of which can be used as proof in court.

In effect, the struggle against Islamist terrorists is co-managed by the anti-terrorism magistrates and the DST. On the one hand, the magistrates remain the masters of 'grand strategy'. They decide on the direction of the investigations. On the other hand, genuine exchanges are made around a table on the options that present themselves; for example, the opening of an intelligence investigation, its transformation into a judicial investigation or not, and the decision to follow particular leads. This tight integration of the French intelligence and judicial system allows the latter to act much more quickly and effectively than most judicial authorities.<sup>43</sup>

This system was able to develop thanks in part to the mutual confidence that was forged among specific personalities. Particular magistrates, such as Jean-Louis Bruguière and Jean-Francois Ricard, have great experience in understanding Islamist networks, and their personal interactions with the DST counted for a great deal. After some time, one hopes that this degree of confidence will go beyond personalities and develop into an institutional feature. However, the magistrates and the DST have each conserved their prerogatives and the court does not interfere in intelligence missions that have no bearing on judicial cases.<sup>44</sup>

This system as it developed in the course of the 1980s and 1990s, characterised by the centralisation of the judicial apparatus, the establishment of the magistrates as a repository of knowledge on terrorist networks and the dual role of the DST as an intelligence agency and a judicial police force forms the core of the French effort to fight

international and particularly Islamist terrorism. The magistrates consider the system a success: even though it is impossible to prevent all attacks, they nevertheless possess the means to generate a broad picture of the Islamist movement, one that permits them to dismantle networks very rapidly, to prevent many attacks and to anticipate the evolution of a constantly mutating threat.

### **The issue of indiscriminate detention**

Despite the attacks carried out in the middle of the 1990s, the action of the anti-terrorism magistrates at that time was often fiercely criticised by the media and by public opinion. These critiques stemmed in part from the French experience prior to 1981 with the State Security Court, and the resulting ideological resistance to the recreation in any form of a special jurisdiction that would not pay sufficient homage to individual rights. From this perspective, the derogations from the common practice in the laws of 1986, 1995 and 1996, though much less than those embodied in the State Security Court, have nonetheless been denounced by various sections of French society.

Collectively, these laws allow the magistrates to hold suspects in terrorist cases for four days rather than two before charging them, give them the right to issue and carry out search warrants during the night and to request trials without jury in specific cases.<sup>45</sup> The centralisation of judicial apparatus and the close relationship between the magistrates and the DST has been criticised in the media and by human-rights organisations.<sup>46</sup>

Two areas in particular have been the object of acerbic criticisms: the preventative round-ups and the associated indiscriminate detention of suspects; and the broad powers given to the magistrates to conduct these sweeps and detentions with very little oversight. The 9 November 1993 *Operation Chrysanthemum* was denounced as a sweep, using the French word '*rafle*', which specifically evokes actions taken during the German occupation against the Jews.<sup>47</sup> In the event, 88 people were interrogated but only three were incarcerated and put under investigation for 'conspiracy in relation to a terrorist enterprise'. During the dismantlement of the Chalabi network, on 8 November, 93 people were arrested. A second related wave of arrests, on 25 June 1995, led to the arrest of 131 people throughout France belonging to the network of the Sheik Salem. Finally, the preventative roundup of 26 May 1998 put 53 people behind bars, although 40 of them were released within 48 hours.

A variety of media outlets, as well as the Fédération Internationale des Ligues des Droits de l'Homme (International Federation for Human Rights) declared the arrests 'media spectacles' and 'destructive of liberty'.<sup>48</sup> The round-ups have often swept up people against whom there

is no pre-existing evidence or people who have nothing to do with the networks, but just happen to be present on the day of the sweep. French law permits the authorities to arrest suspects and to hold them at their disposition without charge for two days for ordinary cases and four days in cases related to terrorism (as determined by the magistrates) while they gather evidence to decide if an investigation is warranted.<sup>49</sup>

From the magistrates' perspective, the number of arrests is justified by the size of some of these networks, and by the fact that in the early 1990s many dangerous Algerian militants were coming to France to escape the Algerian civil war. Magistrates also note that previously unknown individuals have occasionally proven to be valuable intelligence sources. According to one official, the magistrates learned from the experience of the dismantlement of Chalabi network, as from the failure to find all of the networks, the necessity of maintaining a constant operational surveillance over Islamic groups in order to avoid their development on French territory.<sup>50</sup>

Another frequent criticism is that there is no controlling authority over the actions of the anti-terrorism magistrates and that the anti-terrorist laws of 1986 and 1996 offer them excessive scope to decide what constitutes terrorism or intent to commit terrorism. According to a January 1999 report of the Fédération Internationale des Ligues des Droits de l'Homme, a number of jurists and lawyers have expressed reservations about the vagueness of the anti-terrorist laws, notably in the Chalabi affair.<sup>51</sup> Not only does the 1986 law heavily concentrate a wide variety of counterterrorist functions in the hands of a limited group of anti-terrorism magistrates, but their conclusions are then usually accepted uncritically by the other actors in the judicial system, with very little oversight by any outside authority. Only the Chambre d'Accusation exercises any control over the decision of the magistrates, and only in the sense that it decides on issues involving respect for the procedures of the laws, not on issues of fact, such as what qualifies as 'an association of criminals for purposes of committing terrorism.'

In particular, because the 1996 legislation created the important notion that conspiracy to commit to terrorism was itself a crime, it allowed the investigating magistrates to link suppression with prevention to ensure that terrorist actions never materialise. They can open investigations and deploy their expertise and judicial tools *before* terrorist attacks take place, thereby creating a capacity not just for punishing terrorist attacks *post facto*, but for preventing them in the first place. In this regard, arresting a large number of people, in the view of the magistrates, makes it possible to carry out corroborated interrogations to maintain knowledge of perpetually evolving networks. Thus, for example, the arrests in 1998

permitted the authorities to prevent the attacks planned on the Football World Cup, one of which was intended for the Stade de France, the new and highly visible stadium built for the World Cup Final. This stands in contrast to normal French law that usually insists that an infraction has actually taken place before a judicial investigation can begin.

For the League of Human Rights, the introduction of the ‘conspiracy to commit terrorism’ language opened the door to arbitrary enforcement because a number of acts, which are basically not illegal, become illegal when a magistrate decides they occur in the context of intent to commit terrorism. Thus, according to the League of Human Rights, this definition of criminal conspiracy contravenes the French legal principle according to which laws must be certain and precise. For the League of Human Rights, the law is all the more destructive of liberty because it fails to require the magistrate to attach the allegation of participation in conspiracy to any specific terrorist act.<sup>52</sup>

The magistrates deny that the French code contravenes public liberty. The exceptions to the normal judicial procedures remain minimal, in particular compared to the exceptional procedures put in place by the United States since 11 September and given the danger that terrorist threats pose to French interests and to the French population both at home and abroad.

### **Postscript: the al-Qaeda connection and Ahmed Ressay**

France’s struggle with the GIA led the French authorities to understand relatively early that the Islamist threat was of a new, complex and global type. Indeed, how these investigations led to this conclusion, to al-Qaeda in general and to Ahmed Ressay in particular, are illustrative of the methods employed by the anti-terrorism magistrates.

Starting in 1994, the anti-terrorism magistrates began to notice the departure of many hard core GIA militants for Afghan training camps. The interrogations of the people belonging to the Lyon cell of the GIA after the 1995 attacks had also shown that they had been sending new recruits to Afghanistan since the beginning of the 1990s. There, they received a military education in small arms and explosives as well as a religious education in radical Islam. French investigations also revealed that the financing for the attacks of 1995 came from London. The financier of attacks in London, Rachid Ramda, was in turn found to have financial and other connections with Osama bin Laden and his group of Afghan veterans.<sup>53</sup> Clearly, France’s Algerian problem was internationalising.

The subsequent affair of the Roubaix gang supported this conclusion. The Roubaix affair began with several heavily armed robberies in the Roubaix region in the period January–February 1996. The robberies originally

appeared to have no relation to international terrorism. On the eve of the G-7 summit at Lille on 29 March 1996, however, the gang put a bomb in a car near a police station; the bomb was discovered and dismantled. In the subsequent investigation, one of the members of the gang was identified. A police operation the next day led to the gang's hideout and to a five-hour gun battle. The gang refused to emerge from their house even as it caught fire, and many were burned alive.<sup>54</sup> A subsequent investigation determined their link to the Islamist movement, but, despite this connection, the Roubaix gang were not typical Algerian guerrilla fighters. Rather, they were native-born French citizens and second-generation French North Africans who had converted to radical Islam in France and made their connections with the terrorist movement in Bosnia and Afghanistan. The magistrates were beginning to develop a vision of a global, yet nebulous Islamist *internationale*.

From an address book (actually a Sharp organiser) found on the body of the deceased leader of the Roubaix gang, Christopher Caze, links were established with individuals in Italy, Belgium, Algeria, Britain, Canada and the United States. This, according to French anti-terrorism magistrate, Jean-Louis Bruguière, suggested that 'the structure of the organisation – and the targets – had changed. The targets weren't just in France or Europe'.<sup>55</sup>

Profiting from this information, the French system evolved once again and the magistrates began increasingly to open investigations into acts of terrorism committed on French citizens or against French interests abroad. From those leads, Bruguière eventually found Fateh Kemal, who along with Ahmed Ressam had formed a radical Islamist cell in Montreal. With limited Canadian cooperation, the French put the cell under surveillance, collecting evidence that would, in the wake of Ressam's arrest at the US border, help to unravel the cells that had supported him in the US and Canada.<sup>56</sup>

Similarly, in August 2001, when FBI field agents in Minnesota became suspicious of a French citizen of Moroccan descent, Zacarias Moussaoui, who had been taking flight simulator training lessons, one of their first steps was to contact French intelligence. The French were able to provide, within a few days, a substantial dossier on Moussaoui, detailing his links with radical fundamentalist Islamic groups going back to 1996, including, according to French officials, al-Qaeda.<sup>57</sup> The FBI, apparently distrustful of, or unimpressed by, the French intelligence, refused to use it to seek a search warrant for Moussaoui's computer in the weeks prior to 11 September. Searches of his computer after 11 September revealed links to Mohammed Atta, the ringleader of the terrorist attacks on New York and Washington.

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**Lessons for the United States**

As the preceding discussion has demonstrated, the French system for fighting counter-terrorism is far from perfect. It has not always been able to prevent attacks in France; it has often been the source of fairly egregious violations of civil rights; and, according to some commentators, it risks creating dangerous social cleavages within French society through its excessive zeal and intrusiveness, particularly into the life of the French Arab community.<sup>58</sup> The point in describing the French experience is not so much to demonstrate an ideal, but rather to point out the lessons the French learned along the way as they experimented, in turn, with policies that emphasised sanctuary, accommodation and ultimately, suppression and prevention.

Drawing lessons from the French experience with terrorism for other countries is a perilous exercise. France and the United States, in particular, have numerous differences in their capacities, their cultures and the types of terrorist threats that they face. These differences mean that institutions cannot and should not simply be copied from one to the other, regardless of their efficacy in their original context. France's unitary, centralised government system and powerful executive means that the state has, when it recognises the necessity, an impressive capacity to force coordination or even centralisation of specific policy areas. In the highly decentralised US, where 50 semi-sovereign states and, on the federal level, co-equal legislative and judicial branches all share power with the executive, such coordination remains difficult despite the Federal executive's primary, and especially since 11 September, expanding role in leading the US response to the terrorist threat.

From an historical standpoint, France's experience with the threat of internal subversion has long allowed and even demanded the existence of powerful domestic intelligence agencies.<sup>59</sup> As a result, the French intelligence services have built up an extensive system of domestic monitoring, particularly in the Arab community. The French public is accustomed to and willing to tolerate a police bureaucracy that would certainly be viewed as invasive in the US, even taking into account the change in attitudes after the 9/11 attacks. While there is concern over the effect of this system on civil liberties, particularly to the left of the political spectrum, there seems to be a consensus that the freedom to walk the street or to take the subway without fear of bombs lies at the base of all other civil liberties.<sup>60</sup>

Finally, because France has lived so long under the spectre of terrorism at home, neither state officials nor the public views the problem as transitory or fixable, but rather sees political terrorism as an inevitable and permanent feature of modern life. The French system therefore seeks to manage and minimise the problem rather than to solve it. In contrast, in the

United States, the very notion of a 'war on terrorism' implies that the struggle will someday end.

Despite these important distinctions, there are at least three important lessons to learn from the French experience that are applicable to the US context.

### **A centralised and specialised judicial process**

In the United States, the executive has often been uncomfortable using judicial processes for dealing with national security threats such as terrorism. There is a belief that the process is too slow, too dependent on inflexible rules and too unresponsive to the needs of a rapidly evolving and essentially political threat. Most damningly, there is a concern that judicial processes will require the publication of secret information that might compromise future efforts to prevent terrorist attacks. Thus, since 11 September, the US system for counter-terrorism has de-emphasised, to the lowest degree possible, the use of normal American judicial processes. Many suspected terrorists are held beyond the reach of normal jurisprudence in the US Naval Base on Guantanamo Bay, Cuba and elsewhere and a system of special military tribunals has been developed to determine their guilt or innocence and to decide their punishment.<sup>61</sup>

To some degree, the French went this extra-judicial route in the 1960s when they established the State Security Court. While that court was reasonably effective at its task, it lacked the legitimacy of a normal judicial procedure and as a result was extremely controversial and divisive within France. When the opposition socialists came to power in 1981, in a time of lower terrorist threat, they eliminated the court and did not replace it. The lesson for those reconstructing the system in 1986 was that to maintain vigilance in times of decreased threat and to ensure that the system would not be undone by the next government, they had to create a process that existed as much as possible within the normal procedures of French justice and that could therefore have legitimacy across the political spectrum.<sup>62</sup>

The result was a specialised and centralised, but basically normal legal procedure for dealing with terrorism cases that takes place in a regular court in front of non-specialised judges.<sup>63</sup> Police, prosecutors, and magistrates are geographically centralised in Paris and functionally specialised on terrorism. Thus, a terrorist attack anywhere in France, or involving French interests abroad, is investigated and prosecuted out of the judicial offices in Paris. Some in France complain about the presiding judges' lack of specialisation, claiming that the judges don't understand the specific dynamics of terrorism, which are distinct from other types of crimes. However, this misses the lesson of the State Security Court, that

legitimacy across the divisive French political spectrum is important as well as efficiency in judicial procedures.

In part such legitimacy is important because the terrorist threat by its nature is in a perpetual state of mutation and adaptation in response to government efforts to oppose it. The international Islamist threat is particularly adaptable, being composed of a multitude of independent organisations which can learn from each others' successes and mistakes, and which are ready to use any means at their disposal to accomplish goals that are often difficult for people outside the movement to understand.

Under these circumstances, the legitimacy of the investigating magistrates helps to ensure that the system has an unusual degree of flexibility. The magistrates have the capacity to open an investigation against a particular group based on intelligence that they might be involved a conspiracy to commit terrorism as defined in the laws of 1986, 1995 and 1996, or to investigate a terrorist act once it has been committed. They also have the right to interrogate, to put under investigation and to indict. These powers complement each other by allowing the magistrates to understand every step in the process, and permit them to accumulate a vast knowledge of the terrorist networks and of their intentions.

Thus, for example, one lesson the magistrates were able to glean from this experience was the importance of attacking logistical and financing networks. Terrorist attacks do not happen in vacuum. They are often prepared over a fairly long period, and require people in place to provide documents, shelter and directions, as well financing and the collection of intelligence on the target. This type of preparation is identifiable, but only if one knows what to look for, as it often involves acts that would otherwise appear perfectly innocuous, but which, taken as part of a larger context, might prefigure a terrorist act.<sup>64</sup>

The US has yet to create a set of judicial institutions for combating terrorism that can persist over the long term and respond to an evolving threat. The French experience shows that anti-terrorist institutions have the tendency to wither and rigidify in times of low threat, but that terrorism itself is a permanent although irregular feature of modern life. To prevent the next waves of attacks, however far off they might be, and to avoid re-inventing a slightly different wheel for each occurrence will require giving life to institutions that can persist and evolve even in times of low-threat.

### **The connection between judicial and intelligence organisations**

As noted, the centralised judicial apparatus in France has created an extremely competent and experienced investigative arm that works well with intelligence agencies. Of course, the French system is far from



having completely resolved the inexorable tension between intelligence and law enforcement. French intelligence officials do sometimes complain that specific magistrates overreach their authority, that they demand intelligence they don't need, and give too much latitude and information to journalists at the risk of compromising sources and methods. Nonetheless, the system that has evolved to manage this tension and the improvements made in the last 20 years are worthy of note. Because French judicial authorities are a relatively small cadre of highly experienced officials who interact on a continuing basis with the French intelligence agencies, this tension is much less pronounced than in the United States.

In part, this results from the complementarities between the investigating magistrates and the intelligence services. These complementarities are, in a sense, the result of numerous past failures. Among other problems, the harmful institutional rivalries of the 1980s and the inability to stop the wave of attacks in 1995, despite foreknowledge of the threat, led the political authorities to demand cooperation between judicial officials and the intelligence services. This clear political will was expressed in law (in 1995), but law is probably not what made the difference. The anti-terrorism magistrates and the leaders of the DST came together because they each had something the other needed – the intelligence officials had superior information and manpower, the judicial authorities had superior investigative powers. The experience of working in strict collaboration and of elaborating a common strategy created a great trust between the institutions, one that can hopefully survive the individual personalities that created it. The French experience in any case shows that success against terrorism demands effective cooperation between judicial institutions and the intelligence services.

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### **The interaction between counter-terrorism at home and abroad**

Countries can fight international terrorism at home by means of suppression and protection, or they can fight it abroad by going after the source of the problem. Both types are costly and difficult. Domestic protection and suppression measures limit civil liberties, place onerous requirements on citizens and require a degree of police repression that is contrary to notions of liberty and democracy. Fighting terrorism abroad is expensive and dangerous and requires subordinating other foreign policy goals to counter-terrorism. Specific countries are likely to emphasise either domestic or foreign measures, but not both.

Both the US and France, while never focusing exclusively on either the domestic or international front, demonstrated early in their struggles against terrorism a preference for fighting abroad, given the political cost of domestic measures. France found in the 1980s and 1990s that it could not fight terrorism abroad. The problem became harder when the groups' motives became less geo-political and more ideological, which made them harder to identify and locate. In any case, French authorities soon understood that they lacked the military capacity for either overt or covert operations abroad that could have a positive impact on terrorism at home. As a result, the French government eventually concentrated its efforts at home and created a system for monitoring, preventing, protecting against and pursuing terrorists that far outstrips, in terms of its invasiveness and effectiveness, anything the US has been willing to do, even after 11 September.

Despite the highly publicised efforts to create a homeland security department, the US has thus far concentrated its efforts abroad. With a few important exceptions, the United States has not set up social surveillance and invasive protection measures comparable to those in France. It is likely, however, that the US would resort to such measures if its fight against terrorism abroad appeared to be failing. The point is that the French system of domestic security is not simply a result of a French civic culture that is more tolerant of governmental monitoring. It is also born of a necessity revealed by an inability to combat terrorism in other ways. Regardless, therefore, of the very real difference in US and French civic culture on this issue, if the US fight against terrorism abroad is seen as failing, we can expect that the war on terror will, increasingly, come home, using methods already demonstrated in France.

If indeed the US war on terrorism comes home, it will highlight, as it did in France, the value of a domestic intelligence agency that can provide the link between the information gathered at home and abroad. Even before the emergence of the terrorist threat France had two domestic intelligence agencies (the Renseignements Generaux [RG] and the DST); but it was the DST that emerged as the lead French intelligence agency for counter-terrorism, due in part to its unique combination of an intelligence culture that valued protecting sources and an ability to interact with and work for the judicial authorities. Indeed, the DST, in combination with the investigating magistrates, now often gathers intelligence abroad in connection with counter-terrorism inquiries, although this would seem to be the role of the DGSE, the foreign intelligence agency. Many in the United States have suggested that US needs a domestic intelligence agency, similar to the DST or to the UK's MI5, and that the FBI is not and cannot be that agency because of its

longstanding law-enforcement tradition and culture.<sup>65</sup> The French experience does not shed any light on the possibilities of cultural transformation within the FBI, but it does highlight that the types of working relationships that FBI has with the judicial authorities would be extremely valuable and even necessary for any domestic intelligence agency in the fight against terrorism. If in creating a new domestic intelligence agency such relationships were lost or neglected, many of the advantages of such an agency would be lost.

## Notes

- <sup>1</sup> Michel Wieviorka, 'France faced with Terrorism,' *Terrorism*, Vol. 14, July/September 1991, p. 157–9.
- <sup>2</sup> On Ressay, see Bruguière, Judge Jean-Louis, 'Terrorism: Threat and Responses', October 2001 at <http://www.gcsp.ch/e/research/OccasPapers/BruguièrePDF.pdf>; Hal Berton et al., 'The Terrorist Within,' *The Seattle Times*, June 22–July 8, 2002, 18-part series.
- <sup>3</sup> This is still the popular image of French policy toward terrorism. According to a recent statement by Robert McFarlane, a National Security Advisor in the Reagan administration, 'with respect to terrorism, the French have been willing to wink at terrorists coming through and even finding safe haven in France as long as they didn't kill anybody in France'. *Hannity & Colmes Show*, Fox Network, September 17, 2002, Transcript # 091701cb.253
- <sup>4</sup> See for example, Michael Elliott, 'The Secret History,' *Time*, 12 August 2002, p. 28. French authorities have been careful not to claim that al-Qaeda has no cells in France and, to the contrary, repeatedly assert that they believe al-Qaeda and other Islamist groups are active in France and indeed are targeting France. See for example, the interview with French counterintelligence chief Pierre de Bousquet de Florian in Jacques Amalric and Patricia Tourancheau, 'Des réseaux terroristes très mobiles et autonomes,' *Liberation*, 6 December 2002.
- <sup>5</sup> Michael Y. Dartnell, *Action Directe: Ultra-Left Terrorism in France, 1979-1987* (London: Frank Cass, 1995).
- <sup>6</sup> Thus, 75% of terrorists attacks in France in 1968–88 came from separatist groups and only 6% from international terrorists, though the latter was responsible for 54% of the dead and 55% of the injured. A.J. Jongman 'Trends in international and domestic terrorism in Western Europe', in Crelisten Schmid (ed.), *Western Responses to Terrorism* (London, UK: Frank Cass, 1993), p. 61
- <sup>7</sup> Algerian terrorism in the 1950s and 1960s was at the time considered a domestic problem in France.
- <sup>8</sup> Pierre Marion, *La Mission Impossible: à la tête des Services Secret* (Paris: Calmann-Lévy, 1991), p 22. The SDECE was renamed the DGSE (Direction Générale de la Sécurité Extérieure) in 1981.
- <sup>9</sup> Daniel Burdan, *DST: Neuf ans a la division antiterroriste* (Paris: Editions Robert Laffont, 1990) p. 97; Herve De Weck, 'Les Services de renseignements a Coeur ouvert?', *Revue Militaire Suisse*, no. 2 (1991), p. 25.
- <sup>10</sup> Douglas Porch, *The French Secret Services: From the Dreyfus Affair to the Gulf War* (New York: Farrar Straus and Giroux), 1995, p. 431.
- <sup>11</sup> Michel Weivorka, 'French Politics and Strategy on Terrorism,' p. 68 in Barry Rubin (ed.), *The Politics of Counterterrorism: The Ordeal of Democratic States* (Philadelphia: Foreign Policy Institute, 1990).
- <sup>12</sup> Jongman, 'Trends in international and domestic terrorism in Western Europe', p. 44, Table 16.
- <sup>13</sup> Burdan, *DST: Neuf ans a la division antiterroriste*, p. 162
- <sup>14</sup> The three were: Georges Ibrahim Abdallah, chief of the FARL (Fractions Armées Revolutionnaires Libanaise) the organisation that had assassinated Charles Ray, military attaché of US embassy and Yacov Barsimentov, second secretary of Israeli Embassy in Paris in 1982, and had attempted to assassinate of Robert Homme, consul general of US in Strasbourg in 1984; Anis Naccache, a Lebanese Christian who had attempted to assassinate an

- Iranian dissident on orders from Tehran and in the process killed a neighbour and a French policeman; and Varoujean Garbidjian, a leader of ASALA (the Secret Army for the Liberation of Armenian) that had bombed the Turkish Airlines counter in Orly Airport in Paris in 1983, killing eight.
- <sup>15</sup> Burdan, 'DST: Neuf ans à la division antiterroriste', p. 310; Porch, *The French Secret Services*, p. 452.
- <sup>16</sup> Porch, *The French Secret Services*, p. 432.
- <sup>17</sup> Burdan, 'DST: Neuf ans à la division antiterroriste', p. 310 cites the defector, code-named Jabert, as claiming that a meeting took place in January 1986 between representatives of Iran, Libya, Syria and Abu Nidal for the purposes of planning the 1986 campaign of bombing in France
- <sup>18</sup> The French foreign intelligence service, the DGSE, apparently attempted retaliatory attacks that included a car bombing in Damascus in 1981, an attempted bombing of the Iranian Embassy in Beirut in 1983, and a raid on a terrorist training camp in Lebanon in 1986, but they were either unsuccessful (both attempts in Lebanon) or had little effect on state behaviour (Damascus). See Michel Wieworka, 'French Politics and Strategy on Terrorism,' p. 78–81; Porch, *The French Secret Services*, p. 435; Michel Wieworka, 'France faced with Terrorism,' *Terrorism*, vol. 14, July/Sept 1991, p. 162.
- <sup>19</sup> Georges Marion, 'Le Role des Services de Renseignement dans les rapports franco-iraniens', *Le Monde*, 31 July 1987.
- <sup>20</sup> For a recent example of how this controversy persisted as an issue in French politics, see 'M. Pasqua veut maintenir sa candidature à l'Elysee malgré les affaires; La controverse sur les otages du Liban se poursuit', *Le Monde*, 10 January 2002.
- <sup>21</sup> Michel Wieworka, 'France faced with Terrorism,' *Terrorism*, vol. 14, July/September 1991, p. 165.
- <sup>22</sup> At the time, these included among others the Police Judiciaire (PJ), the Direction Centrale des Renseignements Generaux (DCRG), the Direction du Surveillance Territoire (DST), the Police de l'Air and des Frontiers (PAF), the Gendarmerie Nationale, the Direction General de Service Exterieur (DGSE), the Brigade Criminelle, and the Direction de la Protection et de la Securite de la Defense (DPSD). For a more complete list, see Jean Guisnel and Bernard Violet, *Services Secrets: Le pouvoir et les services des renseignements sous la presidence de Francois Mitterrand* (Paris: Editions La Découverte, 1988).
- <sup>23</sup> Marion, *La Mission Impossible*, p. 54.
- <sup>24</sup> Porch, *The French Secret Services*, p. 464.
- <sup>25</sup> In 1954, in what became known as the 'Affair of the Leaks (*Affaire des Fuites*)', the DST had falsely accused the interior minister, Mitterrand, of leaking information that had brought about the fall of the French garrison at Dien Bien Phu.
- <sup>26</sup> Marsaud, Alain, *Avant de Tout Oublier*, Paris: Denoël Impacts, 2002, p. 14–16; Guisnel et Violet, *Services Secrets*, p. 41.
- <sup>27</sup> See for example, Luc Chauvin, 'French Diplomacy and the Hostage Crises' in Barry Rubin, (ed.), *The Politics of Counterterrorism: The Ordeal of Democratic States* (Philadelphia: Foreign Policy Institute, 1990).
- <sup>28</sup> This affair became known as the Irlandais de Vincennes Affair. For details, see the memoir of the Elysée cell member responsible for the affair, Paul Barril, *Missions très Speciales* (Paris: Presses de la Cite, 1984).
- <sup>29</sup> Loi no. 86-1020 du 9 September 1986 relative à la lutte contre le terrorisme et aux atteintes à la sûreté de l'Etat.
- <sup>30</sup> SCLAT was later renamed the 14<sup>th</sup> Section of the Parquet de Paris.

- <sup>31</sup> Interview with French official, October 2002.
- <sup>32</sup> Alain Marsaud, 'Pour un "Conseil de Sécurité"', *Le Monde*, 21 December 1985.
- <sup>33</sup> Irène Stoller, *Procureur à la 14<sup>e</sup> Section* (Paris: Michel Lafon, 2002), p. 107
- <sup>34</sup> Interview with French official.
- <sup>35</sup> Gerard Chaliand, *L'arme du terrorisme* (Paris: Louis Audibert, 2002).
- <sup>36</sup> Ali Laidi with Ahmed Salam, *Le Jihad en Europe, les filieres du terrorisme en Europe* (Paris: Seuil, coll. L'épreuve des faits, 2002), p. 193.
- <sup>37</sup> It should be noted that some people view these kidnappings as a manipulation by the Algerian secret services who wanted to convince French authorities to act against opponents of the Algerian regime in France.
- <sup>38</sup> Ali Laidi, *Le Jihad en Europe*.
- <sup>39</sup> Interview with Mme Irène Stoller.
- <sup>40</sup> Although the origin of an apparently linked attack on 3 December 1996 at the Port-Royal RER station remains a mystery.
- <sup>41</sup> According to Article 421-2-1 of the French Penal Code, inserted on 22 July 1996, 'The participation in any group formed or association established with a view to the preparation, marked by one or more material actions, of any of the acts of terrorism provided for under the previous articles shall in addition be an act of terrorism.' See [http://www.legifrance.gouv.fr/html/codes\\_traduits/code\\_penal\\_textan.htm](http://www.legifrance.gouv.fr/html/codes_traduits/code_penal_textan.htm).
- <sup>42</sup> Interview with French official, October 2002.
- <sup>43</sup> Interview with Alain Marsaud, October 2002.
- <sup>44</sup> Interview with French official, October 2002.
- <sup>45</sup> This provision from the 1986 law, results from the experience in an Action Directe trial when the entire jury had resigned under threat.
- <sup>46</sup> See, for example, Jean Pierre Versini-Campinchi, 'La légitimité des sources d'informations exploitée par l'institution judiciaire', *Le Figaro*, 6 February 2002.
- <sup>47</sup> See, for example, Inciyan Erich, 'Après les coups de filet policiers dans les milieux kurdes et islamistes en France: Le message des opérations "Chrysanthème" et "Rouge-Rose Monde"', *Le Monde*, 2 December 1993.
- <sup>48</sup> Fédération Internationale des Ligues des Droits de l'Homme, 'France : la porte ouverte à l'arbitraire', Rapport d'une mission internationale d'enquête en France sur l'application de la législation anti-terroriste January 1999, no. 271, [www.fidh.imagnet.fr](http://www.fidh.imagnet.fr).
- <sup>49</sup> US law, even after the October 2001 Patriot Act, still does not allow such preventative detentions of US citizens. However, the Patriot Act (Section 412) provides for the detention without charge of non-citizens suspected of terrorism for seven days and, if the government is seeking to expel the non-citizen from the United States, for renewable periods of six months. Moreover, the Bush administration has asserted a power based on precedent from the Second World War to declare even citizens 'enemy combatants' and to hold them in apparently indefinite detention. However, this power is, as of the time of writing, under challenge in the Federal courts.
- <sup>50</sup> Interview Mme Irène Stoller, October 2002
- <sup>51</sup> Fédération Internationale des Ligues des Droits de l'homme, 'France : la porte ouverte à l'arbitraire', [www.fidh.imagnet.fr](http://www.fidh.imagnet.fr).
- <sup>52</sup> Fédération Internationale des Ligues des Droits de l'homme, 'France : la porte ouverte à l'arbitraire', [www.fidh.imagnet.fr](http://www.fidh.imagnet.fr)
- <sup>53</sup> At the request of the French authorities, Ramda was arrested in

London, but much to their disgruntlement, after seven years Britain has still not satisfied their request for extradition.

<sup>54</sup> Laidi, *Le Jihad en Europe*, p. 217.

<sup>55</sup> Quoted in Hal Bernton et al, 'The Terrorist Within,' *The Seattle Times*, 25 June 2002, p. A7.

<sup>56</sup> *Ibid.*

<sup>57</sup> Raymond Bonner and Douglas Frantz, 'French Suspect Moussaoui in Post 9/11 Plot', *New York Times*, 28 July 2002, p. 22. FBI officials dispute this claim by the French, asserting that the French evidence at the time was quite vague. However, an FBI agent in Minnesota, Coleen Rowley, privy to the information provided by the French has asserted that it definitively established Moussaoui's links to various terrorist groups including some linked to Osama Bin Laden. See Coleen Rowley, 'Memo to FBI Director Robert Mueller', reprinted at <http://www.time.com/time/nation/article/0,8599,249997,00.html>

<sup>58</sup> See for example Didier Bigo, 'Reassuring and Protecting: Internal Security Implications of French Participation in the Coalition against Terrorism', pp. 72–94, in Eric Hershberg and Kevin W. Moore, *Critical Views of September 11* (New York: The New Press, 2002).

<sup>59</sup> Porch, p. 20.

<sup>60</sup> This was a common view among French interviewees of various backgrounds.

<sup>61</sup> For a contrary argument, see Ruth Wedgewood, 'Al Qaeda, Military Commissions, and American Self-Defense', *Political Science Quarterly*, vol. 117, no. 3 (Fall 2002), pp. 357–372.

<sup>62</sup> A wide range of French interviewees expressed this opinion.

<sup>63</sup> See Stoller, *Procureur à la 14<sup>e</sup> Section*, p. 206

<sup>64</sup> This was a very common observation among French anti-terrorism officials.

In contrast, note Bruce Hoffman's point about just how easy the 1995 attacks in France were to carry out. Bruce Hoffman, 'Intelligence and Terrorism: Emerging Threats and New Security Challenges in the Post-Cold War Era', *Intelligence and National Security*, vol. 11, no. 2 (April 1996), pp. 207-223

<sup>65</sup> See, for example, The Gilmore Commission, *Fourth Annual Report to the President of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction*, 15 December 2002, pp. 41–42 available at <http://www.rand.org/nsrd/terrpanel/terror4txt.pdf>; *Final Report of the Congressional Joint Inquiry in September 11*, 10 December 2002 and in particular the addendum by Senator Richard C. Shelby, both available at [http://www.fas.org/irp/congress/2002\\_rpt/index.html](http://www.fas.org/irp/congress/2002_rpt/index.html)

