

One Answer to Terrorism

Lawrence Shook

At 4:15 on the rainy afternoon of February 3, 1975, a San Diego Sheriff's Department SWAT (Special Weapons and Tactics) team mistakenly shot and killed fifteen-year-old Leland Phelps in Oceanside, California. The boy was being held hostage by a barricaded sniper. Seconds after Phelps was shot his captor, an out-of-work twenty-year-old carpenter, took his own life. A large gathering of spectators had pressed in to watch the drama. Many who saw what happened, and many others who later analyzed it on the basis of reports, blamed the police for the outcome. There is a widespread feeling that the police themselves created the situation, spawning circumstances of confusion and fear from which, in the language of law enforcement, "fatal force" was the logical result.

SWAT was developed to prevent the very denouement it brought about in Oceanside. During the riotous mid-sixties Special Weapons and Tactics first surfaced in Los Angeles. It was devised as a means of dealing with the wide assortment of desperate characters, lone crazies, and dedicated revolutionaries who sprang up to wage a bloody assault against society. The novelty of SWAT was that it brought military organization to civilian police—commandolike cops to put down insurgentlike criminals.

From the Marines at Camp Pendleton, L.A.'s first SWAT officers learned about patrol and reconnaissance. Reportedly they received more than a thousand hours of instruction from the Marines in subjects that included "Quick Kill Techniques with M-16," "Combat in Fortified or Built-up Areas," "Night Elimination" (using a high-powered rifle), "How to Use Smoke and Explosive Grenades," "Chemical Warfare," and "Ambushes." The basic SWAT team consists of four men: a sniper, a spotter, and two men armed with shotguns to provide cover. The rationale was that such specially trained and equipped police officers would not only be better able to quell unusually dangerous situations, but would be able to do so with a maximum degree of restraint. In Oceanside the whole concept broke down.

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A San Diego County grand jury investigated the Phelps shooting and issued an interim report titled "Tragedy at Oceanside." The report roundly criticizes both the San Diego Sheriff's department and the Oceanside police. Several instances of police incompetence were discovered, as well as a shoot-to-kill order that appeared brutally premature. The jury adjured both agencies to put their respective houses in order.

That reprimand, however, was far from an end of the matter. A mammoth lawsuit, \$32 million, lies in the wake of the innocent boy's death. More alarming is the possibility that, because of SWAT's rising popularity and the high risks inherent in its use, Leland Phelps could prove to be the forerunner of other SWAT victims unless urgent and careful examination is given this new method of policing. SWAT teams are flourishing in police forces all over Southern California, and the Los Angeles Police Department, where SWAT originated, reports that it is now receiving five hundred inquiries about SWAT annually from law enforcement agencies around the world.

The obvious source of such universal interest in unconventional policing is the current world epidemic of terrorism. So far no effective method of curbing the violence has been developed. In the opinion of many, SWAT is not the answer. Sergeant Gerald Doane of the San Francisco Police Department remarks: "SWAT is basically marksmanship, sophisticated marksmanship, and that's all." But in these days of airport massacres, bombings, and the wholesale taking of innocent hostages many officials might conclude marksmanship is better than nothing. A consensus on how best to deal with terrorism, however, remains maddeningly elusive; nations cannot even agree on a diagnosis, much less prescribe a cure.

In 1973 U.N. Secretary-General Kurt Waldheim moved to have a "Measures to Prevent Terrorism" item added to the agenda of the 27th General Assembly. The result was a voting pattern that cleanly divided the so-called "have" and "have-not" countries. Of the twenty-five non-Socialist nation members of the U.N. considered "developed," all, except

Malta, voted in favor of inscribing the item. Among the developing nations there was disagreement: 41 voted for it, 25 against, 23 abstained. Of the eighteen-member Arab bloc only Jordan voted in favor of inscribing. In short, the U.N. was not prepared to try to stop terrorism. That performance scarcely came as a surprise to U.N. observers, for only a year earlier the member nations could not agree among themselves to condemn the atrocity at the Munich Olympics.

In general, Third World nations will not support initiatives to thwart terrorism, because they themselves feel victimized by "official terrorism." What is the distinction, they ask, between the terrorist acts of private individuals and the terrorist acts of governments? After all, Britain used terrorism against Dresden. Germany used it in Rotterdam. The U.S. practiced variations of terrorism in Vietnam, as did the North Vietnamese. Even the Israelis are guilty: Der Yassin, 1948, where two hundred Arab men, women, and children were massacred.

The official position of China on the current rash of terrorism is condemnatory. Assassinations and hijackings are seen as "adventurist acts." Yet the Chinese also shun U.N. initiatives because they fail to address systematic government violence. China's thesis is that in the community of the world existing conventions favor the rich and powerful and offer pathetically little protection for developing countries against official terrorism.

In the West the main interest is simply to find a way of sparing the innocent from the wrath of radicals. Across huge cultural chasms the deeds of terrorists are perceived as psychotic, even rabid. The Third World claims to take a more casual approach to the problem. When Waldheim pressed to have "Measures to Prevent Terrorism" considered, Arabian Ambassador Jamil B. Baroody hotly protested. More fitting, he insisted, that the member nations look into "the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes." Such thinking holds that the *only* way to eliminate terrorism is to solve those problems that produce climates of violence. Accordingly, nothing could put the terrorist elements among the Palestinians out of business more quickly than a just Middle East peace.

Despite the appearing logic of that argument, it does not make for a hopeful prognosis. The affairs of the world are too complex, the simultaneous growth of population and technology lend ominous new force to John Donne's reflections on the interdependence of "mankind." Many people no longer assume that their fate lies in the hands of any local ruler or government. Rather, they feel it hangs on actions and decisions often made thousands of miles away. That sense of remoteness, of alienation, if you will, causes people to believe that their troubles are produced by impersonal forces quite indifferent to their needs. The consequent sense of helplessness and despair, it is commonly said, explains the fanatical and harsh character of much contemporary terrorism.

Sociology and politics aside, however, the hard reality

of terrorism is that it is on the rise. Unless governments are willing to allow innocent citizens to be the pawns of radicals, effective countermeasures must be developed. At the beginning of this decade it was still a popular belief that terrorism was an act of the desperate, not of committed revolutionaries. The major armed guerrilla movements of the world, it was believed, rejected terrorism in favor of more subtle methods. Recent developments have overturned that theory. There are indications now that both Cuba and the USSR may be involved in the training of terrorists. And some evidence exists that left-wing terrorist bands around the world—including the Popular Front for the Liberation of Palestine, West Germany's Baader-Meinhof gang, the Japanese Red Army, the Irish Republican Army, and the Tupamaros of South America—have been working in concert.

Since terrorism has become everyone's business, most Western governments are agreed that strong action of some kind must be taken to check its spread, but exactly what can be done remains very much a mystery. Traditionally, Israel has taken the toughest stance of any nation, categorically refusing to negotiate terrorist demands and insisting that as long as governments submit to hostage blackmail the situation will remain hopeless. Canada too has taken that position and had the tragic experience of seeing one of its ministers executed by the terrorist Québécois group when Prime Minister Trudeau refused to give into their demands. Britain has vacillated on the subject. When the PFLP demanded the release of would-be hijacker Leila Khaled or else have a planeload of British hostages blown up on a Jordanian airfield, the government capitulated. However, when Sir Geoffrey Jackson, Ambassador to Uruguay, was held captive by the Tupamaros, Britain refused to negotiate. And recently London police forced two notorious IRA terrorists to give up by simply waiting them out. The Netherlands enjoyed a similar success with the Moluccans, though one hostage was executed while talks between the terrorists and authorities were going on.

The brutality of the IRA in its own country remains a perennial problem for England. Despite thousands of English troops, the cancerous hatred between Irish Protestants and Catholics spills over in a continuous tide of heartless violence. When ten Protestant textile workers were recently abducted by IRA gunmen and executed on a country road in Northern Ireland's County Armagh, the British response was typical. Soldiers and armored cars were rushed in from as far away as Germany. But in the Irish pubs the virulent anti-British rhetoric went on, and everyone knew the situation was as hopeless as ever. One ruddy barman put it this way: "We're not pro-IRA, we're just anti-British. We hate them, and nothing is going to change until they leave."

And nothing is going to change elsewhere in the world, most observers seem to feel, until nations come to an agreement among themselves on how to handle terrorists and develop a uniform strategy. The battle against terror was handed a disastrous setback when Austria gave in to the OPEC kidnapers this past year. Still worse damage was Algeria's decision to grant the terrorists asylum. The emerging consensus is that so long

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as governments accede to the demands of terrorists and asylum is available anywhere in the world, it will probably remain impossible to check their acts.

In the absence of any other instrument, international or domestic, to cope with the violence of radicals many U.S. police officials feel a SWAT-type capability represents the best protection for society. Others aren't so sure that SWAT doesn't pose dangers that outweigh its benefits.

Some fear that SWAT units could be used as highly trained urban assassins. They point to the L.A. SWAT confrontation with the Black Panthers and the bloody televised shootout with the Symbionese Liberation Army as examples of SWAT's treatment of the politically undesirable. Even some police have strong reservations about SWAT. The New York City and San Francisco departments, for example, both prefer taking a psychological approach to snipers, gunmen with hostages, and the like. So does the FBI. Those agencies will avoid the use of force at almost any cost, and in its place try talking suspects into surrender. According to New York and San Francisco police, the tactic has been 100 per cent successful. Philosophical critics of SWAT charge that it epitomizes the tremendous overemphasis placed on the violent nature of law enforcement. But whatever pragmatic or ideological judgments one might make, the shooting of the Phelps boy should become part of the textbook on SWAT.

The carpenter, David R. Terrell, Jr., was the catalyst. A psychiatric patient, he had long felt persecuted by the police, and during the last year of his life it seemed to him that he just couldn't stay out of their way. The Oceanside police acknowledge that they had indeed had a number of "contacts" with him. Whatever it was that haunted David Terrell, it must have come to a head on the morning of February 3, for at about 11:40 he called the police and threatened to "blow away" the next police cruiser that entered his neighborhood. (It later developed, in testimony taken by the San Diego County grand jury, that twenty-four hours earlier Terrell had run out of the tranquilizer prescribed by his psychiatrist.) Shortly after Terrell's call a policeman observed him sitting in front of the home of his neighbors, Mr. and Mrs. Charles Tom Ryan, a .22 rifle in hand. Terrell fled into the Ryan home upon seeing the policeman, barricaded himself with the Ryan's three young daughters (Michelle, eight, Melisa, six, and Monique, three). Then, when Phelps happened along on the sidewalk, Terrell ordered him at gunpoint to sit down in the front yard, a buffer between himself and police.

When more Oceanside police arrived, they succeeded in negotiating with Terrell for the release of two of the hostages, six-year-old Michelle and Phelps himself. But the officers failed to question either child, forgoing a valuable opportunity to obtain possibly crucial clues to Terrell's frame of mind, what was happening inside the house, and so forth. Terrell said he would "shoot the skins" off the remaining girls if the police did not leave.

A few moments later Leland Phelps apparently went with another youth to lock some dogs in a backyard.

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Terrell saw him on the sidewalk and ordered him to return to the Ryan home. Not long afterward Terrell released Monique, the three-year-old, in exchange for a pack of cigarettes from the police. One witness said Phelps tried to depart with the girl, but once again Terrell detained him. "Don't try it, Leland," Terrell reportedly said.

As Terrell took occasional potshots—firing in all some twelve times, shattering a squad car window, wounding a dog—the number of Oceanside patrolmen on hand continued to climb. Terrell's mood seemed to deteriorate commensurately. Attracted by so much police activity, throngs of onlookers jammed the area within easy range of Terrell's rifle. So inexperienced was the police management of the crowd that onlookers and reporters clogged the house designated as the command post and, as the grand jury reported, made "free use of the only telephone, curtailing vital official communication."

The OPD was almost totally feckless. At one point they decided to use tear gas, only to discover that no one had brought any along. It was a case straight out of SWAT training manuals, precisely the kind of police failure in the face of dire emergency that SWAT was designed to alleviate. Ineffectual in their handling of the affair, the OPD called for a sheriff's SWAT team and received three from county substations. According to the mutual aid agreement that exists among San Diego area law enforcement agencies, SWAT is a "mission organization." A requesting agency may inform SWAT what the mission is, but not how to perform it. This is where SWAT expertise is meant to take the place of orthodoxy. Yet when the first SWAT team arrived at the scene, it was told by a sheriff's captain that the situation was an Oceanside Police Department "show" and to let them run it. The orders of OPD Deputy Chief Rolf Henze to SWAT were simple: shoot Terrell. By all measures the instructions were premature.

One tactic of Henze's was particularly inept, even brutal. Negotiating for the release of a hostage, Henze offered Terrell an unmarked police radio car. Apparently the Deputy Chief had no intention of allowing Terrell to escape with the vehicle. The grand jury again: "Furthermore, testimony given indicates that the car was to be used as a trap, since the Deputy Chief issued an order to SWAT to shoot the suspect if the Oceanside police could get the suspect out of the house." The order was, in fact: "Try to get a head shot."

When Leland Phelps's parents, Diane and Martin Underwood, arrived, they were not encouraged by what they saw. The roofs of surrounding houses were crowded with spectators, like so many grandstands, and to the Underwoods the police seemed to be as busy accommodating television film crews as

they were in trying to coax Terrell to give up. "My God," screamed Phelps's mother. "What is this, a circus?" The police tried to calm her, but she was terrified. There was too much confusion. The SWAT men alarmed her, lurking behind cover in their dark jumpsuits, armed with rifles and shotguns. The mother's anxiety was not relieved when at one point she heard the radio crackle with a man's voice, "I've got someone in my sights." "Why don't you shoot the son of a bitch?" asked another officer. The voice said, "Because it's the hostage. Ha, ha, ha." Everyone agreed, even some of the officers, that there were just too many policemen. Terrell, who became incensed at the sight of police under the best of circumstances, might have been more reasonable; might have felt less trapped and hunted, had the neighborhood not been crawling with cops.

In the late afternoon, with the light failing and a hard rain beginning to fall, Terrell instructed Phelps to come inside the house. The boy had been sitting in the yard off and on for some four and a half hours. Nothing had worked with Terrell. The police had even called in his psychiatrist to talk to him, but to no avail.

All fourteen SWAT officers were staked out in various sniping positions. But even though heavily armed, they were otherwise ill-equipped, possessing only three radios between them. Lacking a radio, the twenty-seven-year-old deputy who shot and killed Phelps had no communication with his fellow officers for thirty minutes and was unaware that the boy had reentered the house. The deputy had received orders three different times to shoot Terrell if he got a clear shot; he knew Terrell had a six-year-old girl whose life he had threatened. With his high-velocity AR-15 rifle, the deputy was planted behind a bedroom window in an adjoining house, and his field of vision included a view that looked across a driveway to the kitchen door of the Ryan place. The door had a curtained window; little could be seen of the kitchen within. When Phelps went to the door, the deputy could not have glimpsed much more than his torso.

The Underwoods had by this time returned to their house, just four or five doors away, where Martin was trying to convince his wife that everything would be all right. Every time they heard the muffled pop of Terrell's .22 Diane Underwood would stiffen, her eyes widen, and she would remain frozen until the tone of the bullhorn told the family that no one was shot. Diane Underwood was doubly troubled because for as long as she could remember Leland had possessed a terrible fear of guns; several times she had seen her son fly at other children who pointed toy weapons at him. She did not like to think what must have been going through her son's head.

When they heard the loud crack of the deputy's rifle, Martin Underwood said, "That wasn't no .22." Leland's seventeen-year-old brother Chuck started to rush out of the house, crying, "They've killed my brother. Oh, the sons of bitches. They've killed him, they've killed him." And they had.

The deputy's shot was the only one fired by the police, was in fact the only time a San Diego County SWAT team ever fired at a suspect. The bullet hit the boy high in the chest, spinning him against the refrigerator door;

splattered with blood, he stumbled outside, screamed "I've been shot," and collapsed in the Ryan's driveway before the crowd. Then Terrell had only to commit suicide for the tragedy to be complete. According to the last remaining hostage, Melisa Ryan, Terrell said, "Oh, my God, I'm going to kill myself." He took the little girl into the bedroom, telling her he was going to read her a story, sat down on the bed, put the .22 rifle to his head, and pulled the trigger. The gun misfired. He succeeded with a second effort.

San Diego Sheriff John Duffy, no doubt inadvertently, provided the most cohesive outline of his team's failings. Explaining the rationale for the existence of SWAT, he observed that ordinary police officers are subject to a host of inadequacies. They don't perform up to snuff where barricaded hostages are involved; in tight circumstances they are prone to faulty communication and poor command; they don't develop factual information, acting instead on assumption rather than fact; they don't evacuate danger areas; they don't control their gunfire; they dispatch officers on a piecemeal basis; and they use independent initiative instead of teamwork. His description seemed to fit perfectly the tragedy at Oceanside.

Apart from the economic repercussions that could result from the massive lawsuit, neither John Duffy nor anyone else in his department seemed very concerned about the death of Phelps; certainly no critics have emerged from the sheriff's ranks. Like David Terrell, Phelps had also had several run-ins with the police. One sheriff's spokesman, who asked not to be identified, summed it up this way: "A week before this happened the parents probably would have taken \$150 for their kid. Now he's worth eleven and a half million dollars" (the original amount levied against the county, later raised by the Underwood's attorney to \$15.5 million. This in addition to another \$15.5 million against the city of Oceanside.).

The attorney, Michael Hegner, says he fears for the public safety at the thought of SWAT's being used by unqualified organizations like the San Diego Sheriff's department. "Let's fact it," he says, "that SLA shoot-out on live TV generated a lot of interest in SWAT. I'm sure that now even Brawley [a tiny California desert community] wants a SWAT team." And maybe they'll get one. And maybe the Phelps tragedy will be repeated. In sad fact, it already has been. Just seven months later, on September 3, Lake Tahoe police, using a SWAT *modus operandi*, accidentally shot and killed the twenty-two-year-old hostage of a barricaded narcotics dealer. Ironically, the gunman released his final two hostages and gave up after Captain Joe Flynn of the San Francisco Police Department, who happened to be vacationing in Tahoe, talked him out of his actions.

Outside truly totalitarian societies, no country in the world is free from the threat of terrorism. And, despite the currency of anti-American rhetoric, many of these countries are still tempted to adopt the latest thing developed by the Americans. The case of Leland Phelps is one strong reason for caution in adopting SWAT as an answer to the terrorist threat.