

# *Controversies* *in* Policing



Quint C. Thurman  
Andrew Giacomazzi

ROUTLEDGE



*Controversies in Crime and Justice*

series editor Victor E. Kappeler Eastern Kentucky University

# *Controversies* *in* Policing

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# Controversies in Policing

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# Introduction to Controversies in Policing

Quint C. Thurman

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This book takes its place among several others nearly identical to it in form that Series Editor Victor E. Kappeler has produced for LexisNexis Matthew Bender (formerly Anderson Publishing Co.). Other excellent productions in this series have included *Controversies in Critical Criminology* by Martin D. Schwartz and Suzanne E. Hatty, *Controversies in Criminal Justice Research* by Richard Tewksbury and Elizabeth Ehrhardt Mustaine, *Controversies in White-Collar Crime* by Gary W. Potter, and *Controversies in Victimology* by Laura J. Moriarty. Co-author Andrew Giacomazzi and I are honored to be included as contributors to such a series.

American policing has undergone significant change over time since its first appearance in modern form in the nineteenth century. From its British origins which have long endured—in many respects, worldwide and, in the U.S., to this day—in terms of organization and function, police in this country also have been transformed by social movements and events that have left a uniquely American mark on the public safety agencies that we see in place in the U.S. today.

While we might at this point share with readers a brief history of American policing that would lead us from its origins in this country during the Political Era (roughly 1840 through 1920) through the Professional Era that lasted for the next 50 years until the Community Era, such a historical tour is outside of the scope of the objective of this book. Instead we would refer readers to other sources where this information is available (e.g., see Thurman, Zhao, and Giacomazzi's *Community Policing in a Community Era*, 2001). Suffice it to note that challenging times have led many organizations to adapt and evolve. Such is the case with American policing.

Former Minneapolis Police Chief Anthony Bouza laments in Chapter 1 that it is a sad state of affairs that there indeed are too few controversies in American policing. Mr. Bouza, an author of eight books, is a provocative and eloquent teacher on the state of American policing. Having admired him for many years through several media sources (books, TV, and documentaries), I finally had the opportunity to meet him when I invited him to conduct a lecture at Wichita State University a few years ago. In class and over dinner, I marveled at his intellect and wisdom.



He convinced me that the police have to remain ever vigilant to serving the public (as opposed to just serving themselves). He also reminded me, as an educator, that for learning to occur, teachers must be in the business of provoking thought rather than just entertaining or pleasing their students. In these regards, this book presents controversial topics for consideration that encourage readers to think about what *they* believe ought to be done.

The selections in this book identify several of the existing issues in policing in general that someone ought to do something about and present various viewpoints on what it is that we ought to consider doing. We also attempt to do so against the backdrop of an era of significant change in worldwide security that has caused major changes in the manner in which the U.S. conducts its political, social, and economic affairs.

Since September 11, 2001, the U.S. has experienced widespread public shock, anger, grief, and eventually resignation about the national tragedies that happened on that date. Sociologists could have predicted such responses, and we as a society would have understood it better, if the events of 9/11 had happened elsewhere and on a lesser scale to some other collectivity that had a track record with this sort of thing. Before the events of this date, few Americans would have conceived of such destruction nor would we have ever believed that anyone in the world would have wished us such ill will in the first place.

The events of 9/11 will be recorded in American history as a watershed in the determination of future courses of action in foreign relations, the development of approaches to the threat of international terrorism, and the formulation and application of security measures within U.S. borders. Key among domestic issues beyond the formidable price tag of heightened security, are those issues relating to police powers versus constitutional protections as David Perkins will discuss in Chapter 2 and Victor Kappeler and Karen Miller-Potter will expound upon in Chapter 3. But first we will digress a bit.

## **The Fear of Crime**

If there is something Americans believe they need then they seem willing to find a way to pay for it as the prison construction boom has shown when it was determined that the public had endured too much street crime. How safe do we want to be and how much of our civil liberties we really are willing to give up pose interesting questions. Underpinning this debate is the public's fear of crime.

President Franklin Delano Roosevelt, perhaps the greatest of the U.S. Presidents, reminds us that "the only thing to fear is fear itself." Broadly speaking, Americans don't take kindly to fear and seem all too willing to rise up against a threat against our national interests when we can determine

what (or who) the source of threat is and if we can use our military against it. But the challenge of fear attached to phenomena inside our own nation's boundaries is different, if not foreign and perplexing.

Generalized fear associated with crime leads to anxiety for our society because Americans as a group are problem-solvers accustomed to doing something about those things that are cause for concern. Anxiety occurs when we don't know what to do, or don't even know exactly what it is that we should fear. In short, anxiety comes from uncertainty.

Throughout the history of the American criminal justice system the fear of crime mostly has been linked to the fear of street crime at the hands of a stranger. While criminologists will tell us that police officers often are called to deal with situations that ought not to be happening in the first place, most crimes (including the violent ones) are not committed by strangers. Even so, the public continues to be fearful that they will suffer a criminal victimization at the hands of an unknown person. Furthermore, those who tend to be most fearful often tend to have the most unrealistic fears (e.g., citizens who are older, white, and female tend to be the most afraid of criminal victimization).

The fear of crime can be examined according to a continuum of specific threats to those that are less specific in nature. On one end of the spectrum is the fear that we might associate with a direct confrontation with an aggressive assailant as in the case of a robbery or aggravated assault. At the other end is the fear of crime linked to physical decay and disorder made famous in Wilson and Kelling's "Broken Windows" article from 1982. At this end of the continuum, the threat is non-specific but the run-down appearance of a place may signal that the space in question is just a criminal victimization waiting to happen. Awareness of this phenomenon at least partly explains the need for community policing.

The tragic events on September 11 undoubtedly raised citizen appreciation for public safety personnel who risk their lives to protect, serve, and at times even rescue society from dangerous circumstances. September 11 also raised public expectations concerning what should be done in the future to make us safe from new danger that we really never thought possible.

Public expectations concerning the emergence of leadership to help us understand and be assured of an effective course of action principally have been directed at the federal level. In response, the federal government has sent troops to Afghanistan, created a cabinet-level homeland security post, and promised to create a \$38 billion homeland security administration which would be the largest federal agency created since the Department of Defense was established in 1947.

But fear on a more personal level is more typically handled locally by public safety agencies hopefully working in cooperation with citizens at the grassroots level. Disturbances that immediately threaten the lives of ordinary citizens like the serial sniper case in the Washington, DC area are



going to be reacted to by local men and women in police uniform for they are the first line of defense against violent crime in nearly every community in this country.

## **Fear Assessment and Reduction**

So how do police agencies reduce public fear of crime? Research shows that the reduction of fear is linked to an increase in satisfaction with the police. Citizens who believe that the police in their communities care about their concerns and are responsive to their safety needs are more satisfied with police services and consequently, feel safer than those who are dissatisfied with those law enforcement agents entrusted to protect them. In turn, a public who trusts the police will be more supportive of public safety efforts to make society safer.

An effective police presence is one component of citizen satisfaction. But it matters how the police are distributed and what they do on duty for the police to be perceived as effective. Routine or targeted police patrolling is not a sufficient substitute. Instead, research by Zhao and his colleagues in Chapter 4 shows that a large crime reduction impact is attributable to money spent in communities for the purpose of hiring more police officers to work closely with citizens to identify their crime-related concerns and then work to resolve them. Using community newsletters to contact citizens, establishing victim contact programs, opening police substations, supporting citizens on patrol, and developing crime control programs to reduce disorder are just a few of the approaches that research has shown to be effective at reducing crime, increasing citizen satisfaction with the police, and thereby reducing public fear of crime.

Not every community in the U.S. is alike. Accordingly, not every community has the same risk of incurring the most extreme forms of violent crime or mass violence. Our nation's largest cities like New York, Los Angeles, Washington, and Chicago are at an elevated risk for international terrorism. Medium-sized cities such as Oklahoma City and Omaha in contrast may have concerns that realistically should be geared to the threat of domestic terrorism. Still smaller cities, suburbs, and towns might do well to recognize that mass violence in their communities would be patterned after the kind that was observed in Littleton, Colorado at Columbine High School.

What does all of this mean for citizens, their local public safety agencies, and the fear of crime? Simply this. While we must accept that we live in a different world after 9/11 and we cannot risk complacency where our communities are concerned, we cannot let the fear of violent crime dictate a reduction in the quality of life for the average American nor threaten the freedoms which make this country unique in the world. We can control fear similar to as we have in the past, by working with our local public safety leaders to realistically assess the crimes that might threaten our families,

friends, and neighbors and take steps to reduce our risks and enhance our ability to respond to those episodes as they infrequently occur.

Drawing upon the successful strategies of the recent past to reduce crime and the fear of crime seems to suggest a reasonable course for future action. What worked prior to 9/11 in our communities to identify and solve crime-related problems will work now. For example, those places that had embraced community policing would likely find this to be a very practical model for going forward to re-assess the concerns of their citizens and the mechanisms by which citizens may want to join with the police to seek solutions. After all, barking dogs, noisy neighbors, and speeding cars likely will still be high on the list of citizen's concerns in many places. Where mass violence shows up on the priority list in most locales remains to be seen, as does the way in which a community might choose to coordinate a response if they foresee a terrorist event in their community as something that should be of high concern.

Problem-solving and community engagement will continue to be useful tools for getting to better know a community and learning how to develop a more effective response to citizen needs. By contrast, erecting barriers to prevent citizen access, akin to circling the wagons, because policing has gotten more serious, secretive, and tactical in nature cannot be a good adjustment to living in a more dangerous world.

While terrorism has always presented some possibility of occurrence in the U.S., it remains a relatively improbable event at any given time in most U.S. communities. As such, most communities should not spend all their time preparing for a worst case scenario that is not likely to occur, at least to the extent that the more persistent and frequently occurring events that directly impact the quality of American life are ignored or allowed to go unchecked. What worked before to fight crime and reduce citizen fear will work in the future.

A word of caution. Most Americans support greater police powers, post-9/11. However, this support will recede over time and the police cannot be burdened with being the thin blue line against the threat of mass violence too. What makes sense is to work even more closely with the public to engage in responsive public safety measures for that will bring us all closer together. If terrorism is the threat, then community engagement and problem-solving may prove useful as the ultimate antidote. But before we get there, we must resolve a number of controversies.

## **Organization of this Book**

The first chapter of this book introduces readers to policing in the context of the events leading up to September 11th. Retired Minneapolis police chief Anthony Bouza shares his views on the controversies facing policing prior to the 9/11 world in which we live today. Following this, David

Perkins, in Chapter 2, confronts the order vs. freedom debate in its most contemporary manifestation—law enforcement in a post-9/11 environment.

Victor Kappeler and Karen Miller-Potter lead off Section II by discussing American policing in the face of domestic and international terrorism. But how do we define terrorism? Who are the terrorists? And what are the ramifications for local and federal police agencies? Chapter 4, by Jihong Zhao and his colleagues, examines the current philosophy of policing in order to assess its utility for controlling crime. Section II concludes with an alternative view of police culture, written by noted author John P. Crank, whose book *Imagining Justice* won the Academy of Criminal Justice Sciences' 2004 Outstanding Book Award.

The next three selections comprise Section III. Here we review operational issues and invite the reader to consider long-standing controversies in policing, set in a contemporary environment. Understanding that the basis for many of the controversies that we face in American policing stem from fears about how to control “the dangerous classes,” Chapter 6, by John Liederbach and Robert W. Taylor, deals with the use of deadly force while Andra Katz-Bannister and David Carter write about racial profiling in Chapter 7. Here we are reminded that fears about the criminal element that are perceived by society to be associated with an underclass that is disproportionately nonwhite (as Bouza discussed at the beginning of the book) feed into other controversies that remain problematic for American policing in a post-9/11 world. And in Chapter 8, Donna Hale and Karen Finkenbinder discuss the history of women in policing along with current challenges in a profession dominated by males.

In the fourth and final section of the book, we examine persistent ethical issues in policing that Joycelyn Pollock argues in Chapter 9 will require a re-examination of ethical decisionmaking in law enforcement. Following this, are two common examples where breakdowns in ethical conduct have caused substantial problems for public safety agencies, their employees, and victims of abusive practices. In Chapter 10, John Worrall discusses how the increasing use of civil liability against police excessive use of force underscores the need for clearer law enforcement standards to regulate such behavior.

## **SECTION I**

### **Setting the Stage—Policing before and after 9/11**



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## CHAPTER 1

# Controversies in Policing before September 11, 2001

Anthony V. Bouza

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The very title of this book prompts me to protest that there are, in fact, altogether too few controversies in policing. I believe that most of us glumly accept as fact, bromides fed to us by leaders who rarely bother to think very deeply about issues that ought to lie at the very forefront of our discussions.

In the police world, we wallow in self-pity, make outlandish claims and scorn Socratic intellectual torture that just might lead us to an occasional discovery. For example, we accept the proposition that the press is the enemy—jackals out to unjustly undo us. Could we ignore the value of that institution—arguably our democracy’s sturdiest pillar—as a vehicle for informing the people and monitoring the actions of all of us?

Popular opinion is the only real Inspector General capable of examining all aspects of society and exposing wrongs that need righting. It isn’t civilian review boards that uncover police wrongdoing and keep cops honest, but the fear of media exposure. Press coverage is a very healthy thing and we ought to embrace it. After all, any police leader thin-skinned enough to be at war with the press is at war with the public he or she serves.

The anti-intellectualism of the police consigns all of us to the ministrations of scholars, criminologists, and sociologists who have the education, training, intellectual rigor, and eloquence to lead us in discussions. Police leaders need to immerse themselves in poetry, Shakespeare, Machiavelli, the Greeks, and other agents of thought so as to inspire critical thinking and deep examination. Consider just a few of the issues worthy of more critical thought.

## Street Crime

Over the past decade or so American policing has been enshrouded in a mystery no one seems to understand—that is, a precipitous drop in street crime. Even as police executives rush with the enthusiasm of Pamplona revelers to claim credit for the outcome, no one can really explain the exact origin of this achievement.

Street crime—defined by the Uniformed Code as being comprised of the Part I crimes of murder, rape, aggravated assault, robbery, burglary, larceny-theft, auto theft, and arson—encompasses guns, drugs, and desperation. Consequently, these violent crimes cause fear and the expectation that someone ought to do something about it.

But when crime drops, as has recently happened, this unexpected, mysterious, and welcome development often is accompanied by a chorus of self-congratulatory chiefs' voices describing how their genius led to the result. For awhile, until homeland security came into focus, it looked as if community policing might prove a handy hook on which to hoist the flag of victory, even as a Tower of Babel defined it variously (Wilson, 1982). More typically, though the overall tone of the ridiculously self-aggrandizing claims have centered on the claim of more aggressive police tactics. Can this claim withstand scrutiny? I think not.

A quick, impressionistic look at crime and policing over the past half century or so quickly reveals some fascinating disclosures. The 1950s were a somnolent time in America, characterized by low crime rates, little police activity—except for the periodic scandals appearing like clockwork every score of years—and few initiatives. It was a period of Chicago's O.W. Wilson and his *Police Administration*—a seminal work whose principal premises were to improve management, upgrade technology and the physical plant, and not be overly bothered by either brutality or corruption (Wilson, 1963).

The pulse quickened in the 1960s, stimulated by racial aspirations and the political activism surrounding the Vietnam War. It was a decade of assassinations—JFK's, Malcolm X's, Martin Luther King's, and RFK's—that defined the angst, agony, and activism of the Age. Race riots fueled a rising and alarming level of violence, particularly in core cities. It was a decade that saw the one and only presidential commission to study the effects of street crime and what might be done about it (President's Crime Commission, 1967).

Out of the turmoil of the 1960s grew a dramatically enhanced police aggressiveness. New tactics were developed, such as street crime units, that invented new ways of battling the rising tide of murders, burglaries, muggings, auto thefts, rapes, and such. Police analyzed robbery patterns and stationed well-trained cops in places likely to be hit.

Such strategies were labeled "proactive policing" (i.e., the cops stole the initiative from the street criminals by guiding their actions away from victims and toward the police). Instead of reacting to a crime by investigating

it in the aftermath of its occurrence, they intercepted the criminals. This was the Halcyon period of police inventiveness and creativity, and it came at a heavy price, as black leaders assailed the tactics because they largely targeted black males.

## Race

And who were the criminals? In the answer lies the central question facing the nation—it can be labeled the Black Experience in America. The creation of an underclass occupied about four centuries and involved large expenditures of energy, treasure, and even lives. It has been a white initiative aimed consistently, and sometimes unconsciously, at the nation's blacks. It began with the first arrival of a slave ship in Jamestown, Virginia in August 1619. This phase concluded with a nation going to the Civil War to resolve the issue.

Slavery gave way to Jim Crowism—a socially and legally sanctioned form of apartheid that lasted about 100 years, mostly in the South. The North used subtler forms of exclusion. As it gave way before the onslaught of the Civil Rights Movement in the early 1960s, a brief blast of hope quickened the pulse of Americans fighting for racial justice.

This transitory moment soon gave way to the latest method of oppression—the wholesale incarceration of black males. By the 1990s, about 1 in 3 were under some form of criminal justice control and almost one-half of America's approximately 2 million jailed prison inmates were black, the total itself a record in an inexorably escalating number of prisoners. This black experience of slavery, exclusion, and imprisonment produced an underclass of impoverished, illiterate, and largely unemployable persons who were consigned to welfare, ghettos, and other dependencies and oppressions (Sentencing Project, 1998).

## The Street Criminal

The street criminal was easily identified from the vast populations of prisoners—black, poor, illiterate, unemployable, born to a teenager on welfare with no adult male role models for guidance—other than of the negative variety. Escape into drugs and alcohol proved irreversible options as crime and rioting became expressions of hostility and resistance. Crime was rebellion and the police became an army of occupation in the ghetto.

As the tsunami of crime escalated into terrifying numbers—the number of murders in NYC went from about 1 a day in the 1950s to almost 6 in the 1990s, while the population remained stable—the police accelerated their aggressiveness, targeting recidivists and enormously swelling prison populations. Draconian drug laws mandated sentences and the sharp reduction



of parole and probation greatly increased the numbers of nonviolent offenders jailed and geriatrized a population that becomes an increasing health burden for the state long after they ceased being any sort of menace.

Society's approach, through the use of the police, was a foot on the necks of black America that occasionally got dislodged by such appalling incidents as a white cop's shooting of an unarmed black teenager. These dots over the nation's landscape frequently provoked paroxysms of urban looting, burning, and violence. Detroit and Newark were nearly razed by these devastations and the Bronx became a metaphor for urban chaos. Los Angeles, too, would have its share of trouble.

## **The Price of Black Political Power**

Alarmed by the urban destruction, America's power structure gradually concluded that putting a black face on the government might well forestall rioting. This was the true impetus behind the appointment of black chiefs and the election of black mayors, rather than to increase black voting power, because the proportion of black actual voters, among those eligible, has never been high—not to mention the massive disenfranchisement of the many blacks with felony records.

And the ploy largely worked as America's cities all experienced black leadership while riots abated—although never disappeared. But this rise of black political power came with baggage. It was their sons, nephews, brothers, and fathers who languished in the nation's jails and, whatever the legal justification, this cadre of leaders could not help feeling sympathetic to the plight of black males in America.

## **The Police Retreat**

Just as stake-outs were "judge, jury, and executioner," decoys became "entrapment," stings "invitations to burglarize" and other aggressive tactics "racist oppressions." Under this onslaught America's police beat a silent retreat, while never failing to pay rhetorical obeisance to aggressive policing. Indeed, the one area where the energies never flagged, was in drug enforcement, which achieved a black and white consensus as to the desirability of tough measures. Even here, however, the escalation of tragedies makes the alliance tenuous.

One of the unintended consequences of the war on drugs is the sharp increase in nonviolent drug offenders in prison, among an increasingly geriatric population of toothless wonders. Police chiefs never relaxed their tough law-and-order rhetoric, even as they trimmed their enforcement sails and abandoned stake-outs, decoys, and stings. Some of this was replaced by emphasis on low-level "quality of life offenses" like fare beating, pan han-

dling, on—the—street musicians and others. These were part of the belabored issues referred to as the “Broken Windows” syndrome, which requires no further elaboration.

## **Crime Declines**

Miraculously—just as the levels of crime seemed to be reaching a frightening crescendo across the nation—the wave moderated. No police executive marveled at the mystery; rather, they shamelessly paraded a host of programs responsible for the wonder.

Just as the rising wave enveloped all agencies and cities—even at the very peak of police activism—the abatement struck the somnolent or awake with equal force. The chiefs clearly saw the social, racial, and economic forces at work while street crime escalated, but the unexpected decline prove irresistible to their claims of authorship. The crush of immodest claims by the nation’s chiefs precluded any rational assessment (or even a passing examination of explanations for this perplexing development). A rising crime tide that marched inexorably onward from the 1960s to the 1990s suddenly had receded.

## **Possible Factors in the Crime Decline**

It seems clear that, under the rubric of racist oppression, America had been able to produce street criminals at a faster rate than even the most energetic police agencies could neutralize. By the time the police arrived, the criminal was formed and, unless the cops offered themselves as the targets or otherwise deflected the assault, the crime already had occurred. Most experiences of the 1960s proved that the police largely were irrelevant to preventing either crime or to the formation of the criminal offender.

So what might have contributed to a general decrease in crime, albeit a drop that is likely only to be a temporary one? After all, the underlying causative factors—racism, poverty and oppression—have not really been altered. The Census of 2000 clearly showed that our nation’s impoverished, excluded, and imprisoned, were still largely black and growing.

It seems pretty clear, in retrospect, that the destabilizing influence of the crack epidemic in the ghetto—with its destructions of the few fragile threads holding the black community in tenuous togetherness—had peaked in the mid-1980s, restoring some social equilibrium. Granted, the gangbuster prosperity of the 1990s did raise employment levels among the underclass, even though they never approached the conditions attending their white counterparts. Even welfare reforms might have shifted attitudes as well as conditions, from disabling dependence to work.

Someday we might learn, for example, that the sharp reduction in welfare caused some impoverished young women to rethink pregnancy as a vehicle for independence. As well, the Million Man March may have been a harbinger of a fundamental shift, among black males, in their attitude toward fatherhood. The point is that these are not areas that receive as much scrutiny as shifts in consumer sentiments that impact the economy. And the shifts, if they exist, may prove transitory in any case.

Nevertheless, crime had declined and if it was not to the credit of police chiefs, then to what? The rise of black political power in the cities indisputably impacted rioting and might have affected criminal behavior. Such unmeasured—and, perhaps, immeasurable—factors as gang activities and membership might have impacted crime levels. Furthermore, consider the rising incidence of abortion. Since the early 1970s, abortion indisputably reduced what has been euphemistically described as the “at-risk male population.” One study linked the decimation of the cohort to the decline in street crime, through statistical analysis (Donohue III, 2001).

What seems indisputable is this: a period of police retreat from its most aggressive innovations against street crime (the programs so eloquently extolled by so many police executives) can be consigned to history’s rubbish heap. The reality is that the decline in crime remains a mystery. It may be possible, someday, to discern the outlines of the causes of this tectonic shift, but it is not likely to happen without recognizing the existence of the conundrum and a determined and knowing search for the truth (Kerner, 1968). It took 30 years to establish the impact of *Roe v. Wade* on street crime. It may take many years to figure out the other factors in crime’s temporary decline.

## Challenges Ahead

It is in this search that the true cost of anti-intellectualism is to be found. How are we to develop answers to questions no one dares to ask? Police executives have been cowed by the objections of black leaders, from pursuing really aggressive and legal police tactics (Johnson, 1996). They also have been inhibited from even discussing the issues openly. The police are central to society’s safety and well being, yet there is no sense of an inchoate search for the answers.

The controversies in policing focus on such questions as the causes of street crime and its possible cures, even if the answers suggest dramatic shifts in the Shibboleths that guide so much of today’s discussions. It is distinctly possible—even probable—that the anguish caused by high levels of criminality in the recent past will return, and then what? The police are very likely to be caught naked in that debate.

So where does this leave American policing in the wake of September 11’s awful events? An institution (policing) that has eschewed any role in

the meaningful discussion of the issues nearest and dearest to its daily concerns is not likely to contribute meaningfully to a search for answers. And nature abhors a vacuum.

Police activism in the political areas—in terms of monitoring what were then called “subversive activities”—peaked in the mid-1960s, when the general collapse was accelerated by discourses of illegalities by the FBI and unpopular monitoring of anti-Vietnam War peace groups by such organizations as the NYPD’s Bureau of Special Services (BOSSI) (Bouza, 1976). A hasty retreat was beaten as intelligence agencies fled the field in disarray. Cointelpro, the FBI’s counter-intelligence program, became a poster boy for unacceptably unsavory police monitoring of unpopular groups.

In the fullness of time the FBI would evolve into a miraculously effective investigator of the Mafia, a middling monitor of white-collar crime, a sometimes stumbling inquirer into espionage, and a non-starter into such political crimes as are currently described as terrorism. All the while the FBI stayed in thrall to the spirit of its longtime director, J. Edgar Hoover, bestowing his name on its headquarters even as unsavory disclosures besmirched his reputation and cascaded upon the agency.

## **Organizational Responses and the Constitution**

Organizational habits of secrecy continued to plague the FBI as it failed to share information with the Central Intelligence Agency and other investigative groups. In a mirror image of this insularity the NYPD similarly failed to coordinate or communicate with such sister agencies as the NY Fire Department, with fateful consequences on September 11, 2001.

In the creation of a Department of Homeland Security, we can see the continuation of these baleful trends as no serious thought is even given to the notion of placing the FBI and CIA under its aegis. It seems clear that, after a few pious mouthings about cooperation and coordination, turf jealousies will receive obeisances from bureaucrats anxious to preserve their empires.

As to the threats to civil liberties occasioned by the furor to expand police powers unquestioningly, we need to remember that neither the FBI nor the police were under any constitutional impediment to investigate or interdict the awful events of September 11. That tragedy was an intelligence failure, not a constitutional one.

And let’s not forget that the Founding Fathers never intended to deprive us of legal, constitutional methods of self-protection. All of the police tactics described here are perfectly legal, even if they have been abandoned under political pressures. We have only to consider the FBI attack on the Mafia, and the general war on drugs, to see what aggressive policing can look like.