Terrorism, National Security, & the Law

By David Marc | Illustration by Brian Stauffer

SU's Institute for National Security and Counterterrorism is working to enhance public safety and preserve constitutional liberties in a two-front war on terrorism

When the American philosopher John Dewey was asked to summarize what he had learned during a lifetime of research and writing on politics and education, he said, “Democracy begins in conversation.” Since September 11, 2001, the American conversation has been dominated by the subject of terrorism, and by the multiplying sets of daunting concerns that surround it. Demands for protection from acts of mass violence, and for effective responses when they occur, echo throughout public life. Society’s fundamental operations—food distribution, travel, data storage, structural design, military strategy—are being rethought; yet, each proposed adjustment in law or policy is accompanied by distressing questions. If small cadres of dedicated terrorists operating inside U.S. borders pose an imminent threat to public safety, what measures must be taken to stop them? Can the spirit of U.S. constitutional law survive legislation designed to combat suicidal mass murderers armed with high-tech weapons?

Universities are already playing crucial roles in shaping American responses to challenges ranging from the testing of water supplies for contagious antigens to the applicability of habeas corpus rights to citizens charged as enemy combatants. Deans Hannah R. Arterian of the College of Law and Mitchel B. Wallerstein G’72 of the Maxwell School of Citizenship and Public Affairs believe that Syracuse University’s Institute for National Security and Counterterrorism (INSCT) is prepared to provide national leadership in this inherently interdisciplinary field. “Who is better equipped to study the issues raised by terrorism?” says Arterian, who launched INSCT in 2003. “At Syracuse, we have always cared about individual rights, and we have always understood the necessity of maintaining a secure society...
if those rights are to have meaning. We see both as items on a single agenda: the rule of law. You must have the rule of law to protect individual liberties, but rule of law does not flourish in the chaos fostered by terrorism.

Wallerstein, who served as deputy assistant secretary of defense in the Clinton administration, emphasizes the special advantages that Maxwell, which co-sponsors INSCT with the College of Law, contributes to the enterprise. “As a school of public administration, we train students on how government, at all levels, can be managed efficiently and effectively,” he says. “This is something particularly important to bring to the table in the area of homeland security, where so much needs to be done—and all at once. These skills are as desperately needed in preparing for and coping with terrorist attacks as they are with respect to natural disasters, as we learned in the case of Hurricane Katrina.” As many institutions scurry to find a place in what is arguably an emerging academic growth industry, Arterian and Wallerstein believe that Syracuse has a special asset that puts the University two steps in front of the crowd: Professor William C. Banks, the founding director of INSCT.

An attorney who holds appointments at both schools, Banks accurately anticipated the central legal and policy issues of contemporary security studies at a time when most Americans equated “terrorism” with isolated hijackings and criminal kidnappings in other countries. As co-author of National Security Law (1990), the legal textbook that continues to define the burgeoning field, Banks earned an international reputation for his ability to articulate the tensions that arise between augmenting public safety and maintaining personal freedoms. Those tensions are manifest today in front-page controversies: extension of the Patriot Act, presidential prerogatives for wiretaps, secret U.S. interrogation sites in third-party nations, and a litany of other hot-button issues. “The fields of national security and counterterrorism are complex and difficult, the policy and legal issues are perennially contentious, and there are few settled answers,” Banks says. “I cannot think of topics more current or provocative.”

**Terrorism 101**

Under Banks’s direction, INSCT has established two academic certificate programs: the Certificate in National Security and Counterterrorism Law, offered by the College of Law; and the Certificate in Advanced Study in Security Studies at the Maxwell School. Each
"The fields of national security and counterterrorism are complex and difficult, the policy and legal issues are perennially contentious, and there are few settled answers. I cannot think of topics more current or provocative."

Professor William C. Banks, founding director of the Institute for National Security and Counterterrorism

program has its own requirements, but there are shared courses that place students of varying backgrounds in the same classroom. “Students are beating down the door to register for our courses and get into our programs,” Banks says. “The credential is timely on the job market, but I think students are also attracted by the remarkable faculty of problem-solvers we are assembling.”

Perspectives on Terrorism, a course first developed by Banks for the College of Law, has become INSCT’s interdisciplinary flagship offering. Cross-listed by four schools and colleges, “Terrorism 101,” as some students call it, is team-taught by Banks (law), David Bennett (history), Michael Barkun (political science), and Joan Deppa (public communications), and includes lectures by Peg Hermann (director of the Moynihan Institute of Global Affairs), Dean Wallerstein, and former U.S. ambassador and longtime diplomat Melvyn Levitsky (international relations). Vice Chancellor and Provost Deborah A. Freund, a leading advocate of interdisciplinary education at SU, was impressed by a visit to the classroom. “The experience was riveting,” she says. “I was struck by how engaged the students were and by the spectrum of opinions they expressed. When dealing with subject matter of such crucial importance to all elements of society, this kind of intellectual cross-fertilization is essential.”

Montgomery C. Meigs, a retired four-star general who commanded U.S. Army forces in Europe and was a senior planner with the Joint Chiefs of Staff, teaches History of American Strategic Practice, a cornerstone of INSCT’s interdisciplinary programs. Meigs joined the Maxwell faculty in 2004 as Louis A. Bantle Chair in Business and Government Policy and is a senior faculty advisor at INSCT. A West Point graduate with a doctorate in history from the University of Wisconsin, Meigs served as a military analyst for NBC News and is currently directing the Pentagon’s Joint Improvised Explosive Device Defeat Task Force. Widely courted for his rare combination of teaching abilities and military insider’s expertise, he was persuaded by Wallerstein to accept the appointment, with INSCT as a decisive factor. “INSCT creates an institutional focus for students interested in this important new branch of national security studies, and for faculty seeking sponsorship for related research projects,” Meigs says. “It’s also crucial as a place for alumni and for foundations who recognize the importance of these issues and who are interested in contributing direct support to this type of study.”

An International Partnership

One longtime supporter of Syracuse University who has embraced the mission of the institute is Gerald B. Cramer ’52, vice chair of SU’s Board of Trustees. Cramer was instrumental in conceiving and facilitating an international partnership between INSCT and the Institute for Counter-Terrorism (ICT) at the Interdisciplinary Center, Herzliya, Israel’s only private university. “The Israelis, of course, have long experience in dealing with these issues, and it’s no exaggeration to say that ICT is the top institution in the world on the subject of counterterrorism,” Cramer says. “They have much to teach us, and they will surely benefit from the legal and policy expertise that Syracuse offers.”

Since September 2005, the two institutions have been collaborating to develop educational and research programs in the areas of counterterrorism, homeland security, conflict resolution, and related fields. Cooperation will take the form of faculty and student exchanges, student internships, and jointly sponsored speakers, dialogues, and conferences. Boaz Ganor, executive director of ICT (www.ict.org.il), is a prolific writer on counterterrorism who served as a consultant to former Israeli Prime Minister Benjamin Netanyahu. “Syracuse
is becoming increasingly involved in the homeland security area through INSCT, and I believe ICT is a perfect match for mutual benefit,” says Ganor, who is a deputy dean of the Lauder School of Government at the Herzliya campus. “When looking for a partner, we immediately identified Maxwell, one of the world’s leading government schools, as the best counterpart for a longstanding cooperative relationship. We are particularly pleased to be working with an American expert of the stature and experience of Dean Wallerstein.”

Among the first fruits of collaboration was a January videoconference focusing on policy options for dealing with known terrorist groups that enter into the legitimate political arenas of their homelands. The lively, well-attended event took place on the same day as the Palestinian parliamentary elections in which Hamas, an organization that takes credit for suicide bombings, won a majority of seats. “We wrestled with policy and strategy options for responding to the new reality of Palestinian politics that was emerging in front of us,” Banks says. “We are following up by developing and proposing solutions to the practical problems this new scenario presents. At the same time, we will pose research questions and produce significant scholarly to enlighten debate about political participation by violent extremist groups across the world.”

**Credentials for the 21st Century**

Jessica Indingaro G’05, an attorney at the Washington, D.C., offices of Bergmann and Moore LLC, was among the first College of Law graduates to earn a Certificate in National Security and Counterterrorism Law, which she received with her law degree. “Every employer I talked with was interested in the certificate,” Indingaro says. “The job I eventually accepted is in veterans’ affairs. But the work I did in the certificate program familiarized me with principles of administrative law. At the interview, for example, I was able to rattle off the standard for arbitrary and capricious actions in reviews of decisions by federal agencies. That was an unexpected benefit.”

Indingaro, a native of Memphis, Tennessee, was a standout law student at Syracuse, serving as associate editor of the *Syracuse Journal of International Law and Commerce* and selected for Moot Court. Her work at INSCT included research on the Guantanamo detainees and the use of wiretaps in criminal prosecutions under the Foreign Intelligence Surveillance Act. “I learned a lot in the program and I’m glad to have the credential, now and down the road,” she says.

This year, the Maxwell School launched its security studies certificate, which also depends on INSCT for research opportunities. “Students in public administration, international relations, political science, and other fields we cover at Maxwell see the importance of security and counterterrorism issues,” Wallerstein says. “They are personally taken with these issues and see career opportunities in them as well. They expect nothing less than the best training from a school of our reputation—and I am proud to say we are offering it to them.” Open to master’s degree and doctoral students across the University, the program requires two mandated courses, two relevant electives, and an approved research project or professional experience. “The Al-Qaeda training camps discovered in Afghanistan and Pakistan were teaching anarchy and terrorism,” says Meigs, who chaired the committee that shepherded the certificate through the Faculty Senate to New York State approval. “We need to teach people the knowledge and skills to counter them.”

Among the strongest indications of student interest in the field is the growth of the Student Association for Terrorism and Security Analysis, or SATSA (see sumagazine.syr.edu/summer05/universityplace). Founded by Syracuse graduate students in 2004, SATSA has expanded to include undergraduates and has more than 100 members. The student-run group organizes conferences, debates, and other get-togethers, serving as an informal networking medium for the sharing of career interests and intellectual affinities. John E. Fritz, a candidate for a J.D. degree at the College of Law and an M.A. degree in international relations at Maxwell, believes participation in SATSA is enriching his Syracuse education. “SATSA allows students with diverse backgrounds and experiences to exchange ideas and to challenge each other’s assumptions regarding security and terrorism,” he says. “I believe this process is valuable in training professionals who will not suffer from an all-too-common lack of imagination in confronting security and terrorism issues.”

**Developing a Suitable Approach**

David M. Crane G’80 is well prepared to understand the consequences for a society in which the rule of law succumbs to what Arterian calls “the chaos of terrorism.” In 2002, following decades of national public service during which he occupied leadership positions with the Department of Defense and the U.S. intelligence community, Crane was appointed by United Nations Secretary-General Kofi Annan as chief prosecutor for the international war crimes tribunal considering charges stemming from the civil war in Sierra Leone during the 1990s. For three years, Crane studied the painful details of horrendous atroci-
ties—crimes against humanity—perpetrated on people who could no longer depend on the law to protect them. The evidence directly implicated international criminals and terrorists, including Al-Qaeda members.

Crane, a graduate of the College of Law, returned to Syracuse in 2005 to accept a two-year appointment as Visiting Distinguished Professor, teaching courses on national security law, international criminal law, and related subjects. He believes INSCT, with its feet planted firmly in the fundamental concerns of its sponsoring colleges, is ideally suited to confront the tasks it has taken on. “It will be the policymakers and the legal experts who will have to work together to develop the proper approaches to countering terror,” he says.

According to Crane, a paradigm shift—a definitive change in circumstances requiring new ways of thinking—was signaled by the 9/11 attacks, and he is introducing a new course, Legal Aspects of Future War, to advance the process of meeting the creative challenges posed. “In this course, we consider the likely scenarios of the next 20 or 30 years to try to figure out how circumstances will change and how the law will have to change to meet new conditions,” he says. “The opportunity to conduct a course such as this—I believe it’s the first of its kind at an A.B.A. [American Bar Association] law school—is a direct result of the innovative, forward-looking thinking that is already a hallmark of this institute.”

Banks is glad—perhaps relieved—to see so much energy in the academic world turning toward the subject that has been his life’s work, and takes particular satisfaction in harnessing that energy to optimal effect at Syracuse. “There isn’t another enterprise at an American university that brings the disciplines together quite the way INSCT does,” says Banks, currently a College of Law Board of Advisors Professor. “There is a long tradition of law schools remaining in their own little corners, which, out of necessity, we have broken. Through our partnership with Maxwell, and with the supportive participation of so many faculty members and programs on campus, we have drawn law and legal thinking into the center of the University—and into action on what I believe are the central issues of our time.”