



Boston Bombing: The Action Is in the Reaction

The FBI account of suspected Boston Marathon bomber Dzhokhar Tsarnaev's apprehension by MBTA (Massachusetts Bay Transportation Authority) police in the federal indictment against him was self-serving at best, and fanciful at worst:



On the evening of April 19, 2013, police investigation revealed that there was an individual in a covered boat located at 67 Franklin Street in Watertown. After a stand-off between the boat's occupant and the police involving gunfire, the individual was removed from the boat and searched.

While it was technically true that Tsarnaev's apprehension "involved" gunfire, Tsarnaev was not among those who had fired any of the guns that night. The FBI later admitted that Tsarnaev had been unarmed in the boat. All of the dozens — possibly hundreds — of rounds fired off in the moments before the arrest were by arresting officers or their back-up units, not by Tsarnaev. After that cowboy-like melee, the wounded Tsarnaev was arrested.

The FBI account implied a back-and-forth gun battle that ended in Tsarnaev's surrender. But the reality was that trigger-happy police risked killing an unarmed suspect who already had suffered serious wounds. In essence, it's only by sheer luck — and poor marksmanship — that Tsarnaev will live to stand trial for his alleged crimes. Interestingly, officials are also investigating whether MBTA Police Officer Richard Donahue was wounded by friendly fire in the shoot-out the night before that resulted in the death of Tamerlan Tsarnaev, Dzhokhar's older brother.

Moreover, it wasn't so much a "police investigation" that revealed Tsarnaev to law enforcement as it was a tip from a Watertown resident after the governor's curfew had been lifted. Franklin Street resident David Henneberry left his house to inspect his boat after police lifted the Watertown curfew. There Henneberry found Tsarnaev in the boat, bleeding, and called the police. Henneberry's house was a couple of blocks outside of the official search zone, where police were conducting house-to-house searches. In essence, the dragnet-style search ordered by politicians in charge of the police response had done nothing to apprehend the suspect. Nor did the massive use of military ordnance on display on the streets of Boston-area towns speed the apprehension of the suspects. In fact, the "stay-in-place" curfew — officially voluntary — likely delayed apprehension of the 19-year-old Tsarnaev. The political order to vacate the streets had the practical effect of taking a million pairs of eyes off the getaway scene for the duration of the curfew.

Even the criminal charge against Tsarnaev was a result of a legislative exaggeration. The official federal indictment charged Tsarnaev and his brother — who had been killed in a shootout with police the previous night — with using a "weapon of mass destruction." The term "weapon of mass destruction" (WMD) was once a term describing only chemical, biological, and nuclear weapons, but in 1994, federal law expanded the definition to include any "destructive device" (bomb) or big-bore "projectile" of more



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than .50 caliber. By the 1994 legal standard, even an air-powered potato gun can legally qualify as a WMD.

Ironically, the Tsarnaev brothers — if guilty of the Boston Marathon bombings — will have killed fewer people than many other ordinary serial killers. The death toll in the whole Boston area spree was five people (including the elder Tsarnaev brother), whereas — for example — in October 2002, Washington, D.C., snipers John Allen Muhammad and Lee Boyd Malvo killed 10 people. By way of contrast, officials in Washington, D.C., did not shut down much of the metropolitan area — as Massachusetts officials did — in order to look for the suspects. Nor did Washington politicians call out the National Guard or employ massive military equipment in order to deal with what was in reality a greater threat to public safety. The divergence between the reactions to threats in public safety today and how officials reacted just a few years ago is telling.

Terrorism: Fear Is Greater Than the Actual Threat

As radical leftist organizer Saul Alinsky once pronounced in his book *Rules for Radicals*, with political force “the action is in the reaction,” meaning that sometimes it’s more effective to take advantage of a provocation — or even create one — in order to achieve political goals. Alinsky also noted that in politics “the threat itself is usually more terrifying than the thing itself.” Both such “rules for radicals” apply to the terrorism problem, in that Americans will not give up their cherished freedoms absent a perceived threat. Thus, liberty-hating radicals have come out of the woodwork in the Boston Marathon bombing aftermath, proposing “cures” for the terrorist threat that involve vastly expanded government intelligence and massive surveillance of Americans.

Those calls for more government surveillance of Americans have found a voice in the mayor of New York City. “We live in a complex world where you’re going to have to have a level of security greater than you did back in the olden days,” Michael Bloomberg said in an April press conference. “And our laws and our interpretation of the Constitution, I think, have to change.” Mayor Bloomberg went on to conclude: “Look, we live in a very dangerous world. We know there are people who want to take away our freedoms. New Yorkers probably know that as much if not more than anybody else after the terrible tragedy of 9/11.”

In those few sentences, Bloomberg outlined the two false assumptions in virtually every call for more surveillance of Americans: 1. This point in history with the emergence of bombers is new and more scary than in the past and 2. Trading away freedoms for security will lead to more security.

Even before Dzhokhar Tsarnaev’s arrest, slate.com’s technology columnist Farhad Manjoo had joined the surveillance cheerleading squad in his April 19 column for the online magazine: “Cities under the threat of terrorist attack should install networks of cameras to monitor everything that happens at vulnerable urban installations. Yes, you don’t like to be watched. Neither do I. But of all the measures we might consider to improve security in an age of terrorism, installing surveillance cameras everywhere may be the best choice. They’re cheap, less intrusive than many physical security systems, and — as will hopefully be the case with the Boston bombing — they can be extremely effective at solving crimes.”

Manjoo frets about this being an age of terrorism, even though America has been in the era of terrorism at least since the 1886 Chicago Haymarket Riot, when an anarchist bomb-thrower tossed a handmade dynamite bomb into a crowd of police trying to break up an anarchist demonstration. Several police were killed in the blast, and others were killed by police friendly fire in the ensuing melee. The



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Haymarket Riot later became a global communist holiday after the Second International in Paris commemorated the riots in 1889. Although Chicago police were unable to find the Haymarket bomb-thrower, they did find the bomb factory and many of the bomb-thrower's confederates.

Law-enforcement agencies had better luck tracking down a far larger wave of bombings from 1917-20 in the wake of the anarchist/Bolshevik revolutions in Europe. The United States suffered some 125 bombing attempts across the country. In April 1919, the bombers sent 36 mail bombs of dynamite to congressmen, leading businessmen, Supreme Court Justice Oliver Wendell Holmes, governors, leading newspapers, and U.S. Attorney General A. Mitchell Palmer. On June 2 of the same year, the anarchists tried again, setting off larger bombs in eight different cities and again targeting leading politicians and businessmen, including Attorney General Palmer. On September 1, 1920, a horse-drawn cart full of 500 pounds of dynamite — surrounded by metal shrapnel — exploded on Wall Street, killing 38 people.

The era was known as the "Red Scare" despite the fact that the threat was real, and Attorney General Palmer called for the deportation of the anarchists (mostly Italian followers of Luigi Galleani) and Bolsheviks (mostly Russian) from the country as a cure for the chaos:

I have been asked, for instance, to what extent deportation will check radicalism in this country. Why not ask what will become of the United States Government if these alien radicals are permitted to carry out the principles of the Communist Party as embodied in its so-called laws, aims and regulations? There wouldn't be any such thing left. In place of the United States Government we should have the horror and terrorism of bolsheviki tyranny such as is destroying Russia now.

Reaction to the "Red Scare" of 1919-20 involved the same type of apocalyptic rhetoric as that employed against the threat of Islamic extremism today. And it involved some repression of civil liberties: Aliens were deported without formal due process and the Justice Department's Bureau of Investigation (a forerunner of the FBI) engaged in warrantless searches and seizures. But the reaction *to more than one hundred bombings* was otherwise far more muted than the response to the Boston Marathon bombings: The federal government and local police did not call out the National Guard and deploy military ordnance on the streets of America, nor did they shut down whole cities or collude with local officials to issue curfew restrictions. Perhaps most importantly, the popular reaction against the Palmer raids strengthened the idea that civil liberties needed to be protected.

Calls for a Police Surveillance State

Today, establishment figures have learned the opposite lesson: they want to give government agencies the power to turn the Fourth Amendment's guarantee against unreasonable government searches and seizures and the implied right to privacy protected by the Ninth and 10th Amendments into dead letters. The New York-based establishment Council on Foreign Relations' (CFR) Adjunct Senior Fellow for Counterterrorism and Homeland Security Richard Falkenrath, the former NYPD deputy commissioner for counterterrorism, is quick to call for empowerment of an American secret police agency by repealing the few remaining restraints on surveillance of Americans. Asked by the CFR if he favored creation of a powerful domestic intelligence service, Falkenrath replied: "If you created a domestic intelligence service, but left all the underlying legal policy and jurisprudential constraints in place, then it would be a wasted bureaucratic reform. My focus has always been not on creating organizations but on rethinking or revising, where appropriate, the constraints that exist for domestic law enforcement at the federal level." In other words, gut the few remaining restraints on government surveillance of citizens and use existing agencies such as the FBI and CIA to conduct the surveillance.



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Falkenrath also defended the decision of Massachusetts officials to call for a curfew for non-police officers during the search. “There were a lot of hard decisions that had to be made, but it’s useful to remember some of the precedents here, one of which is London, July 2005, where an innocent man was shot to death by police acting on the suspicion that he was one of the assailants in a failed bombing. And what that shows is there is reason to be wary of the threat to public safety from thousands of law enforcement officers on high alert trained to shoot to kill. So I don’t second-guess the request on the part of the government for people to remain inside, which was certainly made out of an abundance of caution.”

Falkenrath’s statement has a number of problems, not the least of which is the claim police are trained to “shoot to kill.” That’s not the goal of police work. Police are instead trained to be a life-saving service, not soldiers trained to shoot to kill. At least that’s what they have traditionally been trained to be. Police are called to a higher standard, and in this case, one Hollywood movie paints a more realistic picture of the original purpose of police than Falkenrath, who was once a police official. In the 2003 movie *S.W.A.T.*, Samuel L. Jackson plays the head of the Los Angeles SWAT team and stresses that “SWAT is a life-saving organization, not a life-taking one. That’s why the FBI and Secret Service come here to train with us.” Falkenrath — instead of calling for the retraining of police to act with proper restraint in an urban environment — called for civilians to be increasingly restricted during criminal manhunts.

A World of Cameras — but Whose?

“We have to understand that in the world going forward,” Mayor Bloomberg said in his press conference, “we’re going to have more cameras and that kind of stuff.” Of course, living in an era of video cameras and surveillance is to a certain extent unavoidable when every department store and gasoline station has cameras, and every person who carries a smartphone walks around with video recording technology. The question is not whether cameras can be banned; they can’t. It’s only the centralized government surveillance of citizens that’s worrisome. The question is: Should government be able to centralize control of camera surveillance and put all citizens under surveillance as if they are all enemies? The alternative is for government to rely upon private companies and citizens to provide footage voluntarily when there is a threat to public safety, just as they have traditionally relied upon eyewitnesses such as Dave Henneberry to help catch crooks.

The history of all nations reveals that trading away civil liberties for security is an illusion that results in the loss of both freedom and security. And the question Americans must ask themselves is whether the exaggerated and militarized police response to dangerous fugitives in Boston is the “new normal.” Lovers of freedom should push for a more measured response to what is neither a new threat nor more dangerous than other historical threats. If terrorists truly hate America for its freedoms, as President Bush once claimed, then we should not give the terrorists what they have long demanded: the surrender of American citizens’ liberties.

Sidebar: “Martial Law” in Watertown: The Civil Rights Situation

“Boston,” former Congressman Ron Paul argued in a column for LewRockwell.com on April 29, “got a taste of martial law” during the Boston Marathon bombing ordeal. The reaction to Dr. Paul’s column was a hyperventilating broadcast by MSNBC’s Lawrence O’Donnell, who claimed Paul had “lied” in the column. O’Donnell claimed Paul had lied because the former Texas congressman claimed “tanks” had



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been used in Boston streets, and the military-style armored cars and humvees used on Boston streets had wheels instead of the caterpillar treads employed by tanks. In another argument on a meaningless technicality, O'Donnell stressed that the state-imposed curfew was officially "voluntary," and therefore it wasn't "martial law."

The reality was more complex. Police and other public officials did declare a "voluntary" curfew across Watertown, Boston, and Cambridge, as O'Donnell had stressed. And one Watertown resident told The New American she saw a neighbor walk his dog unmolested during the curfew. But some people were definitely harassed for violating the "voluntary" curfew — even famous Boston-area television reporters claimed on-air they had been searched multiple times in "stop-and-frisk" warrantless searches. Other Boston television reporters aired video of distraught civilians who were in the process of being detained and searched by police without warrants for the crime of walking down the street during the "voluntary" curfew.

And there were multiple warrantless searches in the Boston area during the manhunt, though all of the residents of Dexter Avenue and Nichols Street in the Watertown lockdown area interviewed by The New American said police first asked permission to search their homes. Viewpoints differed on police behavior, along a spectrum from "they were nice" to "scary," the latter being applied more to the body armor-clad SWAT teams than ordinary police and National Guard units deployed throughout the town. A few residents who consented to searches of their homes told The New American that had they not given permission, they suspected the police might have come in anyway. This suspicion coincides with press interviews on other blocks in the lockdown area. Those warrantless searches have been reported by wide-ranging sources, such as Alex Jones' InfoWars.com (which did some excellent firsthand video interviews with Watertown residents), Boston television network-affiliate reporters, and even the leftist *Boston Globe* newspaper.

From The New American's own interviews — and interviews by other press — it is not clear if there was any wholesale central directive to ignore Fourth Amendment requirements for search and seizure. (Non-consensual searches require a warrant from a judge, based upon probable cause, supported by an oath, and the warrant must describe what is being searched for and where it will be found). Though a number of unconstitutional searches did take place (e.g., the media people who were searched), they quite possibly took place on an *ad hoc* basis, perhaps depending upon what block the police were clearing at the time, and which squad of SWAT/FBI agents was doing the clearing.

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