Melvin J. Dubnick
Rutgers University–Newark

Postscripts for a "State of War": Public Administration and Civil Liberties after September 11

In their efforts to reflect on the implications and consequences of the tragic attacks of September 11, 2001, Americans are faced with the added agony of having to give meaning to such senseless events. This is especially true for the public administration community because any responses demand a meaningful context for determining expectations and guiding the actions of government agents and agencies.[1] Public administrators need a coherent post–September 11 narrative—an effective *postscript*—to orient them through the challenging times ahead.

Narratives play a critical role in how people adjust to their surroundings, whether they are dealing with the mundane routines of daily life or collective traumas involving unfathomable events. Although the term "narrative" calls forth images of literary works from epic poems and novels to the great dramas of stage and screen, there is growing awareness that we all rely on story-like thinking to make sense of our world and what is—or might be—happening to us. "We dream in narrative, daydream in narrative, remember, anticipate, hope, despair, believe, doubt, plan, revise, criticize, construct, gossip, learn, hate, and live by narrative."[2] For public administrators and other professionals,[3] narratives act as the intellectual and emotional means for grasping and dealing with their situations and what is expected of them. Narratives, in short, are critical determinants of public administrative behavior through their mediation of how individuals understand their situation and what is expected of them.

The present "narrative problem" emerged immediately after the attacks, when top Bush administration officials confronted the dilemma of deciding whether these contemptible actions were to be regarded as "acts of war" or "criminal acts" (deLisle 2002). Were they analogous to the Japanese attacks on Pearl Harbor in 1941, or to Timothy McVeigh's bombing of the Alfred P. Murrah Federal Building in Oklahoma City in 1995? Were they the equivalent of the 1861 shelling of Fort Sumter that triggered the Civil War, or the attack on Harpers Ferry 18 months earlier that led to the conviction of John Brown and others for the crimes of murder, slave insurrection, and treason?

There was sufficient reason to adopt the "state of war" narrative (Freedman 2001–02; Posen 2002; Stevenson 2001–02). Certainly, the scale and scope of the attacks made similar criminal acts pale in comparison (if, indeed, comparisons were possible). But there were costs as well to be paid for treating these as acts of war. Declaring a state of war, for example, rewards the hijackers and their supporters with a special status as "belligerents," a step the British have avoided assiduously in their many encounters with terrorism.[4]

The adoption of a state of war narrative has equally significant implications for those who would conduct the government's business under wartime conditions, whether they are military or civilian. Had the postscript remained within the confines of the criminal justice narrative, the mechanisms and expectations for dealing with the terrorists would have amounted to an extension and expansion of administrative capacities already in place. Declaring war on terrorists and their supporters, however, triggered the need to adjust to very different narratives that generate unfamiliar environments of expectations for both military and civilian administrators, and thus have the potential to create confusion and conflict (Bland 2001). Many of the issues raised in the preceding essays have emerged as a result of the turmoil created by the lack of a clear narrative within which administrative actions can be understood and assessed.

The purpose of this analysis is to posit four alternative state of war narratives that are likely to surface during the post–September 11 era. As will be noted, there are indications of each during the months following the tragedy, but none has yet emerged as the dominant postscript. When (and if) one eventually prevails, it will establish the normative framework that will provide the standards by which

Melvin J. Dubnick *is a professor of political science and public administration at Rutgers University–Newark. He is currently engaged in the study of civic narratives and the relationship between ethics and accountability.* ***Email: dubnick@attbi.com****.*

public-sector governance will be guided and assessed. This is especially important in the civil liberties arena, where the expectations for administrative behavior implied by each narrative will shape government actions and how they will be judged.

The narratives I discuss reflect different views of what is required of an American society that perceives itself to be in a state of war. (Thus, at the outset, we can assume that all other concerns and considerations—from Bush's initiatives in education and faith-based social services to the potential for enhancing civic engagement proffered by the Kirlins—are put aside or subordinated to the perceived priorities of wartime.) Two dimensions of those requirements stand out among others: operational demands and cultural commitments. Operationally, a state of war can call for the full mobilization of our economic and social resources at one extreme or, at the other, a level of mobilization that generates minimal or isolated demands on the nation. In terms of cultural commitment, a state of war can be perceived as requiring a full integration of the war effort's values, norms, and priorities in the national culture or, at the other extreme, a minimal deference to the cultural demands of war. When combined, the two dimensions provide a framework (see figure 1) outlining four major options for the state of war narratives.

Figure 1 "State of War" Narratives

		Cultural Commitments: High	Cultural Commitments: Low
Operational Demands	High	Garrison state narrative	Temporary state narrative
	Low	Enemy within narrative	Glass firewall narrative

The "garrison state" narrative is perhaps the most widely applied by those contemplating the implications of September 11 for civil liberties and related administrative concerns. In the preceding essays, this postscript is most evident in the analyses of Spicer and Nelson, which both express anxiety about the potential impact of the shift to war footing on America's constitutional values and liberal norms favoring tolerance and privacy.[5] Their concerns reflect the assumption that conditions under a state of war inevitably threaten a full suspension of the fundamental values of the American constitutional system. More than 80 years ago, Woodrow Wilson expressed similar fears in explaining his reluctance to ask Congress for a declaration of war against Germany: "To fight you must be brutal and ruthless," he is quoted[6] as saying, "and the spirit of ruthless brutality will enter in to the very fibre of our national life, infecting Congress, the courts, the policeman on the beat, the man in the street." Tolerance will not be tolerated, and conformity "would be the only virtue" (quoted in Link 1985, 11–12).

The relevance and power of the garrison state narrative derives more from our historical imagination than from past experience. The concept is attributed to Harold Lasswell (1941), who wrote of a future in which "specialists on violence are the most powerful group in society," where the trend is "away from the dominance of the specialist on bargaining, who is the businessman, and toward the supremacy of the soldier" (455). In words no less chilling than those used by Orwell in *1984*,[7] Lasswell paints a picture of a society that is completely *and permanently* transformed to deal with the military and technological threats of the future. That Lasswell's narrative captured the attention of other analysts became clear when the attack on Pearl Harbor led to a full-scale mobilization for war, and scholars immediately noted the ominous implications of "total war" for the nation's social and economic institutions.[8]

The "temporary state" narrative comes closer to reflecting the recorded experiences of the United States during major conflicts such as World War II. The label "temporary" is used to reflect the salient belief under this narrative that measures taken during wartime are regarded as necessary and transitory—expediency in the face of immediate dangers rather than permanent transformations. It is a narrative rooted in our pragmatic tradition (Menand 2001), and its adherents tend to be more sanguine about the long-term dangers posed by wartime measures. In considering civil liberties, those adopting the temporary state perspective would highlight a nonabsolutist position on legal rights and stress the need for a realistic (that is, empirical) perspective on the various challenges facing public officials during threatening times (Riesman 1944). Also implied is the assumption that those wielding power and authority during a time of war will act more prudently with the knowledge that theirs is merely a provisional power, and that they will (eventually) be held accountable for their actions.

Support for adopting this narrative comes from several sources. First is the historical experience of World War II, especially regarding the extended process of putting the war machine in place. While the popular image is of a nation fully mobilized for war within weeks of Pearl Harbor, the reality is that it was at least two years before those in charge of mobilization felt everything was in place.[9] Just as important is the constant reference to problems with the "human factor" in mobilization,[10] and the fact that solutions to issues were reactive and always regarded as temporary solutions to immediate problems (Harris 1946). Among other things, this had an impact on programs that clearly endangered civil liberties—for example, the declaration of martial law in Hawaii was absolute in form, but moderate in application.[11] The widely held view (that is, the dominant narrative) that any suspensions of civil liber-

ties were temporary and ultimately required justification seemed to have a restraining impact in a range of areas, from censorship to the handling of conscientious objectors (Cushman 1943).

The temporary state narrative is also bolstered by the fact that the American media and public opinion have demonstrated inclinations to react negatively to excessive threats to civil liberties. As Gould highlights in his analysis of post–September 11 opinion polls, the American public is supportive of restrictions on civil liberties that will enhance security, but generally wary they might go too far. That public discomfort was highlighted when public debate increased with the early June arrest and "detention" of an American citizen (Jose Padilla). The impression left from this and other episodes is that such actions will be tolerated so long as they seem warranted and are perceived as temporary measures.

Most important, the temporary state narrative has primacy in at least one major institution: the U.S. Supreme Court. Chief Justice Rehnquist has argued there is no denying both the necessity and the practical wisdom of pulling back on guarantees of civil liberties during wartime. Juridically, this has been accomplished not through affirmative judgments, but by relying on the ancient Roman doctrine *inter arma silent leges*—"in time of war, the laws are silent." As important, however, is the implication that such silence is acceptable only because it is a temporary matter—a necessary evil that only need be endured during the state of war. In fact, Rehnquist observes that those who favor expanding civil liberties are likely to come out ahead in the long term, because in a postwar environment, the courts have tended to go out of their way to compensate for their wartime reluctance to address key issues (Rehnquist 1998).

The third potential postscript, the "glass firewall" narrative,[12] reflects an image of two parallel administrative worlds—one civilian and one military—operating simultaneously and within view of each other, but separated by a legal and organizational firewall that protects each from interference by the other (Stever 1999). Conceptually, it has its roots in a perspective articulated most clearly by Samuel P. Huntington (1995) in his classic analysis of civilian–military relations. Two defining characteristics of the ideal standard for "objective civilian control" in modern states are (1) the effective subordination of the military to civilian control, *and* (2) "the recognition and acceptance by that leadership of an area of professional competence and autonomy for the military…" (9–10). These features imply a state of war narrative that has deep roots in the Western liberal democratic tradition (Bland 2001) and has been reinforced in the United States by our contemporary public administration theories (Stever 1999). It is a narrative based on two dichotomies: first, between the civil and military activities of government, and second, between politics and administration.

The first distinction is reinforced by a strong assumption that the two spheres demand different forms of governance and management structures, and each should and must defer to the expertise and autonomy of the other, depending on the tasks at hand. Thus, in times of peace, when the military is called in to assist civilian authorities (for instance, to fight forest fires or engage in a search and rescue operation), the military personnel seek direction from the civilian authority. During wartime, however, the military expects to "call the shots," including whether, when, and where civilian assistance will be provided.

Despite challenges to both the wisdom and reality of the politics–administration dichotomy, it also plays a powerful role in the glass firewall narrative. Thus, while the military regards itself as a servant to the will of the duly-constituted civil authorities, it expects the civilian leaders to allow the military to do its work with sufficient resources and minimal interference.

This narrative played a central role in shaping American defense policies for at least 50 years, especially during periods when the Cold War heated up. It is a narrative that generates both positive and negative lessons for those who adopt it. For example, it is applied in the military classroom as a way of understanding the military's "failures" in the Vietnam War and its "successes" in more recent actions (such as the Gulf War). For the Vietnam case, it is used to highlight how politically imposed constraints and direct interference in the conduct of the war led to defeat (Wirtz 2001). At the same time, it has served as a foundation for what is called the "Weinberger-Powell Doctrine," which has guided most decisions regarding the use of military force since its adoption in the 1980s (Campbell 1998).

The impact of this narrative on civil liberties has already been a matter of debate in the post–September 11 era. The glass firewall scenario was triggered almost immediately in a September 14 executive order that empowered the secretary of defense and his designated civilian subordinates to exercise presidential emergency powers "without the approval, ratification, or other action by the President" (White House 2001b). Two months later, President Bush issued military orders giving the defense secretary and military tribunals jurisdiction over noncitizens who are detained as terrorists (White House 2001a). In March 2002, the details of those tribunals—now called "military commissions"—were released by the Pentagon (DoD 2002c). "The commissions are intended to be different," stated Secretary Rumsfeld at a press briefing, "and the reason is—is because the president recognized that there had to be differences to deal with the unusual situation we face and that a different approach was needed for that reason, just as was the case during several previous conflicts in

our country's history." But after months of debate, the differences were not as great as originally contemplated and focused on more inclusive rules of evidence, the special handling of classified evidence, and procedural steps to protect members of the commission (DoD 2002b). Nevertheless, the basic assumption, which is implied in the glass firewall narrative, is that this was the military's business and was to be regarded as distinct from whatever norms and values might be relevant in the civilian arena.

Less than three months later, questions surrounding the military detention of a U.S. citizen became an issue that triggered the glass firewall narrative once again. Jose Padilla's activities as an alleged operative for al-Qaeda resulted in his detention and questioning by the FBI after he returned to the United States. On June 10, the Justice Department announced it was not charging Padilla with a crime, but was handing him over to the military for detention and further questioning. When asked about the legal grounds for this detention, Deputy Defense Secretary Paul Wolfowitz responded that Padilla's "status … is as an enemy combatant. He is being detained under the laws of war as an enemy combatant. There's clear Supreme Court and circuit court authority for such a detention" (DoD 2002a). While the validity of that claim of judicial support is yet to be substantiated as of this writing, the logic behind it can be understood only in terms of the glass firewall narrative.

The fourth narrative requires a high level of cultural commitment to deal with the enemy while having little or no explicit reference to the immediate mobilization of resources. This is labeled the "enemy within" narrative, to stress its similarity to the McCarthy-era perspective that dominated the late 1940s through the mid-1950s. We designate the period from the end of World War II to the fall of the Berlin Wall in 1989 as the Cold War, but in narrative terms it was a period of many different wars, some of them overlapping. The enemy within narrative was strongest from 1949, when it was triggered by several key events (for instance, the trial of Alger Hiss and the detonation of their first Soviet atomic bomb) through the end of the McCarthy era in 1954, when the Wisconsin senator's integrity and motives were openly challenged by Edward R. Murrow. In that historical form, the narrative placed greatest emphasis on threats emanating from within America's borders—and from within its major institutions. The narrative called for an active ferreting out of disloyal and subversive individuals (and their sympathizers), as well as maintaining a vigilant guard against future threats from within. Its impact on the operations and culture of American government was devastating, wreaking havoc in both the civilian and military arenas. It generated challenges to civil liberties that would be felt in the general culture for decades to come (Whitfield 1996).

The post–September 11 version of this narrative has emerged despite some explicit efforts to avoid or downplay it by the Bush administration. Among the strongest themes in White House and administration press releases from September 11 onward has been a clear warning that Arab Americans and Islamics of all nationalities should not be the target of revenge or reprisal. At the same time, various regulations and policies proposed by the Bush administration have given the impression that the enemy within narrative is not completely irrelevant within agencies such as the Immigration and Naturalization Service or the FBI, where pressures to take "preventative" measures are strong.

It is clear that no particular state of war narrative has become predominant during the first year after the attacks, but it is equally obvious that one is likely to emerge as the primary perspective in the near future. Whichever comes to the fore will make a difference for the American public in general and for the public administration community in particular. As the preceding articles in this section show, the adoption of a particular postscript can have considerable impact on the way we assess the actions of government, and there is little doubt that the actions, norms, and values of those who design and implement policy responses to September 11 will be influenced as well.

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Notes

1. On the importance of expectations for public administration, see Dubnick and Romzek (1993).
2. Barbara Hardy, quoted in Egan (1997, 59). Cultural anthropologists have always understood the importance of narratives in societies (Geertz 1974), and child psychologists have long understood the importance of storytelling in human development (Bruner 1986, 1990).
3. The role of narratives has been given increasing attention in the fields of law (Amsterdam and Bruner 2000), medicine (Hurwitz 2000), and administration (Beech 2000; Morris and Moore 2000; O'Connor 2000). In public administration, the emphasis has been on the value of narrative analysis as a major vehicle for improving the study of public management; implied in this perspective, however, is the premise that narratives are an important factor in the lives of public administrators (Hummel 1991; White 1999).
4. Given their decades of experience with terrorists in Northern Ireland, Cyprus, and elsewhere, the British would have avoided such a move. "The terrorists were not [to be] dignified with the status of belligerents: they were criminals, to be regarded as such by the general public and treated as such by the authorities." Following the British model (as we did with McVeigh and those convicted of the 1993 bombing of the World Trade Center), the tasks associated with bringing the perpetrators and their co-conspirators to justice would have been left to law enforcement officials (Howard 2002).
5. Similar concerns were expressed in Newland (2001).
6. These words are attributed to Wilson by a newspaper publisher who met with Wilson on the eve of his address to Congress and spoke of the conversation many years later.
7. Orwell's classic work was published in 1949—a full 12 years after Lasswell first wrote of the "garrison state" in a 1937 article in *China Quarterly*.
8. For example, a 1942 issue of the *American Journal of Sociology* was devoted to several articles focused on the potential impact of the recently declared war on the family, religion, education, crime, the labor market, individual mental health, etc. See Hughes (1942) and the other articles in that issue.
9. Luther Gulick (1944, 1166) notes that the "war organization of the government of the United States reached its full maturity by the end of 1943" with "the last creation of coordinating agencies" and "the first establishment of demobilization agencies" and programs to demobilize within war-focused agencies.
10. Wayne Coy, an early participant in the mobilization effort, complained in 1942 that the United States "might qualify for the dubious fame of being the best organized government that ever lost a war." It became evident that it was not enough to convert the machinery of government—they also had to deal with human factors. "The final, successful conversion of government depends on the conversion of men's [sic] minds" (Coy 1946, 1127).
11. The declaration of martial law was later found to be unconstitutional in *Duncan v. Kahanamoku* (327 US 304). For a detailed and contrasting view of that episode, see Scheiber and Scheiber (1997).
12. This label is from Stever (1999), and I have taken some liberties in its application for this article.

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