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# Fake Drugs and III Government

Joseph S. Dupras

*Liberty University*, [jdupras@liberty.edu](mailto:jdupras@liberty.edu)

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## Fake Drugs and Ill Governments

### *Are Terrorists Prescribing Counterfeit Pharmaceuticals?*

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Joseph S. Dupras

*To generate revenue, criminals have widely practiced the method of counterfeiting, especially since the beginning of product manufacturing.*

*Technological enhancements such as easier computer access and high-speed Internet, present an advantage for advanced methods in counterfeiting by seemingly low-level criminals. However, today's globalized economy has allowed counterfeiting to become a multi-billion dollar black market. The top choice among counterfeiters is the fabrication of pharmaceutical drugs. U.S. authorities are well aware of the profit margin in counterfeit pharmaceuticals, as are organized crime syndicates. China has slowly emerged as the leader in counterfeit pharmaceuticals. With new reports of government corruption in China, issues arise as to whether China is fully cooperating in the global effort to thwart the production and sale of counterfeit pharmaceuticals. These issues now conjure new questions to a previously acknowledged phenomenon: organized crime activity finances terrorism. As the top grossing illegitimate market, sales in counterfeit pharmaceuticals could have the potential of courting terrorists in dire need of a new source of funding.*

#### *What are Counterfeit Pharmaceuticals?*

For the purposes of this publication, the terms pharmaceutical, drug, or medicine can be used interchangeably and may refer to any medicinal product meant to treat prophylactic, therapeutic, or diagnostic ailments. Innumerable forms of counterfeit

pharmaceuticals make their way into the global market each year. These forms may include quality control "rejections" by government or manufacturing regulators; "impersonations" drugs with little or no active ingredients contained which are said to be in the original drug; relabeled expired medication, drugs that have met their expiration date but are relabeled with an extended expiration date and reentered back into the market; and pharmaceuticals not yet approved for wholesale by a regulating agency.<sup>97</sup> A comprehensive definition of counterfeit pharmaceuticals specified by the World Health Organization (WHO) affirms:

*A counterfeit medicine is one, which is deliberately and fraudulently mislabeled with respect to identity and/or source. Counterfeiting can apply to both branded and generic products and counterfeit products may include products with the correct ingredients or with the wrong ingredients, without active ingredients, with insufficient active ingredient or with fake packaging.<sup>98</sup>*

Profit motivates counterfeiters to produce drugs as inexpensively as possible, meaning substandard and dangerous ingredients are often used in the manufacturing of counterfeit medicines. Ingredients such as diethylene glycol (an active ingredient found in anti-freeze products),<sup>99</sup> as well as gypsum (typically found in sheetrock)<sup>100</sup> are used in the preparation process.

Legitimate manufactures such as Pfizer, are conducting their own private investigations on trending counterfeit ingredients in order to warn the U.S. Immigration and Customs Enforcement (ICE) and other agencies on what to look for

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<sup>97</sup> Albert Wertheimer and Thomas Santella, "Drug Importation and Reimportation," in *Handbook of Pharmaceutical Public Policy*, ed. Thomas Fulda and Albert Wertheimer (New York: The Haworth Press, 2007), 312.

<sup>98</sup> World Health Organization, *Counterfeit Drugs: Guidelines for the development of measures to combat*

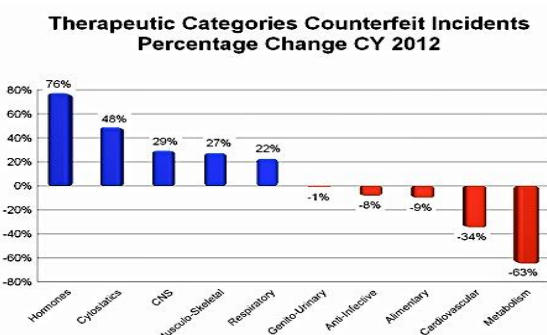
*counterfeit drugs* (Geneva: Department of Essential Drugs and other Medicines, 1999), 8.

<sup>99</sup> WHO, "Counterfeit Drugs," 13.

<sup>100</sup> Barbara Moran, "Cracking Down on Counterfeit Drugs," *Nova Next*, August 20, 2013, accessed November 7, 2013, <http://www.pbs.org/wgbh/nova/next/body/uncovering-counterfeit-medicines/>.

when conducting inspections. The WHO estimates that counterfeits make up 10 percent of global pharmaceutical sales, but in undeveloped regions this number may rise to 30 percent.<sup>101</sup> The WHO has recorded annual profit earnings closely in counterfeit pharmaceutical sales and has recently estimated a yearly market earning of \$75 billion.<sup>102</sup>

The Pharmaceutical Security Institute reported 2,018 incidents of counterfeit seizures in the year 2012.<sup>103</sup> This graph displays the rank based on percentage of the therapeutic category with the most counterfeited products based on the recent PSI 2012 report.



Source: Pharmaceutical Security Institute 2012<sup>104</sup>

The PSI's findings have led international coalitions to track high value pharmaceuticals such as hormones and cytostatic, as they tend to be more valuable and therefore are highly desired for replication by counterfeiters. The areas in most need of these medicines are primarily underdeveloped regions that have a large

concentration of infectious diseases. Counterfeiters have no problem exploiting these markets, as these countries often have weak regulatory measures for the importation of medicine. Due to an increasing need, counterfeit drugs are likely to be found in the hands of dying patients. In affect:

*This may set a scene, which favours an increase in counterfeiting activities. Factors such as inequitable income and wealth distribution, and variable social and economic development also contribute to the increasing incidence of counterfeit.*<sup>105</sup>

Most notably in Africa, counterfeit malaria medications are dispersed to regions in need of the artemisinin derivatives. Recently, an INTERPOL operation<sup>106</sup> confiscated \$3.5 million worth of anti-malaria, birth control, and antibiotic counterfeits in a three-day operation consisting of 550 coordinated raids in southern African countries.<sup>107</sup>

However, "lifestyle drugs" such as Pfizer's Viagra are the most notoriously counterfeited pharmaceuticals. The recent arrest of a man selling counterfeit Viagra in the San Fernando Valley at an average of ten dollars a box—when in fact Viagra costs an average of twenty-two dollars a pill.<sup>108</sup> Counterfeit lifestyle drugs are more likely to find their way into North America and Europe due to higher prescription drug costs and the ease of online pharmacy sales.<sup>109</sup>

<sup>101</sup> "The dangers," Interpol Pharmaceutical Crime, accessed November 7, 2013, <http://www.interpol.int/Crime-areas/Pharmaceutical-crime/The-dangers>.

<sup>102</sup> Moran, "Cracking Down on Counterfeit Drugs."

<sup>103</sup> "Therapeutic Categories," Pharmaceutical Security Institute, accessed November 7, 2013, <http://www.psi-inc.org/therapeuticCategories.cfm>.

<sup>104</sup> "Therapeutic Categories" (graph), Counterfeit Solutions, accessed November 7, 2013, <http://www.psi-inc.org/therapeuticCategories.cfm>.

<sup>105</sup> World Health Organization, *Counterfeit Drugs: Guidelines for the development of measure to combat counterfeit dugs* (Geneva: Department of Essential Drugs and Other Medicines, 1999), 11.

<sup>106</sup> Operation Giboia was planned and executed by INTERPOL on October 1-3, 2013. Over 100 tons of counterfeit drugs were confiscated and 181 suspects have either been arrested or are under investigation.

<sup>107</sup> *INTERPOL operation against pharmaceutical crime nets almost 100 tonnes of illicit medicines* (Lyon, France: News & Media Releases, 2013), accessed November 6, 2013, <http://www.interpol.int/News-and-media/News-media-releases/2013/PR125>.

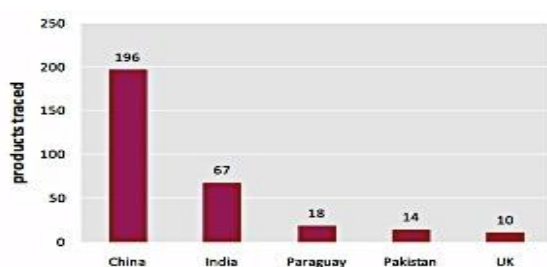
<sup>108</sup> Moran, "Cracking Down on Counterfeit Drugs."

<sup>109</sup> United Nations, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* (Vienna: United Nations Office on Drugs and Crime, 2010), 184.

### Where Do They Come From?

The United Nations Office of Drugs and Crime (UNODC) deliver an annual report each year on the global impact of counterfeit drugs. The UNODC's most recent report recognized China as the global forerunner in counterfeit medicines. While both China and India have historically battled for the top position, China has been the top exporter of counterfeit pharmaceuticals since 2010. More specifically, "Statistics from the World Customs Organization (WCO) indicate that China was the departure point of nearly 60% of the counterfeit medical products (medicines and condoms) seized worldwide between 2008 and 2010."<sup>110</sup>

#### Top Five Origins of Counterfeit Medicines



Source: UNODC 2013<sup>111</sup>

Despite widely held misconceptions, counterfeit medicines can be traced to a production origin. Medicine confiscated by INTERPOL in Operation Jupiter<sup>112</sup> was chemically analyzed and traced to China. Since this operation, INTERPOL has been able to build a database of fraudulent ingredients used specifically by Chinese counterfeiters. This will help investigators identify the origin of certain counterfeit pharmaceuticals unique only to certain Chinese counterfeiters.

Several factors allow China to be the top producer of counterfeit pharmaceuticals. Government corruption associated with this

industry has been investigated; where in one case in 2007, the former head of China's food and drug regulatory agency—the State Drug Administration (SDA)—was found guilty of accepting close to \$1 million in bribes from illegitimate pharmaceutical businesses, and was subsequently executed on such charges.<sup>113</sup> Incursions held in 2011 also located a few hundred illegal operations in the Henan province as well as the Guangxi Zhuang Autonomous Region.<sup>114</sup>

China's SDA is responsible for the regulation and supervision of all medicines produced and sold within China. They are also responsible for the regulation of foreign pharmaceutical imports and product patents. Prior to the formation of the SDA, several regulations were implemented that did not favor American pharmaceutical companies seeking licenses and patents in China. A Memorandum of Understanding (MUO) signed in 1992 between the United States and China, permitted the central government of China to issue Administrative Protection (AP) on certain pharmaceuticals.<sup>115</sup> However, American pharmaceutical companies obtained hardly any benefits from the MUO because policies were passed which allowed for Chinese companies to gain while foreign companies underwent lengthy evaluations. As stated in the *Asian-Pacific Law & Policy Journal*:

*Because the average wait for AP approval was 30 months, many local Chinese companies could also gain legal registration of the drug during the AP evaluation period. This meant local Chinese companies could start marketing the drug before the American pharmaceutical company.*<sup>116</sup>

Foreign pharmaceutical companies are discouraged as a result of this policy

<sup>110</sup> UNODC, "Transnational Organized Crime in East Asia and the Pacific," 132.

<sup>111</sup> Ibid, 133.

<sup>112</sup> Operation Jupiter was an INTERPOL lead operation in 2010 that seized over 8 million counterfeit products and lead to nearly 1,000 arrests.

<sup>113</sup> UNODC, "Transnational Organized Crime in East Asia and the Pacific," 134.

<sup>114</sup> Ibid.

<sup>115</sup> Natasha Wong, "Counterfeit Medicine: Is it Curing China?," *Asian-Pacific Law & Policy Journal*, no. 5 (2004): 158-159.

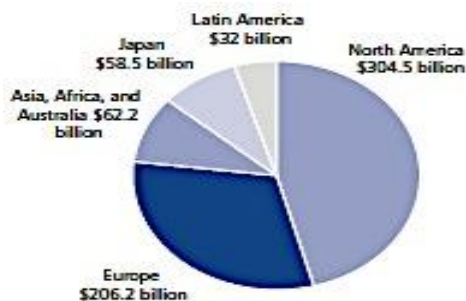
<sup>116</sup> Wong, *Counterfeit Medicine*, 158.

loophole, which means that domestic production is the only means of supplying internal demand. Thus, prices are artificially high and a pseudo market has naturally taken place within domestic China. Chinese drug stores are also encouraged by these high prices to produce counterfeit pharmaceuticals and sell them from their establishment.

Pharmaceutical firms in China have also fallen into the production of counterfeit or substandard medicines. Companies like that of Furentang Pharmaceutical, grounded in Jiangxi, were found producing prescription grade pharmaceuticals they did not have the license to produce.<sup>117</sup> Mainstream firms can also turn to fraudulent pharmaceutical production based on financial pressure.

Similar illegitimate markets have sprung up around the world where pharmaceutical prices are high due to regulatory roadblocks from safety and protection departments or agencies. In the United States, it is believed the Food and Drug Agency (FDA) patent regulations on certain prescription grade pharmaceuticals has steered towards the conception of a counterfeit pharmaceutical market. According to the UNODC's 2010 Transnational Organized Crime Threat Assessment, the United States tops the consumer sales market of counterfeit pharmaceuticals with a total of \$304.5 billion bought in 2007.<sup>118</sup> While underdeveloped countries are attractive for counterfeiters because of their need for expensive medicines, industrialized countries such as the United States who invest in health programs for citizens are also highly attractive for counterfeiters.<sup>119</sup>

### Distribution of Global Pharmaceuticals Sales, 2007



Source: UNODC 2010<sup>120</sup>

This large-scale demand for prescription drugs has contributed to the increase of online pharmaceutical sales. Easy to access, difficult to monitor, and capable of deceiving, online prescription pharmaceutical sales have boomed in the United States. Online markets offer no transparency as to where the medicine is produced, but the low prices are what offer the incentive. In an investigation conducted by the National Association of Boards of Pharmacy (NABP), 97% of 10,000 monitored online sites sold a variation of counterfeit pharmaceuticals.<sup>121</sup> As mentioned earlier, lifestyle medicines such as Viagra are the most favored product via online markets—mostly because they are sold inexpensively, but also because of consumer confidentiality apprehensions. Of the 97% found to be illegitimate online pharmaceutical sale sites, 88% of those did not require a prescription at the time of ordering.<sup>122</sup> U.S. agencies and officials have warned prescription drug buyers to check the validity of the website and also remind buyers that a website must ask for a prescription administered by a licensed health practitioner before you can buy a prescription drug.

<sup>117</sup> UNODC, "Transnational Organized Crime in East Asia and the Pacific," 134.

<sup>118</sup> UNODC, "The Globalization of Crime," 185.

<sup>119</sup> Brian D. Finlay, "Counterfeit Drugs and National Security," Stimson Center, February, 2011, accessed November 7, 2013, [http://www.stimson.org/images/uploads/research-pdfs/Full\\_Counterfeit\\_Drugs\\_and\\_National\\_Security.pdf](http://www.stimson.org/images/uploads/research-pdfs/Full_Counterfeit_Drugs_and_National_Security.pdf).

<sup>120</sup> UNODC, "The Globalization of Crime," 185.

<sup>121</sup> "Internet Drug Outlet Identification Program: Progress Report for State and Federal Regulators," National Association of Boards of Pharmacy, last modified October 2013, accessed November 13, 2013, [http://s3.amazonaws.com/awarerx/rich/rich\\_files/rich\\_files/17/original/nabp-idoi-report-oct2013.pdf](http://s3.amazonaws.com/awarerx/rich/rich_files/rich_files/17/original/nabp-idoi-report-oct2013.pdf).

<sup>122</sup> National Association of Boards of Pharmacy, "Internet Drug Outlet Identification Program," 15.

Measures have been taken by the Food and Drug Administration (FDA) to combat these illicit websites. In June 2013, the FDA closed 9,600 illegal websites selling counterfeit and substandard medicine.<sup>123</sup> A new report released by the FDA stated that these actions coincided with the annual International Internet Week of Action (IIWA); a coordinated effort led by INTERPOL in Operation Pangea VI.<sup>124</sup>

The wholesale of counterfeit pharmaceuticals is illegal in the United States and several agencies are tasked with enforcement. The Federal Bureau of Investigation (FBI) and the Drug Enforcement Agency (DEA) are primarily responsible for counteracting domestic production and distribution. The Immigration and Customs Enforcement agency (ICE) has the overwhelming task of preventing counterfeits from coming into the United States as foreign imports. Foreign counterfeiters have long been successful with subverting their pharmaceutical product into legitimate supply chains by means of various transit systems. These agencies are now working to stop counterfeits from entering the United States at the point of these transit systems. In conjunction with thwarting Internet sales, new technologies are in place to ensure drug legitimacy. The pharmaceutical company Pfizer now uses radio frequency identification tags (RFIDs) on individual product packages to ensure product legitimacy of imported pharmaceuticals.<sup>125</sup> These tags allow for proper tracking of the medicine from the manufacturer to the wholesaler.

#### *The Terrorism Link*

Intelligence experts have long made a connection concerning organized crime and terrorism through financial means.

Terrorists utilize several methods of financing since strategic regional locations offer some groups an advantage in one market over another. Within narcotic rackets, the connection has been established between organized crime and terrorism. Al-Qaeda is best known for deriving funds from heroine profits in European markets. Their relationship with the Taliban-controlled poppy plants in Afghanistan is a major source for the opium needed in heroine production. Narcotics offer terrorists a major advantage based on a high consumer demand for these illegal drugs.

Funds needed in order to execute attacks and the means of acquiring such funds, must go undetected. The nature of organized crime allows it to extort certain markets for money, making crime highly attractive to terrorists who must keep their finances confidential and untraceable. Terrorists use a large number of criminal activities to acquire funds. Human trafficking and narcotics are the most commonly detected because their trafficking patterns are often unique and identifiable, meaning criminal trafficking routes tend to be under heavy surveillance. Al-Qaeda, as well as the Iranian backed terrorist group Hezbollah are looking for non-conventional methods of funding that will provide large enough dividends while maintaining minimal transparency.

The crime-terror relationship has always been a concern, but not until the 1990's did policy makers become concerned.<sup>126</sup> These two groups act as any business partnership would: both must have a mutual agreement in which they believe they will profit from the partnership. However, this illegal partnership may appear best suited for terrorists because, "Proceeds

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<sup>123</sup> FDA, "FDA takes action to protect consumers from dangerous medicines sold by illegal online pharmacies," *FDA News Release*, June 27, 2013, accessed November 13, 2013, <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm358794.htm>.

<sup>124</sup> FDA, "FDA takes action."

<sup>125</sup> *Pfizer Inc.: Counterfeit Pharmaceuticals: A Serious Threat to Patient Safety* (New York: Pfizer Inc., 2007), 11, accessed November 12, 2013, <http://www.pfizer.com/sites/default/files/products/CounterfeitBrochure.pdf>.

<sup>126</sup> Jeanne Giraldo and Harold Trinkunas, "The Political Economy of Terrorism Financing," in *Terrorism Financing and State Responses*, ed. Jeanne K.), 14.

from criminal enterprises... allow terrorists to diversify financial sources and to diffuse risk across multiple sources of financing."<sup>127</sup> This appears to be the most prevalent motivation as to why terrorists look to illegal activity for financing.

Counterfeit goods, counterfeit pharmaceuticals in particular, offer a great source of diversifying a terrorist's financial sources. As a \$75 billion dollar market, counterfeit medicine is a large financial pool that would attract any illegal group interested in large profit. Globalization in legitimate business markets have also helped in diversification, meaning profit trends in counterfeit pharmaceutical sales will mirror the legal pharmaceutical sales trend. Having observed a positive return in the global pharmaceutical market for the past six years, it can be hypothesized that counterfeit pharmaceutical sales are likely to have a positive return as well. Terrorists have utilized the market of counterfeit goods in the past. Counterfeiting of intellectual property comes in all forms: clothes, perfumes, computer software, compact disks, shoes, designer handbags, and even shampoos, but counterfeit pharmaceuticals most likely offer the largest financial return.

#### *American Threat*

With the crime-terror relation having been established, it is important to identify which terror groups could be specifically profiting from this illegal business. It is more likely that criminal groups are to be found in direct possession of counterfeit pharmaceuticals, making it very hard to find an uninterrupted link with terrorist groups. It goes unsaid that organized criminal groups such as the Russian mafia, Chechen rebels, the Chinese Triad, and Columbian drug cartels all have a stake in counterfeit pharmaceuticals. Previously established relationships in other sources of illegal income lead intelligence officials to believe a relationship with

criminals and terrorists can be found in the counterfeit pharmaceutical profits.

In the U.S., Hezbollah has shown intent to become directly involved in crime. Cigarette smuggling is a staple business practice used by the Iranian-backed terrorist group, Hezbollah. They have also ventured into fraud and scams. Credit card fraud is a continued practice, and the funding for the 1993 bombing of the World Trade Center by Al-Qaeda was aided by finances in a retail coupon scam.<sup>128</sup>

#### *What can be done?*

First, the Chinese government needs to become more involved in curbing the issue. They can do this by implementing policy revisions in their food and drug administration. In addition, approving U.S. trade agreements in pharmaceutical products more quickly and without too many loopholes, will discourage high prices that often lead to black markets. China does not appear too concerned about product safety as they do profit. This can be illustrated by the corruption within in its own administration and even more at the local law enforcement level. Counterfeiting medicine is profitable due to a high demand for the products. This high demand can only be solved if pharmaceutical supply meets consumer demand. Trade agreements and fewer restrictions between China and the rest of the pharmaceutical firms in the global market will decrease high demand costs in an effort to incorporate more products.

While this effort may take more time, it is imperative to stop counterfeit pharmaceuticals from entering the hands of the sick in underdeveloped nations. Using a text-message identification system can stop the counterfeiting of malaria medicine. Ashifi Gogo at the TEDx Boston conference

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<sup>127</sup> John T. Picarelli and Louise I. Shelley, "Organized Crime and Terrorism," in *Terrorism Financing and State Responses*, ed. Jeanne K. Giraldo and Harold A.

Trinkunas (Stanford: Stanford University Press, 2007), 40.

<sup>128</sup> Picarelli and Shelley, "Organized Crime and Terrorism," 43.

presented this new system in 2012.<sup>129</sup> This system allows a recipient of medicine to text a number found on the product to verify its validity with the manufacturer. If the product does not match one of the manufacturer's given identification numbers, a simple message is given to the recipient noting that the product is a fake medicine. In addition, the product location is flagged and the pharmacy is investigated. A map can then be plotted of all instances in which a counterfeit pharmaceutical was present. This allows officials to map counterfeiter's routes and likely intentions. While some countries may not have readily available cell phones, pharmacies in underdeveloped countries are likely to have this simple form of technology.

In the United States, a similar system can be implemented using more advanced technology such as Quick Response Code scans (QR codes). The same system of mapping would occur, leading to layout of criminal activity. The system also initiates quicker responses from law enforcement, meaning tips cannot be given to potential terrorist connections in time prior to an investigation.

Along with new forms of technological deterrence, stricter penalties must be implemented globally. Counterfeit pharmaceuticals have the potential to kill. Medicine recipients trust the product they are taking and that it will relieve their ailment. Trademark violations cannot be the solitary charge given as punishment. Attempted murder charges should be prearranged to all those found in conjunction with counterfeit pharmaceuticals. When lives are at stake, stricter penalties ought to be implemented worldwide. The international community is responsible for setting these initiatives. Not only will nations be able to better protect their citizens who rely upon pharmaceuticals, but

it also has the potential to influence other international justice missions. No matter the opinion, counterfeit pharmaceuticals kill; either directly by use or by terrorist attacks subsidized from this illegal activity.

## **The Impact of Police Militarization in America**

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Jonathan C. Hixson

*On August 2nd, 2013, Arlington Police Special Weapons and Tactics (SWAT) raided an organic garden facility called The Garden of Eden.<sup>130</sup> The raid included dozens of police personnel, the Arlington SWAT team, and unmanned aerial vehicles. In its full duration, the raid lasted over 10 hours and cost the taxpayers of Texas tens of thousands of dollars. During the raid, the Arlington Police destroyed numerous exotic plants and other property belonging to the Garden of Eden. Some overgrown plants and an uncut lawn prompted the raid. Police raids involving military-grade equipment, like the one mentioned above, are common practice in 21<sup>st</sup> century America and should be cause for concern.<sup>131</sup>*

### *The Rise of the Warrior Cop*

Before exploring the dangers of the militarization of police, it is essential to first understand the background information regarding the rise of the military-style police, or more specifically SWAT. The warrior cop finds its roots in the SWAT teams developed in the early 1960's. SWAT's development is credited to the long-time Los Angeles Police Chief Daryl F. Gates.<sup>132</sup> Gates received his inspiration for a SWAT team from a specialized police unit created in Delano, California to deal with the uprising of farmers

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<sup>129</sup> Ashifi Gogo, "Combating the Counterfeit Drug Trade: Ashifi Gogo at TEDxBoston," (video of presentation, TEDxBoston 2012, Boston, MA, July 17, 2012), accessed November 14, 2013, <http://www.youtube.com/watch?v=4ZlwOoaCPxl>.

<sup>130</sup> Radle Balko, "Texas Police Hit Organic Farm With Massive SWAT Raid," *Huffington Post*, August 18,

2013, accessed December 20, 2013, [http://www.huffingtonpost.com/2013/08/15/texas-swat-team-conducts-\\_n\\_3764951.html](http://www.huffingtonpost.com/2013/08/15/texas-swat-team-conducts-_n_3764951.html).

<sup>131</sup> *Ibid.*

<sup>132</sup> Jim Fisher, *SWAT Madness and The Militarization of Police*, (Santa Barbara: ABC-CLIO, 2010) 4-5.