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# SUNSGLOW – GLOBAL TRAINING IN THE RULE OF LAW

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## A SUNSGLOW Event At St. Francis College, New York City Held On October 7, 2014 (6:00 - 8:00 pm)

Program notes on the first presentation by Mr. Richard Barrett.



# ST. FRANCIS COLLEGE

## THE SMALL COLLEGE OF BIG DREAMS

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### **CIVIL RIGHTS VERSUS NATIONAL SECURITY**

**Exploring the Tension and Finding a Balance**

**Who:** Richard Barrett (MI6), Scott Horton (*Harper's*), Jeffrey Dannenberg, Bruce Green, Richard Zabel (Deputy U.S. Attorney), Hon. Paul Gardephe (Southern District), Yassin El-Ayouty, and Thomas J. Volpe

**What:** Civil Rights Versus National Security

**Where:** St. Francis College – Maroney Forum for Arts, Culture & Education (Room 7402)  
180 Remsen Street, Brooklyn Heights, NY 11201

**When:** Tuesday, October 7  
6:00 – 8:30pm

**FREE & Open to the Public**

**Reception to follow**

The decades long battle against terrorism has changed the way people think about their personal security and the freedoms they enjoy. St. Francis College Professor Yassin El-Ayouty tackles this question and the compromises we face with an expert laden panel for the event, **Civil Rights Versus National Security, Exploring the Tension Between These Two National Values In a Globalized Environment of Insecurity** on Tuesday, October 7 beginning at 6:00pm in the St. Francis Maroney Forum for Arts, Culture & Education.

The Honorable Paul Gardephe, United States District Judge of the Southern District of New York will moderate the discussion which features a distinguished panel, including:

- Richard Barrett, a former head of British intelligence MI-6, will talk about the "The Nature of Tension,"
- Scott Horton, *Harper's* magazine, will speak about "Enhanced Interrogation,"
- Jeff Dannenberg, a published legal scholar, will speak about "Whistle-Blowing,"
- Bruce Green, Professor at Fordham University, will talk about "Prosecutorial Ethics," and
- Lawyer Richard Zabel will examine the issue of "Courts vs. Tribunals"

Chairman Emeritus of the St. Francis College Board of Trustees Thomas J. Volpe will open the event and Dr. El-Ayouty will bring all the concepts and ideas together at the end.

The event is co-sponsored by the Department of International Cultural Studies and is dedicated to the memory of Dr. Frank Macchiarola '62, former Chancellor and President of St. Francis College.

***About the panelists:***

**Richard Barrett** is an expert on terrorism who served for almost 10 years as coordinator for the Al-Qaeda and Taliban Monitoring Team at the United Nations. He also worked on counter terrorism for the top levels of the British Government.

**Scott Horton** is a human rights advocate who covers legal and national security issues for *Harper's* magazine. He has regularly appeared before Congress testifying on topics like the accountability of military contractors and public integrity at the Justice Department.

**Jeff Dannenberg** has written for numerous legal publications and is the author of "Reconciling the War on Terrorism With the U.S. Constitution" from the book, *Perspectives on 9/11* (Greenwood Publishing Group 2004).

**Bruce A. Green** is the Louis Stein Professor at Fordham Law School, where he directs the Louis Stein Center for Law and Ethics. He teaches and writes primarily in the areas of legal ethics and criminal law.

**Richard Zabel** is Deputy Chief of the U.S. Attorney's Office for the Southern District of New York and former Chief of the Criminal Division. He is a Professor of Law at Columbia University and an expert in prosecuting terrorism cases.

**Dr. Yassin El-Ayouty** is a retired United Nations Principal Officer and founder and president of SUNSGLOW-Global Training in the Rule of Law whose mission is to provide judicial and legal training. Dr. El-Ayouty specializes in legal and judicial reform, international humanitarian law, terrorism and the law and Islamic jurisprudence. He has worked for the United Nations as spokesperson for the U.N. during the Algerian War of independence, Secretary of the U.N. Council for Namibia and an investigator into the legal and tribal ramifications of the conflict in Darfur. Most recently he helped represent and secure the release of Associated Press photojournalist Bilal Hussein Zeydan who was detained by the US military in Iraq for two years.

*St. Francis College, founded in 1859 by the Franciscan Brothers of Brooklyn, is located in Brooklyn Heights, N.Y. Since its founding, the College has pursued its Franciscan mission to provide an affordable, high-quality education to students from New York City's five boroughs and beyond.*

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St. Francis College, 180 Remsen Street, Brooklyn Heights, NY 11201

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Security Service – guardian of its own morals. Sacrosanct duty to protect information. Not harmful secrets but information about fellow citizens that demanded a duty of care

Would answer Quis custodiet ipsos custodes? The watchers themselves.  
Recruitment and vetting processes

Certain arrogance and self belief. Looking at the individual for the benefit of the mass.

A different world – data took time to accumulate. Each step took time and effort

Would not want to waste resources collecting information on people of no interest.

In fact NFI the default acronym - meaning case closed. MIS not avowed and regulated until 1989.

Reasons for collecting information in the 1970s mainly about the protection of security through the protection of secrets

Deep suspicions generated by the Cold War of Russian efforts to spy, and deep conviction that we had secrets worth protecting.

There was apprehension in those days that the State was intruding on privacy, that the security services were a form of thought police.

But services were small. Their power was limited. Their role in government was not significant and because of that there was an acceptance of the secret state, even if no whole-hearted embrace.

The tension between security and privacy was an issue – but below the level of general consciousness.

The advent of domestic terrorism increased the degree of acceptance and the tolerance of intrusion.

But it also created a divide between those citizens that the State was seen to protect, and the elements that the State was seen to oppose.

The issues behind Irish terrorism and Palestinian terrorism attracted sympathy, but not the acts.

Tensions became more acute with detention without trial and the dirty war that appeared to have secret government support.

The tension between security and civil liberties therefore grew as the State appeared to treat the civil liberties of pro-State groups as somehow of greater value than those of anti-State groups

The security community would have been inclined to endorse this assessment. The acts of the anti-State group had eroded their civil liberties. It was not a clean war between one set of values and another. It was a war of life and death.

The tension changed further as terrorism developed and threats were less and less associated with States and more and more associated with belief. The world order challenged by groups that did not want to adjust the balances of power, but rather wanted to overthrow the scales themselves.

Paradoxically, a direct challenge to accepted values causes greater questioning of their validity. But the tension remains and grows in proportion to the threat.

Awareness does not in itself lead to a different approach, especially when there is an urgency for action.

Snowden revealed the consequences of the new tensions. The same idea as when I started - we collect information but do not abuse it.  
If you have nothing to hide you have nothing to fear.

Legislators and courts had introduced controls that at least created the environment for the collection and use of private information - even if technology was always leaping ahead.

Natural that security world would always want more, just in case it came in handy in the future. The idea of meta data which is still an issue.

Equally natural that civil liberties champions should always want less data collection.

Collecting and storing information so easy, so tempting. The levels of concern in the general public seem low. The public also seem so ready to cede their right to privacy to the commercial world; why not to the State? Does the public care? Is that important?

Is the tension between civil rights and security malleable? Does it change in accordance with the threat? Can there be rules of engagement that only one-side observes?

How should security sector build public confidence in its actions and judgements? Where does suspicion of its behaviour originate in Western countries?

Angela Merkel's upset more understandable than Snowden's.

Difficulty of preventing someone from committing a crime rather than investigating whether he has actually done so. Zero tolerance of terrorism.

How does society set the limits on non-invasive invasion of privacy? Deep divisions within the political parties.

Any power over the citizenry needs regulation. Hard to know the consequences of advances in technology as the opportunity to investigate the lives of individuals will increase and take new un-regulated forms.

Is the hacker or identity thief offending your civil rights or affecting your security.

There are plenty of civil rights tensions beyond the security sector.

So if I were once again to start as a twenty something in the security world, facing the threats of terrorism in particular, how would I address the tension between civil rights and national security?

I would want a clear set of values that I felt that by defending I was denying victory to those who wanted to impose an inferior set of values. And I would want civil rights to be absolutely central to the set of values that I was hired to protect - even at the cost of some terrorist attacks getting through. I think that would make me a decent security officer, but there are many who would disagree. The ticking bomb argument is tough, but should be clearly answerable. If we give up ground to protect what we have achieved, we no longer have our achievement.