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PART 7
POTENTIAL CHALLENGES TO COMMUNITY-ORIENTED POLICING



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Potential Challenges to Community-Oriented Policing for Counterterrorism

Community-oriented policing holds a lot of promise as a general crime-fighting plan, including for counterterrorism purposes. However, like any approach, it has its challenges and potential limitations. Those concerns are analyzed and tackled in this section.

Questions arise whether or not local and state policies agencies – the groups that are most likely to engage in community-oriented policing – are able to engage in counterterrorism. Others wonder whether or not community-oriented policing itself is adaptable to have any benefit for counterterrorism purposes.

Here, we also discuss other potential challenges that occur for agencies seeking to implement a community-oriented policing strategy to crime, including counterterrorism. However the challenges likely to lie ahead are not insurmountable; law enforcement agencies have developed best practices that can overcome these barriers.

In addition to implementing community-oriented policing, there are also issues of how this fits into a larger national framework. As recent history has shown, to prevent a plot, it takes more than simply collecting information to prevent a terrorist attack. It also requires information being shared to relevant agencies in a timely manner. Information-sharing issues, within a community-oriented policing and counterterrorism context, are addressed.

Can Local and State Police Handle Counterterrorism?

Potential challenges to tapping into the full potential of community-oriented policing also exist among state and federal law enforcement agencies. By their very nature, federal entities have a much more difficult time engaging in community-oriented policing. This requires a greater focus on state and local efforts to develop information gathering capacities that can prevent and detect terrorist plots.

One may argue local and state law enforcement are not well-equipped to detect and disrupt terrorist plots. However, recent history going back no more than 30 years shows how local and state law enforcement have been at the forefront of detecting and preventing terrorists from carrying out attacks. In other words, combating terrorism in the United States is not a new concept for state and local law enforcement.¹ Some examples of detected and prevented terrorist plots by local and state police include:

- **April 1980:** Las Fuerzas Armadas de Liberación Nacional Puertorriqueña, a Puerto Rican nationalist terrorist organization, is dealt a debilitating blow when several members are arrested by local police.²

- **October 1987:** Local police in Vermont detect and prevent three members of a Lebanese terrorist group from carrying out a plot in the United States.³
- **April 1988:** A New Jersey State Policeman discovers and arrest a member of the Japanese Red Army, a Marxist violent extremist organization, who is in possession of several improvised firebombs that were going to be used a terrorist attack.⁴
- **April 1995:** Oklahoma State Police apprehend Oklahoma City Bomber Timothy McVeigh after pulling him over during a routine traffic stop.⁵
- **July 1997:** New York City Police prevent two Palestinian violent extremists from planning to bomb subway station.⁶
- **October 2001:** Local police in Oregon discover a group of individuals engaged in firearms training in a rural area. It is later discovered these individuals are suspects of aiding terrorists in Afghanistan. The information gained by the local policeman is crucial to the later conviction these individuals.⁷
- **May 2003:** Local police in the Appalachian region of North Carolina apprehended long-time fugitive and violent extremist Eric Rudolph.⁸
- **July 2005:** Los Angeles area police arrest members a small group of men in Torrance after an armed robbery at a gas station. Court evidence later shows the robbery was in preparation for later planned attacks against several targets in the L.A. area.⁹

Despite the above examples of local and state police preventing terrorist attacks, some remain skeptical. New Jersey State Police analyst Raymond Guidetti lists two main problems with a community-oriented policing-based counterterrorism strategy. First, he argues state police typically lack “primary policing authority” that involves day-to-day enforcement of law in communities. Guidetti notes in limited circumstances, such as rural areas, state police have direct responsibility for policing and therefore community-oriented policing is more feasible. However in urban areas where this is typically not the case, implementing community-oriented policing would be impossible.¹⁰

Second, police-citizen partnerships meant to develop community knowledge will not be able to provide the necessary information to uncover terrorist plots. Communities will not have access to foreign terrorist cells like the 9/11 plotters who preferred to isolate themselves from outsiders in order to retain operational anonymity. In Guidetti’s assessment, “community-oriented policing efforts in place at the time when al-Qaeda operatives traversed the country did little for the state and local police in terms of uncovering this conspiracy.”¹¹

These limitations seem to be applicable to federal law enforcement as well, where they have multi-jurisdictional authority across the country, yet have no day-to-day “primary policing authority” anywhere.

Guidetti’s points are valid. Though this report advocates for greater involvement in local efforts focusing on community-oriented policing, we recognize each intelligence gathering method has its strengths and weaknesses. We also agree that it is impractical or impossible for most state and federal law enforcement agencies to engage in full-scale community-oriented policing that seeks to produce daily tactical-level community knowledge.

However, Guidetti's arguments have shortcomings too. Many state and federal entities also engage in community engagement with particular community leaders. For instance, in a series of interviews for a Vera Institute of Justice report 14 of 16 FBI agents felt, "outreach and relationship-building with Arab American communities were valuable intelligence gathering efforts."¹² However this strategic contact approach also has its limitations. Likewise are the intelligence approaches that they also use to uncover potential plots, like undercover investigations and informants. In this same vein, community-oriented policing is not a panacea; it must be combined with other information gathering tools to have the most complete intelligence picture.

Yet, there have been several instances where community tips, which were crucial to preventing potential plots. **In fact, according to MPAC's Post-9/11 Terrorism Incident Database, Muslim communities helped to foil almost 1 out of every 3 Al-Qaeda related plots threatening the United States since 9/11.**¹³ Below we provide a brief description of some prevented plots against the United States, both domestic and international, that involved important contributions from community information, includes:

- **July 1997:** Lafi Khalil and Gazi Ibrahim Abu Mezer are arrested in New York City after their roommate tips off police about bomb-making materials and their intention to use them against civilians.¹⁴
- **October 2001:** The conviction of the "Portland 7" case was substantially helped after a local police officer encountered the suspects as they were engaged in target practice. The police officer had been sent to the area after a local citizen notified police that he heard gunfire.¹⁵
- **September 2002:** Members of the "Lackawanna 6" are arrested. FBI first becomes aware of their activities in June 2001, when a local Muslim community member tips off the FBI.¹⁶
- **April 2003:** A concerned citizen notifies local police of a mistakenly receives a suspicious package originating from anti-government terrorist William Krar. The tip-off starts a Federal investigation eventually leading to Krar's arrest and a discovering cache of small arms and chemical weaponry.¹⁷
- **February 2006:** Muslim community members in Ohio provide information helping to arrest and eventually convict three suspects planning attacks in Iraq.¹⁸
- **August 2006:** British authorities arrest a group of British Muslims suspected of plotting to blow up several airplanes over the Atlantic. Authorities first become aware of the plot when they receive a tip from a concerned Muslim community member that "reported suspicions about an acquaintance."¹⁹
- **November 2006:** Neo-Nazi terrorist Demetrius "Van" Crocker is arrested after an investigation is set in motion by a tip-off from a concerned citizen.²⁰
- **October 2008:** Neo-Nazis Daniel Cowart and Paul Schesselman are arrested by local police, who received a tip from a concerned friend of the two suspects before going on a shooting spree against African-Americans.²¹
- **July 2009:** Mosque leaders in Raleigh, North Carolina contact law enforcement to notify them of "violent, threatening action... considered to be dangerous" leading to the arrest of Daniel Boyd and six other individuals.²²

- **November 2009:** Five Virginia Muslim youth are detained in Pakistan after their concerned family members told American federal authorities the youth went missing. The five individuals allegedly tried to join a regional terrorist group.²³
- **March 2010:** Local law enforcement authorities first become aware of White Supremacists Daniel and Timothy Robinson's possession of bio-chemical weapons, when their landlord noticed potential criminal activity going on at the rental property.²⁴

Despite having a promising track record of counterterrorism effectiveness, community-oriented policing – whether it tackles everyday crime or is used as the central component of an intelligence gathering strategy – has its challenges. The next sections deal with challenges to an effective community-oriented policing-based counterterrorism enterprise at the local, state and federal levels.

Potential Dilemmas to Community-Oriented Policing at the Local Level

Those communities that tend to be confrontational and/or fearful of police are far less likely to act as cooperative partners. Differences with the police in community-oriented policing initiatives tend to arise in two areas, potentially undermining the necessary trust for an effective partnership.

One source of disagreement arises within law enforcement over which public safety issues should be given greater policing attention. Traditional police enforcement tends to narrowly focus on “hard” crimes dealt with in criminal law. Hard crime is typically a concern shared by community members; however communities also want “soft” crime issues – also called “disorder” – are dealt with. Examples of disorder include, “The rowdy teenagers on their street, the small-time drug dealers they walk past—even the dog that barks incessantly and the cars that don’t stop at the stop sign.”²⁵ This leads to conflicts between traditional-oriented police officers narrowly-focused hard crimes on one hand, and community members and other law enforcement officers supporting community-oriented policing that wish to tackle disorder issues.

Yet, if police dogmatically adhere to a narrow enforcement approach, “they risk becoming irrelevant to the community, and so they threaten to undermine potential partnerships.”²⁶ Furthermore, recent research suggests there are a strong direct and indirect connections between disorder and crime.²⁷ If they do not address disorder issues, they dismiss an effective means of crime control.

However, for police officers there is some risk in adding disorder to their hard crimes portfolio. Doing so may end up generating more community complaints against beat officers out of retaliation because, as one beat patrolman noted, “People do not like being told to shut your party down, keep your dog quiet, keep your kids off the neighbor’s lawn.”²⁸ This has a potentially counterproductive effect by making officers less enthusiastic about proactive community engagement and could contribute to a more negative perception of police among ordinary citizens.

The second is conflict over how much authority police should use. The flip side to strong efforts to control disorder is that some in the community may feel they are being harassed by police officers. This is paradoxical given that many of the same people also call for police to address quality-of-life and community disorder issues. This issue is especially relevant to economically underprivileged communities (typically racial and ethnic minorities) suffering high crime rates. There is particular sensitivity over issues of the excessive and deadly use of force and perceptions of racial profiling.

According to a study on policing by the National Research Council (NRC), *Fairness and Effectiveness in Policing: The Evidence*, found “there is usually racial disparity in the use of nonlethal force, and often considerable racial disparity in the use of lethal force.”²⁹ The NRC study also found that while statistical studies addressing the issue of racial profiling are not consistently reliable, it did note some law enforcement officials admitted “they considered race as one among many probabilistic factors of criminal activity by police.”³⁰ It also noted perceptions of racial profiling by police were widespread among minority groups such as African-Americans.³¹

The NRC study found the most effective response to the excessive use of force and more community-friendly engagement is reforming internal administrative rules.³² However, it also runs the risk of facing opposition within police departments. Some officers may perceive such changes as an infringement upon their ability to do their jobs properly due to political pressures based on an isolated incident.³³ These factors are further complicated by issues unique to various immigrant communities, including Muslim groups of various foreign ethnicities. Such challenges include:³⁴

- Large numbers of non-English speakers, which inhibits communication between immigrants and police
- Reluctance to report crime due to fears over getting themselves, their family or friends’ immigration status known to authorities
- Fear of the police based on past experiences in one’s homeland
- Cultural miscommunications in routine encounters
- Negative interpersonal contact, such as rude or disrespectful behavior that undermines goodwill and trust
- Fear of immigration enforcement by local police

Ultimately, what this review of the challenges to implementing community-oriented policing at the local level seeks to highlight is that the benefits such an approach bring challenges. There will likely be opposition by various ordinary citizen and law enforcement communities. Achieving the optimal performance that mitigates or avoids confrontation is complex; however various law enforcement agencies and communities have developed three strategies to deal with these issues.

The first is synthesizing distinct values and priorities. One example is how some police agencies argue that applying the “broken windows” thesis of community-oriented policing to reduce crime provided their officers with a better way of looking for violent fugitives.³⁵ Proactive policing and local community contacts – at both the “grasstop” and grassroots

levels – not only yields better information to reduce general crime and disorder, but it also fills in a critical intelligence gap that can successfully prevent terrorist plots.

The second strategy is to divide responsibilities within a police organization. Some police departments maintain internal divisions of labor: some sections will focus on violent crimes and traditional reactive policing, while others are more dedicated to disorder issues and community-oriented policing. This can lead to internal conflicts within organizations because the differing interests and approaches may come into conflict with each other. It can also lead to “information stovepiping,” where different organizations fail to communicate with one another, largely based on internal conflicts.³⁶

The third strategy is to balance the competing values, priorities and approaches within policing organizations. Sometimes it is impossible to make synthesis a reality in police organizations. However, simultaneous traditional and community-oriented policing approaches can be beneficial to combating crime (including terrorism), making a balancing approach necessary. In many cases, this takes the form of restrictions on police conduct and more controversially, the use of force when making an arrest.³⁷

In addition, local police agencies have also developed a number of strategies to deal with the specific challenges posed when working with immigrant communities:³⁸

- **Partnering with other departments engaged with similar challenges.** Many community police agencies in a given area or policing the same ethnic/racial/religious groups of immigrants face similar problems. As a result, many have developed joint efforts to tackle these issues and share best practices.
- **Providing strong executive leadership.** Efforts such as developing guidelines (and training to implement them), assistance and feedback from middle managers, incentives to build cultural and language competency, and robust “carrots and sticks” to promote desired behavior with communities are noted to be effective.
- **Recruiting a more diverse police force.** Some police departments provide financial incentives for individuals to pursue a college education and then hire them upon graduation.
- **Making a community internship part of the cadet curriculum.** The effect of this is potentially twofold. First, communities may become more familiarized and comfortable with the cadet, so that when the cadet becomes an officer immigrant may feel more comfortable interacting with him. Second, hands-on training (such as an internship), builds practical critical-thinking skills and rapid adaptability that are needed in community-oriented policing, but not emphasized in pedagogically based instruction styles within many police academies.³⁹

Information Sharing Challenges at the Federal, State and Local Levels: Joint Terrorism Task Forces and Fusion Centers

The value of a combined intelligence approach to domestic terrorism that includes community-oriented policing will be wasted if information cannot be properly exchanged. The events leading up to 9/11 show a massive breakdown of intelligence failures based on a failure to share information between internationally-focused security agencies⁴⁰ and local,

state and federal law enforcement entities.⁴¹ In this regard, community knowledge-building, which tends to be a local police affair, must be streamlined with gains from state and federal level intelligence gathering efforts.

The two main links between local, state and federal enforcement are the Joint Terrorism Task Forces (JTTFs) and Fusion Centers. While the purpose of both entities is to create a focal point for piecing together and analyzing disparate bits of information from various agencies, each entity has flaws hindering effective information sharing.

The Joint Terrorism Task Forces started in 1979 as an effort to enhance cooperation between New York City and FBI officers. It was first used to enhance local law enforcement that dealt with an overwhelming number of bank robberies. The concept was effective and eventually was applied to counterterrorism. Prior to this point, cooperation between local and federal law enforcement was ad hoc. The establishment of a JTTF institutionalized, or at least attempted to institutionalize cooperation and cohesion between the FBI and local police.⁴²

Currently, there are 106 JTTFs across the country in each of the FBI field offices.⁴³ They include numerous local and federal agencies, such as the State Department's Diplomatic Security Services, the Bureau of Alcohol, Tobacco and Firearms, and the Immigration and Naturalization Service (now called Immigration and Customs Enforcement).⁴⁴

All JTTFs are governed by a formal Memorandum of Understanding (MOU), which defines the parameters of how the task force is to operate. Operations are based on two broad objectives:⁴⁵

1. **Reactive.** Responding to and investigating terrorist incidents and other related criminal activity.
2. **Proactive.** To investigate domestic and foreign terrorists for the purpose of detecting, preventing and prosecuting terrorist and other criminal activity.

In order for the JTTF to be effective and successful, all of the different law enforcement agencies represented on the task force must utilize their strengths and minimize their weaknesses in such a way that they act as a single cohesive unit.⁴⁶ In theory, this can work well; however, this is much more difficult in practice.

One of the more successful examples of a JTTF was the response to the 1993 World Trade Center bombings in New York City. The task force was effective in responding to the incident by calming people's fears and re-establishing a sense of normalcy in the city. Furthermore, its quick investigatory response tracked down the perpetrators and prevented a second and potentially more deadly incident from taking place.⁴⁷

However, there are several issues with the JTTF in practice. First is that there are civil liberties concerns stemming back to the 1960s and 1970s, when law enforcement was used as an extension of federal agencies to conduct illegal domestic surveillance.⁴⁸ During this period, spying was conducted on non-violent anti-war groups. In recent years, there have been several reports by such groups, as well as Muslim organizations, which reported

infiltration and spying by federal and local law enforcement agencies without any indication of ongoing criminal activity.⁴⁹ These cases have extended to instances of Muslim American communities being spied on by informants, such as Craig Montelih in California⁵⁰ and Shahed Hussain in New York.⁵¹

While legal aspects of JTTFs greatly concern us, this is outside the scope of our paper; we defer this issue to other organizations with greater expertise on such perspectives. From MPAC's policy-oriented view, there is an additional concern that these fishing expeditions pose: They are ineffective and counterproductive to advancing national security because they waste limited resources investigating non-criminals individuals and overlooking real threats.

Much of the issue regarding civil liberties abuses is rooted in the weakening of legal protections and reduction of oversight since 9/11.⁵² Those are larger issues that are largely outside the scope of this paper. We focus on how the structure of the JTTFs not only contributes to civil liberties abuses but also fails to fill an important intelligence gap at the local level.

One problem is the issue of security clearances and its impact on information sharing between federal and local law enforcement agencies. Many local law enforcement agencies and individual officials can, and have had trouble obtaining the necessary clearance to access information at the highest levels allowed. This made many local officials feel like they were being marginalized from a JTTF's day-to-day operations.⁵³

Furthermore, the passing on of sensitive information from federal to local officials can be impeded because they will not have full details as to the information behind how a threat is emerging. This prevents local law enforcement individuals from fully contributing their benefits to the task force by being prevented from reviewing the sources and methods of information and corroborating the veracity of the threat.⁵⁴ Combined with allegations of ongoing civil liberties abuses, the lack of security clearances impedes oversight of operations and contributes to the deterioration of internal cohesion within the task force. Portland, Oregon is a case where the mayor, who also serves as the city's top police executive, failed to get top secret clearance and as a result pulled the Portland police out of the JTTF in January 2005.⁵⁵

The second problem with the JTTFs has to do with the typical structure of the Memorandum of Understanding (MOU). MOUs tend to work in a one-way direction where the informational flows tend to move from the bottom to the top. All JTTFs are governed by a Special Agent in Charge or an Assistant Special Agent in Charge from the FBI. Power sharing is less horizontal between local and federal agencies and more vertical. Furthermore, all resource control, direction of policy is governed by the FBI (including day-to-day supervision), and maintenance and production of reports and records is also governed by the FBI.⁵⁶ The problem is compounded by the fact that each task force participant is "subject to the personnel rules, regulations, laws and policies applicable to those of their respective agencies."⁵⁷

In some cases, local and state law enforcement (like in Portland, Oregon) are governed by privacy and civil liberties protections stronger than current federal laws and guidelines. This

creates a conflict over governance and oversight of investigations between local and federal law enforcement agencies. This too adds to the deterioration of internal coherence within the task force.

Like the Joint Terrorism Task Force concept, fusion centers try to act as a central repository for bringing together bits of intelligence information, as well as different skills and abilities.⁵⁸ While the actual entity of a fusion center came into being after 9/11, the concept itself has been around for decades. However, fusion centers were limited to acting as criminal intelligence systems, “related to violent gangs, drug trafficking, prostitution, child exploitation, weapons smuggling, theft rings and other crimes.”⁵⁹ Many of today’s fusion center entities are an extension of these earlier databases, but contain a higher degree of collaboration between local, state and federal law enforcement agencies.

The concept of the Fusion Center presents a lot of promise in theory. It creates a mechanism that allows for greater information sharing and synergy between law enforcement agencies at the tribal, local, state and federal levels. One of the added potential benefits of Fusion Centers is it can tap into the 800,000 plus local and state law enforcement agencies to act as additional eyes and ears to prevent terrorist plots.⁶⁰

In practice, however, fusion centers have several shortcomings. The first problematic activity of some Fusion Centers is its involvement in data mining. This is the same problem that plagues the NSA’s warrantless wiretapping program. A recent report from the National Research Council (NRC), *Protecting Individual Privacy in the Struggle Against Terrorists*, concurs found data mining is ineffective at best and counterproductive at worst. The report finds that even if one were to assume that the information in a database behind any data mining program is valid (which is not the case), the results are likely to be error prone. As the report notes, “even with high-quality lists, the percentage of false matches and false non-matches may still be uncomfortably high.”⁶¹

This runs the risk of creating an “information overload” (also sometimes referred to as information “pipeclogging”) that generates data on innocent individuals while missing credible threats. This will unnecessarily divert and exhaust limited investigatory and analytical resources. It is this result that leads the NRC report to conclude, “the desirability of technology development efforts aimed at automated terrorist identification is highly questionable.”⁶²

In addition, Fusion Centers have had problems developing their abilities to adequately analyze open-source intelligence. In February 2009, a fusion center based in northern Texas put out an report, based entirely on open-source information from dubious sources, which advocated spying on non-criminal anti-war activists and Muslim advocacy groups.⁶³ Clearly, this incident and others highlight concerns over civil liberties; however, there is also an important security component to this. Since the end of the Cold War, intelligence agencies have been struggling to deal with an information revolution fueled by rapid advances in technology from globalization.⁶⁴ According to intelligence experts cited by a Congressional Research Service report on open source intelligence, open-source intelligence accounts for at least 80 percent of the information used by policy makers need to make their decisions.⁶⁵

However, if fusion centers are unable to properly sift through vast amounts of open-source intelligence, particularly when attempting to distinguish between violent extremists and non-criminal actors, they risk developing a faulty perception of threats that leads to civil liberties abuses and misidentification of real threats. This problem is underscored by a recent Congressional report on open-source intelligence analysis at fusion centers. The report, developed by the U.S. House of Representatives' Committee on Homeland Security, polled over 300 fusion center employees across the country. It found fusion center analysts lacked critical subject matter expertise and basic training in intelligence analysis.⁶⁶

Not surprisingly it also found 60% of polled Fusion Center employees felt "DHS needs to establish a robust training program in addition to producing open-source products with actionable recommendations."⁶⁷ Furthermore, it found only 17% of respondents said they relied on DHS for open source intelligence.⁶⁸ Such a response coming directly from those working on the frontlines against terrorism at Fusion Centers highlight the critical need for better training in this area.

The other shortcoming of fusion centers is that they watch and record the everyday activities, whether criminal or non-criminal in nature, of a growing list of individuals in order to detect any possible terrorist planning. Such monitoring is called Suspicious Activity Reporting (SARs). This includes innocuous and First Amendment-protected activities. Again, while civil liberties are a major concern,⁶⁹ this is not the focus of our paper. From a security standpoint, monitoring such innocuous behavior is both ineffective and counterproductive.

The motivation for collecting and analyzing such behaviors is based on an emerging research field called "behavioral profiling." Behavioral profiling has enormous potential in identifying possible suspicious activities that may indicate of terrorist behavior. For instance, behavioral profiling caught "Millennium Bomber" Ahmed Ressam in 1999,⁷⁰ uncovered a potential plot in 1987 by Walid Kabbani, Walid Mourad and George Younan,⁷¹ and prevented another planned attack by Yu Kikumura in 1988.⁷²

Nonetheless, it is not consistently reliable and those cases mentioned above relied heavily depends upon an officer's experience, intuition and common sense. Even behavioral profiling advocates, such as Bruce Schneier, admit that it can be easily abused.⁷³ Nor does he advocate for more complex and computerized forms behavioral profiling, which characterize SARs.⁷⁴ In fact, this kind of behavioral profiling is largely ineffective at best and counterproductive at worst. A recent report from the National Research Council report, *Protecting Individual Privacy in the Struggle Against Terrorists*, concurs. According to its findings:⁷⁵

The status of the scientific evidence, the risk of false positives, invulnerability to counter measures argue for behavioral observation and physiological monitoring to be used at most as a preliminary screening method for identifying individuals who merit additional follow-up investigation. Indeed, there is no consensus in the relevant scientific community nor on the [National Research Council] committee regarding whether any behavioral surveillance or physiological monitoring techniques are ready for use at all in the counterterrorist context given the present state of the science.

Research on behavioral profiling is still at a preliminary stage. Furthermore, the experimental conditions under which behavioral profiling is tested do not reflect the realistic everyday environment that violent extremists operate in. Even when used as a preliminary screening method, it will still identify large numbers of individuals who will come under suspicion and require significant amounts of resources for follow-up investigations that can be better employed elsewhere.⁷⁶

The federal government has sought to resolve the problem of information overload from the use of SARs by publishing Version 1.5 of its *ISE SAR Functional Standard*, which seeks to “distinguish between behavior that is legal or constitutionally protected and that which is potentially associated with criminal activity.”⁷⁷ It has also sought to establish a training program for beat patrol personnel, law enforcement executives and intelligence analysts.⁷⁸ While the publication of the *Functional Standard* and training for law enforcement personnel are a step in the right direction, the diffusion and implementation of these fixes has been uneven since fusion centers lack a single legal authority that governs and coordinates their development.⁷⁹

Furthermore, the monitoring and collection of innocuous activities (and including the use of private commercial databases)⁸⁰ without any reasonable indication of a connection to criminal activity is contrary to Title 28, Part 23 of the Code of Federal Regulations (CFR 28, Part 23).⁸¹ The intent of CFR 28, Part 23 is not only meant to reasonably protect people’s privacy and civil liberties, it is designed to ensure law enforcement focuses on real criminal activities and not engage in ineffective and counterproductive fishing expeditions. Fusion centers currently struggle with information overload from unfocused information gathering and redundant information systems.⁸² In this context, strong civil liberties and privacy protections become an important means of data streamlining and quality control. However, bypassing the safeguards of CFR 28, Part 23 not only opens the door to civil liberties abuses, it also contributes to information overload and pollutes criminal intelligence databases with bad information.

All of these problems are compounded by the fact that these entities’ information capabilities are increasingly and seamlessly linked with each other.⁸³ If a faulty analytical product is developed at one fusion center the problem spreads to the other fusion centers and government entities it is linked to. Faulty analyses can quickly metastasize; distorting threat perceptions and wasting limited resources if there is not a rapid, efficient and effective redress process.

Endnotes

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