

The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:

**Document Title: Understanding the Intelligence Practices of
State, Local, and Tribal Law Enforcement
Agencies**

**Author: David Carter, Ph.D., Steven Chermak, Ph.D., Ed
McGarrell, Ph.D., Jeremy Carter, Ph.D., Jack
Drew**

Document No.: 238561

Date Received: May 2012

Award Number: 2008-IJ-CX-0007

This report has not been published by the U.S. Department of Justice. To provide better customer service, NCJRS has made this Federally-funded grant final report available electronically in addition to traditional paper copies.

**Opinions or points of view expressed are those
of the author(s) and do not necessarily reflect
the official position or policies of the U.S.
Department of Justice.**

The development of a national network of 72 fusion centers (as of this writing) represents a monumental undertaking and achievement. Yet, there has been criticism of the fusion centers in two broad areas: Fusion center operations and the protection of civil liberties. The results of the current study suggest that the fusion centers are playing a critical role in the nation's domestic intelligence capacity and could play an even more important role in the future. The co-location of personnel from SLT, federal law enforcement and, in some cases, the private sector appears to mitigate some of the historic, cultural, and organizational barriers to information sharing. Consequently, the fusion center's occupy an organizational or network "space" that is "closer" to both federal law enforcement and the SLTs. They appear to be a critical network "node" for the movement of information and intelligence "up-from" and "back-to" the local level. Further, the survey results and case studies reflect the specialized expertise in terms of both human capital (analysts) and technology that many SLT agencies will never attain (with the exception of large metropolitan departments). The fusion centers are already displaying an impressive range of information sources and high frequency actionable intelligence products. Based on these findings, the loss of these fusion centers would result in both a loss of analytic capability and a disconnect between SLT and federal law enforcement and ultimately the intelligence community. Consequently, these results appear to call for continued investment and development of the network of fusion centers.

Perhaps the most critical point for successful intelligence is the quality of the analysis. The need for continual training of analysts, particularly in the area of critical thinking, and the recognition that analysts are practicing professionals – not simply "civilians in the intelligence unit" – are among the factors which need to be recognized and address by law enforcement

leaders. Greater attention by management needs to be provided for the professional development of intelligence analysts in order to increase the quality and utility of analytic outputs.

“Understanding the Intelligence Practices of State, Local, and Tribal Law Enforcement Agencies”

Chapter 1: Introduction

The September 11th attacks impacted society generally, and law enforcement specifically, in dramatic ways. One of the major trends has been changing expectations regarding criminal intelligence practices among state, local, and tribal (SLT) law enforcement agencies, and the need to coordinate intelligence efforts and share information at all levels of government. In fact, enhancing intelligence efforts has emerged as a critical issue for the prevention of terrorist acts. An increasing number of SLT law enforcement agencies have expanded their intelligence capacity, and there have been fundamental changes in the national, state, and local information sharing infrastructure.¹ Moreover, critical to these expanding information sharing expectations is the institutionalization of fusion centers. Despite these dramatic changes, an expanding role, and the acknowledgement that local law enforcement intelligence is critical to the prevention and deterrence of terrorist acts, very little research exists that highlights issues related to the intelligence practices of SLT law enforcement agencies and fusion centers.² It is important to identify best practices for enhancing the flow of good intelligence into the intelligence process by documenting the current experiences of these agencies in building an intelligence capacity. There is a critical need for describing what these agencies are doing to build an intelligence capacity, assessing the state of information sharing among agencies, identifying various barriers that impede collaborative partnerships, and developing innovative ways to measure performance

¹ Many of these changes are a product of the Intelligence Reform and Terrorism Prevention Act of 2004 which created the Information Sharing Environment (ISE). The ISE has had a significant influence on the development of fusion centers and intelligence-related programming of SLT law enforcement agencies, such as the Nationwide Suspicious Activity Reporting Initiative (NSI).

² Since many of the changes in law enforcement intelligence did not occur until 2003 or after, the true growth of fusion centers did not begin until around 2004-05, it is not surprising that there is little scientific research.

in these areas, although not much is known and government and law enforcement officials are seeking solutions.

This project addresses these gaps. Specifically, a national survey was developed to examine the experiences of SLT agencies and fusion centers for building an intelligence capacity, to understand critical gaps in the sharing of information regarding intelligence, and to identify obstacles related to other key intelligence issues, such as measuring performance and communication between agencies. In addition, the activities of three fusion centers were examined to identify strategies that appear to be successful in increasing the information flow across agencies, the major obstacles of effective intelligence gathering and information sharing, and to identify the best practices for integrating domestic intelligence into the information sharing environment and overcoming these obstacles.

Relevant Literature

Since the terrorist attacks of September 11th, there has been a considerable investment of resources in many different government sectors to better prepare, respond, and recover from terrorism. One critical investment area has been in improving the law enforcement intelligence capacity at all levels of government. The changes in the intelligence practices for state, local, and tribal agencies has been particularly pronounced. Many law enforcement agencies had eliminated their intelligence units, starting in the late 1960s, in reaction to a proliferation of civil rights lawsuits alleging systemic practices of collection and retaining information about people where there was no articulable nexus between the individual and criminal activity. In the 1980s there was some significant restructuring of state and local law enforcement intelligence as a result of several factors:

- Structural and policy changes to intelligence units, predominantly in major cities and states, that were built on the precedence set in civil rights cases relating to law enforcement intelligence practices.
- The implementation of 28 CFR Part 23 by the Justice Department’s Office of Legal Policy which established guidelines for the collection, retention, review, dissemination and purging of information in federally funded, multijurisdictional criminal intelligence records systems that were managed by state or local law enforcement agencies.
- The articulation of the Law Enforcement Intelligence Unit (LEIU) File Guidelines which made 28 CFR Part 23 more “policy-based” and, as a *de facto* effect, set the standard that the guidelines should be used by all law enforcement agencies, whether or not they received federal funds.
- The expansive growth (and reach) of the drug trade, largely driven by the Columbian drug cartels, required a different approach to drug investigations, relying on intelligence and information sharing.³

Following the September 11th attacks, and more specifically following the March 2002 IACP/COPS⁴ Intelligence Summit, it was recognized that to provide an effective and comprehensive barrier to future terrorist attacks law enforcement agencies had to re-engineer their current intelligence capacity and, in many cases, they had to build an intelligence capacity from the ground up. The concept and application of law enforcement intelligence was beginning a metamorphosis at that time, driven by new concepts and standards, largely being driven by the

³The High Intensity Drug Trafficking Area (HIDTA) Intelligence Centers are one of the best examples of this.

⁴International Association of Chiefs of Police (IACP) and Office of Community Oriented Policing Services (COPS).

Global Intelligence Working Group (GIWG) and the Criminal Intelligence Coordinating Council (CICC). (Many of these changes are currently ongoing). New resources and training opportunities were becoming available and change was occurring comparatively fast. Among the challenges were that agencies were having difficulty accepting the changes, both conceptually and from a staffing perspective.

One significant factor that occurred was that the GIWG developed the National Criminal Intelligence Sharing Plan (NCISP) which recommended, among other things, that every law enforcement agency, regardless of size, develop an intelligence capacity. The purpose was to “understand the implications of information collection, analysis, and intelligence sharing,” and “must have an organized mechanism to receive and manage intelligence as well as a mechanism to report and share critical information with other law enforcement agencies” (Carter, 2009: 1). The development of this capacity has resulted in a significant expansion of the intelligence function in law enforcement agencies, the institutionalization of intelligence units, and a significant need for providing intelligence training to all levels of law enforcement.

The growth of intelligence practices in SLT agencies has coincided with an increasing acknowledgement within various levels of government of the importance of SLT law enforcement for enhancing the value of intelligence related to terrorism (see Cilluffo, Clark and Downing, 2011). Congress made it generally clear in the Homeland Security Act of 2002 that state and local information was critical for preventing and preparing for terrorist events, and that federal, state, and local entities should work to embrace strategies that would dramatically increase the sharing of information (see General Accounting Office, 2003; 2007; President’s National Strategy for Information Sharing, 2007). Perhaps more importantly, the Information Sharing Environment Implementation Plan, a product of the *Intelligence Reform and Terrorism*

Prevention Act of 2004, placed significant responsibilities on state and local law enforcement agencies for collecting and sharing information for purposes of countering terrorism (PM-ISE, 2006.) This conclusion highlights the recognition that each level of government has unique information sources within its specific environment and is in a position to harness its various assets in the most effective way to accomplish the broad goals of the counterterrorism mission.

The importance of SLT's contribution to the intelligence process can be highlighted in several ways. First, the National Strategy for Information Sharing (2007) highlights the importance of sharing threat information with many sectors of society, and specifically highlights the need for SLT law enforcement agencies to foster a culture of fusing information on crime and terrorist related incidents, support efforts to detect and prevent attacks, and develop training and awareness programs on terrorism. Second, although the Federal Bureau of Investigation is the lead agency for the investigation of terrorism, the types of information provided by various sources and the sheer number of cases and leads requiring follow-up, highlights the importance of involving local law enforcement in terrorist investigations (Davis et al., 2004). Third, it is critical to note that terrorism is a local event, and as such SLT law enforcement agencies are in a unique position to contribute important raw information based on their knowledge about the criminal activities of individuals, groups, and organizations operating in local communities. One report states, "The 800,000 plus law enforcement officers across the country know their communities most intimately and, therefore, are best placed to function as the 'eyes and ears' of an extended national security community. They have the experience to recognize what constitutes anomalous behavior in their areas of responsibility and can either stop it at the point of discovery (a more traditional law enforcement approach) or follow the anomaly or criminal behavior, either unilaterally or jointly with the Federal Bureau of Investigation (FBI),

to extract the maximum intelligence value from the activity (a more intelligence-based approach)” (Masse, O’Neil, and Rollins, 2007). In addition, there is evidence in both cases of international and domestic terrorism where state and local law enforcement officers have encountered terrorists through such activities as traffic stops, yet did not know the threat these individuals posed because of information barriers. This clearly highlights the need for SLT law enforcement agencies to have access to timely and actionable intelligence which may lead to the prevention and response to terrorist acts (see Cilluffo, Clark and Dunning, 2011; Cooney, Rojek, and Kaminski, 2011; 9/11 Commission Report). Fourth, critical infrastructures and high-value targets are dispersed widely in the United States, and many of these potential targets are located in rural and less-populated areas. Local law enforcement agencies in these communities are in the best position to recognize when suspicious situations occur near these critical targets. Fifth, survey research, supported by extensive anecdotal experience of the research team, indicates that the terrorism experiences and expectations regarding intelligence work of state and local agencies increased after September 11th (Davis et al., 2004).

Terrorism scholarship examining the behaviors and patterns of terrorists operating on U.S. soil also supports the conclusion that there are significant opportunities for SLT law enforcement agencies to significantly enhance the amount, quality, and reliability of both critical sensitive information and intelligence. Brent Smith and colleagues’ American Terrorism Study is one of the most important domestic terrorism data collection efforts to date (Smith, 1994). This project, conducted in cooperation with the FBI’s Terrorist Research and Analytical Center, includes persons under federal indictment as a result of an investigation under the FBI’s Counterterrorism Program. These researchers were provided lists (1980-1989; 1990-1996; 1997-2002) of persons indicted, and then traveled to federal courthouses to collect data from trial

transcripts and docket information. These data have been used by various principal investigators to answer a variety of important questions, including the prosecution and punishment of international and domestic terrorists (Smith, Damphousse, Jackson and Sellers, 2002), prosecutorial strategies in terrorism cases (Smith and Orvis, 1993), and the empirical validation of the growth of leaderless resistance tactics (Damphousse and Smith, 2004). These data highlight that the base of operations for domestic right-wing groups is rural areas and left-wing groups operate generally in urban areas. Similarly, Smith and colleagues found that terrorists are much more likely to engage in planning activities and to commit preparatory crimes compared to traditional criminals, and importantly the patterns of preparatory conduct vary by type of terrorist group (Smith, Damphousse, & Roberts, 2006). For example, they found that right-wing terrorist groups are more mobile than international terrorists, and tend to commit crimes farther from their home. Smith and colleagues concluded that this may either be evidence that far-right groups have broader support networks which allow them to freely to move around the country or it could reflect that far-right terrorists tend to reside in rural locations (p. 46). It was found that left-wing and international terrorist groups committed many more preparatory crimes compared to right-wing and single issue terrorist groups and were more likely to separate their acts from their targets (pp. 36; 52). Findings such as this can be an important source of information used in strategic intelligence analysis. It can help refine the parameters of the threat picture and provide direction for the development of investigative leads.

Similarly, Hamm (2005) compared the types of crimes committed by international and domestic terrorist groups. His analysis of data from the American Terrorism Study found that international terrorists were statistically more likely to commit aircraft violations, motor vehicle crimes, violations of explosions, and some types of firearms violations. In contrast, domestic

