

**INSS 5390**

# **Intelligence:**

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## **The Need Exists in Law Enforcement**

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## Introduction

One of the most important concepts for any society is the safety and security of its citizens. A government's ability to ensure the safety and the security of its citizens is one of the top priorities of any country. One method countries utilize to ensure safety and security is through the implementation of a robust intelligence capability. In the United States, the dependence on a robust intelligence capability significantly increased as a result of the terrorist attacks of September 11, 2001 by al-Qaeda. The events of 9/11 significantly altered the course of action of the United States from the direct moment of the attacks to the present day. During that time, the United States has taken significant actions to counter al-Qaeda and other organizations that are hostile to the United States and its values. These actions have included large scale combat operations in both Iraq and Afghanistan while also carrying out covert operations targeting terrorist organizations in other parts of the world as well. The failure to predict the terrorist attacks of 9/11 as well as the failure to accurately assess the weapons of mass destruction (WMD) capabilities of Iraq placed a significant spotlight on the Intelligence Community (IC) of the United States. As a result, the subject of intelligence and its importance has risen from an afterthought for many to become an important concept in not only the minds of policy makers but the general public as well. The new found importance led to significant changes within the United States IC as well as increased budgets for intelligence related matters at all levels of the United States government.

In the years since the events of 9/11, the size of the United States IC has grown exponentially resulting in significant budget increases for intelligence related operations. To illustrate this fact, the Fiscal Year 2011 budget for the National Intelligence Program topped \$52 billion to support intelligence operations of the 16 members of the United States IC with an additional \$24 billion to support the United States Military Intelligence Program.<sup>1</sup> Portions of the National Intelligence Program budget have been utilized to fund the intelligence activities of law enforcement organizations such as the Department of Homeland Security as well as to provide support to the intelligence operations of state

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<sup>1</sup>Stephen Losey. "Obama seeks 9% cut in 2013 intel budget from 2011." *Federal Times*, February 14, 2012.

and local organizations by means of federal grant programs. These budget increases have had an impact on intelligence operations but the true question is to what extent.

The success of United States' intelligence operations especially as it relates to counter-terrorism efforts can have significant repercussions that affect not only the safety and security of the citizens of the United States, but it can also have an effect on a global scale. First and foremost, terrorist attacks have physical consequences. The terrorist attacks of 9/11 against the United States cost the lives of approximately 3,000 individuals from not only the United States but from other countries as well. The damage caused by 9/11 also had other effects can also go deeper as any attack or even threat of an attack has other long lasting effects. Following the terrorist attacks of 9/11, research was conducted related to the emotional effects that occur as a result of a terrorist attack. The resulting polls indicated that individuals were still emotionally affected by the terrorist attack for months after it had actually occurred, with a person's normal emotional state only returning to normal levels after about a years' time span. However, the research also indicated that the cognitive effects of the attacks lasted much longer as some individuals showed signs regarding the effects of the attack for up to five years later.<sup>2</sup> Besides physical and emotional effects, the terrorist attacks of 9/11 also had a serious economic effect on the United States' economy. New York City is a major financial hub for the United States and the terrorist attacks of 9/11 severely affected the normal operations of the city. It was reported that New York City lost \$2.8 billion in wages in the three months following the terrorist attacks, with the financial, insurance and banking industries being the most drastically affected.<sup>3</sup> As devastating as the affects were on New York City, the attacks also had a much greater effect on the economy of the United States as a whole. It has been estimated that the cost associated with the terrorist attacks of 9/11 as well as other terrorist attacks associated to al-Qaeda has cost the United States over \$3 trillion. Of course this cost not only takes into consideration the damage caused by the attacks, but the indirect results of the actions taken by the United States in response to the attacks.

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<sup>2</sup> McArdle, Shelly C. Heather Rosoff, and Richard S John. "The Dynamics of Evolving Beliefs, Concerns Emotions, and Behavioral Avoidance Following 9/11: A Longitudinal Analysis of Representative Archival Samples." *Risk Analysis*, 2012: 744-761.

<sup>3</sup> Lydia Polgreen. Lydia. "Study Confirms 9/11 Impact On New York City Economy." *The New York Times*, June 30, 2004.

To understand the sear impact of the actions by al-Qaeda one simply has to compare the associated costs of 9/11 to the total cost of World War II, as the United States spent \$4.4 trillion in today's dollars conducting operations.<sup>4</sup> This is significant considering the global scale and sheer size at which the United States operated at during World War II.

As seen by the terrorist attacks of 9/11, the effects of one properly executed attack can have dramatic effects on the United States, resulting in a new found importance being placed on intelligence and intelligence support to counter-terrorism efforts to monitor and disrupt potential threats to security. Traditionally speaking, when individuals think about the United States IC, the first images that arise generally related to the intelligence organizations within the United States Department of Defense (DoD) or the Central Intelligence Agency (CIA) as these organizations have been the historical heavy lifters when as it relates to national security issues. However, the intelligence failures of 9/11 and the Iraqi WMD case highlighted the major weaknesses within the intelligence infrastructure of the United States. As a result, several fundamental changes were undertaken to include a new found emphasis being placed upon collaboration and intelligence sharing among the different intelligence organizations. The United States has historically prided itself on be an open society which values the rights and freedoms of its citizens. Because of these beliefs, legal restraints have been placed upon the United States IC as it relates to domestic collection. As a result, a new found importance has been placed upon traditional law enforcement organizations to collect and monitor activities from potential threats; these law enforcement organizations range from state and local organizations such as the New York Police Department (NYPD) as well as federal organizations such as the United States Department of Homeland Security (DHS) and the Federal Bureau of Investigation (FBI). Law enforcement organizations do not have a long history of employing traditional intelligence capabilities which leads to an important question. How have traditional law enforcement entities adopted traditional intelligence techniques and capabilities and has the result of traditional law enforcement

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<sup>4</sup> Fernholz, Tim and Jim Tankersley. "The Cost of bin Laden: \$3 Trillion Over 15 Years." *National Journal*, 2011.

entities intelligence activities benefited the domestic anti-terrorism fight of the United States?

## History of Law Enforcement Intelligence

In order to understand how traditional law enforcement entities have adopted traditional intelligence techniques and the benefits gains from such an approach, one must first examine the history of law enforcement intelligence in the United States. It has been stated that the origins of law enforcement intelligence dates to the 1920s. During this time, law enforcement intelligence utilized the military system of keeping dossiers which were basically a collection of files regarding raw information on an individual or group in which the law enforcement organization deemed to pose a threat to society.<sup>5</sup> The use of a dossier type system was heavily utilized throughout the twentieth century by organizations such as the FBI. However, the FBI would be heavily criticized regarding the organization's utilization of its dossier type system in its Counterintelligence Program known as COINTELPRO. The COINTELPRO acronym was conceived by members of J. Edgar Hoover's staff during the 1950s. The program ran from 1956 until 1971 and was heavily criticized due to its unlawful use of surveillance and sabotage while targeting various groups to include both right and left wing organizations.<sup>6 7</sup> In regards to law enforcement intelligence at the state and local levels, the Warren Commission's 1964 report on the assassination of President Kennedy was one of the first items to address the issue. In the report, the Warren Commission recommended that federal agencies should have a better working relationship with state and local law enforcement in order to foster the relationship and increase information sharing.<sup>8</sup> By the early 1970s, law enforcement intelligence continued to adapt and become an ever increasing element within the law enforcement community as the National Advisory Commission of Criminal Justice

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<sup>5</sup> Carter, David L. "Brief History of Law Enforcement Intelligence: Past Practice and Recommendations for Change." *Trends in Organized Crime*, 2006: 51-62.

<sup>6</sup> *Time*. "FBI Dirty Tricks." 1977: 50.

<sup>7</sup> *Time*. "Hoover's Closet." 1974: 30.

<sup>8</sup> Carter, David L. "Brief History of Law Enforcement Intelligence: Past Practice and Recommendations for Change." *Trends in Organized Crime*, 2006: 51-62.

Standards and Goals (NAC) made several recommendations regarding the intelligence functions of state and local law enforcement organizations. Among the recommendations of the NAC was that each state should develop its own law enforcement intelligence function which incorporates its local law enforcement organizations.<sup>9</sup> During the late 1970s until the end of the twentieth century, there were significant developments within the law enforcement intelligence structure. Among these developments was the creation of Regional Information Sharing Systems (RISS) centers. The RISS is a congressionally funded program that is a conduit for information sharing as well as intelligence analysis for law enforcement organizations. In 2004, it was reported that there were more than 7,199 organizations in the RISS network.<sup>10</sup> During the course of the 1990s, the United States saw the establishment of several federal law enforcement intelligence centers. Among the organizations that were created included the Financial Crimes Enforcement Network (FinCEN), the High Intensity Drug Trafficking Areas (HIDTAs) as well the non-defunct National Drug Intelligence Center (NDIC).<sup>11</sup> Another significant development related to law enforcement intelligence was the introduction of Compstat in 1994. Compstat was the brainchild of New York City police commissioner William Bratton. The concept of Compstat revolved around four key principals. Those principals included: accurate and timely intelligence, effective tactics, rapid deployment of resources and follow-up and assessment.<sup>12</sup> Compstat or programs based upon the same principals of Compstat would end up being implemented in several other major cities within the United States to include: New Orleans, Louisiana, Minneapolis, Minnesota, Baltimore, Maryland and Philadelphia, Pennsylvania.<sup>13</sup> The creation of programs like Compstat marked the beginning of a shift in the mind set of traditional law enforcement organizations as the value of intelligence became an ever increasing part of law enforcement operations. This principal would be significant for the law enforcement community after the events of 9/11 as significant changes would occur regarding the

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<sup>9</sup> Ibid., 57.

<sup>10</sup> Peterson, Marilyn. *Intelligence-Led Policing: The New Intelligence Architecture*. Rockville: International Assoc of Chiefs of Police, 2005.

<sup>11</sup> Ibid.

<sup>12</sup> Shane, Jon M. "Compstat Process." *FBI Law Enforcement Bulletin* 73, 2004: 12-21.

<sup>13</sup> Eterno, John A, and Eli B Silverman. "The NYPD's Compstat: compare statistics or compose statistics?" *International Journal of Police Science & Management* 12, 2010: 426-449.

structure of the government of the United States as it dealt with the aftermath of the attacks while understanding the best way forward for the future.

## **Intelligence Failure**

When examining the intelligence failures of law enforcement organizations, it is hard not to examine the terrorist attacks of 9/11 as it can be argued that it was the most significant intelligence failure that the United States faced since the attacks by the Japanese on Pearl Harbor in 1941. The events of 9/11 demonstrated the poor performance of the United States IC as a whole. Multiple organizations failed to piece together the bits and pieces of information related to the attack until it was too late. In regards to law enforcement organizations failure to predict the attacks, the FBI takes the blunt of the attack as it is the chief domestic intelligence arm for the United States. A report regarding the failure by Justice Department Inspector General Glenn A. Fine highlighted three instances in which the FBI failed to piece together information regarding the attack. First, the FBI failed to detect the presence of several of the hijackers after their initial entrance into the United States in early 2000. Second, the FBI failed to detect the significance of al Qaeda operative Zacarias Moussaoui to the 9/11 plot. Finally, the report also highlighted the FBI's mishandling of a memo from July 2001 in which an FBI agent from Phoenix theorized that al Qaeda could have been sending operatives to flight schools in the United States.<sup>14</sup> The failure of the FBI to follow up on leads regarding a potential attack on the United States was inexcusable no matter how credible the information was given the historical data regarding al Qaeda as a threat to the safety and security of the United States. Al Qaeda had a track record which demonstrated the organizations ability to attack the United States and its interests around the world. The FBI should have known the threat posed by al Qaeda as the organization was responsible for or linked to the 1993 bombing of the World Trade Center, the 1995 bombing of an United States military facility in Riyadh, Saudia Arabia, the 1998 bombings of the United States embassies in

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<sup>14</sup> Eggen, Dan. "Pre-9/11 Missteps By FBI Detailed." *The Washington Post*, June 10, 2005.

Keny and Tanaznia as well as the 2000 bombing of the USS Cole in Yemen.<sup>15</sup> There were also failed attacks such as the Millennium plot to blow up the Los Angeles International Airport and the plot to attack hotels and tourist attractions in Jordan in order to target American tourists.<sup>16</sup> Given the number of both successful and unsuccessful attacks against the United States either by or associated to al Qaeda, it was clear that al Qaeda was on radar of the United States IC. This was evident by the fact that the Director of the CIA, George Tenet declared war on Osama bin Laden in a 1998 memo. At the same time, the FBI also understood the seriousness of the threat as counterterrorism became one of the organizations top priorities.<sup>17</sup> One of the primary reasons for the failures of the FBI in its inability to correctly assess the intelligence related to the terrorist attacks of 9/11 has a great deal to do with the organization's inability share information and collaborate with other organizations. The inability of the FBI to foster an environment to share information has a great deal to do with the organization's history as a law enforcement organization. Historically, the mission of the FBI has been to build strong cases for federal attorneys to prosecute rather than prevent events from happening. In order to accomplish this mission, the FBI built an organization that fosters a culture of restricted access in order to protect information relating to investigations.<sup>18</sup> The failure of the FBI as well as other intelligence organizations<sup>17</sup> to prevent the terrorist attacks of 9/11 led to significant changes within the intelligence infrastructure of the United States.

## **Intelligence Reform**

The aftermath of the terrorist attacks of 9/11 left the United States IC as well as policymakers scrambling in order to find answers as to what went wrong and how events like 9/11 could be prevented from happening in the future. The intelligence failure of 9/11 coupled with the failure of the United States IC to accurately assess the Iraqi

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<sup>15</sup> Gertz, Bill. "The FBI: The Decline of Domestic Intelligence." *Human Events*, 2002: 14.

<sup>16</sup> Zegart, Amy B. "An Empirical Analysis of Failed Intelligence Reforms Before September 11." *Political Science Quarterly*, 2006: 33-60.

<sup>17</sup> *Ibid.*, 38.

<sup>18</sup> Baker, Juan. "Intelligence and Law Enforcement Coordination: Overlapping Mission Dictates Need for Improved Liaison." *Military Intelligence Professional Bulletin*, 2002: 22.



weapons of mass destruction (WMD) program brought a significant push among policymakers to reform the intelligence infrastructure of the United States. The reform had a significant effect on the intelligence community to include the intelligence capabilities of the law enforcement organizations within the United States.

One of the first steps at reform occurred within weeks of the terrorist attacks of 9/11 as President George W. Bush created the Office of Homeland Security, whose mission was to implement and oversee the national strategy of the United States to protect the country from terrorist attacks as well as coordinate the response of the country in the event of any future attacks.<sup>19</sup> The actions of President Bush would eventually pave the way for the creation of the Department of Homeland Security (DHS) as Congress passed the Homeland Security Act in 2002. The creation of DHS was significant as it was the largest reorganization within the United States government since the passage of the National Security Act of 1947. With the creation of DHS, the organization became the second largest department behind the DoD within the United States government as DHS was a conglomerate of 22 existing organizations with approximately 170,000 employees and an initial annual budget of almost \$40 billion.<sup>20</sup> DHS as an organization would become critical to the strategic objectives of the United States in regards to homeland security as its objectives included: to prevent terrorist attacks within the United States, to reduce the terrorist vulnerabilities of the United States and to minimize the damage and assist in the recovery if future attacks to occur. In order to accomplish these objectives, the National Strategy of Homeland Security aligns the objectives into six mission areas: intelligence, border and transportation security, counterterrorism, critical infrastructure, terrorism defense and emergency response.<sup>21</sup> Given the National Strategy of Homeland Security and the mission set for DHS, intelligence would become an important component of the organization. A solid analytical foundation can provide significant support to prevent any future attacks. In order to accomplish this mission, DHS was tasked with several critical initiatives to include: enhance the analytic capabilities of the FBI, create new analytical capabilities, implement the Homeland Security Advisory

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<sup>19</sup> Kemp, Roger L. "Homeland Security in America: Past, Present, and Future." *Fire Engineering*, 2012: 91-94.

<sup>20</sup> "US National Strategy for Homeland Security." *Military Technology*, 2002: 36

<sup>21</sup> *Ibid.*, 37.

System, utilize dual-use analysis as well as implement “red team” analysis to enhance analytical capabilities.<sup>22</sup> The creation of DHS was just the start of reform within the United States government as it relates to intelligence reform in response to the intelligence failures of the United States IC.

During the same time frame at which DHS was created, the United States also passed significant legislation in an attempt to prevent future terrorist attacks from occurring. In October 2001, the United States Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (Patriot Act) as a means to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes. The Patriot Act contained several key components which were geared towards assisting both the law enforcement and intelligence communities. In a speech given in July 2004, Tim Ridge, the Secretary of Homeland Security at the time, conveyed that the Patriot Act contained two critical instruments to protect the United State from future terrorist attacks. First, the Patriot Act fostered the ability of both law enforcement and intelligence organizations to more readily share information. Second, the Patriot Act made ready vital investigative tools to law enforcement agencies which allowed those agencies the ability to identify and apprehend terrorists, preventing potential acts of terrorism from being carried out.<sup>23</sup> Several of the tools associated with the Patriot Act have significant impact on the intelligence community to include intelligence regarding the law enforcement community. One of the most significant components of the legislation concerns the ability of law enforcement organizations to obtain approved to monitor and track communications as the Patriot Act modified previous statues to ease restrictions placed upon law enforcement organizations to gain approval. Another significant component of the legislation was the modification of the government’s ability to regulate the activities of financial institutions within the United States.<sup>24</sup> These were key components which have the potential to provide vital information to the intelligence community. When paired with an environment which fosters information sharing among

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<sup>22</sup> Ibid.

<sup>23</sup> "Using the PATRIOT Act to Fight Terrorism." *Congressional Digest*, 2004: 266-268.

<sup>24</sup> "USA PATRIOT Act." *Congressional Digest*, 2005: 196-224.

organizations, the new tools associated with the Patriot Act are an attempt by the United States government to prevent future terrorist acts from occurring.

Intelligence reform continued within the United States in 2004 with the passing of the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004. The IRTPA was overwhelmingly passed by the United States Congress as the House of Representatives voted 336 to 75 in favor while the Senate voted 89 to 2 in favor.<sup>25</sup> Like the creation of DHS in 2002, the IRTPA had a monumental effect on the United States government as the act established the Office of the Director of National Intelligence, resulting in the largest transformation of the United States IC since the previously mentioned National Security Act of 1947.<sup>26</sup> Although many of the changes related to the IRTPA have impacts on the United States IC as the strategic level, there were also several components of the legislation which had direct impacts on the law enforcement intelligence community to include the FBI as well as DHS.

When examining the events surrounding intelligence reform and its effects within the United States government, all three of the measures discussed had a profound impact. However, one underlining element seems to prevail within all three pieces of legislation. The success of DHS, the Patriot Act and the IRTPA all rely on the importance of increased collaboration among the various organizations. In order to accomplish this, an environment with promotes the sharing of information is vital.

## **Information Sharing**

The terrorist attacks of 9/11 brought a significant amount of attention to the United States IC as individuals search for the reasons why the intelligence failures occurred as well as possible answers to prevent any future attacks from occurring. As pointed out by the 9/11 Commission Report, there was not one single point of failure. Instead, there was a system of failures that led to the events of 9/11. In response to this, the 9/11 Commission recommended a unity of effort where all intelligence agencies, to

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<sup>25</sup> "House Passes Intelligence Reform and Terrorism Prevention Act." *Human Events*, 2004: 12-14.

<sup>26</sup> Chambliss, Saxby. "Re-Forming Intelligence." *National Interest*, 2005: 79-83.

include federal, state and local organizations, would work towards the same objectives.<sup>27</sup> In order to achieve an environment where organizations feel free to share information, organizations must overcome past stigmas and arrogances in regards to sharing information with organizations that have been seen as lesser organizations. This bias is mostly seen in regards to information sharing between the federal agencies and state and local organizations. In the past, state and local organizations have traditionally not had any issues sharing information with their federal counterparts. Instead, the disconnect was with federal agencies trusting state and local organizations with the information as the state and local organizations were seen as junior partners which lacked the skills necessary to handle high priority cases.<sup>28</sup> A prime example of this is the bureaucracy faced months after the terrorist attacks of 9/11 as the FBI reached out to police chiefs throughout the United States to offer classified information on terror suspect that might be operating in their local area. In order to obtain access to the classified information, the police chiefs had to fill out paperwork in order to gain a security clearance.<sup>29</sup> In order to overcome these cognitive biases, individuals must first understand the benefits of information sharing. Professor Samuel J. Rascoff pointed out several key advantages gained when federal organizations share information with state and local organizations. First, state and local law enforcement organizations are more likely to be in touch with the local environment and can provide intelligence from the bottom up. Second, state and local law enforcement are in a better position to utilize their relations with members of the local community in order to collect information. A third advantage pointed out by Rascoff is the fact that state and local law enforcement organizations are members of the community and will be more adept at understanding basic civil rights during the intelligence collection allowing for trust among the community in which they are operating. Rascoff also pointed out several key disadvantages of state and local organizations. First, state and local law enforcement organizations generally lack the resources to conduct significant intelligence analysis as well as the inability to accurately vet information received at the local level. A second significant challenge is in regards to

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<sup>27</sup> Jones, Jason B. "The Necessity of Federal Intelligence Sharing with Sub-Federal Agencies." *Texas Review of Law & Politics*, 2011: 175-210.

<sup>28</sup> Magnuson, Stew. "Local's Role in Intelligence Sharing Pondered." *National Defense*, 2006: 12.

<sup>29</sup> Isikoff, Michael. "Learning To Share." *Newsweek*, 2002: 8.

the size of state and local law enforcement organizations as there are an estimated 730,000 state and local law enforcement personnel from over 13,500 different agencies. Due to sheer volume of personnel, information sharing compounds risks associated with privacy and security.<sup>30</sup>

Prior to the terrorist attacks of 9/11, there were some efforts by federal, state and local law enforcement organizations to share information. The FBI as the principal federal law enforcement organization within the United States developed its first task force to target bank robbery cases. As the first formal task force, the Bank Robbery Task Force was mostly comprised of FBI agents and detectives from the NYPD.<sup>31</sup> Even though the concept of task forces had been utilize in some fashion in the past, the FBI utilization of the task force concept was unique in a couple of ways. First, the FBI sponsored task forces had a written agreement or memorandum of understanding between the different law enforcement organizations. Second, the FBI sponsored task forces were funding by the FBI, meaning the FBI covered the expenses such as overtime, vehicles, gas, and office related costs for the state and local law enforcement participants.<sup>32</sup> The FBI task forces were created for a myriad of crimes to range from drugs to the capturing of fugitives. The concept of a task force regarding terrorism would eventually develop. The FBI's Joint Terrorism Task Force (JTTF) traces its origins to work with the NYPD in the late 1970s and early 1980s. Prior to the terrorist attacks of 9/11, there were only 35 FBI sponsored JTTFs throughout the United States. After the terrorist attacks of 9/11, the program expanded greatly as each of the 56 FBI field offices would eventually field a JTTF as well as numerous other JTTFs at FBI resident offices.<sup>33</sup>

Fortunately, there has been significant progress made in regards to information sharing as organizations have shown their willingness to work together. This new attitude was actually seen shortly after the terrorist attacks of 9/11 by the FBI. Within 24 hours of the terrorist attacks of 9/11, the FBI's Strategic Information and Operations Center

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<sup>30</sup> Jones, Jason B. "The Necessity of Federal Intelligence Sharing with Sub-Federal Agencies." *Texas Review of Law & Politics*, 2011: 175-210.

<sup>31</sup> Casey, James. "Managing Joint Terrorism Task Force Resources." *FBI Law Enforcement Bulletin*, 2004: 1-6.

<sup>32</sup> *Ibid.*, 2.

<sup>33</sup> *Ibid.*

(SIOC) had set up a command post at FBI Headquarters. As a part of the command post, the SIOC was coordinating more than 500 people from 42 different federal agencies.<sup>34</sup> In order to achieve an environment of information sharing, there has been substantial movement towards the concept of intelligence fusion centers throughout the United States. Intelligence fusion centers have raised the bar regarding intelligence sharing between different agencies. According to Department of Justice's (DOJ) guidelines on fusion centers, a fusion center is "a collaborative effort of two or more agencies that provide resources, information to the center with the goal of maximizing their ability to detect, prevent, investigate and respond to criminal and terrorist activity."<sup>35</sup> One of the benefits of utilizing the fusion center concept is the fact that it allows organizations to pool their resources, such as their analysts, which in turn can take full advantage of the strengths of an organization while minimizing the potential limitations of others. Fusion centers also breed a culture of information sharing as different agencies work side by side on a daily basis. By fusing the information from multiple organizations, analysts are more likely to develop an accurate threat picture as opposed to single agencies examining single source data.<sup>36</sup> A shift to the fusion center concept is an attempt by organization to avoid past mistakes when organizations operated like "stovepipe", meaning information was produced within an organization and only distributed up the chain within that organization instead of being shared with other organizations.<sup>37</sup>

One of the spearheads to the growth of the fusion center concept within the United States has been funding from DHS as the organization was tasked with protecting the homeland. Since 2004, there have been 72 state and local fusion centers created with a least one fusion center in each state. According to DHS, the creation of the fusion centers came at a cost of \$254 million.<sup>38</sup> Given the short time span that these state and local fusion centers have been in operation, it is difficult to judge their true effectiveness.

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<sup>34</sup> Baker, Juan. "Intelligence and Law Enforcement Coordination: Overlapping Mission Dictates Need for Improved Liaison." *Military Intelligence Professional Bulletin*, 2002: 22.

<sup>35</sup> Lambert, David. "Intelligence-Led Policing in a Fusion Center." *FBI Law Enforcement Bulletin*, 2010: 1-6.

<sup>36</sup> *Ibid.*, 2-3.

<sup>37</sup> Carter, David L. *The Intelligence Fusion Process for State, Local and Tribal Law Enforcement*. White Paper, East Lansing: Michigan State University, 2007.

<sup>38</sup> Saari, Shane C. *Fusion Centers: Securing America's Heartland From Threats*. PhD Thesis, Monterey: Naval Postgraduate School, 2010.

Fusion centers have had their share of complaints regarding the value added, but former DHS Chief of Intelligence, Charles Allen, is on the record as stating that fusion centers have provided significant information to the intelligence community regarding the terrorist threat, with information considered important enough to be briefed to the President.<sup>39</sup>

### **Post-9/11 Success**

Given the intelligence failure of 9/11 and the resulting intelligence reform that took place within the United States as a result, it is important to examine the post-9/11 landscape to gain a better understanding of whether or not intelligence reform has been effective. Between 1987 and 2001, there were a total of 36 unsuccessful domestic terrorist plots or attacks against the United States. From 2002 until 2010, this number nearly doubled as there were a reported 67 unsuccessful domestic terrorist plots or attacks against the United States.<sup>40</sup> When examining the question of why the terrorist plots or attacks failed to be carried out, one is left with the idea of how important intelligence can be. Erik Dahl argues that many times there plots were not prevented due to strategic analysts piecing together subtle bits of information but in fact, many of these plots were prevented due to intelligence and law enforcement organization obtaining specific information regarding terrorist threats. Dahl states that this key information is developed by ground-level domestic intelligence and law enforcement personnel.<sup>41</sup> When examining the performance of ground-level domestic intelligence and law enforcement personnel, the most obvious organization that must be studied is the NYPD.

When it comes to state and local law enforcement organizations adopting intelligence led policing, no organization has embraced the concept like the NYPD has. New York City was the hardest hit during the terrorist attacks of 9/11 and the city has been the target of numerous attacks since 9/11. The result of the NYPD's adoption of

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<sup>39</sup> *CQ Weekly*. "Post-9/11 Security Centers Now Face Budget Threats." 2011: 1680-1681.

<sup>40</sup> Dahl, Erik J. "The Plots that Failed: Intelligence Lessons Learned from Unsuccessful Terrorist Attacks Against the United States." *Studies In Conflict & Terrorism*, 2011: 621-648.

<sup>41</sup> *Ibid.*, 622.

intelligence led policing has resulted in significant success as the department has identified and prevented 14 terrorist attacks on the city since 9/11.<sup>42</sup> In less than four months after the terrorist attacks of 9/11, the NYPD, a department of over 35,000 law enforcement officers, became the first police department within the United States to develop a counterterrorism bureau. The NYPD also restructured its intelligence division, elevating the importance of the division as historically, the division mainly focused on protecting dignitaries. In its new role, the NYPD intelligence division would take a more international focus to gather and analyze intelligence and report directly to the police commissioner. One of the methods taken by the NYPD to foster an environment of increased intelligence capabilities was to establish liaison officers in 11 locations around the world with the ability to gather information regarding possible terrorist attacks.<sup>43</sup> The NYPD has also invested heavily into both human intelligence and signals intelligence capabilities and those capabilities have paid big dividends as seen by the disruption of two of the most serious Al Qaeda plots since 9/11, the 2006 "Liquid Bomb Plot and the 2009 attempted plot to blow up New York City subways.<sup>44</sup> Given the importance of law enforcement intelligence since the terrorist attacks of 9/11, it is important to examine where law enforcement organizations are today.

### **Law Enforcement Intelligence Today**

In the years since the terrorist attacks of 9/11, the NYPD has continued its focused efforts regarding intelligence collection. The NYPD's Intelligence Division reportedly operates on an estimated annual budget of \$62 million. The NYPD's Intelligence Division has also made a profound effort to invest in a highly skilled analytical workforce as the division has hired analysts from the most respected universities within the United States and has also ensured a diverse workforce by

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<sup>42</sup> Dickey, Christopher. "Ray Kelly's Wars." *Newsweek*, June 18, 2012: 42-47.

<sup>43</sup> Kelly, Raymond W. "9/11: Ten Years Later." *The Police Chief*, 2011: 20-25.

<sup>44</sup> Miller, Judith. "How the NYPD Foiled the Post-9/11 Terror Plots." *The New York Times*, September 10, 2011.



employing significant linguistic capabilities.<sup>45</sup> The NYPD has also continued to push the envelope in regards to technologic advances related to the intelligence community. In August 2012, the NYPD announced jointly developed law enforcement technology called the Domain Awareness System (DAS). The DAS was developed in a partnership with Microsoft as a means to collect and analyze data in real time to provide analysts with a better threat picture.<sup>46</sup> The highlights of the \$30 million dollar DAS is its ability to link data from more than 3,000 cameras and over 2,000 radiation detectors within New York City.<sup>47</sup> The NYPD is just one example of law enforcement organizations that have focused on improving its intelligence capabilities as other law enforcement organizations have also realized the importance intelligence can play in their operations.

As a conglomerate of multiple organizations with roots within the law enforcement realm, DHS has a significant impact on the United States IC. In 2010, DHS had an annual budget of \$55 billion with significant responsibilities to coordinate intelligence collection with state and local law enforcement organizations, ensure the security of the borders of the United States as well as disaster recovery efforts. There are several key law enforcement components of DHS that contribute vital information to the intelligence picture of the United States.<sup>48</sup> Two of these organizations are Customs and Border Protection (CBP) and the United States Coast Guard (USCG) as both organizations have a key role in protecting the United States and providing intelligence from the ground up. CBP has a broad mission which ranges from preventing the entry of terrorist into the United States to facilitating the flow of legitimate trade and travel to and from the United States. With approximately 60,000 employees, the organization can provide vital raw intelligence regarding the entry of potentially dangerous individuals.<sup>49</sup>

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<sup>45</sup> Munson, Mark. "Assessing the New York Police Department's Intelligence Efforts Targeting America's Muslims." *Small Wars Journal*, 2012.

<sup>46</sup> Tu, Janet I. "Microsoft and NYPD announce jointly developed law enforcement technology." *The Seattle Times*, August 8, 2012.

<sup>47</sup> Gaynor, Gerren Keith. "Bloomberg, NYPD announce \$30 million surveillance system." *New York Amsterdam News*, August 16, 2012: 3-34.

<sup>48</sup> The Washington Post. *Homeland Security Department*. n.d.  
[http://www.washingtonpost.com/politics/homeland-security-department/gIQALxPx4O\\_topic.html#footnotes](http://www.washingtonpost.com/politics/homeland-security-department/gIQALxPx4O_topic.html#footnotes) (accessed November 10, 2012).

<sup>49</sup> The Washington Post. *Customs and Border Protection (CBP)*. n.d.  
<http://projects.washingtonpost.com/top-secret-america/gov-orgs/cbp/> (accessed November 10, 2012).

The USCG is probably one of the most unique organizations within the United States government as the USCG operates under DHS during peacetime and transfers to the DoD during times of war. After the terrorist attacks of 9/11, the USCG intelligence program officially became a part of the United States IC with the signing of the Intelligence Authorization Act of 2002. This was monumental as the USCG has the authority to operate in both the law enforcement and the intelligence communities. Given the scope of the duties of the USCG, the organization is able to provide significant raw intelligence to the United States IC.<sup>50</sup> The new responsibilities granted to the USCG as a member of the United States IC was quickly understood as the USCG intelligence transformed as an organization as the USCG more than doubled its personnel dedicated to intelligence within two years of being included in the intelligence community.<sup>51</sup>

### **Today's Challenges**

Today, the law enforcement intelligence community faces several significant challenges that must be addressed. Two of the most significant challenges faced in today's environment are civil liberties and budget constraints. Even though both issues have always needed to be addressed, today's political environment highlights the need even more as both issues have significant ramifications.

When conducting intelligence operations, especially in an open society like the United States, there is a fine line regarding what intelligence organizations can and cannot do. Since the terrorist attacks of 9/11, there have been several occasions as to where intelligence organizations have been suggested to have crossed that line. The FBI in particular has drawn significant criticism for its actions since 9/11. Between 2001 and 2008, the FBI admitted to a presidential board that the organization had committed almost 800 violations of laws and regulations while conducting national security investigations. In reality, this number might actually be higher as during a 2007 briefing

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<sup>50</sup> Clemens, Peter J. "Sharing the wealth - Coast Guard Law Enforcement Information Valuable to the National Intelligence Effort or How the Coast Guard Defeats the Wall." *Army Lawyer*, 2008: 59-63.

<sup>51</sup> Kime, Patricia. "Maritime Fusion Centers Expand Coast Guard Intelligence Capabilities." *Sea Power*, 2004: 16-18.

before Congress, the Justice Department's inspector general stating that the FBI might have committed over 3,000 violations while collecting telephone and bank records without warrants.<sup>52</sup> The violations by the FBI were significant considering the violations drew considerable comparison to the past behavior of the organization in its abuse related to COINTELPRO.

The FBI has not been the only organization to receive significant scrutiny regarding the violations of civil liberties as the NYPD has also received plenty of criticism. After the terrorist attacks of 9/11, the NYPD launched an aggressive campaign to collect intelligence within New York City. The target of the NYPD was the Muslim population within the city. According to an Associated Press investigation, the NYPD, with assistance from the CIA, was found to have conducted broad and wide sweeping intelligence collection on entire Muslim neighborhoods to include dozens of mosques.<sup>53</sup> While many have argued that the actions of the NYPD were necessary considering the effects that terrorist attacks of 9/11 caused to the city. However, the NYPD also took steps to collect on Muslim communities outside of New York City. In 2007, the NYPD began an operation targeting Muslims that lived in New Jersey as a confidential file that was compiled by the NYPD was disclosed and the file disclosed targeted locations in Newark, New Jersey. The discovery drew sharp criticism from both the Muslim community and government officials in New Jersey.<sup>54</sup>

The second major challenge facing the law enforcement intelligence community today concerns the issue of funding related to decreasing governmental budgets. Over the next few years, budget cuts will most likely be a topic of discussion within the United States and the dilemma will be regarding what items that need to be cut and which ones are essential to the safety and security of the United States. The law enforcement and intelligence communities saw massive budget increases after the terrorist attacks of 9/11 as the United States dealt with the aftermath of the attacks. Over the next ten years,

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<sup>52</sup> Dilanian, Ken. "FBI involved in hundreds of violations in national security investigations." *Los Angeles Times*, January 30, 2011.

<sup>53</sup> Cray, David. "NYPD Surveillance Of Muslim Communities Prompts Post-9/11 Civil Liberties Debate ." *Huffington Post*, November 19, 2011.

<sup>54</sup> Giambusso, David. "NYPD's Muslim Surveillance Extended Well Beyond New York." *The Washington Post*, February 24, 2012.

officials have predicted that budgets for the United States IC will be cut by \$25 million as the Director of National Intelligence James Clapper has stated that intelligence community will have less of a capability in 10 year when compared to today's capabilities.<sup>55</sup>

The threat of budget cuts to the intelligence community and government agencies could have significant trickledown consequences. A prime example is DHS as since the terrorist attacks of 9/11, the organization has supported significant initiatives at the state and local law enforcement levels. Current plans in place call for across the board cuts within the federal government if Congress fails to reach a new agreement regarding the federal budget. According to the United States Office of Management and Budget (OMB), automatic cuts would slash over \$4 billion from the DHS budget.<sup>56</sup> The overarching effect of federal budget cuts can already be seen at the state and local level as the Oregon Terrorism Information Threat Assessment Network fusion center in Salem, Oregon is facing being shut down in 2013 due to a lack of funding. The fusion center, a state clearinghouse to help officials conduct criminal and terrorism investigations, was just opened only three years ago and relies on federal grants to operate. However, the grant request to fund the center from June 2012 thru June 2013 has not been awarded.<sup>57</sup>

The threat of budgets cuts have even effected the mighty NYPD as New York City faces the same daunting task of funding government operations in a down economy. For the NYPD's budget for fiscal 2012, the Police Commissioner Ray Kelly was faced with trimming \$101.4 million from the department's annual budget at a time when the department was already operating at manpower levels which were the lowest level in 20 years.<sup>58</sup> The situation does not seem as it will get any brighter for the NYPD in the near future as New York City officials have called for a 2.7 percent cut for the NYPD for fiscal 2013 and another 4 percent cut in fiscal 2014.<sup>59</sup> With the threat of reduced budgets,

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<sup>55</sup> Walcott, John. "Intelligence Budget Cuts Mean U.S. Will Have More Blind Spots." *Bloomberg Businessweek*, November 14, 2011.

<sup>56</sup> McCarter, Mickey. "OMB Details Sequestration Plan; DHS Potentially Hit with \$4B in Cuts ." *Insight & Analysis for Government Decision Makers*, 2012.

<sup>57</sup> Wong, Queenie. "Budget cuts may close Salem terrorism center." *Statesman Journal*, December 4, 2012.

<sup>58</sup> Seifman, David. "NYPD Cop Count Sinking to 34,000." *New York Post*, March 19, 2011.

<sup>59</sup> *NBC 4 New York*. September 14, 2012. <http://www.nbcnewyork.com/news/local/New-York-City-Budget-Cuts-NYPD-FDNY-Education-169812076.html> (accessed November 9, 2012).

organizations are left with difficult decisions regarding the prioritization of intelligence related issues.

## **Recommendations**

The intelligence capabilities of law enforcement organizations have made significant strides since the terrorist attacks of 9/11 as the attacks were a catalyst for change regarding intelligence operations within the United States. However, it is important to understand that the changes that have been made might not always be the most appropriate for the future. One of the most important principals for any organization is to understand the current environment in which they are operating and be flexible to future changes that affect the operating environment. These changes can include the emergence of new threats or even changing government legislation which affects laws and regulations regarding intelligence operations. In order to stay in front of any potential changes, the following recommendations are given for the law enforcement community.

First, it is important to continue the trend of collaboration between federal, state and local law enforcement organizations. All three levels of the government have limited recourses to combat the threats that exist and many times have to prioritize those resources for items outside of the intelligence and counterterrorism arena and many times, the federal government has the financial resources but lacks the physical manpower to carryout initiatives. To illustrate this point, these are approximately 25,000 agents within the FBI and DHS's component Immigration and Customs Enforcement while state and local law enforcement organization employ over 1.1 million law enforcement officers.<sup>60</sup> This would appear to be a match made in heaven as both the federal government and the state and local governments can capitalize on strengths of each other. One way this can be accomplished is through the continuation of intelligence fusion centers to ensure organizations have clear communication and the conduit to not only share information but to also discuss appropriate course of actions.

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<sup>60</sup> Mayer, Matt A. *Effective Counterterrorism: State and Local Capabilities Trump Federal Policy*. A Report of The Heritage Center for Data Analysis, Washington, D.C.: The Heritage Foundation, 2009

Second, organizations must remain proactive instead of reactive to emerging trends in technology. To accomplish this, the law enforcement community must invest in information technology which speeds up not only the data mining process but the information delivery mechanisms which will allow the analyst the ability to spend more time conducting analysis instead of using the majority of their time searching the massive amount of raw data. This allows for law enforcement officers to be able to have near real time information regarding a potential targets. Systems like this are in place in many areas to include the local law enforcement level. An example is the system in place in the city of Erlanger, Kentucky, a small city in northern Kentucky near Cincinnati, Ohio. With a city population of approximately 20,000 and a police force of less than 50 officers, the Erlanger Police have been able to customize off the shelf technology and develop a system which allows police officers the most up to date information and allow police supervisors the ability to deploy its force in a more efficient manner. The new system allows the Erlanger Police to leverage available resources to meet the needs of the community without increasing costs.<sup>61</sup>

A third recommendation revolves around the arena related to cyber security and threats posed by security breaches. The issue of cyber security is a major area of focus that has drawn the attention of policy makers within the United States. At a recent speech, the Secretary of Defense Leon Panetta told an audience that he was worried about an escalation of attacks related to cyber security and stated that failing to see the warning signs could lead to another intelligence failure like it did on 9/11.<sup>62</sup> Information technology is now a vital part of peoples' everyday lives and will only increase in importance in the future. Today, information technology is an instrumental part of essential services such as power grids and transportation systems within the United States. Security breaches of these systems could have devastating consequences, leading many to argue that cyber-attacks are the greatest security threat of the 21<sup>st</sup> Century.<sup>63</sup> Cyber security has an effect on all levels of government to include state and local levels. States have been aware of the issue and have taken steps to mitigate the threat as 46 states

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<sup>61</sup> Fields, Marc, and Steve Castor. "Intelligence-Led Policing: The Future is Now." *The Police Chief*, 2011: 72-75.

<sup>62</sup> Benson, Pam. "Panetta: Cyber Threat is Pre 9/11 Moment." *CNN*, October 12, 2012.

<sup>63</sup> Tafoya, William L. "Cyber Terror." *FBI Law Enforcement Bulletin*, 2011: 1-7.

have enacted data privacy and breach notification laws.<sup>64</sup> These are steps taken to assist law enforcement organizations with the ability to target perpetrators and assist in cyber security. Given the growing threat of cyber security, law enforcement organizations must invest in information security measures to reduce future threats from occurring. In order to accomplish this task, organization must invest in talented personnel to counter the threat and also ensure collaboration among organizations to leverage assets to better defeat the cyber threat.

## **Conclusion**

The terrorist attacks of 9/11 permanently altered the mindset of many regarding the importance of intelligence as it pertains to ensuring the safety and security of the United States. The United States government took numerous steps to ensure another 9/11 would not occur again. These steps include significant legislation as well as reorganization within the government. Since that time, intelligence has become an ever increasing element within the law enforcement community. The result has been an increased role of law enforcement organizations in the protection of the homeland against terror threats, with significant success resulting as numerous terrorist threats have been prevented since 9/11. Even with the success that has been enjoyed, challenges still exist. Law enforcement organizations must be flexible in the future in order to meet these challenges.

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<sup>64</sup> Glennon, Michael J. "State-level Cybersecurity." *Policy Review*, 2012: 85-102.

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