



TWENTY YEARS AFTER 9/11: STRONG FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT COLLABORATION REMAINS ESSENTIAL IN THE FIGHT AGAINST TERROR – BUT IT’S UNDER ATTACK

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Abstract: *In the wake of the terror attacks of Sept. 11, 2001, state and local police departments across the Nation became much stronger and more fulsome collaborators in the collective effort to identify and interdict potential acts of terror. The scope and size of the 9/11 terrorists' plot underscored the need for broad information sharing across the entire domestic law enforcement spectrum. Increased participation in Joint Terrorism Task Forces (JTTFs) and the development of Fusion Centers were hallmarks of these increased federal, state, and local law enforcement partnerships. In recent years, however, with increased scrutiny and objections over alleged civil rights indiscretions, some police departments have cut ties with their federal counterparts and refused to share information. Could this pullback from information sharing allow a future act of terror to fly under the radar? What is the proper role of state and local law enforcement in the collective effort to identify and address potential acts of terror? In short, now is not the time to recede from federal, state, and local law enforcement partnerships that have been essential to keeping America safe in the twenty years since 9/11.*

BACKGROUND

The attacks of September 11, 2001 illustrated the deadly intentions and capabilities of America's enemies. On that fateful day more than 20 years ago, on American soil 19 foreign hijackers executed a sophisticated and coordinated attack that caught the Nation's law enforcement and intelligence apparatus ill-prepared to defend against. While the tragedy resulted in nearly 3,000 lives lost and exacted an immeasurable toll on the national psyche, it also laid bare the need to revisit how the Nation prepared and coordinated for potential acts of terror in the future.

America's relationship with the world relative to its global counterterrorism efforts was far different prior to 9/11. So too were the relationships between all levels of domestic law enforcement.

Before 9/11, federal, state, local, and tribal law enforcement agencies largely operated within their own spheres of jurisdiction and influence. Certainly, with respect to the identification, investigation, or interdiction of foreign terrorist activity, the prevailing sentiment among the overwhelming majority of state or local law enforcement agencies was that it fell solely within the purview of the federal government ([Waxman, 2009](#)).

This mentality was unfortunate given the fact that state and local law enforcement officers are often deeply integrated into their communities and are among the most likely to encounter suspicious individuals or potential evidence.

PRE-9/11: LAW ENFORCEMENT AND INFORMATION SHARING SILOED AND INADEQUATE

Prior to the 9/11 terror attacks, domestic law enforcement, whether at the federal, state, or local level, was insular and stratified. Addressing the concept of terrorist activity, whether theoretical or actual, was nearly the sole purview of the federal government, namely, the Federal Bureau of Investigation (FBI) ([Waxman, 2009](#)).

Such issues were far from the minds of nearly all state and local law enforcement agencies, save the New York Police Department (NYPD), which had its own intimate history as a preferred target for foreign terror organizations ([FBI, 2016](#)).

Most police departments understandably focused their limited resources and manpower on local issues. Street crimes such as robbery, assault, and burglaries comprised the bulk of an average American police department's day-to-day activities, and with good reason. These crimes, along with the multitude of quality-of-life crimes that most intimately affect a community's residents, comprised the natural pressure points upon which the citizenry and their local government pressed their law enforcement to address.

Rarely did a local law enforcement agency need to interact with its federal or state partners, particularly related to the investigation of terror-related activity. In fact, a survey taken in the mid-1990s reported that nearly 40% of responding municipalities had never even had contact with a federal agency on an issue related to terror ([Waxman, 2009](#)).

The fallout and subsequent introspection that occurred in the wake of 9/11 changed that mentality. As the intelligence community pieced together the days, months, and years that led up to 9/11 it became clear that in far too many instances, information fell through the cracks of an inchoate domestic law enforcement and intelligence apparatus that, if more fully realized, perhaps could have allowed someone along the lines to connect the dots.

As an example, three of the hijackers, Ziad Samir Jarrah, Muhammad Atta, and Hani Hanjour, had each been pulled over by local law enforcement officers for traffic violations in the weeks leading up to the 9/11 attacks ([British Broadcasting Channel, 2002](#)). Though the encounters were otherwise uneventful, no link or information was ever shared that could have tipped off the appropriate federal agency.

In addition to encounters with law enforcement, three eyewitnesses subsequently testified to having observed 9/11 ringleader Muhammad Atta acting suspiciously at airport security at Boston's Logan Airport in the months leading up to the attacks ([Sperry, 2014](#)). One of the eyewitnesses, who worked for American Airlines, even confronted Atta and reported him to airport security after observing the terrorist filming security operations. Unfortunately, no action was taken and Atta was not questioned or flagged for authorities.

In hindsight, obvious questions arise as to the degree that the attacks of 9/11 could have been inhibited or mitigated had those contacts by local law enforcement or by concerned citizens been conveyed to the FBI or others within the federal intelligence community.

In the aftermath of 9/11, it became clear that no longer could the FBI, or the federal government at large, be the lone sentry in the Nation's vanguard against foreign acts of terror.

THEN: POST 9/11 A NEW ERA IN INFORMATION SHARING

After 9/11, new procedures affecting everyday life began to materialize in an effort to combat future terrorist attacks. A new Cabinet-level agency, the Department of Homeland Security (DHS), was announced and new agencies such as Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) would be created to construct an entirely new approach to homeland security. Within DHS, the Transportation Security Administration (TSA) was stood up and airport security was reexamined.

And importantly, the once stratified and insular world of domestic law enforcement would be reevaluated. Federal, state, and local law enforcement could no longer operate with complete independence from one another. Cooperation, information sharing, and a new approach to partnerships would necessarily be the new reality.

Cooperative partnerships between federal, state, and local law enforcement agencies through programs such as the FBI's Joint Terrorism Task Force (JTTF) were not entirely new concepts, but they would soon be greatly expanded ([JTTF, 2020](#)).

The first JTTF, established in New York City in 1980, merged FBI and NYPD resources in the investigation and analysis of potential terrorist activity, but the notion of such a partnership was not particularly widespread in most areas of the country ([JTTF, 2020](#)).

Prior to 9/11, only 26 such task forces existed ([Bjelopera, 2013](#)). Ten years post-9/11, there were over 100 and today nearly 200 JTTFs exist throughout the Nation, bringing the analytical and investigatory resources of hundreds of state and local law enforcement agencies and the FBI to bear in the fight against terrorism ([Mueller, 2006](#)).

Additionally, through collaboration between the newly formed DHS and the FBI, a series of state and major urban-area Fusion Centers would be established to co-locate disparate resources and create a more robust information sharing network to allow real-time information to flow up and down the federal, state, and local law enforcement spectrum ([DHS, 2019](#)).

Within these Fusion Centers, information lawfully gathered — often at the local level by law enforcement officers engaged in their routine duties — would be analyzed and disseminated back down the chain to local agencies. This “fusing” of analytical capabilities within the inherently robust information gathering capabilities of state and local law enforcement has been a tremendous force multiplier in the Nation's collective effort to better understand the myriad threats facing the homeland.

Within **10 years** of 9/11, every state in the union, D.C., and multiple U.S. territories housed one or more fusion centers ([Department of Justice \(DOJ\)](#)).

Notable are the many successes that these JTTF's and fusion center operations have achieved, working independently as well as in collaboration with one another, both within the realm of terrorism as well as among non-terror related criminal activity.

In the summer of 2009, members of the North Carolina Information Sharing and Analysis Center (ISAAC), the regional fusion center in North Carolina, received information from the public related to a local individual allegedly attempting to solicit and recruit others to engage in violent jihad abroad ([U.S. Attorney's Office Eastern District of North Carolina, 2012](#)). After sharing this information with the FBI, Daniel Patrick Boyd and others were subsequently arrested and charged with a variety of federal crimes, including conspiracy to provide material support and resources to terrorists.

The indictment ultimately revealed that nearly 20 years prior, Boyd had travelled to Pakistan and Afghanistan and received military-style training at terrorist camps in the region. Boyd and his codefendants' alleged goal was to conspire to murder, kidnap, maim, and injure persons abroad with the intent of advancing violent jihad ([U.S. Attorney's Office Eastern District of North Carolina, 2012](#)).

Boyd would eventually cooperate with prosecutors and be sentenced to nearly 20 years in prison ([U.S. Attorney's Office Eastern District of North Carolina, 2012](#)).

Another notable success story occurred less than a year later when the collaborative efforts of federal, state, and local law enforcement aided in the capture of would-be terrorist Faisal Shahzad.

On the evening of May 1, 2010, after having parked an explosives-laden SUV in the heart of New York's Times Square, Shahzad attempted to detonate the vehicle and its explosive payload ([DHS](#)). Failing to successfully do so, Shahzad abandoned the vehicle and fled the area.

As the investigation into the incident began, multiple fusion centers across the Nation shared information with the FBI's JTTF, ultimately revealing contacts between Shahzad and two other individuals located in Florida. This information led the FBI to further investigatory leads which, when shared with the National Counterterrorism Center (NCTC) formed the basis of a cohesive intelligence product.

The information sharing process that played out in the aftermath of Shahzad's attempted act of terror allowed DHS's Customs and Border Protection (CBP) personnel working at New York's JFK airport to identify and apprehend Shahzad as he attempted to flee the country on May 3, 2010 ([DOJ](#)).

Shahzad would ultimately be found guilty on multiple federal charges and be sentenced to life without parole ([U.S. Attorney's Office, Southern District of New York, 2010](#)).

As the integration of federal, state, and local law enforcement and intelligence resources became more customary, the breadth of criminal interdictions expanded as well.

In an example of a non-terror related investigation, multiple regional fusion centers collaborated to investigate a multi-state sex trafficking ring operating in Louisiana and California in 2014.

The investigation began when detectives investigating a runaway minor from Orlando, Florida discovered that the victim had been recruited into a sex trafficking ring spanning multiple cities across the United States ([DHS](#)). This information, first obtained by members of the Florida Metropolitan Bureau of Investigation, was then shared with various fusion centers within the implicated areas of the country.

The extensive collaboration and information sharing between the fusion centers and state and local law enforcement would ultimately lead to the arrest of three individuals accused of running the sex trafficking operation. All three were convicted and the ringleader would receive a 30-year sentence.

The above examples only scratch the surface of the innumerable instances of criminal interdiction born out of the commitment of federal, state, and local law enforcement and intelligence agencies to actively work together, share information, and benefit from one another's access and resources.

TODAY: POLITICS ARE THREATENING VITAL COLLABORATIVE EFFORTS

Unfortunately, despite the success of information sharing and task force partnerships between federal, state, and local law enforcement agencies, partisan political calculations have seemingly taken precedence over homeland security considerations for some local communities. A number of high-profile cities have pulled their law enforcement agencies out of JTTF partnerships, echoing a variety of ACLU-inspired civil rights and privacy criticisms such as inappropriate surveillance and monitoring practices ([ACLU](#)).

Shortly after the inauguration of President Donald Trump in 2017, the San Francisco Police Department pulled out of participation in the local JTTF. When discussing San Francisco's termination of the collaborative arrangement, a former ACLU lawyer stated, "It's a problem around the country of local police assigning officers to the FBI under arrangements that have not been scrutinized in the past, where local civil rights and racial profiling policies are going to be reevaluated in the era of the Trump administration" ([Nakashima, 2017](#)).

In 2019, the city of Portland, Oregon voted to remove members of its Portland Police Bureau (PPB) from the regional JTTF. Though the city council members voting to abandon the partnership with federal law enforcement ostensibly cited civil rights concerns as the predicate for leaving the JTTF, Portland City Council member Amanda Fritz's comments suggested that antipathy toward the Trump Administration was at the root of the decision. "The current President has made clear his animosity toward Muslims, immigrants and people of color," said Fritz, adding, "I found it hard to trust the JTTF under President Obama. It's impossible now" ([Templeton, 2019](#)).

Portland's decision to terminate its working relationship with their federal law enforcement counterparts underscores the extent to which some local elected officials have sought to instill partisan political considerations into a decision-making process that should be unencumbered by partisanship.

Despite the misplaced criticisms, it is difficult to argue that a local community is better served by cutting off collaboration with their federal counterparts than by maintaining a robust information sharing and cooperative relationship.

Portland, as an example, is routinely beset by violence perpetrated under the guise of Antifa, a shadowy collection of so-called anti-fascist anarchist agitators, who ironically engage in fascistic behavior to advance their cause. While the local political leadership has often soft-pedaled Antifa's violent behavior, it nonetheless remains a frequent source of civil unrest ([Ngo, 2021](#)).

When Antifa undertook several months of continued civil unrest and violent agitation in downtown Portland in 2020, most centrally focused on the Hatfield Federal Courthouse and the federal workforce housed within, the prohibition on cooperation between the Portland Police Bureau and federal law enforcement undoubtedly contributed to the extensive damage, social chaos, and lengthy stalemate between federal law enforcement and local Antifa activists that ensued ([Toledo, 2020](#)).

This local prohibition on cooperation between law enforcement agencies was and remains a dangerous position to stake out, whether domestic law enforcement is actively investigating episodes of coordinated local violence or broad acts of terror.

More broadly, the movement within some liberal enclaves to terminate local cooperation with federal law enforcement is extending beyond just the cessation of participation in JTTFs. Over the past few years, several local communities have begun to withhold information from DHS related to locally incarcerated individuals under the auspices that sharing such information could contribute to those individuals being subject to potential deportation.

Hundreds of cities and jurisdictions across the United States such as San Francisco, Los Angeles, Boston, and New York have enacted some form of sanctuary policies prohibiting cooperation or information sharing with the Department of Homeland Security ([Vaughan & Griffith, 2021](#)).

These sanctuary policies vary in scope and size across the more than 300 such jurisdictions that span the United States. Some are resolutions stating that citizenship status will not be used to influence the execution of an officials' duties, while others more specifically prohibit cooperation and enforcement actions.

In 2019, New York went so far as to prohibit ICE from accessing New York State DMV information, a move that compromised the federal law enforcement agency's ability to investigate criminal activity far beyond that merely related to immigration violations ([DHS, 2020](#)).

The short-sighted, and arguably politically motivated, decision to cut off information sharing with federal law enforcement agencies, despite localities' stated opposition to immigration enforcement, established a dangerous precedent that endangered local communities and increased the likelihood that a potential "bad actor" would slip through the cracks.

Additionally, this ill-conceived policy compromised the ability of federal law enforcement officers to investigate a host of non-immigration related criminal activity, whether related to drug activity, human trafficking, or any number of other crimes ([DHS, 2020](#)).

While it may seem plausible that many of the ostensibly political decisions to pull state and local law enforcement assets from federal task forces and information sharing agreements

were the knee-jerk reaction of liberal-leaning politicians during the Trump administration, the Biden administration indicated that it would continue to seek to dismantle certain information sharing agreements between federal, state, and local partners, particularly those touching the issue of illegal immigration.

During his campaign for the presidency, President Biden called for the termination of ICE's 287g program, a highly-successful collaborative program which allows for the delegation of limited immigration authorities to participating state or local agencies ([Castronuovo, 2021](#)).

While the program is nominally centered on the identification of illegal immigrants housed within local jail facilities and pending local criminal charges, its impact on the collective efforts to interdict or mitigate potential acts of terror cannot be overlooked.

In the aforementioned instances of three of the 9/11 hijackers having been encountered by local law enforcement in the days and weeks leading up to the attacks, one of the terrorists was in fact in the United States illegally, having overstayed a business visitor visa.

The Maryland State Trooper who pulled over Ziad Jarrah on September 9, 2001, had no way of knowing that the man he was interacting with was in the country illegally. Had the Maryland State Police been participants in the nascent 287g program at the time, that information could possibly have been available to the trooper and action other than the issuance of a mere traffic citation might have occurred ([Vaughan and Edwards, 2009](#)).

It is hard to tell what could have been prevented in the lead up to 9/11 had greater information sharing partnerships existed at the time; however, it is unquestionable that dismantling those partnerships today only serves to increase the likelihood that we are forced to revisit those questions again in the future.

THE FUTURE: MAINTAINING STRONG INFORMATION SHARING PARTNERSHIPS OR REGRESSING TO PRE-9/11 MINDSET

Now, more than ever, in the 20 years that have passed since the attacks of 9/11, federal, state, and local law enforcement must not let its past success in preventing another 9/11 allow it to overlook the benefits of maintaining strong collaborative partnerships and information sharing up and down the law enforcement and intelligence spectrum.

Complacency is often born out of success. The further society is removed from a terrible event, such as 9/11, the more inclined it can be to adhere to a false sense of security. That false sense of security can in turn lead to the dangerous indulgence of terminating otherwise successful collaborative partnerships for short-term political gain.

Additionally, the emergence of the ill-conceived "defund the police" movement only contributes to the potential disintegration of essential federal, state, and local collaboration. As vital financial resources are pulled from police agency budgets that are already facing critical staffing shortages, these agencies are forced to consolidate extant resources onto their most basic services, leaving empty the pool from which to draw manpower and resources to apply toward task forces and other such collaborative partnerships.

Nonetheless, there should be no illusion that the United States homeland is no longer at risk of violent acts of terror, whether homegrown or foreign-derived. The disastrous withdrawal

from Afghanistan only increases that threat. The [on-the-ground](#) intelligence apparatus established over decades has been lost, and with it the resources necessary to make targeting and monitoring of terrorist groups precise and effective ([Olidort, 2021](#)).

We have been fortunate to have avoided a repeat of 9/11 in the 20 years since it occurred; however, that success has not been by dint of good luck. Rather, it has been the byproduct of extraordinary, and often unseen, efforts among the integrated network of federal, state, and local officials working 24/7 to keep our communities safe.

Immediate steps should be considered to ensure that we do not lose sight of the importance of partnerships that more fully integrate state and local law enforcement into the broad executive branch effort to identify and prevent another large-scale act of terror:

- An end to hostility toward ICE's 287g program and instead work to bring new and more energized partnerships to bear in the collective effort to use state and local law enforcement as force multipliers in the identification of dangerous criminal aliens.
- Increase funding for DHS's Homeland Security Grant Program (HSGP) to ensure continued robust support for the Nation's network of fusion centers ([DHS](#)). The HSGP is vital to the building out of state and local law enforcement capabilities within the Information Sharing Environment (ISE).
- Encourage state and local law enforcement to actively seek collaboration with their federal counterparts through task force participation. Developing these relationships will serve immediate needs related to myriad criminal investigations but also create an atmosphere conducive to the free flow of information on items of interest where a potential nexus to terror may exist.
- Encourage state and local law enforcement agencies to develop Suspicious Activity Reporting (SAR) protocols through participation in the Nationwide Suspicious Activity Reporting Initiative ([NSI](#)). The NSI "establishes a national capacity for gathering, documenting, processing, analyzing, and sharing SAR information" among federal, state, and local law enforcement and doing so in a "manner that rigorously protects the privacy and civil liberties of Americans."

Officials should not actively seek to deter these collaborative relationships or dissuade information sharing agreements, as has occurred in some areas of the country, but rather they should work toward developing more fulsome and mature partnerships.

Continued success in thwarting future acts of terror will require a vigilant commitment to maintaining the essential network of federal, state, and local collaboration that has grown since 9/11. Part of that success is due to the understanding that all levels of law enforcement, from the most elementary to the most sophisticated, play a vital role in connecting the dots to prevent a future 9/11 from ever coming to fruition.

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