

PROTECTING YOUR COMMUNITY FROM TERRORISM:

Strategies for Local Law Enforcement

Volume 1:
Local-Federal Partnerships

COPS

COMMUNITY ORIENTED POLICING SERVICES
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PROTECTING YOUR COMMUNITY FROM TERRORISM: The Strategies for Local Law Enforcement Series



VOL. I: IMPROVING LOCAL–FEDERAL PARTNERSHIPS

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with

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The opinions expressed are generally those based on the consensus of executive session attendees. However, not every view or statement presented in this report can necessarily be attributed to each individual participant.

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We are sure we have left someone out unintentionally. Whoever you may be, and all those whom we list above, we thank you. To those of you in law enforcement at every level of government who work daily to make our communities safe from terrorism, we hope this paper provides you some of the resources and information you have been seeking.

TERRORISM



*There is no single, universally accepted definition of **terrorism** or agreement about whether a specific definition applies to a particular incident.*

The FBI cites the Code of Federal Regulations in defining terrorism as

[t]he unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population or any segment thereof, in furtherance of political or social objectives¹ (28 C.F.R. Section 0.85).

This is the definition that will be used for the purposes of this report.

¹ The FBI further distinguishes between domestic and international terrorism and cites the legal authority for activities used to counter, investigate and prosecute terrorists. See, e.g., FBI Policy Guidelines in *Terrorism in the United States: 1999* (FBI 2000). Excerpts are provided in Appendix A to this document.

FOREWORD

SEPTEMBER 11, 2001, WAS A TURNING POINT FOR AMERICAN LAW ENFORCEMENT. Immediately following the attacks, local, state and federal law enforcement agencies faced service demands, problems and issues that they had never seen before. Within the next year, agencies witnessed how those developments affected budgets, policies, operational priorities, training and personnel. Sweeping reforms were not far behind. The passage of federal and state laws is only now being felt, and these mandates will surely continue to instigate additional changes in police organizations' missions and strategies. Pending federal grant and technical assistance programs will also drive significant restructuring, as police agencies position themselves to receive that support.

Because of these, and the likelihood of additional change agents, the law enforcement profession is repositioning itself for how it fights terrorism. Many agencies have engaged in internal discussions to determine their capabilities and responsibilities, and more organized discussions have progressed in some states. Yet, on a national level, law enforcement is just beginning to develop comprehensive and detailed strategies for preventing and responding to terrorism. Policing as a profession is working on ways that the underlying principles of community policing can contribute to strategies to prevent terrorist activities. Finally, law enforcement leaders have not yet

discussed how counterterrorism responsibilities could profoundly affect the police–citizen relationships and other positive influences of community policing on organizations and communities alike.

The Police Executive Research Forum (PERF), with funding from the Office of Community Oriented Policing Services (the COPS Office), will attempt to close those gaps. PERF has been providing local law enforcement leaders with the opportunity to examine these and other issues related to preventing and addressing terrorist acts. PERF is providing a series of forums for law enforcement chief executives, other policing professionals and government

policymakers to explore, debate and exchange information on providing community-policing services in a security-conscious world. This initiative will produce practical advice for addressing immediate problems related to terrorism, as well as a framework to guide the profession for the next three to five years.

This white paper is the first in a series of five that takes on issues of primary concern to law enforcement professionals. It is based, in large part, on an unprecedented executive session that brought together sheriffs, police chief executives, FBI Special Agents in Charge and antiterrorist experts, and other leading thinkers on how law enforcement will deal with the new terrorist threat. It was a no-holds-barred meeting in which candid debates were conducted on the practical and very real concerns of those who must make daily decisions about how their personnel and other resources will be spent to address terrorism and competing demands for service. Participants took a hard look at how local and federal agencies work together and what needs to be done to improve cooperation. The result is the agenda set out in this paper—set by consensus and an urgent desire to move our preparedness and response forward in these difficult times, without aban-

doning our promise to our communities to address crime and disorder. It is one of a number of products being developed under this COPS-supported effort.

PERF will also conduct a national survey of law enforcement leaders and a series of four additional executive sessions that will address such tentative topics as policing multicultural communities, bioterrorism, intelligence and homeland security. In addition, PERF's project team will conduct fieldwork to identify model programs and approaches that work to address terrorism in a community-policing context that others nationwide can tailor to the unique needs of their jurisdictions. The result will be four more white papers and a comprehensive written manual for police agencies.

The COPS Office and PERF are pleased to facilitate these forums and other work that will provide the profession with opportunities to share and develop effective strategies for addressing terrorism while continuing to advance community policing.



Carl Peed
Director, COPS



Chuck Wexler
Executive Director, PERF

CHAPTER ONE

INTRODUCTION AND BACKGROUND

MORE THAN A YEAR AFTER SEPTEMBER 11, 2001, AMERICAN LAW ENFORCEMENT is working diligently to prevent the next terrorist attack. Will it be enough? Leaders of every law enforcement agency in America want to do their part in the fight against terrorism, yet many local police are struggling to muster resources, reorient their personnel and carve out new relationships with their state and federal counterparts. To complicate matters, their efforts lack a strong unifying strategy and coordinated approach with other jurisdictions and with agencies at other levels of government.

Local law enforcement agencies, in the face of new and uncertain threats to their communities, struggle to identify all their responsibilities and define their exact role in the nation's fight against terrorism. The FBI and other federal agencies are also faced with new duties and priorities, such as expanding their intelligence-gathering and coordinating functions, as well as other counterterrorism efforts. So, while every law enforcement agency strives to do its part, too many of them are unsure of what their part should be. And even those that feel certain of their charges must make significant changes to their structure, policies, procedures, personnel expertise, training and budgets—all

with only their own guidelines or standards to ensure success.

The Local–Federal Partnership

Preventing and responding to terrorism is all the more complex because no agency can do it alone. The “readiness” of any one agency—whether it is the Lawrence (KS) Police Department, the Hennepin County (MN) Sheriff's Office, the D.C. Metropolitan Police Department, or the FBI—is insufficient in the face of the potential threat. For more than 125 years, American law enforcement has been organized around the principles of independence and decentralization. Some 18,000² local, state

² According to Reaves and Hickman (2002), “As of June 2000, State and local governments in the United States operated 17,784 full-time law enforcement agencies—those that employed at least one full-time sworn officer with general arrest powers or the equivalent in part-time officers.”

and federal agencies operate as autonomous entities, often unconnected to those in neighboring jurisdictions or at different levels of government. The threat of terrorism in America's cities and towns, however, has revealed the critical need for improved coordination and resource sharing—whether personnel, equipment or information—to develop a formidable strategy to counter future acts of terrorism.

Local and federal law enforcement agencies have worked together for decades to prevent and solve crimes: bank robbery investigations, kidnappings, financial crimes, cybercrime, gangs and drugs. They have coordinated resources in the area of crime reporting and forensic and laboratory services. And they have engaged joint task forces to address a variety of crimes that cross jurisdictional boundaries. But these partnerships have not fully prepared law enforcement for the unprecedented demands they face now that international terrorists have struck in the United States and threaten to do so again. Local and federal law enforcement must build on positive past relationships and address any remaining impediments to full cooperation if they are to truly succeed in carrying out their new mandates.

The Executive Session

On November 7–8, 2002, PERF³ convened a group for an unparalleled discussion among big-city police chief executives; sheriffs; FBI experts on terrorism, including several Special Agents in Charge (SACs); policymakers; and observers in Washington, D.C., to examine the local–federal partnership. (See Appendix C for a list of the principal participants.) These leaders in policing were tasked with developing practical guidelines to improve how local law enforcement and federal agencies can sustain more effective partnerships. The law enforcement executives came from jurisdictions across the country and were almost

Everybody here knows from experience that domestic tranquility and the common defense, fundamental purposes of government identified in the Preamble to the Constitution, cannot be achieved when local and federal agencies ignore obligations they can meet only by working together (Speech to Executive Session Participants⁴).

—Ed Delattre

³ PERF is a nonprofit membership organization of progressive policing professionals dedicated to advancing law enforcement services to all communities through experimentation and national leadership. Its members serve more than half the nation's population, and the organization provides training, technical assistance, research, publications and other services to its members and the profession. More information about PERF can be found at www.policeforum.org.

⁴ Delattre's speech can be found in Appendix B.

evenly divided between local chiefs and sheriffs from cities and counties and FBI SACs and Headquarters administrators. Moderated by PERF's Executive Director, the session identified problems, potential solutions and strategic outcomes focusing on public safety and what is best for the country. A number of broad topics and specific questions related to those topics were used to guide the discussions, including the following:

- Defining the Local–Federal Partnership
- Federal and Local Law Enforcement Needs and Capacities
- Information Sharing Between Local and Federal Agencies
- Models of Successful Partnerships
- A Strategy for Improving Partnerships

After a day and a half of high-level discussions, the group summarized and reviewed its findings to identify areas that required additional work and to confirm consensus. The meeting was punctuated with a briefing for FBI Director Robert Mueller, who came to thank the participants for their work on improving collaborations and to discuss ideas with participants on key issues, including the challenges of implementing the group's recommendations.

The White Paper

This paper details the first executive session participants' major findings and recommendations, which were the result of thoughtful deliberation and the collective expertise of leaders in the fight against terrorism in our communities. The *priorities* are the centerpiece of the paper and will receive the most attention. In each priority area, various perspectives and highlights from the discussions are presented, with an emphasis on understanding the true nature of the problems and obstacles to effective partnerships, as well as recommendations for improved collaborations. Additionally, the paper includes several sidebar articles that take one of two forms: One type of sidebar is authored by one of the session participants and elaborates on a subject that draws on his or her perspectives and experiences. The other type of sidebar, written by project staff, describes programs that have been identified as potentially promising for addressing a vital element of a counterterrorism strategy. It is hoped that the paper will advance cooperation and coordination among law enforcement agencies at all levels.

CHAPTER TWO

MAJOR THEMES AND ISSUES

FOR NEARLY TWO DAYS, LOCAL AND FEDERAL LAW ENFORCEMENT EXECUTIVES engaged in a forum to dissect their collaboration efforts—identifying how to build on successes and address remaining challenges that will advance how they can prevent, investigate and respond to terrorist activity. The executive session was unprecedented, in both content and style. None of the participants could recall a similar national-level gathering of local and federal leaders in a candid exchange of ideas on joint law enforcement strategies. Nor could any recall a meeting where defensive postures and turf battles were put aside in an honest attempt to strengthen this essential partnership. Participants' criticisms, explanations, descriptions and recommendations were introduced, discussed and debated. Ultimately, the group reached consensus on many seemingly intractable issues.

By the end of the first day, the participants identified more than 100 critical issues that could be divided into two categories: those that hindered an effective local–federal partnership and those that could improve that partnership. By the end of the second day, the list had been grouped into 12 priority topic areas, which PERF staff were able to refine and aggregate further after the session to the seven key priorities detailed in this paper. Many timely and

important issues were beyond the parameters of this first executive session, and some issues received only a cursory review. Many of these topics, however, will be addressed in the five additional executive sessions that PERF will be facilitating.⁵

The first priority area addresses the importance of effective partnerships as well as the manner in which participants should work to strengthen them. The remaining six priority

⁵ Though the topics have not been finalized, it is expected that four sessions will cover such issues as policing multicultural communities, bioterrorism, intelligence and homeland security systems. In addition, a final session will be held with support from the U.S. Justice Department's National Institute of Justice to examine critical incident management systems in local law enforcement.

“I agree that this is an unprecedented meeting. I have never attended a meeting with such a candid and productive dialogue on how we can work together.”

— FBI SAC

areas address specific programs or functions of the local–federal partnership. The seven priorities are

- Promoting Effective Local–Federal Partnerships,
- Security Clearances and Information Sharing,
- Joint Terrorism Task Forces,
- FBI Strategies,
- Intelligence,
- Multijurisdictional Information Sharing, and
- Training and Awareness.

The participants’ discussions about each of these priority issues also revealed a number of recurring and unifying themes that are listed below. These themes provide insight into the causes of some of the problems and challenges that law enforcement partners face. They also provide a context in which the discussions and recommendations can be more fully understood. These themes include concerns with the following:

- Accountability
- Awareness

- Communication
- Coordination
- Credibility
- Focus
- Honesty
- Integrity
- Openness
- Proactivity
- Respect
- Trust
- Unified Public Voice

The next section of this chapter is devoted to the first priority, as it provides the framework for examining the six more specific programmatic and issue-specific areas, which are detailed in subsequent chapters. Readers will observe how the themes listed above are woven through many of these discussions and the related recommendations for change.

Priority One: Promoting Effective Local–Federal Partnerships

Throughout the first executive session, all participants emphasized that the need for a truly effective local–federal partnership is stronger today than ever before. This partnership has been productive many times in the past and remains vital today; however, it is not without its problems and requires additional work to realize its full potential. Both the local and federal participants admitted that confusion over roles, uncertainty about responsibilities, breakdowns in communication and even a

lack of trust have historically been among the factors that have plagued partnership efforts and recently have placed new strains on it.⁶ However, the participants expressed a strong resolve to work together to enhance their collective ability to protect our communities from terrorism.

Information Exchange and Access

Perhaps the cornerstone of this partnership is information exchange. Participants acknowledged that barriers to information exchange exist in all law enforcement agencies, and at every level. Barriers may be technological, organizational or territorial. They prevail in and among local police agencies as well as their state and federal counterparts. These barriers prevent agencies from sharing with other agencies and, just as importantly, from sharing information within agencies. There are many reasons why so many law enforcement personnel are protective of their information. They may be reluctant to share information with others to ensure protection of their sources or the integrity of an investigation, for example. Though it is common for individuals and organizations to hold information to retain control or to obtain a position of power in a collaboration, law enforcement must strive to overcome

the barriers to information exchange—barriers that ultimately limit law enforcement effectiveness.

All participants agreed that better information exchange is critically needed and suggested a number of ideas for improving flow. The greatest complaint from all participants—local and federal—was that they received important terrorist alert information from CNN before their own partners or headquarters (respectively). CNN was seemingly picking up information in real time, disseminating it faster than even federal agencies could. (For more on the media, see page 11.) All participants also agreed that there may be a misperception that the FBI has more detailed, accurate or confirmed information than it actually has. FBI representatives discussed the overwhelming volume of raw data and information that is being analyzed and examined at the federal level that has not yet yielded the kind of detailed direction that local law enforcement is seeking. Clearly, greater mutual trust would help answer the question about whether valuable information is being withheld (and for what reason) or whether it simply does not exist.

Participants from the local agencies spoke of the need to improve communication and information exchange so that they have a bet-

⁶ Certainly local and federal partnerships vary from jurisdiction to jurisdiction. Collaborations may be shaped by available local law enforcement resources to conduct investigations on crimes for which there is concurrent jurisdiction. Other factors include the length of a working relationship between the current police chief executive and SAC, budget issues, size of a jurisdiction and potential targets, personalities, organizational culture, history and myriad other features of a particular area. While many of these factors were discussed, the group's focus was on developing strategies for resolving problems and challenges that could be tailored to a jurisdiction's specific needs.

ter understanding of when and why federal officials are operating in their jurisdictions. They seek timely information that will support proactive and preventive measures. Local executives expressed a need for more information on investigations in their own backyards, including whom the federal agencies are examining. They expressed concerns about operational coordination and officer safety. Chiefs and sheriffs believe that early notification and information sharing would allow local police⁷ to act as a force multiplier for the federal officers, in which they could offer help, coordinate undercover efforts, not open a parallel operation, or back off, if that was required.

“Let’s be honest. The FBI just may not have the terrorism intelligence we are looking for.”

—Local Law Enforcement Executive

While many participants extolled the positive working relationships in their own jurisdictions, there was a sense within the group that issues of trust, organizational culture, history of leaks or misuse of information and other matters continued to undermine some efforts across the country. There was consensus that local and federal leaders need to better address instances in which information was misused in the past and to ensure the integrity of the ex-

change in the future. FBI and local executives emphasized the importance of developing relationships during times of non-stress—before the crisis strikes. This relationship building must include developing *processes and protocols* for information sharing that can prevail if there are future personality conflicts. By their own admission, the executives believed relationships were largely dependent on personalities and agreed that how SACs and local police officials get along with one another will always be a part of the equation. They stressed, however, that partnerships must be established in ways that can survive executive or other key personnel turnover. The information must continue to flow regardless of who is in charge. The participants agreed that federal and local partners need to alert one another to perceived problems, obstacles and failures in a spirit of cooperation so they can be discussed and resolved. The partnerships must be based on openness, honesty and trust.

When trust and openness are tenets of information exchange, chiefs believe progress will be made in ameliorating local law enforcement’s perceptions that the information flow is unilateral. One chief, in stressing the importance of information exchange, described a partnership “as a coordinated effort on a continuous basis.” Unfortunately, the local police participants generally felt information is not always shared continuously, nor exchanged

⁷ Unless referring to a particular agency, the term “police” is used in the broadest sense and includes both police and sheriff organizations. Likewise, the term “chiefs” refers to all local law enforcement executives.

in a coordinated fashion. Without hearing an explanation for these inconsistencies, local executives may perceive the failure to share information as deliberate.

A number of executives said that the flow of information is primarily one-way: Locals give more to the federal agencies than they get in return. Local officials provide investigative information and even intelligence to FBI field offices but do not receive similar information. That frustration is aggravated by the perception that the FBI does not provide feedback on how they use the information that locals provide, and indeed may classify the information that may stymie local police follow-up or parallel efforts. Chiefs and sheriffs also indicated that the FBI does not always pass along new information it develops or receives from other law enforcement or national security agencies. It should be noted, however, that several local law enforcement executives recognized that the information exchange between their local agencies and the FBI has improved since September 11.

The FBI officials, however, countered that they work under several constraints, including the post-Hanssen culture and the concerns among agents that they do not inadvertently violate nondisclosure agreements, agency policies or otherwise endanger a source or investigation. They also noted that there may again be a misperception that they have better and more information than they actually have.

A number of local executives expressed concern that federal agencies were using local

law enforcement's lack of security clearances as an excuse not to share investigative and operational information in a timely manner. These concerns are addressed in sections on Clearances and Intelligence in more detail below and also were raised in the context of assessing the Joint Terrorism Task Force (JTTF) forums as mechanisms for sharing information. As discussed more fully in later sections, chiefs are concerned about accountability and effectiveness when the JTTF member from his or her department cannot share information with the chief because the JTTF officer has a higher clearance or the police chief executive, as yet, has none at all.

There was agreement among the local law enforcement and federal agency representatives that much of the substantive information that chief executives need at the local level can be made available through alternative mechanisms without needing to invoke the highest security clearance protocols.

Building Partnerships Early

The proactive partnerships that participants referenced above regarding non-crisis planning included suggestions for joint field training exercises, Memoranda of Understanding (MOUs), media policies and other efforts to determine more formally the scope and nature of the partnership. Building a strong partnership before a critical incident improves the chances that federal and local officials will work together effectively to manage the incident. If nothing else, the participants will at least know one another

and have a sense of counterparts' operations. These proactive steps can take place between SACs and individual chiefs/sheriffs or through local, regional and statewide law enforcement associations. Partnership building also requires guidelines for how to address "offers of assistance"—setting parameters for those that are accepted and explaining the reasons why some offers will not be accepted.

Participants also felt strongly that both sides of the partnership need a better understanding of the other's resources and how they may be used to complement partner's efforts. Local officials stated that they would like to have a better understanding of the FBI's capabilities—both at the organizational and field office level. This understanding would enhance the potential for federal and local resources to be used in a complementary, rather than competitive, fashion.

To be effective, local law enforcement needs a realistic awareness and understanding of FBI capabilities. The FBI SACs provided the local police participants with new information about the limits to resources they have in their field offices and the budgetary requirements they must follow that hamper SAC discretion about how resources can be allocated among their mandates. Too often, they felt, local law enforcement perceived that the FBI had unlimited resources, such as equipment, personnel, computers, funding and information. Specifically, SACs said that local executives accuse them of "holding out," which in reality is a lack of communication and education about their

parameters for sharing information and legal mandates on their level of involvement in terrorism versus other types of joint jurisdictional coordination.

Both federal and local executives expressed the need for honesty and accountability in operations. Local executives said that when an officer screws up or there is a perceived problem, the FBI needs to notify local executives right away so the problems can be corrected and not fester. The SACs said that chiefs and sheriffs should do the same thing when agents "screw up," and even when SACs get it wrong.

Accountability for Chiefs

The executive session provided an opportunity for both sides to explain some of the constraints under which they operate and to clarify the checks and balances inherent in their respective positions. For example, the police chiefs were mindful of their responsibilities to their citizens and their political accountability, as well as the effect of their decisions on local government operations.

Local law enforcement executives detailed what is necessary to protect local infrastructure. In addition to their routine threat assessments, local officials will also take action based on information from federal officials. There are tremendous costs and consequences for large deployments and resource commitments based on others' information (even the FBI's), so they need to base requests for city resources on reliable federal information. Chiefs discussed the need to explain to politi-

cal and budget leaders why they must allocate the requested resources. A strong partnership that is based on open discussions provides the clear and timely information needed to make proper decisions. At the same time, local executives acknowledged that their colleagues must not demand too much information—information that would be *nice* to know versus the information they *need* to know. As one chief stated, “I know what it is like to babysit those [individuals in my own jurisdiction] who did not need to know information, but wanted to.”

Failure to base decisions on reliable and timely information has consequences for all involved. As one chief said, “SACs will find themselves working with a new chief if elected officials don’t have information that ultimately could have prevented a crisis.” The key, again, seems to be one of trust. Another chief spoke about shutting down a large tourist attraction based on information from a SAC on whose word he felt he could rely, and he indicated he would do it again.

“You can’t ask for information that is nice to know. We need to only request what we need to know.”

—Local Law Enforcement Executive

Armed with timely and reliable information, chiefs felt they would be better able to meet their own accountability mandates. Chiefs believed they needed to try to build part-

nerships with their own city managers, mayors or other oversight authority to ensure that any early notice of a potential threat would be secure and understood. By explaining how they build relationships with political leaders that are based on trust and timing, the chiefs were able to identify with the demands that the SACs must balance.

Media Relations

Complicating issues related to information exchange among law enforcement agencies is the role of the media. Because this executive session convened in the shadow of the “Beltway Sniper Investigation,” there were heightened sensitivities about information leaked to the media—information that ultimately reached the public before all involved law enforcement agencies—which held the potential to derail the investigation.

All the participants stressed the hazards of not receiving threat or investigative information from knowledgeable colleagues before the media do. The SACs startled some of the local officials when they said they too have received critical information from CNN before it could be communicated through official channels.

Media leaks are a critical problem for both federal and local law enforcement and are not limited to any one rank. Chiefs and SACs spoke about the need to train agents and officers about the importance of preventing leaks. The group believed that too many law enforcement personnel talk too freely, sometimes violating disclosure agreements that come

with security clearances. The media and other organizations are using ex-officers to tap old friends for information. One chief discussed plans to work on securing information through training and policy to ensure that sensitive investigation issues are not discussed at home and with friends.

When the time has come to share information with the media, federal and local joint operations should rely on pre-established media strategies and media relation policies that inform the public and retain control over information that could damage coordinated efforts. Spokespersons and other details should be determined to minimize any tensions among the partners and so law enforcement can be seen as speaking with one voice.

Partnerships' Effects on Community Policing

"Creating a safe nation starts with safe streets," began one chief as he spoke about the importance and centrality of community policing to antiterrorism efforts. Local police are partners with the community in addressing crime, and now in collecting information that might prevent the next terrorist attack. Local chief participants voiced their concern that the FBI does not always understand the extent to which communities hold local chiefs and sheriffs accountable for federal agencies' actions in the community and the importance of local police relations with their constituencies.

The local officials believed that community policing has provided valuable lessons, relation-

ships and approaches that can be applied to "counterterrorism policing." However, many of the local participants were concerned that federal officials are not aware of community issues when they sweep into a jurisdiction to search for an individual or engage in other investigatory practices and leave just as quickly. The unintended consequence is damage to police-citizen relations, particularly in minority communities, that took tremendous effort to build through community policing.

Citizen engagement and collaborative problem solving yield tremendous resources that allow local law enforcement to gather information. Several ideas were discussed about how local law enforcement might assist the FBI with engaging and disengaging when in their communities. For example, some local participants believed the FBI could work with the local agencies to have area police officers or deputies perform some operations or be counseled by local agencies on what has worked within their communities that might influence federal agency tactics. For example, local law enforcement suggested it can provide valuable street-level information and employ different methods, such as using citizen informants instead of paid informants. Planning for how federal and local agencies will engage area citizens may also involve arrangements for when SACs' offices are not staffed for action. Arrangements may need to be made so that the FBI schedule is expanded or it agrees to support local investigators if they act on time-sensitive information in the middle of the night.

Federal-level investigative tactics should be examined, according to local enforcement officials, in the light of community-policing principles to ensure they will not create problems for local law enforcement when an investigation is finished. Whether it is the INS, ATF, FBI or other federal agency involved in an investigation, it is the local chief executive who is held accountable by the local community.

“Locals need to live and work in that community long after the investigation and sometimes need to repair damaged relationships caused by federal investigators.”

—Local Law Enforcement Executive

The FBI has recognized these concerns, and FBI participants expressed their commitment to improving community relationships in much the same way that local police have done through community policing efforts. The FBI is trying to work with minority communities and hopes to partner closely with local law enforcement to show a unified commitment. The FBI’s Office of Law Enforcement Coordination hopes to facilitate this effort by promoting the concepts of community-oriented policing in the FBI.

Recommendations and Concerns

- A strong local–federal partnership is essential to our nation’s fight against terrorism. This partnership should be multifaceted, and law enforcement

must continue to identify ways to work together to advance common interests. This first executive session is a step in the right direction, but similar and complementary efforts are continually needed, particularly parallel work at the local–regional level.

- Information exchange and access can only be achieved through pre-crisis planning, which may involve formal mechanisms (MOUs, joint media and information dissemination policies for joint task forces, and more) to ensure that working relationships and roles are defined and that they survive changes in leadership or personality conflicts.
- Local police and federal officials must address any tensions, trust issues and misperceptions at the local level. Each should inform the other of their respective resources, legal mandates, limitations and accountability concerns. Guidelines for the nature and scope of the information that can be shared should be detailed as well. Each partner must also identify and redress barriers to interagency (among same-level agencies and between agencies at other levels of government) and intra-agency information sharing.
- Local and federal partners can be more supportive of one another’s efforts to ensure appropriate resources and flexibility are given SACs, local law enforcement chief executives and others coordinating

the response to terrorism. For example, local law enforcement executives (chiefs and sheriffs) volunteered to speak to their elected representatives about the need for strengthening the local–federal partnership. The FBI can provide assistance to chiefs in developing protocols for sharing information with political leaders. Local law enforcement executive participants also offered to testify before Congress and other policymakers on behalf of, and with, the FBI to address obstacles to coordination and to ensure resources can be effectively deployed where they are most needed.

- Federal law enforcement (FBI, INS, DEA, ATF and others), the Department of Homeland Security and local agencies must work more closely to ensure that federal engagement and disengagement of area residents does not damage existing local police–citizen relations or otherwise undermine community-policing principles. Local and federal partners must work to realize community policing’s potential to provide all of law enforcement with valuable information and strategies for fighting terrorism.

***A REGIONAL RESPONSE TO TERRORISM FOR LOCAL LAW ENFORCEMENT AGENCIES:
A Site Visit Summary⁸***

By their own admission, officials in the Redondo Beach Police Department (RBPD) recognize that the odds of international terrorists striking their community are slim. Yet even slim chances require enhancing agency preparedness. Situated midway between Los Angeles International Airport (LAX) and the Port of Los Angeles (POLA), and home to a number of potential terrorist targets such as an oil refinery, electricity power plant, regional shopping mall, defense contractors and beachfront tourist attractions, this agency of 105 personnel in southwest Los Angeles County has fashioned a comprehensive program that other midsize local law enforcement agencies across the nation may want to study and replicate.

The RBPD counterterrorism program is predicated on two approaches: developing internal resources and participating in four terrorism task forces,⁹ each organized at a different level of government. By fully developing its internal resources, RBPD officers believe they are better prepared to prevent and respond to a terrorist attack. RBPD's participation in—and in some cases leadership of—task forces has enabled its officers to develop a network of intelligence and investigative resources that culminated with the assignment of a detective to GITMO (the Camp X-Ray prison for al Qaeda operatives at the Guantanamo Bay Naval Station) to interrogate prisoners.

The attacks of September 11 caused local law enforcement agencies to ask, "What can we do?" RBPD personnel believed they had a place to look, if not an outright answer—The South Bay Police Chiefs Advisory Group.¹⁰ This group has a history of close cooperation. In fact, prior to September 11, 2001, one of the South Bay agencies was developing a plan to convene an advisory group to examine transnational crime. After the attacks, the focus of the proposed advisory group shifted to terrorism (one of the previously recognized transnational crimes). The Chiefs Group agreed with the plan for an advisory group and formed the South Bay Police Chiefs' Terrorism Advisory Group chaired by RBPD Lieutenant John Skipper.

The advisory group adopted the following two goals as the foundation for its deliberations and recommendations:

- Integrate with and complement existing or emerging efforts at the federal, state and local levels—avoiding duplicating efforts.
- Examine and develop a response to the unique needs of the South Bay.

The advisory group then identified 10 categories of issues¹¹ and appointed working groups

⁸ This description was compiled by PERF project staff after conducting a January 2003 site visit; interviewing personnel from local, state and federal law enforcement agencies; and reviewing available literature on the programs.

⁹ The task forces are the South Bay Police Chiefs Terrorism Advisory Group, the FBI Long Beach JTTF, the LA County Sheriff's Terrorism Early Warning Group and the California Anti-Terrorism Information Center.

¹⁰ Members of the group include police departments from Redondo Beach, El Segundo, Gardena, Hawthorne, Hermosa Beach, Inglewood, Manhattan Beach, Rancho Palos Verdes and Torrance. Combined, they have nearly 900 sworn officers.

¹¹ The 10 issue categories are Terrorism Task Forces, Training, Threat Assessment, Information Sharing and Analysis, Contingency Planning, Explosive Device Detection, SWAT Capabilities, Communications, Cyber-Terrorism and Resources.

of subject-matter experts from the participating departments to examine each issue. Within 45 days of receiving its charge, the advisory group had submitted nearly 100 recommendations to the chiefs, and within 90 days many of them were being implemented. Many of the recommendations have resulted in improved capabilities and new initiatives, while work continues on others. Recommendations in two of the categories—Terrorism Task Forces and Information Sharing and Analysis—have been especially successful and could be replicated or tailored by other agencies.

Terrorism Task Forces

One of the first and most successful efforts of the South Bay Group was integrating with other terrorism task forces in the Los Angeles area, especially the Long Beach JTTF. Prior to September 11, the FBI Long Beach Resident Office did not have a JTTF, but a more limited National Security Squad with 8 Special Agents. However, because RBPd wanted to work with other agencies, it contacted the Long Beach Office and offered to detail an officer who would act as a liaison to all South Bay agencies. That offer was accepted on October 5, 2001, and later that month, a Torrance officer became the second South Bay member on the Squad.

Both South Bay detectives became fully credentialed, cross-designated federal officers with Top Secret clearances. The detectives work in the JTTF office and are treated like FBI Agents in virtually all aspects of case assignment and management. Although the local officers have Top Secret clearance, they do not always have the same level of access to information that Agents do. Several JTTF members stated that lifting this restriction would improve investigative effectiveness without compromising security.

The Squad was designated a JTTF when the Bureau implemented plans to increase the number of JTTFs. The Task Force now includes participants from the LAPD, the LASO and the Long Beach PD, as well as investigators from the U.S. Navy, U.S. Customs, INS and the EPA to work with the officers and Agents.

The South Bay personnel on the JTTF have participated in more than 150 terrorism investigations, ranging from visa violations to financial support for terrorism, to surveillance and the arrest of individuals of known terrorist organizations. In addition to the two assigned officers, South Bay departments provide the JTTF with other needed resources. In particular, the local agencies routinely provide surveillance teams to the JTTF and on other occasions have provided SWAT teams and overtime pay to facilitate investigations. The South Bay involvement included the six-week assignment of a RBPd detective to GITMO to interview imprisoned terrorist suspects. The FBI and RBPd shared the overtime costs associated with detailing the detective.

In addition to the JTTF, South Bay departments are working closely with two other task forces. One of these is the Los Angeles County Terrorism Early Warning Group (TEW). The TEW is the intake center for information on terrorism, public order and dignitary security issues for LA County. Housed in the LA Sheriff's state-of-the-art Emergency Operations Center, its mission is to monitor trends and forecasts indicating terrorist threats or attacks. Unlike the JTTF, the TEW's staffing fluctuates according to need. Since October 5, 2001 officers from five South Bay departments, including the RBPd, have provided assistance to the TEW on a rotating basis.

A third task force in which South Bay participates is the California Anti-Terrorism Information Center (CATIC). CATIC was created after September 11 by the Governor. It serves as the central point for law enforcement terrorism intelligence. CATIC provides timely collection, coordination, analysis, investigation and dissemination of criminal intelligence information regarding terrorist activity to federal, state and local law enforcement agencies. The El Segundo PD assigned a sergeant to CATIC who serves as a representative for the nine South Bay departments.

Information Sharing and Analysis

To facilitate South Bay departments' coordination, each agency has appointed a Terrorism Liaison Officer (TLO). The goal is to have every agency identify one person who will receive information regarding terrorism and transnational crime, effectively interpret and assess that information and appropriately forward or handle that information. To help the TLOs develop and improve their skills, officers from several South Bay departments have developed and provided a three-day TLO training course. TLOs are expected to possess the following knowledge and abilities:

- Knowledge of types of criminal activity that provide financial support for transnational criminal organizations and terrorism
- Knowledge of community, regional, county, state and federal resources dedicated to combating transnational crime and terrorism and how those resources can best be used to investigate and deter them
- Knowledge of the structure and current activities of significant transnational criminal and terrorist organizations
- Knowledge of foreign prosecution/extradition procedures
- Ability to recognize activity indicative of terrorism and transnational crime
- Ability to access international investigative resources such as INTERPOL, FBI LEGATS, international law enforcement liaisons, etc.
- Ability to conduct threat assessments regarding evaluating and interpreting terrorism and transnational criminal activity information

Because of the sheer size of Los Angeles County and the number of law enforcement agencies,¹² the LA County Sheriff's Office has adopted the South Bay Chiefs' recommendation that each Sheriff's station appoint a TLO. The Sheriff's Office also is helping other police agencies in the county appoint TLOs. To maximize effective information sharing and analysis, the Sheriffs' Office and the South Bay Chiefs' Group are working to appoint a TLO Area Representative (AR) for each of the seven mutual aid areas in the county. Each AR would represent several departments and would serve at the TEW in a full-time capacity.

Other Successes

Recall that the South Bay Terrorism Advisory Group adopted nearly 100 recommendations. In addition to the successes described above, other noteworthy achievements follow. In keeping with its two goals, each of these successes either integrated South Bay resources with other federal, state and local efforts or improved the capabilities of the South Bay departments.

- Worked with the California POST to create training courses that address identified law enforcement needs. To date, the South Bay agencies have developed and delivered courses for law enforcement executives throughout the state and have developed train-the-trainer curricula for first-responder courses.
- Used an existing Serious Crime Reduction Fund to help support threat assessments, training, overtime and equipment.

¹² Los Angeles County is 4,084 square miles and has a population of 9,902,700 and more than 50 local law enforcement agencies.

- Working with State Assemblyman to pass legislation that would create a Terrorism Crime Reduction Fund to further support training and first-responder resources.
- With members of the business community, established the Foundation for Combating Terrorism and Transnational Crime, a nonprofit 501(c)3 organization that will collect tax-exempt donations to purchase terrorism-related resources. More than \$60,000 has been donated to the Foundation at the time of this writing, and it has purchased an explosive detecting dog for the L.A. Sheriff and Level C protective equipment for the South Bay WMD Response Platoon. It also has sponsored officer exchanges with Spain and Northern Ireland.
- Worked with the FBI and U.S. Attorney's office to develop protocols for handling off cases related to terrorism, but that are more traditionally criminal in nature (e.g., identity theft, narcotics).
- Identified and arranged for threat assessment training from Texas A&M University in Torrance for multidisciplinary teams from all of the South Bay cities.
- Organized a training course in Weapons of Mass Destruction that was held in Redondo Beach. This was the first of six training courses provided state-wide (includes train-the-trainer component).
- Developed local multidisciplinary terrorism critical-incident plans.

Lessons Learned

At the heart of RBPD's success is a philosophy of service to communities and the profession. RBPD has built an extensive informational and operational network with local, county, state and federal agencies. Several RBPD staff spoke about the principles they follow—so fundamental as to risk being labeled platitudes. Yet they seem to explain much of RBPD's success in building partnerships with other law enforcement agencies.

Have a Plan—RBPD studied the issues and developed a written plan with its partners in the South Bay Police Chiefs Group. This group of nine agencies first examined their own resources and needs and then expanded it to the FBI, the LA County TEW, the State POST and the CATIC.

Focus on Resource Building—No single agency has the resources to prevent the next terrorist attack. But by recognizing the value that each agency brings, these task forces—especially the JTTF—have been able to overcome many impediments to a successful partnership.

Commitment and Direction from the Top—The South Bay Chiefs' Group formed a Terrorism Advisory Group and gave it a clear mandate. When the group's recommendations were developed, the chiefs provided resources for implementation. In particular, the RBPD has provided resources for an officer to be detailed to GITMO and to allow other staff to develop and deliver training programs for the State of California.

Keep the Mission First—With four task forces at four different levels of government operating within 25 miles, failure is a distinct possibility. Egos, disputes and battles over turf and resources could easily undermine the success of any one task force or diminish cooperation. Some of these obstacles arise at times, and as these task forces grow in size there are greater opportunities for barriers to emerge. Yet, the ability of most participants to focus on the mission—preventing the next terrorist attack—has kept these task forces on track.

CHAPTER THREE

SECURITY CLEARANCES AND INFORMATION SHARING

Introduction

ISSUES RELATED TO SECURITY CLEARANCES AND NONDISCLOSURE AGREEMENTS are hot-button concerns for federal and local authorities alike—though often for very different reasons. Throughout the executive session, problems associated with security clearances were the subject of lively debate and discussion. Problems included those involving the process of receiving various clearances and how they affect the exchange of information. Generally, local law enforcement needs to know more about security clearances—the types of clearances, what they mean, and how they will affect law enforcement operations. They also need to understand nondisclosure agreements when they receive clearances, as well as similar limitations on federal officials’ information sharing.

FBI personnel need a more detailed understanding of what information and materials can be shared as unclassified materials and which can be disseminated to those with Secret clearance levels. Both sides need to determine how to format, package or translate national-level information into a form that is more readily available and useful for local law enforcement investigators and officers.

“I thought I understood security clearances, but today’s exchange really opened my eyes as to how they work.”

—Local Law Enforcement Executive

A Brief History of Security Clearances/Executive Orders

Clearance levels—“Secret” or “Top Secret”—are based on the “need-to-know” doctrine, which requires an FBI background check be conducted for those officials who *need* to have access to national security information that has been classified as “Confidential” or “Secret.”¹³ As stated in the FBI brochure (2002) on the *Security Clearance Process for State and Local Law Enforcement*,

- “A *Secret* security clearance may be granted to those persons who have a “need-to-know” national security information, classified at the Confidential or Secret level.”
- “A *Top Secret* clearance may be granted to those persons who have a “need-to-know” national security information, classified up to the Top Secret level, and who need unescorted access in FBI facilities, when necessary [emphasis added].”

The background investigation process for Secret and Top Secret clearances are mandated

by Presidential Executive Order. The FBI does not have the ability to waive these requirements. Any reforms that local law enforcement might like to see made to the procedures for obtaining a clearance would require changing the Executive Order. (Indeed, later sections detail suggestions that local chiefs would like to see made to the process.)

The categories of, and processes for, security clearances were developed years ago during the Cold War for a very different type of threat than what we face today. The executive session participants spoke about how the new threats to national security and domestic tranquility require rethinking the process by which security clearances are granted. While local law enforcement recognizes and respects the critical need to protect intelligence sources, every effort should be made to find innovative and more expansive efforts to provide local law enforcement with the information they need to confront terrorist threats in their own communities. The challenge for the country is to find some mechanism for conveying the information in a declassified format or bringing local law enforcement more rapidly within the classified arena, which will help protect our

¹³ An individual applying for employment or for a clearance must fill out a Standard Form 86 (Questionnaire for National Security Position). After a successful background check, the candidate will be required to sign the Standard Form 312 (Nondisclosure Agreement). The SF 312 form signifies that the individual is responsible as a holder of the particular clearance approved to protect national security. These forms are available from the Office of Personnel Management. However, each federal agency has supplemental forms that may need to be completed in addition to the SF 86 and SF 312. At this writing, these forms are not available online. In the near future, these forms will be available for individuals to complete online at the website for each federal agency and will be available on the OPM website. At this time, law enforcement personnel should obtain a form from their SAC, Security Officer, or the Senior Resident Agent from their locale. These individuals will assist law enforcement personnel through the process (FBI Office of Law Enforcement Coordination 2003).

counties, cities and towns across the country without compromising intelligence sources.

“More than a year after 9–11, I still don’t feel like I’m in the game. And I need to be in the game.”

—Local Law Enforcement Executive

The Sticking Points

The Office (now Department) of Homeland Security has been collecting information on challenges that must be addressed to ensure that all law enforcement resources are focused and coordinated in our fight against terrorism. The executive session participants encourage the Department of Homeland Security and other federal agencies to review the Executive Order that currently prevents a more expedited clearance process for local law enforcement officials and is a barrier to bringing state and local law enforcement resources to bear effectively on the task before us all.

The Long and Cumbersome Road to Clearance

This call for a review was the result of extensive executive session discussions about how security clearance issues exacerbate local–federal tensions and create frustration among local law enforcement leaders who perceive the process as confusing and impeding critical communication. Specifically, chiefs and sheriffs expressed frustration about the time required to receive a

clearance. Several of the executives at the session did not yet have clearances. Among those were a few chiefs who did not know if their applications would yield results of value to justify the investment in the process.

The position of local law enforcement around the table was that they are trustworthy and already engaged in collecting sensitive intelligence. As one chief said, “Why should we have to jump through hoops to prove our integrity?” There was consensus that chiefs and sheriffs want to receive security clearances without the usual waiting times to process paperwork. Local executives need to know what is happening in their jurisdictions regarding threats and investigations *now* and do not want to have to rely on a JTTF detective to determine what the local law enforcement executive should know.

The session participants suggested the following reforms to the Executive Order, FBI Guidelines and policies to eliminate the backlog and expedite future applications. These include shortening the forms, streamlining the process, using more retired officers to conduct investigations, working with local law enforcement to determine who needs a clearance, and using existing military or federal agency clearances, among others. A number of executives questioned whether the entire clearance process should be changed, or at least use some type of abbreviated approach for police.

FBI personnel spoke about the security clearance problem from their perspective. Local law enforcement personnel do not always complete and return the paperwork, or if they

do complete it, there are delays in returning it. Forms are not always fully or accurately completed. And too often local officials apply for Top Secret clearances when all they really need is a Secret clearance. There is a misperception that the FBI has control over the process—and local law enforcement sometimes believes that the process is an affront to their professionalism, when it is really just about following mandatory authorities.

FBI Follow-Up

Efforts are already underway to address the participants' recommendations. Executive Order 12968, which mandates that the FBI follow a long and arduous process for granting security clearances, has been further scrutinized. Following the executive session, the FBI arranged for an advisory group of state and local law enforcement executives to meet with the Intelligence Community Security Directors Forum on February 24, 2003, to discuss policies and procedures related to the Executive Order governing access to classified information and the security clearance processes. Representatives from the Department of Homeland Security

and the Associate Director of Central Intelligence for Homeland Security were also present. The meeting was complemented by a site visit to the Central Intelligence Agency. The forum was very productive—with discussions of law enforcement's concerns about the security clearance process. The FBI will be discussing how best to address them, including possibly recommending a change to policies governing the security clearance process.¹⁴

Different Federal Agencies, Different Clearances

Different federal agencies can require a local official to obtain a security clearance through that particular agency. For example, one local executive had two federal security clearances, but not one from the FBI. Consequently, the FBI would not share classified information with him. Another executive had a Top Secret clearance for the National Guard, but only a Secret clearance from the FBI.

Session participants learned that it is possible to have one federal agency transfer its security clearance to another federal agency immediately if the applicant makes a request.¹⁵

¹⁴ The participants also discussed how they could work together to address the special training needs of state and local law enforcement in the counterterrorism/intelligence arena (Timmons 2003).

¹⁵ As an example, the following procedures need to be completed if a police chief has a Department of Defense clearance and needs to transfer this clearance to the FBI to work on a task force. The police chief must contact the Department of Defense security office and request their clearance paperwork to be transferred to the FBI Clearance Access and Data Management Unit. The FBI practices reciprocity; therefore, a background check would not be required. An entry is made by the FBI Clearance Access and Data Management Unit into the FBI system to recognize that the police chief has an active clearance with another agency. The transfer of clearance can take place immediately, usually within that same day (Shubert 2003).

The same process is used to transfer a clearance from other federal agencies besides the Department of Defense to the FBI. The police chief must contact the security office of the federal agency to begin the

Knowing Sources Versus Acquiring Information

Significant portions of FBI investigations into terrorist activity may focus on criminal code violations. These investigations are not classified, and participation in (and knowledge of) them does not require a security clearance. Conversely, other portions of terrorism investigations focus on national security issues and are classified. In counterterrorism investigations, the sources of information and the information-collection methods can determine a classification. For example, the information source—mechanical intercept versus human source—can determine the classification. Human source-generated information is given higher classification to protect his or her identity. Human sources require tremendous security. Local law enforcement participants also understood that the FBI cannot share National Security Agency and other certain federal information by law. Even without source information, some information will still be classified.

Chiefs and sheriffs agreed: They need to know that a source is credible and reliable when receiving information. They do not al-

ways need to know the individual or specifics of how the information was obtained. This can mean the difference between needing a Secret (less source information available) and Top Secret clearance. Secret clearances can provide access to key information and escorted access to FBI facilities, which should be sufficient for any official not doing regular business at the FBI as part of a task force. The discussions revealed these important perspectives:

- Chiefs do not always need, and should not demand the source of, classified information. Information can be shared to a greater extent if sources are not disclosed. It is the information that is critical and need only be put in a context that characterizes the source. As one local executive said, chiefs and sheriffs need to distinguish between “need to know” and “want to know.” It is important to “trust the information broker.” He compared receiving source information from the FBI to his days as a narcotics officer, when he would not give up a source but could still share important information. He said that it was more

transfer process. In order to expedite a security clearance process of a local law enforcement official with a security clearance from another federal agency, the local official should request that the clearance be transferred from one federal agency to another, rather than initiating a new application. If a local law enforcement chief has the same level of security clearance from another federal agency, transferring the security clearance from the other agency is quicker than filling out the paperwork for a new security clearance.

A security clearance that is more than five years old must be renewed through a background reinvestigation of those past five years. The process would be quicker for the local law enforcement official to renew his or her clearance from the other agency before transferring to the FBI, instead of starting a security clearance process from the beginning through the FBI (Shubert 2003).

important to know the level of credibility of information from someone qualified to assess that. The important issue for him is to know whether the source was reliable, unreliable or untested.

- Some local law enforcement participants emphasized that they would want to know if the source was in their own jurisdiction or a neighboring jurisdiction. Such information would allow a local law enforcement agency the opportunity to link information and contacts simply because of their intimate knowledge of their local communities. Another executive concluded by saying that if we know the FBI is operating in an area or looking for an individual, the local executive can then direct officers to track the person without giving them the source information.

However, those local antiterrorism specialists that require more information on sources and more extensive access to detailed information will require the higher clearance level. Local police officers and investigators assigned to a JTTF require a Top Secret clearance, which

allows them to sit in front of an FBI terminal, work on an FBI computer and have access to certain federal databases. They may be privy to more specifics about sources of intelligence, if they *need to know*. The time required to obtain this clearance is six to nine months.

Most chiefs, by their own admission, substantively need only a Secret clearance and not a Top Secret. The Secret clearance can be awarded in 45 days. FBI SACs can also obtain an expedited clearance, if necessary. The chief may obtain “needed” information but will *not* obtain the source or methods of the information. The SF 86 and SF 312 forms will need to be completed, even after the fact, to obtain the appropriate clearance.¹⁶

Yet local law enforcement felt that a greater education effort must be made to ensure chiefs, sheriffs, mayors, city managers and others in municipal and state government understand the nuances of which clearance should be sought. Too often, policymakers, politicians and even law enforcement within their own agencies attach significance to the clearance level afforded a chief law enforcement executive.

¹⁶ A law enforcement chief executive who meets the appropriate criteria may obtain an expedited security clearance if “exceptional circumstances” exist for the granting of an interim Top Secret security clearance as part of the FBI’s Law Enforcement Executives and Elected Officials Security Clearance Initiative (LEO Initiative). Because the United States is at war against terrorism, the FBI’s top priority is counterterrorism. Executive law enforcement officials who have a legitimate “need-to-know” to protect the citizens of their respective jurisdictions are fulfilling an essential part of the FBI’s counterterrorism strategy. There is a national security interest in rapidly providing classified information to executive law enforcement officials. Additionally, the issuance of an interim Top Secret security clearance will only apply to LEO Initiative candidates requiring that clearance. In most cases, law enforcement chief executives will not need a Top

Perceptions Associated with Different Clearance Levels

So the fact that an investigator assigned to a JTTF has a Top Secret clearance while the chief has only a Secret clearance should not concern the chief . . . unless you are the chief.

Elected and appointed local government leaders and law enforcement personnel attach significance, even status, to the higher of the two clearance levels. They might wonder why the chief could not get the higher clearance, while others in the agency have it. The concern that chiefs have relates to their credibility and leadership abilities within their community. It also has implications for supervising lower-ranking personnel's work on JTTFs and other similar assignments. One recommendation from a session participant was to tie a clearance level to a rank, as it is done in the military. Others also advocated a comprehensive education effort. All those in governance and

policing must understand that Top Secret and Secret clearances allow access to much of the same information. Both Secret and Top Secret clearance will ultimately be determined by the "need-to-know" information doctrine.

Nondisclosure Concerns

Another concern with different clearance levels is the extent to which information can be shared or released among persons with different security clearances or with a person lacking a security clearance, such as a mayor or city or county manager, or even key commanders in the law enforcement agency. No one wanted to put a commander or JTTF representative on the spot, having them try to decide whether the information can be shared with their bosses. They should not be encouraged to violate a nondisclosure agreement (punishable by criminal charges and/or termination of clearance),¹⁷ nor do they want to undermine accountability.

Secret security clearance, as a Secret security clearance will suffice to meet their need to protect citizens (Shubert 2003).

However, in the event that an interim Top Secret security clearance is required, the applicant must complete a SF 86, Questionnaire for National Security Positions, and two applicant fingerprint cards. The applicant must undergo a Single Scope Background Investigation covering a 10-year period. The requirement for completing a background investigation has been established by Executive Order 12968 and is mandatory for all candidates requiring access to National Security Information. The candidate will be interviewed and checks conducted regarding the information provided on the SF 86, local agency checks to include internal affairs, verification of birth, credit checks and national agency checks (IE OPM, DCII and FBI records). After favorable results are received from these checks, an interim Top Secret security clearance will usually be granted within 30 days while the remainder of the background investigation is completed. The FBI has established a 180-day requirement to complete the full background investigation. The final Top Secret security clearance adjudication will be completed by the FBI's Security Division. Once favorably adjudicated for a Top Secret security clearance, the candidate will be briefed and execute an SF 312 Non-Disclosure Agreement (Shubert 2003).

¹⁷ The punishment for unauthorized disclosure is detailed on the nondisclosure form. Also, when obtaining a security clearance, the individual is briefed on the sensitivity of the issues. Intentionally disclosing information to others not holding security clearances can lead to termination of the individual's security clearance and criminal charges by the U.S. Attorney's Office (Shubert 2003).

Agency personnel at all levels must be briefed about the scope and nature of what can be disclosed once clearance is obtained.

The FBI will accommodate agencies that want their senior administrators to have clearances, with the caution that it will take time. Chiefs and sheriffs need to say for whom they want clearances. Nonetheless, the Nondisclosure Agreement is legally binding. Executives must also be aware of the impact of nondisclosure agreements on individuals with clearances: Some FBI agents who wanted to share information with local law enforcement and others they felt should have the information are under scrutiny to determine if that sharing was in violation of that agreement.

Conclusion

The conversations on security clearances proved enlightening on many fronts but also demonstrated that all parties have significant frustrations with the issue. Despite this, all session participants see security clearances as a “winnable issue” and in that light developed the following recommendations.

“If the FBI gets intelligence about a specific threat in your backyard, I guarantee you will know about it.”

—FBI SAC

Recommendations and Concerns

- Local, state and federal law enforcement, at all levels, must be better educated on the types of clearances, what they mean and where to go from here. They must then share that information with those in state and local governance. FBI and other federal personnel need more education on what and how things can be shared as unclassified materials. Federal agency personnel also need more extensive guidance about how to format information for local law enforcement and information for line officers. Then local law enforcement must be educated on what is available.
- The Executive Order governing security clearances should be reviewed and changed. Local law enforcement also want other administrative and legislative actions explored to facilitate the clearance process. Specifically, changes are needed to expedite the clearance process for law enforcement officials.
- It is possible to transfer security clearances from one federal agency to another if the applicant makes a request. Law enforcement officials with a security clearance from a federal agency should request that the clearance be transferred to another federal agency, rather than initiating a new application, by contacting the Security Office of the federal agency for which they currently have a clearance.

- Local chiefs and sheriffs request that the FBI make every effort to reduce the time required for Secret clearance from 45 days to 30 days.
- Local law enforcement personnel should also commit to expediting the process. First, locals have to complete and return the necessary paperwork. They should return the forms as quickly as possible. Forms must be filled out completely and accurately.
- Because most chiefs need only a Secret clearance, rather than Top Secret, chiefs and sheriffs should apply for the Secret clearance. The Secret clearance can be awarded in 45 days, whereas the Top Secret clearance can require nine months. The FBI can expedite a chief's clearance if there are exigent circumstances, but the background check process will then still need to be completed.
- Chiefs should refrain from requesting the source of classified information when it is not needed. And federal agencies, to the extent possible, should inform state and local authorities when there is information being generated from their local communities.
- Local law enforcement officers must adhere to nondisclosure agreements.
- Local agencies need to determine who in their police departments most need clearances and what levels of clearance are really needed.
- Local, state and federal partners should meet and discuss issues of trust and determine the best ways to share information through reformatting and other methods so that security clearances are not a barrier.

A COMMENTARY ON SECURITY CLEARANCES

by Edward A. Flynn, Secretary of Public Safety for Massachusetts and former Chief of the Arlington County (VA) Police Department¹⁸

When the Pentagon calls 911, it is the Arlington County Police Department that responds.¹⁹ And that is what we did on September 11, 2001, when my officers and I became first responders to the terrorist attack. Since that time, my agency has been immersed in dealing with the domestic terrorism threat. Many issues of concern have emerged through that work, and our labors on the Joint Terrorism Task Force, that have yet to be resolved. And while much has to be done on improving coordination, intelligence-gathering functions, interoperability and other aspects of a comprehensive antiterrorist response, we seem continually to come back to the core issues related to security clearances for local law enforcement and information sharing among federal, state and local authorities.

To be fair, I think the security clearance issue is something of a red herring. If you listen to any local police chief, sheriff, director of public safety or other chief executive, you will learn that their real concern is that local police perceive that they are not getting information from federal agencies, in particular, that might be useful in identifying potential terrorist threats. Security clearances are just one symptom of that problem and act as a lightning rod for law enforcement's ire.

One reason for this state of affairs is that many local police professionals believe that security clearance restrictions are sometimes used as an excuse by members of federal agencies not to share information with local law enforcement. Chief executives report that they are told they cannot be given information because they lack the necessary clearances, but that they are unable to gain that clearance in a timely manner. They also report that some members of their own agency, particularly officers assigned to terrorism task forces, are unable to report information to the chief because the officer has clearance, but the chief does not. As you might imagine, this does not sit well with most chief executives. We need to fix the problems associated with police chiefs not receiving their necessary clearances, which frankly should not be that hard. Then we can build on the real work that is being done to remove remaining obstacles to information sharing among law enforcement agencies.

There were several issues raised at the executive session regarding clearances that seemed to resonate with all participants. To put these comments in proper context, I should acknowledge that I have been guilty of holding up my own security clearance by not filling out the forms as Chief of the Arlington County Police Department,²⁰ though there is plenty of blame to go around.

To be fair, I think the security clearance issue is something of a red herring. If you listen to any local police chief, sheriff, director of public safety or other chief executive, you will learn that their real concern is that local police perceive that they are not getting information from federal agencies.

¹⁸ At the time of the executive session, Flynn was the police chief in Arlington County, Virginia.

¹⁹ Interestingly, the media and others have misperceived that the Pentagon is in Washington, D.C., when it is really located in Arlington County, Virginia.

²⁰ The writer has since left Arlington County and is now the Secretary of Public Safety for the Commonwealth of Massachusetts.

I was, admittedly, petulant about the need to fill out a lengthy form and undergo a detailed process. I had already had a tremendous terrorist attack in my jurisdiction; having responded and worked intensely on the issues in the months that followed, I felt a bit put out that I now had to jump through hoops to get a security clearance. After participating in PERF's executive session, I am now penitent and better informed about why the federal agencies must operate as they do. In that spirit, I believe efforts should be focused on addressing these three primary concerns:

First, local law enforcement often presumes that federal agencies are withholding detailed, relevant and important information, for any number of reasons.²¹ I am not convinced that this is the case. The FBI is learning to get back into the intelligence-gathering game just as we are, and we must acknowledge that the information just may not be there sometimes. Then, we need to work on issues of mutual trust so that we can share what information there is, while retaining necessary security and integrity. There have been instances we can all recall when we got information from CNN before the FBI. This can only be resolved through improved coordination, cooperation and accountability. There are old relationships and agency cultures that must be overcome to make this happen. And we must ensure that federal agents are not hiding behind clearances as the reason for not sharing information that could be properly given to local law enforcement if packaged correctly. We need to share information, whether through executive committees of JTTFs or other means, by presenting the information in ways that may not require clearances at the highest levels.

Second, I never fully realized that you could get the same substantive information with a Secret clearance that you can with a Top Secret clearance. We don't all need computer terminal access at the FBI. We don't need to know the precise source of significant information, only whether the source is credible, reliable and other more basic characterizations of the source. We also need to educate our own officers, city and county leaders, and others who attach importance to the security levels one has so that chief executives will be more comfortable seeking a Secret clearance (which can be granted much more expediently than a Top Secret clearance). If, in time, a chief executive feels he or she needs a higher-level clearance, it could be pursued at a later time.

Third, we need to work with the federal agencies to make the process less painful for police chief executives. This would acknowledge that federal agencies find the chief executives' input and involvement valuable to our joint efforts and want to share information with them. We need to request changes to legal authorities and regulations, whether White House Executive Orders or agency mandates, that place unnecessary burdens on the process for providing law enforcement professionals with clearances. Then we must identify who really needs the clearances and fill out the paperwork accurately and completely to expedite the process further. This can only happen in an atmosphere of mutual trust and respect.

We are more than a year past the terrorist attacks, and I'm not alone when I say that local law enforcement executives do not feel like they are in the game. If we fix the clearance issue, we will be one step closer to using local law enforcement as they should be used—full partners in the fight against terrorism.

²¹ We should not underestimate how fear of disciplinary or legal action can affect officers'/agents' decision to share information. Nondisclosure agreements; the threat of losing a job, or worse, in the wake of the Hanssen investigation; and confusion around exactly what level of information can be shared are all factors in that decision.

CHAPTER FOUR

JOINT TERRORISM TASK FORCES

Introduction

THE FIRST JOINT TERRORISM TASK FORCE (JTTF) BEGAN IN 1980 IN New York City with 11 NYPD officers and 11 FBI special agents. The concept behind the JTTF was to combine the efforts and resources of federal and local law enforcement to focus on persistent or nefarious criminal activity. By September 11, 2001, there were 35 JTTFs in operation. Since that date, the number has grown to 66 (Mueller 2003a, 2003b).

A Force Multiplier, But Too Limited

While the JTTFs can be an effective “force multiplier,” the executive session participants were concerned that they have been inadequate for sharing information and conducting investigations related to terrorist threats. This consensus resulted in two alternative recommendations: First, the local law enforcement agencies could advocate for a complementary, but different, forum in which they would get the level and type of information they are seeking. Or second, they could advocate for reforms to the JTTFs that would bring them closer to their intended purpose.

A JTTF Alternative?

Some participants suggested that while JTTFs are beneficial, law enforcement needs complementary mechanisms for handling terrorism investigations. The FBI does not have unlimited resources and cannot provide all the support local law enforcement needs. They contend that JTTFs are not the panacea to local–federal information sharing and cannot effectively deal with the comprehensive information-gathering and analysis required to address terrorism, even with every local or state agency giving another 10 command-level law enforcement officers to the effort. They are simply too limited by the

number of personnel and resources they have. The typical JTTF model dictates that only a small number of local investigators are involved, which constrains the information flow within local departments.²² Local members on JTTFs also cannot always debrief their own commanders because of the security clearance restrictions described in the previous chapter. Accordingly, this group of participants felt that these task forces are not the answer to local law enforcement's need for additional information on strategy, tactics and counsel on a wide range of issues. They proposed that chiefs need a complementary or additional forum to be effective decisionmakers and leaders on threats to their communities. Without an alternative forum, the limited nature of the JTTFs will continue to keep local law enforcement from being completely "in the game."

JTTF Reforms: Fixing What's Broken

Alternatively, some participants said that a different or complementary forum was not needed, but rather the focus should be on strengthening the existing JTTFs, including securing additional resources. Both these FBI officials and chiefs agreed that they need to make a stronger commitment to the JTTFs.

They involve too few law enforcement officers and do not draw on the full capabilities that local law enforcement can bring to the table. These participants posit that the FBI should work more closely with local law enforcement to identify local investigators who can be pulled into investigations on an as-needed basis. Other federal agencies, such as INS and ATF, should also participate more. Local chiefs need to commit more qualified and committed personnel as well. The effectiveness of JTTFs depends on local executives assigning and leaving officers on JTTFs, which FBI officials have said has been a problem in the past. Given the strain on resources, local agencies are finding it difficult to assign personnel solely to JTTFs, particularly when there are other task forces in the same jurisdiction that require staffing as well. This local police commitment has also been derailed at times by a cyclical problem in which local executives are unwilling to commit more than minimal resources because they perceive they will get little back from their investment. But their investment cannot pay off until they commit resources to a JTTF that will, in turn, ensure valuable and practical information will flow back to the local police executive.

²² There are 56 FBI field offices, each of which chairs a Joint Terrorism Task Force. Each JTTF includes members of such other federal agencies as INS, Customs, CIA and ATF, as well as state and local law enforcement. There are an additional 10 satellite JTTFs that are affiliated with the 56 field office JTTFs. Homeland Security is included as well. The mission of the JTTFs is to identify and target for prosecution terrorists and terrorist organizations planning or carrying out terrorist acts occurring in or affecting a geographic region and to apprehend individuals committing such acts. These task forces substantially increase the resources and scope of the effort to prevent terrorist attacks but also substantially enhance collecting and sharing real-time information, fundamental to effective intelligence support (Mueller 2003a, 2003b; Timmons 2003).

Information that the JTTFs provide to local law enforcement must be as timely as possible to make certain local agencies will stay involved. Another effort that would promote long-term local agency involvement would include developing a formal mechanism for providing regular briefings to, and ensuring accountability by, participating agencies. Several local executives suggested developing a briefing format similar to Compstat meetings used by local agencies. (See also, the Intelligence chapter for an in-depth discussion of the executive-briefing issue.) All can agree on one point: The JTTFs generally lack the structure, appropriate number of analysts and administrative personnel to support investigators and other critical resources.

“If one of our officers doesn’t carry his weight, the SAC should let us know so we can address it.”

—Local Law Enforcement Executive

While there are varying degrees to which participants believed their JTTFs have been effective, JTTF reformers are driven by their commitment to these task forces and to improving them to meet the needs of local agencies. These participants believe that JTTFs provide the proper venue for international terrorism investigations. They advocate for a centralized structure and believe the JTTF is the best current mechanism. Information needs to rest in a single place, and the JTTF provides

that forum. They are concerned that a different or complementary forum might undermine the JTTFs, provide confusion and redundancy, and further drain limited resources. One local chief said that he depended on his JTTF representative and trusted him to share information that the chief needed to know. “I feel he has enough law enforcement expertise to make those decisions,” said the chief.

Their bottom line: The focus should be on using the JTTF as the primary investigative mechanism, but with an eye toward improving it. For example, a resident agent teamed with local officers (some on a part-time basis) can be an ancillary part of a JTTF. Smaller local agencies should at least establish a point of contact for JTTFs.

How JTTFs Can Use Local Resources

Though the issue of supporting the current JTTFs—versus a complementary forum to JTTFs—was not fully resolved, the executive session participants went on to discuss reforms that would make the current JTTFs more effective. The first proposed change involved improving federal agencies’ understanding of how local enforcement resources could be used in a mutually beneficial manner. In return, local agencies would make the greatest commitment possible.

“Local law enforcement is still not being used by the FBI after September 11,” a chief insisted. Others agreed, citing examples of how their offers to provide investigators to the federal agency and/or the JTTF were turned down.

(Executives from large local agencies described how they could make dozens and even hundreds of investigators available to the JTTF, though other chiefs said they could not afford to deploy additional investigators.) And some of the SACs mentioned that they have struggled with how to incorporate the resources they were offered. All agreed that there should be better communication to local agencies that included the reasons why offers of assistance are being refused.

Ultimately each JTTF, individually, will need to determine how best to use local resources. The proper determination will probably depend on local agency size. Generally, larger agencies should be more involved in JTTFs. Medium-size agencies may be able to provide additional investigators on an ad hoc basis. Expanding a JTTF beyond a metropolitan area could include relying upon an ancillary group of local officers who are cleared and briefed as needed. They might attend big briefings or address specific issues or tasks but are not committed to the task force. This may also be a good approach to share information with smaller cities. At minimum, however, session participants suggested that local agencies should be prepared to make a short-term commitment to assigning an investigator to see how JTTF investigators work the cases. Some liaison between JTTFs and local agencies may be needed to help JTTF investigators remain effective.

Briefing Chiefs

Local executives expressed frustration about not knowing about JTTF investigations, especially those that occur in their own jurisdiction. They said that in some cases they could not get full briefings because they lacked the proper security clearance. Other local law enforcement participants said that they have to rely on the investigators they assign to the JTTF for updates because they were not getting direct briefings from the SAC. In response, several SACs said they now can brief local executives on the number of individuals in the executive's city that are under scrutiny.

“I don’t want a PowerPoint presentation after the fact, I want to know what is going on in my own city.”

—Local Law Enforcement Executive

Several SACs and chiefs spoke about using an executive committee to their JTTF. With this model, the executive committee might include the SAC, chiefs and sheriffs who contribute officers to the JTTF, and possibly others. All members of the executive committee would have at least Secret security clearances. The executive committee would serve as a governing board, assessing JTTF activities and conducting planning on terrorism issues. They would receive fewer operational details than their investigators assigned to the task force but would still get useful information from meeting on

a regular basis. Several session participants employ such a model and believe it effectively provides more comprehensive and regular briefings to local and state law enforcement, while maintaining the integrity of sources and investigations.²³

One area that an executive committee needs to emphasize is succession planning for its JTTF. Turnover among SACs and local executives, as well as the addition of new members, requires developing protocols for bringing in and orienting new members. Such long-term planning would help to formalize relationships that can survive turnover and personality conflicts.

Apart from an executive committee, the participants spoke about the need for more regular communication among law enforcement agencies in a region. For example, the FBI could regularly brief an identifiable and specific group of local police officials. In addition, investigators and officers should receive overview information about the role of the JTTF, perhaps through roll call training. Again, there appeared to be consensus that significant information could be shared if properly formatted or presented in such a way that security clearances would not be necessary. Valuable information can be conveyed, if properly packaged by federal agencies, to local law enforcement personnel who do not have security clearances.

Task Force Redundancy

While discussing the JTTFs, several participants cautioned that law enforcement runs the risk of having too many task forces. The existence of terrorism task forces at the local, county, state and federal levels could lead to less coordination and loss of information. One participant said, “I would prefer to have one single task force with the FBI coordinating it.” Local executives also emphasized their resource limitations, especially in light of redundant federal task forces (i.e., FBI, ATF, SS, HIDTA, INS) addressing the same crime problems (i.e., cybercrime, drugs, gangs and other issues). Local law enforcement warned that they may not be able to continue to contribute resources to all these task forces.

U.S. Attorney Task Forces

The U.S. Attorneys’ Anti-Terrorism Task Forces (ATTFs) also were the focus of executive session participants’ concern. ATTFs were initiated after September 11. Careful consideration is needed to ensure that the ATTFs do not duplicate the work of JTTFs and pull critical resources, such as analysts and equipment, from the JTTFs. Indeed, some participants suggested that the ATTFs should be working closely with the JTTFs, with the U.S. Attorney becoming part of the executive committee.

²³ The executive committees that some JTTFs have at this time do not follow a single model but are tailored to meet the unique needs of a jurisdiction, as participants stated they should be.

Coordinating JTTF

The FBI has created a national-level JTTF (NJTTF) that operates out of Washington, D.C., and is available to help resolve problems a local JTTF may experience. The NJTTF is staffed by officers from 30 different federal, state and local agencies and operates out of the FBI's Strategic Information Operations Center. The NJTTF brings a needed national perspective and focus to the local task forces. It acts as a "point of fusion" for terrorism information by coordinating the flow of information between FBI Headquarters and the other JTTFs located across the country, as well as among the agencies represented on the NJTTF and other government agencies, such as the Department of Homeland Security (Mueller 2003a, 2003b).

Participants cautioned against overcentralizing information in this coordinating task force. It is important that the NJTTF send important information to the field offices and then provide them the latitude to make decisions about personnel, investigative focus and priorities that are consistent with local crimes and issues. Local executives spoke of the lessons that community policing has provided about moving decision-making and operational activities to lower levels.

Federal Inconsistency

Local law enforcement agencies are also concerned that federal resources must be better

used by local authorities. One concern they mentioned was that at a time of stretched federal resources from which they can draw, some are duplicative. For example, some training programs on specific topics (e.g., hazardous materials response, weapons of mass destruction) are offered by more than one federal agency in the same area (such as FEMA, ODP), while in other areas, training is not offered. A better needs assessment for local law enforcement should be conducted, and federal agency training and technical assistance should be assessed to minimize duplication. The problem is less critical than the duplication of task forces but should still be addressed, especially in light of plans to increase training by federal agencies, including the FBI.

Conclusion

The JTTFs have been effective (though the extent varies among jurisdictions) but can be improved significantly if they are made a higher priority, receive additional resources and have better direction and governance.²⁴ Local law enforcement's resources should be used to their full potential, and every effort should be made to eliminate redundancy and other drains on personnel. In return, local law enforcement should attempt to make a stronger commitment to JTTFs and work with others to create an executive committee or other means

²⁴ A strong cautionary note is needed, however. When developing criteria and guidelines for what information should be collected and shared among law enforcement agencies, every effort must be made to protect those guidelines because they provide a roadmap to intelligence collection efforts and could help those trying to infiltrate law enforcement.

to expedite information sharing among law enforcement partners.

Recommendations and Concerns

- JTTFs can be an effective “force multiplier,” but the primary concern is that they are currently inadequate for sharing information and conducting investigations related to terrorist threats. While some participants recommended complementary mechanisms to better share information and coordinate investigations with local law enforcement, many pushed for reforms that would make the current JTTFs more effective.
- Additional resources should be provided to the JTTFs, and both the FBI and chiefs need to make a stronger commitment to make the JTTFs more successful.
- Additional investigators, analysts and administrative staff are needed, either through direct assignment by local police and the FBI or supported through federal grant funds.
- The JTTFs need to consider alternative approaches to using the investigative resources that local law enforcement can provide on an as-needed basis.
- The JTTFs should establish a governing board in the form of an executive committee composed of the Field Office SAC (or Assistant Director in Charge) and local chiefs, sheriffs, directors of public safety and other key law enforcement personnel. This forum would ensure proper information sharing, commitment, accountability and coordination.
- The executive committees should develop a succession plan for their respective JTTFs that considers turnover in the chief executive positions, reassignment of officers and agents, and other local issues.
- Information produced by the JTTFs should be prepared and presented so that it has the greatest local relevance and is “user friendly” for local law enforcement.
- JTTFs should design and implement a Compstat-like process that would be the centerpiece for regular briefings and for ensuring accountability by participating agencies. Local agencies should designate a liaison to the appropriate JTTF if they do not have a permanent member on it. Likewise, FBI officials should encourage and accept these liaisons. These liaisons will facilitate the development of relationships among local agencies and JTTF personnel and provide a point of contact when needed by the JTTF.
- Federal law enforcement agencies should limit the number of redundant task forces (e.g., drugs, financial crimes, cybercrimes) or realize that the effectiveness of these task forces could be harmed by the inability of local law enforcement to keep supplying personnel and resources.

- The U.S Attorneys Anti-Terrorism Task Forces (ATTFs) should work closely with the JTTFs to reduce duplication of efforts, reduce the omission of necessary steps, ensure that resources are not drawn away from the JTTF, and coordinate effective strategies. The U.S. Attorney should be a key member on the proposed JTTF executive committee.
- In many regions, federal resources (task forces, specific training) are abundant and sometimes redundant, while in other regions they are lacking altogether. Chiefs, sheriffs and SACs all stressed the need for strategic planning to achieve greater consistency and coordination.

***HEART OF AMERICA JOINT TERRORISM TASK FORCE:
The Counterterrorism Executive Board (Kansas City Division)***

by Kevin Stafford, Kansas City Special Agent in Charge (SAC)

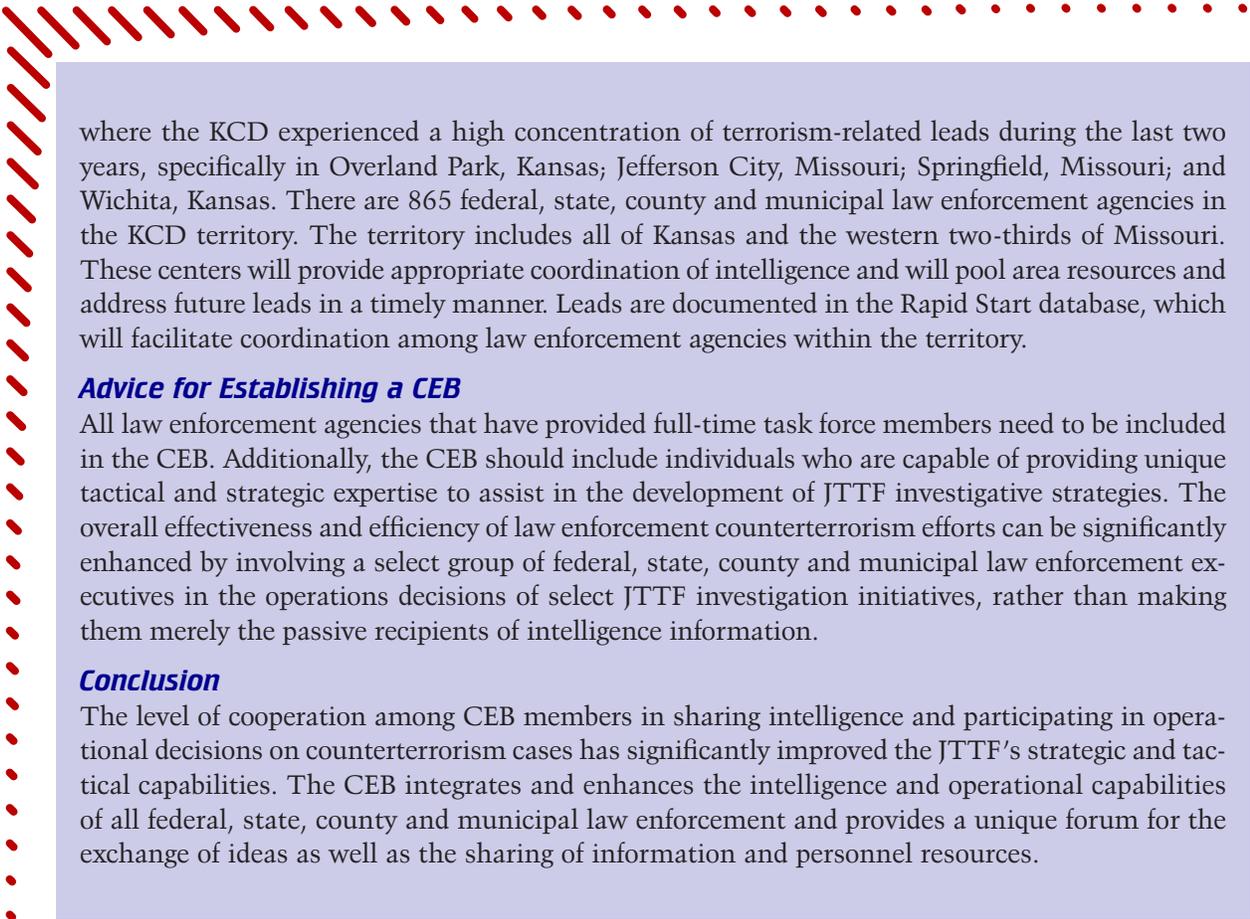
On December 16, 2001, the FBI's Kansas City Division (KCD) officially created the Heart of America Joint Terrorism Task Force (HOA JTTF). The task force was created to effectively and efficiently develop, analyze and disseminate intelligence and to work cases involving international and domestic terrorism matters in Kansas and western Missouri. Consistent with FBI national priorities, the primary mission of the HOA JTTF is to prevent acts of terrorism and to respond to, investigate and prosecute individuals or groups involved in acts of terrorism. The HOA JTTF comprises FBI Special Agents and full-time task force officers from 19 different federal, state, county and municipal law enforcement/intelligence agencies. HOA JTTF personnel are located in the Kansas City headquarters office, as well as in several resident agencies.

On February 4, 2002, the SAC established the Counterterrorism Executive Board (CEB). Initially, the CEB was composed of agency heads from 19 federal, state, county and municipal law enforcement organizations—with each assigning a full-time investigator to the HOA JTTF. As it has evolved, membership in the CEB has been modified to include individuals who bring unique subject-matter expertise that enhances the tactical and strategic capabilities of the CEB. Currently, representatives from eight federal agencies; five state agencies, including the Directors of Homeland Security for both Kansas and Missouri; and 10 local agencies constitute the CEB. Also included on the Board is Dr. Joseph Waeckerle, a nationally recognized medical expert on weapons of mass destruction and emergency medicine.

The CEB was created to ensure that federal, state, county and municipal law enforcement officials receive critical terrorism threat intelligence concerning their territorial responsibilities in the most thorough and expeditious manner and, most important, are given the opportunity to provide operational input on how those threats could be addressed. The CEB meets on an as-needed basis, but no less than quarterly. As of January 2002, the CEB has formally met six times. Classified information is disseminated personally by the SAC or through agency investigators assigned to the JTTF, who then brief their agency head. All members of the CEB maintain a Secret or Top Secret security clearance. The CEB addresses the concerns that many PERF executive session participants voiced—that local law enforcement chief executives wanted more direct, substantive briefings and effective mechanisms to contribute to the work of their JTTF and coordinate their efforts with federal and state agencies.

To address investigative matters that will arise in the event of hostilities, the CEB recently developed (and is in the process of implementing) satellite command posts to handle unclassified investigative leads that the KCD receives or develops. These command posts, referred to as Intelligence Integration and Regional Operation Centers (IIROICs), will support the KCD's Crisis Management Center (CMC) by providing more human resources, including staffing additional telephone banks, and handling unclassified leads. As this paper goes to press, the FBI anticipates that all investigative activities conducted by the IIROICs will be assigned and coordinated through Rapid Start,²⁵ operated at the KCD's CMC. The IIROICs are based in locations

²⁵ Rapid Start is a computer database designed to organize a large volume of case information to include tracking leads, subjects, victims and witnesses. Reports can be obtained through Rapid Start such as how many leads are assigned or unassigned, how many leads are outstanding, and to whom the leads are assigned. Rapid Start also has full-text search capability. Searching in the database assists in preventing the duplication of leads.



where the KCD experienced a high concentration of terrorism-related leads during the last two years, specifically in Overland Park, Kansas; Jefferson City, Missouri; Springfield, Missouri; and Wichita, Kansas. There are 865 federal, state, county and municipal law enforcement agencies in the KCD territory. The territory includes all of Kansas and the western two-thirds of Missouri. These centers will provide appropriate coordination of intelligence and will pool area resources and address future leads in a timely manner. Leads are documented in the Rapid Start database, which will facilitate coordination among law enforcement agencies within the territory.

Advice for Establishing a CEB

All law enforcement agencies that have provided full-time task force members need to be included in the CEB. Additionally, the CEB should include individuals who are capable of providing unique tactical and strategic expertise to assist in the development of JTTF investigative strategies. The overall effectiveness and efficiency of law enforcement counterterrorism efforts can be significantly enhanced by involving a select group of federal, state, county and municipal law enforcement executives in the operations decisions of select JTTF investigation initiatives, rather than making them merely the passive recipients of intelligence information.

Conclusion

The level of cooperation among CEB members in sharing intelligence and participating in operational decisions on counterterrorism cases has significantly improved the JTTF's strategic and tactical capabilities. The CEB integrates and enhances the intelligence and operational capabilities of all federal, state, county and municipal law enforcement and provides a unique forum for the exchange of ideas as well as the sharing of information and personnel resources.

CHAPTER FIVE

FBI STRATEGIES

Introduction

SINCE SEPTEMBER 11, TERRORISM PREVENTION AND INVESTIGATIONS HAVE become the top priority for the FBI. Many local and state law enforcement agencies include that duty among their highest priorities as well. How federal and local law enforcement assume these new responsibilities, while managing existing responsibilities, received significant attention from the executive session participants.

Match Priorities to Expertise

According to participants, the FBI and other federal partners need to reassess their priorities and the strategies they use to achieve them within the context of the new threat of domestic terrorism. They, like all law enforcement agencies, need to ask, “Where is our greatest value to communities, and how do we use our unique expertise?”

Enormous expectations are now placed on the FBI to deal with a wide range of problems, particularly since its focus was broadened in the 1980s to deal with drugs and violent crime. The FBI has been given concurrent jurisdiction for myriad traditionally state and local crimes, which puts them in the position of providing services that make them too much like local police—and that’s not a good use of their resources.

“Local law enforcement must understand that the FBI doesn’t have unlimited resources.”

—FBI SAC

Due to their expertise, the FBI should have a much narrower focus, particularly when state and local law enforcement authorities have the capability to address those crimes that have been the subject of recent federalization. FBI Headquarters should establish broad categories and standards but provide the flexibility that would allow FBI field offices to work with local law enforcement to establish priorities consistent with the needs of local jurisdictions. The FBI should not be doing traditional local police streetwork but should focus on those efforts that bring the most value to communities for the investment.

Some, but not all, local participants suggested that the FBI should not be involved in investigating bank robberies or drug cases, except at higher levels to target financial networks. Rather, the FBI priorities should be on criminal activities for which local law enforcement does not have extensive expertise, such as the following:

- Comprehensive information collection and analysis, which includes being a conduit for information exchange at the national level. Law enforcement needs federal support to identify and examine patterns or trends nationwide.
- Financial crimes.
- Drug trafficking that crosses local jurisdictional boundaries.
- Identity theft.
- Cybercrime.

The FBI's operational priorities should take into account the size, resources and expertise of other agencies in their jurisdiction. Chief law enforcement executives and SACs will need to assess the situation and make a determination that is responsive to the specific needs of the jurisdiction. Currently, according to one SAC, they do not have that flexibility. Another SAC said FBI national priorities call for field offices in larger cities to focus on national terrorism and spend less time on drugs, gangs and other traditional crimes. But the FBI resource allocation restrictions do limit their further flexibility (described more fully in the

section below on FBI Restrictions regarding the TURK system). SACs want to fill information, resource or operational voids that local law enforcement identifies. They need to learn from local law enforcement where FBI resources are most needed and then determine how they can work together to arrange those allocations.

Local law enforcement ultimately may receive more assistance in the areas in which they lack the expertise or national collection mechanisms. Still, they must be prepared to undertake those criminal investigations that some federal offices have conducted for the past decade, but from which they may now withdraw. For example, nationally, the FBI has about 1,800 agents for financial crime investigations. The FBI and local law enforcement may need to team up more to overcome diminishing federal resources for these and other traditional crimes and jointly decide where they should be directed. The FBI Director sets national priorities, but SACs should be able to determine local needs.

FBI Reliance on Local Expertise

As stated in the previous chapter, FBI agents by themselves cannot prevent another terrorist attack and want to learn more about how to integrate resources that local agencies can offer. One SAC stated, "I need every officer, DMV officer, campus police and others on the front line to gather and share their information."

FBI SACs who participated in the session want to rely upon the knowledge and contacts that reside with local law enforcement. Local

law enforcement officers are the experts on local areas and crime problems. Participants agreed that the FBI and each local law enforcement agency need to complement one another's expertise. One SAC said, "I need close working relationships with investigators/detectives in local agencies." Consequently, a few SACs believed some of their FBI colleagues may be reluctant to pull out of drug and gang investigations because they fear losing contacts with local agencies. A chief countered that the FBI could lose contacts in some areas but would gain other contacts associated with their more focused responsibilities.

"I need every officer, DMV officer, campus police and others on the front line to gather and share their information."

—FBI SAC

Local law enforcement can facilitate information gathering among community groups with whom they have good relationships. Community advisory boards that include Arab and Muslim members, for example, can be brought together for meetings with the FBI to provide information. Community relations are important for the FBI and can be strengthened by working with local law enforcement. This will only fortify the FBI's ties with local law enforcement personnel.

SAC Tenure

SACs face a tremendous challenge trying to integrate local law enforcement's resources and needs while implementing FBI programs in response to national priorities. This is exacerbated by job turnover, with a typical SAC tenure of only two to three years in a field office. The frequent turnover makes it difficult for each new SAC to integrate into existing groups and to develop partnerships with local law enforcement. According to one SAC, "It takes two years just to build partnerships and get comfortable working with local counterparts." The consensus of the executive session participants is that the recommended tenure for SACs in a field office should be five years.

The real challenge for law enforcement, however, is to try to formalize relationships between local and federal counterparts, so that personality-based partnerships do not diminish when SACs and local law enforcement positions turn over.

Communication Channels

Communication between the FBI and local law enforcement is critical but sometimes difficult. One SAC spoke about working with 450 chiefs and sheriffs, which makes consistent communication difficult. Currently, he relies upon emails, which may be the best approach until a more systematic means of communication is possible. Of course, he clarified, he still relies on phone calls to chiefs or sheriffs in the face of an immediate threat.

“State and local law enforcement do not need the FBI, as much as the FBI needs state and local law enforcement. . . . The FBI needs the information that local law enforcement has on community issues and crime problems, and we need to identify what local law enforcement needs from us.”

—FBI SAC

Another SAC spoke about setting up a schedule of monthly meetings with local executives. This has improved communication and has facilitated the exchange of information among a number of cities. Also, new National Law Enforcement Telecommunications System (NLETS) messages provide weekly updates.

Other SACs spoke about how they try to provide and participate in training and educational programs that involve local law enforcement. One telling example of the potential success of this approach was an example in which a local police officer who received such training was able to identify and report valuable information to the JTTF gathered during a routine eviction resulting from a landlord-tenant dispute.

Other FBI Restrictions

Currently, the FBI is operating under a number of constraints that affect its ability to conduct investigations and share information. Some are legal, some are administrative and some are cultural, reflective of what one SAC called the “Post-Hanssen Climate.”

Legal Parameters

The Privacy Act²⁶ and the *U.S. Attorney General Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations* (Ashcroft 2002a) limit law enforcement’s collecting information on activities that are considered expressions of First Amendment Rights.²⁷

The FBI can investigate criminal activity but has been restricted from collecting and keeping information related to First Amendment-protected activities. State and local law enforcement can, unless expressly prohibited, collect information about individuals and their affiliations that the FBI has been prohibited from amassing. For example, the FBI could not collect and retain information about white supremacists or other groups at high risk for criminal activity. Some state police could collect that information and run it against the FBI database, but the FBI could not then retain that information. However, as one chief pointed out, state laws and consent decrees on cases from the 1970s sometimes limit local

²⁶ Pub. Law No. 93-579.

²⁷ A copy of the guidelines can be found at www.usdoj.gov/olp/generalcrimes2.pdf.

police agencies' abilities to keep that information as well. Law enforcement at every level must be diligent in researching any legal limitations on their intelligence collection, analysis and retention capabilities and then share that information with their partners.

The Patriot Act²⁸ has eased some of these restrictions. The FBI can now attend public rallies to monitor extremist functions and events, even if no crime has been committed and no terrorist links are confirmed. The FBI can now look in chat rooms and visit public domain websites. But there are still legal limits to what they can do, which are delineated in the *Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations* (Ashcroft 2002b).²⁹ Some of these limitations may not apply to state and local police. FBI session participants expressed their desire to share all the information they can. But there are legal impediments and criminal sanctions regarding their release of information.

Administrative Constraints

Generally, the SACs believed that local law enforcement operates under the misperception that the FBI has more information than it actually has. "This is not a matter of hoarding; we just don't have the information," commented one SAC. However, several local executives said that the FBI would be well served to better edu-

cate local law enforcement about what they can collect and retain and what they cannot—as well as administrative protocols that seem to slow investigations and what local law enforcement might do to ameliorate these barriers.

During the discussion on investigative protocols, one of the SACs mentioned that they must continually monitor investigative assignments to ensure consistency with the Time Utilization Record Keeping System (TURK System). The existence of the TURK System was a revelation for the local executives. This system requires SACs to allocate investigators and resources according to predetermined formulas tied to budget allocations. End-of-year utilization must match the budget. Only minimal deviation is permitted because future budget allocations are tied to the extent to which SACs adhered to previous projections. The SACs explained how the TURK system keeps them from allocating resources to meet emerging or new crime problems. For example, if a SAC's budget requires that 20 percent of the resources be spent on bank robberies, even if the local agencies have bank robbery investigations under control, they cannot reallocate that money to terrorism-related efforts.

One chief noted that the U.S. Attorneys seem more independent than SACs and that perhaps they could help with modifying the TURK System. Discussions revealed that the

²⁸ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (Pub. Law No. 107-56).

²⁹ This document can be found at www.usdoj.gov/olp/fbiundercover.pdf.

U.S. Attorneys are indeed more independent, but that they also influence what SACs can do with investigative resources. Sometimes the SACs and U.S. Attorneys want to pursue different investigations, and these may further diverge from the priorities of Headquarters. Though there was some concern about whether this issue has been adequately addressed, session participants believed it was worth examining.

Perhaps the most significant administrative constraint the FBI is attempting to overcome is outdated information technology. The FBI is embarking on a three-year effort to implement technologies that facilitate better organization and analysis of information, as well as employee access to this information. This program includes providing each employee with the hardware and software to function in a “desktop” environment, installing high-speed connections linking FBI offices, and developing investigative software applications to improve information management functions.

Other administrative constraints include the need to address a comprehensive Department of Justice Management Review of four functional areas of the FBI: organizational structure/mission, information technology policies and practices, personnel policies and procedures, and crisis management procedures. In addition to this Management Review, the FBI has been making significant changes, including appointing four Executive Assistant Directors, instituting an Office of Law Enforcement Coordination and a variety of other changes that require time and resources to implement.

Organizational Culture

In response to the arrest of former FBI Special Agent Robert Hanssen for espionage, the FBI convened a committee of Headquarters and field office executives to evaluate the FBI’s internal security practices. This committee made numerous recommendations to improve the FBI’s ability to prevent, detect, investigate and correct security policy violations. The primary recommendation was to create a Security Division, under the leadership of an Assistant Director. Other recommendations are intended to promote better understanding of and compliance with security policies, including awareness initiatives. The FBI also has expanded its polygraph program, increased background re-investigations and initiated routine audits and verification of “need-to-know” information—all while transforming the organization to fight terrorism. These changes are having profound effects on the organizational culture, just as they are on the organizational structures and administrative systems.

Conclusion

The FBI is making significant efforts to confront its culture and the challenge of organizational change. Some session participants believe there is still a culture within the FBI and other law enforcement agencies that rewards information hoarding, secrecy and wariness of partnering with others. Organizational change is difficult, and the participating local law enforcement chief executives understand the demanding implementation path that

must be followed. They expressed a desire to assist the FBI in its endeavors. They know it is very hard to adapt to a new mission, change the organization and make significant changes to the organizational infrastructure. Together, participants believed they could assist their partner agencies through the growing pains and implementation problems that affect organizational capabilities to respond to cooperative enforcement efforts.

Recommendations and Concerns

- The FBI and local law enforcement should reach consensus on strategies to prevent and investigate criminal activities that are consistent with the capabilities, resources and authority at each level of government. Local law enforcement and field offices should use their expertise to collaboratively develop strategies consistent with local needs and priorities.
- The FBI should use its expertise to focus on such counterterrorism and criminal activity as cybercrime, financial crime, identity theft and other crimes that affect multiple jurisdictions. In large cities at least, the FBI should, in consultation with local law enforcement, determine whether to reduce its emphasis on bank robberies, violent crime, gangs and street-level drug sales. If local agencies can support the shift, the FBI can focus more on providing local agencies with valuable terrorism information.
- The tenure of SACs in field offices should be increased to five years to provide the necessary stability and expertise to effect long-term change and oversee complex efforts. The FBI should also develop a “survival guide” for SACs based on best practices among local law enforcement executives and SACs that would help with succession planning, building local partnerships and more.
- Law enforcement at all levels also must be aware of legal mandates that prohibit certain activities. Local law enforcement must be particularly vigilant about researching past consent decrees, state laws and ordinances that would limit intelligence collection and retention efforts. They must also be aware of federal limitations to stave off their personnel’s perceptions that the FBI is simply being uncooperative.
- FBI SACs could be more effective if given additional resources and flexibility. SACs should have more discretion in determining their investigative priorities and should do this in a way that is consistent with local needs and issues.
- The FBI should examine and assess the overall effectiveness of its TURK System. Local law enforcement can support these efforts to ensure they allow flexibility in response to changing crime patterns.
- The FBI should broaden the investigative categories that govern field office

activities to provide SACs more latitude in counterterrorism investigations.

- Law enforcement agencies at all levels must educate one another about organizational obstacles, and efforts to address them, that may affect cooperative efforts. Local executives have extensive experience with organizational change that could be valuable to the FBI.

DIFFICULT DECISIONS: FBI PRIORITIES

by Darrel W. Stephens, Chief of Police, Charlotte-Mecklenburg, NC

The PERF/COPS Executive Session provided a unique opportunity for police chiefs and FBI executives in America to engage in an important conversation about their expectations of one another and to address the enormous challenges facing law enforcement in the future. Since 9–11, Homeland Security responsibilities have been added to the long list of expectations for law enforcement at the federal, state and local levels. Few would say that any law enforcement agency possessed adequate resources to address these expectations prior to 9–11, and most would agree they are still lacking. But for the FBI, the challenge is particularly onerous, as their number-one priority is to “Protect the United States from terrorist attack.”³⁰ How is the FBI going to meet this challenge with 11,000 Special Agents—2,500 fewer sworn officers than the Chicago Police Department and about 28 percent of the total number of sworn officers in the NYPD?³¹ The simple answer is they cannot achieve that priority without at least three reforms³²—and even then there are no guarantees.

These three reforms are

- stronger and more effective working relationships with state and local police,
- significant enhancements in technological capabilities, and
- more focused efforts on a much narrower list of responsibilities and priorities.

The focal point of this commentary is on the last.

In the wake of 9–11 and the appointment of Director Robert Mueller, the FBI identified and announced on May 2, 2002, 10 priorities.³³ A reorganization plan announced the same day indicated that 3,718 agents (34% of the 11,000 special agents) would be assigned to antiterrorism investigations. Of these, 518 were moved from other criminal investigative assignments (most from drug investigations, violent crime and white collar crime), and the plan included hiring an additional 900 agents. Nevertheless, the priorities continued to encompass virtually everything the FBI was doing prior to 9–11, albeit fewer resources would be devoted to non-terrorism investi-

³⁰ As stated on the FBI website at www.fbi.gov/priorities/priorities.htm.

³¹ As stated on the FBI website (www.fbi.gov) and Chicago PD website (www.ci.chi.il.us/CommunityPolicing/AboutCPD/Organization/Overview.html).

³² There are others, but these three seem most critical to me.

³³

1. Protect the United States from terrorist attack
2. Protect the United States against foreign intelligence operations and espionage
3. Protect the United States against cyber-based attacks and high-technology crimes
4. Combat public corruption at all levels
5. Protect civil rights
6. Combat transnational and national criminal organizations and enterprises
7. Combat major white-collar crime
8. Combat significant violent crime
9. Support federal, state, local and international partners
10. Upgrade technology to successfully perform the FBI’s mission

(www.fbi.gov/priorities/priorities.htm)

gations.³⁴ This is a good start to be sure, but simply does not go far enough because the priorities continue to suggest the FBI can do it all.

The debate continues across the nation about whether the FBI should move away from bank robberies and violent crime and drug investigations (areas in which there is concurrent jurisdiction with local law enforcement). In most cases the FBI gives the impression it will continue doing all the things it has done before—just, perhaps, in fewer cases than before and more selectively. The time is long overdue—well before 9–11 for the FBI (and other federal law enforcement agencies)—to resolve the strategic question of what activities the FBI should sustain to provide the greatest value for America, given its unique capabilities and authority. Local law enforcement can be supportive of these decisions, particularly if they are based on collaborative problem solving between municipal and county police executives and their area SACs. These are decisions that need national direction but require some flexibility at the SAC and local level. It is not entirely the FBI that causes priorities to include everything—many chiefs like having them involved with drugs, bank robbery, violent crime and more. The chief executives have just as much, perhaps more, difficulty establishing priorities than the FBI. We want it both ways—that is part of the reason why we have the dilemma of the FBI having to be everything to everyone.

The question of federal jurisdiction and involvement was not given sufficient thought when the drug enforcement authority of the DEA was also given to the FBI. Nor did the country engage in thoughtful discourse in the late 1980s and early 1990s, when many violent crimes were federalized. These significant policy changes were made for political expediency—not thoughtful responses to how these national problems might be most effectively addressed using the full range of law enforcement and other resources available to the nation. Though decisionmakers seem to be a little more thoughtful on terrorism, they are frightfully close to following the same course.

Does the FBI need to be engaged in violent crime, drugs or bank robbery investigations? What capabilities do they bring to these investigations that do not exist at the local level? If there is a role, what should that be? The most appropriate role would be to focus on supporting the investigations of those cases that cross state boundaries. There is an enormous void in local law enforcement's tracking and analysis capabilities for crimes that are committed by offenders who move from one part of the country to another—such as federal agencies' critical role in the D.C. sniper shootings. As with terrorism intelligence, connecting the dots among the cases proved to be very difficult. The same may also be true in more rural areas where local law enforcement resources are limited.

Is there a federal role in creating a system for tracking unsolved homicides on a national basis or other crimes like bank robbery, identity theft or money laundering? There are examples already—NCIC and IAFIS—in which the unique capability of federal law enforcement has enhanced the ability of police agencies across the nation to deal more effectively with crime.

There is no easy answer to determining FBI priorities and resource allocations. But we must recognize—just like local police agencies—that the FBI has limited means and that they must be effectively applied to those areas in which they will have the greatest impact on domestic security and on filling gaps where local law enforcement's resources and authority do not exist. To do that, it is important that the FBI and political leaders re-engage in a national dialogue that asks the tough questions about what the most strategic and best use of their critical and unique resources should be.

³⁴ See abcnews.go.com/sections/us/DailyNews/fbi_restructure020529.html and www.cnn.com/2002/US/05/29/fbi.reorganization/.

Introduction

THE EXECUTIVE SESSION PARTICIPANTS DISCUSSED SUCCESSES AND PROBLEMS with collecting, analyzing and disseminating intelligence.³⁵ A recurring theme was law enforcement's need for more valuable and comprehensive education, training and awareness, reflecting their desire to be more effective as they get back into the intelligence business. This forum provided participants with an opportunity to identify the pressing issues that law enforcement faces. The more detailed exchange of ideas on the intricacies of the intelligence function in policing was beyond the parameters of this first gathering. That discussion will occur at an upcoming executive session dedicated to the topic.

³⁵ It is important to be aware of the differences between "information" and "intelligence." As noted in the IACP Criminal Intelligence Sharing Report (2002), "intelligence" is the combination of credible information with quality analysis—information that has been evaluated and from which conclusions have been drawn. As one expert has argued, "Information [consists of] scattered bits of data," whereas intelligence is "information that has been filtered, distilled and analyzed . . . [it is] something that can be acted upon . . . [it is] what managers need to make decisions" (Kahaner 1997).

"Intelligence sharing" requires law enforcement agencies first to conduct and then share analysis. The intelligence generation and sharing has multiple stages wherein law enforcement and other collaborating agencies must be able to plan, gather, collate, analyze, manage, disseminate and then use intelligence data. Criminal intelligence is data that can be used proactively for strategic and tactical purposes (IACP 2002).

Shared Intelligence

The primary concern among participants was the extent to which intelligence is shared among law enforcement agencies. This sharing, the executives stressed, needs to occur within agencies, between agencies at the same level and among agencies at all levels of government.

“We have opened access to intelligence, and we want to put all area intelligence in one building. We make 100,000 arrests per year, have great intelligence, but don’t have a way to share the information.”

—Local Law Enforcement Executive

Failures to share information are not unique to the local–federal partnership and sometimes plague coordination among local jurisdictions. Even information-sharing problems among divisions in the same agency have slowed the effective dissemination of information, whether they are the result of a lack of common databases or an unwillingness to share criminal intelligence with fellow officers. These problems exacerbate information sharing among local, state and federal agencies. Addressing the barriers to internal and external sharing will ensure that more relationships and patterns are detected.³⁶

Local police, for example, can provide vehicle stop information around sites where other agencies have observed people taking notes about the area or pictures of monuments or potential targets. Local and state law enforcement can help connect the dots to places where the FBI is intercepting calls or investigating individuals. Participants believe that we must find ways to share the information with those who need it and figure out the accountability issues that will ensure it happens without compromising sources, investigations or other law enforcement personnel.

The consensus was that the FBI should be the primary conduit for intelligence analysis and exchange on a national level. But they cannot do it alone. The profession—at all levels—needs to improve its ability to analyze and share intelligence. With every agency fully engaged, progress can be made in addressing interagency sharing. For example, several local executives spoke about the need for receiving more intelligence on security threats. Citing the need to plan and respond immediately, as well as to work with political and other government leaders, the chiefs and sheriffs stressed the need for more timely briefings. This was cited as an excellent example for improving federal–local partnerships.

Another mechanism that could facilitate intelligence sharing among agencies is to de-

³⁶ The ability to share information internally and externally will also be dependent on technology reforms that promote sharing and interoperability, as well as advances in information collection protocols and records management processes.

velop protocols for regional briefings, including some that might include a Compstat-like component. The mapping and geographic analysis functions could be invaluable for keeping executives apprised of ongoing threats and investigations. It would also prompt those involved to consider what other information they could provide to the model to complete the picture.

Intelligence Functions: Back to Basics

The participants were candid about the extent to which all of law enforcement needs to learn more about the intelligence function, beginning with how to collect information and then how to share and store it.

For example, chiefs and sheriffs indicated that officers are still uncertain about precisely what information they should look for that might indicate terrorist activity. There are obvious signs, of course, but there also may be more subtle indicators that routine patrol and special units could detect if properly trained. Detectives and investigators may possess valuable information without knowing it and may not know how to share information because they have never had adequate terrorism intelligence training. Most local law enforcement officers have never been in the intelligence business, and many remember the abuses of decades past that must be avoided this time around. And because agencies lack qualified analysts, equipment, policies, training and other essential resources, they may not be sure about how to develop an intelligence function.

As discussed more fully in the chapter on security clearances, there are legal mandates that will prohibit some information sharing or disclosure, and others that will preclude retaining certain intelligence. Local law enforcement executives also need to distinguish between *need to know* and *nice to know* when requesting information from the FBI—you can't ask for everything. After a long discussion about source information, the local executives generally agreed that they do not need to know the sources, just whether the source is credible and the implications of the intelligence for the public safety of a local jurisdiction. In fact, one SAC said that local officials should always insist on a *characterization* of the source. Similarly, local executives must begin to determine what information is appropriate for different levels and functions in local law enforcement. Not all information is equal.

Re-Engineering Intelligence

Local law enforcement needs help in re-engineering the intelligence function. Many local agencies are looking for expert counsel about how to re-establish intelligence units—units that were once disbanded in the wake of

“We may need a new model for the intelligence function, because our old model had some problems.”

—Local Law Enforcement Executive

civil rights and privacy abuses in the 1960s and 1970s.³⁷

The FBI could play a key role in providing assistance based on its own efforts to reorient its intelligence function. Other resources may be available, too. At the time this Executive Session was held, one of the only significant pieces of relevant federal legislation was the Patriot Act. On November 15, 2002, the Homeland Security Act became law, with the potential to alter how law enforcement intelligence is collected, analyzed and disseminated. This Act empowers the newly created Department of Homeland Security to establish an Office of Information Analysis under the direction of an

Assistant Secretary, who has the authority to review and make recommendations for improvements in sharing law enforcement information and intelligence within the federal government and between the federal government and state and local law enforcement.³⁸

Intelligence units of the past were focused on traditional crimes, not domestic terrorist threats. Today's law enforcement now has a compelling need to connect with other local agencies across the country and with federal agencies in an unprecedented way—which requires FBI involvement. Most agencies experience difficulties performing intelligence functions and have varied approaches to overcoming the many barriers.

³⁷ Police officials say that laws, regulations, court decisions and ordinances created in the 1970s and 1980s to halt law enforcement's previous abuses in scrutinizing citizens without evidence that a crime was committed now prevent them from reconnoitering at mosques and other settings where terrorists may plot attacks. On October 26, 2001, President Bush signed the USA Patriot Act (Pub. Law No. 107-56), which gave new powers to both domestic law enforcement and international intelligence agencies and eliminated some previous court oversight.

For example, in 2003, New York City Police Commissioner Raymond W. Kelly lauded the overturning of a federal court decree, the Handschu agreement, governing the limits on police surveillance of citizens. The decree prohibited police from photographing and carrying out surveillance of political demonstrations. Under the decree, to infiltrate lawful political and social organizations, police must establish there is suspected criminal activity and gain the permission of a special three-person authority to act. On February 12, 2003, U.S. District Court Judge Charles Haight expanded NYPD's powers to carry out surveillance of political organizations by overturning the Handschu agreement. Judge Haight stated that the restrictions placed upon the NYPD as a result of the spying and intimidation of the 1960s "addressed different perils in a different time" (Weiser 2003). The 1985 consent decree order stemmed from a lawsuit brought in 1971 over the infiltration of the Black Panther Party by members of the NYPD's Red Squad. In the 1950s, that squad compiled large files on political meetings of left-leaning organizations and photographed and collected information on personal and business affairs of prominent liberals and others, then shared that information with the FBI and Congress to compile a list of suspected communist sympathizers.

Municipal mandates have a similar effect. For example, nearly a quarter-century ago, after discovering that the Seattle Police Department of that time had an intelligence unit that kept files on the public, the City Council passed an ordinance forbidding such police activity. Today's Seattle Police Department believes the ordinance may create obstacles to their efforts to track individuals who pose a genuine terrorism threat. In the words of Seattle's Police Chief, the ordinance is "one whose time has passed" (Powell 2002; Moss and Fessenden 2002).

³⁸ Homeland Security Act of 2002, U.S. Public Law 296, 107th Cong., 2d sess., 15 November 2002. Department of Homeland Security Act Public Law 107-296 can be found at www.dhs.gov/interweb/assetlibrary/hr_5005_enr.pdf. The "Department of Homeland Security Reorganization Plan," dated November 25, 2002, is available online at www.whitehouse.gov/news/releases/2002/11/reorganization_plan.pdf.

ers to effective implementation. For example, the NYPD hired a former CIA expert and has sent investigators to the Middle East and other places of long-standing terrorist activity where intelligence gathering has been a way of life for law enforcement (Rashbaum 2002; Cooper 2002). Obviously, not every agency can or will go this far. Local law enforcement needs models and approaches that will align with their resources, systems and unique jurisdictional needs. These intelligence operations cannot bring the rest of their services to a standstill. They still need to focus on the crime problems in cities and counties, as well as the new threat. The endeavor can seem overwhelming, and not everyone knows how to begin the process.

And while the FBI can provide some guidance based on their efforts in the last year to step up their terrorism intelligence efforts, it is important to remember that this is relatively new to them as well. Most field offices have not had a long-standing terrorism intelligence function, and those that did collect intelligence typically targeted more traditional criminal activity. Still, there are lessons learned that can be shared with local law enforcement, and the FBI is working to develop a national Office of Intelligence and a strategic intelligence function. Local law enforcement needs to stay abreast of these developments and the FBI's capacities to conduct information analysis and exchange.

The FBI and local law enforcement should collaboratively develop collection standards so that raw information can be more easily integrated and used. Likewise, the FBI should partner with state and local agencies to provide intelligence information in a format that is more useful to local law enforcement and, to the degree possible, keeps the access to information out of the clearances-only arena.

U.S. Attorney General Guidelines

The FBI operates under the U.S. Attorney General's Guidelines on terrorism enterprise investigations and FBI undercover operations.³⁹ These guidelines direct the FBI's criminal investigations, including the circumstances for beginning an investigation, permissible scope, duration, subject matters and objectives. Following the September 11, 2001, terrorist attacks on the United States, these guidelines were reviewed, modified and reissued. Still, both federal and local executives wondered whether enough changes had been made to the guidelines to allow for the proper initiation of investigations of persons or activities that appear to be a direct threat to communities.

Local law enforcement representatives called for additional reforms to the U.S. Attorney General Guidelines on terrorism investigations and undercover operations. Recognizing the political realities and obstacles to such reform,

³⁹ *The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations* (Ashcroft 2002a) is available online at www.usdoj.gov/olp/generalcrimes2.pdf; *The Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations* (Ashcroft 2002b) is available online at www.usdoj.gov/olp/fbiundercover.pdf.

the local executives still believed that additional changes would significantly affect public safety. One local representative used an example of a Saudi-sponsored mosque that has engaged in recruiting individuals since 1988 to fight in Afghanistan. This local agency, without a dedicated intelligence function but through traditional criminal investigations, has uncovered information about the activities at the mosque that might have been useful to the FBI. (The FBI was previously unable to initiate a more thorough investigation because there was no evidence of a crime.) Situations such as this cause confusion and concern among law enforcement at all levels. Several FBI SACs expressed significant frustration with trying to change and interpret the guidelines, especially when they seem to contradict current FBI policies.

Conclusion

If the FBI gets information that indicates a significant level of a threat in a local jurisdiction, local chiefs and sheriffs will know about it, one SAC insisted. There must be greater understanding of the enormity of the task in collecting and analyzing tremendous amounts of information.

“We are struggling to do it right, not to keep it from you. It is difficult to vet all the information, get it processed and get it passed on to you.”

—FBI SAC

The problems of developing and maintaining effective intelligence functions are extensive and largely beyond the purview of this first executive session. Session participants are, however, committed to changing internal and external processes and mechanisms to ensure better information collection and sharing. All acknowledged that the road ahead is filled with barriers that can be overcome only with extensive training, education and awareness for all law enforcement personnel. Legal and agency mandates must be examined to ensure compliance and the proper balance between individual rights and law enforcement’s needs to ensure public safety. The FBI, while in a key coordinating role, must work collaboratively with state and local law enforcement to facilitate information dissemination and analysis, as well as intelligence archiving. Many of these specifics will surely be addressed in the future executive session dedicated to exploring these issues in detail.

Recommendations and Concerns

- Law enforcement agencies at all levels need technical assistance and training on recreating and re-engineering their intelligence functions, including the FBI. They must be aware of past abuses and take necessary steps to avoid misstepping or violating any legal or agency mandates. Overly restrictive mandates should be re-examined and considered for reform.
- The FBI should continue to be the primary law enforcement conduit for

intelligence analysis and exchange on a national level, working in conjunction with local and state law enforcement. All law enforcement agencies must cooperate with the Department of Homeland Security to improve the analysis and dissemination of law enforcement information and intelligence.

- Federal, state and local law enforcement agencies must implement information sharing mechanisms that include regional briefings, some Compstat-like components and other steps that will help eliminate barriers to information exchanges. Agencies must examine their internal, cross-jurisdictional and local–federal processes to reduce technological, organizational and policy-related obstacles to sharing.

- The FBI should continue to make its Office of Intelligence a top priority. This office should seek to collect, analyze and disseminate information and intelligence that is relevant for and usable by local law enforcement.
- The law enforcement community needs to ensure that the FBI has adequate resources and flexibility to fulfill its coordinating and intelligence functions.
- Local law enforcement needs federal grant support for developing the intelligence function, including hiring intelligence analysts and having them trained to professional standards with assistance from the FBI.

OVERCOMING BARRIERS TO INTELLIGENCE SHARING

by Chief Jane Perlov, Raleigh (NC) Police Department

The collection, analysis and dissemination of information regarding terrorist threats and investigations is central to law enforcement's effectiveness in fighting terrorism. If we fail to manage this information, we risk any number of problems, including being overwhelmed with too much information, poor information sharing and feedback among agencies, and a lack of accountability for investigations. Ultimately, our inability to exchange information will diminish law enforcement's motivation to work as a team in this new environment.

Insufficient resources and the absence of a model for using intelligence to guide operations hamper terrorist information and intelligence sharing among agencies. This demands that we develop a mechanism for sharing information and increasing accountability. Local law enforcement has had significant success in using some aspects of Compstat to accomplish these goals, and we may find that it has applicability for terrorism threats and investigations.

One Possible Solution

The regional JTTFs and the National JTTF should explore the feasibility of developing a Compstat-like process that would be used to track investigations and to keep state and local counterparts apprised of developments. The operating principle would be to ensure information and intelligence exchanges in a controlled environment among the individuals who need it.⁴⁰

"Terrorstat" could improve a SAC's ability to manage terrorism investigations among investigators, improve accountability among individual investigators and among participating agencies, and serve as the platform to facilitate information sharing among SACs, chiefs and sheriffs.

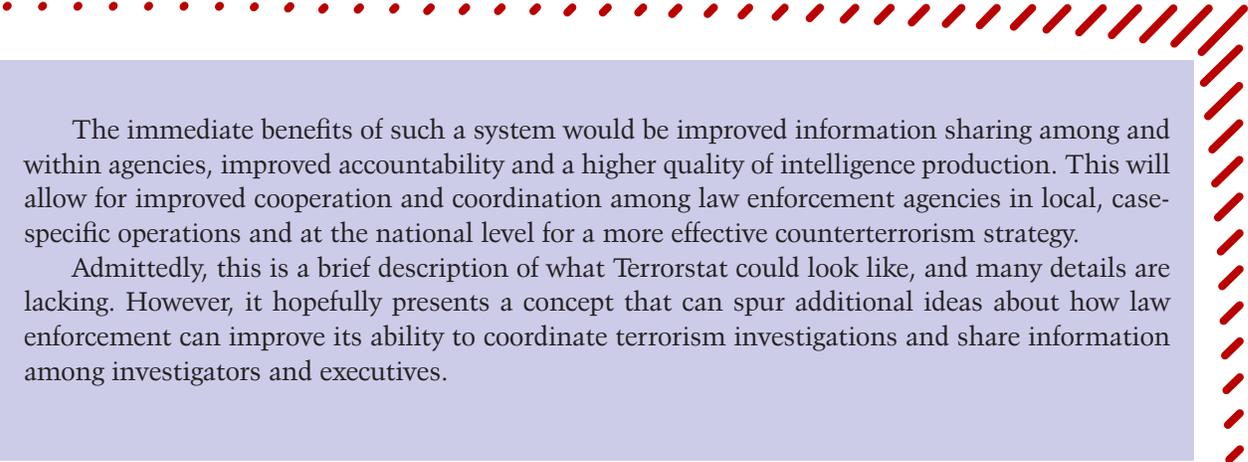
Terrorstat would enable a JTTF to collect information in a centralized location and determine the status and geographic location of a variety of investigations. It would serve as a regional (and potentially national) clearinghouse for investigative information and intelligence and would require regular input from all participating law enforcement agencies.

The computer system driving the center would require the flexibility to show regional and national trends as well as individual operations and events. Mapping and graphing tools would provide law enforcement officials with a clear perspective of counterterrorism activities. The system would have data-mining capabilities for analysts. On the walls could be large screens, pinpointing terrorist threats, investigations and other operations in progress.⁴¹

Regularly scheduled meetings would serve as a forum for different levels of briefings for investigators and administrators from federal and local law enforcement agencies. The briefings could be tailored, depending on the audience, from Top Secret to Secret and even to the level of public information.

⁴⁰ The analogy to Compstat operations is limited, of course, by the lack of incident data in terrorism investigations. But many of the other aspects of tracking enforcement activities and other oversight functions may be applicable to coordinated counterterrorism efforts.

⁴¹ A similar system currently in operation is the Los Angeles County Regional Criminal Information Clearinghouse (L.A. CLEAR), which is the foundation for the California Anti-Terrorism Information Center (CATIC).



The immediate benefits of such a system would be improved information sharing among and within agencies, improved accountability and a higher quality of intelligence production. This will allow for improved cooperation and coordination among law enforcement agencies in local, case-specific operations and at the national level for a more effective counterterrorism strategy.

Admittedly, this is a brief description of what Terrorstat could look like, and many details are lacking. However, it hopefully presents a concept that can spur additional ideas about how law enforcement can improve its ability to coordinate terrorism investigations and share information among investigators and executives.

MULTIJURISDICTIONAL INFORMATION SHARING

Introduction

JURISDICTIONAL LINES DO NOT CONSTRAIN CRIME, AND CITY AND STATE borders do not hold back terrorism. Because violence respects no boundaries, law enforcement at all levels of government must improve information sharing and analysis. It is a complex proposition with more than 17,000 local agencies governed under principles of autonomy and decentralization. Add to this context the differences among state governing structures, the varying mandates and organizational makeup of federal agencies, and the other components of the justice system with whom law enforcement coordinates—whether parole, probation, courts, corrections or those who work on offender reintegration into the community. Each agency has potentially valuable information that can be shared among agencies at the same local, state or federal agency level, and among those levels as well. Until those agencies link and analyze that information, critical patterns and early warning signs may remain overlooked.

Criminal justice practitioners and scholars have long recognized that the criminal justice system is not a system at all, but a group of loosely connected, independently operating organizations. This lack of “system” is perhaps nowhere more evident than in the lack of effective, coordinated law enforcement information sharing mechanisms nationwide. That is not to discount the significant progress made in the

past 10 years to develop such mechanisms. In fact, there are many promising models. There is not, however, as yet a comprehensive, coordinated system that is functioning nationwide for law enforcement agencies at every level.

A number of local jurisdictions have developed integrated information systems that allow agencies to share criminal and investigative information and to facilitate analyses of

criminal activity that is not limited to one jurisdiction.⁴² Several examples follow that were discussed by executive session participants. They are not presented here as an exhaustive list of programs, for there are surely many additional promising approaches, but they do serve as illustrations of the types of efforts being made to better integrate information and analysis functions among law enforcement entities.

- **Hampton Roads CRIMES**—This software system enables police officers from seven jurisdictions to access criminal justice information systems from desktop computers and laptops. The system relies on powerful search engines that query the existing records management systems of the participating law enforcement agencies (McKay 2002).⁴³
- **Chicago CLEAR**—This is a Web-deployed system that pushes customized information to users in real time. Relying upon a data warehouse and

sophisticated records management systems, CLEAR allows the analysis of beat-level crime problems; predictive analysis to identify likely next targets; and online information on offenders, victims, arrests, evidence/property and similar cases. This system facilitates timely and effective investigations. CLEAR has enormous potential applicability outside of Chicago. Already, more than 120 agencies contribute their criminal records to CLEAR, and the Chicago Police Department has been identified as the statewide data warehouse for Illinois's 1,200 law enforcement agencies.⁴⁴

- **Minnesota CrimNet**—When completed, CrimNet will be a secure intranet system that links Minnesota's 1,100 criminal justice jurisdictions by using shared business practices and a standard computer language. Using CrimNet, any officer, prosecutor or probation or corrections official can obtain complete criminal history information

⁴² Readers interested in regional crime mapping can see *Mapping Across Boundaries: Regional Crime Analysis* (LaVigne and Wartell 2001) for detailed information on multijurisdictional systems, including case studies that focus on implementation, decisionmaking on software, hardware, data sharing and privacy agreements. Model Memoranda of Understanding are also included. It highlights San Diego's ARJIS system, which is being examined by the FBI as a pilot site for possible local–federal information sharing, as well as those in Delaware, Baltimore, Orange County and Virginia. (See www.policeforum.org/pubs.html.)

⁴³ For more information on the Hampton Roads CRIMES project, see www.templarcorp.com/crimes.htm.

⁴⁴ See Chapman et al. (2002) for more information (available online at www.cops.usdoj.gov). A PowerPoint presentation, "The Power of Technology: Working Together to Combat Crime and Terrorism," was delivered to PERF and COPS staff on March 20, 2002, by Barbara B. McDonald, Deputy Superintendent, and Ron Huberman, Executive Director of the Chicago Police Department.

on suspects and criminals throughout the state.⁴⁵

These few examples should serve to demonstrate that the characteristics of effective regional information-sharing systems require that data be entered only once but used many times, that the systems are part of the operational systems of the participating agencies and that they allow generalized query and reporting functions.⁴⁶

“Without adequate security protections, regional information systems are potential targets for bad guys.”

—Local Law Enforcement Executive

The benefits of such integrated systems include developing unified strategies to reduce crime, eliminate criminal justice system bottlenecks, increase accountability among criminal justice agencies and provide a more complete picture of offender activity from arrest to sentencing. It is essential, however, that law enforcement remember the ultimate effectiveness of these systems is dependent on protecting their security and integrity.⁴⁷

Current Federal Systems Open to State and Local Law Enforcement

Law Enforcement On-Line (LEO) is a virtual privacy network that contains significant sensitive but unclassified information. It is a Web-based system that is free for all levels of police and administered by the FBI. LEO has been interfaced with The Regional Information Sharing System Network (RISSNet) and is divided into six geographic regions. LEO will soon interface with Open Source Information System (OSIS). Sensitive but Unclassified (SBU) intelligence information will be merged with RISSNet, including OSIS commercial databases, OSIS-encrypted SBU email, the State Department visa database and other databases. Any law enforcement executive, analyst or officer can access the system if registered with both LEO and RISSNet.

Special Interest Groups (SIGs) are also on LEO, which includes all of at least one SAC's state and local chiefs. This allows for quick communication among all the group participants. This has been proposed as a model for other field offices to use when communicating sensitive information. Accordingly, the FBI is considering establishing a SIG on LEO for each field office.

⁴⁵ For more information on the Minnesota CriMNet project, see Streit (2001) and Harrison (2002) or www.crimnet.state.mn.us.

⁴⁶ Chicago is one of the agencies that employed a process mapping approach to determine where there were data entry redundancies and other inefficiencies before the CLEAR project was implemented. More information on this process is detailed in Fraser et al. (1998).

⁴⁷ The details of how these systems work and the costs and obstacles to engaging them are largely beyond the purview of this paper. However, PERF will host a future session on regional information systems and intelligence sharing.

NCIC also has a Violent Crime and Terrorism Offender (VICTOF) section that includes information on violent criminals and many of the GITMO prisoners. Local police now have access to pending investigations, and preliminary investigative files will soon be located there. Officers checking NCIC will receive a message that the FBI is looking for this individual and that the officer should arrest the person but also notify the FBI.

Current Inadequacies

Some of the information about federal resources was new to the local executives, which reflected the need for the FBI and other federal agencies to continue their efforts to notify and educate local law enforcement about available information.

Still, the central theme of the discussion on this issue was that current systems are simply inadequate. While progress is being made in certain regions, the lack of a national information sharing system severely limits the ability of law enforcement to prevent and investigate terrorism.

Local executives expressed their concern that unless the FBI becomes more involved in the local regional information systems, their value will be limited. The FBI is allowed to use these systems for investigative purposes but does not contribute to them or provide local agencies access to the federal investigative files. Several FBI field offices, at the time of this writing, are working to develop protocols for sharing investigative files. With greater federal

involvement, local executives believe that law enforcement could create a national database that goes beyond what LEO and NLETS currently provide.

An intermediate step to developing a national information network is developing and improving these regional systems. The anticipated result would be an effective national database and analysis system. Law enforcement at all levels are concerned about maintaining security and safeguarding privacy and civil rights, but the consensus at the executive session was that a national database is within reach.

Pilot-Testing FBI Information Sharing with State and Local Law Enforcement

Pipelines for sharing information are one issue. Another issue is what is in the pipeline. For the first time, the FBI is contributing automated investigative case files (up to Secret classification) to a regional information sharing system involving local and state agencies.

The FBI is pilot-testing the JTTF Information Sharing Initiative in St. Louis, San Diego, Spokane, Norfolk and Baltimore. The St. Louis system is an interesting example because it includes investigative files and information from the FBI, a multistate effort that includes the Illinois State Police, and the St. Louis County and St. Louis Metropolitan Police Departments. INS and Customs may also participate. The Illinois U.S. Attorney, the FBI SAC and local police chiefs serve on the Governing Board.

“The SAC–Chief relationship is critical to building effective information-sharing systems.”

—FBI SAC

Within St. Louis is an intelligence center where analysts from around the region participate and provide the means to access their agency’s files. Each analyst checks his or her own agency’s databases. A sergeant from the St. Louis Police Department runs the St. Louis Gateway Intelligence Center. The Oracle-based system uses iMap and other analysis software to connect “information dots.” Public source information, such as Lexis/Nexis, can be used with the system. Access is based on four levels of classification, ensuring that sensitive information is available only to those with the appropriate clearances. The FBI Office of Intelligence and the National JTTF will have access to this system.

The FBI representatives stated that this is still a pilot project, and additional funding is needed for the other four pilot sites and for any further expansion. This experiment has produced many good ideas, and the network has the potential to be used as a Compstat-style briefing and accountability system.⁴⁸

Recommendations and Concerns

- The need for more effective national databases is critical, and local/state regional information-sharing networks can serve as a cornerstone for homeland security to detect patterns and warning signs that span jurisdictional boundaries.
- Local law enforcement needs to share information in forums in which federal agencies not only participate, but also contribute.
- The Gateway Information Sharing Project in St. Louis and the remaining sites in the JTTF Information Sharing Initiative hold promise for improving the sharing of criminal information among federal, state and local law enforcement.
- The Gateway project and other multi-jurisdictional efforts should remain top priorities for the FBI and the Department of Justice and should receive the resources necessary for continued development and effective evaluation. These approaches could serve as the foundation for improving and expanding the intelligence function in local law enforcement.
- Proper security controls and standards must be established to ensure that information is secure and that access is possible for local law enforcement agencies.

⁴⁸ Because these systems are potential targets, it is essential that security certification and standards be met before moving forward.

GATEWAY INFORMATION SHARING PROJECT: A Site Visit Summary⁴⁹

Description

A regional electronic database will allow local, state and federal law enforcement agencies to share information with each other in the St. Louis area. The system will use data from local and state agencies in two states—Illinois and Missouri—effectively allowing agencies to analyze and map data without regard for jurisdictional boundaries. This database is truly exceptional because the FBI will contribute to the system, making its investigative files available to local and state agencies for the first time.

The effort to get the system—called the Gateway Information Sharing Project—up and running has taken six years. The process has not always been smooth, with false starts caused by inadequate funding or simply the magnitude of the effort. Along the way, it has endured such problems as agencies being reluctant to contribute to the system and retrieving extracted information after downloading. Despite these obstacles, the system is scheduled to go online by Spring 2003 and has the potential to change dramatically the way law enforcement agencies investigate crime and cooperate with one another.

Notably, the system has the potential to provide the local JTTF with robust intelligence tools for retrieving and analyzing information. Access to classified information will be limited to those with the proper clearances. Already, JTTF members are experimenting with fields that will allow them to retrieve and analyze information unique to a potential terrorist investigation. The system may become more powerful when other federal agencies in the St. Louis area enter their case information as well.

Each of the participating agencies will simply export their information to the system in the same format that they collect it. None of the agencies will have to develop new forms and reports or even modify their existing ones. Rather, the search and analytical features of the system will “translate” the data into one format for the end users. For example, the fact that every participating agency uses a different identifier for a Smith and Wesson handgun is inconsequential.

Investigators will be able to search the data by text, as well as such elements as people, location, property, events and alerts to retrieve information from other cases. In addition, they can search individual agency databases or the entire database. Once gathered, the system has the ability to analyze the information in a variety of ways, including link analysis and geographic mapping. Combined with other public domain analytical systems, the Gateway Project has the potential to let officers look at information in new ways. Ultimately, the power of the system is that it will allow officers to ask questions about data or look at information in a way that previously was inconceivable. Rather than merely spitting out data elements, the system will let officers ask why? and what does this mean?—then help provide them with the answers. In this way, the system can be more than just an information-sharing network; it can be a powerful intelligence network to prevent and reduce local crime and fight terrorism.

Lessons Learned

Although the system is not yet operational, those who have been building it—some for as long as six years—have learned a number of lessons that could help others who endeavor to build a similarly complex system. Some of those lessons are presented below. The order of these is not as

⁴⁹ This description was compiled by PERF project staff after conducting a January 2003 site visit, interviewing personnel from local and federal law enforcement agencies, and reviewing available literature on the project.

important as the realization that they will be visited and revisited throughout the design, building and implementation phases.

1. System Complexities

First and foremost, all of the participants must understand the complexities of a multiagency information management system. Many agencies struggle to design, implement and manage an information system. When 5, 10 or 15 agencies try to integrate information systems, the problems can be far more complex.

In the design stage, take all participants' concerns into account. Inevitably, someone will feel slighted for being left out of decisions or information exchanges. Some members may feel insecure when confronted with the expertise or experiences of other agencies. Still others will be reluctant to share information and will need time to acclimate to this new approach.

While this system will allow agencies to continue using their current forms and reports for collecting information, it is likely that these agencies will have to develop some new policies and procedures or modify existing ones. In addition, policies must be developed for managing the information system. The process and timeline for developing or modifying policies must be coordinated with the system's development. Agencies have to be careful about sending mixed messages regarding official policies, traditional ways of conducting business and the changes that are needed to keep the system moving forward.

The FBI should be involved but need not be a participating agency right away. First, the system should be built with local and state agencies to create a sound foundation. Once it is up and running, then involve the FBI to access and submit their data. In those cases in which federal agency culture has traditionally discouraged sharing information with local law enforcement, it is better to focus first on building a system before trying to change that agency's culture.

2. Executive-Level Commitment

Executive-level commitment may be the most critical element for success. Without that commitment and the agency support and resources that flow from that commitment, the system will be plagued with problems—if not outright failure.

Ownership is a critical issue. Specifically, agencies must balance the ownership of their agency information with their shared ownership of the system. An information/intelligence system based on shared resources requires that agency decisionmakers overcome jealousies of turf and zealous protection of their information so that the system can flourish. Conversely, they must develop and foster a shared sense of ownership for the system. There are successful models of agencies that have retained the necessary ownership of their data while working collaboratively in multi-jurisdictional systems.

A Governing Board composed of agency chief executives is the best approach for decision-making. But members must make allowances for executive-level transitions. The chances are, given the tenure of law enforcement chief executives, that one or more of the participating agencies will undergo a change of leaders. Sometimes, those leaders may be the strongest champions of the system; other times they may be the loudest naysayers. In any event, the remaining leadership will need to adapt.

3. Trust

Once a commitment has been made to develop a system, building and living up to trust among agencies is crucial. One of the mistakes that can undermine trust is starting too fast or too big. It is better to start small with a core group of committed agencies and build from there. However, it is important to demonstrate to other interested agencies that the system can grow.

Realize that some agencies will have more experience and better judgment than others on appropriate information sharing. Give everyone time to adjust. Conversely, those agencies that are cautious have to be careful not to stand in the way of progress.

Keep expectations for the success of the system realistic so that frustrations, when they arise (and they will), can be diffused.

Keep egos in check, especially those of representatives from larger agencies. Maintain a positive outlook and remain patient while problems are resolved.

4. Expertise

Involving the right people in the system design is critical. This means including people at different levels of the various organizations, such as chief executives, computer and information technology specialists, crime analysts and end users. This also means involving people with varying levels of knowledge and expertise of information technology and computers. System design reliance on individuals without sufficient computer knowledge is self-defeating, because they will not even understand the system's potential. Likewise, over-reliance on computer experts may severely limit the system's ability to provide end users with valuable information. Involve attorneys and information systems experts early, so that the system can be built according to the security standards of relevant accrediting bodies.

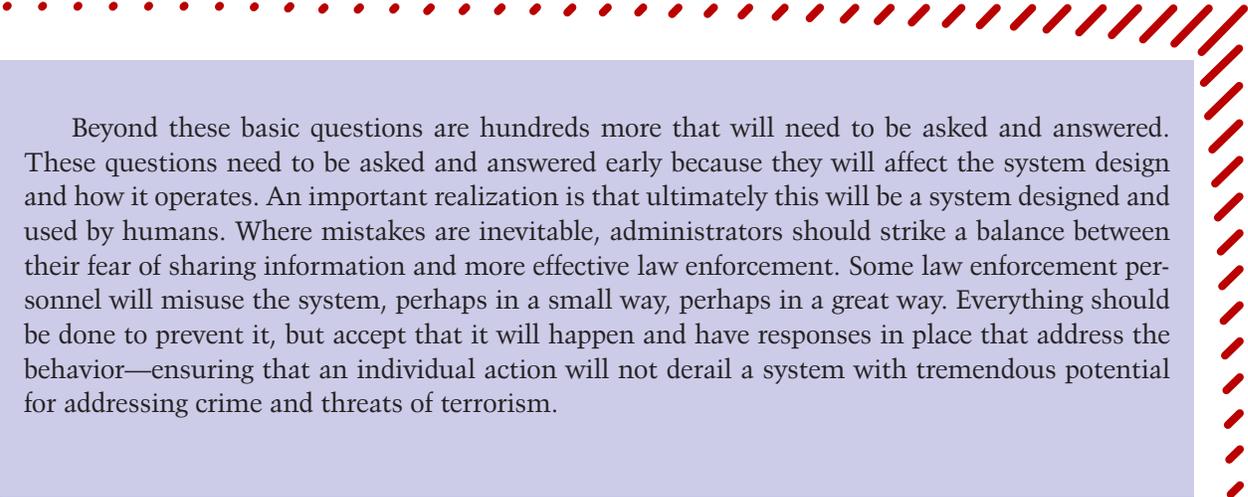
Beyond hardware and software concerns, identify individuals who understand and can span the different organizational cultures that may be involved in the project. A local police department, a county sheriff's office, a state police agency and the FBI may have very different missions and approaches to achieving them. A few individuals who know how these agencies conduct business can make valuable contributions to the project's ultimate success.

Also, identify and retain the expertise necessary to make the system work once it is operational. A regional information system can store and produce, on demand, enormous amounts of complex information. At the same time, current technology makes that information easily portable, available to thousands of officers on laptops and PDAs. Someone needs to be able to make sense of this information, whether it is educated crime analysts using sophisticated tools or officers who receive enough training to do more than just enter and retrieve discrete data elements. This is especially important if the system is expected to evolve into an intelligence network with predictive capabilities. Without analytical expertise, agencies will continue to suffer from the "big ears, small brain syndrome" and may eventually overwhelm officers with too much information.

5. System Security and Information Quality

Important questions need to be asked about system security and quality control. These questions need to be posed early in the design so that they can be incorporated into the system. Basic questions include the following:

- Who will be allowed access to the system?
- Who will monitor the system?
- Who will be responsible for quality control of information placed in the system?
- Who will purge the system of "bad" data?



Beyond these basic questions are hundreds more that will need to be asked and answered. These questions need to be asked and answered early because they will affect the system design and how it operates. An important realization is that ultimately this will be a system designed and used by humans. Where mistakes are inevitable, administrators should strike a balance between their fear of sharing information and more effective law enforcement. Some law enforcement personnel will misuse the system, perhaps in a small way, perhaps in a great way. Everything should be done to prevent it, but accept that it will happen and have responses in place that address the behavior—ensuring that an individual action will not derail a system with tremendous potential for addressing crime and threats of terrorism.

CHAPTER EIGHT

TRAINING AND AWARENESS

Introduction

THE ISSUES INVOLVED IN REORIENTING LAW ENFORCEMENT TOWARD A counterterrorism mission are complex and unprecedented. Local, state and federal law enforcement professionals agree that education and training that is practical, focused and effective is critically needed—from the line officer to the executive.

Training on terrorism-related issues must start early in an officer's career and be continuous.⁵⁰ Some officers, primarily veterans, have had access to emergency-responder training and some antiterrorism training that has been further developed since September 11. Some of the training was offered by FEMA's Office of National Preparedness (ONP), Office of Justice Program's (OJP's) Office of Domestic Preparedness (ODP) and the FBI's National Domestic Preparedness Office (NDPO).

A number of training programs are under consideration and development by many federal agencies. The OJP is working with ODP—now operating within the Department of Homeland Security (DHS)—to coordinate training programs. The FBI is assisting this effort by reviewing these training programs. In addition, OJP will continue to evaluate the existing curricula related to weapons of mass destruction and other terrorism-related issues. OJP also indicated to executive session participants that

⁵⁰ For the purposes of this paper, the term "officer" will be used to describe all street-level personnel, including sheriffs' deputies, state troopers and others on the front lines of law enforcement.

the office would like to be able to provide more funding to state and local law enforcement for antiterrorism training, education and awareness programs. Other organizations, including the Bureau of Justice Assistance (BJA) and the COPS Office, are considering the development of training programs for local law enforcement. BJA has convened a Counter-Terrorism Working Group that will identify and review counterterrorism training programs.⁵¹ And the FBI is planning to implement a “train the trainer” program for Special Agents who will eventually provide intelligence gathering and analysis training to local officers.

Officer Training and Knowledge

Executive session participants agreed that officers generally do not know enough about domestic and international terrorist groups, including their history. They also lack training on the signs and indicators of terrorist activity. Street-level officers and investigators are given little guidance about what to look for and may not realize when they come across information that could reveal a potential terrorist act.

The challenges are significant. For example, officers need training on identifying the disenfranchised individual who poses a

“I’m prepared to send 400 detectives to a training program, but none exists.”

—Local Law Enforcement Executive

threat as much as the organized terrorist cell. The individuals on the fringe are energized by rhetoric and may strike out on their own, which make them particularly difficult to detect and stop.

This is not like training on a new piece of equipment; law enforcement is taking on a function it has never performed before. While they have some experience in intelligence gathering, though not always an auspicious one, even that differs from the unique threats of domestic terrorism by internationally directed forces. Many agencies have not engaged in intelligence functions in years and may not know where to begin. Even many of those agencies that have an intelligence function will need assistance on the best means for information gathering, analysis and intelligence retention related to potential terrorist activities.⁵²

Information Sharing and Release

Officers are not always given a complete understanding of what information can be shared

⁵¹ The Working Group has developed a website (www.counterterrorismtraining.gov) that provides comprehensive information about counter-terrorism training opportunities, related materials and website links.

⁵² For examples of materials recently released by a federal agency, see *Introduction to International Terrorism for State and Local Law Enforcement* (FBI 2001a) and *Introduction to Domestic Terrorism for State and Local Law Enforcement* (FBI 2001b)—two CD-ROMs produced by the FBI’s Operational Training Unit in consultation with the Counter-Terrorism Division. At this writing, they can be obtained from all local FBI field offices.

with citizens or how to present it. More important, officers sometimes lack guidance on how to ensure that information is kept confidential and the importance of preventing leaks. Executive session participants agreed that this aspect of training cannot be overlooked. As mentioned earlier, one participant's local agency is planning a training program at the time of this writing to ensure that sensitive investigation issues are not discussed at home or with friends and former officers who may—unwittingly or knowingly—reveal sources and critical information.

Federal Resources

In addition to learning about what training programs federal agencies offer, state and local law enforcement must be more aware of what federal agencies can bring to a partnership. As part of their training, local law enforcement personnel need a deeper understanding about federal agencies' (FBI, INS, DEA, ATF, Secret Service and others) capabilities and resources. In addition, they must have a keener understanding of federal limitations, such as Privacy Act considerations, as well as administrative protocols that can limit federal investigative authority and ability to share information.

Local law enforcement is not alone. There are many deficiencies at all levels of government in our knowledge and skills to deal with the kinds of threats our nation faces today. Some of these were highlighted by executive session participants as follows.

Federal Agency Training

The local law enforcement executives were most concerned about the INS's, FBI's and other federal agencies' lack of experience with community policing and how it can be used for community engagement, information gathering, prevention and investigations. Just as they need to better understand federal capabilities and limitations, these executives believed federal agencies that operate in their jurisdictions would benefit from a greater appreciation of the time and effort required for local law enforcement to build effective communication networks and trust with communities. They want federal agencies to understand how just one poorly planned investigation can ruin years of local law enforcement outreach and undermine future community engagement needed for effective policing and counter-terrorism work.

Executive-Level Training

The role of the local law enforcement executive has changed dramatically, as it has for his or her colleagues at the state and federal levels. One chief said, "I don't adequately understand all the issues related to the kinds of questions raised by the community." Chiefs and sheriffs who attended the session believe they and their peers need more resources and information to be effective leaders in the fight against terrorism. Many believed they have few resources that provide the education necessary to confidently deal with the terrorist threat. There is a need, at least initially, to better understand the

Muslim and Arab communities' culture and needs, as well as their greatest concerns. They must also comprehend the thinking and motivation that drives those most likely to engage in violence against American targets.⁵³

Local law enforcement executives also need assistance in making expensive and varied decisions to support their personnel as they address

“We need education and awareness programs for all ranks—from the officer to the chief.”

—Local Law Enforcement Executive

terrorist threats. For example, determining which types of equipment and technology alone to purchase for counterterrorist operations can be overwhelming. Each decision about a HazMat suit or apparatus, a software package to track leads, a communication program or countless other acquisitions require extensive research—often with minimal benchmarks or standards to guide them.⁵⁴ The FBI, the COPS Office and OJP can play a key role in helping navigate these decisions and providing police professionals with needed support. The FBI and other federal agencies are also able to provide insights and training on how to determine priorities for which types of equip-

ment and technology to acquire first and under what circumstances.

Conclusion

A comprehensive assessment of law enforcement professionals' needs must be completed quickly. This first executive session did not provide the time or opportunity to detail that inventory, though future sessions are planned that will identify training needs in specific areas, such as intelligence, policing multicultural communities and indicators of terrorist activities.

Recommendations and Concerns

- Additional training and education is needed at all levels within local, county, state and federal law enforcement. Agencies should consider joint training to the fullest extent possible. Local law enforcement (as well as county and state) and federal agencies must volunteer their resources to each other, as well as invite one another to provide training and participate in classes. Local law enforcement participants, in particular, called for SACs to volunteer to share their expertise and materials at meetings and training programs, instead of waiting to be invited.

⁵³ A BJA- and ODP-funded project has attempted to fill this void with an upcoming publication, *The Police Executive's Terrorism Bookshelf* (Goldfarb and Karchmer 2003). Another resource on counterterrorism training is available online at www.counterterrorismtraining.gov.

⁵⁴ In November 2002, NIJ published its *Guide for the Selection of Personal Protection Equipment for Emergency First Responders: NIJ Guide 102-00*. The guide is available online at www.ncjrs.org/pdffiles1/nij/191518.pdf.

- There is a need to address redundancy and quality of all training programs to ensure they are practical and specific and meet the needs of local law enforcement. Federal assistance and coordination would facilitate this process.
- Training must be introduced for academy and in-service programs, and continuously updated.
- Law enforcement agencies at all levels of government must work together to increase their ability to preserve critical police–citizen relations, particularly with minority communities, and to safeguard the progress and promise of community policing.
- Chiefs, sheriffs and other law enforcement executives need a greater awareness and understanding of international terrorism and how it might manifest itself in their jurisdictions.
- Local and state law enforcement executives need to increase their knowledge of federal agencies and resources. (For example, the recent Montgomery County (MD) sniper case made many local law enforcement executives aware of a federal serial sniper law that would put additional federal resources at the local agencies’ door).⁵⁵ They must also have a mutual understanding of the legal and organizational limitations that can affect law enforcement partnerships.
- Patrol officers and investigators need training on indicators and signs of terrorist activity and what to do with that information.
- Intelligence officers and analysts need training. Law enforcement should share training programs, resources and expertise at all levels.
- Along with training programs, local and federal law enforcement should develop and exchange model policies, programs and procedures on counterterrorism investigative protocols, as well as standards and guidelines on first-responder technology and equipment.

⁵⁵ The law provides (28 USC 33, §540B) Sec. 540B. —Investigation of serial killings (a) In General. —

The Attorney General and the Director of the Federal Bureau of Investigation may investigate serial killings in violation of the laws of a State or political subdivision, if such investigation is requested by the head of a law enforcement agency with investigative or prosecutorial jurisdiction over the offense.

(b) Definitions. —In this section:

(1) Killing. —The term “killing” means conduct that would constitute an offense under section 1111 of title 18, United States Code, if Federal jurisdiction existed.

(2) Serial killings. —The term “serial killings” means a series of three or more killings, not less than one of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors.

(3) State. —The term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

CONCLUSION

MORE THAN A YEAR AFTER SEPTEMBER 11, 2001, AMERICAN LAW ENFORCEMENT is working diligently to prevent the next terrorist attack. *Will it be enough?*

This paper began by posing that question, yet we can't possibly know the answer until law enforcement is put to the test—certainly not a desired measure. Perhaps the better question is, “Will law enforcement at all levels be able to come together to produce an unprecedented coordinated strategy for addressing terrorism?” The proceedings of the Executive Session on Local–Federal Partnerships detailed in this paper demonstrate that local and federal law enforcement leaders are determined to work together to strengthen their existing partnerships. Their discussions and recommendations reflect their recognition that domestic security is dependent on every law enforcement agency joining together and that agencies at every level have a critical role to fill. As we have seen, that role can vary dramatically, depending on the authority, responsibilities and size of the law enforcement agencies involved.

The key to successful partnerships seems to be a mutual understanding of one another's role in preventing terrorism and one another's limitations. This executive session demonstrated that comprehensive knowledge of what other law enforcement agencies can do is sometimes lacking and that potential partners must take time to learn the specifics about resources and strategies. Only then can productive efforts be undertaken. This executive session allowed the participants to exchange information and dispel misperceptions in a candid and constructive forum. Their efforts acknowledged in this paper will hopefully enable other agencies to begin the same process of removing obstacles to effective local–federal partnerships.

The paper touches on countless issues and recommendations. Not every issue had a ready solution, and the participants were constrained

by the limited time they had to examine the issues and propose solutions. Many of these will be addressed in future executive sessions, working groups and other forums.

The recommendations are just that—recommendations. They are not the last word on a perceived problem, but a proposed approach or course of action. The recommendations also vary in their scope and practicality. Some, such as regional information sharing systems, will require months or years of work by large numbers of individuals in multiple jurisdictions. Others can be accomplished fairly easily. Still others may never be implemented because of their complexity or changed circumstances.

For many of the recommendations, ownership was not assigned—that is, the possible implementation of the recommendation can rest with any number of law enforcement agencies at the federal and local level. Recommendations for improving training can begin immediately in agencies large and small. And recommendations for JTTF Executive Committees, as described in Chapter 4, can be explored by any of the JTTFs or it could be a required policy change on the national level by the FBI. Like many of the recommendations, implementation will need to be tailored to the unique needs of a jurisdiction.

Executive session participants expressed their hope that the issues and recommendations they raised will serve as the starting point for ongoing discussions and advance the debate

and agenda nationwide. This Executive Session on Local–Federal Partnerships was just the first in a series of discussions on the national scene that PERF is coordinating on how local law enforcement, operating in a community policing context, will assume counter-terrorism responsibilities. Other sessions may focus on such topics as policing immigrant communities, bioterrorism, intelligence and homeland security systems. All sessions are premised on a single set of principles: Community policing has enabled local law enforcement to creatively address complex issues and resolve seemingly intractable problems regarding crime, disorder and quality of life. Community policing has provided police and sheriff agencies with a variety of resources and methods to improve their effectiveness. And community policing can help law enforcement prevent and respond to terrorist incidents by drawing on community contacts and citizen involvement. Law enforcement knows that citizens will continue to need help addressing crime and disorder. The threat of terrorist attacks, unfortunately, does not stop the flow of calls to 911 or address community concerns about violence in their neighborhoods. For law enforcement to continue performing their crime-fighting and antiterrorism roles, they must make the most of their resources, partnerships and other assets found in community policing approaches. It is in this spirit that this white paper has been presented.

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APPENDIX A

FBI POLICY AND GUIDELINES

IN ACCORDANCE WITH U.S. COUNTERTERRORISM POLICY, THE FBI CONSIDERS terrorists to be criminals. FBI efforts in countering terrorist threats are multifaceted. Information obtained through FBI investigations is analyzed and used to prevent terrorist activity and, whenever possible, to effect the arrest and prosecution of potential perpetrators. FBI investigations are initiated in accordance with the following guidelines:

- Domestic terrorism investigations are conducted in accordance with *The Attorney General's Guidelines on General Crimes, Racketeering Enterprise, and Domestic Security/Terrorism Investigations*. These guidelines set forth the predication threshold and limits for investigations of U.S. persons who reside in the United States, who are not acting on behalf of a foreign power, and who may be conducting criminal activities in support of terrorist objectives.
- International terrorism investigations are conducted in accordance with *The Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations*. These guidelines set forth the predication level and limits for investigating U.S. persons or foreign nationals in the United States who are targeting national security interests on behalf of a foreign power.

Although various Executive Orders, Presidential Decision Directives and congressional statutes address the issue of terrorism, there is no single federal law specifically making terrorism a crime. Terrorists are arrested and convicted under existing criminal statutes. All suspected terrorists placed under arrest are provided access to legal counsel and normal judicial procedure, including Fifth Amendment guarantees.

Definitions

There is no single, universally accepted definition of terrorism. Terrorism is defined in the *Code of Federal Regulations* as “. . . the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.” (28 C.F.R. Section 0.85)

The FBI further describes terrorism as either domestic or international, depending on the origin, base and objectives of the terrorists. This report uses the following definitions:

- Domestic terrorism is the unlawful use, or threatened use, of force or violence by a group or individual based and operating entirely within the United States or its territories without foreign direction committed against persons or property to intimidate or coerce a government, the civilian population or any segment thereof, in furtherance of political or social objectives.

- International terrorism involves violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any state, or that would be a criminal violation if committed within the jurisdiction of the United States or any state. These acts appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping. International terrorist acts occur outside the United States or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which the perpetrators operate or seek asylum.

The FBI Divides Terrorist-Related Activity into Three Categories:

- A terrorist *incident* is a violent act or an act dangerous to human life, in violation of the criminal laws of the United States or of any state, to intimidate or coerce a government, the civilian population or any segment thereof, in furtherance of political or social objectives.
- A *suspected terrorist incident* is a potential act of terrorism for which responsibility cannot be attributed to a known or suspected group. Assessment of the circumstances surrounding the act determines its inclusion in this category.

- A terrorism *prevention* is a documented instance in which a violent act by a known or suspected terrorist group or individual with the means and a proven propensity for violence is successfully interdicted through investigative activity.

Note

The FBI investigates terrorism-related matters without regard to race, religion, national origin or gender. Reference to individual members of any political, ethnic or religious group in this report is not meant to imply that all members of that group are terrorists. Terrorists represent a small criminal minority in any larger social context.

APPENDIX B

EDWIN DELATTRE SPEECH: A Reflection on Successful Partnerships

GOOD EVENING. I AM INDEED HONORED BY CHUCK WEXLER'S INVITATION to offer a brief reflection on your discussion today of how to establish and improve local and federal partnerships to combat terrorism. Having taught sessions on ethics in the FBI Academy at Quantico, the Federal Law Enforcement Training Center at Glynco and a wide range of federal law enforcement agencies since 1981; having spent time on the streets with police in most of America's major cities since 1975; and having taught sessions in state and local police academies over a period now of almost 30 years, I have thought for more than two decades about how to secure the most effective cooperation between and among local, state and federal police and law enforcement agencies and individuals. I have asked this question, and written about it, while feeling a deep sense of kinship with and permanent debts of gratitude to local and state police and also federal law enforcement personnel. The question of effective partnerships has *deserved* our attention for at least half a century, and it *demand*s our attention now.

I imagine that at least some of you came to today's meeting suspecting that a good bit of fur might fly about turf and past failures and finger-pointing. I think others in law enforcement who should have been here did not come because they feared just that.

For several reasons, I did not believe that we would spend the day in squabbling and recrimination about failures in local and federal cooperation. First, the list of participants convinced me that everyone in attendance would already be concentrating on safeguarding the

public from terrorist atrocities and not on past grievances. Second, nobody on that list would believe that the history of federal/local interaction and cooperation—business as usual—has been good enough to secure, as much as is reasonably possible, the public safety. Everybody I expected to see here knows from experience that domestic tranquility and the common defense, fundamental purposes of government identified in the Preamble to the Constitution, cannot be achieved when local and federal agencies ignore obligations they can meet only by working together. Third, I expected serious, productive conversation today because crisis and adversity, exposure to savage attacks on noncombatants and the resolute efforts of enemies to destroy us and our loved ones and neighbors tend to bring out the best in people like you, people who live their lives willing to go in harm's way to protect others.

Witnessing today's conversation—and it *was* a conversation, where you all listened to one another, and not a mere exchange, where everybody sat around busily thinking what he or she would say next instead of listening—was on the one hand tremendously encouraging. On the other hand, it reminded me of opportunities lost. Conversations like this one should have been earnestly pursued throughout the past 50 years or more, and they have not been. Even with the spectacular advances in policing and law enforcement professionalism in our lifetimes—fueled in part by shared educational programs at Quantico and elsewhere—it has taken our vulnerability to terrorist atrocity

to lead us to such demanding and imperative conversations as we had today.

Today's conversation was encouraging, at times inspiring, because the stakes are so high for us as a people and for our way of life—and yet nobody in the room flinched. The discussion was dead serious, but not humorless. There was among us a sense of proportion about the peril and mass destruction which terrorist states, cells and individuals will inflict on us if they can. We saw unblinking clarity about the danger from the intelligence agencies of terrorist states: Iran, Iraq, Syria, Sudan, Yemen and Libya and problems directly related to Saudi Arabia. We heard candid accounts of the limits imposed on local/state/federal partnerships by applicable laws, executive findings, regulations and sanctions, some of which will have to be changed.

In short, we saw serious people at their best today. Sixty years ago, Walter Lippmann said that nothing is worse for the human soul than being dispensed on nothing—having no demanding work to do. Well, today we saw adults who are accustomed to doing difficult work talking forthrightly about even more difficult work they *have to do together*. As Abraham Lincoln insisted in 1858, "A house divided against itself cannot stand." So too now, with the house of local, state and federal law enforcement.

Make no mistake: Talk is not cheap. Neither is it enough. Tomorrow, you are to articulate principles to follow together, and that task is not just about talk. It is about the actions

you need to take and the habits of shared purpose you need to forge in order to form federal/local partnerships you can trust. Those habits and purposes have to outlast any particular individual's tenure as a chief or a commissioner or a SAC, or as one of the leaders of an Executive Task Force or Joint Terrorism Task Force or a center or system for intelligence sharing.

I know of no substitute for the personal respect and sense of reciprocity between individuals—liking each other helps, too—on which successful partnerships are built. But you can't prevent turnover—sometimes even rapid turnover—in leadership, and so you need ethos as well as ethics: a sense among yourselves and your subordinates that a partnership is not an episodic thing, along with a shared commitment to keep your accounts with each other straight.

When I first started on the streets with cops in Toledo, Ohio, long ago, I watched grandfathers, fathers and sons all in uniform at the same time. And what the older taught the younger about conduct unbecoming a cop came in the words, "We don't do that here." The same thing is necessary for partnerships. We have to have a clear understanding of what we do and don't do here. Partnerships require habits of reciprocity that secure durable trust.

I take the first principle to be drawn from today's conversation to be simple. All of you—chiefs, SACs, central administrators in the FBI—need to say systematically to others in positions of authority and power what you said to one another today. You need to speak

in one voice to mayors, legislators at all levels, governors, the White House. Your voice, your lucidity, on what you have to do together and cannot accomplish separately, and on the steps in legislation, regulation and policy necessary for you to do your work, is essential to the public safety. You need one voice on the fundamentals, and you may already have found something of it here, something to build on in addition to personal friendships and cooperative working histories. This principle applies, no matter what shape or what size a federal Department of Homeland Security may take.

The second principle is also straightforward. Keep yourselves abreast of the major reports being published on homeland security, policing and law enforcement. The Brookings Institute Press has just published *Protecting the American Homeland*. It says, "Key to any successful prevention against future attacks will be the effective use of information technology for the collection, sharing, and deployment of key data" (p. 2). We have to link "the databases of various law enforcement and intelligence agencies . . ." (p. 3), but "the NCIC does not contain information about immigration status or minor crimes. . . ." (p. 42). The report says the FBI doesn't need 450 new agents to perform its counterterrorism mission. It needs 5,000 (p. 38).

A task force of the Council on Foreign Relations co-chaired by former senators Gary Hart and Warren Rudman has just published "America Still Unprepared—America Still in Danger." It says, "650,000 local and state po-

lice officials continue to operate in a virtual intelligence vacuum, without access to terrorist watch lists provided by the U.S. Department of State to immigration and consular officials. . . ." (p. 9). "First responders—police, fire, emergency medical technician personnel—are not prepared . . . Their radios cannot communicate with one another. . . ." (p. 10). Each state needs "a twenty-four hour operations center . . . that can provide access to terrorist watch lists information via real time intergovernmental links between local and federal law enforcement. . . ." (p. 11). "When it comes to combating terrorism, the police officers on the beat are effectively operating deaf, dumb, and blind" (p. 19).

The Task Force on National Security in the Information Age of the Markle Foundation has just published "Protecting America's Freedom in the Information Age." Co-chaired by Zoe Baird (failed candidate for attorney general during the Clinton administration) and James Barkdale, the report vaunts a Department of Homeland Security; calls for a widespread, systematic network of information technology to be used in all relevant institutions in the public and private sectors; and claims that the FBI should not be the lead agency in establishing domestic priorities in intelligence acquisition and sharing.

I have read these reports, and so will others who make decisions about policy and law. With all due respect to those reports' authors, there was a great deal more knowledge, wisdom and front line experience in the Colonial Room of the Mayflower Hotel today than I have found

in these reports. Even though there is enormous detail in some of the reports, and issues are raised that go far beyond today's discussion, you should know what is in them. You are better positioned to comment on the truth and falsity of claims about policing and law enforcement than anyone else, and the public cannot afford for others to be speaking for you or instead of you. I admit that academic reports tend to become shelf paper, but that does not mean they are without influence in the short run. Accordingly, you—or people to whom you delegate the authority—have to track these publications and have to take initiative in commenting on them. The alternative is to become accustomed to watching others influence and make decisions that you have good reason to consider unwise and ineffective.

You *do* have something to learn from scholars or academics and philosophers. An analogy may be useful. When a scholar sets out to write a dissertation or a book, he or she has to do research and scholarship, gathering intelligence from everywhere it is likely to be found. Then he has to organize it, make it permanently accessible to himself in such ways that he can, at will, *know what he knows*. Nobody can remember it all. Then he has to figure out how all this data, information and knowledge fit together. He has to be able to connect the dots. And then he has to write the book: He has to put all that intelligence in a form that others can use, make sense of, rely on, and he has to continue to go on learning from others at the same time. That's one microcosm of the

intelligence/information/working partnership macrocosm you have to build.

You asked and replied to good questions today. You asked and told one another what you expect and need in the way of partnerships across local, state and federal jurisdictions. You can benefit from asking also, as in the Golden Rule, “What would I want from me, if I were in his shoes, or hers?” Your duties are not so remote from each other as to be impenetrable to such questions.

For those of you who are eager to know more about terrorism, the mind sets of terrorists, their history, here’s a short list. Read Michael Ledeen’s new book, *The War Against the Terror Masters: How it Happened. Where We Are Now. How We’ll Win*. That may lead you to read Niccolo Machiavelli’s classic on war and politics, *The Prince*, first published in 1532. Ledeen relies heavily on Machiavelli in his own strategic and tactical thinking.

Rent the 1967 movie *The Battle of Algiers*. The film deals with the years 1955 through 1960 in Algiers, shows that a war against terrorism is a war for intelligence and analysis of information, and implies that whoever acquires the most advance knowledge, either by infiltration or interrogation, wins. By showing how the terrorists prevailed against the French, the film advocates the belief that sufficiently determined terrorists cannot be defeated. The French used compassion, bribery, torture and the guillotine—and still lost. We have a much more difficult international challenge than the French did, with all sorts of language barriers

they did not have to face, and yet we cannot in the end simply withdraw and call it quits.

Read *The Last Summer of Reason: A Novel*, by Tahar Djout. He was assassinated by terrorists at the age of 39, and his book published posthumously in 2001 by Ruminator Books. It is a window to terrorist self-righteousness and fanaticism. And read *What Went Wrong: Western Impact and Middle Eastern Response* by Bernard Lewis, professor emeritus at Princeton and the most important western scholar of Islam. It is an Oxford University Press book. Along with the CD produced by the FBI on terrorism and how to combat it described today, and educational sessions led by FBI counterterrorism people, a trove of knowledge is available to all of us. You don’t need to read a library full, either.

What’s the principle? The principle is that knowing what we don’t know is as important as knowing what we do know—that is, having the guts to admit what we don’t know and then asking those who do know to help us learn what we need to know. We saw a lot of that today. Tomorrow is not too early to establish real educational arrangements. There is no need for delay on that, anymore than in making the calls proposing executive task forces and studying the models of intelligence centers described today. There is a corollary to the principle: Some learning, some of the need to know, cannot be delegated. That’s why Joint Terrorism Task Forces cannot do the work of an executive task force—no matter how useful, even indispensable, they are.

Let me say a few last words about resolve and constancy of purpose. In the midst of Shay's Rebellion in 1786 and 1787, George Washington wrote to James Madison to express his profound fear that the peril to the country was so great that the United States might collapse. Madison replied that he allowed himself a measure of hope. The great historian Katherine Drinker Bowen wrote later, "It was like Madison to realize that the situation was too serious for despair." So it was, and so it must be with us.

We are going to suffer losses and heartaches and missed opportunities, and we are going to make mistakes, because we are human and fallible. We will suffer casualties, because the terror masters and the homicidal fanatics who do their will are ruthless and shrewd and they exempt no one from the domain of targets. The fight against terrorism will, I think, be long, perhaps perpetual, and certainly a factor in our way of life. We will get better and better at traveling that road, especially if we refuse to be deterred by frustration and roadblocks and red tape that should have been avoidable but were not. Our situation is certainly "too serious for despair."

During the years when I worked in Washington, I learned a good bit about resolve and

constancy from my friendship with Admiral Elmo Zumwalt. We had a lot to talk about. My wife and I had lost a child to bubonic plague, and Bud Zumwalt's son was fighting a long-odds battle against cancer, probably caused by exposure to Agent Orange. Bud Zumwalt had commanded the brown water navy in Vietnam and had ordered the use of Agent Orange in a desperate attempt to protect his men from deadly fire along river shores. Again and again the media asked the Admiral, "How do you live with the fact that your son and others who served under you are dying because of your decision to use Agent Orange?" And he always replied that he had done the best he could to protect his men and then added, "I keep leaning forward."

That's what resolve and constancy take. That's the most fundamental principle of all. We have to keep leaning forward. Today may suggest that we can do considerable leaning together.

Thanks very much.

Edwin J. Delattre
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APPENDIX C

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Mr. Murphy has more than 20 years experience in law enforcement research and practice. He currently directs a number of PERF projects, including Community Policing in a Security Conscious World, An Assessment of the Beltway Sniper Task Force, and Case Studies of Law Enforcement Responses on September 11. Previously, he was Director of Planning and Research for the Baltimore County (MD) Police Department. His primary responsibilities included developing and implementing the department's strategic plan, researching and developing all department policies, managing federal and state grants, and serving as the agency's accreditation manager. Prior to holding that position, he was the Assistant to the Police Chief for eight years. In that capacity he worked for three chiefs, providing policy advice and guidance and undertaking a variety of special projects to improve organizational efficiency. In addition, during his entire tenure with the department, he served as executive director of the Baltimore County Police Foundation. Murphy holds a master's degree in public policy, has completed extensive work towards his doctorate in public policy and is a graduate of Federal Executive Institute.

Martha R. Plotkin

Director of Communications and Legislative Affairs

Martha Plotkin has more than 15 years of experience writing and researching criminal justice issues. She currently directs PERF's publications program, which produces an average of six publications and papers each year on myriad policing issues. Plotkin also directs the media and legislative programs—providing briefings, testimony, editorials and other information to the press and policymakers. An attorney, Plotkin also works on amicus briefs and other legal issues affecting police agencies. She is the author of *A Time for Dignity* and other articles and training materials on the police response to elder abuse, is co-author of *Police and the Homeless: A Status Report* and editor of *Under Fire: Gun Buy-Backs, Exchanges and Amnesty Programs*. She has managed and continues to contribute to research projects on the police response to special populations and victims.

Secretary Edward A. Flynn

Edward A. Flynn is the Secretary of Public Safety for the Commonwealth of Massachusetts. His responsibilities include oversight of the state police, National Guard, the department of corrections, homeland security, emergency

management and police training. Previously he was police chief in Arlington County, Virginia; Braintree, Massachusetts; and Chelsea, Massachusetts. He was credited for modernizing these departments and implementing community policing. His early career was spent in the Jersey City Police Department, where he was promoted from patrol officer through the ranks of sergeant, lieutenant, captain and inspector.

Chief Flynn is a member of the board of directors for the Police Executive Research Forum and is a recipient of the prestigious Gary P. Hayes Memorial Award for Police Leadership. He is on the board of directors of the national bipartisan anticrime organization Fight Crime: Invest in Kids and is a member of the Administration of Justice Advisory Committee at George Mason University.

He holds a bachelor's degree in history from LaSalle University in Philadelphia and a master's degree in criminal justice from John Jay College of Criminal Justice in New York; he also has completed all course work in the Ph.D. program in criminal justice from the City University in New York. Chief Flynn is a graduate of the FBI National Academy and the National Executive Institute and was a National Institute of Justice Pickett Fellow at Harvard's Kennedy School of Government.

Chief Jane Perlov

Chief Jane Perlov is in her second year as chief of the Raleigh, North Carolina, Police Department. The New York native is one of a handful of women chiefs of police in North Carolina.

A graduate of the John Jay College of Criminal Justice, Columbia University's Police Management Institute and the Senior Management Institute for Police, Chief Perlov brings an extensive background in law enforcement and public safety to her current post. Chief Perlov joined the ranks of New York's finest in January 1981. A distinguished career with the NYPD took her from assignments in Harlem to Times Square and from the rank of police officer to deputy chief.

The Commonwealth of Massachusetts called in January 1999, and Perlov answered to serve on the Governor's Cabinet as Secretary of Public Safety until August 2001. She won praise from law enforcement, fire fighters and emergency workers from her work guiding the response from the Commonwealth when six firefighters were killed in a tragic warehouse fire and building collapse in December 1999.

In September 2001, she was selected as chief of Raleigh's 700-plus-member department.

With her work have come honors and accolades. She had been selected as one of "Twenty-Five People to Watch in New York City in 1998" by the *New York Daily News*, "One of Ten Women To Watch in 1999" by Jewish Women International and "Ten People to Watch in 2002" by the *Raleigh (North Carolina) News and Observer*.

She lectures on Community Policing and Crime Strategies to both national and international groups.

Special Agent in Charge Kevin Stafford

Special Agent in Charge Kevin Stafford was born July 5, 1954, in Jacksonville, Illinois. He earned a bachelor's degree in business administration, economics and psychology from Illinois College in 1976; a master's degree in business administration from the University of Illinois in 1980; and a law degree from Southern Illinois University School of Law in 1985. Stafford is a member of the Illinois and Missouri bars. He was sworn in as a deputy sheriff in the Morgan County Sheriff's Department, Jacksonville, Illinois, in 1974, where he served as a dispatcher from 1975 to 1976. In 1976, he joined the Jacksonville, Illinois, Police Department as a patrolman and was promoted to a detective in 1980, where he served until 1981.

Stafford entered on duty with the FBI as a Special Agent on July 23, 1983; upon completion of training at the FBI Academy, he was assigned to the Kansas City Division. He subsequently served as a Special Agent in the New York Division from 1986 to 1987; a Supervisory Special Agent in the Office of the General Counsel, FBI Headquarters (FBIHQ), Washington, D.C., from 1987 to 1990; and a Supervisory Special Agent in the Organized Crime/Drug Intelligence Section, Criminal Investigative Division (CID), FBIHQ, from 1990 to 1992. In 1992, Stafford was transferred to the Baltimore Division, Maryland Metropolitan Office, where he served as the Senior Supervisory Resident Agent until 1997.

In January 1997, Stafford was designated as the Assistant Special Agent in Charge of the San Antonio Division, McAllen Resident Agency, where he served until October 1998. Between October 1998 and May 2001, he served as the Chief of the Drug Section, CID, and FBIHQ. On March 20, 2001, Stafford was selected by Director Louis J. Freeh to be the Special Agent in Charge of the Kansas City Division.

Chief Darrel W. Stephens

Darrel W. Stephens was appointed Charlotte-Mecklenburg (NC) Police Chief in September 1999. He was the City Administrator for the City of St. Petersburg, Florida, for more than two years after accepting the position in June 1997. He was responsible for day-to-day oversight and management of all city operations and a workforce of more than 3,000 employees. He also served as Police Chief in St. Petersburg from December 1992 to June 1997. He spent most of his career in policing, including six and a half years as executive director of PERF. He began his career in 1968 as a police officer with the Kansas City, Missouri, Police Department, which included a 10-month visiting fellowship at the National Institute of Justice in 1972. He became the assistant police chief in Lawrence, Kansas, in 1976. In 1979 he accepted the Largo, Florida, police chief's position. In 1983 he took the police chief's position in Newport News, Virginia, where that department became nationally recognized for its work with problem-oriented policing that provided much

of the foundation for community policing. He has co-authored several books and published many articles on policing issues. He holds a bachelor's degree in administration of justice from the University of Missouri–Kansas City and a master's degree in public administration from Central Missouri State University.

ABOUT THE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS)

U.S. Department of Justice

THE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS) WAS created in 1994 and has the unique mission to directly serve the needs of state and local law enforcement. The COPS Office is an innovative agency that has been the driving force in advancing the concept of community policing through the creation of locally driven problem-solving strategies and police-community partnerships. COPS is responsible for one of the greatest infusions of resources into state, local and tribal law enforcement in our nation's history.

Since 1994, COPS has invested \$9.6 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives and advance community policing nationwide. COPS funding has furthered the advancement of community policing through community policing innovation conferences, the development of model practices, pilot community policing programs and applied research and evaluation initiatives. COPS has also positioned itself to respond directly to emerging law enforcement needs. Examples include working in partnership with departments to enhance police integrity, promoting safe schools and combating the methamphetamine drug problem and recently homeland security efforts.

Through its Fiscal Year 2003 grant programs, COPS is assisting and encouraging local, state and tribal law enforcement agencies to enhance their homeland security efforts. Traditional COPS programs such as Universal Hiring (UHP) will give priority consideration to those applicants that demonstrate a use of funds related to terrorism preparedness or response through community policing. The COPS in Schools (CIS) program has a mandatory training component that will include topics on terrorism prevention, emergency response and the critical role schools can play in community response. In addition, COPS is developing interoperability and overtime programs that will assist in addressing the homeland security demands that inevitably fall to law enforcement.

The COPS Office has made substantial investments in law enforcement training. COPS created a national network of Regional Community Policing Institutes (RCPIs) that has revolutionized law enforcement training. Most recently the RCPIs have been focusing their efforts on developing and delivering homeland security training. COPS also supports the advancement of community policing strategies through the national training delivery system provided by the Community Policing Consortium. Furthermore, COPS has made a major investment in research which makes possible the growing body of substantive knowledge covering all aspects of community policing.

These substantial investments have produced a significant community policing infrastructure across the country as evidenced by the fact that more than two-thirds of the nation's law enforcement agencies have sought COPS grants and were awarded funding. The COPS Office continues to respond proactively by providing critical resources, training and technical assistance to help state, local and tribal law enforcement implement innovative and effective community policing strategies.

ABOUT PERF

THE POLICE EXECUTIVE RESEARCH FORUM (PERF) IS A NATIONAL PROFESSIONAL association of chief executives of large city, county and state law enforcement agencies. PERF's objective is to improve the delivery of police services and the effectiveness of crime control through several means:

- the exercise of strong national leadership,
- the public debate of police and criminal issues,
- the development of research and policy, and
- the provision of vital management and leadership services to police agencies.

PERF members are selected on the basis of their commitment to PERF's objectives and principles. PERF operates under the following tenets:

- Research, experimentation and exchange of ideas through public discussion and debate are paths for the development of a comprehensive body of knowledge about policing.
- Substantial and purposeful academic study is a prerequisite for acquiring, understanding and adding to that body of knowledge.
- Maintenance of the highest standards of ethics and integrity is imperative in the improvement of policing.
- The police must, within the limits of the law, be responsible and accountable to citizens as the ultimate source of police authority.
- The principles embodied in the Constitution are the foundation of policing.

Categories of membership also allow the organization to benefit from the diverse views of criminal justice researchers, law enforcement at all ranks and other professionals committed to advancing law enforcement services to all communities.

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