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**An Evaluation of the Established Relationship Between Federal and Local Law  
Enforcement Agencies Post-9/11**

By

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An undergraduate honors thesis submitted in partial fulfillment  
of the requirements for the degree of  
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## **Introduction**

The United States and September 11th, 2001 is a unique relationship dynamic that focuses on a singular catalyst that has prompted a new era of national security policy present within enforcement, law, and public perception. When regarding security prioritizations and intelligence gathering, 9/11 disrupted the organization of the Department of Justice and how we as a nation interpret and combat both foreign and domestic threats. This is not a question on the content of 9/11, what the day's timeline was, the logistics of the attack itself, but instead an examination of how the mechanics of federal law and policy have reacted after a massive breach in national security. Not only did the federal government institute significant changes to its law enforcement tactics but this additionally included local law enforcement. It has been over seventeen years since September 2001 as of this writing and the discourse that evaluates the problems between federal and local law enforcement is woefully outdated by literature clustered in the early 2000s. This lack of literature means a gap in understanding how 9/11 ultimately impacted the United States and the ongoing War on Terrorism. It is important to address the long-term effects of post-9/11 institution and law changes both federally and locally. The purpose of this thesis is to assess the long-term results between the Department of Justice and local law enforcement agencies after the initial post-9/11 policy changes within the United States. Since September 11th, 2001, what is the state between the Department of Justice and local law enforcement relationships and how does this reflect current national security priorities?

The paper will be organized in multiple chapters to evaluate separate factors of the relationship between federal and local law enforcement. Since the initial aftermath of 9/11 is complicated and large in its scope, background information and an explanation of the function of the Department of Justice and the function of different levels of law enforcement will be

provided for context. Then, the first substantive chapter will be based upon jurisdiction and how the legal territories overlap in regards to combatting and preventing terrorism. In this chapter, as in the two subsequent ones, the initial reaction after 9/11 will be established before moving to a consideration of developments from 2010-2019. The second section will examine the changes in communication and intelligence sharing across federal and local government levels, primarily in prevention and apprehension of suspected terrorists. The third and final section will be devoted to how resource allocation is managed. These sections will be categorized into two time: 2001-2009 initial aftermath and 2010-2019 aftermath of 9/11. The reason for this differentiation is to divide the time since 9/11 and this publication somewhat evenly. There were many changes in the approximate eight years after 9/11 and, by the 2010s, many of these initial policies or tactics were appropriated or utilized in different ways. In addition, there was available literature available that served to compare and contrast the 2000s to demonstrate the long-term and contemporary changes present that are relevant to the current state of the United States. Of course, it is important to address why this thesis and the questions asked are pertinent to the discourse of political science.

A majority of literature that directly refers to September 11th, 2001 is based around the early and mid-2000s, meaning much of the research is based around short-term observations. While this provides a critical baseline of where national security policy was several years after 9/11, a direct connection of 9/11 security measures in the past ten years of discourse is largely vacant. Discourse that looks at the inter-related aspects of jurisdiction, communication, and resource-allocation between the federal and local law enforcement even less so. Policy changes, surveillance, and intelligence sharing between federal and local agencies require a more contemporary assessment.

Short-term post-9/11 discourse provides a baseline for the initial changes in national security policy. The literature varies in different spaces: immigration, surveillance, intelligence sharing, and prosecuting authority. Any direct literature regarding the events of September 11th, 2001 will be limited due to the thesis research being largely concerned with the aftermath. The one specific book that will focus on the immediate responses after 9/11 will be the *Commission Report* officially published in 2002 as an exhaustive review of the event and government changes. Other items will be federally-published documents or audits of specific agencies and/or acts.

Long-term post-9/11 literature will establish the ongoing results of these initial changes, primarily based around the 2010s. Since this thesis is both a qualitative examination and literature review, the arguments made will be based on qualitative information provided by a wide variety of primary and secondary literature that compares and contrasts the national security measures introduced and enforced in the described time parameters. The metrics for comparison from the short-term aftermath to the subsequent years of 2010 to 2019 will be focused around three questions pertaining to the three aspects that will be researched.

Firstly, when addressing the jurisdiction of national security policy, how is overlapping jurisdiction negotiated between multi-level agencies? Counterterrorism tactics and its relation to prosecution will be discussed to discover the impact of 9/11 policy on current measures. Secondly, regarding intelligence and communications, are counterterrorism efforts coordinated effectively and accurately? This aspect of national security remains the most popular topic of national security discourse and serves as a key piece to understanding whether initial changes provided a long-term positive impact. Thirdly, on resource allocation, does the federal government supply adequate resources to participating agencies? Successful counterterrorism

efforts are multifaceted and dependent on training, funding and access to shared resources. These are critical questions that will assist with differentiating the short-term and long-term changes between the federal and local law enforcement relationship.

When assessing the impact of the September 11th, 2001 terrorist attacks, the event serves as a direct catalyst to massive reorganization of national security policies and how they related between federal and local law enforcement.

### **Limitations**

While the immediate post-9/11 aftermath was heavily documented in political science discourse, the reference to 9/11 as a factor in shifted national security policies and multi-level government relationships has become less common in the 2010s. Part of this can be attributed to distance in time as well as the reality that the United States and its politics do not function within a vacuum for nearly twenty years. Many other variables do play within how laws and agencies function within the U.S., but this research paper's scope is set to focus on the specific changes prompted by 9/11. Due to the extreme political and homeland security changes that occurred so soon after 9/11, it is critical to see its long-term impact in homeland security as many of the same institutions and laws that were created from 2001 to 2009 are utilized today for the purpose of policing in the United States. When assessing these changes, however, it is important to note that the research utilized for this paper will not fully describe the extent of surveillance and methods shared between federal and local law enforcement.

Many reports and audits published by government agencies commonly withhold information, especially concerning national security matters. Due to this limitation, there will be utilization of news reports and other secondary literature to supply the gaps made by redacted or classified information by government sources. This will be more apparent within the 2010 to

2019 sections that required more recent primary sources and government publications, which were either not available as of this publication or could only provide generalized information on specific security topics. While this lack of recent literature within political science discourse is why this research paper was created, it is still important to recognize that this was a challenge to address in providing information to the extent to which this subject requires. For that reason, this paper should be viewed as a stepping stone to establish the foundation of where long-term 9/11 national security partnerships and policies are going.

### **Background Information**

Ultimately, it is a fitting image that Arnold Wolfers describes as,

“For a long time [the United States] was beyond the reach of any enemy attack that could be considered probable. During that period, then, it could afford to dismiss any serious preoccupation with security. Events proved that it was no worse off for having done so. However, after this happy condition had ceased to exist, government and people alike showed a lag in their awareness of the change”

While Wolfers refers to the attacks waged on Pearl Harbor in the midst of World War II in his 1952 paper, this disconnection between foreign threat risks and preparedness parallels the initial response of the United States on September 11th. Terrorism was always a potential threat, either domestic or foreign, and “September 11 only threw open the window of opportunity for policy change based, in large part, on preexisting ideas,” (Birkland 2004) meaning the time to hypothesize policy had changed to sudden, necessary substantive action in the aftermath. 9/11 and the immediate aftermath was a time of massive renewal in the federal government’s organization and relationship to local law enforcement. Most of the changes were controversial, confronted civil liberties, and complicated the nature of law enforcement and policing in communities.

*The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism*, better known as the Patriot Act, was implemented on October 26, 2001 and became a quintessential law following its inception weeks after 9/11. The Patriot Act extended surveillance measures, established the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, expanded border patrol and immigration control, and incentivized agency and civil cooperation through monetary rewards and lifting of bureaucratic obstacles (Congress 2001). Following soon after, the Homeland Security Act of 2002 established the formation of the Department of Homeland Security that addressed national security problems through surveillance, intelligence gathering, immigration measures, and new coordination measures with the Department of Justice, the main department that controls such agencies as the Federal Bureau of Investigations (FBI) through the executive branch of the federal government (Congress 2002). This lifted a significant weight off of the FBI initially in the attempt to increase counterterrorism efforts after 9/11.

Miscommunication and fragmentation were regularly cited as a major failure in the relationship between local and federal agencies. Many of the activities of the terrorists involved, including flight lessons, traffic violations, and subsequent appearances on numerous watch lists from multiple intelligence agencies took place within the United States and this brought the threat of terrorism into the communities. Terrorism could no longer be perceived as based abroad. "Sleeper cells" became a new threat to law enforcement and it became pertinent to prevent and apprehend perpetrators rather than after a terrorist attack was committed,

"The 9/11 attacks also created a national sense of fear that al Qaida and its allies were in the process of unleashing a campaign of additional attacks utilizing "sleeper cells" embedded in American communities, awaiting orders or opportunity to strike" (Waxman, 2008).



This meant that local law enforcement was at the front line of terrorism as they were the most familiar with their own communities rather than the nearest federal enforcement office. No longer was terrorism in the whole jurisdiction of the federal government but now it dealt with the increased threat of radicalization and preparation within the border, most of this out of sight from federal agencies and not communicated between local, state, and federal levels.

Many of the acts approved through Congress highlighted the prior vulnerabilities that assisted terrorist attacks before and new counterterrorism efforts attempted to cover these gaps. This wasn't a simple issue of failing to capture the perpetrators in time but instead presented a much greater challenge that revealed the systematic problems within the federal and local systems. A common issue to identify was the fragmentation of the police agencies and the weakening of intelligence capabilities. This inherent intelligence weakness came after the scandal of President Nixon's Watergate as "many police agencies dismantled their domestic intelligence collection units... After September 11, 2001, many of these same police agencies scrambled to bolster their intelligence capacities" (Maguire and King 2004). A large reaction to this vulnerability was for the Patriot Act to enact an entire section devoted to surveillance that granted more flexible navigation of the Foreign Intelligence Surveillance Act of 1978 (FISA) and seizure of communications in emergency authority (Congress, 2001).

Other measures were to increase the personnel in all agencies, meaning a sharp increase on a local and federal level of police, support staff, and analysts. At the local level, this entailed a reversal of decreasing sworn officers as "about 9,500 more full-time sworn personnel were added from 2004 to 2008 than in the previous 4-year period." Other large local law enforcement agencies increased their sworn officers in the double-digits in cities like Phoenix, Arizona (18.5% increase) and Dallas, Texas (15.5% increase) (Reaves, 2008). Joint Terrorism Task

Forces (JTTFs) became another way the federal government expanded out coordination with local enforcement to increase intelligence abilities (Waxman, 2008). Others tactics later on in the amendment of the Intelligence Reform Act was the formation of fusion centers to train and share intelligence between the federal and local levels (Congress 2007).

While these initiatives were created, there still remained the problem of the fragmentation and lack of preparation present within United States law enforcement, a problem not focused on necessarily to the degree it was several years after 9/11. “Sub-federal police agencies – including those at the state, county and city or town level, and which are responsible for the vast bulk of basic crime fighting and community protection in this country – are as heterogeneous and geographically dispersed as the local American populations they serve” and has remained a critical issue when applying federal policy and directives onto these agencies (Waxman, 2008). The United States is a large and diverse population that is a titanic effort to routinely police without the added challenges of coordinating between different jurisdictions, agencies, and allocating the resources needed to combat unpredictable terrorist scenarios.

## **Jurisdiction**

### **Initial Aftermath after 9/11**

An imperative piece to evaluating the relationship between federal and local law enforcement is the matter of jurisdiction. To begin, jurisdiction in this chapter refers to the formalized system of authority and protocols in place in law enforcement. The territory served by federal and local law enforcement will differ depending on the context of the situation or objectives identified by an agency. This can complicate matters, especially when responding to scenes that may have no protocol established or multiple authorities involved. After 9/11,

terrorism and addressing national security threats involved establishing new tiers of authority that included numerous agencies across federal, state, and local levels and this has remained a prevalent issue with no singular solution. The massive changes seen after 9/11 were done through the federal government, primarily through the executive branch. As the supreme law, the United States initiated top-down policy changes to strengthen counterterrorism capabilities, applying their directives onto the local law enforcement that regularly dealt with the wide variety of crime occurring within communities. However, policy changes were easier said than done.

Federal law, created through legislation and executed through the executive branch within the Department of Justice, operates strictly within the realms of federal jurisdiction. This filters out a majority of court cases, leaving much to local courts and prosecutors. When federal courts can become involved is additionally vague as there is no strict standard to differentiate between federal and local court cases if jurisdictions overlap (such as in the case of terrorism committed on U.S. territory). In fact, federal courthouses have significant power to use their discretion over what state and local court will handle,

“The foregoing considerations may make the Court (or Congress) prefer at least to give the federal courts a "right of first refusal" to hear cases that arguably fall within federal jurisdiction. The presence of a standard along a federal jurisdictional boundary imbues federal courts with considerable power to select the cases they wish to hear and to decline the cases they do not. In colloquial terms, a jurisdictional standard allows a federal court to "cherry-pick" the cases it wishes to hear” (Nash 2012).

The same goes for crime across the nation. Municipal and other local law enforcement handle the litany of crimes that occur beyond the typically small jurisdiction of the federal government. However, terrorism has remained a tricky situation.

On one hand, prior to 9/11, many local law enforcement agents did not have the capability to combat terrorism when encountered as this conflicted with the Constitution due to

federal agencies' claiming authority when dealing with foreign threats (White 2004). This left little effective system and collaboration in place with local police. As Waxman notes in "Police and National Security,"

"Until the September 11 attacks, however, from a law enforcement perspective terrorism within the United States was not a priority issue and it fell largely within the province of the FBI (and even there it was generally of secondary importance to fighting federal crimes such as white-collar and narcotics offenses)" (Waxman, 2008).

This changed soon after 9/11 as the Department of Homeland Security was formed and state and local law enforcement were emphasized as a participant in counterterrorism efforts.

Federal agencies, primarily the FBI, were initially viewed as a stubborn and ineffective way to inform national security measures. In October 2001, FBI Director Robert Mueller addressed prior issues to 9/11 at a police conference in Ontario, Canada and faced skepticism and contempt at the FBI's inability to collaborate with fellow agencies to prevent the actions of 9/11. State and local law enforcement agencies within the United States were at the time disillusioned by the secrecy and lack of coordination at the federal-level, which only complicated matters of deciding jurisdiction in the face of post-9/11 national security strategy. Initial acts and directives published after 9/11 were meant to direct energy to collaboration across multiple government levels. However, problems persisted in many forms across different interagency relationships,

"Unfortunately, federal law enforcement agencies mistrust one another at times. While not directly related to state and local issues, their failure to cooperate in some circumstances influences local police relationships. Many federal law enforcement agencies openly resent the FBI, and this attitude is frequently reciprocated. In addition, the creation of new bureaucracies such as the Transportation Security Administration (TSA) exacerbates rivalries. In the real world of bureaucracy, organizations on every level frequently act out of self-interest rather than concern with the overall mission" (White 2004).

Numerous instances between such agencies like the FBI and ATF have disrupted on-scene diffusions of terrorist activities, further perpetuating the historically fragmented and tense relationship between multi-level agencies. In April 2005, a Seattle sheriff's department struggled to handle a firebomb within a suburban home as FBI and ATF agents fought outside to assess who should lead the operation. Another incident in 2008 led to the death of a bomb technician and a police chief when the FBI and ATF again fought over jurisdiction outside of an Oregonian West Coast Bank and failed to coordinate operations to diffuse a bomb. Other instances have occurred nationwide in areas like Baltimore, Phoenix, New York City and San Diego. As noted by journalist Theo Emery of *Times*,

“the agencies don't dispute the problems. In a joint statement, FBI Assistant Director Michael Kortan and ATF Assistant Director W. Larry Ford agreed with the assessment and its 15 recommendations -- all of them so far unresolved, according to the report” (Emery 2009).

Crime and the unpredictable nature of terrorism is not confined to public law enforcement sanctioned by different levels of government but also private security. To put in perspective, “as of 2004, 12,766 local police departments, 3,067 sheriff's offices, 49 general service state law enforcement agencies, 1,481 special jurisdiction agencies (e.g., transit police, harbor police park rangers, and campus security forces, to name a few), and 513 other agencies” make up professional nationwide security, meaning the law enforcement networks extend beyond simplistic relationships at federal and local levels (Stewart 2011). Just as suspicion and lack of direction impacts police, the private security industry struggles to participate. This is especially important when the private industry protects a majority of critical infrastructure, approximately 85% of the United States is handled and secured by private security. Such services handled by private security range from “alarm installation, maintenance, and repair

(69.4%) and alarm monitoring services (68.9%) were most often outsourced, followed by substance abuse testing (61.6%) and background investigations (43.8%)” (Strom, 2010). Other aspects of security are even acknowledged by the federal government in the 2006 National Strategy for Homeland Security as a means to more effective government cooperation,

“America’s constitutional foundations of federalism and limited government place significant trust and responsibility in the capabilities of State and local governments to help protect the American people. State, local, and Tribal governments, which best understand their communities and the unique requirements of their citizens, provide our first response to incidents through law enforcement, fire, public health, and emergency medical services. They will always play a prominent, frontline role in helping to prevent terrorist attacks as well as in preparing for and responding to a range of natural and man-made emergencies. The private and non-profit sectors also must be full partners in homeland security. As the country’s principal providers of goods and services, and the owners or operators of approximately 85 percent of the Nation’s critical infrastructure, businesses have both an interest in and a responsibility for ensuring their own security.” (“National Strategy for Homeland Security” 2007)

This increased collaboration with private security was indeed important to prioritize as, from 1990 to 2006, private industry employees doubled to approximately two million with over 60,000 companies (Sarre, 2010). In early 2004, a summit between law enforcement, government, and private security organized by the DOJ’s Office of Community Oriented Policing Services (COPS), and the International Association of Chiefs of Police (IACP) to create initiatives to create better post-9/11 partnerships. Other steps like “Operation Partnership” between the DOJ and professional private security associations were started in 2005 through a federal grant to “support development of effective law enforcement-private security collaborations nationwide.” An August 2009 publication by the DOJ cited a “high degree of satisfaction with partnerships” and increased cooperation between public and private security for homeland security purposes. Some issues regarding accountability and privacy with surveillance increasing in the private

security field were raised and, as of this paper's publication, no updated report through "Operation Partnership" has occurred since 2009, leaving some of these issues underdeveloped in literature into the 2010s ("Operation Partnership: Trends and Practices in Law Enforcement and Private Security Collaborations," n.d.). Regardless, private security has justified its importance in homeland security and it is still finding its appropriate place in the jurisdiction between federal and local law enforcement.

### **2010 - 2019 Aftermath of 9/11**

So how is jurisdiction negotiated between multi-level agencies when preventing and investigating terrorism activities in more recent years? This remains unfortunately a complicated and fragmented matter across the United States and for various reasons. While jurisdiction involves coordinating all aspects of counterterrorism from investigation to prosecution, as discourse has lessened in direct references to post-9/11 security measure changes, one piece of jurisdiction has remained in conversation. Primarily, in current discourse, immigration is now a key feature of national security policy.

The expansion of border control and the inception of the Department of Homeland Security and subsequently U.S. Immigration and Customs Enforcement (also known as ICE) were meant to regulate mobility of non-citizens in the United States after 9/11. These departments do not exist within a vacuum, however, and require the assistance of numerous agencies such as the Department of Justice as well as local agency partners. Immigration is a matter altogether apart from terrorism but post-9/11 opinion was focused on enforcing stricter border regulation to account for and intercept potential criminals that would bypass immigration processes. This fear meant counterterrorism became associated strongly with the undocumented

population and that they could harbor radicalization and foreign-based terrorist associations (Kirk et al. 2011; Coleman and Kocher 2011).

A key piece of enforcing the partnerships between federal and local law enforcement over instances of immigration became the 287(g) law. The law was supplemented in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and obligated state and local law enforcement to cooperate through originally several methods:

“Under the task force model, during the course of daily activities deputized officers who encounter alleged noncitizens may question and arrest individuals they believe have violated federal immigration laws. Under the jail enforcement model, deputized officers may interrogate alleged noncitizens who have been arrested on state or local charges and may place immigration detainers on inmates thought to be subject to removal. The hybrid model combines elements of both models.”

By 2009 and then again in 2013, the standardized agreements were revised to increase federal oversight as well as a discontinuation of the task force and hybrid model. As of 2017, approximately 1,822 officers from both state and local law enforcement in 16 states were trained and certified by ICE to serve as a deputized-officers executing federal immigration law. The 287(g) agreement, known as a memoranda of agreement or MOA, must be consented by both participating government agencies and the agreement may be ended even before the official expiration date (“The 287(g) Program: An Overview | American Immigration Council” n.d.).

“287(g) and the Politics of Interior Immigration Control in the United States: Explaining Local Cooperation with Federal Immigration Authorities,” describes the basis of how the program functions as,

“The 287(g) Program formalises partnerships between local and federal agencies in regards to immigration enforcement. ICE promotes these partnerships because, in its view, terrorism and other types of criminal activity that may be attributable to the undocumented are most effectively combated through multi-agency



and multi-level cooperation. According to ICE, local law enforcement officers, as first responders, ‘often encounter foreign-born criminals and immigration violators who pose a threat to national security or public safety’. Thus state and local law enforcement agencies play a critical role in ensuring homeland security” (Wong 2012).

The importance of incorporating local agents hasn’t been lost on some local police agencies who realize they have the advantage of already participating on the frontlines of criminal investigations. The National Sheriff Association published a position paper in 2011 that acknowledged the need for increased federal and local law enforcement cooperation to expand immigration enforcement nationwide. It is worth noting that, in their justification, increased federal and local cooperation on immigration and border security was needed as “not all individuals come into the country to make a better life for themselves... some come into this country with dangerous ties to terrorist cells and intend to do us harm” (“National Sheriffs’ Association Position Paper on Comprehensive Immigration Reform” 2011).

These concerns harken back to the early rhetoric expressed after 9/11 in which sleeper-cells and undocumented individuals were tied to national security. In regards to the reality of detainment and removal of undocumented noncitizens, this remains on the frontline of local law enforcement. Coleman and Kocher describe the local law enforcement’s ability to conduct traffic stops, investigate small violations and misdemeanors as the “ground zero” for conducting non-federal detainments as, “indeed, data suggest that over the past 10 years hundreds of thousands of individuals have been deported as a result of these sorts of encounters with local and state police, in sites far removed from US territorial borders” (Coleman and Kocher 2011). With this comes a drastic and changed shift to how national security settled onto the borders of America in the subsequent decade after 9/11.

However, a clear consequence of this increased collaboration between federal and local law enforcement has meant a decreased sense of trust from citizens and non-citizens alike. This observation came from a 2012 study that identified increased paranoia from local communities to cooperate with agencies within the jurisdiction:

“For instance, in a 2009 evaluation of the federal 287(g) program, which expands the authority of local and state law enforcement officials to enforce civil immigration violations—the U.S. Government Accountability Office (GAO) reported evidence of considerable fear among community residents that police would deport individuals because of incidents as minor as a traffic violation” (Kirk et al. 2011).

Much of this distrust originated from minority groups more likely to be profiled as a non-citizen and from the increased rhetoric produced post 9/11 that highlighted the threat of an invisible enemy that could freely enter the country without formalized processes, specifically from the United States-Mexico border (Coleman and Kocher 2011). Ultimately, this has led to the determination that, “while strict immigration laws are often touted politically as ways to ensure public safety, the enactment and enforcement of harsh immigration laws may actually undercut public safety by creating a cynicism of the law in immigrant communities” (Kirk et al. 2011). This concern is validated when considering the federal government’s reliance on state and local partnerships that grant their approximately 650,000 officers to participate in executing federal immigration objectives (Wong 2012). While 287(g) continues in federal-local enforcement partnerships, the politics surrounding immigration stateside impact the partnerships that are either fostered or denied. Harsh state laws like Arizona’s 2010 SB 1070 are prime examples of why distrust in the community has led to many organizations wanting clear jurisdictions present so states cannot infringe on what is argued to be a federal matter. The SB

1070 law was enacted originally to provide looser restrictions on how a state and local officer may investigate and charge individuals for immigration violations as,

“Section 2(B) of SB 1070 requires Arizona law enforcement officers to determine (or attempt to determine) a person’s immigration status only in two limited circumstances: (1) when the officer arrests a person for a state law crime (like DUI), or (2) when the officer detains a person on suspicion of a state law crime and the officer, during the course of the stop, develops reasonable suspicion that the person ‘is an alien . . . unlawfully present in the United States’” (“SB 1070 in 2018: What Are Our Rights?” 2018)

Not only is the law discriminatory and encourages police to profile an individual without proof of status but many argue that cases of officers utilizing the law violate the Fourth Amendment. In reaction to the backlash by immigration rights organizations, state legislature including the Arizona attorney general attempted clearer guidance for local agencies to execute SB 1070. The ACLU of Arizona noted, “after eight years of litigation and heated debate, no state court has ever interpreted the meaning of Section 2(B), despite the fact that six years ago, the U.S. Supreme Court gave that responsibility to state courts” (“SB 1070 in 2018: What Are Our Rights?” 2018). For those who see the dangers in state and local law enforcement conforming to federal immigration objectives, cases like Arizona exemplify the slippery-slope that some believe may occur in other states with increased federal intervention or aligned federal interests. While this specific law came to fruition in reaction to little federal intervention within Arizona, the law coincided with federal acts to increase enforcement on undocumented individuals who were in the country illegally (“A Special Report: Immigration and the States” n.d.). Other parts of the nation have taken a different route in addressing federal partnerships.

Sanctuary cities interpret federal immigration priorities and thereby other federal law enforcement partnerships unnecessary. Under the U.S. Constitution, undocumented individuals have only committed a civil violation. Immigrants cannot be arrested by a local or state officer

unless charged for a crime unlike ICE that has authority to identify and detain undocumented individuals. If an immigrant is detained, the police in a sanctuary city may refuse ICE or other federal protocols and release an individual to prevent deportation and later databasing within the Department of Homeland Security. In a non-sanctuary city, police may partner with ICE or other federal agencies to hold an immigrant for future deportation although this is unconstitutional by multiple court systems (“Extended Immigrant Hold Ruled Unconstitutional But Fight Far From Over” 2017; Voice 2017). As immigration has increased as both a political and law enforcement issue in the 2010s, numerous counties, cities, and states across the country have created legislature or resolutions that define them as “sanctuary jurisdictions.” In April 2019, the Center for Immigration Studies identified eight states (California, Colorado, Illinois, Massachusetts, New Jersey, New Mexico, Oregon and Vermont) and approximately 172 counties or cities that identified themselves as a sanctuary space for immigrants (“Maps: Sanctuary Cities, Counties, and States” n.d.). While this growing phenomenon has demonstrated the opposition to post-9/11 federal enforcement law enforcement, the DOJ and DHS have access to jailhouse information through the 1996 Illegal Immigration Reform and Immigrant Responsibility Act and through increased intelligence and communication post-9/11. Additionally, as these sanctuary cities grow, the recent Trump Administration has considered withholding funding or denying funds to specific municipalities that participate (Winston 2017). This has stressed not only immigration partnerships but other formalized collaboration post-9/11 between federal and local authorities.

With immigration tied to federal and local law enforcement’s shared jurisdiction, the Joint Terrorism Task Forces are also vital to discuss on jurisdiction and how territory is negotiated. In 1980, the first Joint Terrorism Task Force (also known as a JTTF) was established by the FBI in New York City. After 9/11, 71 JTTFs were formed nationwide with FBI field

offices and with approximately 500 state and local law agencies. JTTFS are described as “one-stop shopping for information regarding terrorist activities” and serve as the meeting point for multiple levels of law enforcement agencies to communicate, investigate and respond to threats. While there are 4,000 participating members (four times more than before 9/11), this resource has met resistance in several areas in regards to jurisdiction (“Joint Terrorism Task Forces” n.d.).

Notably, Portland, Oregon has, for the second time, passed a resolution to pull out of its local JTTF. In early 2019, the City Council of Portland removed police officers from the JTTF after a publicized debate over the merits of federal oversight. While only two local officers were on the task force, Tom Potter, the mayor of Portland from 2005 to 2009, argued that having officers gain Top Secret security clearance while he personally could not was concerning for oversight. Additionally, due to Portland’s sanctuary status to protect undocumented residents, the JTTF was found to not coincide with the state “as Oregon law prohibits police from collecting information about individuals or groups based solely on their political, religious, or social beliefs or their status as illegal immigrants” (“Citing Deep Distrust, Portland Pulls from FBI Anti-Terror Panel - Oregonlive.Com” n.d.). This break between federal and local law enforcement is similar to other areas.

After Donald Trump was elected the 45th president of the United States in 2016, San Francisco and New York City were among a large group of cities that took local action against the federal government. For context, much of this local action was spurred by President Trump’s intention after election to create a physical U.S.-Mexican border wall, institute a Muslim visa ban against several Middle Eastern countries, and threaten to cut funding to sanctuary jurisdictions in an attempt to increase immigration control (*Time* n.d.). In California, sanctuary cities like San Francisco destroyed ID card records to limit federal identification of

undocumented individuals within the municipal and pulled out of the JTTF (Winston 2017). The city did not renew its partnership with the federal task force after ten years in 2017, citing they were unwilling to provide local resources to investigate “people of color without probable cause” and that “the Feds and the SFPD would collaborate to a higher degree to target undocumented immigrants and Muslims residents under the Trump Administration” (“Supervisors Approve Mayor Breed’s Police Commission Appointments” 2018; “San Francisco Dropped the Joint Terrorism Task Force Two Years Ago. Now the FBI Wants to Pick Things Back Up.” 2019). In 2018, the city’s mayor appointed two new members within the Police Commission, which brought debate over rejoining the JTTF, however, as of 2019, the city has refused to rejoin (“Supervisors Approve Mayor Breed’s Police Commission Appointments” 2018). In the case of New York City, the NYPD and JTTF remain partnered but the city has taken other steps to limit federal oversight, In April 2017, a federal judge granted IDNYC, a card ID program for undocumented immigrants in New York City, to destroy roughly 900,000 records to prevent federal agencies such as ICE from using the applicant records for deportations. NYPD also built community ties to immigrant communities in an attempt to differentiate non-immigration law enforcement from federal officials like the FBI and ICE (Winston 2017). These different dynamics and polarizing views on federal jurisdiction in local communities have become a key piece as to how national security is now negotiated between agencies.

Additionally, the private sector has remained a forgotten but critical aspect to national security priorities in debate. Just as local police serve the community, private security handles a wide range of critical infrastructure that can be compromised and targeted by terrorist acts. However, “governments, in general, have facilitated and even stimulated the unobtrusive appearance of contract guards, but have responded quite sluggishly to the need for regulation

(Brodeur and Shearing, 2005: 394–395), implying an attitude of indifference and neglect,” meaning that most of the collaboration formulated between federal and local law enforcement does not incorporate those who work in the private sector (Sarre, 2010). This remains a neglected gap in the personnel available to navigate the complicated and fragmented territories relegated to federal, state, and local.

While discourse remains sparse on the subject of private security in relation to national security policies, the importance of utilizing private security is still not lost. As Strom notes in “The Private Security Industry,” law enforcement agencies could benefit from the increased collaboration of private security entities that can report suspicious activity through regular reporting, further developed intelligence sharing and coordinating resources available to federal agencies. However, historically, the relationship between private and public security has remained less instituted in comparison to law enforcement partnerships, even after the federal agencies acknowledged the need for increased coordination in the aftermath of 9/11.

Private security, although highlighted as a critical actor in protecting infrastructure within the U.S., has remained on the fringe in law enforcement post-9/11. Some of this comes down to the authority given to sworn officers as opposed to private security, but other factors relate to competition in the security industry. One survey conducted in the mid-2000s highlighted the tension between public and private law enforcement,

“Police officers feel that private security personnel generally lack education and training and are threats to their policing domain (professionals versus nonprofessionals). Private security personnel believe that public law enforcement officers have limited knowledge about the private security industry and do not appreciate the important role they play in solving and preventing crime”

Early attempts were made to combat this stigma and the DOJ reported increased partnership programs nationwide to connect government law enforcement and private security.

While 450 private security-law enforcement partnerships were established since 2009 by the Operation Partnership, but further updates and discourse on this subject remains lacking (Strom, 2010; "Operation Partnership" n.d.).

However, ASIS International and other professional private security associations have highlighted important steps taken in the 2010s to address partnerships between federal, local, and private law enforcement. With the assistance of ASIS International's NYC Chapter, the New York Police Department (NYPD) created the SHIELD program that coordinates with the approximate 26,000 security professionals based in the city to make emergency response protocols and shared counterterrorism training (Kennedy, 2017.; "About" n.d.). With New York City established as a high-risk metropolitan area for terrorist attacks, the added assistance of private security could improve surveillance and protection of critical infrastructure as well as justify the importance of this partnership. Other efforts have included ASIS International's Law Enforcement Liaison Council creating free guidelines for local law enforcement private security to establish partnerships as well as professional private security associations providing security certifications and other training materials (Kennedy, 2017). By 2019, the FBI published a press release to highlight the importance of private security partnerships where FBI Director Christopher Wray noted that, much like local law enforcement, private industries were on the frontlines of terrorism and other crimes and should maintain communication with federal agencies for support ("The FBI and the National Security Threat Landscape: The Next Paradigm Shift" n.d.). This could be telling of the continued attitude of private security's role within national security as there is little new information within the 2010s that explicitly discuss these relationships in-depth.



Since the early discourse presented after 9/11 in the 2000s, there has been a considerable prioritization on federal-local partnership but the matter of jurisdiction remains murky. Programs headed by the DOJ and other affiliated departments like DHS have attempted to bridge the gap but most energy is now directed towards border security. This priority has only led to more reevaluations by local entities who question the merit of granting the federal government greater control over policing efforts in communities. While general support through training and increased coordination is more available for local law enforcement to utilize now in the 2000s and more so in the 2010s, politics and moral concerns have impacted the specific relationships between federal and local agencies. This issue, coupled with the increased complication of aligning homeland security priorities directly with all immigration movement within the United States, means that a consistent relationship and standardized protocol for sharing jurisdiction is severely complicated between federal and local forces. Additionally, as discourse continues to go farther from the direct relevance of 9/11, the issue of how terrorism is negotiated between local and federal agencies in the long-term aftermath of the event remains somewhat unresolved and undocumented.

## **Communications and Intelligence**

### **Initial Aftermath of 9/11**

A major component to the subsequent changes after September 11th, 2001 was the communication and intelligence capabilities within the federal and local government. Similar to the jurisdiction issues presented between both levels of government, the lack of effective communication between agencies became a key piece of discourse and subsequent policy change over time.

Prior to 9/11, the weakening of intelligence capabilities and communication were impacted by both priorities and budgeting. Once domestic surveillance in the United States was large and originally intended to counter foreign threats, largely communism, through the DOJ's FBI. Government intelligence in the United States grew especially in the 1930s in response to growing international tensions prior to WWII but it was during the Cold War with the Soviet Union that intelligence capabilities expanded rapidly. One such program was the FBI's COINTELPRO, a counterintelligence program that occurred from 1956 to 1971. Interestingly at the time, COINTELPRO was the FBI's solution to the limitations presented by legislation and "the major premise of the programs was that a law enforcement agency has the duty to do whatever is necessary to combat perceived threats to the existing social and political order" (*Supplementary Detailed Staff Reports on Intelligence Activities and the Rights of Americans* 1976). Ultimately, racial activists, socialists, and other political leaders including the likes of Dr. Martin Luther King Jr. were subject to aggressive surveillance and smear campaigns to discredit their political influence under the justification of national security (Murphy, 2002). After the abuses by COINTELPRO in the 1960s and 1970s, the U.S. Senate published a review of the damages incurred by the operations and found that the FBI had conducted surveillance without warrants and "black bag jobs," which involved break-ins for wiretapping on targeted individuals. Such actions were banned around 1967 but "certain wiretaps placed on executive officials and journalists during 1969-1971... was not discovered by other FBI officials until after [Assistant to the FBI Director] Sullivan was forced to resign in September 1971." Congress started inquiries into the federal domestic intelligence actions and led to cutting back intelligence capabilities in the FBI by 1973 (*Supplementary Detailed Staff Reports on Intelligence Activities and the Rights of Americans* 1976). In 1971, all COINTELPRO operations were ended and "rightfully criticized

by Congress and the American people for abridging first amendment rights” (“COINTELPRO” n.d.). Domestic intelligence afterwards would be relegated to the FBI but at a smaller capacity due to the past abuses and the little priority for a strong nationwide counterterrorism program.

Prior to 9/11, terrorism in the homeland was uncommon and hadn’t required local law enforcement partnering with the FBI. Most terrorist attacks previous to 9/11 involved the CIA abroad in clandestine operations. There was little need to share information with local agencies as “most agencies viewed the likelihood of a terrorist incident within their jurisdictions as unlikely” (Maguire and King 2004). Other restrictions that resulted from the past abuses by the intelligence abuses resulted in the Foreign Intelligence Surveillance Act of 1978 (FISA). This established the Foreign Intelligence Surveillance Court (FISC) and set provisions for controlling the surveillance powers of federal agencies. While this act would be amended to address increased technology well into the twenty-first century, FISA would require agents to justify probable cause attached to a foreign-powers to conduct electronic surveillance (“The Foreign Intelligence Surveillance Act of 1978” n.d.). In addition to the lack of necessity, Congress did not prioritize intelligence financing. This directly resulted in the Department of Justice’s largest agency, the FBI, losing support for legislation to increase intelligence capabilities, as “committees with responsibility for the FBI tightly restricted appropriations for improvements in information technology, in part because of concerns about the FBI’s ability to manage such projects” (“The 9/11 Commission Report,” 2002). Prior to 9/11, the United States’ domestic intelligence capabilities were small and didn’t utilize the support or cooperation of local law enforcement entities.

Federal agencies were not only hindered by the above-mentioned issues but by the lack of strategic cohesion in national security policy.

“By 9/11, FBI agents understood that there were extremist organizations operating within the United States supporting a global jihadist movement and with substantial connections to al Qaeda. The FBI operated a web of informants conducted electronic surveillance, and had opened significant investigations in a number of field offices, including New York, Chicago, Detroit, San Diego, and Minneapolis. On a national level, however, the FBI never used the information to gain a systematic or strategic understanding of the nature and extent of al Qaeda funding” (“The 9/11 Commission Report,” 2002).

9/11 served as the de facto example of how lack of communication failed homeland security and thus change was immediate. No longer was the FBI the sole authority in counter-terrorism as the Department of Homeland Security became established by 2002 to serve as the federal government’s main enforcer and intelligence operative. In addition, by executive order through President George W. Bush in 2004, the National Counterterrorism Center was implemented to create a consolidated intelligence center for federal agencies, mainly the DOJ and DHS, to rely upon (Bush 2004). In the same year, the 9/11 Commission proposed the creation of a National Intelligence Director and, in February 2005, John D. Negroponte was nominated as the first director. This post helped to create a principal advisor to the President on national intelligence as well as delegate newer powers to expand the federal intelligence community (“History” n.d.). While this unloaded the pressures off the Department of Justice, this did not mean their own communication systems weren’t addressed. One of the largest and most well-known laws enacted and enforced by the Department of Justice was the Patriot Act. This law expanded the authority for federal agents to gain intelligence at a larger scale and loosened the restrictions to reign in this power, much to the relief of many in law enforcement.

## **Communication**

Communication post-9/11 is important to differentiate from the intelligence efforts at the same time. While both coincide with the actual functions of policing, communication is more focused on the reorganization of the intelligence community post-9/11. In the 2000s, much of intelligence gathering became centered around the idea that terrorism stemmed from immigration and noncitizen movement into the United States. The National Crime Information Center, one of the oldest crime databases headed by the FBI and shared outwards to state and local law enforcement agencies, was one of the many centralized intelligence centers to increase dramatically after 9/11. While there are 21 separate files that index sex offenders, supervised releases, and wanted persons, deportations are listed as well for law enforcement to rely on. However, while border control is largely built on the idea of preventing crime by undocumented individuals,

“deported felons have been listed there since 1996, the approximately 250,000 new files are different because they include civil violations. Indeed, the fastest growing category of IVFs accessed during routine policing relate to civil rather than criminal deportation orders” (Coleman 2009).

This has granted wider access and justification to arrest, detain, and deport individuals in the post-9/11 law enforcement world, even by agencies that do not necessarily cooperate with the 287(g) set by the federal government as discussed in the previous section. This coincides also with other earlier acts instituted by the George W. Bush administration in 2002 such as the Enhanced Border Security and Visa Reform Act that limited entry to individuals arriving from countries sponsoring terrorism. In an effort to police local communities “the Immigration and Naturalization Service (INS) arrested and detained approximately one thousand mostly Arab and Muslim noncitizens for immigration code violations in an effort to uncover possible terrorists among them” (Romero 2003). Altogether, the new intelligence centers and laws that the federal

government followed granted wider access to investigating individuals at a scale that had the potential for misuse and exploitation.

For local law enforcement, intelligence capability at this time was only accessible through partnerships with the federal government. The fragmented and diverse police agencies within the country remained a unique challenge to overcome as, prior to 9/11, most local agencies were directed to investigate criminal acts rather than monitor and prevent specific issues like terrorism. The capabilities of local police, too, would serve as a problem as some agencies may not have the resources, nor the manpower to dedicate themselves to counterterrorism intelligence operations. While there were clearer expectations for the local police in counterterrorism, improving the intelligence and combating terrorism capabilities at a nationwide level was difficult as, “unfortunately, there is no rubric available for the implementation of those objectives, nor are there metrics available to assess their efficacy” (Pelfrey 2007). This inconsistency would remain an ever-present theme between federal and local law enforcement.

However, after 9/11, several partnerships were formed between federal and local law enforcement to increase intelligence-sharing. *The National Criminal Intelligence Sharing Plan* (NCISP) was published in 2003 through the Department of Justice to establish long-term objectives to improve communication between agencies. This ultimately led to the inception of the Criminal Intelligence Coordinating Council (CICC) of 2004, the National Network of Fusion Centers with guidelines in 2006, and the *National Strategy for Information Sharing and Safeguarding* of 2007 and 2012. Specifically, the CICC serves as a multi-level government body that collaborates with the International Association of Chiefs of Police, the National Sheriffs’ Association, Major Cities Chiefs Associations, Major County Sheriffs’ Association, and federal

investigative entities to decide and review nationwide intelligence objectives since 9/11 (“National Criminal Intelligence Sharing Plan” 2013). These organizations granted local law enforcement access to intelligence-based policing techniques and more collaborative databases managed by federal and local authorities through intelligence fusion centers (“National Strategy for Information Sharing” 2012). In 2008, the Law Enforcement National Data Exchange or N-DEx, was created and managed by the FBI to incorporate all criminal records for analysis and investigations at all levels of law enforcement. However, it is worth noting that these partnerships remained voluntary between the federal and local law enforcement entities, meaning that consistency across the entire United States couldn’t be promised even with these changes.

## **Intelligence**

Intelligence, while related to communication between federal and local law enforcement, is worth examining by itself. In the early post-9/11 era, it was vital that the intelligence community find new ways to utilize technology and navigate laws to prevent and combat terrorism. Additionally, gathering intelligence in the law enforcement community had created parameters to ensure appropriate use. Those safeguarding these parameters, whether it is a judge, police chief or legislative body, set the landscape for how information for preventing and combating terrorism was and is collected. After 9/11, intelligence limits set by FISA or other acts were seen as problems and a new mindset of gaining information over acknowledging privacy was set as the new precedent. The Patriot Act specifically revised fifteen federal laws that granted more leniency in the courts to conduct wiretapping, gain search warrants, and expand what was readily accessible to law enforcement, whether it was education records or financial information and transactions (Bloss 2007).

With this act came justified controversy at the implications of the United States' stance on surveillance. The Fourth Amendment of the Constitution remains one of the key protections for American citizens that ensures:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized” (“The Constitution of the United States,” n.d.).

Under the Patriot Act, “sneak peek” search warrants and increased surveillance on phones, computers, and other communication devices with a flexible sense of what constitutes “probable cause” undermined the protections regularly associated with being a citizen. Much of this delays the individual in question of even being notified of agencies gathering prosecutorial evidence with the increased flexibility of gag orders and warrants that don't require notifying the suspect for security reasons although this can range widely (Bloss 2007). However, this extends beyond citizens and has notably included individuals who are residents and noncitizens within the United States, commonly those that are profiled as threats to the homeland.

The expectation that intelligence can preempt terrorism has led to many individuals becoming profiled and targeted early on after 9/11 through tighter immigration restrictions and information collection. Much of this shift in policing came from the paranoia of potential “sleeper cells” or dangerous perceived threats based off of the

“similar profiles of the 9/11 bombers (all young, male Middle Eastern nationals), focusing government efforts on immigration violators provides it with a legitimate method for killing two birds with one stone: the government is able to enforce our immigration laws while simultaneously enhancing our national security (or at least attempting to do so” (Romero 2003).



The American Civil Liberties Union (ACLU) has served as one of the main legal challengers to the federal government's intelligence efforts. The ACLU early on published a series of reports discussing the Department of Justice's Patriot Act. One of the main issues that they addressed was the violation of the First and Fourth Amendment through Section 215, which lessened the oversight and restrictions for gaining information through search and seizures. Concerningly for those targeted for these searches the government does not need to show that the target of an investigation is related to terrorist activities, nor any criminal acts, indicating that almost any individual within the United States was vulnerable to a search by the government ("Surveillance Under the USA/PATRIOT Act" n.d.). In a later publication, the ACLU found that from 2003 to 2006, 192,499 national security letters (NSLs) were issued by the FBI to gain personal information without a judge's approval. Out of this large number, only one terror-related conviction occurred although it was noted, "the conviction would have occurred even without the Patriot Act" ("Surveillance Under the Patriot Act," n.d.).

Other efforts include the Electronic Frontier Foundation, which has regularly filed lawsuits to challenge intelligence surveillance expansion. Notably in 2007, the EFF filed a Freedom of Information Act (FOIA) request to seek documentation of new intelligence tools used by the FBI. This led to the discovery of the FBI "Computer and Internet Protocol Address Verifier" (CIPAV), which was software utilized since 2001 to infiltrate targeted computer systems to collect information like IP addresses, installed and running programs, and usernames attributed to the computer. This bug has been utilized numerous times in the 2000s, however, the FOIA request raised concerns regarding the nature and legality of this tool. Notably, some declassified correspondence between FBI agents noted,

"There is still admittedly a good deal of uncertainty about what authority is required to deploy an IPAV. Of course, the safest course

is to secure a warrant, though one might arguably not be required - hence DOJ's position that a warrant should be obtained."

Eventually legal opinion from the Office of General Counsel led to a "two-step request" that would require a search warrant and Pen/Trap order, a request that is used by law enforcement to collect electronic information. However, it is a form of spyware that can persist on a computer unless limited by time and scope for a specific surveillance mission. This meant in certain situations a computer could remain compromised by federal spyware for perpetual information collecting (Lynch 2011). In 2008, EFF sued the DOJ regarding the constitutionality of the intelligence efforts, noting that "surveillance had gone ever further than what the law permits, with the Foreign Intelligence Surveillance Court (FISC) issuing at least one ruling calling the NSA's actions unconstitutional" ("FISC Orders on Illegal Government Surveillance" 2012). The Washington D.C. federal district court released several legal opinions by the FISC that addressed criminal violations by federal agencies for the EFF in the mid-2000s. While ascertaining these documents have involved long legal battles extending into the 2010s, the EFF has argued "the public has a fundamental right to know, read, and understand the decisions of the federal courts... secret courts, and secret court opinions, are inimical to our democratic system" (Rumold 2015).

While the United States remained challenged since the early post-9/11 era, nonetheless, intelligence capabilities expanded at both the federal and local law enforcement. By 2004, as published in the ANNALS of the American Academy of Political and Social Science "Trends in Police Industry," there were nationwide increases in occupational capacity for intelligence analysts with new technologies and clearer data collection objectives. However, at this time so shortly after 9/11, contemporary literature was "not sufficient to determine whether these trends constitute transformations at the industry level" (Maguire and King 2004). It would be near the

end of the 2000s that the efforts of President Bush administration-era intelligence would begin to show issues beyond external legal battles. In a 2009 report by inspectors general from the DOJ and Pentagon noted that many wiretaps conducted through the FBI and CIA since 2001 were not directly connected to terrorism. The intelligence programs were also cited by agents as vague and little was documented to track the success of the wiretap programs (“Bush-Era Wiretap Program Had Limited Results, Report Finds - CNN.Com” n.d.). A state police survey published in 2011 noted that while there was a “higher level of agreement... with the notion that homeland security was the dominant strategy for the entire police institution,” roughly 63% of police chiefs in Texas disagreed that agencies like the FBI were effectively using law enforcement as a resource (Stewart 2011). Therefore, without a sense of what was effective and what was not, intelligence capabilities continued to expand while discourse by the research community would only follow rather than lead.

### **2010-2019 Aftermath of 9/11**

By the 2010s, surveillance and intelligence within the United States expanded and normalized in both federal and local law enforcement. However, like the matter of jurisdiction, the relationship between multi-level government agencies has not stayed within the parameters of only counterterrorism. Much of the same acts and institutions from the initial post 9/11 aftermath remains, however the transparency and uses of gathered intelligence has shifted over time. Policing would become broader and more well-equipped to utilize the technology and communication protocols well in the 2010s. Additionally, the boundaries between intelligence centers became merged together, meaning federal government intelligence efforts between different departments and agencies were no longer separated from each other.

## Communication

As these intelligence databases expanded, so did the access local police agencies in the United States would have to these capabilities. The federal government has maintained its authority on counterterrorism intelligence nationwide but it was always the intention to coordinate information with local, state, and tribal authorities to prevent monopolization within the intelligence community. Intelligence resources like the Nationwide Suspicious Activity Reporting (SAR) and the continued use of the N-DEx offered standardized police reporting that was supplemented by training in 2011 to 2012 for local law enforcement authorities (“National Criminal Intelligence Sharing,” 2012).

While success stories and controversy still highlight the far spectrums of this relationship between local and federal law enforcement, numerous resources and clearer directions for local law enforcement agencies to abide and participate by have grown exponentially. The DOJ’s Nationwide SAR Initiative, addressed to local, state, and tribal authorities and available through different online sources, detail how to coordinate successfully with federal agents when requesting assistance on suspicious activities as,

“A law enforcement or homeland security professional, you are responsible to ensure the public you serve understands how to report suspicious activity and your agency or organizational members support the collection, analysis, and submission of suspicious activity reports to your fusion center or FBI JTTFs” (Nationwide SAR Initiative 2014).

SAR training is also free for line officers and other law enforcement personnel if they are associated through associations like the National Sheriff’s Association, indicating more accessibility for agencies that value partnerships. The Major Cities Chiefs Association (MCCA), which serves about 76.5 million North American residents, also recognizes the need for its estimated 177,000 sworn workforce members to coordinate with federal agencies. Other

partnerships between the MCCA and organizations like the Intelligence Commanders Group (ICG) have created formal committees with the FBI “to help execute a comprehensive threat assessment and reporting process to identify local groups and national threat issues,” as noted in the MCCA’s 2017 Annual Report. Other developments between local law enforcement agencies even extended into improving digital evidence access and utilizing DNA for future investigations (“2017 Annual Report” 2018). However, this doesn’t account for the entirety of local law enforcement and the presence of sanctuary cities and those that have pulled from JTTFs. These local authorities that oppose federal collaborate highlight the conflict still present between some federal-local partnerships.

As discussed within in the jurisdiction chapter, Portland and San Francisco are two prominent examples of cities unwilling to follow initiatives like the 287(g)-immigration program or counterterrorism partnerships, like the JTTF, that deputize local and state police to conduct federal investigations and arrests. Due to immigration becoming heavily politicized and policed at a federal level, federal oversight has scared off some municipalities and states that do not share these same priorities. This inevitably limits the clearances and access to ongoing investigations that certain police will have with other agencies. Currently, no agreement is in place (“Citing Deep Distrust, Portland Pulls from FBI Anti-Terror Panel - Oregonlive.Com” n.d.). For these extreme cases opposition, it is important to understand that while communication has increased, individual police authorities may not elect to fully cooperate or abide by typical partnership styles nationwide.

As stated in an official executive summary of the Criminal Intelligence Enterprise initiative of the MCCA, “we cannot have quality analysis without quality collection. Without improving the quality of intelligence collection, fusion centers are left without adequate

information to analyze and share,” thus highlighting the need for combined nationwide support that many local law enforcement associations are now understanding and accepting. Not only is this pertinent to expedite terrorism and other large investigations but “22 percent of the 68 foiled terrorist plots (15 cases) from 1999 to 2009 were developed from leads from state and local law enforcement agencies” (“Criminal Intelligence Enterprise (CIE)” 2012). Other initiatives like the Global Justice Information Sharing Initiative serves as an advisory committee to the DOJ’s U.S. Attorney General to assist and implement publications and resources to local law enforcement agencies. One notable publication is the “Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies” from 2011. The article instructs local agencies on how to identify and recognize first amendment protections when investigating crimes that could potentially violate rights of the suspect or related individuals (“Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies,” n.d.). While not directly associated with counterterrorism, certain publications like this anticipate the potential for more legal challenges that local and state police may experience when employing intelligence and communication with federal agents. This increases only more so when understanding that intelligence-led policing is no longer strictly for terrorism investigations but involves immigration, drugs, and other criminal acts that are regularly charged and prosecuted at a local and state level.

## **Intelligence**

Understanding the DOJ’s connection to other federal intelligence centers is vital in understanding how surveillance and communication functions in the 2010s. A major event that reveals the scope of federal intelligence was the unauthorized release of classified surveillance information by a former National Security Agency contractor, Edward Snowden. In 2013,

Snowden released information on the United States' intelligence centers and scope of surveillance to *The Guardian* after fleeing to Hong Kong to avoid arrest for what many politicians, including the Senate's Intelligence Chair, Dianne Feinstein, called 'treasonous' behavior (Landau 2014). In a subsequent review by House Permanent Select Committee of Intelligence (HPSCI) published in September 2015, it was revealed that approximately 1.5 million documents were downloaded and stolen by Snowden to highlight potential privacy abuses committed by the federal government. While much of the committee's report remains redacted through a declassified FOIA request, the review largely sums up that, "the vast majority of the documents Snowden removed were unrelated to electronic surveillance or any issues with privacy and civil liberties" (*Review of the Unauthorized Disclosures of Former National Security Agency Contractor Edward Snowden* 2016).

The federal government's belief that Snowden's unauthorized release of information was not related to surveillance was subsequently offset by the scope of what was found in the publicized documents. Much of the information revealed highlighted the massive scale of intelligence-gathering, which was predominantly impacted by the Patriot Act's loosening of FISA restrictions on warrants and wiretapping. Specifically, information related to citizens and noncitizens could range from "business records, hotel records, car rental records, credit card records... phone records, but the government used Section 215 [of the Patriot Act] to justify requests for domestic telephone metadata delivered in bulk, not individualized requests" (Landau, 2014). Bulk collection of information indicates federal government intelligence's scope has broadened instead of narrowed on suspected terrorists, meaning individuals have remained at a higher likelihood for surveillance just through the federal government itself.

These developments have not occurred without a fair share of legal challenges. In 2013 and 2015, after the discovery of the scope of internet and phone surveillance by the NSA, the ACLU filed several lawsuits due to the intelligence program violating “constitutional rights of free speech, association, and privacy.” Plaintiffs in the *Wikimedia Foundation v. NSA* 2015 case consisted of large organizations that included the Wikimedia Foundation, Rutherford Institute, Amnesty International USA, and the Human Rights Watch among others who allege this intelligence-gathering impacts their ability to investigate and communicate confidentially with sources. These organizations are additionally concerned as their own databases could be utilized by intelligence agencies for analyzing internet activities at a massive scale. This case is ongoing in the federal district court and the latest update was in 2018 where Wikimedia cited issues with the government remaining unwilling to provide certain evidence that would validate the plaintiff’s standing to sue (Buatti and Palmer 2016; “ACLU Sues NSA to Stop Mass Internet Spying” 2015; “Wikimedia Foundation v. NSA: Court Rules for Government on Evidentiary Issue” 2018). Other cases involved the FBI utilizing Best Buy Geek Squad employees as informants to conduct warrantless searches on clients’ computers at the national repair facility in Brooks, Kentucky. Released documents from DOJ sources would later establish the FBI’s reliance upon Geek Squad and other unidentified computer companies since at least 2008. This led to the EFF filing a FOIA request to the FBI in early 2017. The FBI denied the request and as well as a subsequent administrative appeal to the DOJ. EFF sued the DOJ and the lawsuit is pending as of this publication (Mackey 2018; “FBI Geek Squad Informants FOIA Suit” 2017).

Unfortunately, this misuse of post-9/11 intelligence databases is not only committed by federal agents. In 2016, the EFF cited numerous cases of local police violating intelligence protocol and authority in a nationwide study. Between 2013 to 2015, “more than 325 officers and



employees either resigned or were fired or suspended for unauthorized database queries. In other 250 cases, staff received reprimands, counseling or other lower levels of discipline,” demonstrating a disconcerting scale of how data is potentially handled at the local level (Maass 2016). In Minneapolis, while 88 incidents of violating data use were cited by state agencies, a state audit estimated that roughly half of 11,000 law enforcement officers had accessed databases like the Driver and Vehicle Services (DVS) and misused data for personal reasons rather than for an investigation (“Audit Finds Common Misuse of Minnesota Driver Data” n.d.). Other cases involved officer’s utilizing federal and state databases to sell data, racial profile, stalk, and screen personal acquaintances or ex-lovers, citing at 432 cases of misuses in Florida and data violations doubling in California from 2010 to 2015 (Maass 2016). This level of information available to nearly all participating local and state police agencies nationwide means that the potential for mishandling data increases. The scope of these incidents also helped to demonstrate the scope of how many law enforcement officers are actively utilizing the database in total as well. In the 2010s, this level of intelligence and information-sharing is not explicitly for counterterrorism anymore, either.

While these measures instituted by the United States were meant to stop terrorism (when used appropriately), much of it has led to an expanded use for the drug war and immigration control. The organization of a federal-local partnership investigation begins with suspecting a criminal act and demonstrating probable cause to a judge, typically a federal judge if a federal warrant is served. The information that leads to gaining a warrant for searching or arresting an individual may come from various sources and these sources have expanded since 9/11. Local law enforcement and private security are expected to report suspicious activities and collaborate with authorities like the estimated 4,000 JTTF members to ensure information is communicated

across all levels nationwide. The ACLU reported that out of the Patriot Act's 3,970 "sneak peek" search warrants in 2010, less than 1% was used for a terror-related case, but instead 76% of warrants were drug-related ("Surveillance Under the Patriot Act," n.d.). This shift in national security priorities has meant that no longer is contemporary motivation set on specific organized terrorist cells infiltrating the nation, but undocumented individuals, regardless of ties to known terrorist groups. This intelligence search, created by the federal government and trickled down into the local police agencies, is not a small operation either. Through a "transparency report" created by the Office of the Director of National Intelligence, 90,000 foreign persons or organizations were investigated through the Foreign Intelligence Surveillance Act just within 2014 (*Telecommunications Reports* 2015). Out of the total 24 million individuals arrested by a federal authority from 1991 to 2009, 22 million were arrested on the US-Mexico border, leading to a pattern of focusing criminal enforcement on civil violations. Beyond immigration control, other federal agencies actively encourage other forms of widespread policing in local law enforcement. In 2018, the DOJ's FBI, Bureau of Alcohol and Tobacco, Firearms and Explosives (ATF), and the Drug Enforcement Administration (DEA) were featured in a Human Rights Watch report regarding their utilization of "parallel construction," a method that means providing alternative explanations for investigations. This method helps to bypass FISA's restrictions on warrantless searches as well as hide the federal intelligence techniques in court settings if the intelligence methods were illegal. It also assisted local and state authorities to target specific suspects with federal information, allowing a greater number of investigations and eventual prosecutions to occur at a local level. While the exact number of parallel constructions is unknown and "it's not clear how widespread the practice is," this tactic does not apply only to terrorism cases. Instead, most tips from federal authorities to local police involved "whisper"

stops, a federal tip to local police that leads to a minor traffic violation to then start an investigation. These stops typically targeted individuals who would not be convicted or connected to any terrorist plot but would be charged for possessing drugs. The danger of this type of federal-local partnership means that the lack of transparency in court evidence of how a n investigation was originally started “harms defendant’s rights and impedes justice for human rights violations” (Avenue, York, and t 1.212.290.4700 2018; “Report Alleges Police Use Secret Evidence Collected By Feds To Make Arrests” n.d.).

The question then becomes if the same is true at the local level. After 9/11, the non-federal law enforcement was granted through multiple federal programs. For immigration and population management, these initiatives took the form of,

“*Ad hoc* local-federal policing related to anti-gang enforcement, workplace raids, fugitive operations (targeting non-citizens who have not complied with formal deportation orders), drug enforcement operations, as well as certain local-federal information sharing initiatives such as the recent Secure Communities program, which allows for local and state police to determine the immigration status of individuals arrested for a crime and booked into a non-federal holding facility” (Coleman and Kocher 2011).

Secure Communities is organized through the DHS, however the DOJ and local law enforcement are critical to its function. While ICE notes that “only federal DHS officers make immigration enforcement decisions,” the initiative was implemented to all 3,181 jurisdictions across the U.S. in 2013. After a brief suspension from 2014 to 2017 due to DHS policy, the initiative was restarted under executive order 13768 by President Trump, named *Enhancing Public Safety in the Interior of the United States*. Since its reactivation, approximately 43,300 individuals have been deported for a total of over 363,400 across the lifespan of the program (“Secure Communities” n.d.). These numbers are in part due to the number of local law enforcement officials potentially available to arrest and detain suspects as “crime control largely

falls under the domain of local police.” Other crimes like gang violence and drug trafficking have involved more cooperation between federal-local partnerships such as in the case in Chicago in 2014. After local police gained information from citizens about drug activity in the area, federal authorities were brought in to charge 27 individuals for drug trafficking. Federal U.S. Attorney of Illinois Zachary Fardon noted that this is,

“one of the most significant cases brought so far by a multijurisdictional task force of federal and local law enforcement... the strike force has the ability to develop nimble and quick-moving investigations that can disrupt the drug trade” (Meisner n.d.).

Implementation of fusion centers and nationwide databases that allow crime analysts and line officers access to potential “red flags” at the click of a mouse still remains a major shift in local police efforts. Intelligence is now not necessarily associated with counterterrorism prevention but to organized crime, drug trafficking, and violent offenses that otherwise were not targeted by intelligence-led policing. No longer is terrorism considered in the top five average concerns to a majority of local police, now the typical threats are violent crimes, drug trafficking, gang violence, and the opioid epidemic while domestic and foreign terrorism are ranked as lower priority (Myers 2018). With this shift in national threat assessments and novel intelligence operations comes a stronger partnership with the federal government that has grown since the 2010s.

Ultimately, 2001 to 2009 served as the experimental and unlimited expansion of the federal government’s intelligence capabilities through the Patriot Act and increased prioritization in intelligence-led policing beyond just counterterrorism. The 2010s would in turn feature continued backlash by civil liberty advocates due to the potential for violating privacy and the unusually massive scope of surveillance. Legal challenges against the U.S. intelligence community, unlike those featured in the 2000s, involve a wider range of violations and

investigations involved. Immigration control and unrelated crimes would benefit from these new intelligence organizations and databases, shifting law enforcement's attentions away from exclusively counterterrorism efforts. Local law enforcement would now cooperate more extensively with the federal government and partnered police associations to gain access to these intelligence centers.

While this partnership has remained controversial due to the federal and local government's increased scale of intelligence, no longer can the lack of communication be associated between federal and local law enforcement. However, the idea that these partnerships only focus on terrorism is no longer accurate. While counterterrorism remains an essential aspect to intelligence-led policing, traditional policing has married information databases and federal partnerships to increase the scale to which investigations and arrests can be made. Since the 2000s, this highlights a unique progression in post-9/11 law enforcement and the priorities of the United States in terms of national security. Local police have increased access and dialogue with federal agents for investigation and prevention of similar acts like 9/11 through conferences, training, and intelligence resources.

## **Resource Allocation**

### **2001 - 2009 9/11 Aftermath**

To combat terrorism, a police agency requires a lot of support not only through communication advances and better laws but through better funding and resource allocation. Training, funding, and support through the federal government changed significantly after 9/11 for local law enforcement. Just as jurisdiction and communication changes occurred, the expectation and execution of law enforcement occupational capacity and organization rapidly increased. Immediately after the attack, law enforcement agencies, both federal and local,

recognized the lack of manpower and consistency in training and policing as dangerous weaknesses in homeland defense. Resources were now flooding back to law enforcement authorities at a faster rate and as a higher priority not seen in decades.

Something that is important to address is that these resources were wanted for a long time. Many of the national security flaws illustrated prominently by the September 11th, 2001 attacks were not perpetuated out of purposeful negligence or oversight by law enforcement. Notable incidents like the 1995 Oklahoma City bombing and 1996 Atlanta Olympic Park bombing had already previously demonstrated the dangers of terrorism domestically, but 9/11 was presented as a new form of terrorism that weaponized everyday American life (airplanes, travel, urban spaces, morning commutes, politically-important public spaces, etc.). It was, as noted in Birkland's "The World Changed Today," a massive event that Congress was expected to address since most security concerns were previously overlooked by non-law enforcement authorities. Response was therefore immediate and great after 9/11 as "proposed changes included federalized (or at least trained and certified) passenger screeners" as well as accommodating more lenient policing methods for law enforcement through laws like the Patriot Act (Birkland 2004).

After 9/11, the importance of law enforcement positions was reinforced as local and federal law enforcement accommodated larger occupation capacities. One way this was addressed was through the Homeland Security Act of 2002 that transferred federal officers and employees into the Department of Homeland Security. By 2003, the majority of federal officers with arrest and firearm authority were now attributed with the DHS and DOJ rather than the Department of Treasury or other smaller departments (Reaves 2006). Border control officers experienced a large increase after 9/11 and would ultimately lead to "165,000 deportations in

2002 to nearly 400,000 in 2009” as formalized partnerships through the 287(g) and JTTF expanded immigration enforcement (Kirk et al. 2011). Locally, jobs such as crime analysts, intelligence operatives and more emergency responders were now essential to combat terrorism domestically. The Bureau of Justice Statistics notes that from 2004 to 2008, “full-time employment by state and local law enforcement agencies nationwide increased by about 57,000 (or 5.3%),” and that this equated to 1,133,000 individuals, both sworn and not, employed through state and local agencies (“Bureau of Justice Statistics (BJS) - Census of State and Local Law Enforcement Agencies, 2008” n.d.).

Training officers became another challenge as law enforcement shifted towards intelligence-led policing. After 9/11, ports of entry and other transportation into major cities became critical for evaluating dangerous materials for future terrorist attacks. However, when cargo containers from the Middle East were investigated by federal inspectors soon after 9/11 at a lower Manhattan port of entry, “the X-rays and searches, however, had always been geared to looking for smuggled drugs... But they had little training in looking for bombs” (Brill 2016). With newer risks and terrorist methods illustrated by September 11th, 2001, training for law enforcement personnel rapidly shifted towards preventing and combating terrorism at a broad level that required new skills for the nation’s police. Past efforts for counterterrorism programs were difficult to measure successfully and now required a shift in thought to develop investigation systems that didn’t rely on “success on arrests, prosecutions, and convictions,” but instead focused on the prevention of crime (Paulling, n.d.). Additionally, it was not only a change required at the federal level but for all law enforcement nationwide.

In 2002, the FBI acknowledged the need for improvement within their agency and stated in a press release to

“1) institute a case review system to learn from past investigations; and 2) establish a working group, chaired by the Deputy Assistant Director from the Criminal Investigative Division, to implement this system and analyze lessons learned.”

Changes were made internally soon after to accommodate a new special agent career track that focused exclusively on counterterrorism. This effort included mentorships by established agents, forums with experienced personnel, and terror-related curriculum in addition to Quantico training. By 2009, development of this career path was in its infancy still as curriculum and web-based forums were not utilizing all available expertise from long-term agents and investigations (Paulling, n.d.). While the FBI worked on these internal programs, local law enforcement became a critical partner to train alongside.

The FBI, one of the top investigative authorities within the DOJ, assumed the majority of training responsibility post-9/11. Even prior to 9/11, there were several large training programs offered to state and local law enforcement, which included the National Executive Institute (NEI), Hogan’s Alley for scenario-based training, and the FBI Academy. After 9/11, the number and scope of training options expanded. The Law Enforcement Executive Development Seminars (LEEDS) provided leadership and police programs to mid-sized law enforcement agencies serving 50,000 people or more. Other programs such as the Law Enforcement Instructor School (LEIS) addressed training gaps in the fragmented police network so that “state and local law enforcement attendee participants learn and practice a variety of teaching strategies to deliver effective instruction” (“Training Academy” n.d.).

However, other more specialized terrorism-related training was emphasized by the FBI after 9/11. In the FBI’s 2004 Authorization and Budget Request presentation to the House, it was emphasized that there would be,



“500 JTTF agents and state and local law enforcement personnel with specialized counterterrorism training and by the end of the year, basic counterterrorism training to every JTTF member. [The FBI] also are expanding basic counterterrorism training on a national level and estimate that almost 27,000 federal, state and local law enforcement officers will ultimately benefit from these FBI training initiatives” (“FBI Authorization” n.d.).

The consistency of training and preparedness remains difficult to document and certain cases point to training gaps remaining in the 2000s. In one specific instance, a 2007 census regarding local and state South Carolina law enforcement found that, “when asked if scenario-based training had been conducted by their agency, a minority (sixty-three, or 37 percent of participating agencies) indicated they had engaged in this type of training.” Other critical resources like hospitals and the assistance of federal agencies were also not commonly utilized for training local police on terrorism situations. In the same census, only 25% state and local agencies created formal standards to respond to terrorist attacks and very few agencies requested funding from federal, state or local governments (Pelfrey 2007).

Practice such as TOPOFF exercises are additionally difficult to determine preparedness for terrorism. TOPOFF exercises were mandated by Congress since 1998 and, after 9/11, headed by the Department of Homeland Security to simulate different disasters, both manmade (cyberattacks, bombings, etc.) and natural disasters. While the DHS assumes authority, DOJ federal officers respond and work with local police as if the drills are real. These drills are tightly-controlled and only actively include federal, state, and local government, meaning that participation by the public and the media is restricted. In 2007, Portland, Phoenix, and Guam were selected to partake in a terrorism scenario in which a dirty bomb (an explosive that contains radiation) would go off. *Time* reported on the preparation for the drills and noted, in regards to the effectiveness, “aside from the miscommunication and tribalism among local, state and federal

officials before, during and after events, none of them have really been all that realistic.” In addition, these scenarios are prompted to all participants beforehand and the reports afterwards are classified, leaving the actual problems and potential solutions found from each drill unavailable for both the public and intelligence community to examine (Ripley 2007).

Regardless of the difficulty measuring success, funding continued. The FBI budget roughly tripled since 2001 by the mid-2010s and agents assigned to national security consist of roughly half of all those employed (Brill, 2016). By 2005, the FBI’s financial structure was also established to organize budget requests through four units: Intelligence, Counterterrorism/Counterintelligence (CT/CI), Criminal Enterprises/Federal Crimes, and Criminal Justice Services (“Federal Bureau of Investigation Annual Financial Statements - Fiscal Year 2011,” n.d.). On May 6th, 2003, FBI Executive Assistant Director, Pasquale J. D’Amuro, presented the 2004 Authorization and Budget Request before the House of Representatives. In this presentation, major technologic and structural changes were introduced and justified for continued funding. Notably, 21,000 desktop computers and high-speed internet to roughly 600 FBI locations were provided while new job positions were added through increased Joint Terrorism Task Forces and fusion centers between multi-level government law enforcement (“FBI Authorization” n.d.).

Locally, law enforcement shifted its finances and resources to accommodate larger counterterrorism programs. In 2003, the Portland Police Bureau (PPB) was awarded a \$1.3 million grant from the DOJ to address overtime associated with homeland security-related investigations. Other efforts detailed the PPB’s 2004-2006 Community Policing Strategic Plan included training with federal and state law enforcement, creating the Explosive Disposal Unit (EDU) for responding to “terrorist activities and WMD events,” and maintaining the

Arab/Muslim Police Advisory Council that was established in 2002. At this time PPB's Criminal Intelligence division also participated with the FBI's JTTF (*2004-06 Community Policing Strategy Plan 2004*).

In New York City, the NYPD operated on approximately \$3.5 billion in 2005. That same year, federal funding assisted with hiring 730 new officers for a Republican National Convention in anticipation of any potential terrorist threat at the event. Other priorities such as renewing police infrastructure and improving communications and computer equipment accounted for over \$250 million in spending. Something notable is that the NYPD is reliant on federal grants for much of the counterterrorism assistance provided. Soon after 9/11, Congress allocated significant grants to both state and local governments. Cities like New York City received only \$95 million out of total funding or roughly \$5.47 per person, while

“Wyoming, for example, received \$38.31 per person in State Homeland Security funds... If all of the homeland security and bioterrorism grants were distributed on a threat-based allocation similar to the High Threat Urban Area Security Initiative, [New York City] would receive at least \$400 million in the next fiscal year” (Johnson and Richards, n.d.).

With all of these moving parts, it can be difficult to find the common thread beyond the increased funding and increased personnel employed through the DOJ and most local law enforcement agencies. However, what would soon become more apparent by the 2010s, was the increased reliance of early post-9/11 infrastructure and resources to apply intelligence-led policing on all levels, not just counterterrorism. Gang violence, organized crime, the war on drugs, and immigration control would become vital objectives for most federal and local police. Legislature and administration changes would reemphasize these priorities as would the departments responsible for executing orders such as the DOJ and DHS.

### 2010 - 2019 9/11 Aftermath

By 2016, there were 15,328 “general-purpose” law enforcement agencies within the United States. “General-purpose” in this context exclusively refers to local or state police. In the August 2018 statistical brief through the Bureau of Justice Statistics, the amount of full-time sworn officers nationally decreased since 2000. While 52,000 officers were reported to be now employed in either a state or local police agency from 1997 to 2016, this was accommodated with the estimated 56 million increase in U.S. population occurring also (Hyland 2018). In late 2011, the FBI employed 13,900 special agents and approximately 22,000 support staff, totaling roughly at 36,000. Since late 2018, the total number of professionals employed by the FBI has remained consistent at 35,390 (“Audit of the Federal Bureau of Investigation Annual Financial Statements Fiscal Year 2017” 2017).

National security funding in the United States has remained controversial. The War on Terror since 2002 has cost an estimated \$2.8 trillion both abroad and domestically since 2017. Out of the \$71 billion total homeland security spending in 2017, the Department of Justice was responsible for 6% while the Department of Homeland Security retained over 51% spending authority. Border and transportation security have consistently accounted for 39% of \$379 billion of total homeland security spending since 2002 to 2017 (“The United States Has Spent at Least \$2.8 Trillion on Counterterrorism since 9/11” n.d.). In a 2012 *Washington Post* article, it was reported that Senate investigators had assessed 77 fusion centers headed by the DHS that involved federal, state and local law enforcement during a nine-year period. In the report, it was noted that money was spent on frivolous technologies like SUVs, big-screen TVs, and “shirt-button” cameras whereas training consisted of brief, generalized five-day workshops on intelligence reporting for non-federal officers. Lack of budget oversight was also a noted as a

major issue for the fusion centers as official estimated total federal spending “between \$289 million and \$1.4 billion.” Other federal grants supplied to state and local officials for intelligence purposes were also wasted on a \$2 million Philadelphia fusion center that never opened and several instances of money misappropriated to non-law enforcement departments (“DHS ‘Fusion Centers’ Portrayed as Pools of Ineptitude and Civil Liberties Intrusions” n.d.).

For the fiscal year 2011, the Office of Inspector General summarized the FBI’s financial expenditures and budget. The total FBI budget available was \$10.3 billion in 2011 and roughly 61% of the net cost was allocated to the Counterterrorism/Counterintelligence unit (“Federal Bureau of Investigation Annual Financial Statements - Fiscal Year 2011,” n.d.) By 2016, the FBI requested \$8,483,607,000 from Congress which included \$20 million for cybersecurity capabilities citing objectives to streamline information sharing and to better organize programs across the agency. In the official 2017 fiscal year audit for the FBI the total budgetary resources were \$12.71 billion with \$4.8 billion allocated to the Counterterrorism/Counterintelligence unit (“Audit of the Federal Bureau of Investigation Annual Financial Statements Fiscal Year 2017” 2017). The majority of the FBI’s budget is routinely allocated to terrorism-related programs, demonstrating funding has remained constant and accommodative for national security expenditures since the immediate post-9/11 period.

In comparison to local law enforcement, finances and resources can vary. The Portland Police Bureau in Portland, Oregon published their 2018-2019 Requested Budget and highlighted the need for additional occupational force and training for their Emergency Response and Problem-Solving program. The estimated \$1.3 million-dollar request would

“add a dedicated RRT [Rapid Response Team] unit, crime analyst, and a Police Administrative Support Specialist to deliver a higher quality of EMU [Emergency Management Unit] and RRT services year-round as these officers will address training, equipment needs,

and resources without pulling from the current pool of detached officers.”

This would additionally allow the bureau more time to improve training coordination with local partners for conducting intelligence and threat assessments. The police budget accounts for 4.5% of the city’s budget and the Emergency Response and Problem-Solving program accounts for 35.2% of the requested \$229,569,464 for 2018-2019 (Portland Police Bureau, 2018). Interestingly, out of the 103 Joint Terrorism Task Forces in the nation, Portland formally removed its police from the force in early 2019 and this will inevitably change how resources, training and funding will be allocated between local and federal law enforcement within the city (*Emergency Preparedness News* 2019). However, this break from traditional collaboration since 9/11 may highlight the different dynamics possible when federal and local police do not coordinate through formalized partnerships.

The New York Police Department handles considerably larger funding to focus predominantly on intelligence and counterterrorism. The Counterterrorism Bureau handles all terrorist threats within the city, provides training, and responds to all threats with specialized police units. In the 2016 fiscal year, the NYPD handled roughly \$150,000 for its Intelligence and Counterterrorism Bureau. Up to the preliminary 2019 budget request, the budget increased and has consistently remained around \$190,000. However, the total number of civilians and sworn officers involved in the bureau has decreased from approximately 1,700 in 2016 to 1,500 in 2019. This could signal shifts in priorities as, within the same report, funding for school security to prevent attacks within the New York area increased dramatically from an estimated \$275,000 in 2016 to almost \$290,000 in the 2019 preliminary budget. Overall, total budgets for the NYPD and patrol services have increased in the 2010s but have not poured exclusively into the Counterterrorism Bureau. However, in 2018, out of the \$208 million provided to the police

department by the federal government, almost half still originated from two counterterrorism grants: Urban Areas Security Initiative (UASI) and Securing the Cities. While the state and local governments dictate the majority of the financial allocations within the city budget and NYPD, much of the Counterterrorism program “is entirely funded by federal grants... as a result, it creates considerable fluctuations in the budget” (Johnson and Richards, n.d.).

With the finances invariably tied to the federal government and heavy investment through local police, there has remained the question about the actual effectiveness of the resources allocated to U.S. counterterrorism. In a 2015 report, the Department of Homeland Security’s airport security, TSA, was internally investigated. In 95% instances banned materials including fake explosive devices were not identified during screening (Campbell 2015). In 2013 after the Boston Marathon Bombing that led to three deaths and numerous bodily injuries, it was reported that the FBI had in 2011 contacted Tamerlan Tsarnaev, one of the bombers, after inquired by the Russian government. No follow-up or work was done to tie Tamerlan to organized crime, bomb-making, or extreme ideologies, which were later identified on his social media prior to the attack (Daly 2013). More recently, legislative changes to background check systems for gun purchases bypassed checks through the Social Security Administration and FBI to identify dangerous or disturbed individuals. In early 2018, Nikolas Cruz purchased an AR-15 and killed 17 people at Marjory Stoneman Douglas High School in Parkland, Florida. Cruz was repeatedly reported to the police and mental health professionals prior to the attack due to his aggressive, threatening behavior. In one instance, Cruz commented “I’m going to be a professional school shooter” on a Youtube video and a bail bondsman responsible for Cruz notified the FBI. Reportedly, they were unable to identify Cruz as the commenter (Emma, Ehley, and Ducassi n.d.). Noticeably, in the last example, the face of terrorism has shifted and resources have failed to accommodate these

changes as rapidly as they transform. Just as terrorism was viewed as a foreign threat before 9/11, terrorism has not remained an operation organized by many people with a specific ideology that targets buildings with planes, but instead has increased in methodology and scope. The FBI published a study in September 2013 that identified 160 active shooter incidents between 2000 and 2013 and, while the variables of geographic location, victim type, and shooting location range widely, “the findings establish an increasing frequency of incidents annually.” The conclusion of the report emphasized the importance that with these attacks there should be training and exercises for both law enforcement and civilians to anticipate and prevent future shootings (*Time* n.d.).

In response to the shift in terrorism threats, resources and funding by agencies such as the FBI have become allocated more to address these threats. In late 2012, the DOJ and the FBI created the Active Shooter Program to create nationwide protocols for responding to a shooting incident known as the Advanced Law Enforcement Rapid Response Training (ALERRT). Since 2012, “ALERRT has trained more than 114,000 law enforcement first responders,” and FBI field offices provide conferences for local police (“Training Academy - FBI,” n.d.). For the 2020 budget request, the FBI requested \$16.6 million specifically for technical and analytical capabilities to strengthen background information efforts as well as include 48 new positions within the agency. As FBI Director, Christopher Wray, noted during the House Appropriations Committee,

“The FBI is most concerned about lone offender attackers, primarily shootings, as they have served as the dominant mode for lethal domestic extremist violence... we continue to encourage information sharing, which is evidenced through our partnerships with many federal, state, local, and tribal agencies assigned to Joint Terrorism Task Forces around the country” (*FBI Budget Request for Fiscal Year 2020* 2019).



Terrorism unfortunately is not a static concept and how the federal government and local law enforcement addresses new terrorism is difficult to predict. Just as 9/11 destroyed prior misconceptions as to how terrorism itself functions in conjunction with policing, newer forms of terrorism will change how training, funding, and other resources are allocated in the short-term and long-term.

In regards to the 2000s and 2010s, resources were made readily available after 9/11 to both federal and local law enforcement entities. Beyond counterterrorism funding which has remained consistent, if not reliant upon federal grants, there is evidence that budgets are increasing in general and do not allocate primarily into the counterterrorism programs for police departments. Federally, the FBI remains the largest resource for counterterrorism and still retains the largest funding in comparison to most local agencies. For the local law enforcement, the money and resources are not just tied to counterterrorism. While this is a generalization of the approximately 16,000 local and state law enforcement agencies present in the country, intelligence is no longer inherent with terrorism but has expanded into immigration, violent crime, and other priorities for police. With this shift to intelligence-led policing at a larger scale not seen at this level in United States history, resources after 9/11 have provided wide-scale training and higher prioritization on preliminary budgets. However, although some information remains classified or ill-documented, the actual results of the money and resources spent from 2002 to 2019 is difficult to prove. 9/11-level incidents have not occurred domestically since 2001, but the actual justification for huge spending no longer appears to apply to exclusively prevent this. Law enforcement in the United States is now granted large spending that involves almost all areas of policing and encourages the utilization of early post-9/11 resources for many police objectives, not just counterterrorism.

## **Conclusion**

The scale of post-9/11 law enforcement is giant and this paper only scratches the surface of the potential debate and analysis present in the available resources and research presented since the event. This research is intended to set the foundation for understanding three critical levels of federal-local partnerships in the United States: jurisdiction, intelligence, and resource allocation. While early literature from the 2000s highlight the short-term impact of massive organizational change, shifting political and security priorities, and the development of new resources for both federal and local law enforcement, the 2010s is a different story.

From the research and analysis conducted for this paper, the concepts and progression of U.S. law enforcement is fascinating to witness. Law enforcement is a major industry within the country and, due to the past failures in terms of communication and hierarchy present prior to 9/11, federal-local partnerships are bound together in newer, complicated ways not witnessed before in United States history. The desire to combat terrorism in the homeland introduced new departments, new protocols, and new resources for law enforcement at all levels, including private security. With these changes came the ability to gain a greater scale of information through databases and fusion centers. It's important to note that this is where many of the problems of law enforcement remain today.

Traditional law enforcement is now supplemented by what was originally meant to be tools to combat terrorism in U.S. communities. Immigration, drug trafficking, and newer forms of terrorism have demanded these capabilities and, in the 2010s, the shift towards intelligence-led policing at all levels for all crimes is becoming a greater reality. Legal battles and human

rights organizations have become the auditors for assessing the dangers of implementing such tools on a wider scale for all criminal and civil investigations and arrests. Cities and other jurisdictions of the United States have additionally opposed the normalized and expected collaboration between federal and local authorities. The growing number of sanctuary cities and growing distrust for federal task forces are pointing to a new future where fragmentation between local and federal law enforcement reappears but in a new form not before documented. The United States is a giant territory and the manner of how policing is conducted across each state, each county, and by each officer is critical to understanding how the federal government and local authorities continue to interact and create or destroy policies and precedents together.

Due to this complicated reality, the scope of this paper is limited and now invites response from political science scholars to assess and reevaluate the post-9/11 institutions that the United States relies on still today. With time, more FOIA requests and more publications will allow the political science community greater access to the operations occurring between federal and local law enforcement in the 2010s. This paper, while it attempts to fill a missing gap in the story of the U.S.'s national security narrative, is intended to provide the big picture of how a singular terrible catalyst informs long-term security policies, partnerships, and priorities within a nation.

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