ABSTRACT

Decentralized organizational approaches to security provision introduce new challenges for controlling information-sharing practices, safeguarding civil liberties, and ensuring accountability. Department of Homeland Security “fusion centers,” and the multiple organizations and databases that are part of fusion centers, engender an environment in which information is migrating beyond original purposes of counterterrorism. Indeed, based on intensive qualitative research, the authors have found that fusion centers that were originally oriented toward “counterterrorism” have quickly broadened their scope to include all crimes, and those that began as “all crimes” have migrated only marginally to terrorism. This is the result of three quite predictable factors: fusion centers have to be valuable to their states, there is too little activity that is clearly terrorism related, and fusion center personnel have to use their time and skills constructively. Nonetheless, even if local policing needs are met through fusion-center funding and support, many of the activities of fusion-center analysts lend themselves to mission creep and violations of civil liberties.

Keywords: Data Sharing, Civil Liberties, Fusion Centers, Privacy, Terrorism

Beyond Counterterrorism: Data Sharing, Privacy, and Organizational Histories of DHS Fusion Centers

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The U.S. Department of Homeland Security (DHS), under both the Bush and Obama administrations, has supported the creation of “fusion centers” with a mandate to share data across government agencies as well as across the public and private sectors. The stated goal of fusion centers is to “blend relevant law enforcement and intelligence information analysis and coordinate security measures to reduce threats in their communities” (U.S. Department of Homeland Security, 2006). As of 2012, there were 77 state and local fusion centers, some of which were created in response to terrorist threats, while others emerged from existing law enforcement efforts (such as drug interdiction, crime control, or regional coordination). Although a number of concerns have been raised about fusion centers, particularly civil liberties violations, ineffectiveness, and cost (Monahan & Palmer, 2009; Permanent Subcommittee on Investigations, 2012), little attention has been given...
to the ways in which the unique identities of fusion centers contribute to such problems.

This paper explores the question of what factors shape the data-sharing practices of fusion centers, with particular attention to the organizational histories of fusion centers. Specifically, we argue that there is more data sharing with less oversight (i.e., mission creep) when: fusion centers take on responsibility for addressing “all crimes” or “all hazards” instead of addressing terrorist threats alone; state and local agencies seek out “dual purpose” functions that meet perceived local needs; multiple jurisdictions and actors with different policy orientations are involved; policies for data sharing or data management are unclear; oversight or enforcement of existing policies and laws is inadequate; and budgetary constraints under which fusion centers operate are great. Moreover, the technological systems deployed by fusion centers tend to facilitate data-collection, data-mining, and pattern-searching activities that are in tension with existing privacy laws.

The findings discussed here are based on a three-year empirical study of information sharing by—and organizational dynamics of—fusion centers. From 2010-2012, data for this project were drawn from government documents, reports of think tank and interest groups, and interviews with fusion center representatives and civil society groups. For the interview portion of our research, we spoke with data analysts and high-level personnel, most often the directors or co-directors, of 36 fusion centers, 33 of which are official DHS fusion centers. Of these 36 centers, 27 are state level centers, all of which are official DHS fusion centers, and 9 are sub-state (regional within a state). Fifty-six interviews have been conducted in total. Most of these interviews were conducted over the phone and lasted for about an hour, although six interviews were conducted with personnel at fusion-center sites. Confidentiality of interviewees and identities of fusion centers have been ensured through human subjects agreements.

Background on Fusion Centers

DHS fusion centers coordinate data sharing among state and local police, intelligence agencies, and private companies. These public-private partnerships became a central component of the U.S. homeland security framework in the wake of 9/11, and they have continued in importance under President Obama’s administration (Monahan, 2011). Fusion centers are seen as a critical component of the response to the problem identified by the 9/11 commission, and within the intelligence community generally, that various agencies did not work in concert to “connect the dots” that are necessary to combat terrorism and that an environment of information sharing should be fostered (Kean et al., 2004). As DHS Secretary Janet Napolitano (2009) stated at a conference of fusion center officials:

*I believe that Fusion Centers will be the centerpiece of state, local, federal intelligence-sharing for the future and that the Department of Homeland Security will be working and aiming its programs to underlie Fusion Centers...And by the way, let’s not forget the private sector when we’re looking at those partnerships.*

Based on DHS data, the U.S. Government Accountability Office estimated that states have used approximately $426 million in DHS grant funding from FY 2004 to 2009 and that about 60% of fusion center funding is from federal grants, 30% from state funds, and 10% from local funds (Government Accountability Office, 2010, pp., 14-16). More recent figures outlined in a Senate report put the total spending on fusion centers at up to $1.4 billion since 2003 (Permanent Subcommittee on Investigations, 2012). The difficulty in identifying precisely how much has been spent on these entities is reflective of the varied and complex nature of these sites and their federal, state, and local funding sources, which suggests an accountability problem that is reproduced in attempts to oversee the activities of fusion centers more generally.
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