

FEDERAL OVERSIGHT AND ACCOUNTABILITY FOR STATE FUSION
CENTERS

by
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Abstract

The recent increase in homegrown terrorist activity in the United States highlights a significant shortage of good, strategic analysis for the purpose of combating domestic terrorism and homegrown extremism. This activity is occurring under the purview of fusion centers, which were designed to prevent terrorism after the September 11th attacks were blamed on a lack of information sharing and collaboration. Only 15 percent of fusion centers focus exclusively on counterterrorism. The main critique of fusion centers has been that with limited resources and budgets, the all-crimes focus is hindering the ability to identify domestic terrorists.

This paper examines and weighs the policy and political implications of a proposal to increase by 30 percent the number of fusion centers who exclusively focus on terrorism-related issues. To achieve this goal, Congress will pass a bill to increase the amount of funds States are eligible for under the Homeland Security Grant Program in return for a restructuring and reprioritizing of state fusion centers under the U.S. Department of Homeland Security. Policy-wise, despite limitations on the increase in available funding, fusion center dependence on federal funding is significant enough to warrant the proposal. From the political perspective, the proposal is likely to be supported by New Yorkers, owing in part to New York City's profile as a target for terrorist attacks and New York lawmakers historical strong, bipartisan support for increasing counterterrorism funding. Perhaps a more salient justification for this proposal is the understanding that, regardless of the outcome of this policy, the U.S. Department of Homeland Security will continue supporting fusion centers. Because the proposal is analyzed to be effective and politically advantageous, its implementation is recommended.

Advisor: Dr. Paul Weinstein

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MEMORANDUM

TO US CONGRESSMAN PETER KING

FROM Micah J. Gaudet

SUBJECT Federal Oversight and Accountability for Fusion Centers

I. Action-Forcing Event

Before the U.S. House Judiciary Committee, FBI Director Christopher Wray asserted that domestic and homegrown extremism were the FBI's priorities for 2018.¹ From Las Vegas to Orlando, lone-wolf attacks, have recently been a *modus operandi* for both domestic terrorism and homegrown extremism. In the December 7, 2017 statement to the U.S. House Judiciary Committee, Director Wray listed homegrown extremism and the Islamic State as the top terrorism threats to the homeland.²

II. Statement of the Problem

There has been a significant increase in homegrown terrorist activity in the United States in recent years. This disturbing trend highlights a significant shortage of good strategic analysis for the purpose of combating domestic terrorism and homegrown extremism. Intelligence is designed to counter threats to public safety, including terrorism.³ However, at the state and local levels,

¹ Wray, Christopher A. 2017. *Oversight of the Federal Bureau of Investigation*. Statement, Committee on the Judiciary, U.S. House of Representatives, Washington: U.S. House of Representatives. <https://judiciary.house.gov/wp-content/uploads/2017/12/Director-Wray-Testimony.pdf>

² *Ibid*

³ US House of Representatives 114th Congress. February 2016. *After San Bernardino: The Future of ISIS-Inspired Attacks*. Hearing Before the Subcommittee on Terrorism, Nonproliferation, and Trade of the Committee on Foreign Affairs. Washington, DC

fusion centers are not providing policymakers with strategic intelligence for countering domestic terrorism and homegrown violent extremism.

In their annual report, the Anti-Defamation League point to an alarming trend in domestic extremist killings, noting that for every reported murder or assault, there are dozens more

unreported assaults and harassments.⁴ The

Southern Poverty Law

Center referenced an

addition of 25 hate

groups in the United

States from 2015 to

2016.⁵ Figure 1 from the

Anti-Defamation League show the 5 deadliest years for domestic extremist killings from 1970-

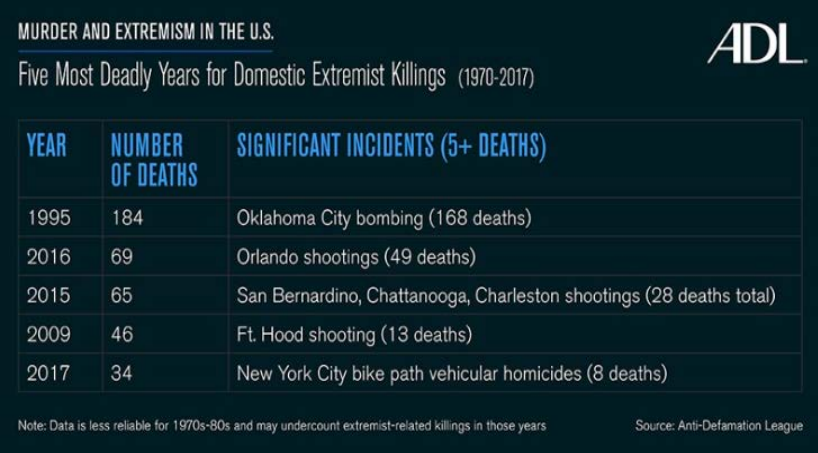
2017, the years of 2015-2017 are included in that top five list.⁶ The House Homeland Security

Committee documented 150 homegrown jihadist cases in America over the previous half-

decade.⁷ There is a clear increase in homegrown extremism and domestic terrorism activity in the

United States. This activity falls under the noses of fusion centers. Intelligence collection within

the United States is constrained by the limitations placed on the Intelligence Community by the



YEAR	NUMBER OF DEATHS	SIGNIFICANT INCIDENTS (5+ DEATHS)
1995	184	Oklahoma City bombing (168 deaths)
2016	69	Orlando shootings (49 deaths)
2015	65	San Bernardino, Chattanooga, Charleston shootings (28 deaths total)
2009	46	Ft. Hood shooting (13 deaths)
2017	34	New York City bike path vehicular homicides (8 deaths)

Figure 1 | Murder and Extremism in the U.S. | Anti-Defamation League

⁴ Anti-Defamation League. 2018. "Murder and Extremism in the United States in 2017" adl.org. 2018. <https://adl.org/education/resources/reports/murder-and-extremism-in-the-united-states-in-2017>

⁵ Southern Poverty Law Center. 2018. "The Year in Hate and Extremism" splcenter.org. 2018. <https://splcenter.org/fighting-hate/intelligence-report/2017/year-hate-and-extremism>

⁶ Anti-Defamation League. 2018. "Murder and Extremism in the United States in 2017" adl.org. 2018. <https://adl.org/education/resources/reports/murder-and-extremism-in-the-united-states-in-2017>

⁷ US House of Representatives Homeland Security Committee. 2018. "Terror Threat Snapshot - January 2018." homeland.house.gov. January 2018. <https://homeland.house.gov/wp-content/uploads/2018/01/January-Terror-Threat-Snapshot.pdf>

Constitution and regulations such as the Foreign Intelligence Surveillance Act. The result is a sizeable gap in intelligence, which must be filled by state and local intelligence agencies.

Fusion centers were designed to prevent terrorism, after the September 11, 2001 attacks were blamed, in part, on a lack of information sharing and collaboration by intelligence agencies.⁸

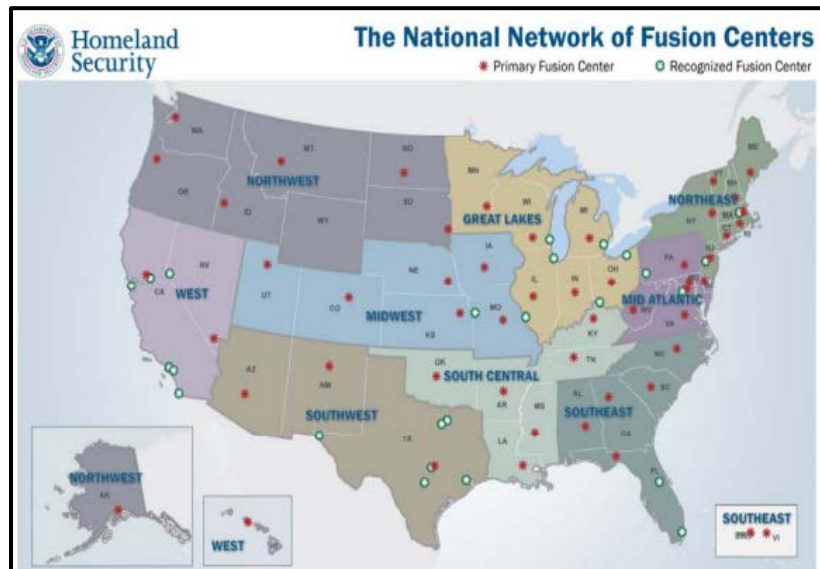


Figure 2 | Fusion Centers in America | US Department of Homeland Security

Fusion Center Guidelines

defines fusion centers as “a collaborative effort of two or more agencies that provide resources, expertise, and information to the center with the goal of maximizing their ability to detect, prevent, investigate, and respond to criminal and terrorist activity.”⁹ They are the hub for compiling, analyzing, and disseminating threat-related information to and from federal, state, local, tribal, and private-sector partners. In the pamphlet, *The Role of Fusion Centers in Countering Violent Extremism*, it is asserted that fusion centers play an important role in countering violent extremism, as they “empower frontline personnel to understand . . . national intelligence by tailoring national threat information into a local context and helping frontline

⁸ Marks III, Selby H. December 2014. *An Analysis of Fusion Center Collaboration in a Network Environment*. Doctoral dissertation, Reno, NV: University of Nevada, Reno.

⁹ Bureau of Justice Assistance Office of Justice Programs, Global Justice Information Sharing Initiative, and U.S. Department of Homeland Security. 2006. *Fusion Center Guidelines*. Washington. http://it.ojp.gov/documents/fusion_center_guidelines_law_enforcement.pdf

personnel understand terrorist . . . threats. . . ”¹⁰ The Department of Homeland Security classifies fusion centers as either *primary* or *recognized*. primary fusion center focuses on its entire state and are often owned and operated by the state, while a recognized fusion center focuses on a specific major urban area and are owned and operated by local authorities.¹¹ Figure 2 shows a map of the 54 primary (includes Guam, Puerto Rico, US Virgin Islands, and Washington D.C.) and 25 recognized fusion centers.¹² Now, over a dozen years past September 11th, strategic intelligence remains critical. However, after a thirteen-month review, the US Senate Permanent Committee was unable to find reporting where a fusion center interdicted or discovered a terrorist threat.¹³ With many successful terrorist attacks occurring due to a failure to connect the dots,¹⁴ there is an apparent lack of a comprehensive counterterrorism strategy driven by state and local fusion centers.”¹⁵

III. History and Background

In the months leading up to September 11, 2001 the U.S. intelligence agencies identified a possible al-Qaeda plot against the United States, and an August 3, 2001 Presidential Daily Briefing specifically mentioned Osama Bin Laden and a desire to weaponize airplanes.¹⁶ The

¹⁰ U.S. Department of Homeland Security. October 2012. *The Role of Fusion Centers in Countering Violent Extremism*. http://it.ojp.gov/documents/roleoffusioncentersincounteringviolentextremism_compliant.pdf

¹¹ U.S. Department of Homeland Security. January 2018. *Fusion Center Locations and Contact Information* from dhs.gov. <http://dhs.gov/fusion-center-locations-and-contact-information>

¹² *Ibid*

¹³ US Senate, Permanent Subcommittee on Investigations, *Federal Support for and Involvement in State and Local Fusion Centers*. October 2012. http://coburn.senate.gov/public/index.cfm/files/serve?file_id=693b820a-0493-405f-a8b5-0e3438cc9b24

¹⁴ Frakes, Kelli. November 2011. *Policies for and Methods of Intelligence Gathering Among Small/Rural Agencies*. Doctoral Dissertation, Walden University

¹⁵ Edmonds Stone, Kelley. 2014. *Creating an Information Sharing and Analysis Center: A Case Study of the North Central Texas Fusion Center*. Doctoral dissertation, Dallas, TX: The University of Texas at Dallas.

¹⁶ Homeland Security News Wire. April 2015. “Fusion centers, created to fight domestic terrorism, suffering from mission creep: Critics.” Homeland Security News Wire. [Homelandsecuritynewswire.com](http://homelandsecuritynewswire.com)

tragic failure in information sharing and comprehensive analysis codified in the 9/11 Commission report ultimately resulted in the establishment of the Department of Homeland Security and the creation of fusion centers. According to Garber, September 11th “shifted the government's focus on preventing and preparing for terrorist attacks at both a national level and a local level” and pushed counterterrorism “down to local levels of government.”¹⁷ The goal of fusion centers, as Policy Analyst Dana Dillon at the Heritage Foundation pointed out, is to “be able to look at all available pieces of the terrorist puzzle and provide . . . a comprehensive and timely analysis.”¹⁸

Fusion centers have a complicated history. Over the last decade, the mission of the fusion center evolved from counterterrorism to an all-crimes focus. As the Director of the Indiana Intelligence Fusion Center Charles Cohen notes, “[The fusion center has] evolved into all crimes and an all threats environment. So essentially, the fusion center is not operational – meaning the fusion center doesn’t do criminal investigations; it doesn’t do counter-terrorism investigations.”¹⁹ The all-crimes focus has been beneficial to create buy-in from local law enforcement, who can be otherwise distrustful of state interference. Being able to advertise the intelligence services of a state fusion center to small, budget-constrained, police department, goes a long way in building relationships with those who are likely the first to interact with a suspected terrorist. The missional challenges associated with fusion centers should not be confused for failure. There is a reason that fusion centers have evolved into an all-crimes focus. Scholars and authors view the emergence of intelligence lead policing or the all-crimes approach as “either a component of the homeland security function to enhance post-9/11 policing or driven by homeland security as a

¹⁷ Need Citation

¹⁸ Dillon, Dana, R. April 2002. “Breaking Down Intelligence Barriers for Homeland Security. The Heritage Foundation. Heritage.org.

¹⁹ Haeberle, Bennet. June 2016. “Indiana’s fusion center acts as resource in terrorism fight; dismisses critics.” WISHTV. Wishtv.com.

result of funding incentives.”²⁰ Both the Department of Justice and Department of Homeland Security have repositories of allegorical success stories of the all-crimes approach. Ken Dilanian in an *LA Times* article writes about a fusion center’s role interdicting pallet thieves, but he also realizes, “Cracking down on pallet thieves wasn’t quite the mission envisioned for “fusion centers. . .”²¹ Fusion centers largely evolved from state police intelligence units because they received much greater resources and mandates in the wake of September 11th. Their evolution was intertwined with the High Intensity Drug Trafficking Area units that preceded them and with the responses to massive natural disasters like Hurricane Katrina. Consequently, “the fusion center movement did not occur in a vacuum and can be best understood as the continuum of a mounting tide.”²² The fusion center has “emerged as the fundamental process to facilitate the sharing of homeland security-related and crime-related information and intelligence.”²³ On estimate, only 15 percent of fusion centers exclusively handle issues specifically related to terrorism, write Perrine, Speirs, and Horwitz who go on and assert that fusion centers “have increasingly gravitated to an all-crimes . . . approach.”²⁴ The main critique of fusion centers has been the quality of the information shared. Put succinctly, there is concern that with the limited resources and budgets available to fusion centers, the all-crimes focus is crowding out the ability to identify domestic terrorists, like the two members of the Sovereign Citizens Movement from

²⁰ Carter, Jeremy G. and Phillips, Scott W. September 2013. “Intelligence-led policing and forces of organisational change in the USA.” *Policing and Society*. 25 (4): 333-357.

²¹ Dilanian, Ken. November 2010. ““Fusion centers’ gather terrorism intelligence – and much more.” *LA Times*. Latimes.com.

²²

²³

²⁴ Perrine, James B; Speirs, Verne H; Horwitz, Jonah J. 2010. “Fusion Centers and the Fourth Amendment: Application of the Exclusionary Rule in the Post-9/11 Age of Information Sharing.” *Capital University Law Review*. 38 (721): 727-738.

Ohio who gunned down two police officers at a traffic stop in West Memphis, Arkansas²⁵ Former

FBI Special Agent and fellow
with the Brennan Center for
Justice Michael German views
this evolution of the fusion
center's mission from
counterterrorism to all-crimes
as "mission creep."²⁶ While it
is completely unfair to assign

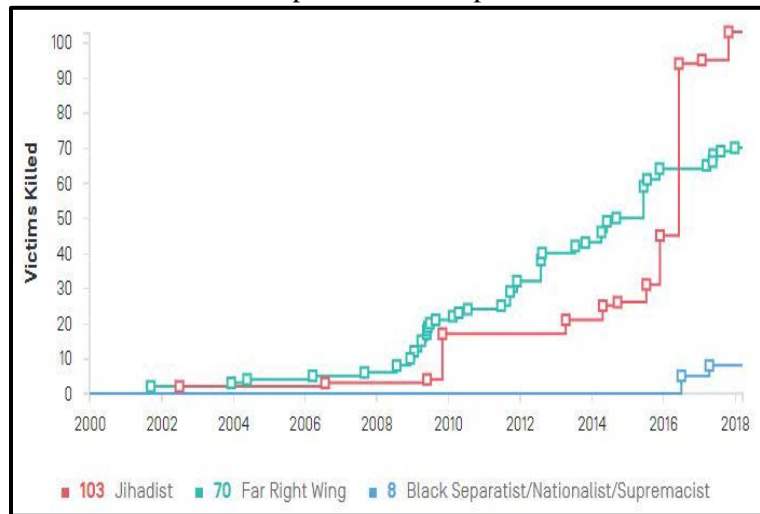


Figure 3 | Victims Killed by Ideology | Anti-Defamation League

blame on fusion centers for every act of homegrown and domestic terrorism, the recent rise of politically and ideologically motivated violence occurring right under the noses of fusion centers is concerning. To show the increase in domestic and homegrown terrorism without being distracted by the details of each incident, *Figure 3* from the Anti-Defamation League displays the increasing lethality of domestic and homegrown terrorism, while *Figure 4* is the Terror Threat Snapshot from the U.S. House Homeland Security Committee, which plots a map of jihadist-related attacks on American soil since September 11th. The icons in orange represent attacks carried out by homegrown violent extremists.

²⁵ Homeland Security News Wire. April 2015. "Fusion centers, created to fight domestic terrorism, suffering from mission creep: Critics." Homeland Security News Wire. [Homelandsecuritynewswire.com](http://homelandsecuritynewswire.com)

²⁶ Thomas, Judy, L. April 2015. "Network to nab rising domestic terrorism failing." *Kansas City Star*. [Kansas.com](http://kansas.com)



Figure 4 | *Terror Threat Snapshot | US House Homeland Security Committee*

Even after the inauguration and implementation of fusion centers, America still experiences events which test the robustness of our counter-terrorism and information sharing

enterprises. In the post-September 11th United States, the Boston Marathon Bombing is one of the most infamous terrorist attacks on American soil, and, as did the World Trade Towers and Pentagon attacks, the Boston Marathon Bombings also highlighted the need for improvements in information sharing and for a results-oriented homeland security grant program. After the bombings, the Department of Homeland Security Office of Inspectors General determined that neither the Department of Homeland Security nor the Federal Bureau of Investigation personnel on the Boston Joint Terrorism Task Force provided the Massachusetts fusion center with documents or other information regarding the Tsarnaev brothers before the attack.²⁷ U.S. Representative from Texas and chairman of the House Committee on Homeland Security Michael McCaul inquired, “Here we are, 12 years later; we put billions of dollars into this [fusion centers]. Why are we still having problems connecting the dots?”²⁸ In a Senate Hearing before the Committee on Homeland Security and Governmental Affairs after Boston attack, Arthur Kellermann from RAND Corporation cautioned that the “federal government’s [grant] monitoring effort has focused more on structure (facilities, equipment and supplies) and process (i.e., the number and type of people hired, trainings held) than on desired outcomes – the

²⁷ Garber, Lindsey. 2015. "Have we Learned a Lesson? The Boston Marathon Bombings and Information Sharing." *Administrative Law Review* 67 (1): 221-263

²⁸ Thomas, Judy, L. April 2015. “Network to nab rising domestic terrorism failing.” *Kansas City Star*. Kanaas.com

capabilities local and state governments must have to successfully manage a disaster or terrorist attack.”²⁹ Kellerman recommended a results-focused grant making process.

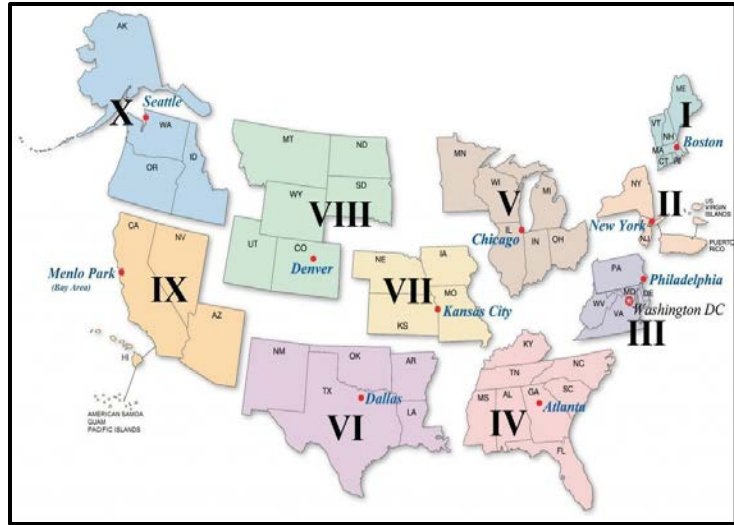


Figure 5 Department of Homeland Security Regional Map

IV. Policy Proposal

The goal of this proposal is to increase by 30 percent the number of fusion centers who exclusively focus on terrorism-related issues (homegrown violent, lone-offender, domestic, and international extremism) and not an all-crimes or all hazards approach. This would mean that at least 15 of the 50 state fusion centers would focus on issues specific to terrorism. In order to meet this objective, 65 percent of products developed by fusion centers in a fiscal year must have a terrorism nexus. To achieve this goal, Congress will pass a bill to increase the amount of funds States are eligible for under the Homeland Security Grant Program in return for a restructuring and reprioritizing of state fusion centers. The fusion centers, themselves, will remain under their current organizational structure, but will report to the Department of Homeland Security regional representative (see figure 4). The additional grant monies will only be available to fusion centers, where over 65 percent of products (Suspicious Activity Reports, Requests for Information/Service, Bulletins, etc) in a fiscal year have a terrorism nexus. In a testimony before the House Counterterrorism and Intelligence Subcommittee, National Fusion Center Association President Mike Sena identified the need for fusion centers to be able to access sensitive and classified information, as well as a formalized process for reporting suspicious activity and

²⁹ *Ibid*

submitting requests for information.³⁰ To address these concerns, this restructuring will require states to submit requests for information or service and suspicious activity reports through the Homeland Security Information Network (HSIN)³¹ in order to streamline the process and create a repository of requests and responses for future analysis; the restructuring will also remove barriers to information sharing by ensuring that each state fusion center has access to a Homeland Security Data Network (HSDN)³² secure room for processing and analyzing classified information, and that each fusion center director has a Top Secret clearance. States will submit applications for the additional funding and include proof that the previous year's reports met the 65 percent threshold and a letter from the Department of Homeland Security representative on the fusion center's use of or progress acquiring HSIN and HSDN, and to address any region-specific concerns.

The Restructuring of State Intelligence Networks (RSIN), is a proposed amendment to the Homeland Security Act of 2002. The RSIN amendment would make states eligible for a 10 percent increase in Homeland Security Grant Program funding if they reprioritize and their state fusion center to meet the information sharing guidelines and product requirements addressed in the previous section. The Department of the Homeland Security Regional Representative will set the intelligence priorities for the fusion centers in their area of responsibility based on the threat makeup, type, and presence of critical infrastructure, community vulnerability, and community resilience. Fusion centers will identify the threats and vulnerabilities in their state, which will

³⁰ Sena, Mike. September 2016. "State and Local Perspectives on Federal Information Sharing." United States House of Representatives Committee on Homeland Security, Subcommittee on Counterterrorism and Intelligence. Statement for the Record.

³¹ According to DHS.gov, "HSIN is the trusted network for homeland security mission operations to share Sensitive But Unclassified information." It is used to "manage operations, analyze data, send alerts and notices. . ." For more information, visit: <http://dhs.gov/what-hsin>

³² According to DHS.gov, HSDN allows "fusion center personnel with a federal security clearance [the ability] to access specific terrorism-related information resident on the DoD Secret Internet Protocol Router Network (SIPRNet)—a secure network used to send classified data." For more information, visit: <http://dhs.gov/news/2009/09/14/new-information-sharing-tool-fusion-centers-announced#wcm-survey-target-id>

allow Department of Homeland Security to develop those region-specific intelligence priorities. Furthermore, fusion centers will be required to submit monthly progress reports on efforts to reduce vulnerability to terrorism, and on information gaps associated with their intelligence requirements, including justification of whether the gaps have been answered. The fusion center will still be staffed by State and local employees, allowing for a degree of autonomy, but the Department of Homeland Security will help set the direction and intelligence priorities, as well as streamline the report process, and provide better access to Federal information through HSIN and HSDN. This change is intended create a cohesive, comprehensive strategy for combating domestic terrorism and homegrown violent extremism.

Policy Authorization Tool

Legislation would be required to make this important policy change. It is recommended that the U.S. House Committee on Homeland Security Subcommittee on Intelligence and Counterterrorism and Subcommittee on Oversight and Management Efficiency introduce the RSIN amendment to Title XX – Homeland Security Grants, Homeland Security Act of 2002, as amended (6 U.S.C. § 603). Title XX is the guideline for Homeland Security Grants. As the RSIN amendment does not seek to make any changes to the funding source or amount of funds in the HSGP, Title XX of the Homeland Security Act of 2002 will be amended, instead of the current fiscal year’s Homeland Security Appropriations Act.

The Subcommittee on Intelligence and Counterterrorism is specifically commissioned to focus “on the capabilities of the Federal government . . . to identify and deter threats to the Homeland through the collection and sharing of counterterrorism . . . information. . .”³³ This legislative

³³ U.S. House Homeland Security Committee. 2017. Counterterrorism and Intelligence Subcommittee. http://homeland.house.gov/subcommittee/counterterrorism_and_intelligence_subcommittee.

group will be the catalyst behind the amendment. The Subcommittee on Intelligence and Counterterrorism drafts and introduces legislation on intelligence and counterterrorism, which uniquely positions the subcommittee to propose the RSIN amendment and see it through Congress. According to the House Homeland Security webpage, the Subcommittee on Oversight and Management Efficiency “focuses on probing homeland security programs and operations to promote efficiency. . .”³⁴ As the body responsible for monitoring the management of DHS, the Oversight and Management Efficiency Subcommittee will draft the RSIN amendment to ensure its integrity with the Homeland Security Act of 2002. Having joint-committee sponsorship and input will create a strong piece of legislation, which will help propel it through Congress.

Under the current funding apparatus, Title XX of the Homeland Security Act of 2002, as amended, States are eligible to retain 20 percent of HSGP funding, while 80 percent is sent to local governments for preparedness projects.³⁵ Of the 20 percent that States receive under the HSGP, only a quarter of that is specifically set aside for terrorism prevention and protection activities; this is often allocated to fusion centers. A total of \$1,037,000 is available for funding to all States under the Fiscal Year 2017 Homeland Security Grant Program, of that sum, \$402,000,000 is available under the State Homeland Security Program.³⁶ The RSIN amendment does not seek to change any eligibility criteria for the Homeland Security Grant Program. However, it is an attempt to increase the amount of funding for terrorism prevention and protection activities and to set intelligence priorities based on regional threats and vulnerabilities.

³⁴ U.S. House Homeland Security Committee. 2017. Oversight and Management Efficiency Subcommittee. http://homeland.house.gov/subcommittee/oversight_and_management_efficiency_subcommittee.

³⁵ U.S. Department of Homeland Security. 2017. "Notice of Funding Opportunity FY 2017 HSGP." FEMA.gov. http://fema.gov/media-library-data/1496691855715-4d78d65ebb300900ce6c945931eff2c6/FY_2017_HSGP_NOFO_20170601v2014_605.pdf

³⁶ Federal Emergency Management Agency. 2017. "Fiscal Year 2017 Homeland Security Grant Program Frequently Asked Questions." FEMA.gov. http://fema.gov/media-library-data/1496323501075-232d60682ccf1aad9214866bb57c0b4b/FY2017_HSGP_FAQ_05312017_FINAL_508.pdf

The proposal would increase the amount of counterterrorism funding available to states and create a streamlined process for information sharing at the federal and state levels.

Policy Implementation Tool

The RSIN amendment is a carrot. It offers an increase in the amount of funding that States are eligible to receive under the Homeland Security Grant Program, in exchange for greater Department of Homeland Security management of fusion centers through regional representatives. This restructuring seeks to ensure an upward flow of strategic intelligence products from fusion center analysts, while the Department of Homeland Security disseminates strategic intelligence requirements to the “boots on the ground.” Although local and Tribal governments are eligible to receive Homeland Security Grant Program funding, the RSIN amendment specifically targets States. Local and Tribal intelligence centers would not be eligible for the reallocation of funding under the RSIN amendment. The amendment seeks to target states who have passed laws requiring balanced budgets and, as a result, are having to cut back essential programs to balance the State budget. This is not an attempt to incentivize cuts to state counterterrorism budgets, but rather to provide a baseline of terrorism prevention across each state. The RSIN amendment will ensure that counterterrorism efforts are not defunded due to State budget constraints.

The RSIN Amendment will go into effect in Fiscal Year 2020. This will allow participating States to restructure their fusion centers and provide time to meet the 65 percent product threshold and integrate into HSIN and HSDN. The timeline will also provide the Department of Homeland Security the opportunity to create region-specific intelligence requirements. The proposed legislation would not make any changes to Homeland Security Grant Program or eligibility for the funding. Existing application criteria must still be met to receive grant funds. The RSIN amendment seeks to increase the amount of funding allocated specifically to States from 20

percent to 30 percent. This proposal does not alter the amount of funds available through Homeland Security Grant Program, but it does change the way Homeland Security Grant Program funds are allocated. The RSIN Amendment does not change the implementation or structure of Homeland Security Grant Program; the Department of Homeland Security is still responsible for implementing Homeland Security Grants as proscribed by the Homeland Security Act of 2002, as amended.

V. Policy Analysis

The benefits and challenges with this proposal can be summarized into three categories: Federalism, function, and funding. The challenges are noted at both the federal and state levels, albeit, with sometimes different perspectives. Special care has been taken to avoid analyzing the effectiveness of fusion centers, which is not the intention of this paper.

Federalism and Function: Partnerships and History

There is a historical case for federal oversight of fusion centers. The federal government has provided guidance and structure for fusion centers since their inception. Congress passed the 9/11 Commission Act requiring Department of Homeland Security support “efforts to integrate fusion centers into the [Information Sharing Environment], assigning personnel to centers, incorporating fusion center intelligence information into DHS information, providing training, and facilitating close communication and coordination.”³⁷ From the beginning, the Department of Justice has been engaged with fusion centers and state anti-terrorism efforts. Federal Bureau of Investigation-led Joint Terrorism Task forces predate September 11th, finding their origins in the drug wars of

³⁷ U.S. Government Accountability Office. 2014. *DHS Is Assessing Fusion Center Capabilities and Results, but Needs to More Accurately Account for Federal Funding Provided to Centers*. Report to Congressional Requesters, Washington: Government Accountability Office. <http://gao.gov/assets/670/666760.pdf>

the 1980s.³⁸ In 2006 the Department of Homeland Security and Department of Justice jointly published *Fusion Center Guidelines*, outlining policies on managing fusion centers, training personnel, and privacy and civil liberties.³⁹

Function: Legal Issues

Direct DHS oversight of fusion centers will also have implications when it comes to intelligence collection. As a member of the federal Intelligence Community, the Department of Homeland Security is limited in its ability to collect information on US persons. In addition, where the margin between criminal activity and terrorism is razor thin, the Department of Homeland Security will need a way to analyze such intelligence without infringing on US privacy and intelligence collection laws. The jurisdictional turf war among the Intelligence Community poses a real threat to the RSIN amendment. A 2013 Majority Staff Report on the National Network of Fusion Centers by the House Homeland Security Committee noted that “the prevailing perspective of the fusion center personnel is that DHS and the FBI are in constant battle” in fusion centers where the two agencies are collocated.⁴⁰ There are conflicting claims to the relationship the Federal Bureau of Investigation has with state agencies, with Dr. Robert Taylor, Program Head of the Public Affairs Program at the University of Texas, Dallas saying that in general, intelligence coordination between the FBI and state agencies is “dismally poor.”⁴¹ Yet, according to the most recent *National Strategy for Information Sharing*, collaboration among

³⁸ Bureau of Justice Assistance Office of Justice Programs, Global Justice Information Sharing Initiative, and U.S. Department of Homeland Security. 2006. *Fusion Center Guidelines*. Washington. http://it.ojp.gov/documents/fusion_center_guidelines_law_enforcement.pdf

³⁹ *Ibid*

⁴⁰ McCaul, Michael, and King, Peter. 2013. *Majority Staff Report On The National Network Of Fusion Centers*. Majority Staff Report, Washington: U.S. House of Representatives Committee on Homeland Security. <http://archives.gov/files/isoo/oversight-groups/sltips-pac/staff-report-on-fusion-networks-2013.pdf>

⁴¹ Taylor, Robert W., and Russell, Amanda L. 2012. "The failure of police 'fusion' centers and the concept of a national intelligence sharing plan." *Police Practice and Research* 13 (2): 184-200. <http://tandfonline.com/doi/abs/10.1080/15614263.2011.581448>

fusion centers, FBI Joint Terrorism Task Forces, Regional Information Sharing System Centers, and intelligence and crime analysis units have been increasing. Another legal consideration is whether the RSIN amendment is unconstitutional. According a Brennan Center for Justice report on National Security and Local Police, direct control of fusion centers may violate Constitutional prohibitions on “federal ‘commandeering’ of state resources.”⁴² For the same reasons Washington cannot control a local police department, it also cannot control a fusion center. The federal government currently takes this view and instead sets guidelines and expectations tied to federal grants.⁴³

Function: Organization and Control

Department of Homeland Security oversight would create a seismic shift in the *raison d'être* of many fusion centers. Many fusion centers fall under the direct control of the law enforcement agencies, where criminal intelligence often supersedes terrorism analysis.⁴⁴ Robert Taylor and Amanda Russell in the international journal *Police Practice and Research* assert that “the organizational schema of law enforcement, [which prefers a localized approach, like the community policing model,] . . . is not particularly conducive to counterterrorism efforts and a homeland policing model.”⁴⁵ The dynamics of an interagency fusion center, with each component having their own objectives, staffs, and responsibilities, amplify this challenge. Varying command structures of fusion centers, where some are led by a local police agency and others by

⁴² Price, Michael. 2013. *National Security and Local Police*. Brennan Center for Justice at New York University School of Law. http://brennancenter.org/sites/default/files/publications/NationalSecurity_LocalPolice_web.pdf

⁴³ *Ibid*

⁴⁴ Klem, Nicholas. 2014. *The National Network of Fusion Centers: Perception and Reality*. Thesis, Monterey: Naval Postgraduate School. <http://dtic.mil/dtic/tr/fulltext/u2/a621010.pdf>

⁴⁵ Rollins, John, & Connors, Tim. (2007). *State fusion center processes and procedures: Best practices and recommendations*. Manhattan Institute for Policy Research. <http://manhattan-institute.org/html/state-fusion-center-processes-and-procedures-best-practices-and-recommendations-5954.html>

a state public safety department, support a popularly held perception among policymakers that the management of fusion centers is "chaotic" and "unable to support consistent capabilities."⁴⁶ The balkanization of the structure of fusion centers creates, what Mike Price from the Brennan Center for Justice calls, "a distinct oversight deficit."⁴⁷ John Rollins from the Congressional Research Service argues that this lack of a "common framework among disparate fusion centers and other

homeland security agencies" limits the benefit and impact of fusion centers.⁴⁸

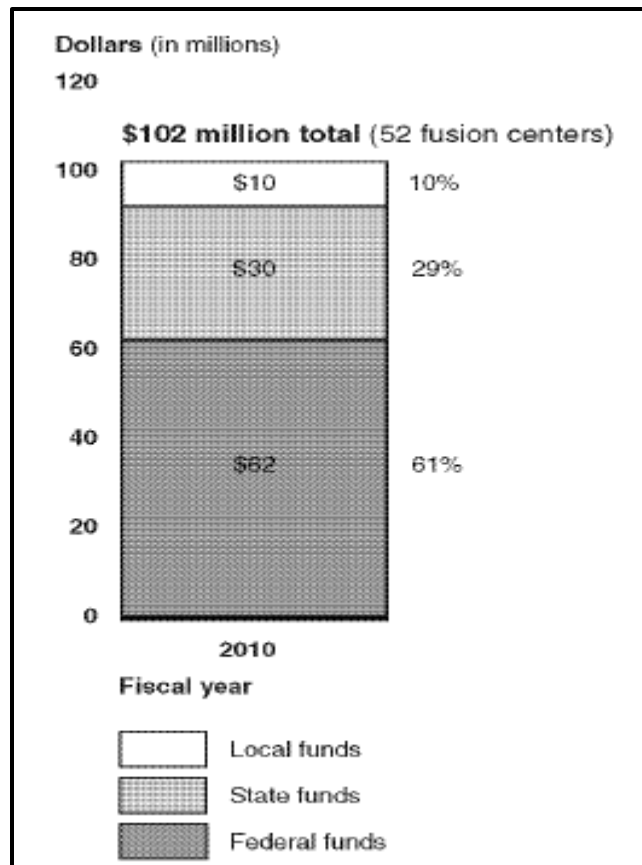


Figure 6 Average Funding Breakdown for 52 Fusion Centers

Funding

One of the greatest challenges to this policy proposal is that the increase in federal grant funding may not be enough to convince states to relinquish control of fusion centers. A 2008 Congressional Research Service report examining thirty-two fusion centers found that fusion centers are predominately funded through state and local streams, with federal funding accounting for 31 percent

⁴⁶ Klem, Nicholas. 2014. *The National Network of Fusion Centers: Perception and Reality*. Thesis, Monterey: Naval Postgraduate School. <http://dtic.mil/dtic/tr/fulltext/u2/a621010.pdf>

⁴⁷ Price, Michael. 2013. *National Security and Local Police*. Brennan Center for Justice at New York University School of Law. http://brennancenter.org/sites/default/files/publications/NationalSecurity_LocalPolice_web.pdf

⁴⁸ Rollins, John. 2008. *Fusion Centers: Issues and Options for Congress*. Congressional Research Service. Report to Congressional Requesters, Washington: Government Accountability Office. <http://fas.org/sgp/crs/intel/RL34070.pdf>

of fusion center funding streams, on average.⁴⁹ The federal government has increased financial support to fusion centers through Homeland Security and Department of Justice grants, but states still bear much of the cost. In a House Committee on Homeland Security review of funding profiles from 32 fusion centers, they found that most fusion centers expended Federal funds, allocated through Homeland Security Preparedness Grants and several Department of Justice grant programs. While the increase in available federal funds may not be enough to convince most states, there are states that would welcome the increase. Even in fusion centers funded primarily through state funds, there are concerns about funding stability and security.⁵⁰ Funding has been the main federal effort for supporting fusion centers. Most this funding comes from the Homeland Security Grant Program. In a Government Accountability Office 2010 study of fourteen fusion centers, fusion center officials reported that sustained federal funding was necessary for expanding operations, maintaining “baseline capabilities-the standards the government and fusion centers have defined as necessary for centers to be considered capable of performing basic functions in the national information sharing network”, and in some cases, keeping the lights on.⁵¹ Figure 3 is taken from the before- referenced Government Accountability Office report and gives the average funding breakdown for 52 fusion centers.⁵² A key excerpt from that study follows. “. . . an official in one of these centers stated that with the state's economic recession, the fusion center does not expect to grow operations over the next 5 years and is struggling to maintain the personnel and funding needed to maintain their current

⁴⁹ Masse, Todd, and Rollins, John. 2007. *A Summary of Fusion Centers: Core Issues and Options for Congress*. CRS Report for Congress, Washington: Congressional Research Service.
<http://fas.org/sgp/crs/intel/RL34177.pdf>

⁵⁰ U.S. Government Accountability Office. 2010. *Federal Agencies are Helping Fusion Centers Build and Sustain Capabilities and Protect Privacy, but Could Better Measure Results*. Report to Congressional Requesters, Washington: Government Accountability Office.
<http://gao.gov/assets/670/666760.pdf>

⁵¹ *Ibid*

⁵² *Ibid*

operations, which includes fewer than 10 full-time personnel with an estimated budget of a little over \$500,000. Officials in another fusion center stated that while they have a comparatively large budget of about \$10 million, they could not maintain their level of operations without the federal grant funding, about \$5 million per year, they receive.”⁵³ A report by the Department of Homeland Security Office of Inspector General realized that “some fusion centers cannot operate without federal funding, and others may be forced to cease operations should federal funding be significantly reduced or eliminated.”⁵⁴ Funding from the federal government is essential for the success of fusion centers.

Allocation of Funds

How Homeland Security Grant Program funds are distributed is also significant. Grant fund competition and distribution remains one of the biggest challenges facing fusion centers.⁵⁵ Emergency Management agencies often administer homeland security grants, and this can result in grant funds being allocated to recovery and response efforts, instead of protection and prevention. Two important funding streams under the Homeland Security Grant Program, the State Homeland Security Grant Program and Urban Area Security Initiative, covered 23 percent of the combined total expended operating funds of the 32 fusion centers members of the House Homeland Security Committee visited.⁵⁶ This is significant as the State Homeland Security Grant Program is the grant most often allocated to state fusion centers, and the Urban Area Security

⁵³ *Ibid*

⁵⁴ U.S. Department of Homeland Security Office of Inspector General. 2008. *DHS' Role in State and Local Fusion Centers is Evolving*. U.S. Department of Homeland Security.
http://oig.dhs.gov/assets/Mgmt/OIG_09-12_Dec08.pdf

⁵⁵ McCaul, Michael T., and Peter T. King. 2013. *Majority Staff Report On The National Network Of Fusion Centers*. Majority Staff Report, Washington: U.S. House of Representatives Committee on Homeland Security.
<http://archives.gov/files/isoo/oversight-groups/sltips-pac/staff-report-on-fusion-networks-2013.pdf>

⁵⁶ *Ibid*

Initiative is the federal funding stream often allocated to local fusion centers. There is no current grant program, specifically designed for funding fusion centers. States can use Homeland Security Grant Program monies on fusion centers, so far as it corresponds to federal guidelines. In 2013 the U.S. Senate Subcommittee on Investigations was extremely concerned with the lack of oversight of Homeland Security Grant funding applied to fusion centers and its inability to track funding. “DHS cannot say with accuracy how much grant funding it has awarded to support fusion centers, how that money was spent, or whether any of it improved fusion centers’ ability to participate meaningfully in counterterrorism information-sharing with the Federal Government.”⁵⁷ In addition, the Federal Emergency Management Agency, which oversees the Homeland Security Grant Program, reported that “the only way to estimate grant funding directed towards fusion centers was to perform a keyword search . . . using self-reported [data].”⁵⁸

VI. Political Analysis

Money battles – what Kiki Carusan, Susan MacManus and Thomas Watson term “fiscal food fights” – have been at the epicenter of politics throughout American history and “have resulted in intense competition for funds among states and localities.”⁵⁹ This proposal may resurrect the intense centralization versus decentralization debate over who should be in charge of fusion centers (federal, states or local). It can be difficult, write Carusan, MacManus, and Watson, to

⁵⁷ U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs. 2012. *Federal Support for and Involvement in State and Local Fusion Centers*. Majority and Minority Staff Report. Washington: U.S. Senate.
http://hsgac.senate.gov/download/report_federal-support-for-and-involvement-in-state-and-local-fusions-centers

⁵⁸ *Ibid*

⁵⁹ Kiki, Carusan, Susan A MacManus, and Thomas A Watson. 2007. "Structuring Homeland Security Grants: Florida's Local Finance Officials Evaluate the Funding Process." *Public Finance and Management* 7 (2): 191-226.

reach a consensus on which level of government should have the primary organizational responsibility for managing the complexity and intergovernmental dimensions of homeland security grants.⁶⁰ This political analysis will examine this policy proposal at the federal, state, local, and individual levels.

Federal

In their research on equity and efficiency in homeland security resource allocation, Xiaojun Shan and Jun Zhuang begin by addressing the “pork-barrel politics” which frequently accompanies large expenditures. Since September 11th, homeland security “has attracted hundreds of billions of dollars in expenditures.”⁶¹ However, in econometric tests of the allocation of homeland security grant funds, comparing rationalist (risk-based) and “pork-barrel” allocation based on distributive politics and partisanship, the testers reject the hypothesis that “allocation decisions are politically motivated.”⁶² At the same time, it would be foolish to presume that allocation decisions are completely free from outside influence or pressure. Congressional decisions on federal grants, asserts Robert Dilger, “are influenced by both internal and external factors.”⁶³ Dilger goes on to identify party leadership, the committee system, and the unique personalities and preferences of Congressmembers, (particularly party leaders, committee and subcommittee chairs, and ranking minority Members) as internal factors, while “external factors include . . . voter constituencies,

⁶⁰ *Ibid*

⁶¹ Shan, Xiaojun and Zhuang, Jun. 2013. “Cost of Equity in Homeland Security Resource Allocation in the Face of a Strategic Attacker.” *Risk Analysis*. 33 (6): 1083-98.

⁶² Ripberger, Joseph T. 2011. “Whither Civil Defense and Homeland Security in the Study of Public Policy? A Look at Research on Policy, the Public, and the Process.” *Policy Studies Journal*. 39 (S1): 77-88

⁶³ Dilger, Robert Jay. March 2015. “Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues.” Congressional Research Report. Congressional Research Service

organized interest groups, the President, and executive branch officials,” and – due to the ability to rule on federal grant programs – the United States Supreme Court.⁶⁴

Originally, homeland security funding was allocated almost evenly across each state, with some states receiving more based on population size. Stacia Gilliard-Matthews and Anne Schneider write that the allocation “immediately became a source of contention. . .”⁶⁵ While some contended that nondiscretionary (fair-based) allocation left border states or those with critical infrastructure with less funding than states with lower risks, others argued that the funds were allocated based on the political party controlling the White House and Congress. Still, even though almost all camps were concerned over funding not being allocated to maximize protection from terrorist attacks, Congress mandated the Department of Homeland Security to use the original formula through 2005. Then, in 2006 Congress changed the funding formula of the Homeland Security Grant Program to allocate funds based on terrorism risk, threat, and vulnerability. The change still dedicated 75 percent of funds based on fair-sharing across each state, but changed allocation based on population for discretionary factors (risk-based). However, the risk-based formula meant a decrease for some states, and where federal funds decrease, state and local entities are forced to make up the difference.⁶⁶ President Donald J. Trump’s Secretary of Homeland Security, Kirstjen Nielsen has made both counterterrorism and terrorism prevention, with a focus on “do-it-yourself” terror tactics”, a priority for her department.⁶⁷ However, both President Trump and Secretary Nielsen have made physical border security the top priority. Since

⁶⁴ *Ibid*

⁶⁵ Gilliard-Matthews, Stacia and Schneider, Anne L. 2010. “Politics or Risk? An Analysis of Homeland Security Grant Allocations to the States.” *Journal of Homeland Security and Emergency Management*. 7(1): 1-15

⁶⁶ Andres de Castro Garcia, Florina Cristiana Matei & Thomas C. Bruneau. 2017 “Combating Terrorism Through Fusion Centers: Useful Lessons From Other Experiences?” *International Journal of Intelligence and CounterIntelligence*. 30(4): 723-742.

⁶⁷ Nielsen, Kirstjen. January 2018. *Written testimony of DHS Secretary Kirstjen Nielsen for a Senate Committee on the Judiciary hearing titled “Oversight of the United States Department of Homeland Security.”* DHS.gov. <http://dhs.gov/news/2018/01/16/written-testimony-dhs-secretary-kirstjen-nielsen-senate-committee-judiciary-hearing>

the budget is a zero-sum game, there may be concern that devoting more funding to counterterrorism may negatively impact the amount of monies available for physical border security. In addition, President Trump's budget proposal called for reductions of Homeland Security grants in order to reduce dependency on federal money.⁶⁸

State

States determine how the Homeland Security Grant Program funds are distributed and how much is allocated to fusion center budgets. State homeland security programs, to include emergency management and first responders, compete with fusion centers for those funds. In the previous discussion, the role of state emergency management agencies as the state's designated administrator of Homeland Security Grant funds was briefly overviewed. The relationship of emergency management agencies and homeland security is important to understand from a political standpoint. In the mission areas of emergency management (prevention, protection, mitigation, response, and recovery), protection that deals specifically with terrorism. Ripberger goes on to note that the almost exclusive focus on terrorism protection "... crowded out attention to other issues like natural disaster preparedness, destabilized the funding available to state agencies, and created an environment of distrust among intergovernmental partners."⁶⁹

The risk-based allocation model had unintended consequences, since it is not difficult to imagine targets and justify additional funding based on potential risks. Democratic Senator Pat Leahy of

⁶⁸ The White House. 2017. *Press Briefing by Press Secretary Sarah Sanders and Homeland Security Advisor Tom Bossert*. WhiteHouse.gov. <http://whitehouse.gov/briefings-statements/press-briefing-press-secretary-sarah-sanders-homeland-security-advisor-tom-bossert-083117>

⁶⁹ Ripberger, Joseph T. 2011. "Whither Civil Defense and Homeland Security in the Study of Public Policy? A Look at Research on Policy, the Public, and the Process." *Policy Studies Journal*. 39 (S1): 77-88

Vermont and then Senator Hillary Clinton of New York, both complained against the risk-based model, with Senator Leahy claiming that the model would “shortchange rural states,” while Senator Clinton faulted the George W. Bush administration for the opposite effect.⁷⁰ Ripberger says that Congress is able to “buy” states’ votes “by providing at least a minimum amount of funds, so that all elected officials will be inclined to support funding even when the formula stipulates more funds to higher populated states.”⁷¹ “Homeland security spending to states vis-a-vis grant programs,” Holly Goerdel hypothesizes, “is likely to be influenced positively by membership on policy-oriented and appropriations committees, caucus or chamber leadership, and partisanship with the majority, and negatively by conservative fiscal ideology.”⁷² When compared with non-discretionary sharing, risk-based allocation may result in uncertainty for recipients. Furthermore, Gilliard-Matthews and Schneider make a bold assessment that “[i]t is obvious” that the requiring that grants distribute a flat share or “required minimum” to each state “produces political advantages for incumbents” – yet, without respect to partisan politics – and smaller states.⁷³ Ripberger claims the political advantage of incumbents otherwise impacted by being unable to secure funding is “apparent.”⁷⁴ In Holly Goerdel’s study, she found that per capita homeland security grant allocation was \$9.33 and \$8.50 in North Dakota and Vermont, respectively, compared to per capita expenditures of \$0.86 and \$1.79 in California and New York.”⁷⁵ Smaller states may be concerned that altering the homeland security grant formula may

⁷⁰ *Ibid*

⁷¹ *Ibid*

⁷² Goerdel, Holly T. 2012. “Politics versus Risk in Allocations of Homeland Security Grants. *Publius: The Journal of Federalism*. 43(4): 600-625.

⁷³ Gilliard-Matthews, Stacia and Schneider, Anne L. 2010. “Politics or Risk? An Analysis of Homeland Security Grant Allocations to the States.” *Journal of Homeland Security and Emergency Management*. 7(1): 1-15

⁷⁴ Ripberger, Joseph T. 2011. “Whither Civil Defense and Homeland Security in the Study of Public Policy? A Look at Research on Policy, the Public, and the Process.” *Policy Studies Journal*. 39 (S1): 77-88

⁷⁵ Goerdel, Holly T. 2012. “Politics versus Risk in Allocations of Homeland Security Grants. *Publius: The Journal of Federalism*. 43(4): 600-625.

impact their funding. Ripberger justifies the flat share allocation “. . . on the grounds that every person, no matter what state they live in, has a right to at least a minimum federally-funded effort to protect against terrorist attacks.”⁷⁶ However, Gilliard-Matthews and Schneider conclude that a required minimum, while advantageous for incumbents and smaller states, “produces a strong negative relationship to indicators of risk from terrorism.”⁷⁷

As Chairman of the House Subcommittee on Homeland Security and Intelligence, Representative Peter King has made homeland security one of his top issues.⁷⁸ Representative King has held several hearings on the threat of homegrown violent extremism and efforts to detect and deter terrorism. King praised then Secretary of Homeland Security for recognizing New York City and the Long Island region as top target for Al Qaeda and for ensuring federal grant funding for region, despite a 20 percent cut in homeland security grant funding.⁷⁹ After the Department of Homeland Security announced that New York City and nearby counties will receive around \$181 million in anti-terror grant funds for fiscal year 2015 (\$2 million more than the previous year), New York lawmakers Pete King and Chuck Schumer called it a “dramatic step in the right direction.”⁸⁰ Lawmakers from populous states and jurisdictions have lamented that counterterrorism funding in smaller states and cities reduces resources in areas more likely to be

⁷⁶ Ripberger, Joseph T. 2011. “Whither Civil Defense and Homeland Security in the Study of Public Policy? A Look at Research on Policy, the Public, and the Process.” *Policy Studies Journal*. 39 (S1): 77-88

⁷⁷ Gilliard-Matthews, Stacia and Schneider, Anne L. 2010. “Politics or Risk? An Analysis of Homeland Security Grant Allocations to the States.” *Journal of Homeland Security and Emergency Management*. 7(1): 1-15

⁷⁸ Congressman Pete King. 2018. *Homeland Security*. PeteKing.house.gov. <http://peteking.house.gov/issues/homeland-security>

⁷⁹ Congressman Pete King. 2012. *King Supports DHS Homeland Security Grant Allocation to New York*. PeteKing.house.gov. <http://peteking.house.gov/media-center/king-on-the-issues/king-supports-dhs-homeland-security-grant-allocation-to-new-york>

⁸⁰ Friedman, Dan. 2015. “New York City and nearby counties to receive \$181M in anti-terror grant funds.” *Daily News*. <https://peteking.house.gov/media-center/in-the-news/new-york-city-and-nearby-counties-to-receive-181m-in-anti-terror-grant>

terror targets, like New York City.⁸¹ It is important to note that this proposal does not change the allocation method for homeland security grants; it simply increases the amount of funding available to states. Representative King has a history of supporting policies that provide anti-terror funding to New York City.

Local

This proposal is intentional in avoiding direct involvement with local entities. However, it is still important to assess the impact this proposal may have on local politics. States are the primary funder of local homeland security efforts, so by proxy, any change to state's funding will ultimately impact local entities. As with federal funds, smaller jurisdictions are the least likely to have applied for state homeland security funds.

In a case-study by Kiki Caruson, Susan MacManus, and Thomas Watson analyzing homeland security grant's local impact, the authors begin by examining respondents' assessment of state's distribution of homeland security funds. The authors conclude that respondents from large municipalities prefer strong local government, while small city officials "preferred a top-down, state-driven approach. . ."⁸² Analyzing the allocation of federal homeland security funds, officials from larger jurisdictions, are more likely to perceive unfair and inadequate distribution, as larger cities and counties typically have more risks, security vulnerabilities, and public pressure to prepare for a potential attack. In summarizing their results, Caruson, MacManus, and Watson note that where smaller jurisdictions apply for federal funding, they are more likely to perceive

⁸¹ *Ibid*

⁸² Kiki, Caruson; MacManus, Susan A; and Watson, Thomas A. 2007. "Structuring Homeland Security Grants: Florida's Local Finance Officials Evaluate the Funding Process." *Public Finance and Management* 7 (2): 191-226.

fair distribution.⁸³ “Large localities are also more likely to be active in the federal grant process.”⁸⁴ Any dissatisfaction by large jurisdictions with federal homeland security fund allocation, appears to be based in a belief that greater vulnerabilities should mean more funding, while smaller and rural jurisdictions should receive less funding. In their article on the allocation of the Federal budget Valentino Larcinese, Leonzio Rizzo, and Cecilia Testa note that empirical research on the distribution of federal funds shows that less populous entities receive more federal dollars per capita; “Congressmen are actively engaged in bargaining over the federal budget allocation to bring the bacon home.”⁸⁵

For local governments, there is a real cost to compliance with federal and state mandates, and this cost is magnified in localities which are already struggling with tight budgets. To complicate the local budgetary landscape, the flow of federal grant money has often been slow, reaching local governments in fits and starts. A 2004 analysis by the House Select Committee on Homeland Security “found that as much as \$5.2 billion [in terrorism preparedness grants for state and local governments] was stuck in the funding pipeline—caught up in the bureaucracies of the Department of Homeland Security and state governments.”⁸⁶ Both counties and municipalities have expressed a desire for additional investment in state and local homeland security funding

⁸³ *Ibid*

⁸⁴ *Ibid*

⁸⁵ Larcinese, Valentino; Rizzo, Leonzio; and Testa, Cecilia. November 2013. “Why do Small States Receive More Federal Money? U.S. Senate Representation and the Allocation of Federal Budget.” *Economics & Politics*. 25(3): 257-280.

⁸⁶ Kiki, Caruson; MacManus, Susan A; and Watson, Thomas A. 2007. “Structuring Homeland Security Grants: Florida's Local Finance Officials Evaluate the Funding Process.” *Public Finance and Management* 7 (2): 191-226.

from the federal government and for greater efficiency in the application process for and the flow of those funds.⁸⁷

Individual

Ripberger notes that “a number of researchers have empirically established the intuitive connection between confidence or trust in government and support for restrictive national security policies.”⁸⁸ Individuals who are confident in the federal government’s counterterrorism efforts will often “support policies that are otherwise controversial.” The American public, notes Dilger, while “increasingly skeptical of government performance,” are becoming more and more accepting of federal activism in domestic affairs.⁸⁹ According to Federalism scholars, this is in part attributed “to the industrialization and urbanization of American society; technological innovations in communications, which have raised awareness of societal problems; and exponential growth in economic interdependencies brought about by an increasingly global economy.”⁹⁰ From the perspective of partisan politics, Hank Jenkins-Smith and Kerry Herron conclude that Democrats normatively prefer policies that balance freedom over security, whereas Republicans tend to rank security ahead of liberty.⁹¹ However, when people perceive that a given policy “enhances national security. . . and . . . derives a personal benefit, they are likely to support

⁸⁷ *Ibid*

⁸⁸ Ripberger, Joseph T. 2011. “Whither Civil Defense and Homeland Security in the Study of Public Policy? A Look at Research on Policy, the Public, and the Process.” *Policy Studies Journal*. 39 (S1): 77-88

⁸⁹ Dilger, Robert Jay. March 2015. “Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues.” Congressional Research Report. Congressional Research Service.

⁹⁰ *Ibid*

⁹¹ Jenkins-Smith, Hank C., and Kerry G. Herron. 2009. “Rock and A Hard Place: Public Willingness to Trade Civil Rights and Liberties for Greater Security.” *Politics & Policy*. 37: 1095–129.

it.”⁹² Ripberger uses airport security, radiation monitoring at border crossings, and canine detectors as examples of such policies.⁹³ By contrast, public support for policies that lead to financial loss is generally low. Public support is rational – supporting beneficial and effective policies and opposing costly and intrusive ones.⁹⁴

VII. Recommendation

The greatest challenge to this proposal centers around funding. Specifically, whether the 10 percent increase is enough to sway opinions, and President Trump’s call for state and local governments to be less dependent on federal monies. The 10 percent availability increase in homeland security grant funding may not be enough to convince states to relinquish control of their fusion centers. While the federal government has increased financial support for fusion centers through various Department of Homeland Security and Department of Justice grant programs, on average, federal funding accounts for only 31 percent of fusion center funding streams.⁹⁵ However, that 31 percent level is not due to states turning down federal funds, but for the lack of availability of federal funds and some local entities’ confusion of the grant application process.⁹⁶ This proposal makes the eligibility for the increase in funding exceptionally clear – 65 percent of products produced by the fusion center in the previous year must have a terrorism

⁹² Ripberger, Joseph T. 2011. “Whither Civil Defense and Homeland Security in the Study of Public Policy? A Look at Research on Policy, the Public, and the Process.” *Policy Studies Journal*. 39 (S1): 77-88

⁹³ *Ibid*

⁹⁴ *Ibid*

⁹⁵ Masse, Todd, and Rollins, John. 2007. *A Summary of Fusion Centers: Core Issues and Options for Congress*. CRS Report for Congress, Washington: Congressional Research Service.
<http://fas.org/sgp/crs/intel/RL34177.pdf>

⁹⁶ Kiki, Caruson; MacManus, Susan A; and Watson, Thomas A. 2007. "Structuring Homeland Security Grants: Florida's Local Finance Officials Evaluate the Funding Process." *Public Finance and Management* 7 (2): 191-226.

nexus – in hopes of mitigating barriers to the application process. In addition, while federal funding does not account for the majority of state fusion center’s funding stream, it is still a sizeable minority. As a Department of Homeland Security study noted, “. . . some fusion centers cannot operate without federal funding, and others may be forced to cease operations should federal funding be significantly reduced or eliminated.”⁹⁷ State fusion centers are dependent on Federal funding. To receive a better return on investment, the Department of Homeland Security should exercise greater control in shaping the priorities and direction of fusion centers. Finally, President Donald Trump’s budget proposal that called for the defunding of Homeland Security Grant Programs to reduce state and local dependency on Federal monies is of real concern, both to the constituencies where anti-terrorism funding is decreasing and to this proposal. The President proposed a \$667 million cut from grants to state and local agencies, including anti-terrorism funding.⁹⁸ The proposal was less than popular with New York lawmakers from both parties, in both houses of Congress, and from all levels of government. U.S. Senator Chuck Schumer (D-NY) led a bipartisan fight alongside U.S. Congressman Peter King to block the proposed cuts.⁹⁹ New York City Mayor Bill de Blasio vowed to fight to President’s proposed cuts and New York Governor Andrew Cuomo called the cuts “dangerous [and] reckless.”¹⁰⁰ Because New York City and the State of New York has shown strong, bipartisan support for increasing counterterrorism funding, owing in part to the city’s profile as a target for terrorist attacks, the

⁹⁷ U.S. Department of Homeland Security Office of Inspector General. 2008. *DHS’ Role in State and Local Fusion Centers is Evolving*. U.S. Department of Homeland Security. http://oig.dhs.gov/assets/Mgmt/OIG_09-12_Dec08.pdf

⁹⁸ Soffen, Kim; Lu, Denise. May 2017. “What Trump cut in his agency budgets.” *The Washington Post*. WashingtonPost.com. http://washingtonpost.com/graphics/politics/trump-presidential-budget-2018-proposal/?utm_term=.b512fcac1bf8

⁹⁹ Figueroa, Laura. March 2017. “Schumer: Trump would cut \$200M from NYPD anti-terrorism, other funds.” *Newsday*. Newsday.com. <http://newsday.com/long-island/politics/schumer-trump-would-cut-200m-from-nypd-anti-terrorism-other-funds-1.13287960>

¹⁰⁰ Dienst, Jonathan. March 2017. “De Blasio, Cuomo Blast President Trump’s Proposed Budget, Vow to Fight.” *NBC 4 New York*. NBCNewYork.com. <http://nbcnewyork.com/news/local/Mayor-Bill-de-Blasio-Blasts-President-Trump-Budget-Cuts-Homeland-Security-416368193.html>

increase in available homeland security grant program funding will likely be seen favorably by New Yorkers.

While Department of Homeland Security oversight may create a seismic shift in the *raison d'être* of many fusion centers, it is the intention of this proposal to shift fusion centers away from a criminal intelligence focus and back towards a counterterrorism mission. As many fusion centers fall under the direct control of the main state law enforcement agency and as fusion centers' customer base is often county and local law enforcement, the 65 percent threshold enables fusion centers to continue working with local partners, while also intentionally devoting efforts towards building products with a terrorism nexus. The vagueness of "terrorism nexus" is purposeful to permit discretion, where an incident or product may straddle the line between criminal and terrorism. Additionally, requiring states to use the Homeland Security Information Network and the Homeland Secure Data Network will not only streamline the process for requests by providing a standardized template for all fusion centers, it will also serve as a repository for future analysis, so that, for example, the Kentucky Intelligence Fusion Center can view regional threat trends from the Indiana Intelligence Fusion Center.

Finally, the federal government, and specifically the Department of Homeland Security, has a history of providing guidance to and structure for fusion centers. Congressional legislations required the Department of Homeland Security to support "efforts to integrate fusion centers into the ISE [Information Sharing Environment] . . . [and to] incorporate[e] fusion center intelligence information into DHS information . . ."¹⁰¹ As previously noted, the Department of Homeland Security and Department of Justice jointly published *Fusion Center Guidelines* to assist fusion

¹⁰¹ U.S. Government Accountability Office. 2014. *DHS Is Assessing Fusion Center Capabilities and Results, but Needs to More Accurately Account for Federal Funding Provided to Centers*. Report to Congressional Requesters, Washington: Government Accountability Office.
<http://gao.gov/assets/670/666760.pdf>

centers.¹⁰² Perhaps one of the more salient justifications for this proposal is the understanding that, regardless of the outcome of this policy, the Department of Homeland Security will continue supporting fusion centers. This proposal merely formalizes an ongoing partnership between fusion centers and the Department of Homeland Security.

¹⁰² *Ibid*

Curriculum Vitae

Micah has eight years of experience as an intelligence analyst. He is a decorated Army veteran, having served as a Sergeant in the US Army's 101st Airborne Division, where he led a team of targeting intelligence analysts in Afghanistan. Micah graduated from Middle Tennessee State University with a Bachelor of Science in Economics and is a candidate for his Masters of Arts in Public Management at The Johns Hopkins University. While pursuing his Master's in Public Management, Micah has worked as a Public Safety Intelligence Analyst with the State of Ohio in both the Ohio Emergency Management Agency as an all-hazards intelligence analyst and with Ohio Homeland Security as the lead domestic terrorism analyst. Micah has recently accepted a position as a Crime Strategies Intelligence Supervisor with Maricopa County Attorney's Office in Phoenix, Arizona.