

Statement of

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I. Introduction

Chairman Thompson, Chairwoman Harman, Ranking Member Reichert, and Members of the Subcommittee, thank you for the opportunity to discuss the Los Angeles Police Department's (LAPD) efforts to fight terrorism and the important issue of the over-classification of intelligence.

Local law enforcement's ability to play a significant role in stopping terrorism is seriously hampered by the over-classification of intelligence by the federal government. While in Los Angeles we have enjoyed a very positive and constructive partnership with various federal law enforcement agencies, including the Federal Bureau of Investigation's (FBI) Los Angeles Field Office and the Department of Homeland Security's Immigration and Customs Enforcement (ICE), the classification process has been a substantial roadblock to our capacity to investigate terrorism cases and work hand-in-hand with these federal agencies.

II. The Terrorist Threat to Our Local Communities

The terrorist threat to our communities currently involves continued domestic terrorism and international terrorists plotting to destroy American cities.

A. Domestic Terrorism

Prior to September 11, local law enforcement agencies primarily investigated domestic terrorist groups, including white supremacists, hate groups, and special-issues groups conducting criminal activity (e.g. the Animal Liberation Front). Investigations centered on familiar cultures that were socially motivated by political ideologies to commit terrorism. The bombing of the Alfred P. Murrah Federal Building in Oklahoma in 1995, the most notable domestic terrorist attack, had a catastrophic impact on American soil and brought together local and federal law enforcement to bring the terrorists to justice.¹ Local law enforcement, in fact, played a critical role in the investigation and apprehension of the offenders.

B. International Terrorism

Prior to September 11, 2001, international terrorism was not in the national consciousness. Despite the first World Trade Center bombing, most Americans did not realize the significant threat of Islamic extremism and the consequences of international terrorism. September 11 changed the mindset of all Americans including local law enforcement.

Since September 11, the scope of terrorism and extremism has increased exponentially. In addition, as the war in Afghanistan and later in Iraq waged on, the face of Islamic terrorism changed. No longer was the only threat a group of dissident Saudis hijacking a plane to crash into American symbols of power. Throughout the world, suicide bombers attacked discos, train stations, and buses. Islamic terrorism has continued to demonstrate its reach and power from

¹ The 1993 World Trade Bombing was seen as international terrorism and investigated by the FBI.

changing the outcome of the 2004 national election in Spain to paralyzing the transportation system in London in 2005. The terrorist transformed himself from Middle East foreigner to second and third generation local citizen.

The sheer number of terrorist threats to our communities across the country has increased dramatically and the federal government's capacity to collect intelligence and investigate these threats has been overwhelmed. Consequently, local law enforcement's efforts to counter terrorism have never been more important or critical.

III. LAPD's Response to Terrorist Threats

A. Counter-Terrorism Bureau

The Los Angeles Police Department has taken the threat of international terrorism very seriously. The city has a population of over 4 million and spans over approximately 500 square miles. The region is home to numerous potential terrorist targets including the Los Angeles International Airport, the ports of Los Angeles and Long Beach, and the entertainment industry. In response, the LAPD has invested numerous hours and millions of dollars toward preparedness and response to a possible terrorist attack. In addition, the LAPD has created a Counter-Terrorism/Criminal Intelligence Bureau with nearly 300 officers who are solely dedicated to counter-terrorism and criminal intelligence gathering. While this bureau has served a critical function in the war against terror, the LAPD has been required to dedicate officers to intelligence gathering, a function typically performed by the federal government.

B. Joint Regional Intelligence Center and Joint Terrorism Task Force

Across the country, a new concept "fusion centers" arose where analysts from police departments, the FBI, Immigration and Customs Enforcement, and other agencies worked on the same information streams to identify possible terrorist threats. In Los Angeles, the LAPD provides personnel and participates in a Joint Regional Intelligence Center (JRIC), located in Norwalk, California, which includes fourteen participating agencies. The JRIC provides a critical information-sharing opportunity with the federal government. However, the over-classification of intelligence has become an impediment to full information sharing with the local law enforcement agencies who participate in the JRIC.

The LAPD, as well as other Los Angeles-area law enforcement agencies, is an active participant in the Joint Terrorism Task Force (JTTF). Like the JRIC, the JTTF also serves as an excellent partnership with federal law enforcement agencies and provides the opportunity for extensive information sharing. The same impediments of the JRIC, however, apply to the local law enforcement agencies participating in the JTTF. The dissemination of critical intelligence is restricted due to its over-classification.

IV. The Consequences of Over-Classification of Intelligence

After the 9/11 Commission issued its comprehensive report, America's local law enforcement community, consisting of over 700,000 law enforcement officers, was reluctantly invited into the effort of countering the international terrorist threat. One part of the rationale was that neither the Central Intelligence Agency nor Department of Defense could conduct intelligence operations within the United States against American citizens. Moreover, the total number of FBI Special Agents assigned to protect over 18,000 cities, towns, and villages throughout the United States is slightly over 12,000. This number becomes less reassuring in the when one examines the number of agents needed to handle the FBI's other responsibilities including white-collar crime, organized crime, public corruption, financial crime, fraud against the government, bribery, copyright infringement, civil rights violations, bank robbery, extortion, kidnapping, espionage, interstate criminal activity, drug trafficking, and other serious violations of federal law.

At the national level, local law enforcement was not deemed an important stopgap in the field of counter-terrorism particularly in the area of Islamic extremists. In addition, the significant role of local law enforcement in the fight against international terrorism was not viewed as significant. More than five years after the tragic events of September 11, local law enforcement involvement has still not been fully embraced because of the impediment of information sharing and the over-classification of intelligence.

The result of including local law enforcement is that uniform police officers, bomb squads, and hazardous material teams now train together to address terrorist threats with the FBI, Department of Energy, Federal Emergency Management Agency, and the Department of Homeland Security, and train to respond to possible terrorist scenarios

Local law enforcement has had a long history in investigating individuals and groups while developing and handling human and electronic intelligence. No agency knows their landscape better than local law enforcement; it was designed and built to be the eyes and ears of communities. Over-classification, however, prevents a true partnership with federal agencies.

An impediment for both federal and local agencies, for example, is that local FBI agents, cannot change the originating agency's classification level, and this problem is amplified when the response to the threat is time sensitive. Appropriate law enforcement response to substantial threats can be significantly impaired with minimal lead-time, creating greater risk to the community, and impacting the ability for a "First Preventer" response. A local field agent, however, has the discretion to classify a case as "secret." The criteria for this classification is "secret shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security." Additionally, the standard used for "secret" for intelligence information is "the revelation of significant intelligence operations." Many field agents may over-classify their cases for fear of compromise. Unfortunately, this is a double edge sword because it stifles collaboration with local law enforcement.

The burden to overcome is that the investigations push up against federal investigations, which in turn become classified. The result is the old adage of local law enforcement pushing

information to federal agencies without getting anything back. The federal fix has been to brief the Chief of the executive staff of classified cases, but restricted the dissemination to their intelligence units (despite proper clearance levels of personnel). The result is to develop separate and likely redundant intelligence gathering operations. For example, New York was first in the country to disengage from relying on the federal agencies to protect their city, committing almost 1,200 officers to counter-terrorism efforts. Currently, the association of Major Cities Chiefs of Police is campaigning in Congress to send police officers overseas to obtain information from their police counterparts rather than rely on our own federal agencies to share information.

V. Recommendation

The declassification of information currently classified at the secret level would greatly improve the information-sharing environment and build upon the counter-terrorism capabilities of local law enforcement. Federal authorities should consider changing the criteria classification of terrorism-related intelligence to “Law Enforcement Sensitive” to enable the dissemination of information to critical personnel in the field. “Top Secret” should be an exceptional classification that requires extraordinary demonstration of need while “Secret” should be a classification that requires more stringent demonstration of need than currently required.

Local law enforcement already works in an environment with a “right and need to know” and efforts made to declassify “secret” information to “law enforcement sensitive” would not only make for more effective and timely intelligence, but inspire true partnership, better collaboration, the building of more robust trust networks, and develop a richer picture with regard to community intelligence.

VI. Conclusion

The United States faces a vicious, amorphous, and unfamiliar adversary on our land. Our previous defensive strategy to protect our cities was ineffective and our current strategy is fraught with issues. In Los Angeles, we cannot support any process that takes us closer to another failure. We have the mutual interest and are working in common direction to prevent acts of terrorism in the United States. The classification levels are based on fear: the probability of information being disseminated to those that can cause serious damage to national security. What this system is not designed to do is protect us against the threat itself. Local law enforcement has a culture and capacity that no federal agency enjoys; the know how and ability to engage a community and today it is a vital part of the equation. This is achieved by disseminating the information to people who stand the best chance of stopping violence against American cities: our first preventers in local law enforcement.