

Fusion Center Accountability and Intergovernmental Information Sharing

Priscilla M. Regan* and Torin Monahan†

*George Mason University; pregan@gmu.edu

†University of North Carolina-Chapel Hill

Following the recommendations of the 9/11 Commission, the Department of Homeland Security (DHS) and the states cooperated in the establishment of fusion centers to facilitate sharing of data across government agencies, as well as across the public and private sectors. Based on interviews with officials in thirty-six different fusion centers and review of government documents and reports on fusion centers' activities, this article analyzes the interjurisdictional, regulatory, and legal accountability arrangements for these centers. Our findings indicate that fusion centers operate in a manner consistent with "opportunistic federalism" or "soft governance." Accountability in such a setting is particularly difficult but especially in the absence of shared professional goals as appears to be the case for fusion centers.

The 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. DHS 2006). Concerns about privacy and surveillance, as well as about effectiveness and accountability, have surfaced in response to these centers. As of August 2013, there were seventy-eight DHS primary and recognized¹ state and local fusion centers. Some of these were created in response to terrorism concerns, whereas others emerged from existing law enforcement organizations, such as drug interdiction, crime control, or regional coordination.

This article analyzes the interjurisdictional, regulatory, and legal accountability arrangements for these centers. With their goals of information sharing, "connecting the dots," and moving beyond traditional information silos, fusion centers operate across a variety of jurisdictional boundaries, which often exist in different regulatory and legal environments. It is generally challenging to design and manage accountability in such multijurisdictional and multipurpose settings. A lack of clarity about the organizational position, and hence the accountability, of

fusion centers is not surprising when one considers the fact that, as Rollins pointed out in a Congressional Research Service (CRS) report, “fusion centers are not federal entities and, therefore, have no federal statutory basis” (Rollins 2008, 45). He takes particular note of the “lack of a comprehensive national strategy for what the federal government wants to achieve through its interaction with fusion centers” (41). Secretary Napolitano underscored the same point in her remarks to the 2009 National Fusion Center Conference, stating that:

Fusion Centers will not be run by the Federal Government. They will have participation by the Federal Government. You should have grant support by the Federal Government. . . . But Fusion Centers are primarily a phenomenon of your locality, your local and your state, and they grow from that basis and from that recognition (Napolitano 2009).

Such cross-jurisdictional involvement entails coordination among government levels in all aspects of management, including accountability arrangements.

Questions and analyses of fusion center accountability have been raised in several Government Accountability Office (GAO) reports, CRS reports, congressional hearings, the 2012 report of the Senate Permanent Committee on Investigations, and the 2013 report of the House Committee on Homeland Security. Citron and Pasquale, adopting an analysis from a technical network architecture perspective, note that fusion centers operate “at the seams of state and federal laws” thereby “circumvent[ing] traditional accountability measures” (2011, 1444). Waxman looks more generally at federalism and national security and finds that “governmental intelligence oversight mechanisms are considerably less mature and developed at the state and local level, and they are uneven across jurisdictions” (Waxman 2012, 336). Price, in a 2013 Brennan Center for Justice report, conducts an empirical investigation of sixteen major police departments, nineteen affiliated fusion centers and twelve Joint Terrorism Task Forces and finds “organized chaos: a federally subsidized, loosely coordinated system for sharing information that is collected according to varying local standards with insufficient quality control, accountability, or oversight” (2013, 3).

In light of the tenth anniversary of the Report of the 9/11 Commission, the Boston Marathon bombing, and the various government and academic reports on national counterterrorism information-sharing programs, it is important to deepen our understanding not only of the functions and effectiveness of fusion centers but also their accountability. The approach we take in our analysis of fusion center accountability is one that is more solidly derived from the intergovernmental and federalism literature rather than from an information system or national security perspective. In this article, we first provide some brief background on fusion centers; second situate accountability and fusion centers in the intergovernmental context; third analyze the findings regarding accountability of fusion centers based

on our empirical study involving, in part, interviews with thirty-six different fusion centers; and finally discuss the implications of our findings for future fusion center accountability.

The Role and Purpose of Fusion Centers

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 (9/11 National Commission 2004). DHS reports that it “supports...fusion centers through personnel, training, technical assistance, exercise support, security clearances, connectivity to federal systems, technology, and grant funding.”² Some of these centers were newly created entities funded by DHS in response to terrorism concerns, while others emerged from existing law enforcement organizations, such as the Federal Bureau of Investigation’s Joint Terrorism Task Force (JTTF) or the federal High Intensity Drug Trafficking Areas (HIDTA) programs. Funding for fusion centers has come from different levels of government and from different program sources. Based on DHS data, the GAO estimated that states have used approximately \$426 million in DHS grant funding from FY 2004 to 2009 and that about 60 percent of fusion center funding is from federal grants, 30 percent from state funds, and 10 percent from local funds (GAO 2010a, 14–16).

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 DHS will be working and aiming its programs to underlie Fusion Centers.” However, as recently as 2013, in the wake of the attack at the finish line of the Boston Marathon, there was another significant breakdown in communication of intelligence, where, according to a congressional report on fusion centers, “Federally-held information about one of the would-be bombers wasn’t shared with local law enforcement [which] demonstrates a continued substantial gap in information sharing” (McCaul and King 2013, 61). The Boston-area fusion center did conduct a threat assessment of the marathon, yet apparently did not know about a previous FBI investigation into one of the attackers (Bender et al. 2013), even though FBI analysts were active at the fusion center. While this more recent example does raise the question of whether fusion centers could effectively interrupt terrorist attacks in the absence of clear, discernable threats, it could also indicate a shift in the role of fusion centers since the early years after 9/11.

Although counterterrorism was the original impetus for fusion centers, they quickly mutated their missions to include all-crimes, and, in some instances,

all-hazards. This has allowed localities to draw upon DHS resources to meet a wider range of law-enforcement needs, often with only a tenuous connection to counterterrorism (Monahan and Regan 2012; Regan and Monahan 2013; Monahan and Palmer 2009). Fusion center personnel rationalize this wider scope by saying that they concentrate on crimes that are supposed precursors to terrorism, or—in some cases—that share isomorphic forms to terrorist coordination and plotting. For instance, one official explained, “If you’re a terrorist cell, you have to do the same things a drug cartel would have to do [such as coordinate networks and transfer money],” therefore the fusion center focuses on all “pre-operational behaviors of concern.”

Accountability in an Intergovernmental Context

Several trends in federalism and intergovernmental research findings are relevant to our discussion of fusion centers. The federalism literature has tracked and sought to conceptualize the evolution of relationships between the federal and state governments, as well as among federal, state, and local governments. During different time periods, seeming authority and control—or lack thereof—has been thought to reside in one or other levels of government. Different time periods have been characterized as dual federalism with distinct constitutionally derived powers assigned to the federal and state governments (the “layer cake” model); cooperative federalism (Grodzins 1966; Elazar 1984) with more sharing of power and cooperation among the levels (the “marble cake” model); protective federalism with all levels of government seeking to solve collective action problems and avoid blame (Posner 2003, 47); coercive federalism (Kincaid 1990; Posner 2007) with the federal government asserting its primacy through mandates; and, opportunistic federalism (Conlan 2006; Caudle 2011) where each level looks for ways to expand its power or shift responsibilities in relation to the other levels. Other federalism and intergovernmental scholars have eschewed the “federalism” tag entirely, emphasizing more the intergovernmental label or speaking in terms of “third-party” government or governance (Mosher 1980; Salamon 1981) or diffusion of authority across a “matrix” (Elazar 1984, Agranoff 2001) or “networks” (Agranoff and McGuire 2003). In the latter the emphasis is on the sharing of power and authority, as well as the negotiating of compromise in order to accomplish outcomes.

Much of this literature focuses on cooperation, collaboration and coordination—and not on accountability, the primary interest of this article. Principal agent theory fits most closely with coercive federalism where there are specific federal goals and hierarchical reporting mechanisms such as contracts and binding regulations. In cooperative federalism, goals are arrived at through bargaining, negotiating and compromising among federal, state, and local governments with

recognition by all sides that the federal government has more advantages in the bargaining process in terms of resources and setting overall goals. Accountability and oversight tend to be developed as part of the negotiating process reflecting more the constraints of the state governments than those of the federal government. In the more recent theories of opportunistic federalism, third-party government and network management, hierarchical notions are de-emphasized and instead the focus is on more flexible collaborations involving many parties with different roles and responsibilities determining goals, priorities, and implementation regimes—often with vague accountability mechanisms as contained in memorandums of understanding (Agranoff 2006; Radin and Posner 2010).

Network and opportunistic models recognize that within intergovernmental relations there exist both “vertical” (federal–state–local and state–local) and “horizontal” (federal agency–federal–agency, state–state, and local–local) federal relationships. Principal agent theories do not work well in environments with shared accountability and authority moving in more than one direction. Kettl suggests a different paradigm for such circumstances—“contingent coordination” (2003) involving nonstructural approaches, interorganizational networks, and collaborative work responsive to situational needs. Kettl, however, emphasizes the operational side of effective coordination—not accountability or oversight. The emphasis is on informal relationships, which often result in little consideration of institutional context or authority relationships (Chenoweth and Clarke 2010, 496).

Research Design

The data analyzed here come from a three-year empirical study of the information-sharing practices and organizational dynamics of fusion centers.³ The primary research questions were “What types of information sharing are occurring with—or enabled by—fusion centers?” and “What factors contribute to the information-sharing practices of fusion centers?” To address these questions fully, along with the organizational and accountability issues raised by them, we collected data on the various missions, activities, locations, personnel, funding, and oversight of fusion centers.

From 2010 to 2012, we conducted fifty-six semi-structured interviews, predominantly with fusion-center directors and analysts, and also with select representatives of activist organizations, civil-society groups, and private companies that fusion centers draw upon for technological products or services. In some instances we interviewed multiple representatives from a single site, but in total thirty-six separate fusion centers are represented in our interview sample. All fusion centers were contacted and invited to participate in the study. The sites that chose to participate represent a geographically diverse and representative sample of the seventy-eight fusion centers throughout the country. Most of the interviews were

conducted over the phone and lasted for about an hour, although six interviews were conducted in person at fusion center sites. During the first phase of data collection (February 2010 to March 2011), representatives from all participating fusion centers were asked the same open-ended questions about information-sharing practices and organizational structures, with some variation in follow-up questions based on the responses. A second phase of data collection followed (July to December 2012), during which we asked more detailed questions about the unique identities and histories of the sites, how they compile suspicious activity reports and coordinate sharing of such documents with other entities, and how they manage and implement privacy policies. Because the focus was on fusion center sites, which operate as decentralized network nodes that are connected by information-sharing systems and practices, federal-level DHS representatives were not included in our interview sample. That said, the document analysis portion of the research included a wide range of federal-level material, which we use to situate and theorize the findings from individual sites. Confidentiality of interviewees and identities of fusion centers have been ensured through human subjects agreements. Unless otherwise indicated, unattributed quotations in this article come from interviews conducted with fusion center officials.

Additionally, document analysis was conducted on all obtainable official materials pertaining to fusion centers. This included government reports and materials, intelligence products, and e-mails and other documents obtained through freedom of information requests or lawsuits by civil society groups, activists, or other parties. For instance, representative government reports and materials include a 2013 U.S. House committee report, a 2012 U.S. Senate committee report, GAO reports, CRS reports, and the individual privacy policies of fusion centers. Intelligence products are documents produced by fusion centers for internal law-enforcement use; they include “threat assessments” for public events (like the Super Bowl), “vulnerability assessments” of critical infrastructure (like bridges, monuments, or power plants), or “suspicious activity reports” for things like taking photographs of critical infrastructure or participating in a public protest. Throughout the study, we coded and analyzed forty-two such primary documents, obtained from government transparency collectives such as Public Intelligence⁴ and The Partnership for Civil Justice Fund.⁵

Positioning Fusion Centers in an Intergovernmental Context

In the post-9/11 environment, there have been two somewhat contradictory messages concerning organization of counter-terrorism efforts. The establishment of the DHS signaled a more traditional top-down, centralized federal control using directives, mandates, and grant requirements. The establishment of fusion centers with their emphasis on “connecting the dots” and “co-locating” the range of

federal, state, local and private sector entities which might have insights and information on terrorism-related activities signaled network management and shared governance. The result has been a “constant and dynamic push and pull upwards and downwards” (Caudle 2011, 1) with a concomitant tension between central and decentralized policy. Some federalism and intergovernmental relations scholars were critical that homeland security initiatives did not take into account the realities and constraints of the intergovernmental system (Kettl 2007; Clovis 2008; Sylves 2008) and others were critical of the heavy-handed role of DHS (Roberts 2008; Conlan 2008).

There is evidence, however, that top down control by the federal government has not been the norm and the description is “too simplistic” (Caudle 2011, 8). Instead, there is evidence of more “opportunistic federalism” with state and local levels content to administer nationally initiated and funded programs if they can shape them to state, local, and regional needs (Wise and Nader 2008; Clovis 2006; Birkland and Waterman 2008). The practice is along the lines that Conlan (2006) describes as typical of opportunistic federalism with “both state and local governments behav[ing] opportunistically when they direct federal grants away from their intended purposes to serve strictly parochial ends. Although such behavior has always existed to some extent, the constraints on it have been greatly relaxed.” (667) Birkland and Waterman (2008) refer to this as a “patchwork of relationships between and among governments that combined features of coercion and cooperation” (695). Chenoweth and Clarke (2010) characterize the homeland security policy context as a “nested institutional framework” wherein there is a need for public and private cooperation at every level and no single actor has the authority or resources to compel action (497–98). Eisinger (2006) sees the norm in the homeland security partnership as “imperfect federalism” with “a mix of highly centralized control and the sort of diffidence that has come to characterize more routine intergovernmental relations” (541).

The post-9/11 evidence also indicates that local governments are playing a more critical role in homeland security policy implementation (Caruson and MacManus 2006, 523) and that strong “interlocal (horizontal) networks provide the foundation for an effective regional approach” (Caruson et al. 2005) as would be expected in the area of public safety, a large component of homeland security. In such cases of “picket-fence regionalism,” where the three levels of government work across a range of functional areas, the norm for establishing such networks is often based on informal, professional, or personal ties and is forged by informal arrangements or broad memorandums of understanding.

The funding and the political reality dictate that fusion centers are valuable primarily to the state and local jurisdictions and more secondarily to the federal government. This dual dependence is perhaps most clearly stated by an official at a state-level center: “These are not federal centers . . . the fact is everyone started from

a different place, and everyone has different levels of funding and capacity and I think the challenge for fusion centers is to accomplish this mission with the federal government, but at the same time providing relevance and value to their state.” This is echoed in the comments of an official at another state-level fusion center, which began as a crime intelligence division: “ours ended up being an all-crimes center . . . because that was the basis that we already had here as far as . . . , assisting local jurisdictions with information on criminal cases.” Another fusion center official was quite candid in stating the reality that he saw: “most chiefs or sheriffs are not concerned about a terrorist attack. They don’t really care. I mean, they’ve just, they got their own stuff to worry about, and I don’t blame ‘em.”

Accountability of Fusion Centers

Posner (2003) pointed out that in the early year after 9/11 one of the key risks in the new homeland security partnerships was public accountability, “the obfuscation of responsibility—for who is to blame, who is to take credit” (20). Principal-agent theory is unlikely as a workable accountability framework for fusion centers as there are simply both too many principals and too many agents. But there are challenges also in applying a network accountability framework. Posner (2003) further notes that in the area of homeland security, networks of professionals—typical in many policy areas—had not yet developed in homeland security, making reliance on network management problematic. Examining homeland security measures in 2010, Chenoweth and Clarke reach a similar conclusion regarding the difficulties of pinpointing accountability:

To date, it appears that both bureaucratic and network approaches too often lead to further layering of new coordinative organizations with no discernible improvement in performance. Better coordination or more partnerships, at best, will produce necessary but insufficient conditions for more effective local performance. (496)

This appears to be somewhat endemic to networks as Agranoff (2006) also points to lateral connections overlaying hierarchical arrangements rather than replacing them (57). With respect to homeland security in particular, where the burden of accepting accountability is “even more daunting than usual,” Kettl (2003) suggests that “[t]he system will have to gently feel its way toward defining acceptable levels of risk and appropriate ways of holding officials accountable for securing them” (270).

Within this complex nested institutional, networked, and opportunistic framework, it is a challenge to discern accountability practices and tools. Interagency agreements, memorandums of understanding, grant obligations, financial audits, and federal guidelines all play a role—as do more informal

arrangements. Our findings regarding the accountability of fusion centers will be organized around the five dimensions that consistently appear most important in federalism and intergovernmental accountability research: variety of policy areas and types of staff involved; the authority or force of federal regulations or guidelines; performance measures; funding sources and methods; and formal or informal oversight or advisory bodies.

Policy Areas and Staffing

The homeland security environment is complex and cluttered where actors from various policy regimes define a terrorism threat differently. It can be food safety, critical infrastructure protection, or public safety. As Scavo, Kearney, and Kilroy (2007) point out: “Homeland security discussions are dominated by dichotomies—local vs. national; military vs. civilian; emergency management vs. homeland security” (103). In the case of homeland security and fusion centers in particular, DHS’s focus on “terrorism” has been accompanied by “all hazards” rhetoric, which has opened the door to a broader approach (Birkland and Waterman 2008, 700). The result of this has been that multiple policy subsystems are involved in homeland security, each with a “distinctive history, issue foci, and interest community” making it difficult to agree on goals (May et al. 2011, 285). This can lead to “fragmented issue attention and disintegrative policymaking” (May et al. 2011, 290) and also to confused accountabilities because authority is not focused on a clear goal.

Our data reveal that fusion center networks are dominated by law enforcement. Most fusion centers in our study emerged from a law enforcement context, are directed by someone with law enforcement background, are co-located with local law enforcement entities, and focus on local law enforcement activities. This appears to contribute to some ambiguity about the fusion centers’ role within their states and with the federal government. Several of our interviewees quoted the refrain that “if you’ve seen one fusion center, you’ve seen one,” underscoring the uniqueness of each fusion center. Who is involved in a fusion center is, not surprisingly, very much reflective of the geographic, economic and demographic characteristics of a state. The size of fusion centers also varies quite widely with one having as few as four staff, most having around thirty staff, and a few with eighty or more staff.

All the fusion centers we contacted had both a DHS and an FBI official at the fusion center, in virtually all cases on a full-time basis and in some cases with as many as four officials from the FBI. Fusion centers also reported personnel from other federal agencies including: Transportation Security Agency (TSA); Alcohol, Tobacco and Firearms (ATF); Drug Enforcement Agency (DEA); Immigration and Customs Enforcement (ICE); and Customs and Border Protection (CBP). But the

great majority of staff at the fusion centers were from local law enforcement, with other staff from a range of state agencies such as public health, corrections, parole and probation, fire, emergency management, environmental protection, highway, and gaming and fishing.

In most cases relationships among fusion center partners are established as a result of memorandums of understanding (MOU). As a DHS official explained at a congressional hearing, MOUs are necessary “to govern the roles and responsibilities of deployed [federal] analysts in fusion center” and without these agreements there could be “a lack of clarity of institutional roles” (Gersten 2009). The Department of Justice’s National Criminal Intelligence Resource Center has a model MOU available on its website which includes sections on purpose, objective, organization and management (including an oversight board), distribution of work, financial arrangements, privacy and security, and dispute resolution.⁶

Few MOUs appear to be publicly available. Those we found are rather vague and seem to be insurance against liability. For example the MOU between the FBI and the Virginia Fusion Center states that the FBI agrees “to contribute information to the Virginia Fusion Center. This effort will continue to improve communication and coordination among federal, state, local, tribal, and private sector organizations and assist in developing methods to combine relevant information at all levels to maximize the usefulness of all available information.”⁷ The Virginia MOU does not confer any enforceable legal right against any participating party at the Fusion Center, including consultants, advisors and contractors. Similarly, the MOU establishing the Rockland County Intelligence Center⁸ indemnifies all participating agencies from all claims, actions and suits resulting from activities or omissions occurring as a result of the MOU.

Force of Federal Regulations or Guidelines

The variation in the activities of fusion centers, their location, and staffing is somewhat fueled and further complicated by what many of those we interviewed perceive as a lack of real guidance by DHS. Although U.S. DHS (2008) gives grant guidance and has identified baseline activities for fusion centers, the reality appears to be that the actual day-to-day functioning of fusion centers is largely centered on reacting to what is going on in their states and communities. An official at a sub-state fusion center noted that although the center received millions of dollars a year from DHS and had a “fantastic” person from DHS, there was “no guidance to him on what his mission and roles and responsibilities [should be], and luckily . . . between him [the DHS representative] and I and the FBI, we were able to . . . cobble that out and make it functional and make it really productive.” As Citron and Pasquale (2011) similarly point out: “The DHS has explained that state and local fusion center employees ‘are responsible for adhering to their own State laws and

policies, including those relating to the protection of individual privacy,' while 'federal employees assigned to fusion centers are subject to the Privacy Act of 1974, and are responsible for adhering to [other federal laws]'" (1454).

The guidelines are ambiguous concerning how seriously they should be regarded by fusion centers. For example, the Baseline Capabilities for State and Major Urban Area Fusion Centers, published by DOJ's Global Justice Sharing Initiative (Global) in September 2008, in its statement of purpose notes:

The federal government does not intend to use this document for punitive purposes; rather, a common set of capabilities is needed in order for the U.S. Department of Homeland Security (DHS), DOJ, and other federal agencies to ensure that they are providing the right types of resources in a consistent and appropriate manner.⁹

Similarly, in testimony before a House Subcommittee, the Acting DHS Deputy Officer for Programs and Compliance stated that: "We can establish certain Federal expectations through guidance, such as the baseline capabilities...but this is a partner relationship, not superior-and-subordinate one" (Gersten 2009).

There is no lack of guidelines, however. In addition to the Baseline Capabilities, DHS—either alone or in concert with DOJ, the FBI and Global, a Federal Advisory Committee to the Attorney General on information sharing activities—has issued a rather staggering number and array of guidance documents.¹⁰ DHS and DOJ have jointly issued fairly detailed guidelines for the development of fusion center privacy policies, including a policy development template (U.S. DHS/DOJ, 2010)—and many fusion center privacy policies appear to follow the boilerplate organization and language that DHS provided.¹¹ In our interviews with fusion center officials several noted that they have found these guidelines difficult to navigate. One official stated: "Why don't the Feds just put one [privacy] policy out and say this is what everybody will follow? We have spent hours writing and researching the policy. We went through four reviews with the Feds because...we submitted it, they kicked it back. We submitted it, we had a different analyst reviewing it, so they found different things, kicked it back." One area where there appears to be more clarity is that fusion center law enforcement intelligence systems must operate in conformity with 28 CFR Part 23,¹² which predates federal fusion center guidelines. But even with this regulation, there is increasing ambiguity about what constitutes a "search" with the various databases being accessed, as the FBI has introduced new guidelines exempting agents from the need to open formal inquiries for "quick" searches on individuals (Monahan and Regan 2012).

Review of several MOUs between federal partners, such as the FBI, and state fusion centers reveal that the MOUs further specify federal guidelines for fusion centers to follow. For example, the MOU between the FBI and the Virginia Fusion Center lists nine Attorney General Guidelines or directives governing activities such

as investigations, information collection and retention, undercover operations, and information sharing.¹³ The guidelines appear to offer more hortatory guidance than prescriptive mandate—to offer discretion and authority to the FBI. For example, the Attorney General Supplemental Guidelines for Collection, Retention and Dissemination of Foreign Intelligence (November 29, 2006) clarifies that the FBI is an “intelligence agency as well as a law enforcement agency” (p. 9) and states: “These Guidelines are set forth solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable by law by any party in any matter, civil or criminal, nor do they place any limitation on otherwise lawful investigative and litigative prerogatives of the Department of Justice” (p. 14).¹⁴

Performance Measures

Fusion centers’ performance measures have been focused on management capabilities rather than outcomes. The 2008 DOJ Baseline document included a dozen categories of baseline capabilities including information gathering, intelligence analysis, information dissemination, privacy, training, infrastructure and funding (10). In 2010, the GAO issued a report on how well fusion centers were achieving these capabilities and concluded that there was a need to develop performance measures to track progress toward achieving goals. GAO found that fusion center officials recognized this need but that, as officials from five fusion centers reported, performance measures presented challenges “because their mission was to prevent crimes, and it is difficult to know how many crimes were averted due to their efforts” (GAO 2010a, 24).

In part in response to congressional prodding since 2008, DHS was asked to coordinate or lead fusion centers in developing performance measures but has not yet done so. GAO (2010a) emphasized the need for DHS, “in partnership with fusion center officials, to define the steps it will take to show the results and value centers are adding to the Information Sharing Environment” (35). A few months later, GAO (2010b) reviewed four “performance measures” that the Office of Intelligence and Analysis (I&A) within DHS was using regarding information sharing with state and local partners: percentage of fusion centers staffed with personnel from I&A; percentage of fusion centers with access to the Homeland Security Data Network; percentage of analytics and critical thinking skills training delivered; total number of state and local support requests reported quarterly. GAO viewed these as “descriptive measures” that did not provide information related to effectiveness or value provided (30). GAO recommended more “results-oriented” measures and as a step in that direction suggested “measures that weigh customer satisfaction with the timeliness, usefulness, and accuracy of the information provided, until the agencies can establish outcome measures that determine what

difference the information made to state or local homeland security efforts” (32). Multiple goals of the program make development of meaningful performance measures difficult. Also problematic is that functions are geared toward high impact, low frequency events (Comfort 2002). In other policy areas, such as environmental protection, performance can be gauged by monitoring outputs such as number of permits issued, inspections made, and enforcement actions taken (Scheberle 2005). As many have acknowledged (Posner 2003; Radin 2006), performance management is difficult to achieve when the standards or criteria for outcomes are ambiguous or difficult to measure—both of which are true with respect to fusion centers. Avoidance of a terrorist attack entails evidence for a null event/proposition. Readiness or ability to respond can be somewhat more easily measured, as can improving communications interoperability.

Funding Sources and Methods

In 2009 DHS Secretary Napolitano reported that DHS had “provided \$327 million in direct funding to fusion centers, another \$812 million for broader information sharing which includes other types of technologies” (Napolitano 2009). The Senate Permanent Subcommittee on Investigations sought to understand the amount and methods of federal funding for fusion centers, but reached the conclusion that:

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 counter-terrorism information sharing with the Federal Government (Senate Subcommittee 2012, 61)

The Subcommittee reported in October 2012 that DHS funds fusion centers through grants awarded to states and urban centers and through DHS’s own personnel and programs that support and interact with fusion centers. The latter is difficult to separate and calculate, but DHS did for the first time estimate that in 2011 it spent \$17.2 million in this area. The former category of grant funds is also difficult to pinpoint with any accuracy.

DHS mainly funds fusion centers through its Homeland Security Grant Program (HSGP),¹⁵ which is administered by the Federal Emergency Management Agency (FEMA) and provides about \$800 million each year for “national preparedness capabilities.”¹⁶ The HSGP consolidated a number of previous funding programs into one program following 9/11 and is hence closer to what is typically defined as a block grant program, which provides somewhat flexible spending and decentralized control (Dilger 2009). FEMA awards funds to the governor-designated State Administrative Agency (SAA) based on a risk-based formula set out in the statute implementing the recommendations of the 9/11 Commission Act

of 2007 (P.L. No 110-53) and the SAA determines how much of the grant funding will go to fusion center activities. Although state agencies, including fusion centers, that receive these funds are required to submit progress reports, the reports reviewed by the Senate Subcommittee “provided only a high level overview of grantees’ spending” and “are not used to conduct program oversight” (Senate Subcommittee 2012, 25). FEMA does include “fusion centers” as a separate mandatory category for tracking grant expenditures and FEMA can only estimate such expenditures by doing a keyword search.

These 2012 findings are similar to what CRS found when it reviewed DHS funding for fusion centers in 2008 and characterized past practices as “somewhat confusing” (Rollins 2008, 36).¹⁷ The CRS report also pointed out that the funding figures that DHS reports going to fusion centers may not actually reach the centers because the SAAs administering HSGP funds “may not always allocate funds in a manner that is entirely consistent with how the funds were requested” (Rollins 2008, 37) and that “return on investment” (38) is not certain.

All the fusion center staff we interviewed received funding from both the federal government, always from DHS and in a few cases from HIDTA, and from their state and local governments. In most cases technology and special projects were funded by federal grants and staff salaries were funded by the states and localities. The funding constraints and issues interviewees raised were reminiscent of what state officials find in other intergovernmental policy areas such as education, environment, and health-care programs. Almost all fusion center officials talked about the need for “sustainment funding” for fusion centers—this became almost a mantra among the fusion center officials, something that they have clearly heard and reheard.

Most fusion centers seem to rely heavily on state funding which they see as vulnerable to state fiscal downturns. But they do not believe that they can count on DHS grant funding, a justified concern in the current wave of fiscal austerity, where, for instance, the Southern Nevada Counter-Terrorism Center will lose a portion of its federal support if Las Vegas is not included on the top twenty-five list of cities most susceptible to terrorist attacks (Valley 2013). Additionally, in some cases, fusion centers have to be creative regarding DHS requirements in order to secure the DHS funding that is available. For example, some DHS funding does not go to states but to local entities so in some cases fusion centers subcontract with local entities and run the funding through the local organization. One state-level fusion center official described this problem as follows: “we have to go find a local jurisdiction that is willing to be the subgrantee for that money, and then they enter into a memorandum of understanding with us to allow us to have access to that funding to hire personnel and support the fusion center.”

Formal or Informal Oversight Bodies

At the federal level, there are a number of entities with some oversight responsibilities for fusion centers. In addition to the oversight from DHS and DOJ, there is a Fusion Center Subcommittee of the Information Sharing and Access Interagency Policy Committee (ISA IPC), which is the interagency forum for overseeing the planning and implementation of the Information Sharing Environment (ISE) and is co-chaired by the White House National Security Staff and the Program Manager for the Information Sharing Environment (PM-ISE). The Fusion Center Subcommittee focuses on coordinating federal support to fusion centers by providing the guidance and standards necessary to support interconnectivity to help ensure information sharing between and among fusion centers and all levels of government. The subcommittee is co-chaired by DHS and the FBI and includes members from DOD, the Joint Staff, DOJ, the Director of National Intelligence, the DEA, and the White House Office of National Drug Control Policy. Within DHS, there is an Information Sharing and Safeguarding Governance Board—Fusion Center Executive Steering Committee, which provides a formalized governance process for Departmental engagement with and support for fusion centers and is chaired by DHS Intelligence and Analysis, and is tasked in part with providing a forum for sharing best practices and lessons learned, resolving interagency issues, and serving as a resource to private sector partners for the sharing of homeland security, terrorism, and law enforcement information.¹⁸

Within DHS the primary unit with responsibility for fusion centers is the State and Local Program Office in the Office of Intelligence and Analysis (I&A) within the Directorate of Information Analysis and Infrastructure Protection—but there are several other units with DHS that provide intelligence products and services, such as border security, and have some management responsibilities, such as the Collections Requirement Division, the Production Management Division and the Customer Assurance branch (GAO 2010b, 6–7). In 2010 GAO concluded that “establishing milestones for completing efforts could better hold I&A accountable to assist states and support future product development” (13); in its defense I&A noted that “I&A cannot compel states to meet its internal milestones” to which GAO responded that I&A should step up its efforts as it had spent almost three years on this and accomplished little (15). GAO also faulted I&A on transparency and accountability in analyzing and reporting feedback to the states (16).

However, the federal role in overseeing fusion centers is shared at best. As David Gersten (2009) of DHS acknowledged in congressional testimony:

Oversight of the fusion centers also poses a challenge. Because fusion centers are run by the States, direct oversight by the Federal Government presents real federalism issues. While some fusion centers are closely overseen by State government offices, such as the State’s attorney’s office, the precise extent of

close supervision by State, local, and Tribal governments at each fusion center is not always clear due to varying State government structures.

Almost all fusion centers have some state governance structure, such as an advisory board or committee, but most of these are composed of law enforcement officials whose staff are actively associated with the fusion center. For example, the Virginia Fusion Center's Advisory Board is the Virginia State Police Superintendent's Advisory Board and the directors who oversee the day-to-day overall operational responsibility of the center are primarily from the Virginia State Police—its Criminal Intelligence Division Commander, Criminal Intelligence Division Intelligence Lieutenant, and Supervisory Analyst.¹⁹

There is little public accountability or public representation on these advisory boards. In our study, one fusion center had a citizen representative and one had an ACLU representative, and some had arms-length oversight by the governor's office. But from what we can discern, the advisory boards rarely meet, and the majority of fusion centers operate squarely within the culture and confines of the law enforcement community.

The lack of public involvement in oversight is compounded by the lack of transparency. From the available information—including DHS reports, congressional testimony and reports, GAO reports, CRS reports, and our own interviews, it is difficult to determine lines of authority, force of regulations and guidelines, funding streams and effectiveness of funding, and oversight that currently exist for fusion centers. Problems with transparency will likely be aggravated by the presence of private-sector analysts at fusion center sites and the growth of public-private partnerships and security contracting more broadly, in part because private entities are not subject to the same expectations for public transparency (Hidek 2011). Additionally, when fusion centers can evade open-records requests, whether through exemptions provided by state law, such as is the case in Virginia (German and Stanley 2008), or through claims of possessing no “material project,” as has happened with the fusion center in New Mexico (Hylton 2009), transparency and accountability are further attenuated. Fusion centers create and operate within “zones of opacity” (Monahan and Regan 2012), and this analysis of intergovernmental accountability lends further support for such categorization.

Conclusion

In homeland security generally and through fusion centers in particular, DHS has attempted to strengthen the role of the national government in relation to that of state and local governments. The attempt, however, has not been successful in large part because of the complexities and multifaceted nature of the policy problem, in part because of some ambivalence or recognition of constraints by DHS, and in

part because of the existing authority, resources, and relationships that exist in state and local governments. In some cases there has been outright resistance to the actions of DHS, such as with the REAL ID Act (Dinan and Krane 2006; Regan and Deering 2009). In the case of fusion centers, however, there has not been resistance so much as there has been opportunism to use fusion centers to the advantage of primarily local actors, most often law enforcement.

Roberts asserts that “fragmentation plagues homeland security and disaster preparedness because units at various levels of government do not receive explicit policy goals, have no system of accountability for these goals, and do not share information” (2008, 423). He suggests that “dispersed federalism” in which “national government personnel and resources are physically located in the regions they oversee” may be an option to improve shared governance. Our findings, however, suggest that in the case of fusion centers, where indeed national personnel are co-located, such dispersion has neither clarified accountability nor improved governance. In part, this may be because DHS personnel are one of several federal personnel in fusion centers and in part because co-location itself will not settle governance and accountability issues. Dispersed federalism may indeed facilitate breaking down stovepipes and “connecting the dots” but it does not in and of itself improve either performance or accountability as Roberts acknowledges (2008, 428). In order for dispersed federalism to work and provide accountability, the federal government needs to exert strong managerial control (Roberts 2008) or the collaborating units themselves need to establish or evolve a common means of achieving accountability.

Strong managerial control from DHS is not the model we find in fusion centers. Instead we find evidence of what Brandsen, Boogers, and Tops (2006) term “soft governance,” with DHS and other federal entities directing state and local authorities “not by hierarchically imposing what should be done but by providing unofficial guidelines on how to improve the quality of local practice” (546). They view this as a useful model “for reconciling the demands of public accountability and professional autonomy, which encourages the long-term improvement of the quality of implementation” (552). As they point out, soft governance becomes “problematic” when guidelines “are mixed up with formal mechanisms of accountability” effectively becoming then “an extension of the formal mechanisms of accountability” (546). Such problematic outcomes are more likely to occur in “contexts of high political sensitivity and multilevel governance” (552)—and our research findings would add multi-functional participation. Much of the success of soft governance depends upon shared professional norms.

The notion of “soft governance” is quite similar to Peterson, Rabe, and Wong’s conclusion that cooperative relationships form in “mutually accommodating intergovernmental relationships” where each participant needs the other (1986, 6). However, they see this occurring as a result of a maturation process as policy

professionals at federal, state and local levels come to share goals through similar values, orientations, training and educational experiences, as well as through professional expert-based associations and networks. But as they caution: “Success does not come quickly or easily, but professional policymakers eventually adapt the workings of their organizations to take into account the concerns expressed by other levels of government” (216). An analysis of the implementation of several programs in the American Recovery and Reinvestment Act reaches a similar conclusion that federal guidelines and goals were more successfully implemented and accountable when there were existing relationships with long-standing common priorities and informal networks in place (Centers on the Public Service 2013).

Such “mutually accommodating intergovernmental relationships” might be expected in fusion centers with their local dependence on federal funding and the federal dependence on local knowledge and personnel. But it appears that the second part of the equation is missing in that there are not shared professional goals. In the case of fusion centers the dominant shared professional norms at the state and local level derive from law enforcement. Given that law enforcement remains an overwhelmingly local function—in its financing, training, and administration—and that the federal goal is focused on counterterrorism, shared professional norms are unlikely to develop even over time. If this is indeed the case, then the kind of accountability that emerges in “soft governance” is unlikely to evolve in fusion centers and accountability will continue to be difficult to realize. Without some measure of shared professional norms, the collaborating units that constitute fusion centers will not be able to establish a common means of achieving accountability.

Notes

An earlier version of this article was presented at the Midwest Political Science Conference in Chicago, Illinois, April 11–14, 2013. This research is funded by the National Science Foundation, SES-0957283, SES-0957037, and SES_1339199. The authors thank JoAnn Brooks and Krista Craven for research assistance, and thank Tim Conlan and Paul Posner for their careful comments and insights. The authors also acknowledge the helpful comments of four anonymous reviewers and of the editors.

- 1 Fifty-three are characterized as “primary fusion centers” and twenty-five are characterized as “recognized.” DHS distinguished as follows: Primary fusion centers “serve as the focal points within the state and local environment for the receipt, analysis, gathering, and sharing of threat-related information and have additional responsibilities related to the coordination of critical operational capabilities across the statewide fusion process with other recognized fusion centers. Furthermore, primary centers are the highest priority for the allocation of available federal resources, including the

deployment of personnel and connectivity with federal data systems.” In contrast, “as the Federal Government respects the authority of state governments to designate fusion centers, any designated fusion center, including major urban area fusion centers, not designated as a primary fusion center is referred to as a recognized fusion center.” For the complete list, see: <http://www.dhs.gov/fusion-center-locations-and-contact-information>.

2 <http://www.dhs.gov/topic/preventing-terrorism-results>.

3 This research is funded by the National Science Foundation, SES-0957283, SES-0957037, and SES-1339199. Krista Craven and JoAnn Brooks provided research assistance.

4 <http://publicintelligence.net/>.

5 <http://www.justiceonline.org/>.

6 http://www.ncirc.gov/documents/public/model_mou.pdf.

7 http://epic.org/privacy/virginia_fusion/MOU.pdf.

8 http://it.ojp.gov/fusioncenterguidelines/Rockland_County_MOU.pdf.

9 www.it.ojp.gov/documents/baselinecapabilitiesa.pdf, p. 2. The Global Justice Sharing Initiative (Global) serves as a Federal Advisory Committee to the Attorney General on justice information sharing and integration activities, including standards-based information exchange. See: <https://it.ojp.gov/global>.

10 One of the most widely cited set of guidelines is the *Fusion center guidelines: Developing and sharing information and intelligence in a new era*, http://www.it.ojp.gov/documents/fusion_center_guidelines_law_enforcement.pdf. Interestingly, this 104-page report leads with a caveat that: “This document was prepared under the leadership, guidance, and funding of the Bureau of Justice Assistance (BJA), Office of Justice Programs, U.S. Department of Justice, in collaboration with the U.S. Department of Justice’s Global Justice Information Sharing Initiative and the U.S. Department of Homeland Security. The opinions, findings, and conclusions or recommendations expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice or the U.S. Department of Homeland Security.”

11 For links to privacy policies of individual fusion centers see: <http://www.nfcausa.org/default.aspx/MenuItemID/121/MenuGroup/Map.htm>.

12 28 CFR Part 23 has become the de facto national standard for sharing criminal intelligence information. This has happened over the last several years for a variety of reasons. The primary reason is that the regulation has been in place since 1980, with only minor revision and clarification to address emerging technology, providing clear and succinct guidance to hundreds of intelligence systems. Also, a recent impetus is that the *National Criminal Intelligence Sharing Plan* (NCISP) recommends the use of the regulation in order to ensure that the collection/submission, access or storage, and dissemination of criminal intelligence information by law enforcement agencies conforms to the privacy and constitutional rights of individuals, groups, and organizations. The NCISP recommends that this occur regardless of whether or not an intelligence system is Crime Control Act-funded and therefore subject to the regulation. The adoption of 28 CFR Part 23 as a guideline allows agencies to demonstrate a good-faith effort toward protecting individuals’ rights, thereby protecting

- agencies from potential civil liability. For more information see: http://www.iir.com/Justice_Training/28cfr/FAQ.aspx?AspxAutoDetectCookieSupport=1#q1.
- 13 http://epic.org/privacy/virginia_fusion/MOU.pdf.
- 14 https://www.eff.org/sites/default/files/filenode/FBI_guidelines/domestic_investigations_and_operations_guide_part5.pdf.
- 15 “Prior to September 11, 2001, the federal government had three categorical grants-in-aid programs pertinent to homeland security: the State Domestic Preparedness program administered by the Department of Justice, the Emergency Management Performance Grant program administered by the Federal Emergency Management Agency, and the Metropolitan Medical Response System administered by the Department of Health and Human Services. There are now seventeen federal grant programs administered by the Grant Programs Directorate within the Federal Emergency Management Agency in the Department of Homeland Security, including fourteen categorical grant programs and the following three block grant programs: State Homeland Security Grants, formerly called the State Domestic Preparedness Program, (created in 2003), Urban Area Security Initiative Grants (created in 2003), and the Regional Catastrophic Preparedness Grant (created in 2008)” (Dilger 2010, 30). For further analysis, see CRS Report R40246, Department of Homeland Security Assistance to States and Localities: A Summary and Issues for the 111th Congress, by Shawn Reese; and CRS Report RL33770, Department of Homeland Security Grants to State and Local Governments: FY2003 to FY2006, by Steven Maguire and Shawn Reese.
- 16 For overview of program in FY 2011, see: http://www.fema.gov/pdf/government/grant/2011/fy11_hsgp_kit.pdf.
- 17 The Consolidated Appropriations Act of 2008 provides DHS Office of Security and Office of Intelligence Analysis funds to support state and local fusion centers. Funding numbers provided to DHS to support fusion center activities are not available as the figures are contained in the classified National Intelligence Program budget. (GAO, 36).
- 18 DHS, Coordinating Federal Support for Fusion Centers, Issued 8/12. Available at: <http://www.dhs.gov/sites/default/files/publications/coordinating-federal-support-for-fusion-centers-flyer-compliant.pdf>.
- 19 <http://www.nfcausa.org/files/DDF/VirginiaFC%20privacy%20Final%20draft%20Revised%20082610.pdf>.

References

- 9/11 Commission. 2004. *The 9/11 commission report: Final report of the National Commission on Terrorist Attacks upon the United States*. New York: W.W. Norton.
- Agranoff, Robert. 2001. Managing within the matrix: Do collaborative intergovernmental relations exist? *Publius: The Journal of Federalism* 32 (2): 31–52.
- . 2006. Inside collaborative networks: Ten lessons for public managers. *Public Administration Review* 66 (special issue): 56–65.
- Agranoff, Robert, and Michael McGuire. 2003. *Collaborative public management: New strategies for local government*. Washington, DC: Georgetown University Press.

- Bender, Bryan, Peter Schworm, Noah Bierman, and Julia Edwards. 2013. FBI did not alert state's anti-terror unit to its probe of suspected bomber in 2011. *Boston Globe*, April 25. <http://www.boston.com/politicalintelligence/2013/04/25/fbi-did-not-alert-state-anti-terror-unit-its-probe-suspected-bomber/RLHZM6GHRotZ6ciYxmiKP/story.html> (accessed August 8, 2013).
- Birkland, Thomas, and Sarah Waterman. 2008. Is federalism the reason for policy failure in hurricane Katrina? *Publius: The Journal of Federalism* 38 (4): 692–714.
- Brandsen, Taco, Marcel Boogers, and Pieter Tops. 2006. Soft governance, hard consequences: The ambiguous status of unofficial guidelines. *Public Administration Review* 66 (4): 546–53.
- Caruson, Kiki, Susan A. MacManus, Matthew Kohen, and Thomas A. Watson. 2005. Homeland security preparedness: The rebirth of regionalism. *Publius: The Journal of Federalism* 35 (4): 143–68.
- Caruson, Kiki, and Susan A. MacManus. 2006. Mandates and management in the trenches: An intergovernmental perspective on homeland security. *Public Administration Review* 66 (4): 522–36.
- Caudle, Sharon. 2011. Centralization and decentralization of policy: The national interest of homeland security. *Journal of Homeland Security and Emergency Management* 8 (1): 1–17.
- Centers on the Public Service. 2013. *Navigating in a system of shared governance: New management strategies for 21st century managers*. Preliminary Report to the Smith Richardson Foundation. February. http://s3.amazonaws.com/chssweb/documents/10981/original/GMU_ARRA_Overview_2_14.pdf?1360859084.
- Chenoweth, Erica, and Susan E. Clarke. 2010. All terrorism is local: Resource, nested institutions, and governance for urban homeland security in the American federal system. *Political Research Quarterly* 63 (3): 495–507.
- Citron, Danielle Keats, and Frank Pasquale. 2011. Network accountability for the domestic intelligence apparatus. *Hastings Law Journal* 62 (6): 1441–94.
- Clovis Jr., Samuel H. 2006. Federalism, homeland security and national preparedness: A case study in the development of public policy. *Homeland Security Affairs* 2 (3): October. <https://www.hsdl.org/?view&did=467451>.
- . 2008. Promises unfulfilled: The sub-optimization of homeland security national preparedness. *Homeland Security Affairs* 4 (3): October. <http://www.hsdl.org/?view&did=234514>.
- Comfort, Louise K. 2002. Managing intergovernmental responses to terrorism and other extreme events. *Publius: The Journal of Federalism* 32 (4): 29–49.
- Conlan, Tim. 2006. From cooperative to opportunistic federalism: Reflections on the half-century anniversary of the Commission on Intergovernmental Relations. *Public Administration Review* 66 (5): 663–76.
- Conlan, Timothy J. 2008. Between a rock and a hard place: The evolution of American federalism. In *Intergovernmental management for the 21st Century*, ed. Timothy J. Conlan and Paul L. Posner, 26–41. Washington, DC: Brookings Institution.

- Dilger, Robert Jay. 2009. *Federal grants-in-aid: An historical perspective on contemporary issues*. CRS Report: R 40638. June 15.
- Dinan, John, and Dale Krane. 2006. The state of American federalism, 2005: Federalism resurfaces in the political debate. *Publius* 36 (3): 327–74.
- Elazar, Daniel J. 1984. *American federalism: A view from the states*. New York: Harper & Row.
- Eisinger, Peter. 2006. Imperfect federalism: The intergovernmental partnership for homeland security. *Public Administration Review* 66 (4): 537–45.
- German, Mike, and Jay Stanley. 2008. *ACLU Fusion Center Update*. July. http://www.aclu.org/pdfs/privacy/fusion_update_20080729.pdf.
- Gersten, David D. 2009. Acting Deputy Officer for Programs and Compliance, U.S. DHS, at Hearing before the House Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment, Committee on Homeland Security. April 1, 2009. <http://www.gpo.gov/fdsys/pkg/CHRG-111hhr50615/html/CHRG-111hhr50615.htm>.
- Government Accountability Office. 2010a. *Federal agencies are helping fusion centers build and sustain capabilities and protect privacy, but could better measure results*. September. GA0-10-972.
- . 2010b. *DHS could better define how it plans to meet its state and local mission and improve performance accountability*. December. GAO-11-223.
- Grodzins, Morton. 1966. *The American system: A new view of government in the United States*. Chicago: Rand McNally & Co.
- Hidek, Matt. 2011. Military doctrine and intelligence fusion in the American homeland. *Critical Studies on Terrorism* 4 (2): 239–61.
- Hylton, Hilary. 2009. Fusion centers: Giving cops too much information? *Time.com*, <http://www.time.com/time/nation/article/0,8599,1883101,00.html> (accessed June 2, 2010).
- Kettl, Donald F. 2003. Contingent coordination: Practical and theoretical puzzles for homeland security. *American Review of Public Administration* 33 (3): 253–77.
- . 2007. *System under stress: Homeland security and American politics*. Washington DC: CQ Press.
- Kincaid, John. 1990. From cooperative to coercive federalism. *Annals of the American Academy of Political and Social Science* 509: 139–52.
- May, Peter J., Ashley E. Jochim, and Joshua Sapotichne. 2011. Constructing homeland security: An anemic policy regime. *Policy Studies Journal* 39 (2): 285–307.
- Monahan, Torin, and Neal A. Palmer. 2009. The emerging politics of DHS fusion centers. *Security Dialogue* 40 (6): 617–36.
- Monahan, Torin, and Priscilla M. Regan. 2012. Zones of opacity: Data fusion in post 9/11 security organizations. *Canadian Journal of Law and Society* 27 (3): 301–17.
- Mosher, Frederick C. 1980. The changing responsibilities and tactics of the federal government. *Public Administration Review* 40: 41–48.

- McCaul, Michael T., and Peter T. King. 2013. July. *Majority staff report on the national network of fusion centers*. Washington, DC: U.S. House of Representatives Committee on Homeland Security.
- Napolitano, Janet. 2009. Remarks by Homeland Security Secretary Janet Napolitano to the National Fusion Center Conference in Kansas City, Mo. March 11, 2009. <http://www.dhs.gov/news/2009/03/13/napolitanos-remarks-national-fusion-center-conference>.
- Peterson, Paul E., Barry G. Rabe, and Kenneth K. Wong. 1986. *When federalism works*. Washington, DC: Brookings Institution.
- Posner, Paul L. 2003. Homeland security and intergovernmental management: The emergence of protective federalism. Paper presented at the Annual Meeting of the American Political Science Association, Philadelphia, PA, August 28–31.
- . 2007. The politics of coercive federalism in the Bush era. *Publius: The Journal of Federalism* 37 (3): 390–412.
- Price, Michael. 2013. *National security and local police*. New York: Brennan Center for Justice at New York University School of Law. December 10. http://www.brennancenter.org/sites/default/files/publications/NationalSecurity_LocalPolice_web.pdf.
- Radin, Beryl. 2006. *Challenging the performance movement: Accountability, complexity and democratic values*. Washington DC: Georgetown University Press.
- Radin, Beryl A., and Paul Posner. 2010. Policy tools, mandates and intergovernmental relations. In *The Oxford Handbook on American Bureaucracy*, ed. Robert F. Durant, 447–71. New York: Oxford University Press.
- Regan, Priscilla M., and Christopher J. Deering. 2009. State opposition to REAL ID. *Publius: The Journal of Federalism* 39 (3): 476–505.
- Regan, Priscilla M., and Torin Monahan. 2013. Beyond counterterrorism: Data sharing, privacy, and organizational histories of DHS fusion centers. *International Journal of E-Politics* 5 (3): 1–14.
- Roberts, Patrick S. 2008. Dispersed federalism as a new regional governance for homeland security. *Publius: The Journal of Federalism* 38 (3): 416–43.
- Rollins, John. 2008. *Fusion centers: Issues and options for Congress*. Congressional Research Service (January 18), RL34070.
- Salamon, Lester M. 1981. Rethinking public management: Third-party government and the changing forms of government action. *Public Policy* 29 (3): 255–75.
- Scavo, Carmine, Richard C. Kearney, and Richard J. Kilroy, Jr. 2007. Challenges to federalism: Homeland security and disaster response. *Publius: The Journal of Federalism* 38 (1): 81–110.
- Scheberle, Denise. 2005. The evolving matrix of environmental federalism and intergovernmental relationships. *Publius: The Journal of Federalism* 35 (4): 69–86.
- Senate Permanent Subcommittee on Investigations. 2012. Federal support for and involvement in state and local fusion centers. U.S. Senate, October 3. <http://www.hsgac.senate.gov/download/?id=49139e81-1dd7-4788-a3bb-d6e7d97dde04> (accessed October 30, 2012).

- Sylves, Richard T. 2008. *Disaster policy and politics: Emergency management and homeland security*. Washington, DC: CQ Press.
- United States Department of Homeland Security. 2006. HS Strengthens Intel Sharing at State and Local Fusion Centers. Press release, July 27, 2006. http://www.dhs.gov/xnews/releases/press_release_0967.shtm.
- United States Department of Homeland Security. 2008. Baseline capabilities for state and urban area fusion centers: A supplement to the fusion center guidelines, September. https://www.fema.gov/pdf/government/grant/2010/fy10_hsgp_fusion.pdf.
- United States Department of Homeland Security and Department of Justice. 2010. Fusion process technical assistance programs and services. Fusion center privacy policy development: Privacy, civil rights and civil liberties policy template, April. <http://it.ojp.gov/docdownloader.aspx?ddid=1269>.
- Valley, Jackie. 2013. Horsford intent on securing money for Las Vegas anti-terrorism center. *Las Vegas Sun*, May 3. <http://www.lasvegassun.com/news/2013/may/03/horsford-intent-securing-money-las-vegas-anti-terr/> (accessed May 5, 2013).
- Waxman, Matthew C. 2012. National security federalism in the age of terror. *Stanford Law Review* 64 (February): 290–350.
- Wise, Charles R., and Rania Nader. 2008. Developing a national homeland security system: An urgent and complex task in intergovernmental relations. In *Intergovernmental management for the 21st century*, ed. Timothy J. Conlan and Paul L. Posner, 22–101. Washington, DC: Brookings Institution Press.