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Reforming the Counter-Terrorism Workhorse: Ensuring the National Strategy for the National Network of Fusion Centers Achieves the Fullest Impact

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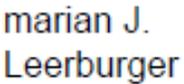|			
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REFORMING THE COUNTER-TERRORISM WORKHORSE:

*ENSURING THE NATIONAL
STRATEGY FOR THE
NATIONAL NETWORK OF
FUSION CENTERS
ACHEIVES THE FULLEST
IMPACT*

A Master Thesis

Submitted to the Faculty

Of

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By

Stefan P. Katz

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Of

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DEDICATION

       I dedicate this thesis to Lola. Without her patience, understanding, support, and, most of all, love, the completion of this work would not have been possible.

ABSTRACT OF THE THESIS

REFORMING THE COUNTER-
TERRORISM WORKHORSE:
Ensuring the National Strategy for the
National Network of Fusion Centers
Achieves the Fullest Impact

By

Stefan Paul Katz

American Public University System, April 4, 2015

Charles Town, West Virginia

Professor Marian Leerburger, Thesis Professor

In 2014, the first-ever National Strategy for the National Network of Fusion Centers took effect with hopes of resolving persistent issues plaguing the 78 fusion centers throughout the United States. The purpose of this study is to evaluate every detail of this new strategy and forecast if the strategy will be able to attain the intended improvements. To do so, this study uses a causal-comparative research methodology, which offers a diagnosis for a problem along with a prognosis for a possible solution.   By scrutinizing the strategy's vision and proposed means for achieving goals, this study expects the strategy to yield major improvements of current fusion center deficiencies. However, not all root-causes of persistent fusion center deficiencies are addressed by the strategy, increasing the likelihood for continued problems.

This study identifies several gaps that fusion center administrators must address in order to fully realize the intentions of this new strategy. Failure to do so would render the new strategy only partially successful, as fusion centers continue to be only somewhat effective and unnecessarily dangerous to the essence of liberty and the American way of life.

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CHAPTER ONE
INTRODUCTION

In the days before 9/11, US authorities had many of the puzzle pieces necessary to anticipate an attack was imminent. Unfortunately, the pieces were scattered throughout various agencies and levels of government with no single analytical node capable of putting the puzzle together. The FBI was best suited to assimilate the big picture and intervene, but insufficient sharing of information prevented the FBI from recognizing the threat. In the wake of 9/11, politicians recognized the danger of insufficient information sharing within the Intelligence Community and sought reforms to ensure complex bureaucracies are no longer endangering homeland security. Indeed, the time for reform had come.

In an attempt to prevent future terror attacks on the United States, Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004, which enacted several solutions for the problems that enabled 9/11 to occur undetected. Of several reforms designed to improve information sharing, one of the more revolutionary ideas led to establishing a national network of locally-focused fusion centers. These centers are to be staffed by representatives from various agencies and levels of government, chosen at the discretion of whomever provided most of their funds – the state or local entity in which they serve. Today, the law enforcement community and federal government view these fusion centers as a core capability in accomplishing federal homeland security strategy, and particularly important in the national effort to prevent terrorism. Fusion center missions and capabilities vary widely; however, they all share a common purpose of collecting and sharing as much information as possible about the populations in their purview, and then 'fusing' scattered information into actionable intelligence that will drive law enforcement and counter-terrorism operations.

With several interest groups scrutinizing fusion centers from every angle, there is now a long list of concerns needing discussion and possible rectification. The most common complaint by critics is the perceived ineffectiveness of fusion centers in the fight against terrorism. This complaint is closely followed by worries about habitual violations of civil liberties by fusion centers. Unfortunately for lawmakers, there is very little consensus among the critics as to why these flaws are happening (or how to correct them), which is making continued reform a difficult prospect. Nevertheless, critics are often quick to suggest need for additional legislation and resources. Since 2004, major game-changing policies have been enacted approximately once per year to fix the biggest of issues, with only marginal success.

One major factor for persistent fusion centers issues is the reality that each fusion center is locally-focused and held in accordance with the laws of their state. Currently, there are 78 fusion centers scattered throughout the country with 78 unique sets of governing rules and regulations. Furthermore, each fusion center can vary in size, mission, funding, staffing, expertise, and just about everything else. The expression 'if you've seen one, you've seen them all' simply does not apply to the national-network of fusion centers. While most critics agree that fusion centers are necessary and work best if locally focused, this fundamentally decentralized design is conducive to a wide range of problems that federal authorities did not anticipate.

Not only does the network's decentralized design make the existence of problems easier, the solving of those problems is also made more difficult. Instead of having an immediate effect, any new law or requirement attempting to reform a decentralized design requires intense scrutiny and realignment of each fusion center's policies. This painstakingly time-intensive process has prohibited this method of reform from being highly effective. What is needed is a fresh look at how fusion centers should be organized, supported and regulated across the entire nation.

And so in July of 2014, a fusion-center led initiative resulted in the first ever National Strategy for the National Network of Fusion Centers (NSNNFC), ten years after the first fusion center was established. While a strategy alone is not the entire solution, the strategy could be the first and biggest step towards reform that might eventually silence even the most ardent of critics. The strategy acknowledges how the rapid implementation of the national-network of fusion centers was not guided by a consolidated vision or purpose, thus opening the door for systemic problems. The NSNNFC aims to fill that tremendous policy gap, by articulating a clear vision and a framework for how to help fusion centers attain a sustained level of excellence.

But before any critic celebrates this significant accomplishment, they must evaluate the strategy and identify imperfections. Whether or not this strategy is as comprehensive or detailed enough to rectify previously existing issues is unknown. Not only is the quality of the strategy debatable, but the ability of fusion centers to adhere to the strategy is also a reasonable concern. Fusion centers are only beginning to implement the reforms of this new strategy, so assessments that capture how effective this strategy will be are simply not yet available. Even though strategic vision is a critical first step, fusion centers, their critics and government officials are now asking the same question: "*how much of an impact (if any) will the National Strategy for the National Network of Fusion Centers have on correcting fusion center deficiencies?*"

This study is one of the first attempts at answering that question. A quick review of the strategy will probably leave even the strongest critics impressed with how well the strategy is written and how the strategy at least attempts to addresses most major criticisms. But a strategy is just a piece of paper unless proper guidance, expectations, funding, and accountability mechanisms matriculate to the lowest levels. Therefore, this study must do more than scrutinize *what* the strategy is trying to accomplish. In order to answer the research question at hand, this

study spends the preponderance of effort evaluating *how* the NSNNFC's writers propose to attain the strategy's intentions. To explain how, the writers of the NSNNFC provided a list of 37 'initiatives', or specific policy measures, necessary for the strategy to achieve strategic intentions. The only initiatives listed are those directly supporting the strategy's goals, which in sum is a road map for how the NSNNFC's creators intend to maximize the strategy's impact.

Before assessing the ability of these 37 initiatives to resolve fusion center deficiencies, this study must take the time to understand why those deficiencies exist. Even if an initiative is fully emplaced, the initiative will have little impact if failing to address the root causes of an issue. Any inappropriate initiatives will do nothing to silence critics, and instead only reinforce the notion that the concept of fusion centers is invalid and dangerous. Therefore, the NSNNFC and all proposed reforms must be preceded by an accurate diagnosis of all causes for dismal fusion center performance. Like any of life's ailments, only after proper diagnosis will administrators be able to take corrective action. The NSNNFC may or may not be the remedy able to improve fusion center ailments.

Prior to the NSNNFC being emplaced, a myriad of strategies and policies attempted to treat fusion center ailments by articulating expectations and making countless resources available. Yet somehow, fusion centers could not perform their duties and responsibilities better than a mediocre level, and in some cases were worryingly inept. Each time a fusion center violates constitutional protections or fails to provide meaningful contribution to counter-terrorism efforts, critics point to a huge disconnect between strategic vision and actual performance. With significant evidence supporting the theory that policies local to each fusion center are a primary culprit in undermining strategic-level intentions, there is little reason to be hopeful for comprehensive change with only a new strategy. Therefore, the hypothesis in need

of testing is: *The National Strategy for the National Network of Fusion Centers will have limited impact so long as supporting policies are unaligned with the strategy's intentions.*

Even if the new strategy does little to remedy fusion center deficiencies quickly, one should not conclude that the strategy is useless. The strategy is still a potentially significant accomplishment and is only the beginning of the reformative cycle. No credible critic expects the new strategy to quickly or directly fix any problem. With the strategy in effect, fusion center administrators must now align their missions and priorities with those of the new strategy, a task which will take time. To do so, administrators will need to rewrite local policies, reorganize their teams, adjust budgets, and establish new processes. Each of the 37 initiatives prescribed by the NSNNFC is intended to guide how the realignment process will unfold. But unless these initiatives address all root causes for fusion center issues, the strategy will not be fulfilled. Therefore, the purpose of this study is to *identify all additional policy initiatives necessary in order for the new strategy to achieve the desired outcomes*. Knowing where policy gaps remain will allow fusion center administrators to address those gaps and thus maximize the strategy's impact as expeditiously as possible.

There is no reason to think the threat of terrorism is declining, and no reason to think fusion centers are going away any time soon. Therefore, fusion center administrators must act quickly to ensure each fusion center is highly capable of executing their duties in accordance with all strategic intentions. Time will tell if the new strategy was the right remedy given at the right time. But in the meantime, critics and government officials must be patient in how quickly they judge the strategy's value as the effects of this strategy will take years to become fully apparent. Presuming this new strategy is indeed a step in the right direction, this study argues for what the next steps must be in order for fusion centers to continue along on a march of progress.

CHAPTER TWO
LITERATURE REVIEW

Currently, fusion center critics are split between two schools of thought: opponents who aim to de-fund and dissolve the network of fusion centers, and supporters who aim to expand their mission and capabilities. The only area of agreement between these two competing groups of critics is that fusion centers are not fully satisfying the original intentions set forth in the Intelligence Reform and Terrorism Prevention Act of 2004, and the need for reform is clear. These two 'camps' disagree on almost everything else. Particularly, there is great disagreement over questionable fusion center effectiveness and also how they are an infringement upon Constitutional rights.

On one hand, fusion-center supporters argue that the concept of fusion centers is completely necessary in order to counter the threats of the 21st century. Any issues being experienced by fusion centers are not surprising and can be characterized as 'growing pains' that will disappear once the national-network matures. But in order to lessen the impact of the complaints from critics, fusion center supporters make the case for additional support from federal authorities, to include additional funding, manpower, training, and guidance. Essentially, the potential value of the US national-network of fusion centers is not yet fully realized, but can be only if the original intentions are supported by enough resources and driven by effective guidance. The National Strategy for the National Network of Fusion centers might be the solution most critics yearn for.

On the other hand, fusion center opponents argue how the concept of fusion centers is quite alarming and nostalgic of the Gestapo of Nazi Germany. This group of critics sees the concept of fusion centers are an over-reaction to an isolated terror attack and will forever pose a

threat to civil liberties at great financial expense. Furthermore, these critics argue how there is little evidence of fusion centers actually making the United States a safer place. Ten years after the first fusion center was established, fusion centers are not worth the investment and previous attempts to absolve their issues have failed. While some opponents call for eradication of fusion centers as the only solution, other critics would be content if only comprehensive reform takes place. Much like the other group of critics, this group of critics might possibly agree that the NSNNFC is the right solution at the right time.

While strategies usually are the first step of policy development, this new strategy is an after-thought aiming to complement previously existing governing policies. Since the very first fusion center was founded, other governing documents (legislation, guidelines, and standards) articulated the purpose and requirements which fusion centers are to be in accordance with. For example, all governing documents demand nothing but flawless preservation of public privacy and civil liberties. Yet somehow, critics complain of incessant intrusion upon both by fusion centers around the country regardless of strategic intent to protect them. Apparently, existing policies governing fusion center operations are insufficient and in need of a fresh look, beginning at the strategic-level and ending with detailed initiatives.

Part I: Placing the NSNNFC Among Existing Policies

Anyone involved in the debate over fusion centers often reference governing documents to help communicate their arguments. Since critics find fusion center performance to be less than acceptable in some regards, questioning the sources of fusion center authorities and limitations is only a natural reaction. Therefore, before considering the merit of any criticisms, this study must first grasp all governing documents responsible for shaping fusion centers into what they are today and determine how the NSNNFC fits into the bigger picture.

The moment of conception for fusion centers reaches back to 2001, when Congress commissioned an investigation into why the intelligence community failed to prevent 9/11. The findings of this report were turned into actionable reforms, via the Intelligence Reform and Terrorism Prevention Act of 2004. In this new policy, 'fusion center' is never mentioned once; however the need for an Information Sharing Environment (ISE) became suddenly required by Congress. This act appoints positions dedicated to implementing an intelligence community where information is freely shared, thereby setting the foundation for a national network of fusion centers. One important caveat is that this need is for sharing of *terrorism*-related information, and does not include any other crime (Public Law 108-458, 2004, 3665). Six years later, the National Security Strategy (2010, 20) echoes the need for an ISE and even recognizes the role of fusion centers as being crucial to preventing future terrorist attacks. Oddly, the National Security Strategy of 2015 focuses on foreign issues and does not mention domestic fusion centers. Additionally, the National Criminal Intelligence Sharing Plan (2013, pp 4) concurs that Fusion Centers are performing an incredibly important function with no viable alternative at this time. The entirety of the National Criminal Intelligence Sharing Plan (NCISP) alludes to a warning that the dissolution of the national network of fusion centers would be a major step backwards and leaves the US vulnerable, much like in 2001.

To accompany the current National Security Strategy, the President still utilizes a National Strategy for Information Sharing and Safeguarding (NSISS). But unlike the National Security Strategy, this strategy gets more specific than merely suggesting the need for all agencies to share counter-terrorism information. This document is still very much at the strategic level and does not name specific requirements. Instead, the NSISS (2012, 8-13) generalizes five goals that fusion centers *should* adhere to in order to be part of a successful

information sharing environment, but permits all participating fusion centers to implement as they see fit. No direct audience or enforcement mechanism is identified, and there is no promise of support from federal authorities in implementing these goals.

To implement all goals explained in various strategies and governing documents, DHS realized the need to make all goals more specific and measurable. Since 2008, DHS has used the Fusion Center Guidelines to codify 18 unique goals all fusion centers are to adhere to. Of these 18 guidelines, 17 fall under the umbrella of 'effectiveness', with Guideline #8 solely addressing the protection of civil liberties in a few short paragraphs. Guideline #8 specifies that all fusion centers are required to "develop, publish, and adhere to a privacy and civil liberties policy" (Fusion Center Guidelines, 2008, 41). But since states and local governments are providing the preponderance of funding for fusion centers, federal guidelines can make recommendations for such policies but are not liable for holding centers accountable. The total of eight recommendations for local policies are comprehensive, yet they are non-binding and use the words "should" and "suggested" throughout. Essentially, the wording of these guidelines ensure that if a fusion center fails to uphold any given guideline, then the federal government is not responsible.

Narrowing down on the 18 guidelines, DHS established a list of baseline capabilities that specify how any fusion center should fulfill the 18 guidelines previously mentioned. To directly address one of the primary criticisms of fusion centers, there is a core capability for all fusion centers to hire a 'privacy officer' who is responsible for establishing a policy and ensuring their center is compliant (Fusion Center Guidelines, 2008, 27). The specific duties of this privacy officer are not specified other than simply being a necessity.   Contrary to the National Security Strategy of 2010 and the NSISS, these guidelines open the door for fusion centers to optionally

adopt an "all-crimes" approach and not focus on terrorism alone (Fusion Center Guidelines, 2008, 24). Such 'all-crimes' approaches are thought to maximize the return on the investment into fusion centers. Since terrorism is not exactly a highly common crime, analysts can share non-terrorism criminal information and help the justice community solve crimes of all natures, but the decision to be all-crimes focused or not lies with the governor of each state and leadership of urban areas.

Despite the uniqueness of each fusion center, there are certain capabilities all centers should possess. The Baseline Capabilities (2008, 7) discusses several capabilities in general, but also is the first source document encouraging fusion centers to seek out public-private partnerships (PPP's), or relationships with their community. The purpose of these PPP's is primarily to build a culture of trust, but secondarily can include information gathering as well. The benefits of PPP's are believed to be bountiful by most government officials, private businesses, and even some critics (Shepherd 2011, 39). But how to build healthy PPP's and how to eradicate unhealthy PPP's are questions not addressed in any governing document at this time. There are two guidebooks made available to fusion centers about public-private interaction, but their use is optional. The *Communications and Outreach Guidebook* (2008) and *Integrating Critical Infrastructures and Key Resources Guidebook* (2008) both encourage fusion centers to engage local businesses and offer a long list of benefits. However, these two guidebooks plus all other forms of fusion center guidance fail to identify restrictions on community engagement or dangerous practices, which may undermine the culture of trust attempting to be created.

For years, the Baseline Capabilities of 2008 were suggestions, or requirements without any means of enforcement. Eventually, DHS realized the need to enforce their own mandatory capabilities and provided a Performance Measures Definition Guide (PMDG) in 2012 along with

a promise to inspect each fusion center annually. For the public, the PMDG only defines why these benchmarks are important. But to a fusion center, the PMDG is a checklist used by DHS to evaluate the progress of fusion centers, with 34 criteria for evaluation as of 2014. Finally, ten years after the concept of fusion centers was born, DHS at last has a means for verifying if individual fusion centers are meeting federal expectations.

But oddly enough, criticism of fusion centers continued despite a series of policies to ensure their relevance and compliance with strategic intentions. Concerns persisted about standardization, effectiveness, capabilities and oversight. Seemingly, despite a decent quantity of policy, the quality of which was questionable. This spurred senior administrators of the national-network of fusion centers to set forth and draft the NSNNFC in hopes of simplifying contradictory or misplaced intentions. Furthermore, the 37 initiatives of this strategy are designed to encourage practices that can help fusion centers meet those intentions. Published in July of 2014 and still in the process of being implemented, the US will soon begin to realize the effects of this newly emplaced strategy, positive and negative. At this time, there are no assessments of the NSNNFC offered by any party involved in the debate about fusion centers, only hope that this new strategy will ameliorate fusion center flaws.

The NSNNFC can be described as a summation of all previous governing documents. In combining all policies into one document, the authors of the NSNNFC were forced to identify and resolve subtle differences of each, of which there are many. Much like the NSS and NCISP, the NSNNFC reiterates why fusion centers are important to the US intelligence community. But the NSNNFC is contrary to the NSS and NCISP by supporting an "all-crimes/all-threats/all-hazards" concept and not just terrorism like originally intended (NSNNFC, 2014, 7). Most interestingly, the NSNNFC highlights the need for protecting civil liberties more than any other

governing document. Unlike the National Strategy for Sharing and Safeguarding (NSISS), the NSNNFC (2014, 11) specifies the protection of civil liberties as the absolute top priority instead of the last.   Furthermore, the total of four goals intended by the NSNNFC are similar to the five goals intended by the NSISS, but now emphasizes the role of the federal government in helping the national network of fusion centers truly be successful. This includes increased standardization of procedures; especially the adoption of 'best-practice' policies that can all but eliminate bad practices currently in effect (NSNNFC 2014, 15). The only way to know which procedures are 'best' or 'bad' is to have a federally sponsored inspection program which thoroughly reviews fusion centers for deficiencies and holds them accountable.

Currently, the Fusion Center Performance Program (FCPP) uses the Baseline Guidelines, Baseline Capabilities, and PMDG documents previously mentioned in order to conduct an annual inspection of each fusion center. While the inspection process is already in place, the NSNNFC (2014, 23) succinctly states "additional 'value-based' performance metrics are needed to further guide investments made by local, state, and federal partners." Essentially, the inspection and accountability processes are still in their infancy, with a newly standardized inspection checklist currently in development.

Despite the apparent recognition of some criticisms, this strategy is written with only federal, state, local, and fusion center perspectives in mind. Outside organizations or critics were not included in the creation of this strategy. There were no think tanks, advocacy groups, or academic perspectives explicitly included in developing the strategy, and therefore significant criticisms are likely to continue despite this new the effort. After all, a strategy can only be as effective if the lowest-level entities understand and abide by the strategy's intentions. Therefore, the eyes of critics are focused on fusion centers now more than ever before.

Part II - Fusion Center Criticisms & Recommendations

In order to predict the effectiveness of the new National Strategy for the National Network of Fusion Centers in resolving major criticisms, this study must first understand what those criticisms are and their causes. Only once those gaps are identified can this study determine if the new strategy begins to fill them. To do so, this study will compare the opinions of three key 'participants', or perspectives: fusion center supporters, fusion center opponents, and fusion center administrators. While other interest groups may exist, these three are the primary parties engaged in the debate of fusion center improvement. For this study, these participants will not be actively 'participating', however their positions on this topic are thoroughly explained in reports and studies that are publicly available. Currently, there are no existing studies by critics attempting to predict the impact of the NSNNFC in particular, only extensive discourse of problems surely to be affected by this new strategy and accompanying initiatives.

Literature Discussing Intrusion Upon Privacy and Civil Liberties

There is no shortage of critics alarmed by the tendency of fusion centers to infringe upon public privacy and civil liberties. Concerns about this systemic issue are well documented and echoed by government officials, think tanks, scholars, and independent watch groups. In the wake of the 2012 congressional inquiry into fusion center performance, DHS was required to conduct an internal audit of the fusion center program and any impact upon civil liberties. In DHS's final Report to Congress (2013, 3), DHS is resoundingly confident in their proactive approach at preserving civil liberties. To support their position, DHS lists the series of safeguards in place, and culminates by stating that DHS has received only two formal complaints in over eight years regarding civil liberty violations. Despite their confidence, they identify several areas for improvement which are also identified by many critics by separate means. As DHS

sees things, the issue of civil liberties is largely under control.

Overall, most third-party critics would likely be surprised by DHS's claim of receiving only two formal complaints regarding civil liberties. The Constitution Project is a think tank with a focus of preserving civil liberties from infringement by all government programs, not just fusion centers. Their report in 2012 highlights the existence of dozens of leaks, reports, and informal complaints describing improper fusion center activities. Such activities include improper public profiling, violations of multiple Constitutional rights, and illegal storage of personal information (The Constitution Project, 2012, 9-15). The American Civil Liberties Union concurs with the Constitution Project and provides multiple examples of civil liberties abuse that seemingly never were filed with DHS oversight. The ACLU is particularly critical of the ability for fusion centers to collect on a group of interest even if there is no reason to suspect this group of wrong-doing (German & Stanley, 2008, 2-7). Presuming the stories of fusion center abuses are true, the Constitution Project and ACLU argue for dramatic reform to DHS's oversight and accountability procedures.

While DHS's internal oversight mechanisms are questionable, Congress does mandate quarterly reports from DHS to ensure the privacy of Americans is not infringed. DHS may have received only two formal complaints regarding abuse of *civil liberties* by fusion centers; however, the growing trend of *privacy*-related complaints by all of DHS is alarming. In reviewing DHS's mandatory quarterly reports to Congress, DHS observed the rate of privacy complaints as more than doubling in recent years. During the first quarter of 2012, DHS received a relatively low 295 privacy-related complaints and saw that number climb to approximately 800 per quarter in 2014 (Quarterly Report to Congress 2012; Semi-annual Report to Congress 2014). DHS's mandatory reports to Congress continue to highlight that DHS (mostly via fusion centers)

does indeed infringe upon American privacy and the problem is showing no signs of abatement. As additional annual reports are publicized, any trend of privacy complaints will be indicative of just how endemic privacy intrusion is. In the meantime, there is a fairly uniform consensus between fusion center supporters, opponents, and administrators that intrusion upon privacy is a significant problem in need of reform. However, reform is only possible if the correct causes are identified.

Critics from third-party organizations are quick to explain why perceived problem exists. The Constitution Project (2012, 13) concurs with the alarming trend and explains the phenomenon as resulting from several variables. First, the aggressive Suspicious Activity Reporting Initiative gives analysts great abilities to intrude upon privacy which is made worse by woefully inadequate training for the same personnel. Additionally, even if privacy infringement is completely unintentional by analysts, extensive data storage that has no ability to 'forget' and has a weak review processes both greatly enable accidental infringements of privacy. Other critics expand upon these points and adds that a complicated multi-jurisdictional environment will always challenge analysts who can never be sure if database information was obtained rightfully or needs retention (German and Stanley 2008; Waterman 2011). The systems and processes used in data collection and storage are questioned by almost every critic, who are also quick to suggest need for investing in new software and processes in order to ease the burden on analysts.

Training could help, which is why the GAO queried all fusion center directors for their opinions on federal guidelines, training and support for fusion center analysts. The consensus of fusion center directors was found to be in great approval of the *Gap Mitigation Guidebook*, which supposedly outlines specific activities fusion center employees must make habits in order

to protect privacy and civil liberties (GAO-15-155, 2014, 14). Currently, the *Gap Mitigation Guidebook* is not available for public viewing. Either way, the effectiveness of specific federal attempts to improve privacy protection is not being measured so the impact of most efforts is largely unknown. On a note of pessimism, Walsh (2015, 123) found that when studying two fusion centers, neither offered any formal training program whatsoever. The remaining 76 fusion centers might be in the same category and rely only on informal over-the-shoulder training, or on outside organizations. When training is informal and fails to follow checklists, the likelihood for inconsistencies is all but guaranteed.

Literature Discussing Fusion Center Effectiveness

Civil liberties and privacy concerns aside, there are also many criticisms arguing that fusion centers are not contributing to counter-terrorism efforts in a meaningful way, and thus not worth the investment. Of all critics of fusion centers, Congress is the one critic that carries the most significant weight and therefore possesses the greatest ability to affect reform. From 2010-2012, a Congressional inquiry into fusion center operations reached quite unflattering conclusions. Instead of praise, the investigation concluded with mostly sharp criticisms which have become a rallying cry for fusion center opponents. Fusion centers were found to be prone to violating civil liberties, often produced sub-standard analysis, and consumed great amounts of money. As the cherry on top, fusion centers were found to not having contributed to a successful counter-terrorism operation even a single time in eight years (US Senate 2012, 83). To improve the situation, the Congressional inquiry makes several unique recommendations, all of which fall under the two distinct issues of preserving civil liberties and improving effectiveness. In the meantime, multiple federal strategies hail fusion centers for their potential impact, and so Congress continues to fund this effort regardless of DHS's ability or inability to adopt these nine

recommendations.

After Congress noted that fusion centers have yet to directly prevent a terror event, critics offered several explanations for why fusion centers are seen as ineffective. To start, Taylor (2012, 185) notes that fusion centers can be successful in an information sharing environment only if the contributing members are willing to share information in the first place. Instead, some intelligence organizations are highly selective in what information they will share, and instead participate in the fusion center initiative for the benefit of their organization rather than to contribute to others. Essentially, the intelligence community is struggling to absorb and involve fusion centers in the way fusion center founders intended.

The failure to absorb fusion centers could be explained by the reality of fusion centers being an after-the-fact addition to an already existent intelligence community. Walsh (2015, 133) adds to Taylor's arguments by noting how "different legislation, agency dissemination memoranda of understanding (MOUs), variations in security clearances, and differences among the organizational cultures of agencies (e.g., the role of the FBI vs. DHS), were testing just how "fused" or "joined up" these centers really were." The symptoms of disjointment are not surprising considering how the entire counter-terrorism architecture did not adjust to absorb the fusion center mission. Newkirk (2010, 49) hypothesizes that without a total review and deconfliction of all counter-terror missions, "most fusion centers [will] not have clear lines of authority" or source of guidance. Fusion centers are a conglomerate of visions and rules from many agencies at all levels of government, with funding and requirements levied from all directions, and with no unified vision in place to clarify anything.

Not only is a consolidated vision for the counter-terrorism enterprise non-existent, but so is a unified list of priorities. The Government Accountability Office dissected DHS intelligence

and analysis functions hoping to evaluate strategic priorities designed to guide all intelligence activities, but did not find any (GAO-14-397, 2014, 1-3). Without established priorities, there is no way to measure how well fusion centers (and other DHS intelligence entities) are contributing to strategic intentions, and instead permits random intelligence production that no one asked for and no one needs. In surveying users of intelligence products, the GAO found mixed results with many users unsatisfied with DHS intelligence production, mostly via fusion centers (GAO-14-397, 2014, 17). The link between strategic guidance and action at the lowest levels is not be measurable so long as strategic guidance is missing, possibly shifting some of the blame for questional fusion center effectiveness upon the shoulders of higher DHS.

There are several surveys that capture how fusion center staffs see themselves, with overall mediocre results. Only half of all fusion center analysts indicated that effective strategies, guidelines, and capabilities were in place (Cilluffo 2012, 3). Without proper direction and support in place, half of fusion center analysts believe their fusion center is ineffective at what they are supposed to do, likely resulting from many root deficiencies. In regards to the most critical improvement, fusion center analysts indicated "analytical capabilities were in need of most improvement" above anything else (Cilluffo 2012, 13). A deficient analytical capability explains a whole host of potential issues, but mostly why inaccurate intelligence products are created with high frequency. As discouraging as this information may seem, DHS's second-ever assessment of fusion center capabilities found improvement in analytical capabilities from 2012 to 2013 (DHS Annual Report, 2013, 9). However, 'improvement' is not synonymous with 'acceptable' and currently there are no concrete definitions for what 'acceptable' effectiveness might resemble. The Performance Measures Definition Guide which drives DHS's evaluation program does provide metrics for measuring fusion center operations, however these metrics

focus on quantity over quality in most regards.

At the same time of DHS's annual assessment, the GAO studied fusion center ineffectiveness and agrees that improvement has been made to train analysts on effective techniques and processes. In meeting with fusion center administrators, the GAO identified how low morale among analysts was driving ineffective analysis and leading to an unsustainable rate of turnover (GAO-14-397, 2014, 26). Increased pay, training, and promotion opportunity may have a positive impact and improve the situation. Unfortunately, fusion center funding is less than ideal and analyst pay is often not competitive against other employment opportunities. According to Pherson and Sullivan (2013, 313) competitive pay and opportunity will be essential to turning the tide of analyst turnover and improving fusion center effectiveness. At this time, DHS and fusion center authorities do not publicly identify their desired end-state goals regarding performance, morale, and employee attrition.

One way to determine what an acceptable level of effectiveness, or excellence, might resemble is to gauge opinions of the analysts trying to be excellent. A survey of fusion center analysts indicated an overwhelming concurrence that fusion center excellence can only be obtained if certain preconditions exist: highly trained expert analysts, supported with enough resources, and guided by thorough and effective guidance (Abold, Guietti and Keyer, 2012, 6-10). Whether or not a fusion center directly prevents a terror attack is irrelevant to 'excellence', contrary to the US Congress investigation that found no direct instances of any fusion center preventing terrorism. Others agree that fusion centers can be relevant and successful even if there are no direct contributions to thwarting terror attacks. Fusion centers have improved vertical and horizontal sharing of information, and encouraged a culture of intelligence-led policing for crimes beyond terrorism (Joyal, 2012, 92). But fusion centers are also intended to

fuse information, and Joyal concurs with other studies that fusion center analytical capabilities still leave much to be desired despite their overall positive impact.

Before any critic labels a fusion center as ineffective or as a failure, this study must consider the critic's perspective. Joyal (2012, 126) highlights how perceptions of fusion centers are different depending on whether the critic works in a fusion center, pays for fusion centers to exist, is a user of fusion center outputs, or from an outlying third-party. Furthermore, some states and cities invest more resources into their fusion centers, thereby making no fusion center like any other. Judging all fusion centers simultaneously or by the same criteria may not be possible.

While some critics do attempt to explain why fusion centers are sometimes ineffective, not all critics believe fusion centers are ineffective in the first place. Instead, there are at least two alternate opinions regarding fusion center effectiveness. First, some are optimistic about the improving trends of fusion center performance and think the worst is sealed in history. For example, several authors note that there are plenty of success stories where fusion centers have filled a gap that no other organization could (Kanable 2011, 8-11 and Chang 2015, 108). To expect fusion centers to be excellent so soon after establishment would be unrealistic. To echo that sentiment, even though Cillufo's (2012, 3) survey finds that while half of fusion center analysts are underwhelmed by their own capabilities, the other half apparently has reason to believe things are on the right track and operating effectively. External users of fusion center products also have shown great support for what they do, so the investment in fusion centers may not be a complete waste. The second alternative view regarding fusion center ineffectiveness questions whether or not fusion centers should even produce intelligence products in the first place (Dietzman 2011, 64). If fusion centers are removed from the intelligence production cycle and are confined to only intelligence sharing, then all criticisms of fusion center ineffectiveness

are made irrelevant. Understanding the perspectives for each criticism of fusion centers is tremendously important in determining how deficiencies are actually explained.

Part III – Theoretical Framework

Supporters and opponents both theorize that the faults of fusion centers are indeed caused by gaps in the governing policies and therefore will not resolve without comprehensive reform. This theory is prevalent in most criticisms regarding fusion centers, regardless of perspective or intentions. While a strategy is in essence a new beginning that offers a beginning to comprehensive reform, a strategy is useless without having supporting policies local to each fusion center that carry out the strategy's vision. Therefore, this study is built upon a few assumptions that are made clearly relevant by other researchers.

The first assumption is that the status quo does not meet expectations from politicians, activist groups, or even fusion centers themselves and therefore reform is indeed necessary. Continuing along on the current path will do little to resolve fusion center deficiencies and something must be done. The second assumption is that the major criticisms facing fusion centers are systemic to how the national-network is organized and governed, and therefore reform must begin at the strategic (or national) level. A third assumption is that cycle or reform will not end until matriculating policies are fully aligned with the new strategic vision. A fourth assumption is that the strategy will have some impact upon all variables being studied, so long as the NSNNFC's proposed initiatives are eventually implemented as intended. At this time, all initiatives are not yet fully implemented and consequently their impacts are not measurable at this time, only anticipated. The final assumption is that all fusion centers are unique and thus all findings speak generally about the national-network as a whole, not any specific instances. Therefore, this study will not name any local policies needing to be rewritten or any specific

fusion center in question. Instead, the focus will be on strategic initiatives needing to be applied to all fusion centers, even though some fusion centers may not be guilty of a given criticism.

Unfortunately, most critics differ in their strategic visions for fusion centers, and even more so on how to align the myriad of policies. Differences abound in arguments for changing levels of funding, support, guidance, and accountability in order to improve the situation. The wide range of opinions can be explained by the fact that a holistic and proper diagnosis for fusion center ailments is just not available. Therefore, this study must first identify the most likely causes for fusion center deficiencies, and then assess how effective the National Strategy for the National Network of Fusion Centers will be at fixing them.

There have been a handful of broadly encompassing proposals for reform, which gradually become outdated as the Department of Homeland Security and fusion centers implement new policies. As a new policy takes effect, the causal mechanisms of fusion center deficiencies are altered and the evaluation cycle must start afresh. Instead of a gradual and reactionary cycle of reform for the US national-network of fusion centers, there is great need and opportunity to implement wide-spread reforms in order to reach a desirable 'end state' that can appeal to multiple interest groups. Any new strategy is usually the most significant step of the reformative cycle as strategies often articulate what the desired end state is.

With significant evidence supporting the theory of policy gaps being the primary culprit behind fusion center deficiencies, critics may finally have the solution they have been wanting. For better or worse, the National Strategy for the National Network of Fusion Centers was emplaced in the summer of 2014 and is now taking effect. Some critics hope this new strategy will fill the most significant of policy gaps causing fusion center deficiencies. But at this time, there are no assessments from any critic to capture sentiments toward this new strategy. There

are no studies that assess the significance of this new strategy and no studies suggesting additional reform. As the research question suggests, this study will be one of the first dissections of the new strategy and will offer a prognosis for how the strategy will affect long-existing fusion center ailments.

CHAPTER THREE
METHODOLOGY

Driven by the question of "*how much of an impact (if any) will the National Strategy for the National Network of Fusion Centers have on correcting fusion center deficiencies?*", this study must first answer several sub-questions. First, this study must establish what the most significant fusion center deficiencies are, what is causing them, and what policy corrections are necessary to fix them. Understanding the nature of the problem and necessary solutions is a prerequisite for testing the hypothesis which is: *The National Strategy for the National Network of Fusion Centers will have limited impact so long as supporting policies are unaligned with the strategy's intentions.*

To test the hypothesis, the dependent variables (presumed effects) will be the major issues that critics point to as needing rectification. Specifically, the dependent variables needing thorough examination are the two biggest issues being observed by interest groups: *Perceived ineffectiveness of operations* and *encroachment upon public privacy and liberties.* But unlike a chemistry experiment, this study cannot measure these variables with a physical tool or by changing their environment. Instead, this study will measure these variables by using qualitative observations from three different perspectives: Fusion center supporters, fusion center opponents, and fusion centers themselves. The qualitative observations will be obtained from secondary literature from recent years and compare *problem*-focused discussion of each dependent variable from each of the three perspectives.

The independent variables, or presumed causes of the dependent variables, are *policies regarding fusion center guidance, support, and accountability*. In order to identify specific policy gaps that will prohibit fulfillment of the new strategy's vision, this study will need to list

all policy gaps identified by critics and then measure how the strategy will (or will not) affect them. To do so, this study will need to use secondary literature from the same three perspectives previously mentioned in comparing *solution*-focused discussions against federal-level governing policies. Any consensus (or lack thereof) of the three perspectives on any proposed solutions will in essence be a measurement of how effective that solution would be if implemented. If the new strategy implements solutions that can positively affect the dependent variables, then these solutions will add strength to the strategy and counter the hypothesis being tested.

Once the impact of the NSNNFC is measured, this study can then begin to *identify all additional policy reforms necessary in order for the new strategy to achieve the desired outcomes*, the very purpose of this study. Ultimately, a strategy can only be effective if supporting policies follow-through on the strategy's vision. Even if the strategy is perfectly sound and a big step in the right direction, the strategy will have zero effect on improving fusion center deficiencies if each fusion center continues to down a unique path like they currently are doing. The final list of additional policy reforms can be considered as essential to ensuring the NSNNFC achieves the intended outcomes.

Research Design

To test the above hypothesis, this study needs to evaluate specific measures of the new strategy and determine their impact (if any) on the dependent variables. But in order to evaluate impact, this study needs to understand why the dependent variables are able to persist in the first place. If a measure of the new strategy intends to resolve a dependent variable but fails to address the actual causes, then the new strategy will be of no impact despite the authors' efforts. Therefore, this study must first observe how all relevant policies address the dependent variables,

or symptoms, and then determine where the fault lies.

There are multiple and competing explanations for why each dependent variable exists, so this study will need to consider each one independently and collectively. For example, perceived low-effectiveness of fusion centers could possibly be explained by reasons other than insufficient federal-level guidance, support, or accountability (the independent variables). One such alternative explanation might be a low number of terror attempts in which fusion centers could be relevant, thereby providing little opportunity for them to heroically 'save the day' and be seen as effective. Another alternative explanation is poor public outreach on behalf of fusion centers, thereby limiting the awareness critics have of fusion center effectiveness. Only after all causes for each fusion center deficiency are identified can arguments suggesting flawed federal-level guidance and support (the independent variables) be validated. Once policy-gaps are conclusively identified, this study can then assess how the National Strategy for the National Network of Fusion Centers will affect the dependent variables.

Essentially, this study will diagnose the causes for a symptom, and then give a prognosis for how a 'treatment' will affect those causes. In this case, the symptoms are the dependent variables and the treatment being applied is the new strategy. But since the dependent variables have unknown causes, the new strategy will yield unknown effects. Therefore, this study will follow a *causal-comparative* research design because, much like a doctor, this design can help a researcher diagnose why a dependent variable exists and then offer a prognosis for an independent variable being studied.

To diagnose why these dependent variables are occurring, this study will follow a *retrospective* causal-comparative method which identifies the causes of a problem by analyzing current symptoms. Lodico (2006, 208-216) describes this method as a process by which a

researcher compares multiple competing explanations for an existing condition and eventually determines the likelihood of each possible explanation as the actual cause. This study is 'retrospective' in the sense that the effects are known, and the researcher must look back in order to determine the causes of a current situation in need of improvement. Once the causes are determined, this study will transition to a *prospective* causal-comparative approach which aims to predict the effects of a change to the situation. In this case, the change driving the need for a prediction is the implementation of the new strategy. This transition will be 'prospective' in the sense that the current condition is known, but future affects are not. To reach an accurate prediction, this study must weigh the potency of the treatment (the new strategy) against the ailments (dependent variables) attempting to be treated. Lodico (2006, 210) shows how both retrospective and prospective causal-comparative methods follow the same six steps:

1) Topic selection

2) Identification of Variables

3) Development of hypothesis

4) Selection of participants

5) Measurement of variables and data collection

6) Analysis of results

A causal-comparative research design suits this study well since the symptoms are observable, but the underlying causes and future affects are both debatable. Before this study can accomplish the purpose of recommending additional reforms and maximize the strategy's effectiveness, a complete diagnosis of persisting issues and a complete prognosis for the new strategy are absolute prerequisites.

Measuring the impact of the new strategy will require input from several key

'participants', which in sum forms three distinct perspectives: fusion center opponents, fusion center supporters, and fusion center themselves. While other interest groups may exist, these three are the primary perspectives engaged in the debate of fusion center improvement. Within the perspective of 'fusion center opponents', specific participants include: Officials from all levels of government, independent think-tanks, security advocates, law-enforcement entities, and the American public. The group of opponents specifically includes civil rights activists (such as the American Civil Liberties Union) and government watch-dog groups (such as the Heritage Foundation) which fairly represent both ends of the political spectrum. In sum, fusion center opponents are the predominant source of criticisms regarding fusion center operations.

The group of 'fusion center supporters' is made up of similar participants. There is great debate over the very need for fusion centers, and even more so regarding fusion center 'failures'. Capturing fusion center success stories and rebuttals will put all criticisms into perspective. Lastly, the perspective of 'fusion centers them' will include inputs from low-level fusion center analysts all the way up to the Secretary of Homeland Security, which is the most senior official responsible for fusion center operations. This perspective will also include studies conducted by the Government Accountability Office (GAO) which give valuable insight into how fusion centers view their own deficiencies. As an inspector at the federal-level, the GAO has unrestricted access to fusion center staff and archives, which cannot be paralleled by any survey or interview attempted by this research project.

For this study, structured surveys or interviews could be appropriate tools; however, the positions of each participant are thoroughly explained in reports, interviews, and studies that are publicly available. Because of the plethora of discourse on the issue of fusion center deficiencies, this study will amass the most significant and most recent pieces of existing

secondary literature and conduct content analysis of each participant's perspective on each deficiency, their causes and proposed solutions. Therefore, there is no need for the participants to actively 'participate' in this study at this time in the form of surveys or interviews. However, follow-on studies could very easily utilize surveys and interviews as methods for measuring sentiment toward the National Strategy for the National Network of Fusion Centers. And if any reforms are to accompany this strategy, similar studies can measure how perceptions of the dependent and independent variables are changing over time in order to drive a cyclical process of improvement.

Analytical Methods

Understanding different perceptions of each issue will enable this study to overcome any bias of one-sided arguments. If more than one explanation for fault is possible, this study will utilize *Analysis of Competing Hypotheses* (ACH) as the primary method for arbitrating the most likely culprit(s). Heuer (1999) describes this process as a systematic and impartial means of evaluating the merit of two plausible explanations in order to identify the strongest hypothesis. This analytical process requires the researcher to follow eight steps:

1) List all plausible hypotheses or explanations

2) List all evidence for and against each hypothesis

3) Evaluate the value of each piece of evidence supporting each hypothesis

4) Re-evaluate hypotheses using the refined list of evidence and isolate the strongest hypotheses

5) Draw plausible conclusions by attempting to disprove hypotheses

6) Consider sensitivity of final hypotheses to subtle changes in context

7) Articulate conclusions for all hypotheses originally considered

8) Identify indicators that indicate of a change in the situation

Utilizing ACH is not a perfect way to eliminate bias that is manifested in each hypothesis, but is frequently used by researchers considering two or more hypotheses equally and simultaneously. Additionally, ACH is particularly useful in debates where data is limited, and further testing of a hypothesis to obtain more information is not feasible. Regardless of subject matter, ACH is revered as a proven method for structuring thought processes and will be valuable in this study.

There are a few drawbacks of ACH that will undermine conclusions drawn by this study unless these drawbacks are recognized and countered. For this study in particular, the most significant drawback regards how the hypotheses being considered are already established and this study is unable to reach back to their formation. Fusion centers are a topic of great political and emotional debate, so bias-free arguments are few and far between. Any biases embedded within a hypothesis likely will not be totally overcome. To overcome this challenge, broadly evaluating as many opinions as possible on an issue (or variable) will lessen the impact any and all biases may have.

After assessing the validity of perceived deficiencies, and identifying their likely causes, this study will then evaluate just how much impact the National Strategy for the National Network of Fusion Centers will have. Presuming the strategy will need additional policies to accomplish the strategic intentions, this study will recommend what those policies will need to address. The list of additional reforms will be drawn from the concerns and recommendations of the three 'participants' and thus will hopefully appeal to all as an unbiased diagnosis and suggested resolution. More importantly, these recommendations must maximize a culture of information sharing and fusion while minimizing expense, and all-together eliminating encroachment upon Constitutional rights. The American people deserve nothing less.

CHAPTER FOUR
FINDINGS & ANALYSIS

As previously stated, there are 78 fusion centers with 78 unique sets of governing

policies and characteristics. The diagnosis of major issues affecting fusion centers must look

only at trends across the whole network of fusion centers, and not harp on isolated incidents or

individual fusion centers. Furthermore, the following diagnosis of root-issues is not all

inclusive and not perfectly applicable to all fusion centers in a uniform manner. By matching

the NSNNFC's initiatives to the following major root issues, this study will conclude by

pointing to areas where the NSNNFC is lacking in impact.

Part I: Diagnosis for Why Fusion Centers Encroach Upon Privacy and Civil Liberties

Privacy Issue 1: Inadequate Federal Support to Help Fusion Centers Achieve Standards

When inquiring into why an organization is failing to meet existing standards,

scrutinizing those standards is a natural place to start. Between federal standards and local

policies, there are several policies articulating the supreme importance of protection of privacy

and civil liberties. Most policies call for nothing short of perfection, so the standard is quite

clear. However, fusion centers can still struggle to uphold standards without adequate federal

assistance. To help fusion centers handle the legal jargon and bureaucracy, the DOJ and DHS

collaborated to create a *Fusion Process Technical Assistance Program* which provides resources

and consultation services to any fusion center seeking assistance. This program offers assistance

in everything from physical computer systems to intangible process development. One

important note is that this program requires fusion centers to request assistance in most cases. If

a center believes they are self-sufficient and do not request assistance, then good federal

intentions are for naught. But when fusion centers take advantage of this program, there are

deliberate measures to ensure privacy and civil liberties are protected (FPTA, 2014, 33). Technical assistance provided by this program will be essential to making sure all components of the NSNNFC (beyond just privacy issues) are realized.

The concept of the *Fusion Process Technical Assistance Program* is sound, but is lacking in regards to technological inter-operability and safeguards. For example, the Constitution Project (2012, 9-15) notes that computer software exists that can help fusion center enforce privacy policies, such as immutable audit logs. Databases can be designed to 'forget', or at the very least restrict access to private information. Such safeguards are possible, but realistically can only be implemented across the nation via a federal mandate and with significant federal assistance. If accomplished, privacy intrusions can more easily be prevented or at the very least corrected when found during inspections.

To ensure these resources are utilized and compliance is attained, the DOJ and DHS collaborated to create the *Privacy, Civil Rights, and Civil Liberties Compliance Verification for the Intelligence Enterprise*. This is a program and not just a policy, "designed to be utilized as a self-assessment tool for an intelligence enterprise." (Compliance Verification for the Intelligence Enterprise, 2012, 1). While the program and checklists seem comprehensive, the responsibility for ensuring compliance with federal policies mostly falls on fusion centers, non-federal entities, to regulate themselves. Although infrequent and cursory external assessments do occur, they are not a major force able to enhance fusion center compliance with strategic desires for flawless privacy protection.

Privacy Issue 2: Insufficient Privacy Training

If the proper policies are in place at the vast majority of fusion centers, the path to significantly reducing privacy violations is largely laid out and success is within sight. But

policies are only paper and worthless without action. Specifically, all staff needs to be *trained* on these policies and procedures, *evaluated* periodically for compliance, and *held accountable* when in violation. The preponderance of fault is with these three regards, which helps explain why privacy issues are so persistent regardless of how thorough policies are.

Fusion centers are staffed by people, and these people are key to whether or not the minimum standards are upheld. Therefore, out of all the standards available to fusion centers, the Department of Justice's (DOJ's) *Common Competencies for State, Local and Tribal Intelligence Analysts* is the most significant because of the focus on individual analysts. An analysis of these standards shows how the federal government has for years been highlighting the need to protect privacy and civil liberties at all stages of the intelligence process. But with only three pages outlining *all* analyst competencies, these standards are completely lacking in any sort of depth about how, when, and why privacy needs protecting. There are multiple ways a fusion center can inadvertently infringe upon privacy and civil liberties, and these standards do not require any sort of in-depth instruction on how to avoid common pitfalls.

While privacy training for analysts may be lackluster, one would hope that dedicated privacy officers should be trained to a high level of expertise. In a proud moment for DHS, the DHS Final Report (2013, 33) indicates almost all privacy officers have received some privacy training, however the report does not elaborate on whether their training is adequate. Furthermore, there is no measurement available for the extent to which analysts are trained in privacy protection. Training is available to all privacy officers and analysts through the *Fusion Process Technical Assistance Program* and is free of charge. However, this training is online only, voluntarily taken, and not very extensive which leaves most fusion center personnel only familiar with privacy protection, not competent.

Privacy Issue 3: Insufficient Oversight, Evaluations, and Accountability

All fusion centers, big and small, are required to have a dedicated Privacy Officer responsible for aligning local policies with strategic requirements. As of 2013, 97% of fusion centers have a dedicated Privacy Officer and policy in place as the front line of defense against infringement upon privacy and civil liberties (DHS Final Report, 2013, 33). Ensuring all centers have a person appointed is a natural and critical first step, but useless unless this person acts on their responsibilities. To help even the most inexperienced of Privacy Officers, the federal government provides guidance on what Privacy Officer duties entail in two key resources.

The first resource to guide privacy officer appointment and development speaks generally about the responsibilities of fusion center administrators and Privacy Officers themselves. The DOJ guideline *Establishing a Privacy Officer Function Within a Justice or Public Safety Entity* (2013, 4-5), thoroughly outlines why Privacy Officers are important, how they should conduct themselves and their subordination. The second key resource provided to Privacy Officers is more specific, and assists each Privacy Officer with their first task; to enact a local policy outlining how they will protect privacy and civil liberties, with emphasis on prevention. To help with this important first step, DHS even provides each Privacy Officer with a detailed *Fusion Center Privacy Policy Template*. Analysis of these guidelines reveal no significant gaps that critics seek to fill. However, unlike the strong wording of the NSNNFC, this guideline only uses suggestive words like 'should', 'might', and 'recommends' throughout the entirety. As the old adage goes, you can lead a horse to water but you can't make him drink. In order for fusion centers to achieve the intentions of the NSNNFC and truly eliminate intrusion upon privacy, these guideline must be codified with wording that mandates existing suggestions.

Even though fusion centers have all of the necessary policies in place to prevent violations of privacy and civil liberties, infringement somehow is still occurring with alarming frequency. And when prevention fails, the Privacy Officer and newly emplaced federal inspectors must work in concert to ensure inspections are doing everything possible to mitigate the consequences and learn from past mistakes. While critics have poignant arguments about insufficient federal oversight and accountability in years past, there have been two significant advancements since 2012 that greatly reduce these previously tremendous root deficiencies.

First, DHS has emplaced a standardized evaluation program that requires fusion centers to self-examine while also providing federal examinations across the entire network. Known as the Fusion Center Performance Program (FCPP), structured examinations give federal authorities the information they need to better refine policies and leverage resources against issues like privacy and effectiveness. The second recent advancement regards accountability, where DHS no longer provides a blank check to fusion centers regardless of performance and compliance. Instead, the new *Homeland Security Grant Program* (2014, 35) now uses the results of the FCPP when making resource allocations. Since this shift, federal dollars are allocated to fusion centers when a deficiency is formally observed using the FCPP. Ultimately, the combination of FCPP and DHS's new grant process are force multipliers for the NSNNFC and will help ameliorate some of the root causes of privacy infringement.

Privacy Issue 4: Inadequate Guidance Governing Public Private Partnerships (PPP's)

Supporters and critics of fusion centers both agree how Public-Private Partnerships (PPP's) can be tremendously valuable to public safety initiatives. Over 85% of all infrastructure within the US is privately owned, and potential terrorist attempts are likely to involve private entities much like what the world witnessed on 9/11 (Shepherd, 2011, 3). Some of the benefits

are realized by businesses, where they can access information and resources to protect their assets. Public entities like fusion centers can also benefit, by learning about their area of responsibility and potential terror targets. The ACLU understands those benefits, but sees extreme risk of going down a slippery slope. Specifically, the possibility of personal information about law-abiding citizens can wind up in fusion center databases without there ever being probable cause for necessitating the information to begin with (German and Stanley, 2008, 3). Although usually accidental, the procurement of information by such a means circumvents constitutional protections and greatly complicates judicial proceedings.

The cause of loosely regulated PPP's is the fact that all levels of government encourage PPP's without offering any guidance on how to restrict them. There is no national strategy, legal framework, or even suggestions to describe what appropriate PPP's look like, and how to avoid unhealthy ones (Abou Bakr, 2013, 43). The lack of regulations regarding PPP's effects more than fusion centers, but also most government initiatives from all departments. So long as there is no national-level vision for PPPs to model local policies after, fusion centers will continue to engage private businesses and entities in a manner that will frighten critics.

Privacy Issue 5: Inadequate Transparency and Public Outreach

In general, fusion centers enthusiastically pursue PPP's and are largely motivated to collect as much information as possible. But when engaging their community to push information about fusion center missions and activities, most fusion centers are quite muted. The federal government does encourage such community interaction in several strategies and directives, and even consolidate essential guidance in the *Communications and Outreach Guidebook: Considerations for State and Major Urban Area Fusion* Centers, which is part of the broader B*uilding Communities of Trust Initiative* (Wasserman, 2010, 8-27). This program

and concise resource makes things easier for fusion centers without actually doing the work for them. However, the DHS Final Report (2013, 63) shows how only 55% of all fusion centers actually have a plan for community outreach. The effectiveness of these plans is questionable and not measured by any entity at this time. The low rate of community outreach may partly be attributed to how the *Building Communities of Trust Initiative* is designed to appeal to fusion centers on a voluntary basis only.

Failure to have active community outreach programs not only hurts sentiments toward fusion centers, but also lessens public knowledge of proper complaint and redress methods. DHS's *Civil Liberties Impact Assessment* (2013, 3) boasts only two civil liberties complaints in an entire year. However, this low number is unlikely to be an accurate number of violations more likely to be explained by insufficient public knowledge regarding complaint and redress methods. Without robust public outreach and transparency, public opinion toward fusion centers will continue to be skewed or absent.

Part II: Diagnosis for Ineffective Fusion Center Operations

Effectiveness Issue 1: No 'end state' vision for integrating fusion centers into existing counter-terrorism architecture

When the concept of fusion centers was first conceived, there were few critics airing concerns. The need for a node capable of overcoming inter-agency bureaucracy was made quite clear in the wake of 9/11. Despite the pressing need, the concept of fusion centers was not de-conflicted with other counter-terrorism initiatives and organizations, which opened the possibility for an uncoordinated effort across the whole of government. The lack of an 'end state' vision for the whole counter-terrorism community (to include fusion centers) is the first root cause for several symptoms regarding fusion center ineffectiveness.

To start, some fusion centers focus entirely on terrorism, while other fusion centers focus on all crimes other than terrorism unless a terror plot is plainly obvious. Taylor (2012, 185-190) sums up the need for an end-state strategic vision by pointing to how "the structure and mission of law enforcement agencies undermines the very essence of fusion centers and what they are intended to do." The multitude of agencies involved in fusion centers only adds to the disjointment as representing agencies bring differing regulations, processes and goals to fusion center operations. But the concept of fusion centers is still sound and could overcome the bureaucratic challenges posed by interagency cooperation.

All that is needed is a consolidated list of strategic priorities and functions designed to guide all fusion center analysts towards why they are even there in the first place. But as Walsh (2015, 123) finds in his interviews, none of the fusion centers studied revealed any analytical guidelines or priorities, nor any processes in place to assist analysts in working towards a common goal. And even if those priorities are in place, there is no reason to be optimistic about a dramatic cultural shift in some fusion centers because all centers studied failed to offer any in-house training whatsoever (Walsh 2015, 133). Without a strategic vision, common priorities and processes, or training in all of the above, no critic should expect fusion centers to greatly improve effectiveness anytime soon. The time has come for the federal government to carefully detail how fusion centers uniquely fit within a larger intelligence and law-enforcement communities and whole-heartedly commit to that vision.

<div align="center">Effectiveness Issue 2: Flawed Analytic Processes</div>

One of the best ways to measure how effective fusion centers are is to poll users of fusion center products for their opinions of fusion center performance. The Government Accountability Office did precisely that, and revealed how external members of the intelligence

community and even the private sector all see little value in DHS analysis, most of which is done by fusion centers (GAO-14-397, 2014, 2). Some of the biggest contributors to low value of fusion centers are several questionable analytical processes utilized by fusion centers in general. As previously stated, there are 78 unique fusion centers with each using their own policies and procedures. To claim all fusion centers are guilty of flawed processes would be untrue; however, evidence indicates flawed processes are still a significant problem affecting the preponderance of fusion centers today.

For example, fusion center analysts are not mandated to produce intelligence supporting Standing Information Needs (SINs), which are vetted and refined intelligence requirements used to guide how intelligence effort is focused. As of 2013, only 37% of all analytical products could be tied to SINs, leaving the remaining 63% as arbitrary intelligence production that noone wanted or asked for (DHS Final Report, 2013, 22). Simply put, there is no process directing analytical effort against intelligence needs. The 63% of unwanted reporting may be of high quality, but rendered irrelevant if other organizations are not inquiring about the topic or they are also dedicating effort of their own against the topic.

In line with the issue of no 'end state' for fusion centers among the whole-of-government is the tendency for fusion centers to duplicate the efforts of other organizations. The GAO assessed the extent of duplication, and found fusion centers to be highly repetitive of work done by Joint Terrorism Task Forces, Field Intelligence Groups, Regional Information Sharing Systems (RISS) centers, and High Intensity Drug Trafficking Area (HIDTA) Investigative Support Centers (GAO-13-471, 2013, 18-25). While some duplication of effort is healthy and promotes collaborative discussion, little value is gained when the preponderance of work is overlapped with other organizations. The concept of fusion centers is still sound, but the lack of a

process to de-conflict efforts with other organizations is wasteful. There are many processes within fusion centers proven to be highly effective and worthwhile. However, the failure to dedicate effort against established SINs combined with rampant duplication of effort are two process-related flaws greatly undermining any valuable production attempted by fusion centers.

Effectiveness Issue 3: Insufficient Investment in People

While fusion centers are well endowed with databases, networks, and resources, these are all only analytic enablers there to help a human actually do the analysis. In regards to human capital, fusion centers are greatly lacking with little improvement despite great effort. A GAO study of DHS analysis centers reveals how low morale and high attrition are prohibiting fusion centers from building analytic expertise (GAO-14-397, 2014, 26). Having an inexperienced cadre of analysts is presumably the result of attrition and morale problems, so the road to more experienced analysts begins with creating happier analysts.

One easy measure to improve retention of analysts is to increase pay and benefits in order to lessen the appeal of alternative careers. In late 2012, DHS took this concept to action by restructuring the workforce tiers in order to improve the promotion and pay-raise system (GAO-14-397, 2014, 26). Three years later, the effectiveness of this change is not formally assessed by fusion centers or any other entity. Either way, money can only improve morale so much and likely is not as potent as is improving job satisfaction among analysts.

To improve job satisfaction, DHS and fusion center administrators must ensure each analyst sees the significance of their duties. If each analyst sees value in what they are doing, and can understand how they are improving the security of our nation and safety on the streets, then they are likely to feel important and satisfied with their jobs. But as previously mentioned, the lack of any 'end state' strategy for fusion centers within the intelligence community is

causing fusion centers to have significant overlap with other organizations. If the FBI or another agency is pursuing a given problem set, then the perceived value of fusion center contributions decreases dramatically. Additionally, the failure to produce intelligence directly in support of SINs lessens the likelihood of such products being well-received by the wider intelligence community. If a great deal of effort is spent on an analytical project and no value is gleaned, then the producing analyst could understandably become demoralized. While morale is a separate issue from 'end state' strategy and from flawed processes, low morale is closely linked to these two prevailing systemic issues.

Another means of improving expertise and morale among analysts is to invest in them with a long-term mindset. For years after fusion centers were first established, analysts were trained through a fusion center analyst training 'pipeline', and often culminating with Intermediate Fusion Center Analyst Training (IFCAT), with potentially advanced follow-on training. Fusion center specific training programs like IFCAT are now defunded; however, training is available through other means. The International Association of Law Enforcement Intelligence Analysts provides analytic standards, guidelines, and teaching materials for all law enforcement training regimens with specific reference to fusion center analysts (IAELIA, 2013, 5). While these resources and regimens are well thought out and appropriate, the drawback is in the fact that fusion centers are a customer of such training and do not own them. Because this training is intended for wide audiences, the ability to focus on specialized skills overlooked. According to some, the key to a highly productive cadre of analysts is the ability to leverage specialization, something that does not exist within fusion centers today (Abold, Guidetti & Keyer, 2012, 2). Without specialized skills and uniquely valuable contributions, fusion center analysts will likely continue to have low morale and produce inferior intelligence products.

Part III: Measuring the NSNNFC's Impact

The NSNNFC is intended to be the beginning, not the entirety, of a comprehensive solution to all problems endemic of fusion centers. Widespread reform at all 78 fusion centers must begin with a strategic vision able of guiding the reformation and development of all supporting policies regarding the network of centers. However, the NSNNFC does more than articulate a strategic vision, as the writers painstakingly take the next step of articulating essential goals to support that vision. Even more helpful to fusion centers is a detailed list of 37 policy 'initiatives', which are the proposed means for accomplishing the strategy's vision and goals. To build this list of initiatives, the strategy's authors recognized systemic issues and identified actionable solutions to what they see as the root causes. The strategy itself aims to fix things, and the initiatives explain *how*.

The remainder of this study serves to double check the logic behind the NSNNFC's proposed initiatives. To do so, the following section compares the NSNNFC's list of 37 initiatives against the previously assessed root-problems. Matching proposed solutions to problems enables this study to offer a prognosis for the NSNNFC's expected impact upon fusion center deficiencies in the years ahead. Any mismatch between root-problems and proposed solutions will highlight areas needing additional attention. All 37 initiatives are detailed in Appendix A, for reference.

Prognosis for How the NSNNFC will Impact Privacy Protection

As previously outlined, this study identifies a total of five primary causes for fusion center intrusion upon privacy. As listed in Appendix A of the NSNNFC (2014, 24-29), a few initiatives will indirectly impact '*Privacy Issue 1: Inadequate Support to Help Fusion Centers Achieve Standards*'. Policy initiatives number 2, 20, 21, 29 and 37 specify the need for system

inter-operability and technological investments in order emplace proper safeguards and improve overall effectiveness. Within such investments, technological safeguards for improving privacy protection are possible (and necessary) measures as part of a complete solution. Unfortunately, funding is a limited resource and not expected to increase in the near-term. For that reason, Initiative 37 is intended to make fusion centers a priority for funding and thus increase the quantity and quality of resources available to fusion centers.

In regards to '*Privacy Issue 2: Insufficient Privacy Training*', the NSNNFC has great intentions but only limited ability to accomplish change. The first initiative of the NSNNFC (2014, 24) is to tackle this very issue and includes an audience wider than just fusion centers, which is absolutely necessary. But as the diagnosis of this issue points out, some fusion centers offer no (or very limited) in-house training. And what privacy-related training exists is arguably too shallow and infrequently accomplished. Despite highlighting the importance of expanding privacy-related training, the onus is completely on fusion centers to implement robust training regimens with no quality control mechanism in place from higher authorities. The likelihood of privacy-related training undergoing a wide-spread upgrade is likely going to take repeated emphasis over the next several years, challenging the impact of the NSNNFC.

Right or wrong, the public and most vocal critics all look to DHS to regulate fusion centers and ensure their compliance with all requirements. The NSNNFC recognizes this truth, but does little to improve '*Privacy Issue 3: Insufficient Oversight and Enforcement'*. Instead, Initiative 36 of the NSNNFC (2014, 29) advocates for continued implementation of the already existing Fusion Center Performance Program (FCPP), although with an evolving set of metrics. This study agrees that a consolidated and aggressive program like the FCPP is the best course of action, so long as DHS and fusion centers take inspections seriously and correct deficiencies

when they are discovered. The FCPP is a new program and will mature in time. Therefore, the NSNNFC's trust in the FCPP is well-placed and will have an appropriate (albeit minor) impact on improving oversight and enforcement. Additionally, Congressional oversight and inquiries into fusion center deficiencies are always possible, but accomplished only as Congress sees fit.

In addition to policy initiatives focused on the internal workings of fusion centers, the NSNNFC establishes two initiatives that will positively affect fusion center interactions with external partners. Initiatives 11 and 27 (NSNNFC, 2014, 25-29) address the sensitivities of public-private partnerships (PPP's), and the need to rectify '*Privacy Issue 4: Inadequate Guidance Governing Public-Private Partnerships*'. Specifically, these initiatives call for a sweeping strategy with regulations governing *how* PPPs should take shape and be limited, currently a major policy gap. But despite the appropriate intentions of these initiatives, such regulations will be a fairly major undertaking by federal authorities and will likely take several years to materialize. A complete solution will require collaboration between DHS, DOJ, and the private sector with the first goal being to establish a timeline for progression. Critics must be patient as this policy gap is addressed now that national authorities recognize the need.

The final contributor to perceived privacy intrusion, '*Privacy Issue 5: Inadequate Transparency and Public Outreach*' is only partially addressed by the NSNNFC. Initiatives 4 and 10 (NSNNFC, 2014, 24-25) do call for more outreach on behalf of fusion centers, but not for the sake of transparency. Instead, the combination of these initiatives call for improving fusion center outreach to communities and security partners, and to articulate how fusion centers protect the public and their privacy and civil liberties. If fully realized, these initiatives could increase public outcry over fusion center deficiencies as the public becomes more informed. A more informed public is a good thing, but if transparency and accountability are

not adequate enough then this issue will only change form and not necessarily improve.

Prognosis For How The NSNNFC's Will Impact Fusion Center Effectiveness

The most significant contributor to all issues affecting fusion centers is '*Effectiveness Issue 1: No 'end state' vision for integrating fusion centers into existing counter-terrorism architecture*'. The complexity of this major issue is what spurred the need for the NSNNFC, and therefore necessitates the greatest amount of follow-through. The NSNNFC begins by consolidating the several visions for fusion centers into a coherent mission supported by appropriate goals and objectives. To accomplish those general concepts, the NSNNFC sets forth several initiatives that will directly improve fusion center effectiveness and ultimately the larger counter-terrorism architecture as a whole. The broadest initiatives (3, 12, 26, 28, and 32) involve re-thinking the role of fusion centers in relation to peer organizations, and apply new practices aimed at integrating fusion centers uniquely into the strategic-level vision for homeland security (NSNNFC, 2014, 24-29). Although no single initiative precipitates a new 'end state' vision, the sum of these five initiatives will be a major step in determining what the desired 'end state' resembles.

Once the role of fusion centers is carefully reconsidered and refined, initiatives 7, 8, 14, 16, 22 and 29 all translate how fusion centers will be able to fulfill those intended purpose. For example, initiative 7 is designed to ensure tactical fusion center objectives are fully aligned with strategic requirements (NSNNFC, 2014, 24). The other five initiatives specify needed processes which will enable the national-network of fusion centers (and the whole-of-government) to maximize collaboration, as originally intended by the *Intelligence Reform and Terrorism Prevention Act of 2004*. Only upon fulfillment of these initiatives will fusion centers be able to reach the 'end state' set forth in NSNNFC. But to do so, most of the burden lies on

federal authorities to delineate clear responsibilities and then provide sufficient resources to those organizations identified as being responsible. Whether or not the federal government accepts this burden is highly uncertain given the current political and financial environment, casting doubt over the NSNNFC's impact.

Regardless of the 'end state' roles and capabilities of fusion centers, there are still processes inherent to fusion centers that can and should be changed quickly in order to improve effectiveness. This category of low-level processes and procedures falls under '*Effectiveness Issue 2: Flawed Analytic Processes*' and the NSNNFC identifies several initiatives that can greatly improve effectiveness at the grassroots, analytical level. For example, initiatives 6, 9 and 13 encourage each fusion center to emplace a procedure that causes analysts to identify the highest priority threats, ensure maximum collaboration and dissemination, and then actively solicit feedback on their work (NSNNFC, 2014, 24-25). Unlike effectiveness issues requiring federal involvement and implementation, these measures can be accomplished at little or no cost at each fusion center. So long as each fusion center acts upon these simple initiatives and are enforced through routine inspections, these NSNNFC initiatives can have significant positive impact on this root issue.

Even if a clear and coherent vision for fusion centers is established, and fusion center analytical processes are improved, all will be for naught if fusion centers fail to overcome '*Effectiveness Issue 3: Insufficient Investment in People*'. The NSNNFC does emphasize the importance of ensuring high quality analysts, and sets forth for initiatives that must be implemented in a top-down and bottom-up fashion. For example, initiatives 15, 18, 19 and 23 call for improving analyst training, forging network-wide partnerships, emplacing long-term professional development plans and regular exercises to highlight deficient skills (NSNNFC,

2014, 25-27). Unfortunately, the NSNNFC does not mention any initiatives for improving

morale and retention, which will greatly undermine any attempt to build expertise over time. If

fusion centers greatly invest into analysts only to have them quit, the sum of these four

NSNNFC initiatives will be of zero impact. Without addressing retention issues, analyst

expertise will continue to stagnate.

CHAPTER FIVE
CONCLUSION

In sum, the hypothesis being tested is validated because several policies remain unaligned with or are not addressed by the NSNNFC. The strategy's vision and 37 initiatives designed to implement the vision are a major step in the right direction, but not as comprehensive as many critics call for. With some of the root-causes of fusion center issues only partially addressed, the NSNNFC will likely have a limited, yet still positive, impact on the variables studied.

Despite the limited impact, the NSNNFC is still a significant accomplishment and should be lauded if all 37 initiatives are executed as currently proposed. Before the NSNNFC, there was no nation-wide vision and set of goals, and certainly no proposal for how to achieve them. There was no clear purpose or 'end state' vision to guide fusion center development and operations, so politicians should not be surprised by the plethora of criticisms directed toward the network in recent years. The national-network of fusion centers has at best been performing only at a mediocre level, so even a partially successful NSNNFC will still be an improvement from the current situation.

But any critic expecting immediate and sweeping change because of this new strategy would be too optimistic. In the short-term, fusion center deficiencies will likely show profound improvement as the NSNNFC's 37 initiatives gain traction at all levels of government. In the long-term, the persistence of privacy infringement and poor effectiveness will continue to exist so long as all root-causes for these issues are not entirely addressed. Only after all root-causes are addressed will fusion centers finally be able to attain the original intentions set forth by Congress and the Intelligence Reform and Terrorism Prevention Act of 2004. The purpose of

this paper was to identify additional policy initiatives other than those listed by the NSNNFC necessary to fulfill the strategic vision. But first, here is a recap of the biggest issues still remaining.

The root causes for privacy-related issues still needing a solution

The first root issue still needing continued resolution is insufficient support, particularly from the federal level. For example, several initiatives call for improving the inter-operability and safeguards for all computer systems within fusion centers, which are indeed part of the larger solution. However, these initiatives will likely come at great financial cost over the course of several years, so executing these initiatives across the entire network of fusion centers can only be done with significant federal support. Presuming a pessimistic outlook for federal support and funding in years ahead, the desire for a technological overhaul is a daunting quest, along with any other effort requiring substantial federal support.

Privacy-related training is the second root issue still needing additional solutions. The strategy states the importance, but makes no commitment to standardize training requirements and ensure training compliance across the national network. Without a commitment to ensure robust privacy training will take place, federal authorities continue to leave this important gap unregulated and likely unfilled by at least some of the 78 fusion centers.

The third major gap of the NSNNFC regards public-private partnerships involving fusion centers. A few initiatives already call for developing a PPP-focused strategy along with regulations governing how PPP's should take shape and be limited. While the NSNNFC in no way intended to or is capable of filling this gap, there is little excitement elsewhere within the federal government to act on this issue quickly. A concerted effort to promote, organize, and regulate PPPs will likely take several years to materialize, if ever. In the meantime, fusion

centers can and should enact local policies incorporating the strictest of guidelines regarding privacy and liberty protection.

The final privacy-related issue still needing to be addressed by the NSNNFC regards public transparency and assurances of accountability. As more fusion centers proactively engage their communities via outreach programs, public suspicions of fusion center activities could increase as communities become better informed. Public knowledge about the nature of information collected and fuzed at fusion centers can allay fears while also improving public participation in information gathering, such as via the Suspicious Activity Reporting initiative currently implemented across the nation. Failure to do so will only perpetuate the mystique surrounding fusion centers and everything they do, only keeping the public uncomfortable.

The root causes for effectiveness-related issues still needing a solution

Prior to the NSNNFC, the biggest issue inhibiting fusion center effectiveness was the lack an 'end state' vision for the network as a whole. The NSNNFC and supporting initiatives are a tremendous step in painting a clear picture for how fusion centers are important to national security and anti-crime efforts. The challenge now lies in re-tooling fusion centers for new missions and processes, which predominantly is a federal burden in order to be applied across all 78 centers. While the NSNNFC identifies where support is needed, dependence on federal support will likely delay the NSNNFC from having the greatest impact.

Federal support and involvement will be particularly significant when addressing morale and retention, which the NSNNFC does not directly address. Concerns regarding the salaries of fusion center staff, promotion prospects, and professional development are all not addressed by initiatives of the NSNNFC. The majority of the NSNNFC is oriented towards improving the national network and certain process, with very little attention toward the people who are

carrying out the mission. The overall failure of the NSNNFC to address morale, retention, and expertise of fusion center staff will undermine even the clearest vision and strongest processes.

Recommended Additions to the NSNNFC's Current Initiatives

With several gaps failing to be addressed by the NSNNFC, the next step is to identify the ideal solutions. Because each of the 78 fusion centers will continue to be unique, these solutions must be articulated as concepts instead of a locally-focused and specific action geared toward any specific policy. To maximize the NSNNFC's ability to improve privacy protection and overall effectiveness, below is a list describing a few more initiatives that administrators should consider adding to the 37 already proposed by the NSNNFC.

First, each fusion center and governing authority must increase their investment in training. The NSNNFC understands this, but calls for more of the same. Instead, there is need for a standardized and *robust* national training regimen regarding privacy protection. The current level of training is not adequate enough to generate significant improvement in any skill, of which privacy-protection is only one. Beyond privacy protection, there is also need for additional analytical training which can include advanced degrees, seminars, and expert training with the purpose of improving overall effectiveness.

The second additional initiative should serve to improve a two processes in particular. The first is to improve the coordination processes between fusion centers and other partners in determining priorities, along with which entity is responsible for the task at hand. This coordination process will also help fusion centers create and continually refine their Standing Intelligence Needs (SINs). Fusion centers should use the concept of SINs to ensure all efforts are completely relevant, and should go so far as mandating all analytical production are tied to at least one SIN. If a product cannot be tied to a SIN, then the product is irrelevant.

The third additional initiative is to improve fusion center accountability, particularly with the assistance of audit logs. Such logs would record analyst activities and could help inspectors verify compliance with policies and processes. Until proven otherwise, the Fusion Center Performance Program is comprehensive enough to discover and fix most deficiencies. Despite overall success so far, the FCPP could be improved more if only audit logs are adopted in some fashion.

A fourth initiative to be considered regards public engagement and transparency. Particularly, fusion centers should publicize results from various inspections or audits, and report on their progress in fixing issues. But of greatest value to fostering public trust, fusion centers should emplace an effective complaint and redress process, and then aggressively advertise the process to the public by any means available.

Unlike expanding public outreach and transparency, fusion centers should emplace highly restrictive policies regarding PPP's. Until a nation-wide framework is established for PPP's, which could take years to materialize, the onus will continue to fall on fusion center to proactively seek out only healthy PPP's. In this regard, there have been too many mishaps which highlights the importance of extreme caution. Restrictive local policies are the key to a temporary solution, lasting until a nation-wide PPP framework for fusion centers is available.

The final additional initiative should be to increase efforts at measuring progress in all regards. Like other studies, this study ran into data gaps regarding fusion center trends. Greater use of surveys, and improved records management will allow fusion center administrators to identify deficiencies early, and accurately. Until then, systemic issues will fester until they are unbearable, and then garner unwanted attention from critics much like what happened with rampant intrusion of public privacy and questionable effectiveness.

Areas For Further Study

Because this study serves as a prognosis for how effective the NSNNFC will be, continued monitoring and measurement of actual impacts, good and bad, must be done. The reformation process is cyclical with evaluation and refinement always ongoing to some degree. As refinements to the NSNNFC occur, critics and multiple perspectives should be included in discussions in order to prevent subtle changes from upsetting the overall strategic intention. To help administrators make the best decisions, regular studies of fusion center effectiveness should be conducted. Such studies can include surveying or interviewing the wide range of fusion center customers and employees. Fusion center interactions with their communities is also a problem-set that is not totally understood. As the NSNNFC urges fusion centers to improve interaction and public understanding, close monitoring of any outreach will help fusion centers optimize how they are perceived. Positive community perceptions will maximize public participation in fusion center activities, so fusion centers should have high motivation to set this issue right.

But in the end, fusion centers should have high motivation to attain excellence in everything they do, because what they do is incredibly important. For better or worse, fusion centers are the workhorse for American efforts at preventing terrorism and major crimes. All of the 78 fusion centers provide functions and capabilities that simply did not exist prior to 9/11. While critics have valid concerns, fusion center administrators are showing how receptive they are to all criticisms, and how committed they are to resolving them. The NSNNFC is proof of the government's genuine concern for fusion centers, communities, and the American people utmost of all.

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Initiatives of the National Network of Fusion Centers

This appendix is provided in order to facilitate understanding of numbered 'initiatives' proposed by the National Strategy for the Network of Fusion Centers. The content of this appendix is copied verbatim from Appendix A of the National Strategy for the National Network of Fusion Centers (2014, 25-29) and contains no original thought by the author of this study.

Initiative	Description
1	Providing continuing training and education to law enforcement and public safety partners on the fusion center's role in protecting communities and the protection of privacy, civil rights, and civil liberties.
2	Evaluating and assessing technology, using resources such as the IACP Technology Policy Framework and other applicable guidance documents, before procurement and implementation in a fusion center
3	Continuing the development and adoption of national model policies for fusion centers and applicable to fusion centers
4	Demonstrating and articulating the value and importance of intelligence systems and how fusion centers protect the public and uphold P/CRCL protections
5	Developing and implementing Fusion Liaison Officer (FLO) programs and related training/education on information needs and intelligence requirements, incorporating public safety partners into the fusion process.
6	Conducting annual threat assessments to identify and measure priority threats and threat groups within a fusion center's AOR. Upon identification of threats and threat groups, fusion nodes and FLOs should be provided the collection needs and information requirements for the top threats.
7	Identifying AOR-specific tactical and strategic intelligence requirements (with input from AOR stakeholders), considering them in conjunction with national intelligence requirements, and creating a comprehensive set of requirements for the

	fusion center and its AOR.
8	Developing a national information sharing dissemination matrix that identifies how information and intelligence should flow from federal partners to state, local, and tribal partners via state and major urban area fusion centers.
9	Developing and enhancing fusion center analytic product feedback mechanisms and processes to ensure that products are easy to understand and useful, meeting partner needs and expectations. All fusion center partners (state, local, tribal, territorial, private sector, and federal) should be included in the feedback process. As part of the feedback process, a plan should be identified to reassess products that do not meet customer needs.
10	Developing an outreach and engagement strategy for state, tribal, and regional law enforcement and public safety organizations and associations. The strategy should address providing information on fusion center activities, capabilities, and demonstrations of the value of the fusion center to leadership, including how fusion centers collaborate and partner with other field-based information sharing programs, including JTTFs, RISS Centers, and HIDTA ISCs.
11	Ensuring that fusion center engagement strategies identify how engagement and collaboration should occur with other public safety providers, including how to conduct critical infrastructure assessments and standardizing information sharing in emergency operations (both natural and man-made).
12	Developing a National Network-wide standardized protocol to identify and collect best practices and lessons learned. This protocol should focus on highlighting successes in fusion center operations, including products that meet partner needs, effective partnerships, and after-actions from significant events .
13	Using nationwide information sharing networks to continue the development of the Centers of Analytic Excellence project, providing greater opportunity to share analytic tradecraft and expertise within the National Network and collaborate on analytic products and initiatives
14	Identifying and developing, as needed, a baseline set of common technology services, assisting fusion centers in achieving the Critical Operational Capabilities.

15	Establishing an analyst partnership to cross-train analysts between two fusion centers, creating a surge capability to provide analytic support to a state or major urban area fusion center that is overwhelmed for any reason.
16	Supporting and participating in the PM-ISE's Project Inter-operability, which is designed to create a living series of tools, templates, and guides used to drive the development of a common architecture methodology, repeatable exchange patterns, and harmonized standards between government and non-government organizations
17	Supporting the development and implementation of statewide information sharing environments, which provide secure access to appropriate systems and enhance the responsible flow of information in support of statewide law enforcement, homeland security, and emergency management missions.
18	Enhancing and expanding the fusion center analytic tradecraft through the identification of a baseline level of training for all analysts (at minimum), specialized training, education, professional development plans, and exchanges .
19	Developing a methodology to support state, local, tribal, and federal partners assigned to fusion centers, identifying how partners benefit from fusion center efforts, how the fusion center integrates partners into center activities and operations, and the recommendation of positive outcomes for partners as a result of their assignment in the fusion center.
20	Identifying and implementing additional opportunities for collaboration among fusion center information and intelligence sharing systems, with the assurance of interoperability of systems while maintaining local control of information.
21	Establishing a technology advocacy body for the National Network to monitor technology needs of the National Network, help ensure that technology proposed to the National Network is easy to use and beneficial, and support common testing, procurement, and usage.
22	Developing production plans, distribution plans, and policies and plans that address Critical Operational Capabilities and Enabling Capabilities, posting these plans on HSIN, and making them available to other centers in the National Network.
23	Using annual exercises (for example, tabletop, functional, full-scale) to support fusion center continuous improvement, including information sharing plans and

	processes. Annual exercises may include national, state, and/or local-level exercises.
24	Including information/intelligence from correctional facilities, including county jail systems, in fusion processes and partnerships. Jails with no formal intelligence unit should be active in FLO programs and referred to resources such as the National Sheriffs' Association's "Jail Information Model" and the Naval Postgraduate School's "Creation of a Homeland Security Jail Information Model" to ensure involvement in the National Network.
25	Continuing to improve information sharing (including real-time notifications and amplified automated notifications) among law enforcement officers in the field, fusion centers, and the Terrorist Screening Center (TSC) to enhance analysis and to strengthen the understanding and awareness of the current threat environment.
26	Providing local context on national security priorities, including countering violent extremism and analyzing current threats and potential impacts of these threats within fusion centers' AOR and on a national scale (in collaboration with federal partners).
27	Developing a strategy on increasing the reporting of suspicious activity by SLTT and private sector partners to the fusion center.
28	Developing a fusion center cyber strategy that incorporates state, local, tribal, and federal partners (including the state criminal investigative agency, the U.S. Secret Service, U.S. Computer Emergency Readiness Team, the FBI Field Office, and others as appropriate) to address how cyber-related crimes and threats will be addressed within the center's AOR.
29	Identifying and using a single common platform/system for sharing fusion center products and for analytic collaboration, during both routine operations and critical incident response
30	Defining (by federal partners) a standard baseline level of engagement/ expectation, including common and consistent practices (and associated implementation and execution practices) common across all regions and field offices associated with (1) clearance level and (2) system access.

31	Increasing the value-proposition of fusion centers within their AOR across all stakeholders, including partnering with fire and emergency management communities to demonstrate how fusion centers support emergency operations centers and respective systems, through the identification and sharing of smart practices of fusion centers within the national emergency management system.
32	Supporting and helping lead national efforts to align information sharing with field-based intelligence and information sharing partners, including RISS, HIDTA, JTTF, and fusion nodes, in a manner that increases the actionable knowledge of public safety partners and improves information sharing efficiency and effectiveness.
33	Actively contributing toward a domestic approach to criminal intelligence, including specific strategies, projects, and initiatives that improve the information sharing required to reduce the impact of crimes on centers' communities.
34	Leveraging and improving integration with law enforcement criminal justice information services (CJIS)/records management system (RMS)-based infrastructure, understanding that law enforcement information is critical to the public's safety, the nation's security, and the success of the National Network.
35	Contributing towards the implementation of the National Strategy for Information Sharing and Safeguarding, which informs, drives, and supports our information sharing mission; it is central across all goals, objectives, and initiatives of the National Network.
36	Continuing to implement and enhance a process to measure the performance of the National Network.
37	Continuing to collaborate with federal partners to demonstrate the value and usability of fusion centers in achieving national goals and initiatives, resulting in fusion centers becoming a funding priority among federal, state, and local partners