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Confronting the “Enemy Within”

Security Intelligence, the Police, and
Counterterrorism in Four Democracies

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Summary

In the aftermath of the September 11, 2001 terrorist attacks, the U.S. Federal Bureau of Investigation (FBI) was widely criticized for failing to prevent the strikes on the World Trade Center and the Pentagon. Critics charged that the bureau, while superbly qualified to investigate terrorist incidents *after* the fact, was grossly ill equipped to *prevent* attacks, given its strong law enforcement and prosecutorial culture. Deliberation has subsequently centered on the advisability of creating a new domestic intelligence service outside the existing structure of the FBI. Proponents argue that establishing an agency that is solely concerned with information gathering, analysis, assessment, and dissemination would decisively ameliorate the type of hybrid reactive-proactive mission that so often confounds police-based intelligence units. Opponents counter that an institution of this sort would merely undermine civil liberties, unduly hinder interagency communication and coordination, and create additional barriers between intelligence and law enforcement.

Understanding the experience of domestic intelligence bureaus in the United Kingdom, France, Canada, and Australia—all of which are close U.S. allies based on similar democratic values—can help inform this debate. While the agencies in each of these countries have inevitably been shaped by the particular political and security environment in which each has had to operate, it is possible to extrapolate positive and negative themes that are common across the four services concerned. These lessons highlight practical and operational consid-

erations that would be extremely valuable in guiding counterterrorist initiatives that might take place in the United States.

Domestic Intelligence in the United Kingdom, France, Canada, and Australia

The United Kingdom, France, Canada, and Australia all retain dedicated structures to collect, assess, and disseminate information on domestic terrorist challenges within their respective territorial jurisdictions. These include the UK Security Service (also known as MI5),¹ France’s Direction de la Surveillance du Territoire (Directorate of Territorial Security, or DST), the Canadian Security Intelligence Service (CSIS), and the Australian Security Intelligence Organisation (ASIO). In each of these cases, the agency in question has no powers of arrest, is separated from wider law enforcement but retains a close working relationship with the police, is primarily concerned with proactive threat mitigation, and is governed by specific accountability and oversight provisions.

Several features of these models are worthy of note.

Strengths

On the positive side, at least eight observations stand out:

First, all four countries vest domestic counterterrorism intelligence in the hands of agencies that have no functional law enforcement powers of arrest or detention. This has ensured the emergence of bureaus that are able to devote all their resources to preemptive information gathering.

Second, the United Kingdom, France, Canada, and Australia make extensive use of their intelligence services in local community information gathering. These activities have availed a useful “force multiplier” effect that has greatly enhanced the potential scope of national surveillance efforts. In addition, they have helped to give the

¹“Security Services” and “MI5” are used interchangeably throughout this report.

intelligence services more of a “public face” and at least provided a means to explain the nature, rationale, and purpose of their work.

Third, a primary emphasis on the active recruitment and sourcing of terrorist insiders has consistently underscored the work of MI5, the DST, CSIS, and ASIO. Framing overall data collection efforts in a human-based context of this sort has been highly effective in disrupting operational cells and providing real-time intelligence on extremist intentions, capabilities, resources, and evolving dynamics. Just as importantly, it has contributed to well-developed physical protection programs, which has allowed for greater flexibility in target hardening and has helped to mitigate the wasteful and inefficient allocation of resources.

Fourth, the institution of comprehensive checks and balances has formed an integral component of the intelligence infrastructure in the Canadian, Australian, and, to a somewhat lesser extent, British cases. This has not only provided a transparent medium through which to demonstrate the utility of the intelligence function in counterterrorism (to both politicians and the general public), but it has also helped to lend a degree of confidence that only balanced and controlled responses will be instituted in the name of national security.

Fifth, the security intelligence agencies in each of these countries stresses the importance of developing regular terrorist threat assessments that police forces as well industry can use to design viable and sustainable counterstrategies. These analyses have played a highly instrumental role in national counterterrorist planning, which has, in turn, fed prudent decisionmaking about how best to allocate resources for future threat mitigation.

Sixth, the United Kingdom, France, Canada, and Australia have all been able to draw on a wider, more diverse intelligence recruitment pool by dint of having internal security services that are not bounded or defined by the strictures of a domestic policing environment. The availability of personnel who would not normally be drawn to a law enforcement profession has helped foster rounded, creative, and forward-looking analytical assessments that have strad-

dled both the tactical and strategic dimensions of the so-called tasking, processing, exploitation, and dissemination chain.

Seventh, the existence of dedicated domestic security services in the United Kingdom, France, and Australia has worked to "smooth" information coordination with the foreign spy services in each country. This has been of enormous practical importance in the modern era of "globalized terror," in which extremist threats to the national interest no longer accord to a neat internal-external dichotomy.

Finally, divesting the intelligence function from law enforcement has necessarily meant that MI5, ASIO, CSIS, and the DST have had to operate in close tandem with their respective national police forces in terms of terrorist arrest, detention, and general threat mitigation. In all four cases, this has been achieved through the creation of dedicated coordinating bodies that have provided a central mechanism for disseminating information and availing interagency operations.

Weaknesses

It would be wrong, however, to suggest that the British, French, Canadian, and Australian models have not been without their problems. Difficulties have arisen in several areas. Operationally, the counterterrorist track record of the four agencies has been far from perfect, and there have been several instances when accepted democratic norms and operational limits have been violated in the name of counterterrorism. More pointedly, the establishment of dedicated domestic intelligence agencies vested with unique powers of covert surveillance has helped to "bureaucratically normalize" state security infrastructures that have considerable authority over the individual.

Difficulties have also been evident in terms of information dissemination. Both MI5 and CSIS have been accused of failing to pass on intelligence to relevant authorities that could have prevented several high-profile terrorist incidents, while ASIO has, on occasion, deliberately withheld information on the basis of its own idiosyncratic calculation of the national interest.

In common with the United States, the issue of trust has frequently been a major underlying factor in mitigating the effective dis-

semination of data among and between counterterrorism agencies and bureaus. In France, for example, coordination between the police and intelligence services has, at least historically, been subject to chronic problems of mistrust, with agencies not only failing to collaborate but moreover occasionally working at complete cross-purposes with one another.

Beyond operational and organizational matters, some fairly significant gaps in intelligence accountability and bureaucratic control have been apparent. Critics have decried parliamentary oversight arrangements in the United Kingdom—which answer directly to the prime minister—as offering only the “barest of fig leaves” in terms of comprehensive external scrutiny, arguing further that ministers and members of Parliament existing outside the privileged ring of secrecy can never hope to know the true extent of MI5 operations. Problems have been even greater in France, where no independent system of legislative control exists. The absence of viable nonexecutive mechanisms of accountability in these two countries poses particular difficulties, not least because they have periodically translated into a *carte blanche* counterterrorist mandate that has transcended the operational and judicial spheres.

Relevance to the United States

To be sure, significant cultural, historical, and political differences exist between the United States on the one hand and the United Kingdom, France, Canada, and Australia on the other. These dichotomies necessarily mean that intelligence institutions cannot, and indeed should not, simply be replicated from one national context to the next—irrespective of their relative efficacy in their original setting.

This being said, the four case study countries do share important defining characteristics with America. Notably, these include (1) liberal democratic traditions, (2) a common concern with stemming threats to domestic stability through robust internal security infrastructures, and (3) acceptance of the need to balance operational

effectiveness in the fight against terrorism with the concomitant requirement to respect fundamental norms integral to the effective functioning of an open society. Such traits make it useful to consider how each state has organized its respective counterterrorist capabilities, if only as a benchmark for guiding possible developments in the United States.