



Securing the State - Part II

Strategies to Counter Contemporary Terrorism

Andrew Staniforth

Non-Resident Fellow in Counter-Terrorism and National Security

TRENDS Research & Advisory is a progressive research center that aims to help improve policy and decision-making process through research and analysis. The conclusions and recommendations of any TRENDS publications are solely those of its author(s), and do not reflect the views of the Institution, its management, or its other scholars.

P.O. Box 110450, Abu Dhabi, UAE
www.trendsinstitution.org

Foreword

I am delighted to provide the Foreword for the second part of this new and important series contributing to understanding State responses to counter contemporary terrorism. The author has managed to pull together the latest thinking on counter-terrorism structures, supported by contributions, guidance and advice from leading academics and senior policy makers. This approach has resulted in the publication of research which provides a rich blend of theory and operational practice, complementing the vision and mission of TRENDS Research & Advisory, a leading global think tank, based in the UAE, offering unique insights to some of the most pressing security concerns being tackled by governments across the world.

As the author clearly states in this work, even the most sophisticated counter-terrorism structures do not guarantee absolute security but creating an integrated architecture encourages greater information sharing as part of an increasingly collaborative and community-centred approach to counter-terrorism – all of which serves to greatly assist in assessing terror threats so positive action can be taken to minimise risk, keeping people safe and feeling safe.

An important part of the State counter-terrorism apparatus is an effective legal framework. A paramount concern of mine when I became Independent Reviewer of Terrorism Legislation for the British government in 2001 was that all in authority should understand the extent and limitations of counter-terrorism laws. My mantra is that terrorism law should be used only for terrorism purposes. Every step outside those purposes provides terrorists with an argument. All in authority are required never to forget that such laws are a step outside the norms of criminal justice legislation.

This new and detailed working paper will serve to improve the design of strategic responses to tackle terrorism, and will directly inform the decision-making processes of counter-terrorism policy-makers to meet the security challenges ahead.

A handwritten signature in black ink, appearing to read 'Alex Carlile', written in a cursive style.

Lord Carlile of Berriew CBE, QC.

Acknowledgements

The author wishes to acknowledge the support and contribution of Lord Carlile of Berriew CBE QC, the former Independent Reviewer of Terrorism Legislation in the UK and former Independent Reviewer of National Security Policy in Northern Ireland. The author is also indebted to Emeritus Professor Clive Walker QC, School of Law, University of Leeds for his support and contributions which have added great value to this work.

The author extends his thanks to former senior British counter terrorism police officers for sharing their insights of building counter-terrorism structures including former Chief Constable John Parkinson OBE, former Deputy Assistant Commissioner of the Metropolitan Police Service Stuart Osborne QPM, former Detective Chief Superintendent Tony Porter QPM and former Detective Chief Superintendent Matt Sawyer QPM.

The author would also like to acknowledge the support of Dr Richard Burchill, Director of Research and Engagement at TRENDS for his support, without which, the publication of this research and contribution to understanding contemporary counter-terrorism strategy would not have been achieved.

Table of Contents

1. Introduction.....	1
2. From Threat to Threat	1
3. Changing Landscape	3
4. Structural Reforms	6
4.1 Amplification of agencies	6
4.2 Melding of agencies	12
5. Unintended Consequences	15
5.1 Loss of liberty	15
5.2 Sharing information	16
5.3 Accountability and oversight	17
6. A Way Forward.....	18
7. References.....	20

1. Introduction

In a world of startling change, many States across the world are both more secure and more vulnerable than ever. More secure, in the sense that States have developed sophisticated security structures to safeguard against conventional threats of attack on their territory by hostile powers. But more vulnerable, because many nations have increasingly open societies, in a world that is more networked and interdependent than ever before. Today, we live in an age of unparalleled opportunity, driven by the acceleration of globalisation which has opened up possibilities which previous generations could not have dreamed of, lifting billions of citizens out of poverty. More open markets have created more open societies, and more open societies mean more people living in freedom.

Despite these developments, many nations across the world face a different and more complex range of threats from a myriad of sources. Terrorism, cyber-attack, unconventional attacks using chemical, nuclear or biological weapons, as well as large scale accidents or natural hazards – any one of which can do grave damage to a country's national security. New threats can emanate from States, but also from non-State actors: terrorists, home-grown or overseas; insurgents; or criminals. New sources of threats have also emerged, such as the security of energy supplies which increasingly depends on fossil fuels located in some of the most unstable parts of the planet. Nuclear proliferation is also a growing danger as well as security vulnerability to the effects of climate change and its impact on food and water supply. In summary, the concept of national security today is very different to what it was ten or twenty, let alone fifty or a hundred years ago.

2. From Threat to Threat

Protecting the public from the specific excesses of violent extremism leading to acts of terrorism remains the primary responsibility of governments across the world. For centuries, the security apparatus of nations has prevented terrorist atrocities against their people. Yet, despite developing ever increasingly sophisticated counter-terrorism architectures in the post 9/11 era of global terrorism, successful terrorist attacks continue to occur with alarming regularity. According to Statista, who provide leading online statistical analysis of global terrorist events, the number of terrorist attacks worldwide has declined between 2006 and 2016, with 14,371 terrorist attacks being recorded in 2006, compared to 11,072 in 2016.¹ But the

number of deaths due to these attacks for the same period has risen sharply. During 2016, Statista reported that 25,621 people were killed by terrorists compared to 20,487 in 2006.² The increase suggests that terrorist attacks are becoming more deadly, and it is a concern shared between counter terrorism policy-makers across the world. The United Nations (UN) reports that terrorism continues to flourish in environments of despair, humiliation, poverty, political oppression, extremism and human rights abuse. The UN also highlights that terrorism flourishes in contexts of regional conflict and foreign occupation, and that terrorists profit from weak State capacity to maintain law and order.³

In the long history of preserving a nation's security, governments have grappled with anarchists, nationalists, extremists including Nazism and the brutal uncertainties of the Cold War – with an existential danger that was clear and present, under constant threat of nuclear confrontation between the world's superpowers. The security of an individual state has become increasingly shared with others as part of the global context of international terrorism. These historical phases of terrorism are now accepted by international security scholars in David Rapoport's wave theory, arguably one of the greatest contributions to the study of terrorism.⁴ Rapoport's four waves theory, shown in Table 1, spans more than a century and includes four broad political movements, each of which produced a plethora of related terrorist groups. He begins with nineteenth-century anarchism revealing that anarchists and social revolutionaries were supplanted by the post-First World War anti-colonial national liberation movements. Following the second wave of nationalism of the Second World War, these were gradually replaced by the third wave of left-wing radical groups. More recently, international violent Islamist Salafist groups have become the most prominent of the religious right-wing terrorists of the final fourth wave.

Table 1 - Rapoport's 'four waves of terrorism'

Focus	Primary strategy	Target identity	Precipitant	Special characteristics
First wave: <i>Anarchists</i> 1870-1920s	Elite assassinations, bank robberies	Primary European states	Failure and slowness of political reform	Developed basic terrorism strategies and rationales
Second wave: <i>Nationalists</i> 1920s-1960s	Guerrilla attacks on police and military	European empires	Post 1919 de-legitimization of empire	Increased international support
Third wave: <i>New left/Marxist</i> 1960s-1980s	Hijackings, kidnappings, assassination	Governments in general; increasing focus on USA	Viet Cong successes	Increased international training, cooperation and sponsorship
Fourth wave: <i>Religious</i> 1970s-2020s	Suicide bombings	USA, Israel, UK and secular regimes with Muslim populations	Iranian Revolution, Soviet invasion of Afghanistan	Casualty escalation. Decline in the number of terrorist groups

Rapoport's wave theory has proven useful not only because of the historical periodization of terrorism, but also in its observation that the motivation for violence in each wave necessarily affected the nature and quality of the violence employed by groups in successive movements. Rapoport does not imply that the four waves represent discrete categories where one era consisted of only one form of terrorism. On the contrary, there is quite a degree of overlap from one wave to the next. However, a dominant movement, spurring in turn a proliferation of like-minded groups, defines each wave. Rapoport observed that very few organizations were able to outlive their epoch, each of which proved to last roughly a generation which is important for understanding the contemporary context of international terrorist threats governments are tackling today.

3. Changing Landscape

The United Nations Office on Drugs and Crime (UNODC), who play an important role in the prevention of terrorism amongst its Members States, identifies that terrorism across the world continues to pose a major threat to international peace and security.⁵ In addition to the devastating human cost of terrorism, in terms of lives lost or permanently altered, UNODC

believes that terrorist acts aim to destabilize governments and undermine economic and social development – all a direct threat to security for the State and society. UNODC indicates that addressing the contemporary terrorist threat is much more difficult given the complex and constantly evolving nature of terrorist activity.⁶ The motivations, financing, methods of attack and choice of target are constantly changing. Terrorist acts often defy national borders; one act of terrorism can involve activities and actors from numerous countries.

The challenges of countering contemporary international terrorism indicated by UNODC are echoed by Europol, outlined in the 10th edition of the yearly European Union (EU) Terrorism Situation and Trend Report (TE-SAT). The 2017 TE-SAT report reveals that during 2016, a total of 142 failed, foiled and completed terrorist attacks were reported by eight EU Member States.⁷ More than half (76) of the attacks were reported by the United Kingdom (UK). France reported 23 attacks, Italy 17, Spain 10, Greece 6, Germany 5, Belgium 4 and the Netherlands 1 attack.⁸ One hundred and forty two victims died in terrorist attacks, and 379 were injured in the EU during 2016.⁹ Responding to the TE-SAT report findings, Dr Michael Farrugia, Minister for Home Affairs and National Security of Malta, and Maltese National Security representative for the Presidency of the EU stated:

"The recent attacks in European cities represent a clear shift in the intent and capability of perpetrating these acts of terror designed to draw the attention of the free world. The effects of such acts will remain in the collective memory of all who have freedom at heart. The memory of the innocent victims and the suffering of their families and loved ones will continue to fuel our commitment in working effectively towards the strengthening of the combined efforts and cooperation."¹⁰

The 2017 Europol TE-SAT report provides a concise overview of the nature of terrorism that the EU faced during 2016 and looks in detail at terrorist attacks that occurred: the largest number of attacks in which a terrorist affiliation could be identified were carried out by ethno-nationalist and separatist extremists (99).¹¹ Attacks carried out by left-wing violent extremists have been on the rise since 2014; reaching a total of 27 in 2016, of which the most (16) were reported by Italy. Although the total number of jihadist terrorist attacks decreased from 17 in 2015 to 13 attacks in 2016, of which 6 were linked to the so-called Islamic State (IS), 135 of the 142 victims of terrorist attacks in 2016 were killed in the 13 jihadist attacks.¹²

Europol have revealed that although there was a large number of terrorist attacks not connected with violent jihadism during 2016 across the EU, attacks of this nature account for the most serious forms of terrorist activity in terms of physical violence and fatalities. Most arrests by Law Enforcement Agencies were related to jihadist terrorism, for which the number rose for the third consecutive year. Also, the European Counter Terrorism Centre (ECTCC) at Europol supported 127 counter terrorism investigations in 2016, which, according to Europol, provides a clear indication of the growing range of violent jihadist activity.¹³ Rob Wainwright, Europol Executive Director stated:

*"Never before has the need for information sharing become more evident as it has in the past two years, with the unprecedented form of jihadist terrorist attacks across Europe that led to 135 victims. In contrast to ethno-nationalist and separatist terrorism, and most manifestations of both right-wing and left-wing violent extremism, jihadist terrorism has an international character and therefore needs an international answer from cross-border law enforcement."*¹⁴

The assessment of Europol concerning the violent jihadist terrorist threat against EU Member States was timely, being followed by a sudden surge of attacks across Europe during August 2017. On the afternoon of 17 August, 22-year-old Younes Abouyaaqoub drove a van into pedestrians on Las Rambla in Barcelona, Spain, killing 15 people and injuring at least 130 others.¹⁵ The atrocity looked at first to be a lone actor attack by just one individual, but a more complex plot emerged involving at least twelve suspects, armed with knives and explosives, suggesting both an element of careful planning by the perpetrators and the potential failure of intelligence by authorities; highlighting the challenge to the authorities for keeping pace with an ever-changing terrorist threat.¹⁶

On 18 August a lone terrorist attacked citizens with a large knife in the Finnish city of Turku that left two people dead and injured eight others.¹⁷ On the same day an individual terrorist attacked patrolling soldiers in Brussels, an assault that came just hours before a sword-wielding assailant wounded Metropolitan Police Service officers outside London's Buckingham Palace.¹⁸ Lord Evans, the former Director General of the UK's Security Service (MI5) stated:

"There's no doubt that we are still facing a severe terrorist threat but I think it's also important to put this in a slightly longer context because right the way back from the 1990s we have been experiencing difficulties from Islamist terrorists of one sort or another. Over that period the threat has come and gone but the

underlying threat has continued.”¹⁹ Lord Evans went on to say that: “Since 2013 there have been 19 attempted terrorist attacks that have been disrupted in the UK, so this is a permanent state of preparedness. I think this is genuinely a generational problem. I think we are going to be facing 20 to 30 years of terrorist threat and therefore we need, absolutely critically, to persevere.”²⁰

4. Structural Reforms

Governments’ across the world have responded to the changing threats from terrorism throughout history, but dramatic changes have been needed since the catastrophic events of 9/11. New counter-terrorism structures have evolved as governments reoriented themselves to take up the future challenges of countering the threat from new-era global terrorism epitomised by the ‘Planes Operation’ of Al Qaeda of 2001.²¹ The analysis of these structural changes is best shaped around two principal trends: ‘Amplification’ and ‘Melding’, which are explored in terms in relation to both Law Enforcement and Intelligence Agencies. These two themes are not new phenomena within many countries security architecture, but since 2001, ‘Amplification’ and ‘Melding’ have proved to be the primary ways in which the Law Enforcement and Intelligence Agencies of governments across the world have developed in direct response to international terrorism. In turn, these themes can be applied to different sites of change. They have impacted both upon the structures of Law Enforcement and Intelligence Agencies and also on their operational practices.

4.1 Amplification of agencies

The evidence of structural amplification since 2001 within the security structures of governments emanates from the emergence of new Law Enforcement and Intelligence Agencies relevant to terrorism. These can be said to constitute amplification because they newly created institutional structures explicitly focused on terrorism, and in this way there is an intensification of police effort which is marked by structural changes. Evidence of amplification has appeared in the shape of the formation of new counter-terrorism networks, units and teams within Law Enforcement Agencies across numerous jurisdictions.

4.1.1 A Need to Know

In the UK, the attacks of 11 September 2001 significantly raised the focus on, and the profile of, the work being carried out by the counter-terrorism apparatus, including the intelligence services and their links to counter-terrorism policing. To assess the effectiveness of the current counter-terrorism structures, the British government commenced a review of existing organisations, the purpose of which was specifically to examine the way in which police forces sought to meet the demands placed on Special Branch by the intelligence services. Between February and August 2002, under the auspices of Sir Keith Povey, the Chief Inspector of Her Majesty's Inspectorate of Constabulary (HMIC), a far-reaching inspection which was to prove to be the most detailed analysis of the role and function of counter-terrorism structures in the UK, was conducted.

The HMIC focused upon the relationship between the police counter-terrorism Special Branch and the Security Service (MI5), concluding the underlying relationship between Special Branch and the Security Service 'to be strong', and one which was experiencing a period of change, reflecting developments in both organisations. It was evident to HMIC that there were occasional mismatches of expectations on both sides, typified by Special Branch comments about the Security Service's slowness of response on some operational issues. The Security Service in turn hoped that Special Branch would show greater selectivity and self-reliance in referring reports. The overall picture to emerge was of a sound relationship based on trust and growing mutual understanding.

The HMIC inspection of counter-terrorism structures identified that the police Special Branch lacked national coordination and consistency, highlighting that individual units differed greatly in size and capability, with some ports and border units being described as 'isolated and poorly resourced'. To improve upon these features, HMIC recommended that regional Special Branch units, based on existing regions, under the executive control of regional directors and answerable to the relevant Chief Constables management committees should be established. In addition, it recommended the appointment at Deputy Chief Constable level of a National Coordinator of Special Branch, a non-executive position with overall responsibility for ports policing, policy, training and issues common to Special Branch nationally. The broad recommendations provided by HMIC were to be a true catalyst for structural change, sparking a period of unprecedented change and growth in counter-terrorism policing in the UK. The final HMIC report concluded that:

“One of the key lessons to emerge from the investigations into the 11 September 2001 attacks has been the vital importance of extending the reach of the national security agencies by further utilising the close links between local police and the communities in which they work. This two way linkage or, ‘golden thread’, is notably absent from the national security structures of some other countries but the UK Special Branch fulfils this role in the course of providing active support both for national agencies and local policing.”²²

4.1.2 Capacity and capability

Work to implement the full range of recommendations provided by HMIC progressed during 2003. Some of the recommendations were implemented very quickly, such as the re-structuring of the role and responsibilities of Special Branch. New guidelines were published which stated that: “Special Branches exist primarily to acquire intelligence, to assess its potential operational value, and to contribute more generally to its interpretation.”²³ Other HMIC recommendations required additional time to implement, including the need to build the investigative counter-terrorism resource to respond to the increasing threats from the Al Qaeda inspired genre of international terrorism. It was not until 2004 that the Chief Constable of West Midlands Police was directed to develop counter-terrorism capacity and capability for the first time outside London. This pilot development of the first regional police Counter Terrorism Unit (CTU) in the UK was led by Detective Chief Superintendent (DCS) Matt Sawyer who would later command the West Midlands Counter Terrorism Unit. In building this capacity DCS Sawyer recalls that:

“the watch words in the development phase were ‘capacity’ and ‘capability’ and whilst delivering these requirements realised a sought after ‘additionality’ they led directly to further exponential benefits. Increased investment by Government facilitated greater capacity not least in enabling the necessary gearing of additional police resources with the expansion in Security Service numbers. However, key concepts and early organisational design ensured capabilities were integrated within policing whilst enabling synergy in strategic alliances with partners.”²⁴

DCS Sawyer also recalls that the ‘early pilot work in Birmingham recognised the need for more holistic concepts and approaches than those which had developed to tackle, broadly, Irish-related terrorism’ going on to state that an: “operating model was developed that actively drew together evidential opportunities for detectives alongside the core intelligence development work of the host and surrounding local force Special Branches with whom new relationships had to be

forged.”²⁵ This was a very different model than any previously piloted throughout the long history of counter-terrorism policing practice and would prove to be fundamental in creating a new alignment of resources across the UK to better protect the public from the immediacy of Al Qaeda inspired terrorism.

Traditionally countering terrorism had been conducted in two sections, covertly and overtly, with solid firewalls to maintain operational secrecy between them. The pilot CTU brought both counter terrorism ‘covert’ and ‘overt’ policing doctrines together. The intensity of the new threat from international terrorism required the fusion of expertise of both covert and overt counter-terrorism disciplines because the ‘window of opportunity’ to detect, deter and disrupt attack planning had been substantially reduced. This sudden reduction demanded a more dynamic and progressive way of working in order to protect the public effectively. Moulding police investigative and intelligence gathering expertise, while maintaining the operational integrity of covert operations, provided a holistic police approach to pursuing terrorists, the police service was now able to gather intelligence and evidence simultaneously, thereby maximising the chances of success against challenging odds.

The benefits of this new close joint-working and the access to increased counter-terrorism police resources were soon realised. This new mode of operating was built upon lessons previously learned from investigations prior to 9/11 which had, according to DCS Sawyer, exposed the limitations of Special Branch outside London. DCS Sawyer states that: “Where the Metropolitan Police Anti-Terrorist Branch could operate a regime of evidence-gathering and enforcement alongside intelligence collection in support of the Security Services – an approach which had come to define the role of Special Branch – it was not generally well directed in terms of oversight, command and control within the vicarious liabilities of Chief Officer accountability.”²⁶ The success of the pilot CTU in Birmingham was therefore essential nationally, but there were traditional and cultural barriers to overcome. These barriers were identified by Assistant Chief Constable John Parkinson, who led the development of North East Counter Terrorism Unit. ACC Parkinson explained:

“Previously, the investigative response to counter-terrorism matters were led from the Metropolitan Police Service in London. A lack of knowledge and experience outside of London meant a steep learning curve for operational staff. Also, the police service had developed a culture that the Metropolitan Police Service would

lead on counter-terrorism matters and therefore a huge effort was required to build confidence in the new units to demonstrate their effectiveness.”²⁷

What became increasingly clear, was that terrorist cells were operating throughout the UK and the pre-existing culture and perspective which had viewed the ‘terrorism problem’ through a London lens had to change.²⁸

While the strategic and structural reforms within the Security Service and the police service were unprecedented in size, speed and scope, and despite this huge effort to improve capability and capacity, it would not be enough to prevent the deadly and determined attacks of the suicide bombers who attacked the public transport infrastructure of London on 7 July 2005. The murder of 52 people by a home-grown Al Qaeda inspired terrorist cell only served to strengthen the resolve of those responsible for protecting the public from the excesses of violent extremism. As a direct result of 7/7, the national regional programme of the Security Service and the police service was rapidly progressed. Further investment and re-structuring of the national security apparatus was required by the British government to meet the challenges from international terrorism, and they were challenges that required enhanced levels of cooperation and collaboration.

4.1.3 Collaboration in counter-terrorism

Major structural developments to the UK counter-terrorism network began again during August 2006 and represented significant amplification of counter-terrorism resources at a local, regional and national level. Detective Chief Superintendent Tony Porter, who would lead the Counter Terrorism Unit in the North West, stated that:

“Developing the infrastructure took commitment from all parties, political, operational and partner agencies. Our understanding of the nature of the threat was still emerging but our understanding of the imperative to act was not in doubt. Strong collaboration and friendships underpinned the rapid development. Massive support provided by Chief Constables to assist in its development was a key factor. Many highly skilled detectives, whether surveillance officers, Hi-Tech crime investigators or covert human source experts were released to CTU’s to develop our capability.”²⁹

One of the more significant developments early in the build of the new national police counter-terrorism network, during October 2006, was the merger of the Metropolitan Police Special Branch, or Special Operations 12 (SO12), and the Anti-Terrorist Branch or Special Operations 13

(SO13), to establish a Counter Terrorism Command (CTC), now more commonly referred to as Special Operations 15 (SO15) at the Metropolitan Police Service. For the first time it brought both counter terrorism ‘covert’ and ‘overt’ policing assets of the Metropolitan Police Service together under one single command structure. The CTU model piloted in Birmingham had provided evidence that such an approach could work and the creation of SO15 marked the end of the one hundred twenty three year history of SO12, but further radical changes were required to meet the vaulting ambitions of Al Qaeda’s operatives planning attacks in the UK.

ACPO (TAM) continued its development of the new network throughout 2006 and 2007 resulting in a national structure consisting of SO15 at the Metropolitan Police Service and four Counter-Terrorism Units (CTUs), located in the North East, North West, West Midlands and later in Thames Valley. The CTUs were resourced with both intelligence gathering and investigative assets. The new network also included three Counter-Terrorism Intelligence Units (CTIUs) located in Wales, the South West and East Midlands, who did not share the investigative capability of the CTUs, but whose intelligence gathering capacity and covert assets were increased. The new units outside London were established in addition to the counter terrorism departments of the Police Service of Northern Ireland (PSNI) and the creation of the Counter Terrorism Intelligence Unit in Scotland.

The creation of the new national network was extremely challenging, not only because the modernisation of the entire UK counter-terrorism workforce was being conducted at a time of severe terrorist threat and high operational demand, but also because it needed to be fully located, planned, furnished and resourced in quick time. The building of the new police network required substantial investment in resources, the implementation of new ways of working and, perhaps most challenging of all, it particularly required the growth of a new model workforce which had to multiply exponentially in size, scale, skills and scope. This new model workforce also had to prepare and equip itself technically, operationally and culturally, to counter the tactics of contemporary terrorist organizations. The structural reforms for counter-terrorism policing were intended to provide a response better aligned with the threats to be addressed. ACC Parkinson describes how ‘the structures were designed from scratch and that meant learning along the way. Some systems and processes were not aligned to other units and a series of reviews were required to establish best practice and to adopt a common model for full interoperability.’³⁰ In coordinating the network, DAC Stuart Osborne believes that:

“the key challenge is to bring together policing colleagues from a number of different forces and to work alongside key partners such as the Military and Security Service to create a coordinated and unified approach to tackling terrorism. The challenge is to manage the need to protect the public balanced with a need to secure evidence to arrest and prosecute offenders and the need to maintain the confidence of all communities.”³¹

Despite the scale of challenge, the police service constructed a new network within just three years. From 2006 to 2009, major structural reform to the policing of counter terrorism had been completed, representing a period of change not seen in policing since the creation of the Metropolitan Police Special Branch in 1883. Through a remarkable and sustained effort, the British public were better protected from the effects of violent extremism by a new police network which remains fully constituted and operational across the UK, providing an example of the accelerated amplification of assets and structural change to counter-terrorism frameworks.

4.2 Melding of agencies

Specific examples of melding of structures include situations where security services and police work together. Evidence of this joint-working has previously been explored in the development of the police and intelligence agency network in the UK following the events of 9/11. Such co-working between government agencies is now seen as vital so that lines of intelligence can be utilised fully and thereby avoiding the disjointed flows which were depicted as critical failures behind the September 11 attacks, according to the analysis of the 9/11 Commission.³²

4.2.1 Richer picture

An example of the effective melding of security agencies to counter the terrorist threat can be seen in the creation of the Joint Terrorism Analysis Centre (JTAC), formed in 2003 within the Security Service of the UK, which analyses intelligence to assess terrorism. A major function of JTAC was to overcome the tensions and rivalries which had existed for decades within the security services and between security agencies and the police, and to ensure that all sides communicate with each other. Its staff are seconded from various government departments and disciplines, and their role is to draft assessments of situations and issues of current concern. This includes identify threats and vulnerabilities, and giving warnings and setting the national

threat level to the UK from terrorism. The data is fed from security services and police, as well as government and diplomatic reporting and open source material.

The melding of security assets of the British government recognized the need for an increasingly collaborative approach to intelligence analyses. It is rare that a single source of information relating to an event, that can be relied upon, is available. More often, judgments about the terrorist threat will be based on a wide range of information which is often fragmented. Small pieces of information are required to be put together, which includes analysis of previous attacks and similar events in other countries. Assessing the terrorist threat includes the gathering and analysis of information around four core areas: the terrorist's intention, their capabilities, timescales and the vulnerability of the chosen target. Key to this process is the intelligence gathered concerning the intentions of terrorist activities and an assessment of whether their aims are achievable or realistic given their known capabilities. Timescales are also a crucial element of assessing threat levels, as knowing when a terrorist group is to strike may provide a higher degree of urgency to respond to unfolding events. Once this data is captured an analysis of the potential vulnerability to such an attack can be conducted. Compiling a picture to make an accurate assessment of the actual threat is a real challenge and one that requires a thorough understanding of terrorist related activity and most importantly, the sharing of intelligence between agencies who have counter-terrorism responsibilities. By melding existing agencies into a structure which not only encourages, but forces collaboration and the sharing of information provides a greater opportunity to create a richer picture of the terrorist threat.

4.2.2 Counter-terrorism coordination

A more recent example of the effective melding of Law Enforcement and Intelligence Agency assets to counter terrorism is found in the creation of the European Counter Terrorism Centre (ECTC). Established in January 2016, the ECTC is an operations centre and hub of expertise that reflects the growing need for the EU to strengthen its response to terrorism. Since 1 July 1999, the date it commenced its activities - Europol has had the authority to deal with terrorist activities. Over recent years the ECTC's involvement in this area has seen a steep increase. The number of Europeans travelling as foreign terrorist fighters (FTFs) to the conflict areas in Syria and Iraq, the intensive use of the internet and social media in propaganda and recruitment activities, and the terrorist attacks in EU Member States directed or inspired by jihadist terrorist

organisations, have caused a major increase in the number of cases at Europol concerning crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property.³³

The ECTC's specialist teams of analysts and experts collate operational information from the law enforcement agencies of all Member States, as well as from third parties. The teams work on this information to establish the wider EU perspective on counter terrorism for both operational and strategic goals. As a constituent part of Europol's Operations Department, and providing an excellent example of the melding of security agencies, the ECTC works closely with other operational centres at Europol, such as the European Cybercrime Centre (EC3) and the European Migrant Smuggling Centre (EMSC). As a result of the ECTC's information sharing operations, Europol has been able to upgrade its overall counter-terrorism capabilities. It is now better equipped to provide Member States, and key partners such as Interpol, with new possibilities for the effective management of counter terrorism intelligence. The ECTC focuses on:

- tackling foreign fighters;
- sharing intelligence and expertise on terrorism financing (through the Terrorist Finance Tracking Programme and the Financial Intelligence Unit);
- online terrorist propaganda and extremism (through the EU Internet Referral Unit);
- illegal arms trafficking; international cooperation among counter terrorism authorities.

The ECTC's principal task is to provide operational support to Member States in investigations. It cross-checks live operational data against the data Europol already has, quickly bringing financial leads to light, and analyse all available investigative details to assist in compiling a structured picture of the terrorist network. In the event of a major terrorist event, the ECTC can contribute to a coordinated response. Depending on the nature of the event, different teams are available for this purpose, often combined with counter terrorism experts temporarily seconded from Member States. This melding of assets at a supra-level provides evidence that key structural changes to counter-terrorism structures continue to evolve in direct response to the changing nature of international terrorism. The creation of the ECTC also provides strong evidence of the importance of cooperation and collaboration between countries and their counter-terrorism agencies. It is increasingly being recognised by senior national security policy-makers across the world that a coordinated, cross-border approach to tackle terrorism provides greater opportunities to both prevent terrorist attacks and to bring terrorist's to justice.

Many nations are now learning that they are stronger when they invest in counter-terrorism structures which seek to amplify the collaboration, coordination and strategic partnerships with countries who share their security concerns.

5. Unintended consequences

The amplification and melding of counter terrorism structures has solved many problems but it has also created some new ones, as well as resulting in consequences that were unintended.

5.1 Loss of liberty

Of primary concern is the amplification and melding of counter-terrorism structures immediately following a terror attack leading to more effective approaches to counter-terrorism, but potentially threaten civil liberties. In the aftermath of terrorist events political stakes are high: policy makers and legislators fear being seen as lenient or indifferent and often grant the executive broader authorities without thorough debate. Increases in counter-terrorism resources, combined with new special provisions intended to be temporary, turn out to be permanent and Law Enforcement and Intelligence Agencies attempt to meld and amplify their efforts in this context. This all occurs, very often, with the additional challenge of interpreting and applying complex legislation that may be without adequate safeguards on personal liberty. The dilemma for Law Enforcement and Intelligence Agency practitioners is to deliver security within a new structure and mode of operating at a time when they remain on high alert and are under significant stress.

Although governments may frame their new investments in counter-terrorism resources in terms of a choice between security and liberty, sometimes the loss of liberty is not necessarily balanced by the gain in safety for both society and the state, and the measures introduced become counter-productive. Changes to counter-terrorism structures have taken place within a very short timeframe, driven in part by the activities of terrorists; among them is evidence of the potential for profound alteration of the role of Law Enforcement and Intelligence Agencies in society. The potential federalisation of counter-terrorism policing alongside their Intelligence Agency counterparts, without due regard to increasing the links with local community policing, represents another significant change and unintended consequence of the accelerated amplification and melding of counter-terrorism structures.

5.2 Sharing information

The initial problem encountered during the amplification and melding of security agencies, whether in the rapid response to a terrorist event, or as a result of a review or other action, is that it serves to magnify the problematic of sharing information and intelligence. Problems arise for two main reasons. First, agencies guard their own territory and sources of empowerment and therefore have a reluctance to share information. Lessons learned from the UK experience of building a new post-9/11 counter-terrorism police network is that policing boundaries and jurisdictions are not easily displaced, and that the sharing of information between sectors was not initially effective.

There is a risk of exaggerating the shortcomings in current data-sharing between government agencies, and also of failing to understand that some existing limitations defy any kind of simple solution. These difficulties range from different national legal frameworks and rules on the classification of secrets, to the problem of making sure that raw intelligence is not just shared, but that it is framed in a way which is actionable and useful. In Europe, the barriers to sharing information are complex: not only does each individual EU Member State have its own domestic sharing restraints, but passing data across borders between 28 countries throws up far bigger legal and political hurdles. The extent of this challenge was explained by Bernard Squarcini, France's spy chief under former president Nicolas Sarkozy:

*“With eastern European countries as EU members, no one wants to share details on sensitive operations. It’s a question of trust. Europol is useful to arrest criminals. But no one wants to disclose details on covert operations, the sources you have infiltrated or taken out of judicial procedures, you want to protect your sources”.*³⁴

The second problem is whether the intelligence and evidential products arising from the additional effort and expenditure following amplification and melding of counter-terrorism structures are of sufficient quality. The inherent difficulty of intelligence as a basis for action causes problems for Law Enforcement and Intelligence Agencies at all stages of the intelligence cycle. Difficulties are compounded when ultimate decision-making is in the hands of less experienced and more politically motivated government ministers and not detached independent judges. In these cases, policy can overwhelm or determine the direction of

intelligence. This approach is to be discouraged at all costs if governments are to yield the best results from their counter-terrorism intelligence apparatus. Counter-terrorism must be intelligence-led, therefore, the intelligence gathering stages of the intelligence cycle should not be constrained or directed by political policy at that early stage. Such an approach only serves to undermine the intelligence process, which will ultimately fail to produce the rich picture of threats and risks to a nation's security. An example of political and policy interference in counter-terrorism intelligence gathering was documented in the 9/11 Commission Report following the terrorist attacks in the United States on 11 September 2001. The 9/11 Commission revealed that United States intelligence assets were directed to focus on threats overseas and not from domestic threats from within its own borders.³⁵ As a direct result, a rich intelligence picture of the emerging threats from the suicide pilots living and training in local communities was not accurately assessed nor prioritised accordingly, leaving the United States vulnerable to attack despite its security and defence capabilities.

5.3 Accountability and oversight

An unintended consequence of the amplification and melding of counter-terrorism agencies is the accountability of previously hidden agencies, namely the security services of the State. They must now be rendered more open as contemporary counter-terrorism practice is no longer the hidden dimension of statecraft and has over recent years moved out of the shadows. Governments have rightly made strides towards an increasingly open and public facing domestic security apparatus, while the very nature of counter-terrorism remains enshrined in a preventative ethos. To prevent terrorism, it must be intelligence-led and necessitates a covert approach. That being said, not all counter-measures need to be cloaked in secrecy in order for them to be effective, and the contemporary phase of counter-terrorism is evolving important new trends alongside palpable moves towards expansion and localism.

As a direct result of the amplification and melding of counter-terrorism structures, Intelligence Agencies are now more prominent in size. In some jurisdictions Intelligence Agencies are focused inwards towards their own communities, and they exercise more intrusive legal powers than ever before. The British government has recognised that its security service structures and associated mechanisms of accountability are too weak and more independent oversight of powers are required. For many years the British government has understood the value of independent review of its anti-terror legislative regime which began in the 1970s, and reporting

was put on an annual basis in 1983. The review of UK terrorism legislation is conducted by an Independent Reviewer appointed by Parliament who has access to open and classified material, and travels the country to talk to politicians, spies, officials, police, prosecutors, judges, lawyers, non-governmental organisations, suspected terrorists and community representatives. From these sources of information, the Independent Reviewer of Terrorism Legislation is then able to report to the Home Secretary every year on the operation of various aspects of UK terrorism laws where the reports are laid before Parliament to help inform the public and political debate. It is interesting to note that the scope of the role of the Independent Reviewer of Terrorism has significantly increased over recent years as a direct result of the amplification and melding of counter terrorism structures in the UK.

6. A Way Forward

The rapid developments that have been made to counter-terrorism structures across the world since the catastrophic events of 11 September 2001 are unprecedented in the long history of counter-terrorism practice. Many in authority over recent years have proclaimed that the new and diverse range of threats which we now encounter require new methods and instruments to protect our communities. There is no doubt that much of these claims are accurate, but only to an extent. The long history of terrorism informs us that there shall always be new threats, and we should not be so short-sighted to believe the threats at this time are the worst we have encountered.

To build strong and stable counter-terrorism structures, many governments continue to believe further radical transformation is required in relation to the way they think about national security, as well as how they organise themselves to protect the security of the state and society. This is particularly important in an age of uncertainty, especially economic uncertainty where an effective approach to preserving national security can weigh up all of the threats, and prepare the government, its intelligence machinery and the police service to deal with them. But contemporary counter-terrorism practice continues to fundamentally rely upon the traditional covert and overt investigative and analytical expertise of the national security machinery. The diligent, methodical and continued monitoring of the ‘knowns’, the ‘unknowns’ and the ‘known unknowns’, serve to build a richer picture of those who seek to violently oppose the shared values of freedom, tolerance, democracy and respect for human rights. Much of this counter-terrorism work continues to be conducted quietly and patiently. Given the complexity

of today's counter terrorism efforts, strong coordination and cooperation within national governments and between States and organizations at the regional and international level is essential to effectively combat terrorism.

The primary lesson to be learned from the amplification and melding of counter terrorism structures is that Law Enforcement and Intelligence Agencies, indeed any arm of the State, cannot effectively tackle contemporary terrorism or violent extremism alone. Collaboration in counter-terrorism is key, where information must be shared and jointly assessed to better protect citizens from terrorist threats. An inter-disciplinary and multi-disciplinary approach is therefore required to prevent terrorism, and to pursue terrorists, which relies upon the maintenance and continued development of strong strategic partnerships across the full operating landscape of all government assets. But the delivery of refurbished counter-terrorism structures will not resolve all problems and has created some new ones. Above all, the commitment to accountability of government and civil liberties are strengths in the amplification and melding of counter terrorism responses, and they are still far from secure in this new disposition.³⁶

Notes

¹ The Statistics Portal, “Number of casualties due to terrorism worldwide between 2006 and 2016”, available at <https://www.statista.com/statistics/202871/number-of-fatalities-by-terrorist-attacks-worldwide/>

² The Statistics Portal, “Number of Casualties due to terrorism” <https://www.statista.com/statistics/202871/number-of-fatalities-by-terrorist-attacks-worldwide/>.

³ UNODC, “The United Nations Office on Drugs and Crime and Terrorism Prevention,” available at <https://www.unodc.org/unodc/en/terrorism/index.html> .

⁴ David Rapoport, “The Four Waves of Modern Terrorism,” in Audrey Kurth Cronin and James Ludes, eds., *Attacking Terrorism: Elements of Grand Strategy* (Washington: Georgetown University Press, 2004) 46-73, available at <http://international.ucla.edu/media/files/Rapoport-Four-Waves-of-Modern-Terrorism.pdf>.

⁵ UNODC, “The United Nations Office on Drugs and Crime and Terrorism Prevention,” available at <https://www.unodc.org/unodc/en/terrorism/index.html> .

⁶ UNODC, “The United Nations Office on Drugs and Crime and Terrorism Prevention,” available at <https://www.unodc.org/unodc/en/terrorism/index.html> .

⁷ Europol, *European Union: Terrorism Situation and Trends Report 2017* (Budapest: European Union Agency for Law Enforcement Cooperation, 2017), p. 10, available at <https://www.europol.europa.eu/activities-services/main-reports/eu-terrorism-situation-and-trend-report-te-sat-2017>.

⁸ Europol, *European Union: Terrorism Situation and Trends Report 2017*, p. 10.

⁹ Europol, *European Union: Terrorism Situation and Trends Report 2017*, p. 10.

¹⁰ Europol Press Release, “2017 EU Terrorism Report: 142 Failed, Foiled and Completed Attacks, 1002 Arrests and 142 Victims Died” (15 June 2017), available at <https://www.europol.europa.eu/newsroom/news/2017-eu-terrorism-report-142-failed-foiled-and-completed-attacks-1002-arrests-and-142-victims-died>.

¹¹ Europol, *European Union: Terrorism Situation and Trends Report 2017*, p. 39.

¹² Europol, *European Union: Terrorism Situation and Trends Report 2017*, p. 49.

¹³ Europol Press Release, “2017 EU Terrorism Report: 142 Failed, Foiled and Completed Attacks, 1002 Arrests and 142 Victims Died” (15 June 2017).

¹⁴ Europol, *European Union: Terrorism Situation and Trends Report 2017*, p. 4.

¹⁵ “Cambrils: five terror suspects killed as second attack follows Las Ramblas,” *The Guardian*, 18 August 2017, available at <https://www.theguardian.com/world/2017/aug/17/van-crashes-into-crowd-of-people-barcelona-las-ramblas>.

¹⁶ “Spain Attacks,” *BBC Online*, 19 August 2017, available at <http://www.bbc.co.uk/news/live/40966524>.

¹⁷ “Finland stabbings being treated as terror attack, police say,” CNN19 August 2017, available at <https://edition.cnn.com/2017/08/19/europe/finland-stabbings-terror-attack/index.html>

¹⁸ “Islamic State claims Brussels knife attack on soldiers,” *The Telegraph Online*, 27 August 2017, available at <http://www.telegraph.co.uk/news/2017/08/26/islamic-state-claims-brussels-knife-attack-soldiers/>

¹⁹ UK could face Islamist threat for decades, former MI5 chief warns,” *BBC Online*, 11 August 2017, <http://www.bbc.co.uk/news/uk-40890328>

²⁰ “UK could face Islamist threat for decades, former MI5 chief warns,” *BBC Online*, 11 August 2017, <http://www.bbc.co.uk/news/uk-40890328>

²¹ National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report* (Washington DC, 2004).

²² Her Majesty’s Inspectorate of Constabulary Report. “A Need to Know – HMIC Thematic Inspection of Special Branch and Ports Policing” (Home Office Communication Directorate: 2003).

²³ ACPO (TAM), *Guidelines on Special Branch Work in Great Britain* (2004).

²⁴ DCS Matt Sawyer, Interview with author (2017).

²⁵ DCS Matt Sawyer, Interview with author (2017).

²⁶ DCS Matt Sawyer, Interview with author (2017).

²⁷ ACC John Parkinson, OBE, Interview with author (2017).

²⁸ DCS Matt Sawyer, Interview with author (2017).

²⁹ DCS Tony Porter, Interview with author (2017).

³⁰ ACC John Parkinson, OBE, Interview with author (2017).

³¹ DAC Stuart Osborne, Interview with author (2017).

³² National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report* (Washington DC, 2004).

³³ Europol, *European Union: Terrorism Situation and Trends Report 2017*, p. 4.

³⁴ “Europe’s failure to share intelligence hampers terror fight,” *Financial Times*, 4 April 2016, available at <https://www.ft.com/content/f9baf7e8-f975-11e5-b3f6-11d5706b613b>.

³⁵ National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report* (Washington DC, 2004).

³⁶ Max Abrams, “Why democracies make superior counter-terrorists,” 16 *Security Studies* (2007) p. 223.