

# BACKGROUND

No. 2818 | JUNE 18, 2013

## Preventing the Next “Lone Wolf” Terrorist Attack Requires Stronger Federal–State–Local Capabilities

Michael P. Downing and Matt A. Mayer

### Abstract

*In the aftermath of the Boston Marathon terrorist attack, America can learn a few vital lessons on how to stop the next “lone wolf”-type attack. But while this nation’s commitment to individual liberty is one of its greatest strengths, it is also a vulnerability: In order to eradicate the risk of further terrorist attacks, America would have to become the kind of nation that we as a people have stood against for so long. Therefore, while considering the lessons of the Boston Marathon attacks, America must answer a critical question: How does the U.S. design a more effective safety net that utilizes the decentralized infrastructure of state and local law enforcement?*

In the aftermath of the Boston Marathon terrorist attack, America can learn a few vital lessons on how to stop the next “lone wolf”-type assault. But while this nation’s commitment to individual liberty is one of its greatest strengths, it is also a vulnerability: In order to eradicate the risk of further terrorist attacks, America would have to become the kind of nation that we as a people have stood against for so long. Therefore, while considering the lessons of the Boston Marathon attacks, America must answer a critical question: How does the U.S. design a more effective safety net that utilizes the decentralized infrastructure of state and local law enforcement?

Based on what is known so far about the Boston Marathon bombing, there are actions that the U.S. needs to take to strengthen this nation’s domestic counterterrorism enterprise.

### KEY POINTS

- In the aftermath of the Boston Marathon terrorist attack, America can learn a few vital lessons on how to stop the next “lone wolf”-type attack.
- Specifically, America must answer a critical question: How does the U.S. design a more effective safety net that utilizes the decentralized infrastructure of state and local law enforcement?
- Rather than again debate the dangerous proposal of a domestic intelligence agency, the counterterrorism conversation should focus on how legally and ethically to take advantage of the decentralized, community-focused, and well-positioned nature of state and local law enforcement.
- America will never achieve absolute security against terrorism; doing so would extinguish the flame of freedom that makes this nation great.
- The U.S. can, however, put in place constitutionally smart capabilities that increase the odds of detecting and preventing future attacks.
- Americans should expect nothing less from their government.

This paper, in its entirety, can be found at <http://report.heritage.org/bg2818>

Produced by the Douglas and Sarah Allison  
Center for Foreign Policy Studies

**The Heritage Foundation**  
214 Massachusetts Avenue, NE  
Washington, DC 20002  
(202) 546-4400 | [heritage.org](http://heritage.org)

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

## Federal Bureau of Investigation Interview Missteps

Nearly 12 years have passed since the September 11, 2001, terrorist attacks on the United States, and it has been almost nine years since the National Commission on Terrorist Attacks Upon the United States released its findings on the 9/11 attacks—a report that recommended several reforms needed to prevent future attacks. As the 9/11 Commission concluded about the siloed information and intelligence systems that existed before the 9/11 attack:

This approach assumes it is possible to know, in advance, who will need to use the information. Such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Those Cold War assumptions are no longer appropriate. The culture of agencies feeling they own the information they gathered at taxpayer expense must be replaced by a culture in which the agencies instead feel they have a duty to the information—to repay the taxpayers' investment by making that information available.<sup>1</sup>

The Commission also concluded that “[s]tate and local law enforcement were not marshaled to augment the FBI’s efforts.”<sup>2</sup>

In light of the lessons learned from the 9/11 attacks, how is it possible that the FBI, acting on a request from Russia, could interview Tamerlan Tsarnaev yet not share that activity with the Boston Police Department (BPD)? Though it is still unclear why the Russian government made this request, there is no question that in January 2011, FBI agents in Boston interviewed Tsarnaev.<sup>3</sup> The interview may not have resulted in enough information for the FBI to conclude that Tsarnaev posed a terrorist threat, but his actions in the years thereafter certainly did.

Tragically, those actions were largely missed by local law enforcement because the FBI had moved on and the BPD had no knowledge of Tsarnaev’s possible terrorist nexus. Had the BPD been aware of the 2011 interview, pieces of the puzzle that went unconnected before the Boston Marathon might have been pieced together, elevating the attention on Tsarnaev and perhaps preventing the attack.

## Missing Pieces of the Puzzle

Individually, each of the following events provided an opportunity for the BPD to take a closer look at Tsarnaev, both from a criminal predicate dimension and as the overlaying of a community policing enterprise to establish more trip wires and community partnerships. Together, they offer a more extensive portrait of the man who would mastermind the Boston Marathon bombings.

On September 12, 2011, an associate of Tsarnaev and two others were found brutally murdered. The fact that these savage killings occurred on the tenth anniversary of the 9/11 attacks may be a coincidence—but it also very well may not. Certainly, the method of execution suggests that a link to terrorism could be considered: The perpetrators appeared to have killed the three men by pulling their heads back and slitting their throats, nearly decapitating them.<sup>4</sup> These murders remain unsolved and are being worked by the BPD.

It is quite possible that the investigation into the murders would have noted that the FBI had interviewed a friend of one of the deceased. This connection could then have prompted the BPD to scrutinize Tsarnaev as a potential suspect. In fact, such a connection could have created the criminal predicate necessary for a judge to authorize additional measures to aid the criminal investigation and mitigate future terrorist activities.

In the first part of 2012, Tsarnaev spent six months in Russia, including in Chechnya, a hotbed

---

1. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, July 26, 2004, p. 417, <http://www.9-11commission.gov/report/911Report.pdf> (accessed June 16, 2013).

2. *Ibid.*, p. 265.

3. News release, “2011 Request for Information on Tamerlan Tsarnaev from Foreign Government,” Federal Bureau of Investigation, April 19, 2013, <http://www.fbi.gov/news/pressrel/press-releases/2011-request-for-information-on-tamerlan-tsarnaev-from-foreign-government> (accessed June 16, 2013).

4. Deborah Feyerick, “Source: 2011 Slayings of Tamerlan Tsarnaev’s Friend, 2 Others Revisited,” CNN, April 24, 2013, <http://www.cnn.com/2013/04/23/us/boston-area-homicide-investigation> (accessed June 16, 2013).

of extremism.<sup>5</sup> Perhaps a trip abroad would not have concerned the BPD, but if the BPD had been aware of the FBI's interest in Tsarnaev, this trip could have provided some additional context for a local authority to surge resources. Such funds could then have been used to strengthen community partnership and outreach efforts while engaging communities of interest. Although these measures cannot inoculate against extremism, they can build resilient communities in which it is harder for this type of threat to take root, as well as providing a larger safety net.

In August 2012, an extremist video was posted to a YouTube account opened in Tsarnaev's name.<sup>6</sup> Because the account was an open-source piece of intelligence, a cyber security team could have found the videos and engaged in a more detailed review of Tsarnaev's Internet activities. Many state and local agencies are building a cyber capability to complement the federal government's hunt for and pursuit of terrorists. This video served as yet another piece of evidence that could have established a reasonable suspicion of criminal predicate. In turn, state and local law enforcement operations could have been leveraged, thereby casting a wider anti-terrorist net.

Finally, in November 2012 and January 2013, Tsarnaev yelled in protest during services at a local mosque about the content of the sermon.<sup>7</sup> The mosque's leaders warned him he would not be welcome if he continued with such outbursts—a short-term solution that, while positive, failed to alert the BPD to Tsarnaev's potential for homegrown violent extremism. A more effective long-range solution to such threat rests with greater interaction and cooperation between law enforcement and local communities.

Fortunately, state and local organizations recognize that outreach and engagement strategies build trust and solve community problems at the grass-roots level. Indeed, state and local law enforcement have spent years developing a relationship of trust with local leaders. No one knows this landscape better than the "boots on the ground." The integration

of these sometimes-isolated communities into the greater fold of society has never been more important—and is not the job of federal authorities.

It is, of course, impossible to know whether all of these puzzle pieces—or even some of them—would have been pieced together by the BPD and/or the FBI. Yet the goal of the U.S. domestic counterterrorism enterprise is not to provide an impenetrable defense against terrorism; rather, the objective is to give federal, state, and local law enforcement the greatest possible number of constitutionally grounded opportunities to detect and stop potential terrorists. Rather than again debate the dangerous proposal of a domestic intelligence agency, the counterterrorism conversation should focus on how legally and ethically to take advantage of the decentralized, community-focused, and well-positioned nature of state and local law enforcement.

Without question, had the FBI shared its interview actions with the BPD, local law enforcement would have had a much greater chance of detecting Tsarnaev's extremism. Federal law enforcement is not designed to fight against this kind of threat; it is built to battle against cells, against groups, and against organizations, but not against individuals. As a consequence, U.S. national strategy reinforces the community policing, outreach, and engagement model of state and local enforcement. Why do we continue to underutilize these resources?

## Four Key Reforms Still Needed

**The FBI must share more broadly with state and local law enforcement.** Despite the lessons of 9/11 and other terrorist plots, the culture of the FBI continues to resist sharing information with state and local law enforcement. This culture must change, and it must change rapidly. As large-scale, complicated terrorist attacks become harder to execute, the "lone wolf" scenario becomes more of a threat.

America therefore has to leverage the experience, capabilities, authorities, and relationships found in

5. Tom Balmforth, "What Did Tamerlan Do During His Russia Trip?" *The Atlantic*, April 23, 2013, <http://www.theatlantic.com/international/archive/2013/04/what-did-tamerlan-do-during-his-russia-trip/275210/> (accessed June 16, 2013).

6. Jenna Russell, Jenn Abelson, Patricia Wen, Michael Rezendes, and David Filipov, "Brothers in Marathon Bombings Took Two Paths into Infamy," *The Boston Globe*, April 19, 2013, <http://www.bostonglobe.com/metro/2013/04/19/relatives-marathon-bombing-suspects-worried-that-older-brother-was-corrupting-sweet-younger-sibling/UCYHkiP9nfsjAtMjJPWJL/story.html> (accessed June 16, 2013).

7. Associated Press, "Tamerlan Tsarnaev Mosque Outbursts Described," *Politico*, April 22, 2013, <http://www.politico.com/story/2013/04/tamerlan-tsarnaev-mosque-outbursts-described-90474.html> (accessed June 16, 2013).

local law enforcement to detect budding terrorists before they strike. If the FBI believes it could not effectively share the information related to Tsarnaev because of advice provided by the United States Attorney's Office, then one of two things needs to happen: Either Congress should pass legislation allowing such information to be shared, or accountability for decision making needs to be assessed.

**Local cyber capabilities must be a priority.**

Building cyber investigation capabilities in the higher-risk urban areas must become a primary focus of the U.S. Department of Homeland Security grants. With so much terrorism-related activity occurring on the Internet, local law enforcement must have the ability to constitutionally monitor and track violent extremist activity on the Web when reasonable suspicion exists to do so.

**Community outreach remains a vital tool.**

Federal grant funds should also be used to create robust community outreach capabilities in higher-risk urban areas. Such capabilities are key to building trust in local communities, and if the United States is to thwart "lone wolf" terrorist attacks successfully, it must do so by putting effective community outreach operations at the tip of the spear.

**Re-examine the FBI's "lead agency" function.**

The "lone wolf" attack in Boston was first a crime and then a terrorist act. The responsibility for public safety and the investigation of crimes at the local level rests with the local police agency, except in those cases in which the FBI determines that it will assume control of the investigation. With regard to public safety information and intelligence flow, such

a policy relegates both the police department and the state sovereign to a subordinate—and potentially isolated—position. Therefore, this policy should be re-examined both in terms of best practice and in terms of its legal framework.

Additionally, federal entities are often reluctant to release information that may prove embarrassing—a practice that may arise during an investigation in local public safety matters. Information that comes first to the entity that "leads" an investigation is always subject to restriction by those in charge. The decision to censor or withhold any information related to local public safety should always be in the hands of those who have the sovereign duty and obligation for public safety at the local level. Decisions related to the criminal investigations should belong to the local police department rather than the federal government.

## **Advancing Security and Freedom**

America will never achieve absolute security against terrorism; doing so would extinguish the flame of freedom that makes this nation great. The U.S. can, however, put in place constitutionally smart capabilities that increase the odds of detecting and preventing future attacks. Americans should expect nothing less from their government.

—*Michael P. Downing is Deputy Chief, Commanding Officer, Counter-Terrorism and Special Operations Bureau, Los Angeles Police Department. Matt A. Mayer is a Visiting Fellow at The Heritage Foundation and author of Homeland Security and Federalism: Protecting America from Outside the Beltway.*