



An Issue Brief on
Fusion Centers



What are fusion centers?

“Fusion centers” are local, domestic versions of the NSA, funded via a combination of DHS grants, state funds, and local police budgets. They were developed after 9/11 to provide “joined-up intelligence” that would integrate local police “hints and tips” with insights from federal intelligence and law enforcement agencies, in the hope of preventing terrorist attacks. Often located in large urban centers, they provide facilities for law enforcement officers from two or more agencies to gather and collaborate.

There are over 80 fusion centers across the nation—with at least one in every state.ⁱ Inside these centers, “threat liaison officers”—who are usually police officers, but who can sometimes be teachers, trash collectors, counselors or even clergy—gather to collect, analyze, assess, and share information.ⁱⁱ This information is often open source intelligence (OSINT) found on social media, but the DOJ’s Fusion Center Guidelines also suggest gathering data from a wide range of non-social media sources, including schools, hospitals, transportation companies, and banks.

The main regulation overseeing the operation of fusion centers is 28 CFR § 23.20, which requires, for any data the fusion center holds, a basis of “reasonable suspicion” that the person concerned is involved in criminal activity.ⁱⁱⁱ Fusion centers do not honor this requirement, and no external agency reviews the data that they hold. The 2020 “Blueleaks” release reinforces the impression that fusion centers act in defense of current economic, social, and racial arrangements in society, and that they view attempts to change them, whether those attempts are peaceful or not, as threatening.

Why should you be worried about fusion centers?

After their counterterrorism-fueled inception, fusion centers quickly found that there was not enough terrorism—however defined—being planned in the United States to sustain such a large and well-staffed

network of centers. Rather than scale back, many fusion centers broadened their mission in different ways to address “unlawful activity” in general or even, sometimes, “preunlawful activity” that can include making “Anti-American Statements.”^{iv} By 2010, there were already reports of fusion centers collecting information on third-party voters, people attending historically Black colleges and universities, peace activists, and advocates for Palestinian rights.^v During the 2010s, fusion centers were known to have coordinated surveillance of the Occupy movement, Black Lives Matter, and protesters at the Standing Rock Reservation.^{vi}

Questions abound as to whether fusion centers serve any useful purpose. Notably, the Senate Committee on Homeland Security and Governmental Affairs published a report in 2012 questioning their efficacy.^{vii} It described fusion centers as flawed and reporting “nothing of value” to the federal government, and their terrorism data reporting as “outdated, duplicative, and uninformative.” The report found that there was no known instance of fusion centers helping to thwart a terrorist attack, but that there were many instances of fusion centers wasting funds to produce alerts too late to be of use. Ingesting vastly greater volumes of disparate data, as is now possible years later, only adds to the problem. It’s a wonder our government continues to fund a vast surveillance apparatus when it not only can’t accomplish the one objective it set out to accomplish, but seemingly works against that objective.

Even more concerning is the lack of consequences and oversight for fusion centers that violate the constitution. Secrecy, drifting scope, unclear lines of authority, and ambiguous chains of command make it unlikely for fusion centers ever to punish officers for overstepping their Constitutional bounds in terms of what information to collect, retain and share.

How do fusion centers contribute to mass surveillance?

Surveillance of Activists

Fusion centers collect data from a variety of sources, most notably social media. In one example, journalists and activists in Minnesota realized that the local fusion center was using “sock-puppet” social media accounts in order to monitor the feeds of local activists and gather intelligence about local protests in order to plan police responses.^{viii} Often, this surveillance was begun before law enforcement had reasonable suspicion of a crime. This could reasonably lead one to believe that law enforcement officers in fusion centers view the First Amendment-protected act of protesting as suspicious in and of itself.

In a case out of Tallahassee, FL, FBI agents arrested a leftist activist and army veteran, Daniel Baker, after he likely caught the attention of local fusion centers.^{ix} Federal agents described him as being “on a path to radicalization” and had been monitoring his social media for months before his arrest. Their main piece of evidence was a flyer Baker posted to his social media calling for “protect[ing] capitol RESIDENTS and CIVILIANS from armed racist mobs WITH EVERY CALIBER AVAILABLE.” This was used as evidence to charge him with “using interstate commerce to threaten to injure or kidnap right-wing protesters”, even though generalized calls for violence are protected under the First Amendment.

Surveillance of Journalists

Fusion centers, while supposedly intended to combat terrorism, are often weaponized against journalists. There have been many cases of fusion centers surveilling journalists who are reporting on protests, surveillance, and immigration issues. In 2015, the Boston fusion center designated journalist Maya Shaffer as a security threat for documenting the searches and seizures by police at the Boston Marathon finish line. A fusion center analyst used the identification of her as a security threat as an example at a geospatial surveillance conference of the capabilities of the Boston fusion center’s software.^x

There are also examples of DHS compiling “intelligence reports” on journalists who were covering the Portland protests in 2020. Ben Wittes, journalist and co-founder of the Lawfare Blog, was targeted by fusion centers after sharing leaked documents detailing the federal intelligence gathering practices for the Portland protests.^{xi} DHS, working out of a fusion center, has also tracked and surveilled journalists covering immigration along the US/Mexico border.^{xii} Leaked documents show DHS, CBP, ICE and the San Diego FBI collaborated to compile a database of journalists, attorneys, and activists. Agencies even flagged the targeted individuals’ passports, causing them to be searched and interrogated at border crossings and even denied from entering Mexico.

Surveillance of Muslims

Much like China’s targeting of Uighur Muslims, fusion centers in the US also target Muslims for peacefully exercising their right to freedom of religion. Fusion centers often take tips or Suspicious Activity Reports (SARs) from people who aren’t police, and biases can often show through in reports. Fusion centers have generated reports on Muslims for observing fasting traditions during Ramadan, buying too many computers at once, or looking for a job. In 2019, the Ninth Circuit ruled that these practices were “neither arbitrary nor capricious.”^{xiii}

License Plate Tracking

Fusion centers often host large databases from automated license plate readers. Because of the nature of license plate readers and the data they collect, these databases are basically invasive records of individuals’ travel patterns.

ALPR has a high error rate of 35%, according to a randomized control trial in Vallejo, CA.^{xiv} These errors have led to detention at gunpoint and police assault.^{xv} Often, ALPR databases aren’t actually that effective at solving crime, calling into question why they are allowed to operate. Reporting from Vermont Public Radio showed that over the course of 18 months, “61 license plate readers operating in Vermont logged 7.9 million license plates and

stored them in a central, statewide database,” yet this database was only responsible for helping to solve three (3) crimes.^{xvi}

Gang Databases

Fusion centers sometimes act on behalf of local police to verify “gang membership” or “gang associate status.”^{xvii} At the Boston fusion center and elsewhere, the criteria used to determine gang membership or association extend well beyond the “reasonable suspicion” criteria enshrined in 28 CFR § 23.20.^{xviii} Where analysis has been conducted on the racial composition of gang databases, they have been found to contain vanishingly few white people. Here, as with other issues, the perceived analytical sophistication of the fusion center is used to cover old patterns of racist policing with a veneer of neutrality.

Partnerships with Private Companies

Fusion centers have been known to partner with private companies as well. This has two effects. It allows fusion centers to skirt FOIA requirements with respect to investigations that might otherwise be found to be solely and improperly based on activists’ First Amendment-protected activity.^{xix} Secondly, by bringing in private companies as partners, those companies are effectively immunized from investigation by the fusion centers themselves. These partnerships are sometimes referred to as “ISACs”, or Information Sharing and Analysis Centers. The industries we know fusion centers to have partnered with include the fossil fuel industry, the financial services industry, and the agriculture industry (meaning Monsanto).^{xx}

In one particularly egregious example, the fossil fuel companies behind the Dakota Access Pipeline hired private security firm TigerSwan. Despite the firm not being licensed in the state to provide security services, TigerSwan was hired to monitor, infiltrate and provide “threat intelligence” on the Standing Rock protests, and share its insights with the fusion centers. The local fusion center conducted network analysis that identified

Red Fawn Fallis as a key node among the water protectors. Eventually, a federal infiltrator began a fraudulent relationship with her, and it ended with her being tackled by police and convicted for possession of his gun.^{xxi}

Mass Criminalization

Politicians and police use the same sledgehammer of surveillance and mass criminalization with respect to drug use, sex work, and homelessness as they do for combating terrorism.^{xxii} Mass criminalization prioritizes ineffective, punitive responses to human behaviors that are outside the norm, instead of decriminalizing them or prioritizing an ethos of care and human dignity.

We can see in the Blueleaks documents how fusion centers routinely criminalize and target drug users, homeless people, protestors, and even people casually taking photos. For this reason, our responsibility to honor the Fourth Amendment cannot stop at simply, «was there probable cause to suspect involvement in a crime,» and must further consider the question of whether we are steadily over-criminalizing new swaths of human behavior simply because human behavior has become more trackable and measurable than it was before.

What has Restore the Fourth done to rein in fusion centers?

Our fusion center advocacy has been primarily research-based and has focused on our Boston and San Francisco Bay Area chapters.

Our Boston chapter has filed and joined public records requests to uncover more information about their local fusion center’s activities in suppressing dissent, produced a white paper on the Commonwealth Fusion Center’s violations of the Fourth Amendment, and assisted journalists for the Bay State Examiner in their attempts to obtain redress for fusion center surveillance.^{xxiii} They are currently advocating for an ordinance in Watertown, MA that would require an audit of fusion center records.

Our Bay Area chapter helped prevent the “Domain Awareness Center” from covering the City of Oakland, and has highlighted the efforts of San Francisco PD to evade the City’s facial recognition ordinance by submitting data requests to the NCRIC fusion center.^{xxiv}

What reform does Restore the Fourth propose for this issue?

We believe that fusion centers add nothing to our security and should have closed long ago.

We support efforts to defund and provide greater oversight for fusion centers. Sample language for a municipality seeking to find out more regarding fusion centers is as follows:

i) The [local police department] shall engage an independent auditor, selected by the town council, the town manager, the town Solicitor, and the Commissioner of Public Safety, to select and audit a random sample of the Suspicious Activity Reports held by [locally relevant fusion centers] relating to current or former town residents. If the auditor finds any of these Suspicious Activity Reports to lack indicia of reasonable suspicion of a crime as outlined in 28 CFR part 23.20, [local police department] shall suspend cooperation with [locally relevant fusion centers] until such time as all records held by these agencies pertaining to town residents have been reviewed for compliance with 28 CFR part 23.20, and such records purged from these agencies’ systems if noncompliant. ii) No formal agreement between the [local police department] and the Joint Terrorism Task Force shall continue to be in effect as of the effective date of this ordinance.

To join our fusion center campaign, click [here](#).

ⁱ <https://www.dhs.gov/fusion-center-locations-and-contact-information>

ⁱⁱ https://web.archive.org/web/20210208221750if_/https://www.statesman.com/story/news/2021/02/07/austin-police-surveillance-operation-leaked-documents-raise-questions/4221649001/

<https://massprivatei.blogspot.com/2020/08/newspapers-fusion-centers-have-secretly.html>

ⁱⁱⁱ <https://www.law.cornell.edu/cfr/text/28/23.20>

^{iv} <https://www.austinchronicle.com/news/2020-08-07/austin-regional-intelligence-centers-secret-informants-show-how-profiling-works/>

^v <https://www.austinchronicle.com/documents/fusioncenterreport.pdf>

^{vi} <https://privacysos.org/blog/documents-show-bostons-antiterrorism-fusion-center-obsessively-documented-occupy-boston/>

<https://www.opb.org/news/article/oregon-department-of-justice-intelligence/>

<https://www.muckrock.com/news/archives/2017/aug/09/dapl-threat-assessment-ii/>

^{vii} <https://www.hsgac.senate.gov/subcommittees/investigations/media/investigative-report-criticizes-counterterrorism-reporting-waste-at-state-and-local-intelligence-fusion-centers>

^{viii} <https://unicornriot.ninja/2019/police-fusion-center-tied-to-fake-social-media-accounts/>

^{ix} <https://www.washingtonpost.com/nation/2021/02/14/fbi-arrest-left-wing-violence/>

^x <https://static1.squarespace.com/static/5a88be678a02c7583def92e2/t/5dbee11b6164d93f9b668fec/1572790555816/BRIC+complaint+letter.pdf>

^{xi} <https://www.cnn.com/2020/07/31/politics/dhs-investigation-intelligence-journalists/index.html>

^{xii} <https://www.nbcсандiego.com/news/local/source-leaked-documents-show-the-us-government-tracking-journalists-and-advocates-through-a-secret-database/3438/>

^{xiii} https://web.archive.org/web/20210208221750if_/https://www.statesman.com/story/news/2021/02/07/austin-police-surveillance-operation-leaked-documents-raise-questions/4221649001/

<https://www.aclunc.org/our-work/legal-docket/gill-v-doj-challenge-federal-suspicious-activity-reporting>

<https://law.justia.com/cases/federal/appellate-courts/ca9/17-16107/17-16107-2019-01-29.html>

^{xiv} <https://www.theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>

^{xv} <https://www.aclu.org/news/privacy-technology/san-francisco-woman-pulled-out-car-gunpoint-because>

<https://www.techdirt.com/2019/02/20/deputies-sued-after-false-alpr-hit-leads-to-guns-out-traffic-stop-california-privacy-activist/>

^{xvi} <https://www.vermontpublic.org/vpr-news/2015-03-06/use-of-controversial-license-plate-scanners-rising-among-vermont-police#stream/0>

^{xvii} <https://www.acslaw.org/expertforum/the-trouble-with-so-called-gang-databases-no-refuge-in-the-sanctuary/>

^{xviii} <https://www.law.cornell.edu/cfr/text/28/23.20>

^{xix} https://www.earthisland.org/journal/index.php/articles/entry/new_oil_gas_industry_intel_network_circumvents_foia_law/

^{xx} <https://www.theguardian.com/business/2019/aug/07/monsanto-fusion-center-journalists-roundup-neil-young>

^{xxi} <https://hpr1.com/index.php/feature/news/infiltrated-no-dapl-activist-hoodwinked-by-paid-fbi-informant-defense-says>

^{xxii} <https://www.counterpunch.org/2020/10/15/police-surveillance-is-criminalization-and-it-crushes-people>

^{xxiii} <https://warrantless.org/>

^{xxiv} <https://www.facebook.com/groups/RestoretheFourthSF>
<https://web.archive.org/web/20201125130149/https://www.sfchronicle.com/bayarea/article/Facial-recognition-tech-used-to-build-SFPD-gun-15595796.php>