

Considerations For Suspicious Activity Reporting

Efficient, Effective, and Safe Implementation in a Rural Community

Eric Vought

Lawrence County Sheriff's Auxiliary

Mount Vernon, MO 25 January 2016



Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

Contents

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

Copyright

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction

Legal

Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

The briefing materials are distributed under under the Creative Commons Attribution 4.0 (CC-BY-4.0) license.

Acknowledgements

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

Warrant Officer Jimmy Garrett, the Auxiliary's Intelligence and Security Chief (S2), prepared LE-targeted ISIS briefings for the Sheriff's Office and provided text for an early draft. Errors are my own, not his.

What Is Suspicious Activity Reporting?

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

Definition (Suspicious Activity)

“Observed behavior reasonably indicative of pre-operational planning related to terrorism or other criminal activity”

Definition (Suspicious Activity Reporting (SAR))

“Official documentation of observed behavior ...”¹

¹Information Sharing Environment (Ise) Functional Standard (Fs)
Suspicious Activity Reporting (Sar) [ISE, 2009, pp.2]

Where SAR Fits In

Gathering, Processing, Reporting, Analyzing, and Sharing of Suspicious Activity:

- 1 ... critical to preventing crimes, including... terrorism.*
- 2 Local law enforcement entities should incorporate the gathering... of terrorism-related suspicious activities and incidents (SAR process) into existing processes and systems used to manage other crime-related information and criminal intelligence.*
- 3 Local law enforcement agencies... are the initial collection points and investigative leads for all suspicious activity data... should not bypass the local law enforcement agency...²*

²SARSIP, 2008, pp 2-3

State-Level SAR Not Enough

Considerations For Suspicious Activity Reporting

Eric Vought

Introduction Legal Acknowledgements Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

- MIAC has a reporting form at the state level;
- We (LCSO/LCSA) can access it through various systems;
 - MOSPIN, EGuardian, etc.
- But we do not **get notified** when a local report is submitted;
- Technical/practical difficulties with access;
- We lose local control over civil rights, privacy, policy;

Small Communities

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

- Limited resources and staff;
- IT infrastructure and expertise;
- Can end up with **too much** information;
- Difficult to triage/share in timely manner;
- Guidance/recommendations/policy targeted at large urban departments³;
- Training (LE and community) takes time commitment;

³Roberts, 2012

28 CFR

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

- The legal standard for Suspicious Activity Reporting is in Title 28 of the US Code of Federal Regulations (28 CFR).
- Consistent with Supreme Court rulings, it requires in Part 23 that reports may neither be collected nor maintained unless they are based on Reasonable and Articulate Suspicion (RAS).

*...shall collect and maintain criminal intelligence information concerning an individual **only if there is reasonable suspicion** that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity...*

Reasonable Suspicion

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

Definition (Reasonable and Articulate Suspicion)

- Standard of proof less than probable cause;
- More than “inchoate and unparticularized suspicion or ‘hunch’”⁴;
- Based on “specific and articulable facts”, “taken together with rational inferences from those facts”⁵;
- Suspicion must be associated with a *specific* individual⁶;

⁴Terry v Ohio [US, 1968]

⁵US, 1968

⁶Ybarra v Illinois[US, 1979]

Appropriate Responses

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

- Sometimes Law Enforcement is not the appropriate tool;
- Peace Officers vs. Law Enforcement;
- Support, counseling, mental health, other avenues may be available;
- SAR system must address wider community concerns;
- Unnecessary escalation should be avoided;

Conclusion

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

Introduction
Legal
Acknowledgements
Overview

Why It Does
Not Happen

Legal and
Civil Liberties
Concerns

Conclusion

- A robust *community-based* SAR system is critical to dealing with terrorism and other threats;
- There are practical, legal, and moral concerns to creating such a system;
- These concerns must be discussed and actively addressed;

Changelog

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

References

0.9 First partial draft 2016-01-24;

References I

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

References

- ISE. Information Sharing Environment (Ise) Functional Standard (Fs) Suspicious Activity Reporting (Sar). *October*, pages 1–32, 2009. URL <https://www.ise.gov/sites/default/files/ISE-FS-200{ }ISE-SAR{ }Functional{ }Standard{ }V1{ }pdf>.
- Bryan A. Roberts. *Managing Suspicious Activity Reporting Systems at Small Agency Police Departments*. PhD thesis, Naval Postgraduate School, 2012. URL <http://www.dtic.mil/dtic/tr/fulltext/u2/a567364.pdf>.

References II

Considerations
For
Suspicious
Activity
Reporting

Eric Vought

References

SARSIP. Findings and Recommendations of the Suspicious Activity Report (SAR) Support and Implementation Project. Technical report, Suspicious Activity Report (SAR) Support and Implementation Project, 2008. URL <https://www-hsdl-org.ezp.waldenulibrary.org/?view{&}did=38351>.

US. Terry v Ohio, 1968. URL <https://supreme.justia.com/cases/federal/us/392/1/{#}27>.

US. Ybarra v Illinois, 1979. URL <https://supreme.justia.com/cases/federal/us/392/1/>.