

The Use of Intelligence in Indonesian Counter-Terrorism Policing

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ABSTRACT

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The world over, one of the most pressing issues confronting law enforcement agencies today concerns responding to and preventing terrorism. In general, counter-terrorism (CT) efforts fall into two categories: pre-crime and post-crime. Unlike post-crime efforts that respond to terrorist acts that have already occurred, pre-crime CT is generally understood to be “proactive,” where intelligence plays a key role in preventing events and acts of terrorism. Proactive CT necessitates strong cooperation between counter-terrorism actors and among the relevant agencies to share the intelligence they collect. In fact, intelligence sharing is fundamental to counter-terrorism cooperation.

In places like the U.S. and the U.K., one of the most effective and influential manifestations of proactive CT has been an approach called Intelligence-Led Policing (ILP). ILP is currently considered to be a “promising” model of policing, a model that may positively contribute to prevention and reduction of serious crime, including terrorism, organized crime, and trans-organized crime. The core framework of ILP is proactive in nature: it offers a collaborative approach to law enforcement based on information sharing and police accountability, and enhanced by intelligence operations.

This dissertation has sought to examine how and whether this ILP model is influencing the way the Indonesia is currently responding to terrorism. With this objective, it assesses and explores the ways that the Indonesian police and other counter-terrorism agencies collaborate and share information, using an ILP lens to analyze their strategic, tactical, and operational procedures and mechanisms. To drive effort, this dissertation addresses three main research questions: (1) What formal changes has Indonesia introduced into its policing structures post-Suharto and post-Bali Bombings? (2) Does the restructuring that Indonesia has undertaken represent an adoption of ILP as a primary strategy? (3) Do the Indonesian police and intelligence agencies collaborate and share information to prevent terrorism—and if they do, how?

This qualitative study involved a thorough review of the extant literature, as well as analysis of in-depth interviews with key informants at counter-terrorism and security intelligence agencies. They consist on police special unit on counter-terrorism (*Detasemen Khusus 88*, Densus 88), national intelligence agency (*Badan Intelijen Negara*, BIN), and military strategic intelligence (*Badan Intelijen Strategik*, BAIS), national coordinator of counter-terrorism (*Badan Nasional Penanggulangan Terorisme*, BNPT) and Indonesian financial intelligence unit (*Pusat Pelaporan dan Analisis Transaksi Keuangan*, PPATK). For additional background and context, interviews with academic scholars, members of parliaments, former jihadists and human rights activists were conducted.

Through this analysis, the dissertation found that in Indonesia, current counter-terrorism policing relies primarily on intelligence to target, prioritize, and focus intervention. In this way, it reflects characteristics of an ILP strategy; in particular, it seems to reflect ILP most in how the agencies enhance law enforcement intelligence. However, while law enforcement intelligence has successfully driven police actions on counter-terrorism, police are operating under a

fragmented intelligence structure. Collaboration and information-intelligence sharing happen in limited ways, generally on only a strategic level. At the same time, operational and tactical approaches have been shared only in informal ways.

This study concluded that law enforcement intelligence has formed the backbone of CT policing in Indonesia; however, a number of essential elements from the ILP framework are missing from Indonesia's efforts. Among other things, Indonesia is missing an integrated intelligence structure, especially formal policies and guidelines, mechanisms for sharing information within and among agencies. The result of this study provides an important first step in understanding the current implementation of CT policing in Indonesia—particularly, the prevent aspect of CT. It also contributes to a better understanding of how information sharing could be improved among law enforcement and security intelligence agencies for improving terrorism prevention measures in Indonesia.

Ultimately, this study recommends that the government provide guidance and promulgate regulations establishing coordination mechanisms to support the appropriate, effective, and timely sharing of both intelligence and sensitive information for law enforcement. In addition, it recommends the adoption of legislation to clarify how intelligence may be used in criminal proceedings, enabling a balance between the importance of intelligence products and protections for a fair trial. Safeguards will be needed to keep the democratization process on the right track while promoting security and public order.

Keywords: *counter-terrorism, criminal justice, crime, intelligence, info-sharing, policing, proactive, prevention.*

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DEDICATION

**To my late father S.M. Basyar, my mom Rindang Nirmala, my beloved siblings
and Gert-Jan van Westerlaak**

GLOSSARY

Abbreviation	Indonesian	English
AD	<i>Angkatan Darat</i>	Army, ground forces, land forces
ABRI	<i>Angkatan Bersenjata Republik Indonesia)</i>	Armed Forces of the Republic of Indonesia
AL	<i>Angkatan Laut</i>	Naval Forces, Sea forces
AU	<i>Angkatan Udara</i>	Air forces
BABIN	<i>Badan Pembinaan</i>	Administrative Department (for personnel, administrative and/or educational affairs)
BABINKAMTIBMAS	<i>Bintara Pembina Desa Keamanan dan Ketertiban Masyarakat</i>	Village Leadership NCO for Social Security and Order (of the Police)
BABINSA	<i>Bintara Pembina Desa</i>	Village Leadership NCO (fifth and lowest level of the Army territorial command system)
BAINTELKAM	<i>Badan Intelijen Keamanan</i>	
BAIS TNI	<i>Badan Intelijen Strategis Tentara Nasional Indonesia</i>	Indonesian Armed Forces Strategic Intelligence Agency (set up August 1999 as successor organization of BIA).
BAINTEL	<i>Bintara intelijen</i>	Intelligence NCO
BAINTELKAM (MABES) POLRI	<i>Badan Intelijen Keamanan (Markas Besar) Polri</i>	Security Intelligence Agency of the Police Headquarters (State Police Intelligence Service)
BAKIN	<i>Badan Koordinasi Intelijen Negara</i>	State Intelligence Coordinating Agency, State Intelligence Board (transformed into BIN)
BAKORSTANAS	<i>Badan Koordinasi Pemantapan Stabilitas Nasional</i>	Coordination Board for the Consolidation of National Stability (set-up 5 Sep 1988 as successor of Kopkamtib)
BARESKRIM	<i>Badan Reserse Kriminal</i>	Criminal Investigation Bureau (on Police headquarters level)
BIA	<i>Badan Intelijen Angkatan</i>	Republic of

*Bersenjara Republik
Indonesia*

Indonesia Armed Forces
Intelligence Agency
(established January 25, 1994
as
successor organization of
BAIS ABRI, August 1999 to
BAIS TNI)

BINMAS	<i>Pembinaan Masyarakat</i>	Community development.
BIN	<i>Badan Intelijen Negara</i>	State Intelligence Agency (established August 2001 as successor institution of Bakin).
BINTER	<i>Pembinaan Teritorial</i>	1. territorial guidance (of civil population in a given territory by the military: preparing the population to take part in defence and security) 2. territorial control (water and air).
BNPT	<i>Badan Nasional Penanggulangan Terorisme</i>	National Agency for Counter- Terrorism
BNN	<i>Badan Narkotika Nasional</i>	National Narcotics Agency
BNPB	<i>Badan Nasional Penanggulangan Bencana</i>	the National Disaster Mitigation Agency
BRIMOB	<i>Brigade Mobil</i>	Mobile Brigade (of the Police)
DI TII	<i>Darul Islam Tentara Islam Indonesia</i>	Darul Islam/Islamic Armed Forces of Indonesia
DENSUS 88	<i>Detasemen Khusus 88</i>	Special Detachment 88 (antiterror unit of the Police)
DENBRAVO 90	<i>Detasemen Bravo 90</i>	Air Force Special Forces Detachment
DENJAKA	<i>Detasemen Jala Mangkara</i>	Navy Special Forces Detachment
DPR	<i>Dewan Perwakilan Rakyat</i>	People's Representative Assembly
FKPM	<i>Organisasi Forum Kemitraan Polisi dan Masyarakat/</i>	Police-Community Partnership Forums
GAM	<i>Gerakan Aceh Merdeka</i>	Aceh Freedom Movement
HAM	<i>Hak Asasi Manusia</i>	Human Rights
INPRES	<i>Instruksi Presiden</i>	Presidential Instruction
INTEL-PAM	<i>Intelijen PAM</i>	Intelligence and Security
ILP	<i>Pemolisian berbasis intelijen</i>	Intelligence led policing
KAPOLRI	<i>Kepala Kepolisian Republik Indonesia</i>	The Chief of Indonesian National Police

KADENSUS	<i>Kepala Detasemen Khusus</i>	Chief of Special Detachment
KAPOLSEK	<i>Kepala Kepolisian Sektor</i>	Head of sub-district Police
KAPOLRES	<i>Kepala Kepolisian Resor</i>	Head of district Police
MENKOPOLKAM	<i>Menteri Koordinator Politik dan Keamanan</i>	Coordinating Minister for Politics and Security (until 2004).
MENKO POLHUKAM	<i>Menteri Koordinator Politik, Hukum dan Keamanan</i>	Coordinating Minister for Politics, Law and Security (from 2004 onwards)
KODIM	<i>Komando Distrik Militer</i>	Military District Command (3rd level of the territorial Army structure)
KOPKAMTIB	<i>Komando Operasi Pemulihan Keamanan dan Ketertiban</i>	Operations Command for the Restoration of Security and Order (November 11, 1965 - September 8, 1988)
KOMINDA	<i>Komunitas intelijen daerah, komuniti intelijen daerah</i>	regional intelligence community (on provincial level)
KOMNAS HAM	<i>Komisi Nasional Hak Asasi Manusia</i>	National Commission on Human Rights
KOMINDA	<i>Komunitas Intelijen Daerah</i>	Regional Intelligence Community
KODIM	<i>Komando Distrik Militer</i>	Military District Command (3rd level of the territorial Army structure)
KOREM	<i>Komando Resor Militer</i>	Military Region Command (2nd level of the territorial Army structure)
KOSTRAD	<i>Komando Cadangan (dan) Strategis TNI-Angkatan Darat</i>	Army Strategic (and) Reserve Command
KOPASKA	<i>Komando Pasukan Katak</i>	Frogmen Command (of the Navy).
KOPASSUS	<i>(Komando Pasukan Khusus TNI-Angkatan Darat)</i>	Army Special
KOPASKHASAU	<i>(Komando Pasukan Khas TNI-Angkatan Udara)</i>	Air Force Special Forces Command
KOPASSANDHA	<i>(Komando Pasukan Sandi Yudha TNI-AD)</i>	Army Covert Warfare Forces Command, Special Forces Command, Red Berets (2 February 1971, May 1985 to <i>Kopassus</i>)
KUHAP	<i>Kitab Undang-undang</i>	Indonesian Criminal Code of

	<i>Hukum Acara Pidana</i>	Procedure
KUHP	<i>Kitab Undang-Undang Hukum Pidana</i>	Indonesian Criminal Code
LANTAS	<i>Lalu lintas</i>	Traffic unit
MA	<i>Mahkamah Agung</i>	Supreme Court
MABES-AD	<i>Markas Besar TNI-Angkatan Darat</i>	Army Headquarters
MABES-AL	<i>Markas Besar TNI-Angkatan Laut</i>	Navy Headquarters
MABES-AU	<i>Markas Besar TNI-Angkatan Udara</i>	Air Force Headquarters
MABES TNI	<i>Markas Besar Tentara Nasional Indonesia</i>	Armed Forces Headquarters
MILF	<i>Front Pembebasan Islam Moro</i>	Moro Islamic Liberation Front
MK	<i>Mahkamah Konstitusi</i>	Constitutional Court
MOU	<i>Kesepakatan Bersama</i>	Memorandum of Understanding
MPR	<i>Majelis Permusyawaratan Rakyat</i>	People's Consultative Assembly
PASKHAS	<i>Pasukan Khas TNI-Angkatan Udara</i>	Air Force Special Forces
PERMENDAGRI	<i>Peraturan Menteri Dalam Negeri</i>	Regulation of the Minister of the Interior, Minister of Home Affairs.
PETRUS	<i>Penembakan misterius</i>	Mysterious Operation
PKI	<i>Partai Komunis Indonesia</i>	Indonesian Communist Party
PERKAP	<i>Peraturan Kapolri</i>	Decree of the Head of Indonesian Police
PPATK	<i>Pusat Pelaporan dan Analisis Transaksi Keuangan</i>	Indonesian Financial Transaction Reports and Analysis Center
PP	<i>Peraturan Pemerintah</i>	Government Regulation
PERPPU	<i>Peraturan Pengganti Undang-undang</i>	The Government Regulation In lieu of Law
POLMAS	<i>Pemolisian Masyarakat</i>	Community Policing
POLDA	<i>Kepolisian Daerah)</i>	Police unit in provincial level/ Police Area (1st level of the territorial police organization), regional police.
POLRES	<i>Kepolisian Resort</i>	Police District (3rd level of the territorial police organization)
POLSEK	<i>Kepolisian Sektor</i>	Police Sector (4th level of

		territorial police organization), Sub-district Police
POLWIL	<i>Kepolisian Wilayah</i>	Police Region (2nd level of territorial police organization).
POLWILTABES	<i>Kepolisian Wilayah Kota Besar</i>	Large City, Region Police, City Police
SABHARA	<i>Samapta Bhayangkara</i>	1. readiness, permanent operational readiness (as soldierly value) 2. field police, tactical police unit, antiriot police
SATGANA	<i>Satuan Gegana</i>	Gegana unit (Police spezial forces).
SATGULTOR	<i>Satuan Penanggulangan Teror</i>	Antiterror Unit (of the Army Special Forces Command, Kopassus)
TAP MPR	<i>Ketetapan Majelis Permusyawaratan Rakyat</i>	Decree of the People' Representative Assembly
TNI	<i>Tentara Nasional Indonesia</i>	National Indonesian Army
YLBHI	<i>Yayasan Lembaga Bantuan Hukum Indonesia</i>	Indonesian Legal Aid Foundation

Chapter I

Introduction

A. Statement Of Problem

Terrorism is not a new threat in Indonesia. Indeed, since the Republic of Indonesia was established in 1945, terrorism has been a major source of national concern. Although the frequency of terrorist activities have occurred and varied fluctuated over the last three decades, the 9/11 attacks on the World Trade Center followed by the Bali bombings of 2002 made terrorism one of the nation's top-priorities.¹ Since that time, Indonesia has become a battlefield in the campaign against terrorism, a second front in the "global war on terror."² Indonesia is not alone. The international community has also resolved to take practical measures individually and

¹ The incident occurred on October 12, 2002, on Bali Island. It took place in a tourist area, inside Paddy's Irish Pub on Kuta Beach and in a van outside the Sari Club, killing 202 people, mostly foreigners and tourists; for a general overview of the main terrorist groups that operate in Indonesia, or have done so in a recent past, in order to allow a better understanding of the origins and methods used, read further Francisco Galamas, *Terrorism in Indonesia: An overview*, Research Papers 4 (Documento de Investigacion del Instituto Espanol de Estudios Estrategicos: Madrid, 2015).

² Global war on terror first articulated by the President of United States, George W. Bush, on September 20, 2001. President Bush stated the following:

"Our war on terror begins with Al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found stopped and defeated...Our response involves far more than instant retaliation and isolated strikes. Americans should not expect one battle but a lengthy campaign, unlike any other we have ever seen. It may include dramatic strikes, visible on TV and covert operations, secret even in success. We will starve terrorists of funding, turn them one against another, drive them from place to place, until there is no refuge or no rest. And we will pursue nations that provide aid or safe haven to terrorism. Every nation, in every region, now has decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime."

The complete transcription of the speech available at "Text of George Bush's Speech", *guardian.com*, September 21, 2001 accessed January 3, 2016.

<https://www.theguardian.com/world/2001/sep/21/september11.usa13>;"Terror in South-East Asia the Elusive Enemy: The Second Front in America's War on Terror is Yielding Limited Results," *the economist.com*, August 1, 2002 accessed January 3, 2016.

<http://www.economist.com/node/1259532?zid=312&ah=da4ed4425e74339883d473adf5773841>; Andrew T.H.Tan, "Southeast Asia as the 'Second Front' in the War Against Terrorism: Evaluating Threat and Responses," *Terrorism and Political Violence* 15, no.2 (2003): 112-138.

collectively to prevent and combat terrorism, including formalizing several International Conventions³ and also enacting various national counter-terrorism laws.⁴

Indonesia's efforts included reforming its regulatory scheme, which was considered inadequate for preventing terrorism. As part of this reform, the government promulgated Government Regulation In lieu of Law No. 1/2002 (hereinafter PERPPU 1/2002), which was then adopted into law as The Counter-Terrorism Law (CTL) at Law No. 15/2003. The CTL supplemented the existing criminal law by expanding the definition of acts criminalized as terrorism⁵, and it granted extended powers to law enforcement agencies that deviate from the Indonesian Criminal Code of Procedure (*Kitab Undang-undang Hukum Acara Pidana*, KUHAP).⁶

Soon after the enactment of PERPPU 1/2002, the Indonesian government formed a new special police squad for counter-terrorism: Detachment 88 (Densus 88),⁷ even though the

³ In the absence of a comprehensive definition of 'terrorism' the UN has created a series of fourteen conventions which proscribe specific acts considered to be terrorist in nature. This includes hijacking aircraft, taking hostages, and terrorist bombings. The fourteen conventions listed in the Convention Annex include 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1970 Convention for the Suppression of Unlawful Seizure of Aircraft, 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1973 Convention on the Prevention and Punishment Against Internationally Protected Persons, 1979 International Convention against the Taking of Hostages, 1980 Convention on the Physical Protection of Nuclear Material, 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1997 International Convention for the Suppression of Terrorist Bombings, 1999 International Convention for the Suppression of the Financing Terrorism, 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation.

⁴ The Human Rights Watch's report found that there are 140 countries have passed (either enacted or revised) counter-terrorism laws since the attack of September 11, 2001, for further reading see Joe Saunders (ed), *In the Name of Security: Counterterrorism Laws Worldwide Since September 11* (New York: Human Rights Watch, 2012).

⁵ The CTL defines terrorism as any violent act that could create terror or insecurity among the public, violate the public freedom cause the death of other people or cause the destruction of vital or strategic objects. These crimes are then broken down into detailed major crimes, such as using a nuclear weapon to create terror. For the detail discussion of the development of Indonesian CTL can be found at Chapter 3 of this dissertation.

⁶ For example, the CTL provides rules where based on prima facie evidence, suspected terrorists can be arrested for seven days and detained for a period of six months for questioning and prosecution.

⁷ It is formed based on The Decree of Chief Indonesian National Police No.30/VI/2003 on June 20, 2003.

counter-terror unit already existed in the organizational structure of the Indonesian National Police (POLRI)⁸. Densus 88's tasks are to investigate, to enforce the law, and to gather intelligence.⁹

Indonesia's counter-terrorism efforts to date have focused on enforcement: that is, capturing and prosecuting terrorist suspects. Densus 88, has garnered international praise for its success in CT operations, having, at last count, from 2002 until April 2013 apprehended over 800 suspects over the past decade and prosecuted more than 600 terror criminals.¹⁰ Since it was established, Densus 88 has successfully conducted a number of major investigations involving terrorism, several of which have ended in arrest and prosecution.¹¹ In fact, all high-profile investigations of terrorism have been carried out by Densus 88, and these investigations have led to the successful dismantling the Bali Bombing network, and bringing to justice the principal perpetrators such as Amrozi, Muklas, and Imam Samudra.¹² The Malaysian master bomb maker, Dr. Azahari bin Husin, an alleged accomplice in the bombings, was killed in a November 2005 shootout with Densus 88. Noordin Mohammed Top and Dulmatin, the mastermind of the

⁸POLRI is a centralized organization. It has territorial organization with a police unit and police chief in each province. Regional police units (police unit in provincial level—POLDA) are administratively subdivided into three levels of police unit: Urban center level (Polisi Wilayah—POLWIL), district level (Resort Police—POLRES), sub-district level (Sector Police—POLSEK), and village level that link with all levels of civil administration and the community. Each province varies in strength and composition, depending on the needs characteristics of areas within the province. There is a functional line structure that consists of Intelligence and security (INTEL-PAM), Criminal investigation (RESERSE), Patrol (SAMAPTA), Traffic (LANTAS), and Community guidance (BINMAS).

⁹ Haris Y.P Sibuea, "Keberadaan Detasemen Khusus (Densus) 88 Dalam Pemberantasan Tindak Pidana Terorisme," *Info Singkat* 5, no. 10 (2013): 1-2, accessed January 20, 2016 http://berkas.dpr.go.id/puslit/files/info_singkat/Info%20Singkat-V-10-II-P3DI-Mei-2013-46.pdf.

¹⁰ Statement of Minister for Foreign Affairs of The Republic Indonesia on Opening Session: Strengthening the Implementation of the United Nations Global Counter Terrorism Strategy, International Counter-Terrorism Focal Points Conference on Addressing Conditions Conducive to the Spread of Terrorism and Promoting Regional Cooperation on Geneva, June 13, 2013, <http://www.un.org/en/terrorism/ctif/pdfs/opening-session-stmt-Indonesia.pdf>; see also Rohan Gunaratna and Stefanie Kam, *Handbook of Terrorism in the Asia-Pacific* (London: Imperial College Press, 2016), 43-45.

¹¹ *Ibid.*

¹² The Bali Bombing I perpetrators (Amrozi, Muklas and Imam Samudra) were sentenced to death and executed.

bombings, were killed in raid operations in 2009 and 2010 respectively. In the same years, Densus 88 also captured several other terrorist suspects.¹³

In fact, while the Indonesian police have been praised for their extraordinary success,¹⁴ there has also been considerable criticism of their actions concerning human rights abuses.¹⁵ Police have been criticized for having done and achieved much less in the way of prevention. Police are expected to take a more proactive and preventive course of action, rather than reactive.¹⁶ Vice President Boediono has, for example, been quoted as saying that ‘there has been too much emphasis on repressive actions and not enough on preventive.’¹⁷

The attempt to improve counter-terrorism measure was taken through establishing a National Agency for Counter-Terrorism (*Badan Nasional Penanggulangan Terorisme, BNPT*).¹⁸ The function of this agency among other things, to formulate policy and strategic planning, to formulate a national program concerning counter-terrorism, to coordinate government institutions for implementing counter-terrorism policies.¹⁹ In light of its function, BNPT has a strong concern about the issue of terrorism prevention.²⁰ As part of prevention and early detection efforts, BNPT stressed that for prevention to succeed it would be necessary to

¹³ M. Tito Karnavian, *Indonesian Top Secret: Membongkar Konflik Poso* (Jakarta: Gramedia Pustaka Utama, 2008), xxii; Ansyad Mbai, *Mengurai Jaringan Teroris di Indonesia* (Jakarta: BNPT, 2014), 10-11; Amira Paripurna, “The Right to a Fair Trial and Combating Terrorism: The Case of Indonesia,” *Indonesian Journal of International Law* 9, no 1 (2011): 40.

¹⁴ Sibuea, *Keberadaan Detasemen Khusus (Densus 88)*, 2.

¹⁵ Heru Margianto. “Komnas HAM: Penembakan Terduga Teroris Tulungagung Langgar HAM.” *kompas.com*, August 4, 2013, accessed January 16, 2016 <http://nasional.kompas.com/read/2013/08/04/1651331/Komnas.HAM.Penembakan.Terduga.Teroris.Tulungagung.Langgar.HAM>; “83 Teroris Ditembak Mati, Komnas HAM Tuding Penanganan Berpotensi Langgar HAM.” *Komnasham.go.id*, accessed January 16, 2016 <http://www.komnasham.go.id/informasi-rekam-media/83-teroris-ditembak-mati-komnas-ham-tuding-penanganan-berpotensi-langgar-ham>.

¹⁶ Adam Fenton and David Price, “Forbidden Funds-Indonesia’s New Legislation for Countering the Financing of Terrorism,” *Australian Journal of Asian Law* 15, no.1 (2014): 2-19.

¹⁷ *Ibid.*

¹⁸ It was established by Presidential Decree No.46/2010 on National Coordinator on Counter-Terrorism (Peraturan Presiden No. 46/2010). It is an independent agency, and replaced the Anti-Terrorism Coordinating Desk (which was housed in the Ministry of Political, Legal and Defence Affairs).

¹⁹ Based on Article 2 and 3 Presidential Decree No. 46/2010 on National Coordinator on Counter-Terrorism.

²⁰ BNPT, *Blueprint Pencegahan Terorisme* (Jakarta:BNPT, 2014).

implement a multi-agency approach,²¹ enhancing the intelligence agencies coordination to share information, and also recommending a soft approach.²²

Indonesia's increased focus on the importance of information sharing reflected a growing international interest in the Intelligence-led Policing (ILP) to support counter-terrorism efforts.²³ Following the rapid and significant changes on global scale, the criminal environment has changed. The policing methodologies such as community policing, neighborhood policing that focus on the local area and single jurisdiction has considered as inadequate to address the more serious and complex threat such as terrorism and trans organized crime.²⁴ In this context, ILP possesses qualities to address the complex problem of criminal environment. Even though there is no single or settle ddefinition of ILP,²⁵ it can generally be understood as follows:²⁶

The collection and analysis information related to crime and conditions that contribute to crime, resulting in an actionable intelligence product intended to aid law enforcement in developing tactical responses to threat and/or strategic planning related to emerging or changing threats.

From this perspectives ILP concentrates on intelligence as a set of tools and working practices which help the law enforcement to improve their strategy in facing the eventual crime. At its core, the ILP approach is a management philosophy that increases collaboration among law

²¹ *Ibid.*

²² *Ibid.*; Sigit Pinaridi, "Tito Fokuskan Program BNPT pada Pencegahan Terorisme," *antaranews.com*, March 16, 2016, accessed March 20, 2016

<http://www.antaranews.com/berita/550394/tito-fokuskan-program-bnpt-pada-pencegahan-terorisme>.

²³ For further reading see Frederic Lemieux, "Cross Cultural Comparison of Intelligence led Policing," in *The Handbook of Knowledge-based Policing: Current Conceptions and Future Directions*, ed. Tom Williamson (West Sussex, England: Jon Wiley& Sons, 2008), 223-237; Artur Gruszczak, "EU Intelligence-Led Policing: The Case of Counter-Terrorism," in *New Challenges for the EU Internal Security Strategy*, eds. Maria O'Neill, Ken Swinton, Aaron Winter (Newcastle: Cambridge Scholars Publishing, 2013), 16-20.

²⁴ Peter Bell and Mitchell Congram, "Intelligence-Led Policing (ILP) as A Strategic Planning Resource in the Fight against Transnational Organized Crime (TOC)," *International Journal of Business and Commerce* 2, no.12 (2013):15-16; Mitchell Congram, Peter Bell and Mark Lauchs, *Policing Transnational Organized Crime and Corruption: Exploring the Role of Communication Interception Technology* (New York: Palgrave MacMillan, 2013),56-57.

²⁵ Carter L. David and Carter G. Jeremy, "Intelligence-led Policing: Conceptual and Functional Considerations for Public Policy," *Criminal Justice Policy Review* 20, no.3 (2009): 316-317.

²⁶ *Ibid.*

enforcement agencies, facilitating and encouraging their efforts to combine and share information, enhancing intelligence operations, and increasing police accountability.²⁷ It is a management philosophy that emphasizes information sharing and collaboration, to solve crime problems in a strategic way at the local and regional level.²⁸ ILP was developed to help law enforcement address complex crime with multi-jurisdictional criminality, such as criminal enterprise and terrorism.²⁹

This dissertation examines whether ILP is currently being implemented in Indonesia, determining whether the current measures (i.e. strengthening the multi-agency collaboration, enhancing the intelligence function) reflect a true ILP approach and to what degree those strategies have, in fact, increased information-sharing in current counter-terrorism policing efforts in Indonesia.

B. Significance Of The Study

There have been a number of studies of Indonesian counter-terrorism activities, representing a variety of perspectives: from the perspective of national defense and national security,³⁰ from the perspective of psychology and philosophy³¹ and from the perspective of criminal law.³² Most of the terrorism studies in legal perspective are preceded by conducting

²⁷ J.H., Ratcliffe, "Intelligence Led-Policing," in *Environmental Criminology and Crime Analysis*, eds. Wortley R. and Mazerolle L (Cullompton, Devon: Willan Publishing, 2008), 267-271.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ For instance, Irwan Kusnadi. "Peningkatan Peran Babinsa dalam Membantu Pencegahan Terorisme: Studi di wilayah Kodim 0609/Kabupaten Bandung" (master's thesis, Sekolah Pascasarjana Ketahanan Nasional, Universitas Gajah Mada, Yogyakarta, 2010). It finds that the terrorism prevention efforts need multi-agency approach. It shows and identifies shortcomings of terrorism prevention efforts in Indonesia. It identifies the need to enhance the role of Indonesia's military to prevent terrorism.

³¹ Gazi, "Dinamika Relasi Sosial dalam Proses Meninggalkan Jalan Teror" (doctorate's dissertation, Universitas Indonesia, Jakarta, 2016); A.M Hendropriyono, "Terorisme dikaji Dari Filsafat Analitika" (doctorate's dissertation, Universitas Gajah Mada, Yogyakarta, 2009).

³² Beny Jozua Mamoto, "Penanganan POLRI Terhadap Organ Teror dalam Al-Jama'ah Al-Islamiyah" (doctorate's dissertation, Universitas Indonesia, Jakarta, 2008); MHD Rahmani Dayan, "Pidana Terorisme Sebagai Extra Ordinary Crime di Indonesia" (doctorate's dissertation, Universitas Sumatera Utara, Medan 2015); Usman, "Konsep

legal doctrinal research, often employing a particular normative viewpoint. A few empirical studies have been conducted, for instance a study by *Lembaga Cegah Kejahatan*, which used both qualitative and quantitative analysis examined the ‘alternative mechanisms’ used to manage terrorism prevention efforts in Indonesia, concluded that one of several barriers involved a lack of coordination among counter-terrorism agencies. The study also identifies the need to utilize intelligence more effectively to prevent terrorism.³³

In light of these studies, what remains needed is a closer examination of the policing model currently being implemented by the police. This understanding may assist police and other counter-terrorism agencies as they work to improve their terrorism prevention efforts, including their coordination and information sharing. This study seeks to fill that research gap.

C. Purpose Of Study

This study aims (1) to assess and explore the ways that Indonesian police and other counter-terror agencies collaborate and share information; (2) to identify the strategic, tactical, and operational procedures and mechanisms that these agencies currently use to share information; and (3) to gain an in-depth understanding of how the agencies perceive their own roles in counter-terrorism and terrorism prevention. Then this study analyzes these findings in light of broader concepts and theories of counter-terrorist policing, including ILP.

With this analysis, this study hopes to contribute to the understanding and improvement of counter-terrorism policing in Indonesia. More broadly, it may contribute to global efforts at counter-terrorism and to the development of counter-terrorism policing theory, in general.

Hukum Deradikalisasi Narapidana Terorisme Dihubungkan Dengan Upaya Penanggulangan Terorisme di Indonesia” (doctorate’s dissertation, Universitas Padjajaran, Bandung, 2015).

³³ Lembaga Cegah Kejahatan Indonesia dan Kemitraan (LCKK), “Laporan Kajian dan Perumusan Mekanisme Alternatif Manajemen Pencegahan dan Penanganan Terorisme” (Jakarta:LCKK, 2007).

D. Research Questions

This study investigates how Indonesia operates its counter-terrorism policing efforts and the extent to which such operations now adopt and implement an ILP strategy.

The investigation proceeds by exploring three sub-questions:

- a. What formal changes has Indonesia introduced into its policing structures post-Suharto and post Bali Bombings?
- b. Does the restructuring that Indonesia has undertaken represent an adoption of ILP as a primary strategy?
- c. How do the Indonesian police and intelligence agencies undergo the collaborate and share information to combat terrorism?

E. Assumptions And Limitations

1. Assumptions:

This study makes several conceptual and methodological assumptions. It was assumed that there is a need for terrorism prevention in Indonesia. It was further assumed this would require enhancing and strengthening the collaboration and information-sharing within the police forces and between the police and other agencies ('multi-agency approach'). Methodologically, it was assumed that ILP is a useful theoretical framework with which to investigate and examine the current counter-terrorism policing efforts in Indonesia.

2. Limitations:

The reliability and validity of this study is controlled by qualitative methods. This qualitative research concentrated on open and rich conversations between interviewer and interviewee. However, each of these individual qualitative, open-ended interviews could not address every factor relevant to this research. In addition, as noted above, the researcher assumed

that study participants would provide honest and open answers to interview questions; however, it is possible that participants were not fully candid due to fears or desires regarding possible negative perceptions of themselves and their department. Any failure by participants to provide complete and truthful answers to interview questions limited the validity of the study's findings.

F. Methodology

1. Sample Design

In order to answer the research questions mentioned above, this study employed qualitative methods. Qualitative studies are particularly suited to emerging topics in which research and validated data collection instruments are limited. Data collection was achieved through 29 semi-structured, face-to-face, in-depth interviews. These interviews focused on police special unit on counter-terrorism (*Detasemen Khusus 88*, Densus 88) and the intelligence apparatus charged with counter-terrorism intelligence on a daily basis. The data includes interviews with chiefs, former chiefs of police, and former officers from Densus 88, national intelligence agency (*Badan Intelijen Negara*, BIN), and military strategic intelligence (*Badan Intelijen Stratejik*, BAIS). The chiefs/officers from national coordinator of counter-terrorism (*Badan Nasional Penanggulangan Terorisme*, BNPT) and Indonesian financial intelligence unit (*Pusat Pelaporan dan Analisis Transaksi Keuangan*, PPATK) were also interviewed. Finally, for additional background and context, interviews with academic scholars, members of parliaments, former jihadists and human rights activists were conducted.

The participants were selected based on their ability to inform the study. During the interviews with the agency's command staff, the researcher utilized a snowball sampling technique, whereby each participant was asked to provide the names of other agency employees

who had knowledge or experience that could inform the study.³⁴ The researcher continued to conduct interviews until she had reached a saturation point where no new themes were being identified and no new information about the identified categories was being collected.³⁵ Taken collectively, the agency's command staff oversaw all aspects of the agency's responsibilities and functions. As such, they were most likely to be in positions to have information regarding the agency's role in counter-terrorism. In addition, the officer who was assigned to a defined counter-terrorism and terrorism prevention role was likely to have first-hand information of his and his agency's roles in counter-terrorism. The advantage of this technique is that it allows a researcher to quickly identify those potential participants who are most able to provide information relevant to the research study.

2. Data Analysis

a. Connection Of The Outcomes Of This Study with Interview

Interviews were conducted in order to better understand how law enforcement officers and the intelligence community perceive their roles and responsibilities as they relate to preventing terrorism, as well as how in actual practice the mandate to collaborate and share information is being implemented. In addition, the goal of interviews was to explore the viewpoints of the agencies regarding the normative framework for counter-terrorism and the operational rules of their respective (criminal) intelligence services.

b. Examination Of The Statutory Framework

³⁴ John W. Creswell, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*, 3rd ed (California: Sage, 2007), 35-40.

³⁵ *Ibid.*

This study considers both primary and secondary sources of data to conceptualize and contextualize the understanding of terrorism and counter-terrorism policing. The primary sources include statutes and interviews. The secondary sources include journals, books, newspapers and magazines, government and non-governmental organizational reports or studies related to the topic of terrorism and mechanisms of counter-terrorism.

A comprehensive statutory review and analysis was performed on Law No.15/2003 on Anti-Terrorism Law, the umbrella act of counter-terrorism in Indonesia. In addition, the study analyzed a number of other key statutes, including:

- Law No.8/1981 on Criminal Procedure Code
- Law No.3/2002 on National Defense Law
- Law No.2/2002 on Indonesia's National Police Law
- Law No.34/2004 on National Military Law
- Law No.8/2010 on Act of Preventing and Combating Money Laundering
- Law No.17/2011 on State Intelligence Law
- Law No.9/2013 on The Prevention and Eradication of the Financing of Terrorism

In addition to these statutes, the study also analyzes the government regulations that relate to police practice.³⁶ The goal has been to provide a clear understanding of the new tasks and responsibilities of police, the intelligence apparatus, and the work of other counter-terrorism agencies in preventing terrorism as set forth in the formal legal framework for the suppression of terrorism in Indonesia, the framework that emerged post-Bali bombing.

³⁶ Presidential Decree No. 70/2002 on Organization and Structure of Indonesian National Police; Presidential Instruction No. 2/2002 on Combating Terrorism; Presidential Instruction No. 2/2013 on Combating Internal Threat; The Decree of Chief Indonesian National Police No.30/VI/2003.

In addition to this, documentary evidence was sought from police and counter-terrorism agencies and by searching open-source databases. This method enabled documentary evidence to serve as support and corroboration for the information gathered in the interviews. The documentary evidence included the data pertaining to terrorist crime incidents and terrorist crimes solved, police and counter-terrorism agency's mission statements, general orders, job descriptions, accreditation documents, intelligence bulletins, internal policy and regulations, and inter-agency MOUs.

Open source information about the police and counter-terrorism agencies was also obtained through desk research. And open sources such as newspaper articles served to corroborate participants' (police and intelligence agencies) perceptions regarding their institution's roles in terrorism prevention.

c. Comparative Approach

A comparative approach proved useful for analyzing how and whether Indonesia is implementing ILP and for identifying barriers to that implementation. Since the concept of ILP comes from the UK and it was the first country to introduce the concept of ILP as a crime reduction strategy, this dissertation sought to gain insights from the UK's experiences in implementing ILP. In addition, it also reviews how the U.S. integrated ILP concepts into its law enforcement and counterterrorism efforts following 9/11. The comparison also examines the strengths and weakness of the implementation of ILP in both countries. This comparative review enriches the analysis of counter-terrorism policing in Indonesia.

G. Ethical Issues

1. Informed Consent/Protection Of Rights

Prior to the start of data collection, this study obtained approval from the University of Washington Institutional Review Board (IRB). The human subject division (HSD) subcommittee reviewed the study proposal under expedited review category 7.³⁷ The HSD review was conducted to protect research subject participants from any type of harm such as physical, psychological, social, economic, or legal.

Before conducting interviews, the researcher provided informed consent forms in two languages (English and Bahasa Indonesia) to the participants, who were asked to review the form and sign it if they wished to participate. The researcher reviewed the form with each interviewee, and answered any questions about the study to make sure that each participant understood his or her rights and any risk that may occur after participating in the study. At the conclusion of each interview, the researcher again asked each participant if he or she had any questions, and also provided each participant with the researcher's contact information should any questions arise later.

2. Data Security And Maintenance

The researcher secured the collected data and maintained the privacy and confidentiality of the participants. For the purpose of research report or any kind of research publications, the name of research subject participants were not released or mentioned. The identities of the participants were coded not by name but by participant number (i.e., Informant #1, Informant #2). The institution's name was the only identifier mentioned or released in any reports or publications. All of the remaining collected data, including the recordings and researcher notes

³⁷ Research activities that (1) present no more than minimal risk to human subjects, and (2) involve only procedures listed in one or more of the following categories, may be reviewed by the IRB through the expedited review procedure authorized by 45 CFR 46.110 and 21 CFR 56.110. The activities listed should not be deemed to be of minimal risk simply because they are included on this list. Inclusion on this list merely means that the activity is eligible for review through the expedited review procedure when the specific circumstances of the proposed research involve no more than minimal risk to human subjects. See further at <http://www.washington.edu/research/hsd/docs/1640>.

and other documents, remained stored in a locked cabinet. Computer files were backed up and password protected. After the transcriptions were completed, the audio recordings were destroyed; and before the recordings were destroyed, the participants were allowed to review them.

H. Organization of The Dissertation

This dissertation is divided into seven chapters, as follows:

Chapter I: Introduction

This introductory chapter provides statement of the problem, the significance of the study as well as research contributions to the field of counter-terrorism efforts. It also presents the research questions, the research methodology, and the limitations of the study.

Chapter II: Literature Review

This chapter provides an overview the existing research on counter-terrorism and related policing. It covers three areas of relevant literature for this study: counter-terrorism, the law enforcement based approach, and intelligence-led policing. The first discussion is the overview of law enforcement as a counter-terrorism approach. It also reviews of the emergence of ILP initiatives that have been adopted by some western countries as counter-terrorism policing. This part also reviews the literature on the need for increased cooperation and collaboration in law enforcement and intelligence sharing as a counter terrorism strategy, particularly to enhance the intelligence sharing between law enforcement and intelligence services.

Chapter III: Indonesian Counter-Terrorism Legislations and Legal Aspects of the Use of Intelligence in Criminal Proceedings

Chapter 3 discusses the legal frameworks and the use of intelligence in the criminal justice system in Indonesia, especially those linked to counter-terrorism such as the Criminal

Code of Procedure. This Chapter provides legal analyses on the role that information gathered by intelligence service can and may play in Indonesian criminal proceedings. It follows with an analysis of the legal framework concerning information sharing between intelligence agencies and law enforcement.

Chapter IV: The Formal Changes of the Institutional Structure of Counter-Terrorism Agencies Before the Suharto Regime and Post Bali Bombings

This chapter discusses the evolution of Indonesia's current policing style, including the restructuring involved in moving from authoritarian policing to community policing. It also analyses how the switch to community policing has affected the current counter-terrorism policing strategy and approach. This Chapter provides analysis on the complex relationship between the law enforcement, military, and intelligence agencies, as well as the complexity of the organizational structures in charge of counter-terrorism duties. First, it presents and explains the legal framework, including the statutory and regulatory authorities. It reveals and discusses certain conflicts among the laws that govern occupational tasks within the police, security intelligence services, and other counter-terrorism agencies, and how those conflicts affect counter-terrorism efforts.

Chapter V: Intelligence-led Policing: Comparative Perspectives from the U.K. and the U.S.

Chapter 5 provides a review of the literature on counter-terrorism policing in western countries, such as the U.K. and the U.S., countries that have made significant efforts to implement the conceptual framework of ILP as their business model in countering-terrorism. This chapter examines how this ILP has been implemented and developed in those two countries,

and it identifies the challenges those countries have faced with implementation. This discussion provides a foundation for analysis of Indonesia's approach, which appears in Chapter 6

Chapter VI: Law Enforcement Intelligence in Indonesian Counter-terrorism Police Practice

This chapter analyzes the data gathered in this study and the desk research, examining whether Indonesia's current counter-terrorism policing efforts reflect an ILP strategy. This chapter provides qualitative analysis on the ways intelligence products are being used in current counter-terrorism efforts. Next, it elaborates on the mechanisms for sharing information between Densus 88 and other counter-terrorism agencies, including intelligence agencies. This chapter also offers a qualitative analysis of the impediments to sharing information among the agencies.

Chapter VII: Conclusions and Recommendations

Chapter 7 presents conclusions and recommendations that emerge from this research, discussing the findings of the study and its implications. The relationship between the study results and both literature and theory are reviewed, followed by a discussion of research implications for practice. And finally, this chapter gives recommendations for future research.

Chapter II

Literature Review

A. Introduction

There is scant research on counter-terrorism in Indonesia, especially research focusing on the role of policing and criminal intelligence in counter-terrorism (CT) efforts. More commonly, the research focuses on the legal-doctrinal foundations of counter-terrorism, including the role of human rights and the legality and justifications for security and defense laws. At the time of this dissertation, a basic search on Garuda³⁸ for “*intelijen dan konter-terorisme*” (intelligence and counter-terrorism), for example, yielded only four results.³⁹ Comparatively, a search for “*konter-terorisme policing di Indonesia*” (counter-terrorism policing in Indonesia) yielded no results.⁴⁰ And as confirmed by scholars like Richard Jackson, there has been little empirical test assessment of counter-terrorism theories; most scholarship centers on academic justifications for government policies.⁴¹

³⁸ Garuda is a search engine of Indonesian Scientific Resources owned by the Directorate of Higher Education, the Ministry of Education in cooperation with the Indonesian Institute of Sciences (LIPI).

³⁹ Arief Fahmi Lubis, “Kedudukan Hukum Laporan Intelijen Sebagai Bukti Permulaan yang Cukup dalam Penyidikan Tindak Pidana Terorisme di Indonesia.” *Legalitas* 21, no.2 (2010); Bayu Setiawan, “Perlindungan Hukum Badan Intelijen dalam Melaksanakan Salah Satu Tugas di Bidang Pemberantasan Kejahatan Terorisme di Indonesia ditinjau dari Perspektif Ketahanan Nasional” (master’s thesis, Universitas Indonesia, Jakarta) ; Erlina Yulitasari, “Kinerja BIN (Badan Intelijen Negara) untuk Peningkatan Pemberantasan Terorisme dalam Kerjasama Indonesia dengan Amerika Serikat Pasca 11 September 2001” (master’s thesis, UPN Veteran, Yogyakarta, 2013); Marthin Fransisco Manihuruk, “Tindakan Penyadapan Badan Intelijen Negara terhadap Orang yang Sebagai Permulaan diduga Melakukan Kegiatan Terorisme,” *Jurnal Mahupiki* 3, no. 1 (2013).

⁴⁰ This data is valid as of October 26, 2016, see <http://garuda.dikti.go.id/>

⁴¹ Richard Jackson, “*Research for Counter Terrorism: Terrorism Studies and the Reproduction of State Hegemony.*” Paper presented at the annual meeting of the International Studies Association 48th Annual Convention, Chicago, February 28, 2007, as cited in Eric Halford, “The Emergence of the Counter Terrorism Command Policing model and its impact on intelligence sharing between the Police and the Security Services,” (dissertation thesis, Salford University, Manchester, 2009), 21; See also Cynthia Lum, Leslie W. Kennedy, Alison J. Sherley, “The Effectiveness of Counter-Terrorism Strategies: A Campbell Systematic Review” (Washington DC: Crime and Justice Coordinating Group, The Campbell Collaboration, 2006), 32; Andrew Silke, “Contemporary Terrorism

While there may be little data to account for its effectiveness, Indonesia has made substantial efforts to design and implement an enforcement-based approach for dealing with the threat of terrorism. As part of this effort, the Law on Counter-terrorism (CTL) has served as an important step in addressing terrorism in a new way, offering a clear departure from the previous military approach. Charged with this new duty, law enforcement agencies are in need of a method and framework that allows them to balance and coordinate their efforts to combat everyday crimes and respond to terrorist activities.

This chapter reviews the current literature on counter-terrorism, including the law enforcement based approaches and intelligence-led policing. This chapter begins with an overview of law enforcement as counter-terrorism approach and the emergence of ILP initiatives that have been adopted by some western countries as counter-terrorism policing. Through this discussion, it shows how the trend use of proactive counter-terrorism approach has led the emergence and increased use of intelligence led-policing. Next, it reviews the literature on cooperation and collaboration in law enforcement and intelligence sharing as a counter terrorism strategy, particularly to enhance the intelligence sharing between law enforcement and intelligence services, observing that cooperation between counter-terrorism actors in the aspect of intelligence sharing is highlighted as the fundamental process within counter-terrorism cooperation.

B. The General Overview Of Law Enforcement As A Counter-Terrorism Approach And The Emergence Of Intelligence-Led Policing (ILP)

Studies Issues in Research,” in *Critical Terrorism Studies: A New Research Agenda*, Richard Jackson, Marie Breen Smyth, Jeroen Gunning (New York: Routledge, 2009), 48.

Efforts at counter-terrorism are as old as terrorism itself, as governments have always attempted to confront terrorists when they strike.⁴² Most commonly, counter-terrorism is understood to include the tactics, techniques, practices, and strategies that governments, militaries, police departments, and any other state institutions use in response to terrorist threats or acts.⁴³ David H. Bayley and David Weisburd categorized at least there are ten types of counter-terrorism activity, they are: (1) covert detection; (2) disruption/dismantling of terrorist plots; (3) risk analysis; (4) target hardening; (5) community mobilization for prevention; (6) protection of important persons and infrastructure; (7) emergency assistance at terrorist incidents; (8) order-maintenance when terrorism occur; (9) mitigation of terrorist damage; and (10) criminal investigation of terrorist incidents.⁴⁴

These ten activities can be further broken down into two general categories: prospective and retrospective activities. Covert detection, dismantling or disruption of terror plots, and risk analysis are all examples of pre-event activities in counter-terrorism efforts.⁴⁵ Prospective “pre-event” activities are performed on an ongoing basis and are designed to prevent, deter, and disrupt the activities of those thought to be involved in activities related to terrorism.”⁴⁶ Pre-event activities can include surveillance and interventions.⁴⁷ Each of these pre-events requires the use of intelligence. For example, covert detection and disruption of terror plots draws heavily on the work of intelligence.

⁴² Alexander Spencer, “The Problem of Evaluating Counter-terrorism” (discussion papers, Madrid:UNISCI,2006), 180. <https://epub.ub.uni-muenchen.de/13771/1/UNISCISpencer12.pdf>.

⁴³ Todd Sandler, “Terrorism and Counterterrorism: An Overview,” *Oxford Economic Papers* 67, no. 1 (2015): 12-15.

⁴⁴ David H. Bayley and David Weisburd, “Cops and Spooks: The Role of the Police in Counterterrorism” in *To Protect and To Serve: Policing in Age of Terrorism*, eds. David Weisburd, Feucht Th, L. Hakimi I., L. Mock, L., S. Perry (New York: Springer Publishers, 2007),87.

⁴⁵ Martin Innes. “Policing Uncertainty: Countering Terror Through Community Intelligence and Democratic Policing,” *Annal of American Academy of Political and Social Science* 605, (2006): 226.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

The second feature of counter-terrorism is retrospective activity, uses a reactive framework, reacting to post-events of terrorism. This activity may include “high profile criminal investigations of terrorist incidents, and locating support infra structure that can be targeted as part of future prevention and deterrence efforts.”⁴⁸

Generally speaking, domestic police and security intelligence agencies have been increasingly focused on tracking the movement of people and goods and taking measures against terrorism support infrastructures, such as targeting the financial sources of particular terrorist groups.⁴⁹ As part of this approach, these entities have used surveillance, intrusive techniques, wiretapping, eavesdropping and other means, as well as direct interventions.⁵⁰ The growing concern to track the problem of the movement of people, goods and money occurred in particular along with the merging of internal and external security, as such has resulted the domestic police and security intelligence devoted their energies to stopping terrorists before they act and thwarting terrorist plots before they develop too far.⁵¹ The increased focus to prevent terrorism (proactive counter-terrorism) has combined the element of criminal justice model and war model.⁵²

Proactive counter-terrorism brings with it a variety of implications to the arena of criminal justice, intelligence, and criminal law.⁵³ In criminal justice it means there has been an increased use of intelligence-led policing, more reliance on preventive detention, and early

⁴⁸ *Ibid.*

⁴⁹ Jude McCulloch and Sharon Pickering, “Suppressing the Financing of Terrorism: Proliferating State Crime, Eroding Censure and Extending Neo-Colonialism,” *British Journal of Criminology* 45, no.4 (2005): 470-486; Mike Levi and B. Gilmore, “Terrorist Finance, Money Laundering and The Rise and Rise of Mutual Evaluation: A New Paradigm for Crime Control?” *European Journal of Law Reform* 4, no. 2 (2002): 337-364

⁵⁰ Ronald Crelinsten, “Perspectives on Counterterrorism: From Stovepipes to a Comprehensive Approach,” *Perspectives on Terrorism* 8, no.1 (2014):4-5.

⁵¹ *Ibid.*

⁵² Ronald Crelinsten, *Counterterrorism* (Cambridge: Polity Press, 2009), 70-77

⁵³ Crelinsten, “Perspective on Counterterrorism,” 4-5.

arrests to disrupt plots.⁵⁴ Further, in the intelligence domain it means increased use of surveillance, profiling, counter-radicalization. In terms of profiling it seems to be increasingly identifying targets that are involved in radicalization to violence.⁵⁵ In criminal law arena, intelligence led policing has led to criminalizing individuals or groups who have provided support for terrorism offences, such as fundraising, facilitating training, and recruitment.⁵⁶

These proactive counter-terrorism efforts require more coordination and integration among a wide range of policy domains, such as criminal law, policing, intelligence, finance, immigration, customs and border control, refugee policy, military strategy and tactics, diplomacy, development, and humanitarian intervention.⁵⁷ To the same degree, this same need for more coordination and integration requires cooperation and facilitation from government to coordinate the diverse and distinct entities across jurisdictions and agencies, and to allow for some passage over the boundaries between domestic and foreign policy.⁵⁸

The best method for targeting terrorists and terrorist groups remains the subject of heated debate. The opponents of ‘tough policy’ approach has suggested the nation to be more proactive in undergoing the counter-terrorism measures.⁵⁹ They also suggest to take proactive measures such as, targeting supporters of terrorism, the leaders of terrorist groups, and terrorists’ assets.⁶⁰ The opponent of tough policy often dismiss more conciliatory counter-terrorism methods as

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ Boaz Ganor, *The Counter-Terrorism Puzzle: A Guide for Decision Makers* (New Brunswick: Transaction Publishers, 2005), 129; Paul Wilkinson, *Terrorism Versus Democracy: The Liberal State Response*, 2nd Ed (Abingdon: Routledge, 2007), 197; Todd Sandler, “Collective versus unilateral responses to terrorism,” *Public Choice* 124, no. 1-2 (2005): 75-93; Andrew Kydd and Barbara Walter, “The Strategies of Terrorism,” *Journal of International Security* 31, no. 1. (2006):64, 72.

⁶⁰ Kydd and Walter, “The Strategies of Terrorism,” 64.

being ineffective.⁶¹ In contrast, the opponent of ‘soft policy’ approach argues that the failure to engage terrorists with law enforcement will lead to more terrorism.⁶² They also argue harsh counter-terrorism is an ineffective way to eradicate the terrorist group and may have more serious impact than the terrorist themselves.⁶³ In regards to this debate, Martha Crenshaw in *‘the Logic of Terrorism: Terrorist Behavior as a Product of Strategic Choice’* has underlined that prior to initiating counter-terrorism measures, the policy makers must understand the advantages-disadvantages, as well as the outcome of the policy choices.⁶⁴ The policy makers also must understand the appropriateness of the measures taken in various situation.⁶⁵

The debate over which methods of counter-terrorism are most effective arises over the task of effective targeting. Generally speaking counter-terrorism efforts post 9/11 have shown considerable improvement, however there continues to be a lack of common understanding among scholars about who should be doing what for the most effective counter-terrorism approach.⁶⁶ To respond, greater steps need to be taken to develop and increase cooperation and enhance intelligence sharing in law enforcement as a part of the counter-terrorism strategy,⁶⁷ particularly between law enforcement and intelligence services at both a domestic and international level.⁶⁸

In line with this, the United Nations has advocated for a strategy that encourages the creation of hostile environments for terrorists and increased international cooperation in counter-

⁶¹ Peter C. Sederberg, “Conciliation as a Counter Terrorist Strategy,” *Journal of Peace Research* 32, no.3. (1995): 298.

⁶² *Ibid.*

⁶³ Albert Bandura, “Mechanisms of Moral Disengagement” in *Origins of Terrorism: Psychologies, Ideologies, Theologies, States of Mind*, ed. W. Reich (Cambridge: Cambridge University Press, 1990), 161-191.

⁶⁴ Martha Crenshaw, “the Logic of Terrorism: Terrorist Behavior as a Product of Strategic Choice” in *Origins of Terrorism*, ed. W. Reich (Woodrow Wilson Center Press, 1998), 7-24.

⁶⁵ *Ibid.*

⁶⁶ D. Omand. “Countering International Terrorism: The Use of Strategy,” *Survival* 47, no. 4 (2005): 115.

⁶⁷ *Ibid*; Daniel Keohane, *The EU and Counter Terrorism* (London: Centre for European Reform. 2005), 30-31.

⁶⁸ Keohane, *The EU and Counter Terrorism*, 27-28, 30-31.

terrorism enforcement⁶⁹ which is where we first find the necessity for increased levels of intelligence sharing between counter-terrorism actors being outlined.⁷⁰

In regards with this difficult task of doing terrorism prevention, law enforcement agencies in most countries need a method and framework that allows them to combat crimes efficiently and successfully. The search for alternatives to the traditional model of public policing has produced different outcomes. The emphasis placed on proactive approaches has resulted in reactivation or reinvention of systemic solutions like (1) problem-oriented policing, (2) community policing, (3) community based crime prevention, (4) order maintenance policing, (5) “risk-based” strategies, (6) neighborhood policing, and (7) intelligence-led policing.⁷¹ These models reflect different views on the best way to control crime, and each possesses its own strength and weakness.⁷²

Notably, the first six models focus on a local area and a single jurisdiction. While the criminal environment has changed following the rapid and significant changes on global scale, these first six methodologies inadequate to address the more serious and complex threat such as terrorism and trans-organized crime.⁷³ In this context, ILP possesses quality to address the complex problem of criminal environment.⁷⁴

⁶⁹ UN General Assembly, Resolution 60/288, “The United Nations Global Counter-Terrorism Strategy,” September 8, 2006, undocs.org/A/RES/60/288

⁷⁰ *Ibid.*

⁷¹ J.H., Ratcliffe, “Intelligence-Led Policing” in *Environmental Criminology and Crime and Analysis*, eds. R.W. Wortley and L. Mazerolle (Cullompton, Devon: Willan Publishing, 2008), 263-282; J.H., Ratcliffe. *Intelligence-Led Policing* (New York: Routledge, 2011), 70-74; David Weisburd and J. Eck, “What Can Police Do to Reduce Crime, Disorder, and Fear?” *Annals of the American Academy of Political and Social Science*, 593 (2004): 42 – 65; Shearing, C.D, “The Future of Policing,” *Law and Society Review* 20, no.3(1996); 585-606; Jones T. and Newburn T, “The Transformation of Policing? Understanding Current Trends in Policing Systems,” *British Journal of Criminology* 42, No.1 (2002): 129-146.

⁷² Ratcliffe, *Intelligence-Led Policing*, (2008),72-73.

⁷³ Peter Bell and Mitchell Congram, “Intelligence-Led Policing (ILP) as A Strategic Planning Resource in the Fight against Transnational Organized Crime (TOC),” *International Journal of Business and Commerce* 2, no.12 (2013): 15-16; Mitchell Congram, Peter Bell and Mark Lauchs. *Policing Transnational Organized Crime and Corruption: Exploring the Role of Communication Interception Technology* (New York: Palgrave MacMillan, 2013),56-57.

⁷⁴ *Ibid.*

Many current and prominent scholars have argued merits of the ILP approach.⁷⁵ Indeed ILP integrates the intelligence process with other police responsibilities, such as calls for service and criminal investigations.⁷⁶ Even though there is no universally accepted definition of ILP,⁷⁷ it is understood to be characterized by the main idea that policing, from tactical to strategic levels and beyond to government policy, should be informed by relevant and actionable intelligence analysis,⁷⁸ in which intelligence “guide[s] and shape[s] policy, strategy and operations, rather than simply solving or supporting singular investigations.”⁷⁹

In general, the ILP management philosophy places considerable emphasis on information sharing and collaboration among different units or organizations at all levels.⁸⁰ Its success depends on an integrated intelligence structure, key performance indicators, and close collaboration with organizations outside of the police.⁸¹ Ultimately, ILP aims to anticipate

⁷⁵ Richard Anderson, “Intelligence-led Policing: a British Perspective,” in *Intelligence-led Policing, International Perspectives on Policing in the 21 Century*, ed. Angus Smith (New Jersey: IALEIA, 1997), 5-9; Thomas E. Baker, *Intelligence-led Policing: Leadership, Strategies and Tactics* (New York: Looseleaf Law Publications, 2009) 1-3, 19; Nina Cope, “Intelligence Led Policing or Policing Led Intelligence?: Integrating Volume Crime Analysis into Policing,” *Br J Criminol* 44, no. 2 (2004): 188-203; Mike Maguire, “Policing by Risks and Targets: Some Dimensions and Implications of Intelligence Led Policing,” *an International Journal Research and Policy* 9, no.4 (2000): 315-336; McGarrell et al., “Intelligence-Led Policing As a Framework for Responding to Terrorism,” *Journal of Contemporary Criminal Justice* 23, no. 2 (2007): 142-158; M.B. Peterson, *Intelligence Led Policing: The New Intelligence Architecture* (Washington DC: US DOJ, 2005); J.H., Ratcliffe. “Intelligence-Led Policing” in *Environmental Criminology and Crime and Analysis*, eds. R.W. Wortley and L. Mazerolle (Cullompton, Devon: Willan Publishing, 2008).

⁷⁶ U.S. Department of Justice, *Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies*, ed. David. L Carter (New York: US DOJ, 2004), 6.

⁷⁷ J.H., Ratcliffe, *Intelligence-Led Policing* (New York: Routledge, 2011); Adrian James, “The Influence of Intelligence-Led Policing Models on Investigative Policy and Practice in Mainstream Policing 1993-2007: Division, Resistance and Investigative Orthodoxy” (doctoral dissertation, London School of Economy, 2011), 20; de Lint, W., “Intelligence in Policing and Security: Reflections on Scholarship,” *Policing and Society* 16, 1 (2006): 1-2; Carter D.L. and Carter, J.G., “Intelligence-Led Policing: Conceptual and Functional Considerations for Public Policy,” *Criminal Justice Policy Review* 20, no. 3 (2009): 316-17; Alach Z., “The Emperor is Still Naked: How Intelligence-led Policing Has Repackaged Common Sense as Transcendental Truth,” *The Police Journal* 84, (2011): 75-97.

⁷⁸ Bell and Congram, *Intelligence-Led Policing*, 19.

⁷⁹ Wardlaw, G. and Boughton J., “Intelligence-Led Policing: The AFP Approach” in *Fighting Crime Together: The Challenges of Policing and Security Network*, ed. J. Fleming and J. Wood (Sydney: University of New South Wales Press, 2006), 135.

⁸⁰ Marilyn B. Peterson, *Intelligence-led Policing the New Intelligence Architecture* (Washington DC: US DOJ Bureau of Justice Assistance, 2005), vii, 1-3.

⁸¹ *Ibid.*

trends in crime and proactively create prevention strategies, while at the same time respecting citizens' privacy rights.⁸² As its core, as a policing philosophy, ILP features the following traits: “it is managerially centered and top-down in decision making format; it is proactive; it is informant and surveillance-focused with heightened attention directed toward recidivist and serious crime offenders, and it provides a central crime intelligence mechanism to facilitate objective decision-making.”⁸³

In another definition, ILP defines as a “type of law enforcement in which resources are deployed based on information gathered and analyzed from criminal intelligence.”⁸⁴ Adopting an ILP approach requires changing thinking about information management and the role of officers in an intelligence-driven law enforcement agency environments.⁸⁵ In practical terms, this means that when a police agency implements an ILP approach, police organizations need to reevaluate their policies and protocols, incorporating intelligence into their planning processes to reflect community problems and issues. Information sharing must become a policy, not an informal practice. Most importantly, intelligence must be contingent on quality analysis of data. The development of analytical techniques, training, and technical assistance needs to be supported.⁸⁶

While community involvement in crime control is central to successful ILP,⁸⁷ it is not entirely irrelevant. What ILP requires is the involvement of other segments of society, which can sometimes mean community involvement.⁸⁸ In this way, ILP can appear to resemble community-oriented policing, offering a model that enables national intelligence agencies to use

⁸² Ray Guidetti, Intelligence-Led Policing—A Strategic Framework, *The Police Chief* LXXVI, no. 10 (2009)

⁸³ *Ibid*: J.H., Ratcliffe and Ray Guidetti, “State Police Investigative Structure and the Adoption of Intelligence-Led Policing,” *Policing* 31, no. 1 (2008): 111.

⁸⁴ J.R., White, *Terrorism and Homelands Security*, 6th ed (Belmont, CA: Wadsworth Cengage Learning, 2009), 423.

⁸⁵ Ratcliffe, *Intelligence-led policing* (2008), 70-77; Ratcliffe and Guidetti, “State Police Investigative, 111-112.

⁸⁶ Peterson, *Intelligence-led Policing the New Intelligence Architecture*, vii.

⁸⁷ Gregory F. Treverton, et.al, *Moving toward the Future of Policing* (Santa Monica, CA: RAND corporation, 2011), xv; Ratcliffe, *Intelligence led Policing*, (2011), 270-277.

⁸⁸ David. L Carter, *Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies* (New York: US DOJ, 2004), 8-10.

information and data collected in the field.⁸⁹ In this way, ILP can function as a collaborative enterprise of law enforcement based on improved intelligence operations and community-oriented policing, using a combination of methods for problem solving.⁹⁰

C. The Mix Between Law Enforcement Intelligence and National Security Intelligence and The Call for Information Sharing

Discussions of ILP reflect strong concerns about the role of law enforcement intelligence.⁹¹ Law enforcement intelligence, can be understood as “the product of an analytic process that provides an integrated perspective to disparate information about crime, crime trends, crime and security threats, and conditions associated with criminality.”⁹² Intelligence in enforcement aimed at interrupting, disrupting, and dismantling the activities of alleged perpetrators, and the *ex-ante* use of information to start investigations or collect evidence, have roots in the fight against organized crime.⁹³ This kind of intelligence includes raw data(s), such as information on the criminal actors their motives, methods and targets. Without this knowledge and information, law enforcement is compromised in its ability to succeed and mitigate crimes and terrorism.⁹⁴

⁸⁹ Martin Innes, L. Abbott, T. Lowe and C. Roberts, “Seeing like a Citizen: Field experiments in ‘Community Intelligence-led Policing,’” *Police Practice and Research* 10, no. 2 (2009): 99-114; N. Tilley, “Problem Oriented Policing, Intelligence-led Policing and the National Intelligence Model” (Crime Science Short Report Series, London: Jill Dando Institute of Crime Science, 2003).

⁹⁰ Peterson, *Intelligence-led Policing the New Intelligence Architecture*, vii.

⁹¹ The phrase of criminal intelligence and law enforcement intelligence is synonymously used. This phrase frequently found in conjunction with discussions of the police role in homeland security.

⁹² David L. Carter, *Law Enforcement Intelligence Operations*, 8th ed (Tallahassee, FL: SMC Sciences, Inc, 2008), 12-13.

⁹³ Jill E.B. Coster van Voorhout, “Intelligence as Legal Evidence Comparative Criminal Research Into The Viability Of The Proposed Dutch Scheme Of Shielded Intelligence Witnesses In England And Wales, and Legislative Compliance with Article 6 (3) (d) ECHR,” *Utrecht Law Review* 2, no 2 (2006):121.

⁹⁴ Jeremy G. Carter and David L. Carter, “Law Enforcement Intelligence: Implications for Self-Radicalized Terrorism,” *Police Practise and Research* 13, no. 2 (2012):13.

There are six components that describe the methodology of law enforcement in assessing and analyzing raw information then to be developed into analytical products.⁹⁵ These six components are called the “intelligence cycle,” which is comprised of (1) planning and direction, (2) collection, (3) processing and collation, (4) analysis, (5) dissemination, and (6) re-evaluation.⁹⁶ The result of the analytical products inform police leaders on variables related to threats, which, in turn, aids them in developing prevention strategies.⁹⁷ Fundamentally, the intelligence process is designed to identify criminal threats and develop operational responses to eliminate the threats.⁹⁸

The Fort Dix⁹⁹ case example provides real-world context to the application of law enforcement intelligence practices as applied to the self-radicalized criminal extremist threat.¹⁰⁰ In Fort Dix case, for example, the initial awareness of the attack came from an alert citizen working at Circuit City (Morgenstern) who witnessed suspicious behavior on the videotape.¹⁰¹ This information was then relayed to a local police department and then was turned over to the County Counter Terrorism Coordinator who forwarded it to the FBI.¹⁰² The local field office then initiated the intelligence-led investigation that ultimately connected the information and prevented the attack.¹⁰³ Local, state and federal agencies then shared information and follow-up investigation, intelligence collection, and analysis. The case also illustrates what the FBI describes as “pre-emptive prosecution.” This relied on an informant to infiltrate and provide

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*, 6.

⁹⁹ Dale Russakoff and Dan Eggen, “Six Charged in Plot to Attack Fort Dix,” *Washingtonpost.com*, May 9, 2007 accessed May 10, 2017 <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/08/AR2007050800465.html>.

¹⁰⁰ Carter and Carter, *Law Enforcement Intelligence*, 19.

¹⁰¹ *Ibid*

¹⁰² *Ibid*

¹⁰³ *Ibid*

information and then a pre-emptive arrest.¹⁰⁴ In Fort Dix case, law enforcement's ability to prevent criminal and terrorist risks relies on the availability of raw information that is often times outside the law enforcement purview.¹⁰⁵

In general, due to the distinct differences between police, military, and national intelligence, the policing rarely overlapped or intersected with national intelligence and military intelligence.¹⁰⁶ There are distinct differences between law enforcement intelligence, military intelligence, and national intelligence. Traditionally, military intelligence has been focused on determining the capabilities and intentions of enemies, focusing on hostile entities, weapons systems, warfare capabilities, and the order of battle.¹⁰⁷ Meanwhile national intelligence has had a broader focus on political, economic, and military intentions of all nations.¹⁰⁸

Generally speaking, after the attacks on 9/11, there has been recognition that law enforcement intelligence practices need to be understood within the national intelligence framework.¹⁰⁹ Post-9/11, police intelligence has begun dynamically evolving along with homeland security and counter-terrorism priorities.¹¹⁰ The prevalence of threats by non-state actors has caused all three (police, military and national intelligence) to evolve towards a focus of counter-terrorism. After the 9/11 attacks, concerns have been raised about inadequate information sharing and intelligence analysis¹¹¹ There has been a greater call for sharing of information

¹⁰⁴ *Ibid*, 20.

¹⁰⁵ Carter and Carter, Law Enforcement Intelligence, 24.

¹⁰⁶ Gary Cordner and Kathryn Scarborough, "Information Sharing: Exploring the Intersection of Policing with National and Military Intelligence," *Homeland Security Affairs* 6, no. 5 (2010): 1-5.

¹⁰⁷ Felix Ejukonemu Oghi, Julius O. Unumen, "Military Intelligence and the Challenge of National Security," *International Journal of Research in Humanities and Social Studies* 1, no.2 (2014):8.

¹⁰⁸ Carter, Law Enforcement Intelligence, 14.

¹⁰⁹ "How Can Police, "Military, and National Intelligence be Integrated?" medium.com, January, 3, 2015 accessed January 16, 2016 <https://medium.com/homeland-security/how-can-police-military-and-national-intelligence-be-integrated-7af66dfd1822>.

¹¹⁰ Jean-Paul Brodeur, "High and Low Policing in Post-9/11 Times," *Policing* 1, no.1 (2007):25-37.

¹¹¹ David Derencinovic and Ana Maria Getos, "Cooperation of Law Enforcement and Intelligence Agencies in Prevention and Suppression of Terrorism," *Revue internationale de droit penal* 78, no.1 (2007).

among the intelligence communities and law enforcement.¹¹² Because change, the importance of intelligence sharing and enhanced cooperation in the field of counter-terrorism has been widely documented.¹¹³

Undoubtedly the issue of information sharing is a complex one, and the task of effective counter-terrorism is a difficult task. It has been argued that regardless of the progress made post 9/11 there remains a lack of common understanding in counter-terrorism about who is doing what.¹¹⁴ Therefore, special efforts and measures are needed to improve the level of cooperation and collaboration in law enforcement and intelligence sharing as a counter terrorism strategy.¹¹⁵ And more specifically, intelligence sharing is needed between law enforcement and intelligence services at both a domestic and an international level.¹¹⁶

D. Conclusion

In light with the broad aspects and the many faces of counter-terrorism, this section emphasizes the importance and academic support for enhancing the use of intelligence in counter-terrorism efforts, especially those concerning pre-event counter-terrorism efforts, or proactive counter-terrorism. Proactive counter-terrorism requires cooperation with systems of criminal justice, which are increasingly turning to intelligence-led policing methods (ILP).

¹¹² AFCEA Intelligence Community, International The Need to Share: The U.S. Intelligence Community and Law Enforcement (A White Paper, AFCEA International, 2007).

¹¹³ R. Aldrich, "Transatlantic Intelligence and Security Cooperation," *Journal of International Affairs* 80, no.3 (2004): 733-755; Nina Cope, "Intelligence-led Policing or Policing with Intelligence," *British Journal of Criminology* 44, no.2 (2004):188-203; F., Gregory, "The Police and the Intelligence Services-With Special Reference to the Relationship With MI5," in the *Handbook of Intelligent Policing*, ed. John Grieve, Allyson MacVean, Clive Harfield, and David Phillips (Oxford: Oxford University Press, 2009); Field A., "The Problems of Intelligence Sharing Within the UK Intelligence Community," *Review of International Studies* 35, (2009); D. Reveron, "Counter Terrorism and Intelligence Cooperation," *Journal of Global Change and Governance* 1, no.3 (2008):1-13; J. Walsh, *Intelligence Sharing in the European Union: Institutions Are Not Enough* (Oxford: Blackwell Publishing, 2006; Block, 2009).

¹¹⁴ Omand, "Countering International Terrorism," 115.

¹¹⁵ *Ibid*; Keohane, *The EU and Counter Terrorism* 30-31.

¹¹⁶ Keohane, *The EU and Counter Terrorism*, 27-28.

In addition, this chapter also shows how intelligence-led policing (ILP) is the result of the emerging law enforcement based approach for preventing or mitigating trans-jurisdictional criminal and terrorist risks. Ultimately, it shows the necessity for increased cooperation between counter-terrorism actors for the purpose of intelligence sharing, highlighting the fundamental processes within that counter-terrorism cooperation.

Chapter III

Indonesian Counter-Terrorism Legislations and Legal Aspects of The Use of Intelligence in Criminal Proceedings

A. Introduction

Indonesia has adopted a law enforcement-based approach to deal with the threat of terrorism, with the Law on Counter-terrorism (CTL) playing an important role in this non-military approach. The law enables the Indonesian government to prosecute those involved in terrorism through criminal justice system, where the terrorist suspects undergo trials and incarceration.¹¹⁷

The CTL was enacted at the time that Indonesia entered its political transition from an authoritarian regime to the reformation.¹¹⁸ During this transition, the legislature delivered extensive reforms reflecting the demands of the reform movement, a movement that demanded the introduction of strong guarantees for human and civil rights.¹¹⁹ These reforms were achieved, most notably, through the new Chapter XA of the Constitution, a chapter that introduced the Universal Declaration of Human Rights, almost in its entirety, into Indonesian law.¹²⁰

¹¹⁷ V. Arianti, "Indonesia," in *Handbook of Terrorism in the Asia-Pacific*, eds. Rohan Gunaratna and Stefanie Kam (London:Imperial College Press, 2016), 43-45.

¹¹⁸ The further discussion on transition period from authoritarian to reformation regime can be found at Chapter 4 of this Dissertation.

¹¹⁹ See the history and the process of amendment of Indonesian Constitution in e.g Denny Indrayana, *Indonesian Constitutional Reform, 1999-2002: an Evaluation of Constitution-Making in Transition* (Jakarta: Kompas Book Publishing,2008), 105-123, 360-381; Jimly Asshiddiqie, *The Constitutional Law of Indonesia: A Comprehensive Overview* (Selangor, Malaysia: Sweet & Maxwell Asia, 2009), 43-64.

¹²⁰ The 1945 Indonesian Constitution has clear provisions at Chapter XA, Article 28 A-J that clearly protect human rights and the fundamental rights of citizens. The legal system of Indonesia is based on basic premise of supremacy of the Constitution whereby the Constitution is given the highest authority. Consequently, the protection of human rights becomes imperative as a prerequisite for development. After the adoption of principles of the Universal

Some feared that the enactment of the CTL would be used as justification to reassert political control and to institutionalize violence.¹²¹ Others feared that the CTL would be used as a justification for returning to past practices, when the military was dominant during the authoritarian regime (1966-1988).¹²² The opposition groups, for example, from the human rights movement, feared that the CTL would be implemented abusively, since it enhanced the state powers of detention, arrest, and prosecution.¹²³ They feared these provisions represented a regressive step for a state seeking to democratize and build the rule of law.¹²⁴

The CTL, for example, introduced legal provisions where intelligence reports may also be used now as legal evidence. Article 26 (1) stated that “to obtain sufficient preliminary evidence, investigators can use any intelligence report.” Among the provisions in the CTL, this is perhaps the most unknown and new in the Indonesian criminal justice system.¹²⁵ Without further provision of the procedure, mechanism as well inadequate safeguard to use intelligence in Indonesian criminal justice system, the Article 26 (1) has the potential to infringe on human rights, in particular, the right to a fair trial.¹²⁶ The notion that contrived intelligence reports could result in a conviction regardless of the material they are based on opens huge opportunities for

Declaration of Human Rights into the 1945 Indonesian Constitution, the government enacted the Law No. 39/1999 on Human Rights, and Law No. 26/2000 on Human Rights Tribunal.

¹²¹ Tim Lindsey, “Indonesia’s New Anti-Terrorism Laws: Damned if You Do, Damned if You Don’t,” *jurist.org*, October 30, 2002 accessed September 20, 2016 <http://www.jurist.org/forum/forumnew65.php>.

¹²² *Ibid.*

¹²³ “Dr. Leo Suryadinata: UU Antiterorisme Belum Tentu Perbaiki Hubungan Indonesia,” *kontras.org*, October 10, 2002 accessed September 13, 2016 <https://www.kontras.org/home/index.php?module=berita&id=653>; Al’Raf. “Perppu Anti Terrorisme: Ancaman Transisi di Indonesia”, in *Terrorisme Definisi, Aksi dan Regulasi*, eds. Rusdi Marpaung and Al Araf (Jakarta: Imparsial, 2005), 101.

¹²⁴ Lindsey, “Indonesia’s New Anti-Terrorism Laws.”

¹²⁵ *Ibid*; Amirudin, Agung Yudha, Supriadi E, “Kajian Terhadap Perppu No. 1/2002 mengenai Pemberantasan Tindak Pidana Terorisme,” in *Terrorisme Definisi, Aksi dan Regulasi*, Rusdi Marpaung and Al Araf (Jakarta: Imparsial, 2005), 88-90.

¹²⁶ The Right to a Fair Trial means that people can be sure that processes will be fair and certain, this principle enshrines on Article 10 of Universal Declaration of Human Rights. The Article 10 states” Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

exploitation by unscrupulous police.¹²⁷ The provision of Article 26 is particularly of concern, given the unimpressive record for violations of human rights and due process of Indonesian intelligence.¹²⁸

It is common for the public to misunderstand how police and intelligence agencies gather intelligence, imagining oversimplified stereotypes about secret operations conducted by secret agencies. In fact, the word “intelligence” may even have negative connotations for some, invoking images of secretive, subversive, and possibly illegal acts by government officials.¹²⁹ In reality, intelligence is simply knowledge of the condition of the community, potential problems, and criminal activity in the past, present, and future.¹³⁰ It may involve no more than discovery of reliable information and potential dangers; it is often a product of complex processes that include informed judgments about the state of affairs or even a single fact.¹³¹ These processes include both information management and converting information into useful data to support law enforcement.¹³²

In light of these attributes, intelligence is of paramount importance to counter-terrorism efforts and implementing counter-terrorism strategies, especially for preventing and disrupting attacks. Many States have recognized the benefits of a collaborative and cooperative relationship between law enforcement and intelligence agencies.¹³³ This cooperation is evident in the world-

¹²⁷ Lindsey, “Indonesia’s New Anti-Terrorism Laws.”

¹²⁸ *Ibid.*

¹²⁹ For further reading of past practice of Intelligence Indonesia, see e.g. Andi Widjajanto (ed). *Menguak Tabir Hitam Intelijen Indonesia* (Jakarta: Pacivis. 2010); International Crisis Group, *Indonesia: Rethinking Internal Security Strategy*, Asia Report No. 90 (Brussel/Jakarta: ICG Asia, 2004).

¹³⁰ David. L Carter, *Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies* (New York: US DOJ, 2004), 7-13.

¹³¹ *Ibid.*

¹³² *Ibid.*

¹³³ Criminal Justice Sector/Rule of Law Working Group.” Recommendations for Using and Protecting Intelligence Information In Rule of Law-Based, Criminal Justice Sector-Led Investigations and Prosecutions. Accessed August 12, 2016, <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/ENG%20-%20Rabat%20Good%20Practice%20%20Recommendations%20-%20ENG.pdf?ver=2016-03-29-134521-373>.

wide police efforts at counter-terrorism since 9-11, efforts that have shifted toward adopting intelligence-led policing (ILP).¹³⁴ For example, within the membership of the European Union (EU), as well as in the U.S, the U.K, and Australia, countries have made efforts to overhaul their counter-terrorism policing systems and adopt ILP strategies.¹³⁵

Do the provisions in Article 26 indicate that Indonesia is following this trend and using ILP in its counter-terrorism policing? The answer to this question requires investigation and discussion of the laws and systems related to this effort. As such, the focus of this Chapter is to discuss the laws governing intelligence in the criminal justice system in Indonesia, and in particular, those linked to counter-terrorism, laws like the criminal code of procedure. To begin, this chapter starts with the discussion of how Indonesian counter-terrorism efforts have developed and explains the related legislations. Next this chapter analyzes the legal framework governing information sharing between intelligence agencies and law enforcement. To enrich this discussion, this chapter also presents good practices for how to use intelligence in the criminal justice sector. The answer to the question will then be presented in Chapter 6, in light of the discussion presented here and the analysis of my empirical data in Chapter 6.

B. The Development of Indonesian Counter-Terrorism Legislations

1. Prior To The Bali Bombing

a. Indonesian Criminal Code

For many years, terror bombings have plagued Indonesia, even prior to the Bali bombings that took place in 2002. To name a few, on August 1, 2000 a bomb detonated outside

¹³⁴ See Chapter 2 of this Dissertation.

¹³⁵ See Artur Gruszczak, "EU Intelligence-Led Policing: The Case of Counter-Terrorism Cooperation," in *New Challenges for the EU Internal Security Strategy*, eds. Maria O'Neill; Ken Swinton and Aaron Winter (Newcastle upon Tyne: Cambridge Scholars Publishing, 2013), 1-14; J.H. Ratcliffe, "Intelligence led Policing," (Canberra: Australian Institute of Criminology, 2003), 1-6.

the official residence of the Philippines Ambassador to Indonesia;¹³⁶ September 14, 2000 a car bomb exploded in the basement of the Jakarta Stock Exchange;¹³⁷ then on Christmas Eve in 2002, there were the notorious bombings where a series of explosions took place at several churches.¹³⁸ Finally, October 12, 2002 the Bali Bombings were the culmination of the set of terror attacks during the transition period in reformation era.¹³⁹

Table 1. The Number of Bombings Terror in Each Regime

Regime	The number of Bombings attack	Conflict area	Non-conflict area
New order	11	-	11
Reformation before Bali Bombings I (1998-2002)	64	12	42
Reformation after Bali Bombings (2002-2009)	53	37	16

Source: Imparsial, 2009

The table 1 shows how terror attacks through bombing have been consistently growing in recent years. Back in 1998, those bombings were regarded as ordinary crimes, such as murder

¹³⁶ See Paul J Smith, *Terrorism and Violence in Southeast Asia: Transnational Challenges to States and regional Stability* (New York: M.E. Sharpe, 2005), 112-113.

¹³⁷ 15 Reported Killed by Bomb at Jakarta Stock Exchange,” *nytimes.com*, September 14, 2000 accessed May 10, 2017 <http://www.nytimes.com/2000/09/14/world/15-reported-killed-by-bomb-at-jakarta-stock-exchange.html>.

¹³⁸ “Bombs Target Indonesian Churches,” *bbc.com*, December 25, 2000 accessed May 10, 2017 <http://news.bbc.co.uk/2/hi/asia-pacific/1086275.stm>.

¹³⁹ “The 12 October 2002 Bali Bombing Plot”, *bbc.com*, October 11, 2012 accessed May 10, 2017 <http://www.bbc.com/news/world-asia-19881138>.

and threats designed to achieve a certain purpose.¹⁴⁰ At that time, most of the perpetrators of bombings attack were persecuted under the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana*, KUHP), as premeditated murder (Article 340 of KUHP), premeditated bodily injury (Article 354-356 of KUHP), and possession of firearms and explosives.¹⁴¹

Currently, the KUHP does not classify and label terrorist acts. Most conduct that is commonly viewed as terrorism falls under the KUHP and other criminal laws,¹⁴² including murder,¹⁴³ arson,¹⁴⁴ property damage,¹⁴⁵ group violence,¹⁴⁶ assault,¹⁴⁷ the possession of weapons and explosives,¹⁴⁸ and unlawful acts against the civil aviation safety.¹⁴⁹ The KUHP also governs the subversive activities involved in accusations of plotting to overthrow the government, conspiring with foreign agents, and spying, as well as disloyal actions aimed at delivering the nation into the hands of the enemy and engaging in all kinds of seditious and treasonous

¹⁴⁰ Topo Susanto, "Anti-Terrorism Legal Framework in Indonesia: It's Development and Challenges," *Mimbar Hukum* 25, no. 1 (2012): 90.

¹⁴¹ *Ibid.*

¹⁴² Simon Butt, "Anti-Terrorism Law and Criminal Process in Indonesia," in *Islam, Syari'ah and Governance Background Papers* (Melbourne: ARC Federation Fellowship, 2008), 9.

¹⁴³ Penalties range from a maximum of 15 years' imprisonment for general murder (Article 338 of the KUHP) to life imprisonment or death for premeditated murder (Article 340 of the KUHP).

¹⁴⁴ Article 187 (1) (2) (3) of KUHP stipulates that anyone who deliberately creates a fire or explosion and endangers property faces a maximum of 12 years' imprisonment; endangers human life, faces a maximum of 15 years' imprisonment; causes death, faces a maximum of life imprisonment or 20 years' imprisonment. To same extent, under the Article of CTL

¹⁴⁵ Article 200 (1) (2) (3) of KUHP stipulates that anyone who deliberately destroys or damages a building: and endangers property, faces a maximum of 12 years' imprisonment; endangers human life, faces a maximum of 15 years' imprisonment causes death, faces a maximum of life imprisonment or 20 years' imprisonment.

¹⁴⁶ Article 170 of KUHP governs that a group of two or more people who use violence against a person or property, face 5 years and 6 months' imprisonment. The term of imprisonment can be increased to up to seven years if the violence damages property causes injury, up to nine years if the violence causes serious injury, and up to 12 years if it causes death.

¹⁴⁷ Article 351 of the KUHP provides a maximum of 2 years 8 months for minor assault, a maximum of five years for assault causing serious injury and a maximum of 7 years for assault causing death.

¹⁴⁸ Article 187 Bis (1) of the KUHP governs that people who make, receive, attempt to obtain, hide, transport or import into Indonesia material that is, or could reasonably be expected be, used to create an explosion which endangers the life of a person or property face up to eight years' imprisonment. In addition to KUHP, under the Article 1 of Emergency law No. 12 Year 1951 people who unlawfully enter into Indonesia are prohibited make, receive, try to obtain, submit or attempt to deliver, possess, carry, have a supply to him, or has in his, storing, transporting, concealing, use, or release of Indonesian something firearms, ammunition or something explosives, punishable by death or life imprisonment or imprisonment while the maximum of twenty years.

¹⁴⁹ It is stipulated under Book II Chapter XXIX Article 479 a-r

activities.¹⁵⁰ These acts according to KUHP are typically categorized as crimes against state security.¹⁵¹ In addition to these acts, KUHP also categorizes crimes against the dignity of the President and Vice President,¹⁵² crimes against the public order,¹⁵³ crimes against other states and representatives of the other states,¹⁵⁴ perjury and false testimony.¹⁵⁵

Prior the Bali Bombings, Indonesia did not have a CTL, and given the breadth of provisions related to terrorist-type conduct, some questioned the need for one.¹⁵⁶ This skepticism was understandable, given that the ordinary criminal law (KUHP), including offences of conspiracy (*permufakatan jahat*), incitement and attempt that apply long before actual acts of terrorist violence, can be applied to acts of terrorist violence. KUHP can result in serious criminal convictions that carry with them significant stigma and punishment. Those who see the CTL as unnecessary tend to have the perspective that society should be able to condemn acts of terrorism on the basis that murder is murder, and nothing excuses the commission of murder. While this perspective may be logical, it fails to recognize the shortcomings of the KUHP when it comes to holding individual terrorists and terrorist groups accountable as well as preventing and preempting acts of terrorism.

An example that the KUHP is inadequate for prosecuting conspiracy to commit acts of terrorism, there were no general laws prohibiting conspiracies or agreements to commit criminal acts in Indonesia. The KUHP defines conspiracy (*permufakatan jahat*) in Article 88 as an

¹⁵⁰ It is stipulated under Book II Chapter II, Article 111-129.

¹⁵¹ *Ibid.*

¹⁵² It is stipulated under KUHP Book II, Chapter II, Article 130, 134, 136, 137

¹⁵³ It is stipulated under KUHP Book II, Chapter V, Article 154-174

¹⁵⁴ It is stipulated under KUHP Book II, Chapter III, Article 139-145

¹⁵⁵ It stipulated under KUHP Book II, Chapter IX, Article 242

¹⁵⁶ Hikmahanto Juwana, "Indonesia's Anti-Terrorism Law" in *Global Anti-Terrorism Law and Policy*, eds. Victor V Ramraj, Michael Hor and Kent Roach (New York: Cambridge University Press, 2005), 302-305; Tim Imparsial. "Terorisme Dalam Pergulatan Politik Hukum," in *Terorisme, Definisi, Aksi dan Regulasi*, eds. Rusdi Marpaung, Al Araf (Jakarta: Imparsial, 2005), 49-53.

agreement between two or more people to commit a crime. However, the KUHP does not contain a general prohibition on people conspiring to commit a crime. There are no other clauses or provisions in this article.

In comparison with Dutch Criminal Code of 1996¹⁵⁷, The Dutch Criminal Code has an offence of participation in a criminal organization, as well as an offence of illegal preparatory acts that penalizes individual conduct which includes the concept of conspiracy in its Article 80: “A conspiracy shall exist as soon as two or more persons agree to commit the serious offence.” In 2004, almost thirty offences involving conspiracy to commit terrorist crime were added to the Criminal Code, as well as the offence of participation in an organization whose object is the commission of terrorist crimes.¹⁵⁸ Thus, the difference here with the provisions of Article 88 of KUHP, in Dutch Criminal Code the provision about conspiracy is followed by another clause, that the conspiracy should be directed towards serious crimes such as terrorism.

Furthermore, Article 110 of the KUHP states that a conviction for “conspiracy” results in a maximum imprisonment of six (6) years, particularly when one conspires to commit a crime categorized as a crime against security of the states. This crime is defined as the following: “The attempt undertaken with intent to deprive the President or Vice President of his life or his liberty or to render him unfit to govern (Article 104); The attempt undertaken with intent to bring the territory of the state wholly or partially under foreign domination or to separate part thereof”

¹⁵⁷ The Indonesian Penal Code is derived from 1918 Dutch Penal Code, based on the concordance principle. Following the Indonesian Independence in 1945 the Code remains in force until today. For further reading on the Indonesian Criminal Code history see Douglas M Johnston and Gery Ferguson, *Asia Pacific Legal Development* (Vancouver: UBC Press, 1998), 301-302.

¹⁵⁸ Caroline M. Pelser, “Preparations to Commit a Crime The Dutch Approach to Inchoate Offences,” *Utrecht Law Review* 4, 3 (2008): 58-59; Jan Van Dijk, *Criminal Law in Action: An Overview of Current Issues in Western Societies* (Massachusetts: Kluwer Law Taxation and Publishers, 1988), 154.

(Article 106); The attempt undertaken with the intent to cause a revolution” (Article 107); “Rebellion or the person who takes up arms against the Government and the person who with the intent to rebel against the Government, rises with or joins a band which take up arms against the Government (Article 110).”

The example above shows that there is a lack of general law that makes it a crime to agree or conspire to commit a crime under the KUHP. When relying only to Article 88, the police must know about the terrorists before they are able to intervene and file charges against them. Moreover, under the KUHP, a person can only be convicted of an attempted crime if the crime is underway.¹⁵⁹ Attempted crimes were defined restrictively to require the accused effectively to have commenced the ultimate criminal act such as a bombing before that person would be guilty of an attempt. For these reasons, critics viewed that KUHP as inadequate for responding to acts of terrorism, as well as inadequate to deal with the prospect of terrorism.¹⁶⁰ To respond to these shortcomings, either the Indonesian criminal law had to be expanded or a new terrorism law needed to be enacted.

Designation of a specific crime of terrorism, as part of the development of criminal law, can be done in various ways: (a) Through the evolution within the existing system, by amending the articles of the Criminal Code; (b) Through a global revision of the system, by enacting a new law specific to terrorism and terrorist acts; and (c) Through a compromise, inserting a new chapter dedicated to addressing terrorism, within in the existng Criminal Code. These kinds of reforms are not uncommon as law responds to new and evolving problems. For example,

¹⁵⁹ Article 87 of KUHP.

¹⁶⁰ Susanto, “Anti-Terrorism Legal Framework in Indonesia,” 90; Kent Roach, “Indonesia’s Delicate Balancing Act,” <https://www.law.utoronto.ca/documents/Roach/indonesia.pdf>.

Indonesian criminal law has had to develop over that past decades to address issues like cybercrime, people trafficking, money laundering, and child sex terrorism.¹⁶¹

b. Anti-Subversive Law

Under both the old order and new order regimes, the Indonesian government has applied special security legislation to fight acts that today would be characterized as “acts of terrorism.” During the old order regime (1945-1966) this special security legislation manifested in the Anti-Subversive Law, which was issued through Presidential Decree No. 11/1963; later, in the new order era (1966-1999), this law was ratified and enacted as Anti-Subversive Law No. 11/1969. Former President Sukarno issued this Presidential Decree in the context of a political confrontation with Malaysia;¹⁶² later, during the new order regime, the law was mainly applied to suppress opposition to the Suharto dictatorship.¹⁶³ For example, A.M. Fatwa had been sentenced for 18 years, as he was indicted for subversion. He was alleged as the creator of the Petisi 50’s White Paper. The Petisi 50’s white paper was critical of Suharto and blamed Suharto’s authority for creating the social, economic, and moral causes behind the massacre of Tanjung Priok (1984), and for the slaughtering rioters.¹⁶⁴ The Petisi 50 emerged in the 1980’s as an informal opposition group, made up of retired military officers, bureaucrats, and pre-New

¹⁶¹ Robert Cornall AO, “The Effectiveness of Criminal Laws on Terrorism” in *Law and Liberty in the War on Terror*, Andrew Lynch, Edwina MacDonald, George Williams (Sydney: Federation Press, 2007), 55.

¹⁶² Amnesty International, *Indonesia: The Anti-Subversion Law: A Briefing*, AI Index: ASA 21/03/97 (London: Amnesty International, 1997), 2-3.

¹⁶³ Read further e.g., Sri Bintang Pamungkas, Ernalina Sri Bintang, *Menggugat Dakwaan Subversi: Sri Bintang Pamungkas di Balik Jeruji Besi*, (Jakarta: Yayasan Obor Indonesia, 2000); S Pompe, *Indonesian Law 1949-1989: A Bibliography of Foreign-Language Materials with Brief Commentaries on the Law*, (Dordrecht: Martinus Nijhoff Publisher, 1992), 398-399.

¹⁶⁴ For Tanjung Priok massacre and A.M. Fatwa’s allegation for subversive and his trial read further on Daniel S. Lev, *No concessions: The Life of Yap Thiam Hien, Indonesian human Rights Lawyer* (Seattle: University of Washington Press), 362-364; Andi Mappetahang Fatwa, Wakhudin, *Menggugat dari Balik Penjara: Surat-Surat Politik A.M. Fatwa* (Jakarta: Teraju, 2004); W. Watson, *Of Self and Injustice: Autobiography and Repression in Modern Indonesian* (Leiden: Brill, 2006), 112-123.

Order Party.¹⁶⁵ In practice, the Anti-Subversive Law was arbitrarily applied by the authorities because it was both broad and vague in its definitions of “subversive activities.”¹⁶⁶ For example, under the Act the definition of subversion is as follows:

Spreading feelings of hostility or creating hostility, dissension, conflict, chaos, instability or restlessness among the population or society in general or between the Republic of Indonesia and a friendly State, or disturbing, hampering and stirring up trouble for industry, production, distribution, trade, cooperation and transportation run by the Government or based on Government’s decision, or which has a wide influence on the life of the people.¹⁶⁷

Using this law, the Suharto regime detained hundreds of activists without trial, alleging that they were political opponents of the regime.¹⁶⁸ For example, in 1994 Muchtar Pakpahan, a labor activist who was jailed for establishing independent trade unions, led a rally of workers and was accused of subversion in 1996. In another example, Sri Bintang was arrested and held in prison on March 5, 1997 together with Saleh Abdullah and Julius Usman. They were held in prison because they establish a political party PUDI, campaigning for direct presidential elections by the people, making ‘political Eid’ cards.¹⁶⁹ The regime reasoned that these activists were “undermin[ing] the authority of the government” or “undermin[ing] the State ideology of Pancasila.” Some of these activists were charged with subversion, submitted to unfair trials,¹⁷⁰ and sentenced to long imprisonments or even death.¹⁷¹

¹⁶⁵ Lev, *No concessions: The Life of Yap Thiam Hien*, 363.

¹⁶⁶ Hikmahanto Juwana, “Special Report Assessing Indonesia’s Human Rights Practice in the Post-Soeharto Era: 1998–2003,” *Singapore Journal of International & Comparative Law* 7, (2003): 648-649.

¹⁶⁷ Article 1 Anti-Subversive Law

¹⁶⁸ Human Rights Watch/Asia, “Indonesia: Press Closures in Indonesia One Year Later, A Human Right Watch Short Report 7, no. 9 (1995), 2; Human Rights Watch/Asia, “Indonesia Students Jailed for Puns, A Human Rights Watch Short Report 5, no. 5 (1993), 1-3; Human Rights Watch/Asia, “Indonesia’s Salman Rushdie, “A Human Rghts Watch Short Report 3, no.13 (1991), 1-6.

¹⁶⁹ Pamungkas, 15-16

¹⁷⁰ Samuel Gultom, *Mengadili Korban, Praktek Pembeneran terhadap Kekerasan Negara* (Jakarta: ELSAM, 2003).

¹⁷¹ *Ibid*; Atmakusumah, *Tuntutan Zaman Kebebasan Pers dan Ekspresi*. (Jakarta: Spasi&VHR Book,2009).

The Anti-Subversion Law also granted the military the power to investigate cases related to acts of subversion. It often differed markedly from the Criminal Code of Procedure (*Kitab Undang-undang Hukum Acara Pidana*, KUHAP).¹⁷² For example, the Anti-Subversion Law granted exceptional powers to the military and the prosecutor to investigate cases and detain people for up to one year without being charged.¹⁷³ It also authorized the Attorney General/Highest Ranking Military Prosecutor to order detention for up to one year—without trial—for a person suspected of subversion.¹⁷⁴ These provisions contrast with the provisions in KUHAP, provisions that impose a complex table of limits on pre-trial detention.¹⁷⁵ In addition, under the Anti-Subversion Law, defense lawyers could be called as witnesses and could be imprisoned if they failed to cooperate.¹⁷⁶

These provisions have led to human rights violations during arrest, detention, and investigation.¹⁷⁷ For example, under the Article 9 of the Universal Declaration of Human Rights (UDHR), “[n]o one shall be subjected to arbitrary arrest, detention or exile.”¹⁷⁸ While the corresponding provision in the International Covenant on Civil and Political Rights (ICCPR) is Article 9, paragraph 1, which stipulates: “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

¹⁷² Elucidations I-1 of KUHAP; for the description of the transition of criminal procedure following the Indonesian independence see Pompe, 47, 398-399

¹⁷³ Article 5 and 7 of Anti-Subversive Law.

¹⁷⁴ It refers to Article 7 Anti-Subversive Law.

¹⁷⁵ It refers to Article 24-28 of KUHAP.

¹⁷⁶ It refers to Article 12 Anti-Subversive Law.

¹⁷⁷ For example in many cases people who were arrested under the Anti-Subversive Law were not informed of the reason for their arrest or the charges against them, they did not have the right to notify or to have their family notified of their arrest or detention and they were subjected to ill-treatment or torture.

¹⁷⁸ UN General Assembly, Universal Declaration of Human Rights, December 10, 1948, 217 A (III), accessed May 10, 2017 <http://www.refworld.org/docid/3ae6b3712c.html>.

In addition, provisions of the Anti-Subversive Law have also violated Article 7 of the ICCPR, which stipulates that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,” whereas in practice most of the political detainees had been tortured by the authorities.¹⁷⁹ Most of the rights concerning fair trial that are guaranteed under Articles 6, 7, 8, and 10 of UDHR, as well as Article 14 and 16 of ICCPR, all of which were violated during the implementation of the Anti-Subversive Law.¹⁸⁰

In response to these violations, and once the Suharto regime fell in 1998, there were repeated attempts to repeal the Anti-Subversion Law.¹⁸¹ Ultimately, in 1999 the law was finally repealed.¹⁸² Specifically, opponents of the Act argued that it contradicted principles of democracy, the Indonesian Constitution, and other existing laws, violating standards for human rights and undermining the spirit of reformation that the country was pursuing.¹⁸³

The government responded to these concerns by enacting two new laws related to crimes against state security: Law No. 26/1999 on the Revocation of Anti-Subversive law, and Law No. 27/1999 on the Amendment of the KUHP.¹⁸⁴ After the revocation of Anti-Subversive laws, the process of investigation, prosecution, and trial also became conducted based on the KUHAP, which meant that the military lost its authority to conduct or interfere with criminal prosecutions.

¹⁷⁹ Wilson, “Marulloh, Aktivist HAM Tanjung Priok,” *indoprogress.com*, May 31, 2013 accessed January 16, 2016 <http://indoprogress.com/2013/05/marulloh-aktivis-ham-tanjung-priok/>.

¹⁸⁰ Amnesty International, *Indonesia: The Anti-Subversion Law*, 2-5.

¹⁸¹ Ginandjar Kartasasmita and Joseph J. Stern, *Reinventing Indonesia* (Singapore: World Scientific Publishing, 2016), 173; Ginandjar Kartasasmita, *Managing Indonesian Transformation: An Oral History* (Singapore: World Scientific Publishing, 2013), 252.

¹⁸² Law No. 26/1999 the Revocation of Anti-Subversive Law; see also Kartasasmita, *Managing Indonesian*, 252-253.

¹⁸³ See Amnesty International, 3-5; Kartasasmita and Stern, *Reinventing Indonesia* 173; Victor V. Ramraj, Arun K. Thiruvengadam, *Emergency Powers in Asia: Exploring the Limits of Legality* (New York: Cambridge University Press, 2010), 281-284.

¹⁸⁴ The Indonesian Penal Code was drafted and it came into effect 1 January 1918. In any event, the 1918 Code bore a close resemblance to the Dutch Penal Code of 1881, which was itself influenced by the French Penal Code. The 1918 Code was amended following the Declaration of Independence in 1945, and this Code remains in force today; For further reading the Indonesian criminal law history see Douglas M. Johnston and Gery Ferguson, *Asia Pacific Legal Development* (Vancouver: UBC Press, 1998), 300-301.

The following section discusses the background of the enactment of CTL, focusing on the language of the law, and in particular, the category of acts of terrorism and the new criminal procedure law that was introduced in the CTL.

2. After The Bali Bombing

a. The Key Aspects Of Counter-Terrorism Law

The Government Regulation in Lieu of Law No.1/2002 concerning the Eradication of Criminal Acts of Terrorism and the Government Regulation in Lieu of Law No.2/2002 concerning the Eradication of Terrorism Crimes in Relation to the Bomb Explosion Incident in Bali, was enacted directly in the aftermath of the 2002 Bali bombing.¹⁸⁵ In 2003, the government issued two laws, first, Law No. 15/2003, formalizing The Government Regulation in Lieu of Law No.1/2002 as the Counter-Terrorism Law (hereinafter CTL). Secondly, Law NO. 16/2003 formalizing the Government Regulation in Lieu of Law No.2/2002, to pursue the Bali Bombings suspects.

The enactment of the CTL was an attempt to respond to the inadequacies of the existing law,¹⁸⁶ which did not comply with the International Convention related to Terrorism.¹⁸⁷ In

¹⁸⁵ According to hierarchy of law in Indonesia, the Government Regulation in Lieu of Law (*Peraturan Pemerintah Pengganti Undang-undang, Perpu*) has the same rank as Law or Act. The President is allowed to immediately issue the Government Regulation in Lieu of Law in the time of emergency. Government Regulations in Lieu of Law (*Peraturan Pemerintah Pengganti Undang-Undang*) or *Perpu* derive their authority from the 1945 Constitution of the Republic of Indonesia (as amended). Although under Article 20 lawmaking is the exclusive right of the DPR (*Dewan Perwakilan Rakyat*, People's Representative Assembly) or legislature, Article 22 provides, that "in the event of a compelling emergency", the President may issue a *Perpu*. The *Perpu* must, however, be approved or immediate review by the DPR after one year of its enactment to be confirmed or rejected as a Law or Act, failing which it will lapse. In 2003, both Government 1 and 2 of 2002 were confirmed by the legislature and have become law.

¹⁸⁶ At the time of anti-terror law's enactment, the former President Megawati Sukarnoputri announced that Indonesia lacked the legal basis to respond and act quickly and strongly to handle terrorism. In similar vein, the Minister for Justice and Human Rights announced that the perpetrator of the 2002 Bali bombings could not be effectively pursued under the existing law. To be short, Indonesian government strongly considered that KUHP and KUHP are not adequate to respond the big threat of terrorism act; See also Tim Lindsey, <http://www.jurist.org/forum/forumnew65.php>; Juwana. *Anti-terrorism efforts in Indonesia*, 290- 291.

¹⁸⁷ Indonesia has ratified 9 (nine) International Instruments related to counter-terrorism. These International Conventions in particular governs the type of terror acts and the measures should take by the State through various degree of international cooperation. Some offenses included in the category of criminal acts of terror especially

addition, it was designed to treat terrorism as a threat to international and national peace and security, terrorism that had caused damage to property and widespread fear in the Indonesian community.¹⁸⁸ However, the government and legislature faced the challenge that the public may reject it. In the recent aftermath of the Suharto regime, the public feared that a CTL would be applied as draconically as the Anti-Subversion Law.¹⁸⁹ They were suspicious that the CTL would give rise to a new authoritarian regime and initiate a revival of the military.¹⁹⁰ To add to this complexity, public opinion was also split; some groups feared and suspected that the enactment of the CTL was part of an American-led war against Islam, not terrorism.¹⁹¹ Other groups who supported the enactment of the CTL believed that Indonesia was not free from terrorism and that terrorism was closely related to communal conflicts and separatist movements.¹⁹² In their view, acts of terrorism threatened to destabilize the government and endanger state security; therefore,

criminal acts against aircraft, maritime and criminal offenses against specific people (diplomats), terrorist bombings and terrorist act related to chemical and nuclear weapons, the act of terrorist financing. However, the existing law (KUHP) has not been adequately covered the new type of terror acts listed under the International Conventions. The International conventions related to terrorism that have been ratified by the Indonesia government include the following: 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft (Aircraft Convention); 1970 Convention for the Suppression of Unlawful Seizure of Aircraft (Unlawful Seizure Convention); 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Civil Aviation Convention); 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (Diplomatic Agent Convention); 1979 International Convention against the Taking Hostages (Hostages Convention); 1980 Convention on the Physical Protection of Nuclear Material (Nuclear Materials Convention); 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving (airport Protocol); 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Maritime Convention); 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection (Plastic Explosives Convention); 1997 International Convention for the Suppression of Terrorist Bombings (Terrorist Bombing Convention).

¹⁸⁸ For example Article 6 of the CTL describe the act of terrorism as:...any person who by intentionally using violence or threats of violence, creates a widespread atmosphere of terror/fear or causes mass casualties, by taking the liberty or lives and property of other people, or causing damage or destruction to strategic vital objects, the environment, public facilities or international facilities, faces the death penalty, or life imprisonment, or between 4 and 20 years' imprisonment.

¹⁸⁹ Juwana, *Anti-terrorism efforts in Indonesia*, 290- 291; Kent Roach, "Indonesia's Delicate Balancing Act." Available at <https://www.law.utoronto.ca/documents/Roach/indonesia.pdf>.

¹⁹⁰ Juwana, *Anti-terrorism efforts in Indonesia*, 290-291.

¹⁹¹ Muhamad Ismail Yusanto, "Rulers of Muslim Countries Involved in Global Crime with CIA," *hisbut tahrir.or.id*, February 25, 2013 accessed March 16 2016, <https://hisbut-tahrir.or.id/2013/02/25/rulers-of-muslim-countries-involved-in-global-crime-with-cia/>; Juwana, *Anti-terrorism efforts in Indonesia*, 296.

¹⁹² András Sajó, *Militant Democracy* (Utrecht: Eleven International Publishing, 2004); A.S.M.A Ashraf, "The Five Pivotal Muslim Nations: The Critical Role" in *Intelligence Cooperation Practices in the 21st Century: Towards a Culture of Sharing*, Musa Tuzuner (Amsterdam: IOS Press, 2010), 87.

this group felt that the new law and regulations on terrorism needed to be strengthened.¹⁹³ Correspondingly, the government views that criminalizing acts of terrorism is to protect the legal interest in securing the state from any acts that potentially threaten the safety and security of the country. The CTL contains both substantive and procedural provisions. Its function is to supplement the existing criminal law in the KUHP and KUHAP. The key aspects or crucial points of the Law are discussed in the following sections.

The CTL applies to any person (including a corporation)¹⁹⁴ who commits or intends to commit a criminal act of terrorism in Indonesia and/or another nation that has jurisdiction and expresses an intention to prosecute that person.¹⁹⁵ It also applies to criminal acts of terrorism that have not yet been committed:

- (a) against the citizens of Indonesia outside the territory of Indonesia; (b) against the state facilities of Indonesia overseas, including the premises of the diplomatic officials and consuls of the Republic of Indonesia; (c) with violence or threats of violence to force the Government of Indonesia to take or not to take an action; (d) to force any international organization in Indonesia to take or not take an action; (e) on board a vessel sailing under the flag of Indonesia or an aircraft registered under the laws of Indonesia at the time when the crime is committed; (f) by any stateless person who resides in Indonesia.¹⁹⁶

The CTL defines terrorism as any violent act that could create terror or insecurity among the public, violate the public's freedom, cause the death of other people, or cause the destruction of vital or strategic objects (Article 6-7). These crimes are then broken down into detailed acts, such as using a nuclear weapon to create terror corporation involved in a terrorist act (Article 8-19). There are also a range of related offences linked to judicial procedure, for example, witness intimidation or perverting the course of justice (Articles 20-24).

¹⁹³ *Ibid.*

¹⁹⁴ Article 17 of CTL

¹⁹⁵ Article 3 (1) of CTL

¹⁹⁶ Article 4 of CTL

Regarding definitions of terrorism, the CTL does not refer to motive and it does not link terrorism to particular religious or political views.¹⁹⁷ It defines terrorism, in general, as the intentional use of “violence or threat of violence to create a widespread atmosphere of terror or fear in the general population or to create mass casualties, by forcibly taking the freedom, life or property of others or causes damage or destruction to vital strategic installations or the environment or public facilities or international facilities.”¹⁹⁸

Consistent with this definition, the CTL provides a broader range of classification and description of acts that constitute terrorism, for example, criminal acts of terrorism related to aviation security,¹⁹⁹ the possession of explosives, firearms and ammunition,²⁰⁰ acts of terrorism related to the possession of nuclear materials, chemical and biology weapons,²⁰¹ acts related to financial support for terrorism.²⁰²

In addition, in comparison to the KUHP the CTL provides a clearer definition of an “intellectual actor,” a person who provides assistance for committing terror, as well as encouraging or inciting acts of terror. The Elucidation of Article 13 states that “assistance” means providing “assistance before or during the commission of the crime.” “Facilitation” is defined as “assistance after the commission of the crime.” Article 14 covers “incitement,” stating that any person who plans or incites others to commit crime of terrorism referred to in Articles 6-12, faces the death penalty or life imprisonment. For example, to incite or to facilitate the use of chemical, biological, and other weapons to create an atmosphere of terror or fear in the general

¹⁹⁷ Kent Roach, “The Case for Defining Terrorism With Restraint and Without Reference to Political or Religious Motive,” in *Law and Liberty in the War on Terror*, Andrew Lynch, Edwina MacDonald, George Williams (Sydney: Federation Press, 2007), 39-40.

¹⁹⁸ See Chapter III, Article 6 and 7 of its Government Regulation in Lieu of Legislation of the Republic of Indonesia No.1/2002 on Combating Criminal Acts of Terrorism, available unofficial English translation online at: <http://www.unodc.org/tldb/showDocument.do?documentUid=2927>

¹⁹⁹ It refers to Article 6-12 of CTL.

²⁰⁰ It refers to Article 9 of CTL.

²⁰¹ It refers to Article 10 and 12 of CTL.

²⁰² It refers to Article 11 of the CTL.

population, causing danger and destruction to vital strategic installations or the environment or public facilities or international facilities.²⁰³

Article 14 clarifies that it is “directed towards the intellectual actors” of terrorism. It describes *a plan* to include “preparing physically, financially or human resources” and *inciting* to be “incitement and provocation, and the provision of gifts, money or promises.” According to Article 15, any person who conspires, attempts, or assists with, the commission of a crime of terrorism referred to in Articles 6-12, faces the same penalty as the perpetrator of the crime. Specifically, Article 16 of the ATL states that any person outside of the territory of Indonesia who provides assistance, facilitation, or the means or information for the commission of a terrorism crime referred to in Articles 6-12, faces the same penalty as the perpetrator.

One of the greatest differences between the Anti-Terrorism Law and the KUHP is that, for most offences, the KUHP provides a variety of penalties depending on the consequences of the act in question: higher penalties for acts causing death and lesser penalties for those causing only injury. That said, the KUHP provisions do not provide for minimum penalties and, for the most part, the KUHP’s penalties are significantly lower than those provided for under the Anti-Terrorism Law. The KUHP, for example, allows judges discretion to impose life sentences for acts that cause death. By contrast, the CTL provides life imprisonment or the death penalty for any offence related to Aviation security.²⁰⁴

Furthermore, It is worth noting that the CTL contains one section specifically devoted to criminalizing the financing of terrorism. It states under Article 11 states this:

²⁰³ Article 10 of the CTL.

²⁰⁴ It refers to Article 8 of the CTL.

Any person who willfully provides or collects funds with the intention that they be used, or ought reasonably suspect that they will be used in whole or in part for the commission of a terrorist act as set out in Articles 6, 7, 8, 9 and 10 is subject to a punishment of between 3 and 15 years imprisonment.

In related to this provision the investigators, prosecutors and judges are given the power to block any bank account belonging to suspected terrorists or those allegedly funding terrorist activities (Article 29 (1)). Ultimately, the CTL covers provisions related to the applicability of the law to corporations,²⁰⁵ the right to obtain compensation or restitution for the victim of the crime of terrorism,²⁰⁶ declaration of cooperation between the Indonesian government and other states for combatting terrorism.²⁰⁷

Aiming to make the process of investigation, prosecution, and conviction of terrorism easier,²⁰⁸ the CTL grants police powers that are unavailable under the KUHAP. This aim is accommodated under the provision of Article 25(1), which states that “the investigation, prosecution and inquiry at the trial of a criminal act of terrorism shall be conducted according to the prevailing court procedural law, unless otherwise determined by this Government Regulation in Lieu of Legislation.” This article means that KUHAP is applicable in terrorism cases as the general rules to conduct investigation, prosecution and trial, unless the CTL stated otherwise. The following paragraphs depict the provisions under the CTL that deviate from the KUHAP.

Pursuant to CTL, the police are allowed to arrest and detain suspects for longer periods. The suspected terrorists may be arrested for seven days and detained for six months for questioning and prosecution (Chapter V),²⁰⁹ new methods of investigation are also allowed, such

²⁰⁵ Article 17 and 18 of the CTL.

²⁰⁶ Article 36,37-42 of the CTL.

²⁰⁷ Article 43 of the CTL.

²⁰⁸ Simon Butt, “Anti-Terrorism Law and Criminal Process in Indonesia,” 4.

²⁰⁹ Article 25 (2) stipulates that for the purpose of investigation and prosecution, the investigator is given authority to detain the accused for a maximum of 6 (six) months. Article 28 allows investigators to arrest any person strongly

as tapping telephone conversations and interception of communications. The investigator may also examine personal mail and other communication for a period of up to one year (Article 31).²¹⁰

Unlike the KUHAP, under Article 26 of the CTL, intelligence reports are allowed to be used as preliminary legal evidence in terrorism cases, greatly expanding the type of evidence that judges can consider in terrorism cases.²¹¹ In contrast, the KUHAP describes only 4 types of legal evidence: testimony of the witness; information by an expert; letters; indications and the statements of the defendant.²¹²

Article 27 also has several provisions that differ from the requirements under KUHAP by specifying the allowable evidence in the trial of a criminal act of terrorism: evidence as stipulated in KUHAP; other evidence in the form of information expressed, sent, received or stored electronically by optic instruments or anything similar thereto; and data, recordings or information that can be seen, read and/or heard that may be produced with or without the help of any facility, either written on paper, physical objects other than paper, or which are recorded electronically, including but not limited to 1) writing, voices, or pictures; 2) maps, designs, photographs, or anything similar; 3) letters, signs, symbols, or perforations that are meaningful or may be understood by persons who are capable of reading or understanding them.

Originally, the CTL was applied retroactively, based on the provisions of the CTL in

suspected of committing a crime of terrorism on the basis of sufficient initial evidence as referred to in Article 26(2) for a maximum of 7 days.

²¹⁰ The legislation related to lawful interception under Indonesian law can be found and spread in various laws and regulations. At least there 13 legislations related to interception. There is no harmonization and synchronization in rules and procedures; accountability and control mechanisms use of wiretapping by law enforcement officers, and complaints mechanisms for someone who felt their privacy rights violated on the wiretap investigation; Amira Paripurna and Didik Endro Purwoleksono, *Model Kebijakan Penyadapan berdimensi Hak Asasi Manusia dalam Penanggulangan Tindak Pidana Korupsi* (Unpublished Research Report, Surabaya: Universitas Airlangga, 2011).

²¹¹ In related to penalize a person pursuant to Article 183 of KUHAP the judges “shall not penalize a person except when with two legal evidence materials he has come to the conviction that a criminal act has really been committed and that it is the defendant who is guilty of perpetrating it.”

²¹² Article 184 of KUHAP.

conjunction with Law No.16/2003. However in 2004, the Constitutional Court conducted judicial review for this provision,²¹³ and concluded²¹⁴ that this provision was unconstitutional because it violated Article 28 I (1), which states that some rights cannot be removed under any circumstances, including “the right to not be prosecuted based on retroactive legal ground.”

14 years after its enactment, the demand to amend the CTL gained great momentum, especially following the January 2016 terrorist attacks in Jakarta.²¹⁵ Currently the People of Consultative Assembly (DPR) are discussing amendment of the CTL, including granting the security apparatus powers to hold a suspect longer than a week without a criminal charge, granting the police with new measures.²¹⁶ The new measures, among other things, grant more time to gather sufficient evidence to charge an individual, permitting the police to detain an individual for 180 days rather than the current 120 days, so that a stronger case can be made against suspects. Other new proposed provisions include, widening the definition of radicalism and terrorism, involving the role of TNI in counter-terrorism, and permitting communication, financial transactions and intelligence reports to be used as evidence in courts to charge suspects for terrorism and giving intelligence officers the right to arrest terrorist suspects, the revocation

²¹³ The Petition was submitted by Maskur Abdul Kadir one of the Bali Bombers; See also Berita Mahkamah Konstitusi. “Hasil Pengujian UU No. 16 Tahun 2003: Asas Retroaktif bertentangan dengan UUD,” *mahkamahkonstitusi.go.id*, September 6, 2004 accessed 3 January 2016 http://www.mahkamahkonstitusi.go.id/public/content/infoumum/majalahkonstitusi/pdf/BOOK_BMK%206.pdf , 4-6.

²¹⁴ Indonesian Constitutional Court Decision No 013/PUU-I/2003; read further for the commentary of the case on Simon Butt and David Hansell, “The Masykur Abdul Kadir Case: Indonesian Constitutional Court Decision No 013/PUU-I/2003,” *Australian Journal of Asian Law* 6, No. 2 (2004); Cameron Forbes, *Under the Volcano: The Story of Bali* (Melbourne: Schwartz, 2007), 219-220.

²¹⁵ “Ging Ginanjar,” Revisi UU Terorisme Dikhawatirkan Akan Merugikan Warga”, *bbc.com*, January 20, 2016 accessed May 10, 2017 http://www.bbc.com/indonesia/berita_indonesia/2016/01/160120_indonesia_revisi_uu_teror; “Segera Revisi UU Anti Terorisme,” *metrotvnews.com*, January 18, 2016 accessed May 10, 2017 <http://news.metrotvnews.com/politik/dN6pJz0k-segera-revisi-uu-antiterorisme>.

²¹⁶ “Draf Revisi UU Terorisme Berpotensi ‘Melanggar HAM,” *bbc.com*, March 3 2016 accessed May 10, 2017 http://www.bbc.com/indonesia/berita_indonesia/2016/03/160303_indonesia_ru_uu_terorisme; “Pasal Penangkapan dan Penahanan dalam RUU Terorisme Harus di Kritik Keras,” *icjr.or.id*, May 2 2016 accessed May 10, 2017 <http://icjr.or.id/pasal-penangkapan-dan-penahanan-dalam-ruu-terorisme-harus-di-kritik-keras/>.

of citizenship for Indonesians who join a foreign terrorist group or participate in wars in a foreign country, criminalize any acts insulting the Indonesian State and criminalize Indonesian citizen as a traitor if he/she fought for or pledged loyalty to other states such as ISIS.²¹⁷

There have also been discussions of more effective de-radicalization and counter-radicalization measures.²¹⁸ These include strengthening the prison system, currently seen as the epicenter for terrorist recruitment in Indonesia.²¹⁹ Here, special high security prisons for leading jihadists and ideologues have been proposed.²²⁰ In essence, the measures are aimed at making Indonesia's anti-terrorism policies more effective, and having a more pre-emptive and preventive regime.²²¹

b. The Law Of Prevention And Eradication Of The Financing Of Terrorism

As in law enforcement, finance has also emerged as an important front for dealing with terrorists, where Indonesia has partnered with its neighboring countries and other international actors to target the financial transactions and holdings of terrorist groups.²²² The criminal financing of terrorism has been prosecuted under a combination of the Counter-Terrorism Law (CTL)²²³ and the Law of Prevention and Combatting of Money Laundering.²²⁴ Both laws have

²¹⁷ Bilveer Singh, *Revising Indonesia's Anti-Terrorism Laws*, RSIS Commentaries no. 057 (Singapore: Nanyang Technological University, 2016); Jennifer Yang Hui, *Counter-Terrorism in Indonesia: Enter the TNI's Task Force*, RSIS Commentaries no. 182 (Singapore: Nanyang Technological University, 2013); Rachland Nashidik, "UU Terorisme Harus Diamandemen" in *Terorisme, Definisi, Aksi dan Regulasi*, eds. Rusdi Marpaung, Al Araf (Jakarta: Imparsial, 2005), 111-115.

²¹⁸ Rohan Gunaratna and Mohamed Bin Ali, eds, *Terrorist Rehabilitation: A New Frontier in Counter-terrorism* (London: Imperial College Press, 2015); IPAC, *Countering Violent Extremism in Indonesia: Need for A Rethink*, IPAC Report no. 11 (Jakarta: IPAC, 2014).

²¹⁹ IPAC, 13-16

²²⁰ *Ibid*; Arianti, "Indonesia," 45.

²²¹ Susanto, "Anti-Terrorism Legal Framework," 99.

²²² Ashraf, "The Five Pivotal Muslim Nations," 87.

²²³ It refers to Article 11 of CTL. It stipulates that any person who intentionally provides or collects funds with the objective that they be used or there is a reasonable likelihood will be used partly or wholly for criminal acts of terrorism set out in Articles 6, 7, 8, 9 and 10 is subject to a punishment of between 3 and 15 years imprisonment. Article 29 also empowers investigators, prosecutors and judges to order banks and other financial institutions to immediately freeze the assets/property of any person, where it is known or suspected that they are the result of a terrorist act and/or a crime connected with terrorism. The assets/property are ordered to remain in the bank.

supported the government's efforts to suppress the financing of terrorists and transnational crimes. In the same year, the government created the Financial Intelligence Unit (FIU) which known as Indonesian Financial Transaction Reports and Analysis Center (*Pusat Pelaporan dan Analisis Transaksi Keuangan*, PPATK). It creates the central governmental agency for monitoring financial transactions. Structurally, PPATK is a central government authority, which is not a part of any government ministry and which reports directly to the President. The primary aim of PPATK is to supervise monitoring of suspicious transactions linked to money laundering and terrorism financing.²²⁵

After the enactment of the counter-terrorism law in 2002 provisions, the development in relation to counter terrorist financing occurred in 2010 with the enactment of the Anti-Money Laundering Law No 8 of 2010. In principle money laundering and countering the financing of terrorism are distinct phenomena. Money laundering concerns the act of concealing the illicit origin of funds of crime. The counter terrorism financing is concerned with preventing funds of any kind, licit or illicit, from making its way into the hands of terrorists. Nonetheless, the Anti Money Laundering Law is significant because under it financial services providers are obligated to report to PPATK if they detect transactions suspected of being connected to criminal funds.²²⁶ Further, under Article 2(2) of the Anti-Money Laundering Law, any assets that are known or suspected of being used in connection with terrorist groups must be reported to the PPATK, which has the responsibility for monitoring compliance.²²⁷

Notably, this law set out only administrative sanctions for the financial service providers

²²⁴Since 1999 Indonesia has been a member of the Asia Pacific Group on Money Laundering. In 2002 Indonesia enacted Law No. 15/2002 on Anti-Money Laundering as amended by Law No.25/2003. The latest amendment of the law in 2010, amended by The Law No.8/2010.

²²⁵ The legal power and authorities of PPATK are stipulated under Article 25-26 of Law No.15/2002.

²²⁶ Article 23(1)(a) of Anti Money Laundering Law.

²²⁷ Article 40 (c) of Anti Money Laundering Law.

that fail to fulfill the obligation to report the suspicious transaction (the non-compliance).²²⁸ In addition, under Article 26, banks and other financial service providers are given the authority to conduct temporary freezes without any oversight on suspicious transactions, and funds are frozen for a period of five days. Following “the freeze system,” the PPATK must be notified within 24 hours of such an action and coordinate with the police.²²⁹ This system has worked, and the PPATK has freeze 100 suspicious assets.²³⁰

A further development in relation to countering financing of terrorism occurred in 2006, when Indonesia officially ratified the 1999 International Convention on the Suppression of the Financing of Terrorism by statute.²³¹ Since, a further statute was required to lay down a legal foundation for the implementation of the Convention. Then, in 2013 the government enacted the Law No. 9/2013 on The Prevention and Eradication of the Financing of Terrorism. This law criminalizes the financing of terrorism as an independent crime and the law provides mechanism for assets freezing of suspected terrorists.²³²

The following section outlines the key provisions of the Prevention and the Suppression of Terrorist Financing Law. The terrorism financing is defined similar to the 1999 International Convention on Suppression of the Financing Terrorism (hereinafter Convention) as “any act of providing, collecting, giving or loaning funds, whether directly or indirectly, with the intention that they be used, or in the knowledge that they will be used, for a terrorist act, a terrorist organization or a terrorist individual.”²³³ Article 2 enshrines the scope and the provisions related

²²⁸ Article 25(4) of Anti Money Laundering Law.

²²⁹ Article 26(5) of Anti Money Laundering Law.

²³⁰ Adam Fenton and David Price, “Forbidden Funds: Indonesia’s New Legislation for Countering the Financing of Terrorism,” *Australian Journal of Asian Law* 15, no. 1 (2014):7.

²³¹ Law No. 6/2006 on The Ratification of International Convention for the Suppression of the Financing Terrorism, 1999.

²³² Chapter VII, arts 27 to 35, outlines the procedure for issuing a list of terrorist organizations, the freezing of funds of listed persons or organizations, and a procedure for objecting.

²³³ Article 1 (1) of The Prevention and Eradication of the Financing of Terrorism.

to applicability of the law that refers to the Convention.²³⁴ The law recognizes the extraterritorial provisions, which mean the law is applicable within the territory of Indonesia or outside Indonesia in certain cases where there is a nexus with Indonesia.²³⁵ For example, the law may apply to acts listed and committed outside Indonesia by an Indonesian national, or acts committed against the Indonesian government or Indonesian flagged vessels or aircraft.²³⁶

Chapter III, Article 4-6 of the law enshrines the provisions of the penalties for any act related to terrorism financing offences, the penalty includes maximum imprisonment and maximum fine. For example, a maximum penalty of 15 years imprisonment and maximum fine of Rp. 1 billion for terrorism financing criminal conducts. The same penalties also apply for any attempts, conspiracies, or aiding terrorism financing.²³⁷

Under Article 6, any person who willfully plans, organizes or incites/encourages others to commit the offence set out in Article 4 commits the criminal offence of terrorism financing with penalty of life imprisonment or maximum 20 years imprisonment. Notably, this Article can hold criminally liable clerics and religious teachers who abuse their position by encouraging others to commit the crime of funding terrorism or who include a call to make a donation to jihadist groups²³⁸ where it is known or ought to be known that the funds would be used to commit a terrorist act.²³⁹

Chapter VI of the Act stipulates the assets freezing regime by which PPATK, investigators, prosecutors or judges may request or order a financial service providers to freeze assets where it is known or ought to be known that the funds will be used for terrorism.²⁴⁰ This

²³⁴ Article 8-10 of the Convention.

²³⁵ Fenton and Price, "Forbidden Funds," 11.

²³⁶ *Ibid.*

²³⁷ Article 5 of The Prevention and Eradication of the Financing of Terrorism.

²³⁸ Fenton and Price, "Forbidden Funds," 7.

²³⁹ *Ibid.*

²⁴⁰ Article 22 of The Prevention and Eradication of the Financing of Terrorism.

regime differs from the regime described in Article 26 of the Anti-Money Laundering Law. For example, Chapter VI, Article 23 of Counter-Terrorist Financing provides for judicial oversight of the power to freeze assets or funds. Further, Article 23-26 of The Prevention and Eradication of the Financing of Terrorism set out the details mechanism and procedure by which a freeze may be requested executed and objected to.

Article 26 of Anti-Money Laundering Law stipulates that banks and other financial service providers are given the authority to conduct temporary freezes without any oversight on suspicious transactions. This law is similar to the Prevention and Eradication of the Financing of Terrorism law in that they both place the PPATK, whose actions are largely directed against money laundering, at the center of efforts to cut off funding to terrorists from both national and international sources. Financial institutions are obliged under the law to report suspicious transactions to the agency, which then has the power to present cases to law-enforcement agencies. Under the Chapter IV, Article 9-10 of the Prevention and Eradication of the Financing of Terrorism Law, financial services providers or any person who works within anti-terrorism regime is obligated to keep and treat the information related to suspicious transaction as secret. Any violation of this obligations can be placed in imprisonment for five years and a fine of Rp.1 billion.

Under the framework of Prevention and Eradication of the Financing of Terrorism Law, in 2015 PPATK has frozen more than Rp. 2 billion assets from 364 individuals and 17 entities.²⁴¹ The bank accounts were owned by the terrorist suspect listed in the District Court or organizations listed on UNSC 1267. The example of case related to terrorism financing was occurred in 2014, Riyanto Alias Ato Margono Alias Abu Ulya had been found guilty for

²⁴¹ Putu Merta Surya Putra, "Aliran Dana Teroris di Indonesia versi PPATK," *liputan6.com*, December 29, 2015 accessed March 16, 2015 <http://news.liputan6.com/read/2399751/ini-aliran-dana-teroris-di-indonesia-versi-ppatk>.

financing terrorism by the East Jakarta District Court.²⁴² He had been found guilty of financing terrorism as prohibited under the Article 4 and 5 of the Prevention and Eradication of Financing of Terrorism in conjunction to Article 15 of Counter-Terrorism Law.²⁴³ As such, he was sentenced for 13 years imprisonment and was fined for Rp. 50 million. In 2015, Muhammad Aris Raharjo alias Afif Abdul Madjid alias Abu Ridhwan was found guilty of terrorism financing and was charged based on Article 15 in conjunction to Article 7 of the Counter-Terrorism Law.²⁴⁴

The enactment of The Prevention and Eradication of the Financing of Terrorism Law shows the high level political commitment and progress has been made by Indonesian government. Given the relative newness of Indonesia's counter terrorist financing legislation, the effectiveness and the implementation of the law still cannot be accurately evaluated.

Many countries have acknowledged that in countering terrorism, both gathering intelligence as well as the prosecution of suspects of terrorist crimes, are vital tools and important counter-terrorism measures.²⁴⁵ Many countries have also recognized the benefits of collaborative and cooperative relationships between law enforcement and intelligence agencies.²⁴⁶ Without exception Indonesia also realizes the importance and benefits of intelligence in counter-terrorism measures.²⁴⁷ The following part analyzes how information gathered by intelligence services can and may play role in the criminal proceedings, in particular for the investigation, prosecution, and trial of suspects accused of terrorism.

²⁴² Case number 629/PID.SUS/2014/PN. JKT TIM, available at <http://putusan.mahkamahagung.go.id/putusan/7f6ed0568c6bb5217e5ad35c8ec3143f>.

²⁴³ *Ibid.*

²⁴⁴ Case Number 0193/Pid.Sus/2015/PN.Jkt.Pst.

²⁴⁵ Quirine Eijkman and Bibi van Ginkel, "Compatible or incompatible: Intelligence and Human rights in Terrorist Trials," *Amsterdam Law Forum* 3, no.4 (2011), 3.

²⁴⁶ Gruszczak, "EU Intelligence-led Policing," 16-18.

²⁴⁷ A.S.M.A Ashraf, "The Five Pivotal Muslim Nations: The Critical Role" in *Intelligence Cooperation Practices in the 21st Century: Towards a Culture of Sharing*, Musa Tuzuner. (Amsterdam: IOS Press, 2010).

C. The Legal Issues of The Use of Intelligence In Indonesian Criminal Proceedings and Information Sharing

1. Intelligence Versus Evidence

Since its enactment in 2002, Indonesian Anti-Terrorism Law has been criticized and rejected for the way that it allows intelligence in criminal proceedings.²⁴⁸ In particular, critics view Article 26 having vague standards and procedures for using intelligence in criminal proceedings. Other criticism and rejection stems from the fear that under Article 26 the judicial system will lose its independence,²⁴⁹ being vulnerable to intervention by intelligence agencies or executives on account of national security interests.²⁵⁰ In this way, the provisions of Article 26 create a loophole for abusive practices when intelligence reports are utilized in criminal proceedings. In this context, the practice may place the judicial system to justify intelligence reports on arresting anyone identified by intelligence agencies as terrorists.²⁵¹

The rejections and fears from the most of civil society and human rights organizations are reasonable and understandable because terror cases are often triggered by intelligence or this type of information is part of the evidence. In addition, one argument put forward against the use of intelligence in court is the reliability of that material in hand that it may contain second or third-hand hearsay, information from unidentified informants, information received from foreign intelligence liaisons, data-mining and intercepted communications. The point of criticisms are not only refer to 'black' practice of Indonesian intelligence services in the past history, but also the use of intelligence as evidence.²⁵²

²⁴⁸ Al Araf, "Perpu Anti-Terrorisme: Ancaman Transisi di Indonesia," in *Terorisme, Definisi, Aksi dan Regulasi*, eds. Rusdi Marpaung, Al Araf (Jakarta: Imparsial, 2005), 105-109.

²⁴⁹ Amiruddin, Agung Yudha, Supriadi Ediyono, "Menggugat Kebijakan Anti Teror" in *Terorisme, Definisi, Aksi dan Regulasi*, eds, Rusdi Marpaung, Al Araf (eds) (Jakarta: Imparsial, 2005), 90.

²⁵⁰ *Ibid.*

²⁵¹ *Ibid.*

²⁵² *Ibid.*

Evidence is the product of a criminal investigation, involving police detectives interviewing witnesses, gathering forensic material, and following leads.²⁵³ Intelligence, on the other hand, is the product of the security and intelligence services who, despite their expertise in intelligence, some claim have no background in evidence-gathering and for whom the prosecution of suspected terrorists is much less of a priority compared to the disruption of their activities.²⁵⁴

Traditionally, a distinction exists between collecting intelligence for national security purposes and gathering evidence for criminal investigations, as they serve different purposes.²⁵⁵ For example, it is crucial that the sources of the intelligence are kept secret, whereas the principle of fair trial demands that during a criminal trial, the public prosecutor and defense counsel enjoy equal access to the evidence.²⁵⁶ This distinction also translates into the allocation of powers to law enforcement officials and the specific powers given to intelligence services.²⁵⁷ However, under specific circumstances, such as the prosecution of terrorist crimes, these two worlds meet and intelligence information is shared.²⁵⁸ Hence, the circumstances as well as the requirements that apply to these particular cases should be clearly formulated in the law.²⁵⁹

Since using intelligence gathered by intelligence services is unavoidable for countering terrorism, so the question has become to what extent that information may be used in criminal

²⁵³ Shima D. Keene, *Threat Finance Disconnecting the lifeline of Organized Crime and Terrorism* (Burlington: Gower, 2012), 241.

²⁵⁴ *Ibid.*

²⁵⁵ Eijkman and Ginkel, "Compatible or incompatible," 15-16.

²⁵⁶ *Ibid.*

²⁵⁷ *Ibid.*

²⁵⁸ *Ibid.*

²⁵⁹ *Ibid.*

proceedings? This question is particularly crucial because the use of intelligence reports in the judicial system raises so many constitutional and human rights concerns.²⁶⁰

The Article 26 of Indonesian Anti-Terror Law, states that

- (1) to obtain sufficient preliminary evidence, investigators can use any intelligence report.
- (2) The determination to obtain sufficient preliminary evidence referred to in paragraph (1) shall be under examination by the Chairperson or Vice Chairperson of the Court
- (3) The judicial determination referred to in paragraph 2 is to be made in a closed hearing within 3 (three) days
- (4) And if the judge finds that sufficient initial evidence exists, then the Chairperson of the District Court is to order that further investigations (*penyidikan*) may proceed

The provision of Article 26(1) explains that intelligence has become part of the judicial system in Indonesia by using intelligence as criminal evidence. However, this provision lacks clarity about the meaning of “preliminary evidence” and what is “sufficient.” In fact, the CTL simply inadequately covers the limitations, definitions, and categories of preliminary evidence.²⁶¹ For help, one can look to the Indonesian Code of Criminal Procedure (*Kitab Undang-undang Hukum Acara Pidana, KUHAP*).²⁶² Referring to KUHAP the investigation stage itself is formally divided into preliminary and formal investigation phases.²⁶³ During the

²⁶⁰ N. Schrijver & L. van den Herik, “Counter-Terrorism Strategies, Human Rights and International Law: Meeting the Challenges” (Final Report Poelgeest Seminar, The Hague: Grotius Centre for International legal Studies, 2010); In EU member states level the discussion on the use of information gathered by intelligence services had been occurred along before the 9/11. For further reading see John A. E. Vervaele, “Terrorism and Information Sharing between the Intelligence and Law Enforcement Communities in the US and the Netherlands: Emergency Criminal Law?” *Utrecht Law Review* 1, no. 1 (2005).

²⁶¹ Compare to the Law No. 30 of 2002 on the Corruption Eradication Commission (Komisi Pemberantasan Korupsi, KPK) Article 44 paragraph (2) the ‘sufficient preliminary evidence’ has been clearly drawn. According this law, ‘the sufficient preliminary evidence’ has been found to exist when at least two items of legal evidence have met, including and not limited to any information or data that is spoken, sent, received or stored either regular or electronic and optical

²⁶² In regards to criminal law rules and procedure, the CTL makes it clear in Article 25(1) that the KUHAP rules generally applicable to criminal investigations, prosecutions and trial apply also in terrorism cases, unless the CTL provides otherwise.

²⁶³ Article 1(5), 102-08 of KUHAP.

preliminary investigation, the investigator determines whether a crime has taken place.²⁶⁴ Based on the preliminary investigation findings, the case can progress to the formal investigation stage.²⁶⁵ In investigation stage, the investigator may issue an order of arrest. Under Article 17 of KUHAP, “[a]n order of arrest shall be carried out against a person who is strongly presumed to have committed a criminal act on the basis of sufficient preliminary evidence.”

The Elucidation of Article 17 of KUHAP defines “sufficient preliminary evidence” as preliminary evidence when there is a presumption that there has been an offense in accordance to with the language of Article 1 point 14.²⁶⁶ This Article establishes that an arrest warrant cannot be carried out arbitrarily, but only for those who have actually committed an offense.” This language fails to suggest any limitation or provide any clear definition what constituted as “preliminary evidence” and “sufficient preliminary evidence.”

Before proceeding into further discussion about “sufficient preliminary evidence” and “preliminary evidence,” it is important to distinguish the terms *barang bukti* and *alat bukti*,²⁶⁷ since in the Indonesian Law of Criminal Procedure these two terms are quite confusing when used in practice. *Barang bukti* is any type of physical evidence adduced in court, whereas *alat bukti* is any of the five types of evidence mentioned in Article 184 of the KUHAP.²⁶⁸ *Barang bukti* might contain *alat bukti*, but it is not *alat bukti* itself, meaning that it cannot be directly used as one of the “valid” pieces of evidence to convict an accused within the meaning of Article 183 of the KUHAP.²⁶⁹

²⁶⁴ Articles 102-105 of KUHAP.

²⁶⁵ Article 1 (5) of KUHAP.

²⁶⁶ The Article 1 point 14 states, Suspect is a person who by virtue of his deeds or his condition, on the basis of preliminary evidence, can reasonably be presumed to have committed an offense.

²⁶⁷ Ratna Nurul Afifah, *Barang Bukti dalam Proses Pidana* (Sinar Grafika, Jakarta, 1988).

²⁶⁸ Butt, “Anti Terrorism Law and Criminal Process in Indonesia,” 16.

²⁶⁹ Article 183 of KUHAP states “A judge shall not impose a penalty upon a person except with at least two legal means of proof he has come to the conviction that an offense has truly occurred and that it is the accused who is guilty of committing it.”

In 1984, the Supreme Court, the Attorney General, the Polri, and the Ministerial of Justice issued a joint decree²⁷⁰ to clarify the scope of what constitutes “sufficient preliminary evidence.” The joint decree suggested that “sufficient preliminary evidence” may include police report plus one other type of evidence.²⁷¹ According to Chief of Police Regulation No. 14/2012 on the Crime Investigation Management (Perkap No.14/2012), police report contains of two types: (1) the A model of the police report: a police report made by the police members who had known directly at the time of the occurrence of an event; and (2) the B model of police report: a report made by the police members based on the report received from the public/community. However, these classifications and suggestions remains unclear.

In its development, the Constitutional Court Decision No. 21 / PUU-XII / 2014 contains some important interpretations of criminal procedure, among other laws, the interpretation of the three phrases “initial evidence,” “preliminary sufficient evidence,” and “insufficient evidence,” as referred to in Article 1 paragraph 14, Article 17, and Article 21 paragraph (1), 184 of KUHAP. The court ruled that these 3 phrases have no substantive difference of meaning.²⁷² The only difference lies in the formality of those terms, including how the information was gathered and when it was used. The use of these terms is not intended to “grade” the evidence, but merely to identify at which stage the evidence is used.²⁷³ The Court

²⁷⁰ Keputusan Bersama Ketua Mahkamah Agung, Menteri Kehakiman, Jaksa Agung, dan Kepala Kepolisian Republik Indonesia Nomor : 08/KMA/1984, Nomor : M.02-KP.10.06 Th.1984, Nomor : KEP-076/J.A/3/1984, No Pol :KEP/04/III/1984 Tentang Peningkatan Koordinasi Dalam Penangan Perkara Pidana, Bab III Permasalahan.

²⁷¹ Part 2 (a) (2) Chapter IV of the joint decree (Keputusan Bersama Ketua Mahkamah Agung, Menteri Kehakiman, Jaksa Agung, dan Kepala Kepolisian Republik Indonesia Nomor : 08/KMA/1984, Nomor : M.02-KP.10.06 Th.1984, Nomor : KEP-076/J.A/3/1984, No Pol :KEP/04/III/1984 Tentang Peningkatan Koordinasi Dalam Penangan Perkara Pidana, Bab III Permasalahan

²⁷² “Putusan MK: Penetapan Tersangka Masuk Lingkup Praperadilan,” *mahkamahkonstitusi.go.id*, April 28, 2015 accessed May 10, 2017 <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=10796#.WROzweXyvIU>; “MK Rombak Bukti Permulaan dan Objek Peradilan, *hukumonline.com*, April 28, 2015 accessed May 10, 2017 <http://www.hukumonline.com/berita/baca/lt553f5575acd85/mk-rombak-bukti-permulaan-dan-objek-praperadilan>.

²⁷³ For further reading on this issue, see Chandra M. Hamzah. Penjelasan (Restatement), *Hukum Bukti Permulaan Yang Cukup* (Jakarta:PSHK, 2014).

concluded that at least 2 kinds of evidences (*alat bukti*) must be presented during or at any stages of criminal proceedings.

Another problem relates to how the law defines and classifies an “intelligence report.” The phrase “may use,” as stated in Article 26 (1), indicates that the use of intelligence reports in criminal proceedings is allowed and its usage is optional. According to the Elucidation to Article 26(1) defines “intelligence report” as a report “connected to and related to matters of national security,” which can be obtained from the Department of Home Affairs, the Department of Foreign Affairs, the Department of Defense, the Department of Justice and Human Rights, the Department of Finance, the Police Force, the Army, the Attorney General’s Office, the State Intelligence Body, or another related institution.²⁷⁴ This means that intelligence from diverse agencies falls within its scope. In fact, each agency has its own classification system, its own reporting standards, and different methods for gathering information and or intelligence.

Unfortunately, the Law does not provide further provisions on intelligence reports standard. Thus, the absence of classification and unclear guidance on reporting standards may lead to differing and misleading interpretations. All in all, in relation to intelligence report’s standards and classifications that can be used as preliminary evidence, Article 26 has failed to provide clear provisions and explanations. In addition, the Law does not provide further explanation of which intelligence reports are admissible as preliminary evidence. The vagueness of these provisions appears to leave intelligence in court proceedings vulnerable to manipulation.

According to Romli Atmasasmita, who was the Chairman of the team drafter on CTL, intelligence reports can be used as preliminary evidence when they have been granted

²⁷⁴ Butt, “Anti-Terrorism Law and Criminal Process in Indonesia,” 16-17

authentication from State Intelligence Agency (*Badan Intelijen Negara*, BIN).²⁷⁵ Similarly, Yusril Ihza Mahendra, who resided as Minister of Justice and Human Rights on the time the CTL was drafted, commented that the intelligence reports in Article 26 refers to the intelligence reports produce by the BIN. This Article intended to place BIN as the coordinating body (one-way door) for all of intelligence works that include judicial and non-judicial intelligence. Mahendra emphasized that not all of intelligence reports of the BIN are admissible as the initial evidence, explaining that it only applies to intelligence reports that qualified as A1 dan A2 reports.²⁷⁶

Similarly, Bagir Manan, the former chairman of Indonesian Supreme Court, has explained that the only source of intelligence reports that should be considered as preliminary evidence by the Court is an intelligence report produced by the BIN. He explains that this is because the BIN can get, gather, and compile intelligence reports from various parties and sources.²⁷⁷ Unfortunately, these helpful explanations are not included in the CTL or in its Explanatory Memorandum.

There is general consensus that such information can be used as a lead for initiating criminal investigations.²⁷⁸ Much more of a problem is, however, whether this information per se is able to give rise to reasonable suspicion or form a sufficient basis for the use of coercive measures under criminal law.²⁷⁹ It is also disputed whether such information can be used as legal

²⁷⁵ Virza Roy Hizal, "Perlindungan Hak Asasi Tersangka/Terdakwa dalam Pemberantasan Terorisme di Indonesia," (master's thesis, Pasca Sarjana Fakultas Hukum Universitas Indonesia, 2007), 181.

²⁷⁶ "Laporan Intelijen Belum Pernah Dipakai, dalam mengenang Perpu Antiterorisme," *Suara Muhammadiyah*, August 2003, 47.

²⁷⁷ "Ketua MA: Hanya Laporan dari BIN yang diterima di Pengadilan" *Kompas*, November 22, 2002.

²⁷⁸ Vervaele, "Terrorism and Information Sharing," 2-4.

²⁷⁹ *Ibid.*

proof in criminal proceedings.²⁸⁰ The question in the event of its use is also what the consequences are for the public nature and the position during the trial of the defense.²⁸¹

The provisions in Article 26 paragraph 2-4 provided procedure and mechanism to determine the admissibility of initial preliminary evidence. To protect the rights of the criminal suspect of terrorism and for auditing the intelligence reports have formed a new organization called the “hearing.”²⁸² However, both the structure and the working mechanism of the “hearing” procedure until now is unclear. This lack of clarity raises questions about which tools or measurements can be used by the judge in determining whether an intelligence report has or has not been qualified as preliminary evidence.

The Law authorizes judges in the pre-adjudication process. In a closed hearing, how does the judge to weigh an intelligence report so can be stated as sufficient preliminary evidence without the presence of suspected or legal representative of the suspected. This means that the judge in making his decision did not have a comparative tool to determine the validity of the intelligence report. For their own purposes, intelligence agencies have procedures for determining validity, however, those procedures need to remain secret.²⁸³ Thus, it is difficult for those outside intelligence community to determine quality. As such, it remains unresolved how judges will determine the probative value of an officer’s testimony for intelligence purposes in criminal proceedings. Within the framework of its judicial function, the police have the task of gathering information concerning offences with a view to their eventual settlement by a criminal court. Intelligence services do not have the objective of investigating offences, while the police do not have the objective of gathering information in order to ensure a strong position of

²⁸⁰ *Ibid.*

²⁸¹ *Ibid.*

²⁸² Butt, “Anti-Terrorism Law and Criminal Process in Indonesia,” 16.

²⁸³ Keene, *Threat Finance*, 242.

information. The tasks which the different services have been set and the manner in which they perform them are quite different; essentially, a dividing wall has been erected between the two. Concerning terrorism, it is likely that classified intelligence or other sensitive national security information that appears to be relevant to a criminal matter needs to be provided to law enforcement or judicial personnel. In this sense, the law should provide procedures that allow for the sufficient oversight and independent review of the information to ensure that the appropriate balance between national security and the right to a fair trial of the accused are respected.

The “sufficient initial evidence” in Articles 28, 26(1), and 26(2) of the CTL refers to any type of initial evidence. On this interpretation, the effect of these Articles would appear to be to require investigators to seek judicial approval to arrest a suspect in a terrorism case. The rationale for requiring judicial approval might be that, unlike the KUHAP, which allows suspects to be arrested for only one day, the CTL allows suspects to be arrested for seven days.²⁸⁴ Because there is no clarity on the mechanism and procedure, judicial approval might be seen as an additional safeguard, necessary to ensure respect for the rights of suspects.

Articles 28, 26(1) and 26(2) of the CTL may be interpreted to be applied only to the use of intelligence reports and not other types of evidence.²⁸⁵ Furthermore, the provisions of Article 26 must be related to Article 27 on evidence in the KUHAP terrorism a fixed point. Thus, the intelligence report should be construed as “supporting evidence” from the sufficient evidence, namely two (2) minimal evidence as required by Article 21 and Article 138 KUHAP. Moreover, to hinder the arbitrariness of the law enforcement the, standard and application of Article 26 (1) must abide to current development of the criminal procedure, such as the Decision of Constitutional Court, and the Indonesian Police Decree.

²⁸⁴ Butt, “Anti-Terrorism Law and Criminal Process in Indonesia,” 23.

²⁸⁵ *Ibid.*

Of the provisions in the Anti-Terrorism Law, this is perhaps the most unusual and the most worrying from a civil rights point of view.²⁸⁶ Clearly the notion that contrived intelligence reports could result in a conviction regardless of the material they are based on opens huge opportunities for exploitation by unscrupulous police.²⁸⁷ This is particularly of concern given the unimpressive record of Indonesian intelligence to date.²⁸⁸ The provisions and the application of Article 26 are potentially causing serious problems, primarily because of the vagueness of the definitions and standards of intelligence reports that could be used as preliminary evidence. As well as the absence of clear special procedures in determining the intelligence reports that reliable and admissible as a preliminary evidence.

2. Good Practice For the Usage Of Intelligence In Criminal Justice Sector

As explained above, use of intelligence in the criminal justice sector raises various complicated issues. Intelligence, by its very nature, poses particular problems for the principle of due process. In seeking to protect intelligence sources, some countries have amended regulations governing legal or administrative procedures to broaden the permissible grounds for non-disclosure of materials to suspects; and suspects are given limited opportunities to test the veracity of the information upon which their arrest, detention, or subsequent charges rest. There are conditions under which information may be legitimately withheld, and international law recognizes that in certain circumstances, tensions may genuinely arise in upholding principles of due process and at the same time protecting valid requirements of secrecy.²⁸⁹

²⁸⁶ Lindsey, "Indonesia's New Anti-Terrorism Laws."

²⁸⁷ *Ibid.*

²⁸⁸ *Ibid.*

²⁸⁹ Ana María Salinas de Frías, Katja Samuel, Nigel White, *Counter-Terrorism: International Law and Practice* (New York: Oxford, 2012); Philip H. J. Davies, Kristian C. Gustafson, *Intelligence Elsewhere: Spies and Espionage Outside the Anglosphere* (Washington DC: Georgetown University Press, 2013).

In regard to the use of intelligence in criminal proceedings a number of states have implemented special procedures to use intelligence information in criminal trials related to terrorism. For example, the Netherlands, Canada, France and the UK have introduced the special procedures for the use of intelligence in criminal trials. These countries, however, have struggled with designing (special) procedures that allow for the use of intelligence information in criminal trials.²⁹⁰

In 2014 Global Counter-Terrorism Forum (GCTF)²⁹¹ recommends good practices for effective counter-terrorism in the criminal justice sector, a document known as Rabat Memorandum. GCTF encourages states to enact rule of law-based measures to protect the sources and collection methods of information in terrorism cases.²⁹² Once developed, these legal safeguards may allow investigators and prosecutors to use intelligence and sensitive law enforcement information as evidence, as appropriate, in a manner that both protects the sources and collection methods and maintains the accused person's right to fair trial as recognized under national and international law, including human rights law.²⁹³ The GCTF's Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector outlines

²⁹⁰ Criminal Justice Sector and Rule of Law Working Group, "Recommendation for Using and Protecting Intelligence Information in Rule of Law-Based, Criminal Justice Sector-Led Investigations and Prosecutions." *Thegctf.org*, accessed May 16, 2016, https://www.thegctf.org/documents/10162/159887/14sept19_gctf+rabat+gp+6+recommendations.pdf.

²⁹¹ The GCTF is an informal, multilateral counterterrorism (CT) platform that focuses on identifying critical civilian CT needs, mobilizing the necessary expertise and resources to address such needs and enhance global cooperation. The 30 founding members of the GCTF are: Algeria, Australia, Canada, China, Colombia, Denmark, Egypt, the European Union, France, Germany, India, Indonesia, Italy, Japan, Jordan, Morocco, the Netherlands, New Zealand, Nigeria, Pakistan, Qatar, Russia, Saudi Arabia, South Africa, Spain, Switzerland, Turkey, the United Arab Emirates, the United Kingdom, and the United States. The United Nations is a close partner of the GCTF and a regular participant in its activities. The GCTF takes as a central part of its mission the implementation of the UN Global Counter-Terrorism Strategy; for further reading on GCTF <https://www.thegctf.org/> and U.S. Department of State Co-Chairs Fact Sheet: About the Global Counter-terrorism Forum, available at <http://www.state.gov/r/pa/prs/ps/2014/04/224313.htm>.

²⁹² Criminal Justice Sector/Rule of Law Working Group. "The Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector." *Thegctf.org*, accessed May 16, 2016 <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/A/GCTF-Rabat-Memorandum-ENG.pdf>.

²⁹³ *Ibid.*

a series of 15 actionable good practices for implementing rule of law-based criminal justice measures to more effectively counter terrorism.²⁹⁴

The GCTF encourages all countries to consider the Rabat Memorandum as a source of guidance and its members and partners have been working both bilateral and multilaterally to promote the implementation of good practices in national and regional contexts.²⁹⁵ Most importantly, the GCTF recommends the relationship between law enforcement and intelligence agencies, and the use of intelligence in criminal justice procedure. The Rabat Memorandum also recommends the State to provide mechanisms when examining the use of secrecy during trial has been provided in some states for example in the UK.²⁹⁶ The use of “closed material procedures” (CMPs) in judicial proceedings is provided for in national legislation. CMPs allow sensitive intelligence material to be introduced in secret hearings in which only the judge and special advocates have access to the material.²⁹⁷ Another example is the Netherlands, which introduced the 2006 Act on Shielded Witnesses,²⁹⁸ this law provides procedure and mechanism to “shield” witnesses from intelligence communities in the interest of national security at an “in camera” (closed proceedings/hearings) pre-trial stage.²⁹⁹

Concerning to the relationship between law enforcement and intelligence agencies. The Rabat Memorandum recommends that State have mechanisms and procedures that allow

²⁹⁴ *Ibid*

²⁹⁵ *Ibid*.

²⁹⁶ Keene, *Threat Finance*, 243-244.

²⁹⁷ *Ibid*.

²⁹⁸ Didier Bigo, et.al, *National Security and Secret Evidence in Legislation and Before the Court* (Brussels: European Union, 2004), 25.

²⁹⁹ *Ibid*; Compare to Indonesian Law, the provision in National Intelligence Law provides provision that the intelligence secret may be opened before the retention period is expired if it is conducted in a closed hearing and for the purpose of judicial process (Article 25 (3)). This provision is understandable because information of intelligence services is principally secret. However, there is no further procedures that allow for the sufficient oversight and independent review of the information/ the intelligence secret.

intelligence information relevant to terrorism threats to be shared.³⁰⁰ Where it appears that classified intelligence or other sensitive national security information is relevant to a criminal matter and needs to be provided to law enforcement or judicial personnel, it recommends that states ensure that their procedures allow for the sufficient oversight and independent review of the information to ensure that the appropriate balance between national security and the right to a fair trial of the accused are considered.³⁰¹

States that have well developed systems have created different models to achieve this. For example, one State uses an independent commission to review the relevant intelligence and decide if it should be declassified and turned over.³⁰² Another State, such as the Netherlands uses a national level terrorism prosecutor who is not involved in the case—to review all relevant intelligence and decide what should be turned over.³⁰³ Another model used by several States is the “fusion” center concept, such as in the U.S, whereby the relevant law enforcement, prosecutors, and intelligence services of the State meet regularly, perhaps daily to share and discuss relevant information.³⁰⁴ One way of developing an effective fusion center is for the various personnel to share allocation for the operational phase of an investigation, allowing intelligence to be discussed daily and facilitating joint decisions on whether and how intelligence can be used in the case.³⁰⁵

³⁰⁰ Criminal Justice Sector/Rule of Law Working Group.” Recommendations for Using and Protecting Intelligence Information in Rule of Law-Based, Criminal Justice Sector-Led Investigations and Prosecutions. Thegctf.org, accessed May 16, 2016, <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/ENG%20-%20Rabat%20Good%20Practice%206%20Recommendations%20-%20ENG.pdf?ver=2016-03-29-134521-373>.

³⁰¹ *Ibid.*

³⁰² *Ibid.*

³⁰³ *Ibid.*

³⁰⁴ Frank J. Cilluffo, et.al, *Counterterrorism Intelligence: Fusion Center Perspectives* (Washington DC: The George Washington University Homeland Security Policy Institute, 2012); U.S. Department of Homeland Security, “DHS’ Role in State and Local Fusion Centers Is Evolving,” (Washington DC: U.S. Department of Homeland Security, 2008); U.S. Department of Homeland Security. *Fusion Center Guidelines*. August 2006.

³⁰⁵ *Ibid.*

D. Policies And Regulations Concerning Information Sharing Between Intelligence Community And Law Enforcement Community

Intelligence traditionally plays an important role in providing information and assisting in the building of criminal investigations, and information sharing between intelligence and law enforcement agencies about terrorist crime has gained particular relevance since 9/11. Yet the roles of intelligence and of law enforcement are fundamentally different and need to remain separate. In Indonesia, following the Bali Bombings and series of bombings attack in capital city and other places the government expresses its intention to step up the fight against all forms of terrorism emphasized the importance of efficient cooperation in intelligence matters, inviting the counter-terrorism related agencies to promote efficient and systematic cooperation between the police and intelligence services.

After the enactment of CTL, the government issued Presidential Instruction No.5/2002 that it establishes the State Intelligence Agency as coordinator of intelligence operations. The Presidential Instruction caused confusion in defining the role and authority of the non-judicial intelligence and judicial intelligence. In fact, the non-judicial intelligence police have different functions. The police in its judicial framework, have the responsibility to gather information concerning offences anticipating eventual engagement with a criminal court.³⁰⁶ In contrast, security intelligence services just collect data and information without a law enforcement or juridical objective.³⁰⁷

³⁰⁶ Voorhout, "Intelligence as Legal Evidence," 119.

³⁰⁷ *Ibid*; According to BIN Law the purpose of State Intelligence is to detect, identify, evaluate, analyze, interpret and present intelligence in order to give early warning for the anticipation of various possibilities in the shape and form of potential and real threats to the well-being and existence of the nation and state, as well as opportunities for national prosperity (Article 5). The role of State Intelligence is to carry out efforts, work and activities for early detection and development of early warning systems in order to prevent, deter and tackle any threat that can emerge and disrupt national stability (Article 4).

Information from intelligence services is typically secret, whereas police information is subject to judicial testing as criminal evidence in the publicly accessible courtroom.³⁰⁸ With this difference in the treatment of information, these agencies experience a virtual dividing wall between them.³⁰⁹ Since 2002, the Indonesian government has attempted to enact legislation to strengthen its ability to gather intelligence; however, due to intense domestic resistance, particularly from civil rights groups, the intelligence law could only be passed in October 2011.³¹⁰ The Law No.17/2011 on State Intelligence (the BIN Law), passed in October 2011, authorizes the Indonesian State Intelligence Agency (*Badan Intelijen Negara*, BIN) to engage in efforts to prevent and/or to fight any effort, work, intelligence activity, and/or opponents that may be harmful to national interests and national security.³¹¹

Similar to the Presidential Instruction No. 5/2002, the BIN Law assigned BIN as the coordinator of the intelligence agency, and BIN as the chief of intelligence body under the President's direct control.³¹² Regulation of BIN activities is subject to parliamentary oversight.³¹³ The State Intelligence Agency, in its capacity as coordinator of the organizers of the National Intelligence referred to in Article 38 (1) states that BIN shall (a) coordinate the implementation of National Intelligence; (b) integrate intelligence products; (c) coordinate the implementation of the State Intelligence report to the President; and (d) organize and coordinate intelligence-led national security. To perform its function as the coordinator BIN has authority, among others, to coordinate policies in the field of Intelligence, coordinate the implementation of the organizers of

³⁰⁸ Voorhout, "Intelligence as Legal Evidence," 119.

³⁰⁹ *Ibid.*

³¹⁰ The further discussion on the Law of Intelligence can be found at Chapter 4.

³¹¹ Article 1 of BIN Law.

³¹² Article 27 of BIN Law.

³¹³ Article 43 of BIN Law.

National Intelligence, organize and regulate the state intelligence system, set classifications Secret Intelligence and foster the use of equipment and materials Intelligence.

Regarding the flow of information from the intelligence community to the law enforcement community is not well defined under the BIN law. The Article 30 states that BIN may cooperate with other intelligence agencies (which include law enforcement intelligence) and may establish a task force. It is unclear whether or not 'cooperation' means or includes sharing information with law enforcement agencies. In 2003, a home ministry decree established a Regional Intelligence Community (*Komunitas Intelijen Daerah* or KOMINDA) in every province, district, and municipality.³¹⁴ The KOMINDA was designed as a forum where the police, the military, and BIN would share information with each other and with the local administration, information that would then be channeled upwards as necessary. It is the only forum that coordinates administratively or communicates any information and intelligence from many sources to identify potency, symptoms, and facts that may threaten the national stability in each region and province.³¹⁵ It is also charged with giving recommendations as the source of policy making relates to early detection and pre-emptive to any threats in regions and provinces level.³¹⁶

This section has shown that the government has issued policy and regulation to encourage the sharing of information between the intelligence community and the law enforcement community; however, there are no mechanisms for sharing information among the communities. Within the system of the government, there are no policy or regulation in regard to

³¹⁴ Ministry of Home affairs Decree No. 11/2006.

³¹⁵ Article 8 Ministry of Home affairs Decree No. 11/2006; Surat Menteri Dalam Negeri no. X.300.08/SC/2003 tentang Pembentukan Panitia Penyelenggara Rapat Konsultasi Penguatan Sistem Jaringan Komunitas Intelijen Daerah, 25 February 2003. The office in question is the Office of National Unity, Politics and Public Defence (Kesbangpolinmas); Imparsial, *Implikasi Perang Melawan Terorisme Terhadap Penegakan HAM di Indonesia, Laporan Monitoring Koalisi untuk Keselamatan Masyarakat Sipil 2002-2009* (Jakarta:Imparsial, 2009), 17.

³¹⁶ Article 7 of the Ministry of Home Affairs Decree No.11/2006.

coordination mechanisms to support the appropriate, effective and timely sharing of both intelligence and sensitive information for law enforcement.

E. Conclusion

The enactment of CTL has emphasized that Indonesia is employing law enforcement as counter-terrorism tools. The legislation was passed with preventive and security-related goals in mind. The primary objective of the CTL is to allow earlier government intervention by criminalizing preparatory conduct far in advance of terror attacks. The resulting substantial interference in the freedom of individuals is usually justified by the supposed security provided by the new offense definitions against future attacks.

As criminal counter-terrorism legislation has become mainly addressed to prevent terrorist acts, the proactive use of intelligence in enforcement become predominantly used to prevent terrorist acts. The trend to use intelligence in enforcement is noticeable worldwide including in Indonesia. In Indonesia for example the use of intelligence as evidence in criminal trials has been introduced under Article 26 (1) of CTL. This provision is the most unknown and new in the Indonesian criminal justice system.

It is noticeable that many countries have recognized the benefits of collaborative and cooperative relationships between law enforcement and intelligence agencies. Without exception Indonesia also realizes the importance and benefits of intelligence in counter-terrorism measures. Following the Bali Bombings and series of bombings attack in capital city and other places, the Indonesian government expressed its intention to step up the fight against all forms of terrorism and emphasized the importance of efficient cooperation in intelligence matters. To support this concern, the government issued policy and regulation to encourage the sharing of information between the intelligence community and the law enforcement community.

The legal dimensions of information sharing and the use of intelligence in criminal proceeding raise various concerns. The new and special provision in CTL relates to the use of intelligence as legal evidence in criminal trials has left legal problems when it is weighted under the general criminal law procedure Indonesia. Since the new provision has lack of specific mechanism and procedure it vulnerable to violate due process of law. Further, the greater call for enhancing collaboration and sharing information between law enforcement and intelligence agencies does not equipped with mechanism to share information between them. The flow of information from the intelligence community to the law enforcement community is not well defined and regulated.

Chapter IV

The Formal Changes Of The Institutional Structure Of Counter-Terrorism Agencies Before The Suharto Regime And Post Bali Bombings

A. Introduction

This chapter discusses the evolution of Indonesia's current policing style, including the restructuring involved in moving from authoritarian policing to community policing. It also analyses how the switch to community policing has affected the current counter-terrorism policing strategy and approach. This Chapter also provides analysis on the complex relationship between law enforcement, military, and security intelligence services, as well as the complexity of the organizational structures in charge of counter-terrorism duties. This Chapter begins with a brief historical background of Indonesian Police structure, as well as an analysis of the changes of policing structure in Indonesia from the period of the authoritarian regime in Suharto period to democratic era.

B. The Indonesian Policing Landscape: From Authoritarian To Community Policing

Police institution and policing practice are closely tied to a country's history, political system, constitutional protections, economics, social norms and culture of each country³¹⁷ As such, it is no surprise that the institution and practices of the Indonesian police developed and

³¹⁷ Frederic Lemieux, "A Cross-Cultural Comparison of Intelligence-led Policing," in *The Handbook of Knowledge Based Policing Current Conceptions and Future Directions*, ed. Williamson.T (Chichester, England: John Wiley & Sons, 2008), 224.

changed considerably following Indonesia's shift from an authoritarian regime to a democratic regime.³¹⁸

In Indonesia, the police are responsible for most criminal investigations under the KUHAP.³¹⁹ Police will usually begin their investigations by determining whether a crime has in fact been committed. As discussed in Chapter 3, historically this was not always the case; in fact, during the authoritarian regime (1965-1998) the military took over police force tasks, particularly in investigating the subversive activities.

When it was first established, the Indonesian police organization had autonomy.³²⁰ However, in the early 1960's, the police organization was integrated into the military structure.³²¹ Then in 1968, the police became an official organ of the military.³²² When this happened, the police lost its autonomy both operationally and administratively.³²³ As a consequence, the military took control of the police's budget, planning, wages, ranking structure, trainings, and recruitments.³²⁴ Police were recruited and trained under the military system in the military command area; and not surprisingly, the police members developed more military skills than law enforcement skills,³²⁵ the police effectively became more militaristic. This change

³¹⁸ See more detail about Indonesian political system changes and amendment of Indonesian Constitution in e.g. Denny Indrayana, *Indonesian Constitutional Reform, 1999-2002 : an Evaluation of Constitution-Making in Transition* (Jakarta: Kompas Book Publishing, 2008), 105-123, 360-381 ; Jimly Asshiddiqie, *The Constitutional Law of Indonesia: A Comprehensive Overview* (Selangor, Malaysia: Sweet & Maxwell Asia, 2009), 43-64.

³¹⁹ Article 4 and 6 of KUHAP govern that a junior investigator and investigator shall be any official of the state police of the Republic of Indonesia.

³²⁰ Amnesty International, *Unfinished Business Police accountability in Indonesia* (London, UK: Amnesty International Publication, 2009), 16.

³²¹ Andrianus Meliala, "Police as military: Indonesia's Experience," *Policing: An International Journal of Police Strategies & Management* 24, no. 3 (2001): 423.

³²² Amnesty International, 17.

³²³ Meliala, 444.

³²⁴ Amnesty International, 17.

³²⁵ *Ibid.*

blurred the line between police and military functions,³²⁶ and the military began to infringe on the function of the police, maintaining legal order in society and functioning as law enforcers.³²⁷

During the three decades under this military organizational structure, the police used an authoritarian approach when dealing with the public. For example, during that time, the ruling regime established a special agency named *Kopkamtib*, whose primary members were taken from the military. The *Kopkamtib* played a law enforcement role and conducted criminal investigations.³²⁸ In this way, it was permitted to interfere with police tasks. An example of this infringement was when *Kopkamtib* conducted a secret operation called a “*petrus* operation” (mysterious operation).³²⁹ The purpose of this operation was to conduct a judicial killing, *petrus* operation, killing suspected criminals as a means to solve criminal problems.³³⁰ Police were also involved in this operation. Studies show that within only 3 years, nearly 10,000 people were killed under the *petrus* operation.³³¹ At the time of *petrus*, dead bodies were dumped in open, public places—like city streets—to create public fear.³³² Its aim was to shock and deter

³²⁶ *Ibid*; see also Beni Sukadis (ed), *Almanac on Indonesian Security Sector Reform 2007* (Jakarta: The Geneva Centre for the Democratic Control of Armed Forces and Indonesian Institute for Strategic and Defence Studies, 2007), 56-60.

³²⁷ Sukadis, *Almanac on Indonesian*, 56.

³²⁸ Samuel Gultom, *Mengadili Korban Praktek Pembunuhan Kekerasan Terhadap Negara* (Jakarta: ELSAM, 2003), 31-36.

³²⁹ David Bouchier, “Crime, Law and State Authority in Indonesia,” in *State and Civil Society in Indonesia*, ed. Arief Budiman (Clayton, Victoria: Monash University, 1990), 177-212; Usman Hamid and Edwin Partogi, “Mereformasi Negara Intel Orde Baru: Kasus Penembak Misterius Era 1981-an,” in *Negara, Intel dan Ketakutan*, ed. Andi Widjananto (Jakarta: Pacivis, 2006), 176-177.

³³⁰ Usman Hamid and Edwin Partogi, “Mereformasi Negara Intel Orde Baru: Kasus Penembak Misterius Era 1981-an,” in *Negara, Intel dan Ketakutan*, ed. Andi Widjananto (Jakarta: Pacivis, 2006), 176-177.

³³¹ “Korban ‘Petrus’ 1982-1985 Capai 10 Ribu,” *Tempo*, June 11, 2012, accessed October 31, 2016, <https://mtempo.co/read/news/2012/07/24/078419026/korban-petrus-1982-1985-capai-10-ribu-orang>; Hatib Abdul Kadir Olong, *Tato* (Yogyakarta: LKIS, 2006), 253.

³³² G. Dwipayana, Ramadhan KH, *Soeharto: Pikiran, Ucapan dan Tindakan Saya* (Jakarta: Citra Lamtoro Gung Persada, 1989), 389-391; Bonnie Triyana, “Petrus Kisah Gelap Orba,” *Historia.id*, December 20, 2010, accessed October 31, 2016, <http://historia.id/modern/petrus-kisah-gelap-orba>

criminals.³³³ Through this gruesome action, the leaders of the operation hoped to reduce crime and maintain public order.³³⁴

In 1998, however, Indonesia entered the reformation period. During this period, the police were charged with implementing new tasks and duties, including gaining public respect and changing their militaristic image.³³⁵ The police reformed their agenda to better serve and protect the public and community.³³⁶ In this age of reformation, police were expected to respond with more emphasis on crime prevention role, maintaining law and order in the context of a modern democratic society.³³⁷ They knew that if they failed to do this, they would lose public support.³³⁸ Notably, association with the previous police regime became a disadvantage for officers as the public began to expect their police officers to have a civilian character not a military character.³³⁹ Because of the traumatic experiences the public faced during authoritarian regime, these expectations are strong.³⁴⁰

One of the key aspects of this transformation was the introduction of community policing. The Law No.2 Year 2002 on Indonesian Police introduces and defines the concept of community policing.³⁴¹ Community policing aims to establish the following.³⁴²

[A] partnership between the police and the community built upon a shared awareness to overcome problems that disrupt security and public order; moves toward the creation of a sense of security, order and peace; enhances the quality of the community's life.

³³³ *Ibid.*

³³⁴ *Ibid.*

³³⁵ International Crisis Group, *The Deadly Cost of Poor Policing*, Asia Report No. 218 (Brussel/Jakarta: ICG, 2012).

³³⁶ Hermawan Sulistyono and Tjuk Sugiarto, *Polmas Falsafah Baru Pemolisian* (Jakarta: Pensil-324, 2008), 18-25.

³³⁷ *Ibid.*

³³⁸ Crisis Group. "The Deadly Cost of Poor Policing."

³³⁹ Muradi, *Politics and Governance in Indonesia: The Police in the Era of Reformasi* (New York: Routledge, 2014), 35.

³⁴⁰ *Ibid.*, 67.

³⁴¹ Article 3 of Law No.2/2002 on Indonesia's National Police.

³⁴² Article 7 (1) Police Regulation (Peraturan Kapolri, *Perkap*) No.7/2008.

Commensurate with this effort, community policing has been mainstreamed to all police departments and has been integrated into many fields of police training.³⁴³ For example, in April 2008 there were a total of 100,000 police officers that had been trained on community policing and human rights.³⁴⁴ The majority of these trainings were delivered by police officers themselves.³⁴⁵

While the community policing concept was first introduced through the Indonesian Police Law in 2002, it was not implemented until 2005 with the adoption of the “Perpolisian Masyarakat” (POLMAS) program.³⁴⁶ The POLMAS was described in the Police Grand Strategy 2005-2025, in which police leadership drafted a three-stage strategy implementing security programs and supporting social order in society. The first stage, “Trust Building” (2005-2009), included the improvement of leadership and human resources.³⁴⁷ The second stage, “Partnership Building” (2010-2014), sought to develop cooperation and partnerships among community organizations, other government agencies, or community leaders to strengthen the function of law enforcement and to serve and protect public safety.³⁴⁸ Finally, the third stage, which continues today, “Striving for Excellence” (2015-2025), aims for capacity building, implementing good governance, and implementing technology.³⁴⁹

POLMAS is a part of a partnership building program, and it has become the bedrock for the police to measure how they implement the reform agenda. The spirit of POLMAS is to maximize police function, serve the community, to create a new image of the police as a civilian

³⁴³ Sulistyono and Sugiarto, “Polmas Falsafah Baru Pemolisian”,

³⁴⁴ Amnesty International, 62.

³⁴⁵ “International Organization for Migration (IOM)-Polri Cooperation,” *Newsletter* 1 (2008), 1.

³⁴⁶ To strengthen Polmas implementation, Police had issued Perkap No.7/2008 as the basic guideline and strategy of Polmas.

³⁴⁷ Sutrisno, *Sosiologi Kepolisian: Relasi Kuasa Polisi dengan Organisasi Masyarakat Sipil Pasca Orde Baru* (Jakarta: Pustaka Obor Indonesia, 2016), 101-102.

³⁴⁸ *Ibid.*

³⁴⁹ *Ibid.*

organization, and to adapt to the needs and social dynamics of the community.³⁵⁰ Under this new organization, Indonesian Police have been collaborating with community established Police-Community Partnership Forums (*Organisasi Forum Kemitraan Polisi dan Masyarakat/FKPM*) to support and develop the community policing strategy.³⁵¹ These partnerships consist of 10-20 members from the community and police officers, and these forums have been established in every district and sub-district level.³⁵²

Indonesian police have faced many challenges trying to implement community policing. Some police officers, community leaders and scholars have questioned whether the community policing model is even appropriate for the Indonesian context.³⁵³ The reformation and restructuring of policing in Indonesia, in general, is an ongoing process that to date has not been entirely successful.³⁵⁴ In fact, this effort has been consistently challenged or thwarted by cultural, structural, individual, financial, and educational barriers³⁵⁵

One of these structural barriers to successfully adopting community policing stems from the continuing need for more decentralization. As a policing model, community policing is meant to capitalize on the diversity of local policing activity; however, Indonesian police are highly centralized. While Indonesia is diverse, the centralized organization typology prevents local police from leading local efforts and effectively using their knowledge and relationships to shape local policing policy and approaches. This local knowledge is essential because people's

³⁵⁰ Sulistyono and Sugiarto, 1-4.

³⁵¹ Bambang Budiono, "Perpolisian Masyarakat dalam Konsep Habermas," *Masyarakat, Kebudayaan dan Politik* 24, no. 4 (2011), 319-323.

³⁵² *Ibid.*

³⁵³ A. Josias Simon R, "Paramilitary Policing in the Implementation of Police Department Tasks: The National Police of the Republic of Indonesia (POLRI)," *International Journal of Criminology and Sociology* 2, (2013): 519.

³⁵⁴ *Ibid.*

³⁵⁵ Crisis Group Asia Report, "The Deadly Cost of Poor Policing,"; Bambang Budiono, "Perpolisian Masyarakat dalam Konsep Habermas,"

needs vary from one region to another, with problems that stem from different characteristics and situations.³⁵⁶

The Informants in this study emphasized how this diversity inhibits their ability to perform community policing from a centralized model:

Implementing community policing under a centralized model is difficult, because the demography and the geography are different. The population from one area to another is also different. Each population has different characteristic. For example characteristic in industrial area will be different than other areas.³⁵⁷

Another informant offered an even more skeptical view, saying that this policing model is somehow just window dressing or lip service.³⁵⁸ The implementation of community policing relates to the culture of the police personnel and the police organization itself. Another phenomenon called “changing leader-changing policies”³⁵⁹ has also heavily impacted upon the development of the organization. Both continue to influence the unfolding role of POLRI,³⁶⁰ as described by the following informant:

Commanders have their own policy. When the old commander is replaced, the new commander will have a new policy. When the Kapolres or Kapolsek (head of district or sub-district police) is retired or replaced, the program is discontinued. The character of each commander is not the same. One may have a serious concern about performing the policing strategy, while the other one may think it is only a transition. One may think there is no need to perform as well as possible, because (community) policing is not a sexy issue.³⁶¹

In addition, another informant acknowledged that with this level of control exercised by the central offices, local police officers have little incentive to break with practices of the past.

³⁵⁶ also see Muradi. *Indonesia’s Police Force: Decentralisation for Better Welfare?* (Singapore: RSIS Rajaratnam, 2008); International Crisis Group, *Indonesia National Police Reform*, Asia Report no. 13 (Brussel/Jakarta: ICG, 2001).

³⁵⁷ Interview with X_N11, in Jakarta, November 26, 2014.

³⁵⁸ Interview with X_N04, in Jakarta, October 24, 2014.

³⁵⁹ Andrianus E. Meliala, “Sensitive Policing: Indonesia’s Case” (doctoral dissertation, University of Queensland, 2004),13.

³⁶⁰ *Ibid*, 13-14.

³⁶¹ Interview with X_N04, in Jakarta, 24 October 2014.

The police apparatus must change their mentality, manner, attitude and the culture. They need to change the autocrat mentality; the relation between police and society must balance.³⁶²

This difficulty restructuring policing in Indonesia has been further complicated and compounded by terror bombing attacks and other political disturbances in Indonesia. In responding to terrorism threats in Indonesia—like in any other country—there currently is a growing focus on proactive counter-terrorism that is aimed at preventing terrorism. Thus, this growing concern about promoting proactive counter-terrorism has resulted in early arrests to disrupt plots, thwarting terrorist plots before they expand too far, increasing the use of informers, or in the other words to be more intelligence-led approach. The police's proactive efforts to counter-terrorism are very vulnerable to work against the Police reform agenda to serve and gain public trust by employing community policing model.

As discussed in Chapter 2, there are several keys elements that indicate a police organization is adopting ILP philosophy for counter-terrorism policing, including considerable emphasis on information sharing, integrated intelligence structure, and close collaboration among different units or organizations at all levels. As such, before this dissertation turns to examining Indonesia's approach to ILP in Chapter 6, it first lays out the organizational structure of Indonesian agencies in charge for counter-terrorism tasks. In the next subsection, it traces the switch from an authoritarian regime into a democratic era, including the re-organization of institutions responsible for handling terrorism.

C. Indonesian Counter-Terrorism Policing

1. Complexity Of Relationship Between Police And Military

³⁶² Interview with X_N07, in Jakarta, 2 November 2014.

Indonesian law defines terrorism as a criminal activity.³⁶³ As a consequence, civilian law enforcement agencies, particularly the police, are responsible for handling terrorism,³⁶⁴ and Counter-Terrorism Law (CTL) serves as the basis for police operations to this effect. The law gives the police a leading role in this effort, assigning the military as backup.³⁶⁵ The Constitution itself states that under the Article 30 section 3-4 that "... (3) TNI, consisting of the Army, Navy and Air Force, as an instrument of the state has the duty to defend, protect, and maintain the integrity and sovereignty of the state." It also states that "POLRI, as an instrument of the state that maintains public order and security, has the duty to protect, guard, and serve the people, and to uphold the law."³⁶⁶ This basic division is very complex in practice, and it involves interpretation and application of numerous provisions in the Constitution and the codes.³⁶⁷

The separation of the police and the TNI, highlights the development of Indonesian security sector reform. The legal basis was provided by the MPR (people representative assembly) through MPR Decree (TAP MPR) VI and VII of 2000³⁶⁸. TAP MPR No. VI/2000 mandates the separation of the police from the military, while TAP MPR VII/2000 sets out the Role of the TNI and Polri. The TAP MPR VII defines and re-confirms that the military's principal task is to

³⁶³ See the discussion on Chapter 3 concerning to the evolution of counter-terrorism related legislations.

³⁶⁴ It refers to Article 25 of CTL (see the discussion in Chapter 3).

³⁶⁵ Articles 26-35 of CTL stipulate the specific procedure to conduct investigation, prosecution and trial of a terrorism case. These articles imply that the task to conduct investigation and prosecution is under the responsibility of the police.

³⁶⁶ The 2nd amendment of 1945 Constitution added provisions which written under Article 30 section 3-4. It stated that "(3) TNI, consisting of the Army, Navy and Air Force, as an instrument of the state has the duty to defend, protects, and maintains the integrity and sovereignty of the state. (4) POLRI, as an instrument of the state that maintains public order and security, has the duty to protect, guard, and serve the people, and to uphold the law."

³⁶⁷ These provisions include, for example, the 1945 Constitution; the MPR Decree No. V, VI, VII of 2000; Law No. 2/2002 on Indonesia's National Police Law; Law No. 3/2002 on National Defense; Law No.15/2003 on CTL; Law No. 17/2004 on National Military Law; Law No. 17/2011 on State Intelligence; and Law No. 7/2012 on Social Conflict.

³⁶⁸ Article 1 of the Decree states the separation between the military and polri. As the following "The Armed Forces (TNI) and the Police (POLRI) as institutions shall be separated and each organization shall have its own role and functions". Furthermore, Article 2 (1) asserted the task of each institutions "TNI shall be the agency of the state that is responsible for national defense. (2) POLRI shall be the agency of the state that is responsible for maintaining security. (3) Should any overlap arise between defense and security issues, TNI and POLRI must cooperate and assist each other"

uphold national sovereignty, defend the boundaries of the unitary of the state, and protect all Indonesians from threats and disturbances to the unity of the people and the country. The Decree further stipulates that “TNI is also charged with assisting Polri *on request* regarding internal security tasks [author’s emphasis added]; in turn, Polri is required to assist the TNI on other requests regarding defense emergencies.”³⁶⁹ In short, the TAP MPR VII stipulates that the internal security function is assigned to the police, while the military is assigned to the defense.

Further, at the operational level the Indonesian National security systems are divided into sub-system, they are the national defense system and domestic security system. Both systems are governed under the Law No.3/2002 of State Defense, the Law No.2/2002 of National Police, respectively. According to the National Police Act, the police are an instrument of the state for guarding public security and order, and they are tasked to protect, guide, and serve the public as well as uphold the law. It also clearly stipulates that the police are a civilian force responsible for internal security matters.

The role and position of Polri as an institution focused on internal security is described in Law No. 2 of 2002, Articles 2, 4, and 5. Article 2 clarifies that policing is one of the functions of the national government in matters of maintaining community security and order, law enforcement, protection, shelter, and service to the community. Article 4 confirms that Polri's objective is to effect internal security with high regard for human rights, including maintenance of community security and order, law enforcement, providing protection, shelter and service to the community, and cultivation of tranquility. Article 5 reaffirms Polri's role as an instrument of the state, tasked with maintaining community security and order, upholding the law and providing protection, shelter, and service to the community within the framework of maintenance of internal security in a civilian policing culture.

³⁶⁹ It refers to Article 4 (2) and (1) of MPR Decree VII/2000.

Meanwhile, based on the State Defense Act, the TNI is “a defence instrument of the unitary Republic Indonesia” (Article 10). The Act stipulates the function of the military, which consists of four main functions: to uphold national sovereignty and maintain the state’s territorial integrity; to safeguard the safety of the people and the nation; to undertake military operation other than war; and to participate actively in international and regional peace-keeping missions.

Between TNI and POLRI, it is less clear which organization has more authority over disaster management, handling separatist groups, and terrorism.³⁷⁰ And the complexity was compounded by the advent of Law No. 34 of 2004 of TNI Law. While the military played a dominant role in Indonesia’s political sphere during the authoritarian Suharto regime (1965-1998),³⁷¹ in 2000 the police functions were integrated into the military apparatus and a separate police institution was set up³⁷² independently from the military.³⁷³ After this division, the police were tasked with addressing internal threats of terrorism, communal violence, and separatist conflicts, while the military concentrated on defending the country from external forces.³⁷⁴ But because the military has also been tasked with fighting terrorism, this clear division has become marred, and both agencies have ended up responding to terrorist activities within the borders of the country. Specifically, the legitimate foundation for involvement of the TNI in counter-terrorism is Law No. 3/2002 on National Defense Law and Law No. 34/2004 on the National Military Act (TNI Law).

³⁷⁰ M.Riefqi Muna, *Grey Areas, Kewenangan dan Peran Politik Elit* (Jakarta:ProPatria Institute, 2002).

³⁷¹ See Adrian Vickers, *A History of Modern Indonesia* (Cambridge: Cambridge University Press, 2005),142-168.

³⁷² The People Consultative Assembly (*Majelis Permusyawaratan Rakyat*, MPR) approved MPR Decree VI/2000 on the Separation of the TNI and the Police of the Republic Indonesia. As the follow up of the separation the government enacted Indonesian National Police Law in 2002.

³⁷³ For further reading of the role of military in Indonesia See Angel Rabasa and John Haseman. 2002, *The Military and Democracy in Indonesia* (California: RAND,2002), 35-50; Ikrar Nusa Bhakti, Sri Yanuarti and Mochamad Nurhasim, “Military Politics, Ethnicity and Conflict in Indonesia” (Crise Working Paper, January 2009).

³⁷⁴ Jennifer Yang Hui, *Counter-Terrorism in Indonesia: Enter the TNI’s Task Force*, RSIS Commentaries no. 182 (Singapore: Nanyang Technological University, 2013).

The counterterrorism role of the Police is part of their broader duties for conducting law enforcement (Article 2 of Police Law) and consistent with the mandate of CTL. Similarly, the role of TNI in counter-terrorism is a part of the TNI's duty to conduct military operations other than war. Article 7 of TNI Law delineates the mission of the military into fourteen different functions of military operations other than war, functions that include the following:

- Overcoming armed rebellion and separatist movements;
- Overcoming terrorist actions;
- Safeguarding Indonesia's borders;
- Securing strategic installations;
- Protecting the president and vice presidents and their families;
- Assisting with local governance;
- Assisting the police in maintaining the law and order;
- Assisting with disasters and with search and rescue operations; and
- Helping the government guard against hijacking, piracy and smuggling.³⁷⁵

The provisions regarding to the military role in conducting military operations other than war is consistent with The National Defense Law. As stated under Article 10, the military must implement the national defense policy, and, among other duties, it must perform military operations other than war. In addition, Law No.7/2012 on the Handling of the Social Conflict added a legal basis for the deploying military forces in the field of security and order (Article 33-35). Unfortunately, none of these laws provides the distribution of authority for each agency with respect to addressing terrorism. Due to the lack of clarity in these laws, authority over issues related to national defense remain unsettled; for example, it is not clear how the TNI might be employed for internal security matters, by whom, or under what kinds of mechanisms. Supporting legislation is still needed—legislation regarding how TNI should be used in internal security affairs or under related laws such as the emergency law.

³⁷⁵ It refers to Article 7 section 2 (b).

As explained above, the laws do still grant a role for the TNI to handle terrorism threats, since terrorism is included in the definitions for “internal security problem” and “national defense.”³⁷⁶ The involvement of TNI is seen as necessary, in particular, when it deals with armed militia groups and organized groups that are linked to international networks. Moreover, as explained in the Defense White Paper 2008,³⁷⁷ if terrorism were not handled properly, the threat of terrorism would become a national security issue, threatening the public order, the sovereignty of the State, the integrity of the territory, and the safety of the nation. As such, TNI has become responsible for handling terrorism.³⁷⁸ In this sense, there is a gray area that makes military involvement a possibility, in particular, when national defense issues are connected to the emergence of security threats from non-state actors, including terrorism and communal conflicts.³⁷⁹

The discussion above has explained how military operations other than war (among other issues) contribute to the complex relationship between the police and the military. The debate over the costs and benefits of military involvement in fighting terrorism continues to the present day. There is a pervasive fear among Indonesian citizens that through the TNI, a military agenda and approach will once again dominate the political system, as well as policing matters in civilian communities. As such, TNI involvement may trigger and create public unrest regarding the progress of the democratic process in Indonesia.

³⁷⁶ International Crisis Group, *Indonesia: Rethinking Internal Security Strategy*, Asia Report No. 90 (Brussel/Jakarta: ICG Asia, 2004).

³⁷⁷ Departemen Pertahanan, *Buku Putih Pertahanan Indonesia 2008* (Jakarta: Departemen Pertahanan 2008).

³⁷⁸ International Crisis Group, *Indonesia: Rethinking Internal Security Strategy*, 25.

³⁷⁹ Sarah Nuraini Siregar, “Relasi Polri-TNI dalam Penanganan Terorisme Era Megawati” *Widyaiset Kapita Selekt* 9 Ed.khusus, (2006): 265-274 ; Rizal Sukma, Eddy Prasetyono, “Security Sector Reform in Indonesia: The Military and The Police” (Working Paper 9, Netherlands Institute of International Relations ‘Clingendael’ Conflict Research Unit, 2003)

In addition to competition over jurisdiction in security operations, police and military officers often have physical clashes at the ground level.³⁸⁰ For example, dozens of soldiers stormed and set fire to the Ogan Komering Ulu Police station in South Sumatra.³⁸¹ Such scuffles illustrate the fierce rivalry between the two groups and the high sentiments evoked by it among members of both institutions. Thus, in practice and at operational stage, the mixing of the military with police forces in the fight against terrorism may lead to conflicts among the anti-terror units. Until now, there has been no clear mechanism, operational procedures and review systems for the deployment of military in the framework of assisting and supporting police forces in CT operations. In addition, conflicts may occur due to the absence of detailed rules for the military's involvement in operations other than conducting war, as well as a lack of clarity caused by the overlapping of duties.³⁸²

Both TNI and the Police have had the same legitimate role to handle counter-terrorism, and they both have their own special forces for anti-terror operations. Detachment 88 (Densus 88)³⁸³

³⁸⁰ Jenifer Yang Hui, "Counter-Terrorism in Indonesia: Enter TNI's Task Force," *Jakartapost.com*, October 13, 2013, accessed May 19, 2017, <https://www.pressreader.com/indonesia/the-jakarta-post/20131013/281590943289358>; Slamet Riadi, "Konflik TNI-Polri Karena Kecemburuan Sosial," *sindonews.com*, April 23, 2012, accessed May 19, 2017, <https://nasional.sindonews.com/read/616652/14/konflik-tni-polri-karena-kecemburuan-sosial-1335161246>; Imparsial, "Implikasi Perang Melawan Terorisme Terhadap Penegakan HAM di Indonesia: Laporan Monitoring Koalisi untuk Kesejahteraan Masyarakat Sipil 2002-2009" (Imparsial, 2009), 25; Cristie Stefanie, "Bentrok TNI-Polisi, Bang Yos: Kecemburuan Sosial Sumber Konflik TNI-Polisi," *cnn.com*, November 21, 2014, accessed May 19, 2017, <http://www.cnnindonesia.com/nasional/20141121003446-20-12891/bang-yos-kecemburuan-sosial-sumber-konflik-tni-polisi/>; "President Jokowi: Stop the Conflict between TNI and National Police," *setkab.go.id*, July 26, 2016, accessed May 19, 2017, <http://setkab.go.id/en/president-jokowi-stop-the-conflict-between-tni-and-national-police/>.

³⁸¹ "Ini Kronologi Penyerangan TNI AD ke Mapolres OKU," *tempo.co*, March 7, 2013 accessed May 19, 2017, <https://m.tempo.co/read/news/2013/03/07/063465666/ini-kronologi-penyerangan-tni-ad-ke-mapolres-oku> ; Randi Ferdi Firdaus, " Ini Kronologi TNI Satu Kompi Serang Polisi di Karawang," *merdeka.com*, November 19, 2013, accessed May 19, 2017 <https://www.merdeka.com/peristiwa/ini-kronologi-tni-satu-kompi-serang-polisi-di-karawang.html>.

³⁸² Beni Sukadis, *Almanac on Indonesian Security Sector Reform* (Jakarta: Indonesian Institute for Strategic and Defence Studies (LESPERSSI) and Geneva Centre for the Democratic Control of Armed Forces, 2007); See also "Military Role in Terror Fights 'Needs Rules,'" *Jakarta Post*, October 4, 2010 accessed October 31, 2016, [http://www.asia-pacific-solidarity.net/southeastasia/indonesia/netnews/2010/ind37v14.htm#Military role in terror fight 'needs rules'](http://www.asia-pacific-solidarity.net/southeastasia/indonesia/netnews/2010/ind37v14.htm#Military%20role%20in%20terror%20fight%20'needs%20rules')

³⁸³ Densus 88 AT Police was established as part of a response to the growing threat of terror organizations that are part of the Al Qaeda network, namely, Jama'ah Islamiyah (JI). In its establishment Densus 88 received funding

is a special police force focusing on all forms of terror, terror that poses an imminent threat to public safety and order, as well as to internal security. Meanwhile, the military has four units of anti-terror elite forces: Detachment 81 /Dengultor Kopassus (*Komando Pasukan Khusus*), Detachment Jala Mangkara (Denjaka) and Detachment Bravo (Denbravo). In recent developments, the newly appointed TNI Chief, General Moeldoko, put forward the military's plan to establish a counterterror taskforce. The new unit will be assembled from troops with relevant skills for special operations on ground, sea and air, and each respective division of the armed services will retain command of these soldiers during peacetime.³⁸⁴

This kind of overlap between the police and the military has led to rivalry and lack of communication, among other problems. Specifically, anti-terror units have parallel duties and roles, particularly when they share similar qualifications, like intelligence and counter-intelligence qualifications. For instance, Dengultor Kopassus/Detachment 88 and Denbravo (Air force) are both qualified to respond to the hijack of an airplane.³⁸⁵

Problems related to collaboration and cooperation not only occur between police and military, but also appear to occur within the police organization itself. Since the police have more than one unit qualified for anti-terror operations, one may expect rivalry and “jealousy”

mainly from Australian and American government, under anti-terror assistance program to support the initiative which was in response to the 2002 Bali bombings. In addition to providing funding for the unit, both government has trained its personnel, drawing on the resources of various agencies, for further reading see A.S.M.A Ashraf, “The Five Pivotal Muslim Nations: The Critical Role” in *Intelligence Cooperation Practices in the 21st Century: Towards a Culture of Sharing*, Musa Tuzuner (Amsterdam: IOS Press, 2010), 87; Muradi, “The 88th Densus AT: The Role and the Problem of Coordination on Counter-Terrorism in Indonesia ” *Journal of Politics and Law* 2, no. 3 (2009), 86; V. Arianti, “Indonesia” in *Handbook of Terrorism in the Asia-Pacific*, eds. Rohan Gunaratna and Stefanie Kam (London: Imperial College Press, 2016), 45.

³⁸⁴ Iisgindarsah, “Indonesia’s Struggle Against Terrorism,” *Council of Councils*, April 11, 2014, accessed October 31, 2016, http://www.cfr.org/councilofcouncils/global_memos/p32772; <http://thediplomat.com/2015/06/the-trouble-with-indonesias-new-counterterrorism-command/>.

³⁸⁵ For further discussion on coordination of anti-terror units see Muradi, “The 88th Densus AT: The Role and the Problem of Coordination on Counter-Terrorism in Indonesia ” *Journal of Politics and Law* 2, no. 3 (2009), 89.

among them.³⁸⁶ Overlap of authority within the police organization itself may also occur since Densus 88, the primary anti-terror unit, is charged with fighting terrorism and separatism, but it must do so in cooperation with the paramilitary unit, Mobile Brigade (*Brigade Mobil*, BRIMOB),³⁸⁷ a division of the police.

Prior to 2002, before the establishment of Densus 88, Polri had three Anti-Terror Units, namely, Detachment C Resimen Gegana BRIMOB, Task Force Bomb Polri (Satgas Bom Polri),³⁸⁸ Unit Directorate VI Anti-Terror.³⁸⁹ And before the establishment of Densus 88, BRIMOB is the main resource and expert in counter-terrorism.³⁹⁰ After the establishment of Densus 88, Detachment C Resimen Gegana BRIMOB remained; however, Detachment C is considered inadequate for responding to various threats from terrorist organizations post 9/11.³⁹¹ With more than one of actors and having similar tasks to handle terrorism, it may trigger the difficulty for coordination and potential for having some frictions in the fields, because until now there is no national security law that regulates job description between those security

³⁸⁶ A recent example was a clash between members of the TNI and police in Karawang, West Java in November 2013, when several police members got injured, and one police station broken down and two officers vehicles ruined, read further at Tika Primandari and Erick P. Hardi, "Ini Kronologi Bentrok TNI-Brimob di Karawang," *Tempo.co*, November 20, 2013, accessed October 31, 2016 <https://m.tempco.co/read/news/2013/11/20/058530953/ini-kronologi-bentrok-tni-brimob-di-karawang>.

³⁸⁷ BRIMOB is trained as a paramilitary organization and organized in military lines. It has 12,000 forces. The forces were also trained for airborne operations. It is used particularly as an elite corps for emergencies, supporting in police operations at times when quick and immediate action is needed. Next to that, it employs in domestic security and defense, also assigned in tackling special riots. Historically Mobile Brigade is one of the oldest units. It was established in late 1945. The tasks were originally to disarm the Japanese Army and to protect head of the state and the capital city. In 1969 and 1970 it also took part in military confrontation with Malaysia and the occupation of East Timor. In its development BRIMOB has four detachments that are responsible for intelligence, bomb disposal, take-down operations and training.

³⁸⁸ The Task Force Bomb Polri was established in response to the rapid escalation of bombings threats in the early reformation. This task force is a temporary police team specialized to investigate the 2001 Christmas bombing and continued with the tasks related to other bomb threats. This Task Force is under the Criminal Investigation Agency (*Badan Reserse dan Kriminal*, Bareskrim) Police Headquarters.

³⁸⁹ This directorate has the same function and assignments as those performed by the Task Force Bomb Polri. In responding to the dynamic of terror threats the Police Headquarters eventually reorganized the Directorate of Anti-Terror VI. Then, the Chief of Police published Skep No. 30 / VI / 2003 dated June 20, 2003 marked the establishment of the Special Detachment 88 Anti-Terror Police (Densus 88).

³⁹⁰ Muradi, "The 88th Densus AT", 89.

³⁹¹ *Ibid.*

actors.³⁹² The discussion of Indonesia's major statutory laws related to the security sectors as mentioned above, and shows that the laws separated and differentiated into roles of each of the two forces (the military and the police). Yet the statutory laws have not specifically determined, nor have they clearly defined, where the boundary lies between them.³⁹³ In addition, the "borderline" between internal and external security has never been clearly drawn in Indonesia.³⁹⁴

In the decade after the 'Reformasi' period, the years after 1998 when Indonesia made its transition from dictatorship to democracy, the statutes governing military and police tasks and functions became complicated by the overlap in duties that began to develop through the reform process; as a result of this confusion, rivalry increased between the military and the police, each viewing its own agency as having more authority to respond to terrorism. This confusion is understandable given the lack of clarity over the jurisdiction of the military anti-terror unit, where a reasonable interpretation would allow both agencies to assume jurisdiction that overlaps with that of the other.

Because the statute is vague about the separation of responsibilities between military and police, these entities tend to perceive that they have overlapping duties and responsibilities, yet they have different approaches to achieving national security. As such, attempts to encourage coordination and collaboration may be futile since the law itself is unclear; thus it may justify the rivalry and competition overshadowing the need to cooperate and share information.

³⁹² *Ibid.*

³⁹³ M. Riefqi Muna, "Grey Areas, Kewenangan dan Peran Politik Elit" (Jakarta Pro Patria Institute, 2002).

³⁹⁴ International Crisis Group, Rethinking Internal Security Strategy, 1-2.

Table 2: Counter Terrorism unit within the TNI and Police

Actor	Legal Powers	Capability	Organizational Make	Position within CT
Densus 88	The Head of Intelligence, Indonesian Police Decree No. Skep/756/X/2003	bomb disposal, take-down operations and training	Anti-terror squad under the structure of Polri	Focusing on all forms of bombing terror, which is posing imminent threat to public safety and order, domestic security. conducting investigations, enforcement, and intelligence processes.
Brimob (Detachment C)	The Head of Intelligence, Indonesian Police Decree No. Skep 53/X/2002	bomb disposal, take-down operations and training	Anti-terror squad under the structure of Polri	focusing to all forms of terror through bombing which is posing imminent threat to public safety and order, domestic security.

conducting investigations, enforcement, and intelligence processes.

Gultor/Kopassus/ Detachment 81	The Decree of the Chief of Indonesian Military No. Skep/2848/XI/1982. It tasks	Highly trained in intelligence, detection and tactical counter-terrorist (specializing to city combat), air-hijack, and counter-intelligence.	Anti-terror squad under the structure of Army Special Forces Command. sovereignty	Focus on the terror acts in border area, high-intensity separatism, and terrorism acts posing threats to state sovereignty
Denjaka	Head of Army Decree Keputusan Kasal Skep/722/IV/1985)	trains for raids against such maritime targets as offshore oil platforms, docks and harbor targets and ships that have been seized by terrorists.	Anti-terror squad under the Navy.	anti-sea piracy, terror acts on sea, sabotage and counter-intelligence
Denbravo		City/forest combat, intelligence, counter-terrorism	Anti-terror squad under the air force	air-hijack, counter-intelligence

2. The Relationship Between Security Intelligence Services And National Police Intelligence

In addition to armed forces and police forces, the intelligence agencies constitute the third pillar of Indonesia's security apparatus.³⁹⁵ Over the years of Soeharto rule, the intelligent bodies and agencies were established.³⁹⁶ Under the Soeharto regime, Badan Intelijen Strategis (BAIS), as the military intelligence agency, was the most influential intelligence agency, responsible for both military and foreign intelligence.³⁹⁷ BAIS reports to TNI headquarters (*Markas Besar TNI*, Mabas TNI) and the Commander in chief (*Panglima TNI*) determines which intelligence will be passed to the President.³⁹⁸ With these responsibilities, it was closely tied to Suharto's power structure.³⁹⁹

Through the Indonesian Military (*Tentara Nasional Indonesia*, TNI), BAIS exercised extensive vertical authority and regularly sidestepped the operational and administrative chain of command.⁴⁰⁰ Meanwhile, The State Intelligence Coordinator Agency (*Badan Koordinasi Intelijen Negara*, BAKIN) also played important role in the structure of intelligence agencies. BAKIN reported directly to the President in his capacity as Supreme Commander of the TNI, Head of State and Chief of the cabinet of ministers. The personnel from both BAIS and BAKIN staffed the agency for the Coordination of Support for National Stability Development

⁷⁹ Angel Rabasa and John Haseaman, *The Military and Democracy in Indonesia: Challenge, Politics and Power* (California: RANDS, 2003), 31; Ingo W, "Indonesia's New Intelligence Agency How? Why and What for?" *Watch Indonesia.org.*, November 1, 2000, accessed October 31, 2016, <http://www.watchindonesia.org/11776/indonesias-new-intelligence-agency-how-why-and-what-for?lang=en>

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

⁸² Crisis Group Asia Report, "Indonesia: Rethinking Internal Security Strategy."; Donald Greenlees, Unfinished Business: Reform of the Security Sector in Democratic Indonesia, *Security Challenges* 7, no. 3 (2011):5-22; Rizal Sukma, Eddy Prasetyono. Security Sector Reform in Indonesia: The Military and The Police.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

(BAKORSTANAS),⁴⁰¹ which was tasked with keeping track of any political threat to the regime.⁴⁰² In addition to the purely military intelligence organizations (BAIS and BAKIN), Indonesia has intelligence services within the police, foreign department, department of justice the general prosecutor and customs.

The people of Indonesia were greatly traumatized by widespread abuses of human rights by the military and intelligence services during the authoritarian regime in the New Order era (1965 – 1998).⁴⁰³ As such, the general public is highly suspicious of any sign that military and intelligence services are taking on a more dominant role.⁴⁰⁴ This political climate affects and explains the differences of opinions by the public, as well as by the policy makers, when it comes to intelligence services and police services.

After Suharto's regime, there were several, gradual attempts to reform and change the intelligence structure. For example, President B.J. Habibie (1998-1999) revoked the 1963 Anti-Subversion Law,⁴⁰⁵ the main legal tool for suppression of dissent. During President B.J.'s presidency, he empowered BAIS by giving it additional directorates with which to quell the spreading unrest.⁴⁰⁶ Later, President Abdurrahman Wahid (1999-2001) sought to restrict the military, viewing the national intelligence service as a counterweight. He changed BAKIN's name to BIN,⁴⁰⁷ attempting to strengthen its operational and strategic intelligence capabilities. The purpose of BIN was to outperform BAIS.⁴⁰⁸ In his period, the new intelligence wing for the

⁸⁵ International Crisis Group, *Indonesia Mengendalikan Militer*, Crisis Group Asia Report no.9 (Brussel/Jakarta: ICG, 2000)

⁸⁶ *Ibid.*

⁸⁷ Vickers, *A History of Modern Indonesia* 142-168.

⁸⁸ Andi Widjajanto, ed, *Menguak Tabir Hitam Intelijen Indonesia* (Jakarta: Pacivis. 2010), 45-46.

⁸⁹ See the discussion of Anti-Subversive Law in Chapter 3.

⁹⁰ Sidney Jones, "Terrorism, Nationalism and Disillusionment with Reform" in *Business in Indonesia: New Challenges, Old Problems*, eds. M. Chatib Basri and Pierre van der Eng (Pasir Panjang-Singapore: ISEAS, 2004),

⁹¹ International Crisis Group, *Indonesia: Debate over a New Intelligence Bill*, Crisis Group Asia Briefing no.124 (Brussel/Jakarta: ICG, 2011).

⁹² *Ibid.*

police was established and developed, a wing called the Security Intelligence Body (*Badan Intelijen Keamanan*, BAINTELKAM).⁴⁰⁹

Then the Bali bombings of October 12, 2002, led to a fundamental shift in the balance of power among the intelligence agencies. They took place during President Megawati leadership (2001-2004), during which time she broadened police powers to apprehend and detain suspected terrorists, furthering the process that had begun in 1999—a process that made the police rather than the military the lead agency in internal security. These powers were set out in the Counter-Terrorism Law-Terrorism (CTL).⁴¹⁰ She ordered BIN to take charge of coordinating all intelligence activities, including the military.⁴¹¹ Moreover, shortly after the Bali Bombings, a new police counter-terrorism unit, Special Detachment 88 (Densus 88), was created, which together with a unit known as the “Bomb Team,” soon developed in-depth knowledge of violent extremist networks, surpassing the knowledge held by BIN.⁴¹²

Despite attempts by Suharto’s successors, the substantial effort to reform the intelligence agency has remained unfinished or unresolved. Debate over intelligence reform resurfaced in 2011 when the law on intelligence was ratified by the executive and legislative branches during the second term of President Susilo Bambang Yudhoyono (2004-2009 and 2009-2014)⁴¹³ A coalition group advocating for Indonesian Intelligence Law, consisting of Indonesian non-governmental organizations such as *Lembaga Studi dan Advokasi Masyarakat* (Elsam), *Perkumpulan Inisiatif Masyarakat Partisipatif untuk Transisi Berkeadilan* (Imparsial),

⁹³ Presidential Decree no. 54/2001 on the Organisation and Work Flow of the Indonesian Police.

⁴¹⁰ Article 25, 28 of CTL

⁹⁵ Presidential Instructions no. 4 and 5 of 2002 to the Coordinating Minister of Politics and Security Affairs and the BIN chief

⁹⁶ International Crisis Group, *Indonesia Debate over New Intelligence Bill*, Crisis Group Asia Briefing no.124, (Brussel/Jakarta: ICG, 2011).

⁹⁷ *Ibid.* ; Human Rights Watch, *Indonesia’s Draft Law on Intelligence: A Threat to the Nation?*, Human Rights Watch Briefing Paper, 2005.

*Yayasan Lembaga Bantuan Hukum (YLBHI)*⁴¹⁴ was dissatisfied and later challenged the law on intelligence to the Constitutional Court.⁴¹⁵ It argued that the law opened up windows of opportunity for abuses of power, and it violated the privacy rights of citizens, particularly those set out in Article 28 C(1), D (1), E (1) and 28F of the Constitution.⁴¹⁶ Specifically, the group of Indonesian non-governmental disagreed with the definition of “threat” as described in Article 1, arguing that it was too broad, allowing for any justification to suppress any critics of or opposition to the government, stating that a “threat is any effort, work, event and act, both from domestic as well as abroad, that is perceived and/or can be proven as endangering the security, sovereignty and territorial integrity of the state.” This provision had allegedly contradicted to the Article 1 Paragraph (3) which guaranteed “The State of Indonesia shall be a state based on the rule of law.” The provision has also allegedly contradicted to Article 28D Paragraph (1) of the 1945 Constitution that stated “ [e]very person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law.” They argued that the provisions in Article 1 of Intelligence Law have given rise to a number of loose definitions concerning threats, security, national interests, and adversaries. The Article 1 may be potentially to be misused by the state intelligence service or the interests of the ruling power or

⁹⁸ “16 Pasal Bermasalah UU Intelijen”, *elsam.or.id*, accessed October 31, 2016, <http://lama.elsam.or.id/mobileweb/article.php?id=1721&lang=in>

⁹⁹ Press Release Koalisi Advokasi UU Intelijen Negara, “UU Intelijen Negara Mengancam dan Membatasi Hak Konstitusional Warga Negara,” *elsam.or.id*, January 5 2012 accessed October, 31, 2016 <http://lama.elsam.or.id/mobileweb/article.php?id=1719&lang=in>

¹⁰⁰ The Article 28C (1) guarantees that every person shall have the right to develop him/herself through the fulfilment of his/her basic needs, the right to get education and to benefit from science and technology, arts and culture, for the purpose; 28D(1) guarantees the right to every person to have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law; 28E (1) every person shall be free to choose and to practice the religion of his/her choice, to choose one's education, to choose one's employment, to choose one's citizenship, and to choose one's place of residence within the state territory, to leave it and to subsequently return to it.; 28F every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.

government, to carry out repressive measures against citizens or groups that do not support the interests of the ruling power.

Later, the Constitutional Court rejected the entire petitions of the applicants.⁴¹⁷ Regarding the petitioners' arguments, they challenged the definitions, abbreviations, and other things that are commonly used as the basis or foundation for the later chapters of the Law on Intelligence. The Court concluded that the definitions were explicitly separate in the Law on Intelligence, and the petitioners' arguments were unreasonable and improper because the construction of such provisions should have provided clear direction on what is meant by the "threat."⁴¹⁸ The petitioners' request that the threat definitions be explained in rigid terms was deemed unreasonable, in large part, because a rigid interpretation would limit the reach of intelligence works, inhibiting their ability to perform their duties and authorities.⁴¹⁹

Overall, the public viewed the enactment of the BIN Law as a significant step toward encouraging intelligence reform, especially in light of public opinion about the past human and civil rights violations and the perceived incompetence and ineffectiveness intelligence agencies in handling national security threats, for example, the joint meetings between BIN and the Parliament represented a significant step in enhancing democratic control of the intelligence sector in Indonesia.⁴²⁰ Furthermore, another promising step has been the designation of the current President Joko Widodo (2014-now), who was just appointed to be head of BIN, taking

¹⁰¹ "MK Tolak Judicial Review UU Intelijen Negara," *mahkamahkonstitusi.go.id*, accessed October 31, 2016 <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=7616#.WCaBXfl97IU>.

⁴¹⁸ Wardah Fathiyah. "Mahkamah Konstitusi Tolak Permohonan Uji Materi UU Intelijen." *Voaindonesia.com*, October 11, 2012, accessed May 19, 2017, <http://www.voaindonesia.com/a/mahkamah-konstitusi-tolak-permohonan-uji-materi-uu-intelijen/1524390.html>.

¹⁰³ *Ibid.*

¹⁰⁴ Freiderich Ebert Stiftung, "Overview of the Intelligence Sector in Indonesia From Military Domination to Political Control," (Background Paper, Study Visit on "Democratic Oversight of the Intelligence Sector in Germany", Berlin, 2008) <http://www.fes.or.id/fes/download/Background%20Paper%20Intelligence%20in%20Indonesia.pdf>; Arfi Bambani Amri, Bayu Galih, "BIN Minta Peran Koordinator Intelijen Negara", *viva.co.id*, January 26, 2011, accessed October 31, 2016 <http://politik.news.viva.co.id/news/read/201475-bin-minta-peran-koordinator-intelijen-negara>.

the position of former police commander.⁴²¹ This step illustrated the President's serious effort to reform the intelligence agency, to show the their civilian character, since previously the head of BIN was appointed out of the pool of high ranking senior military officers.⁴²²

To analyze whether the defined and separated role has been clearly drawn in the BIN Law, the next section of this chapter focuses on the key provisions, particularly the stipulations that relate to the role of each intelligence agency in counter-terrorism.

The BIN law designates BIN as the coordinator of intelligence gathering activity (Article 28). It allows the intelligence agency, BIN, to conduct secret interrogations, for the purpose of gathering information, wiretapping, and tracking the movement of money for any activities related to terrorism, separatism, espionage, and sabotage, activities that threaten safety, security, and national sovereignty, including gathering information from those that are undergoing the legal process (Article 30-31). The coordinator agency, BIN, collects the necessary information from the intelligence community; however, the Law does not allow BIN to have arrest and detention powers in digging information (Article 34). Article 28, 29, and 38 empowers the BIN Director to form, lead, and implement intelligence activities, including directing members of the "intelligence community." Article 39-40 authorized BIN to lead at the national and departmental level of government intelligence in an intelligence community "forum" and reinstate BIN's authority to "coordinate and direct" (*mengkoordinasikan dan mengarahkan*) activities conducted by members of the intelligence community.

¹⁰⁵ Kristian Erdianto, "Penunjukan Budi Gunawan dinilai sejalan dengan reformasi intelijen," *kompas.com*, September 2, 2016 accessed October 31, 2016 <http://megapolitan.kompas.com/read/2016/09/02/15083171/penunjukan.budi.gunawan.dinilai.sejalan.dengan.upaya.reformasi.intelijen>.

¹⁰⁶ The first civilian of the head of the BIN was appointed in 2009, but he was immediately replaced by another military head soon after the enactment of the BIN Law in 2011.

Based on the BIN Law, there are five government actors in the intelligence community (Article 9). These actors include BIN, military intelligence, police intelligence, the attorney general's intelligence, a specialized intelligence unit housed in one of the government's ministries, such as the director general of immigration or the director general of customs. Table 2 gives a complete overview of the function of each of these five government actors in the intelligence community.

Table 3. Intelligence Agencies in Indonesia

Actor	Capability	Position within CT	Legal Basis
<i>Badan Intelijen Negara</i> , BIN	foreign and domestic intelligence	coordinating the work of all intelligence services, and it reports directly to the President.	The BIN Law [Art 6, 28] President Regulation No. 90 Year 2012 [Art.1(1)]
Military Intelligence: - <i>Badan Intelijen Strategis</i> , BAIS	foreign and domestic intelligence; defense/military and strategic intelligence	The functions of military intelligence are carried out through strategic intelligence efforts, work, and activities. TNI military intelligence also develops strategic intelligence to support the main duties of the TNI.	The BIN Law [Art 11] Presidential Regulation No. 10 Year 2009

National Police (POLRI)		BAINTELKAM focused on community	The BIN Law [Art
Intelligence	domestic intelligence;	supervision (<i>pengawasan aliran</i>	12]
<i>Badan Intelijen Keamanan,</i>	criminal/law enforcement	<i>masyarakat</i>), state security service	The Police Law
BAINTELKAM	intelligence	(<i>pengawasan keamanan negara</i>),	The Head of Polri
Intelijen Densus 88		community security supervision	Regulation
		(<i>pengawasan keamanan masyarakat</i>),	No.22/2010, NO.
		police security intelligence (<i>intel</i>	23/2010
		<i>pengamanan kepolisian</i>); Densus 88	
		intelligence focused on gathering and	
		assessing information on persons or	
		groups involved in terrorist acts.	

Attorney General for intelligence affairs	Domestic intelligence for judicial purposes	It is carried out through law enforcement intelligence efforts, work and activities in order to support prosecutorial powers of the attorney general's office in line with the structural authority of law enforcement and judicial agencies in accordance to existing laws.	The BIN Law [Art.13] Attorney General Regulation No. 9 Year 2011
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Specialized intelligence unit housed in government ministerial or non-ministerial, for example; intelligence unit directorate general of immigration.	Domestic intelligence		The BIN Law [Art 14] Immigration Law No. 6/2011 [Art.74]
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Table 2 illustrates that there is a division of labor among the intelligence agencies; however, there appears to be potential for overlap as to the function of collecting domestic intelligence. Because there is no master document that sets out the functions of the different units or explains how they should relate to each other, each agency understands only its own role in assessing domestic or internal threats. In other words, the agencies may be unaware that other agencies may be playing a role in intelligence gathering; as a result, they view their own agency's role as primary.

Among those 5 intelligence bodies, the BIN, BAIS and Police Intelligence are dominant. BIN's mandate is wide in scope, ranging from collecting domestic and external intelligence and coordinating other intelligence agencies to formulating policies on intelligence and developing counter-intelligence efforts in and out of the country. BAIS is responsible for collection of strategic information inside the country, foreign intelligence, and defense intelligence. The police intelligence body, BAINTELKAM, focuses on information to support criminal investigations. Densus 88, as the main and important police forces in charges of counter-terrorism, focuses on collecting law enforcement intelligence—particularly for counter-terrorism.

The intelligence unit of the Indonesian police has the function of collecting information about activities of individuals or groups involved in crime. This unit plays a vital and integral role in Polri, performing preventive and pre-emptive operations and having an essential role in the police structure. The scope of the criminal intelligence it gathers is wide and complex. Specifically, the intelligence unit provides critical information that enables the police to fight against serious and organized crimes, trans-organized crimes such as terrorism, human trafficking, drug trafficking, money laundering, an cybercrime, and may include conventional

crimes such as robbery, murder, torture, burglary, forgery, and so on.⁴²³ Much of this intelligence is provided by informers, civilian infiltrators, and intelligence that is later combined with pieces of confidential information.⁴²⁴ The police intelligence unit may also gather information from BIN or the TNI intelligence and security services, which obtains and processes information according to their designated authority. The following table presents a summary of key security intelligence structures in Indonesia

Table 4. Key Component Of Security Intelligence Structures In Indonesia

Threat	Law Enforcement Structure	Intelligence Structure
Political threats from within; separatism, terrorism, radicalism and communal conflict	National Police and paramilitary forces; highly centralized	a. Domestic intelligence and law enforcement combined into one agency. b. Specialized agencies focus on domestic and foreign, international threats

Furthermore, in Indonesia police intelligence (BAINTELKAM) is also expected to detect and monitor the simmering of horizontal and vertical conflicts in society⁴²⁵ For example, at

¹⁰⁷ Awaloedin Djamin, “Polri dan Intelijen”, lcki.org, accessed March 31, 2014 http://lcki.org/index.php?option=com_content&view=article&id=68%3Apolri-dan-intelijen-oleh-prof-dr-awaloedin-djamin&catid=43%3Aartikel-lain&Itemid=74&lang=id.

¹⁰⁸ *Ibid.*

¹⁰⁹ Vertical conflict refers to a conflict between state/government and a particular group (ethnically, religiously, or ideologically motivated within the nation-state. Horizontal conflict refers to conflict within the society or intra-society conflict occurs between at least two culturally or religiously differentiated communities under a single political authority. Further reading for vertical and horizontal conflict in Indonesia see Rizal Sukma, “Conflict Management in Post-Authoritarian Indonesia” in *Autonomy and Disintegration in Indonesia*, eds. Harry Aveling and Damien Kingsbury (New York: Routledge, 2003), 66-68; Rizal Sukma, “ Ethnic Conflict in Indonesia: Causes and the Quest for Solution in *Ethnic Conflicts in Southeast Asia*, eds, Kusuma Snitwongse, Willard Scott (Pasir

regional level, the intelligence unit in the police department is obliged to collect data and information related to the region, including social conditions, politics, the economy, and social and cultural groups. In addition, Indonesian law obliges the police intelligence unit to analyze and process data and make it available for use as a way to predict security disturbances, social disorder, or criminal acts.⁴²⁶ These tasks overlap with the task of collecting data and information by security intelligence services (BIN and BAIS).

These unclear and overlapping mandates are likely vestiges of personal leadership of the intelligence agencies and the focus on domestic enemies. The result of this unclear division of labor can be seen in a report released by Indonesian Crisis Group,⁴²⁷ in which the organization found officers from all three intelligence agencies (BIN, BAIS and Police intelligence) on the ground, conducting a raid on a terror suspect in Temanggung in August 2009 and following in an attack on three Ahmadiyah members by radicals in Cikeusik, Banten, in February 2011.⁴²⁸ They were redundant in their efforts, all attempting to execute the same mission without coordination.

Overall, the BIN Law is primarily problematic for how it defines the roles and responsibilities for the agencies, creating overlapping areas of responsibility, missing restrictions on operative methods and competencies, and poorly defined tasks and purposes as the consequence bring limited effectiveness due to fragmentation.

D. Bridging The Gap Through Establishment Of The National Counter-Terrorism Agency (BNPT)

1. The Roles Of BNPT

Panjang-Singapore: ISEAS, 2005), 3-7; Mohammad Zulfan Tadjoeddin, Widjajanti I. Suharyo, and Satish Mishra, "Regional Disparity and Vertical in Indonesia," *Journal Of The Asia Pacific Economy* 6, no. 3 (2001).

¹¹⁰ Leo Schmit, "Decentralization and Legal Reform in Indonesia" in *Indonesia: Law and Society*, Timothy Lindsey (New South Wales: Federation Press, 2008), 183.

¹¹¹ Crisis Group Asia Report, "Indonesia: Rethinking Internal Security Strategy."

¹¹² *Ibid.*

In an attempt to improve integration and streamline cooperation among police, military and the intelligence communities, the Indonesian government issued an executive order Ministry of Political and Defense Decree No. 26/Menko/Polkam/11/2002. This law was designed to provide the legal basis for establishing the Anti-terror Coordinating Desk, which was an agency housed in the Office of the Coordinating Minister for Political, Legal and Security Affairs. The Anti-Terror Coordinating Desk aimed to support and assist the Minister for Political, Legal, and Security Affairs in formulating counter-terrorism policy.

In 2009, the Minister for Political, Legal, and Security Affairs and the Commission I of the House of Representatives (*Dewan Perwakilan Rakyat*, DPR) recommended that the government establish a national agency to authorize and coordinate its counter-terrorism efforts. Following this recommendation, the National Coordinator for Counter Terrorism was established.⁴²⁹ The new agency named the National Agency of Counter-terrorism (*Badan Nasional Penanggulangan Terorisme*, BNPT).

BNPT is an independent agency responsible directly to the President, which was formed based on Presidential Decree No. 46/2010. It has several responsibilities: to formulate policy and national program concerning counter-terrorism; to coordinate intelligence and political strategy planning; to coordinate the government institution in relation to implementing the counter-terrorism policy; to establish a counter-terrorism task force that consists of government institutions; to coordinate international cooperation, training, and foreign assistance, public information to ensure that the Indonesian people is kept informed of the nature of the threat and of counter terrorism measures;⁴³⁰ to build synergies between the government and community

¹¹³ International Crisis Group, *Indonesia: Rethinking Internal Security Strategy*, 30 ; Rohan Gunaratna and Mohamed Bin Ali, ed., *Terrorist Rehabilitation: A New Frontier in Counter-terrorism* (London: Imperial College Press, 2015), 84.

¹¹⁴ Article 3 of Presidential Decree No.46/2010.

institutions by including prevention, protection, prosecution, and de-radicalization; and increasing national awareness and international cooperation to ensure that national security is maintained.⁴³¹ The BNPT organized into three deputies, namely Deputy I covers prevention, protection and de-radicalization programs; Deputy II handles the law enforcement and capacity building; and Deputy III manages international cooperation.

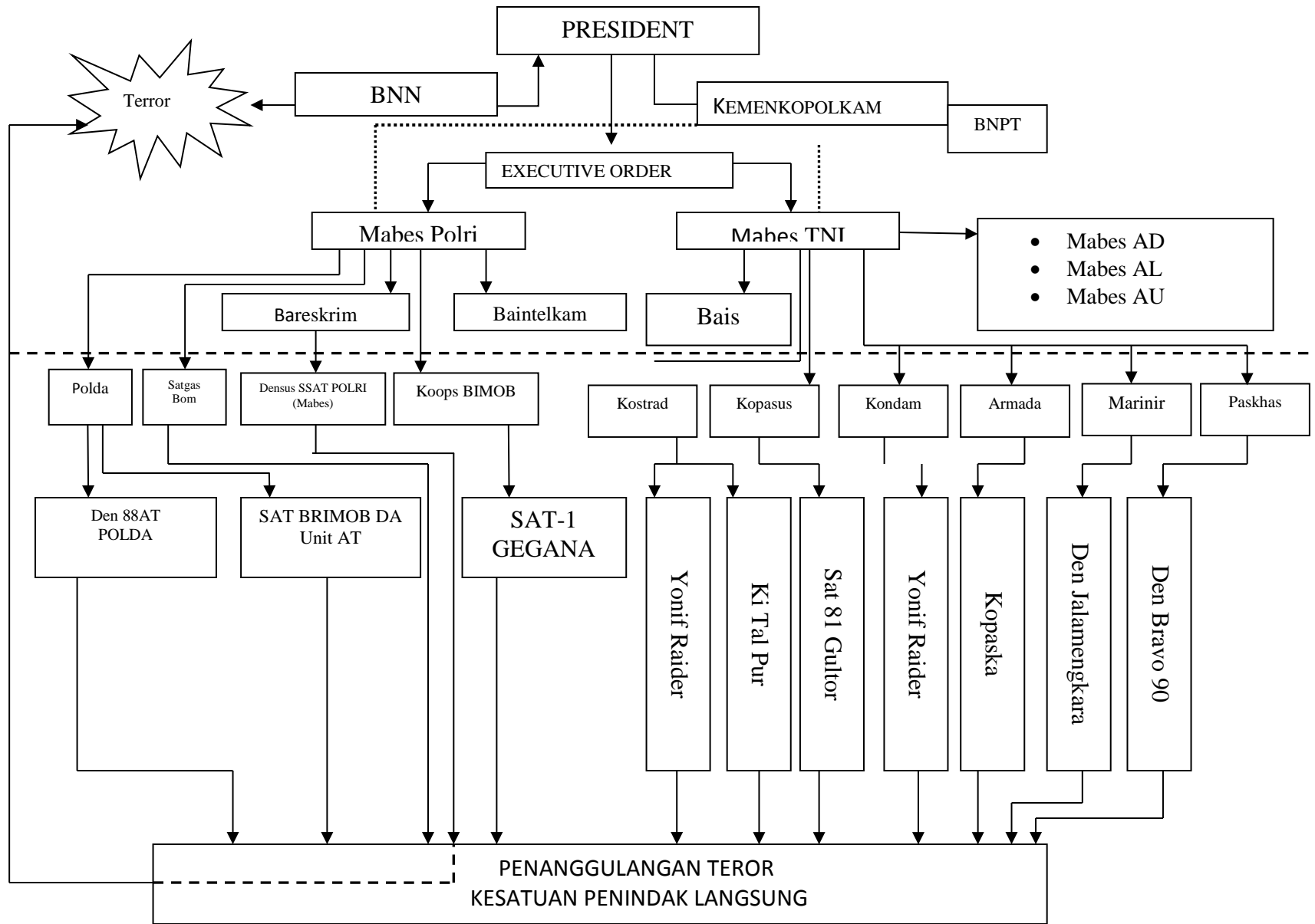
All in all, the focus of the establishment of BNPT is to bring the police, the military, the intelligence entities, the judicial system, and civil society groups together to adopt and implement comprehensive and sustainable strategies.⁴³² The diagram below summarizes the overall counter-terrorism organizational structure, including the Police, Military, Intelligence, and BNPT.

Diagram 1 Counter-Terrorism Organizational Structure⁴³³

¹¹⁵ Badan Nasional Penanggulangan Terorisme, *BNPT Strategic Plan Year 2010-2014* (Jakarta: BNPT, 2011), 4.

¹¹⁶ Arabindo Acharya, *Whither Southeast Asia Terrorism?* (London: Imperial College Press, 2015), 153.

⁴³³ Brigjen TNI Lodewijk F.Paulus, "Modifikasi dari Organisasi Penanganan Teror," (Jakarta: Lemhanas, 2009) as cited in Marthen Luther Djari, *Terorisme dan TNI* (Jakarta: CIMB Press, 2013), 268.



2. The Challenges And BNPT's Way Forward

Since its establishment, the BNPT has faced both internal and external challenges.⁴³⁴ The first of these concern regulations. Different from other national agencies such as the National Narcotics Agency (BNN) and the National Disaster Mitigation Agency (BNPB), the BNPT exists merely because of Presidential regulatory authority. In sequential order of legislation, the Presidential regulations are lower on the hierarchy of authority than law. The BNPT itself should have been defined through legislation to be equal to the other national agencies that are regulated by law.⁴³⁵ Other challenges include lack of public trust and support, as many groups within Indonesian society, especially the radical community, have become particularly suspicious of the BNPT's program. They spread negative propaganda stating that the BNPT's program is attempting de-Islamisation and represents an effort to corrupt the Islamic belief.⁴³⁶

Meanwhile, the internal challenges of BNPT are mostly related to budget allocation and (human) resources. All the law enforcement officers with direct field experience went to the first, leaving prevention to newcomers who had no personal knowledge of networks, prisoners or available data.⁴³⁷ Officials charged with prevention still complain that funds have been slow coming, which hampers their efficiency.⁴³⁸ Many agencies and ministries that BNPT is supposed to be coordinating have little interest either in the subject of countering extremism or in being coordinated.⁴³⁹

¹¹⁷ Gunaratna, *Terrorism Rehabilitation: A New Frontier in Counter Terrorism*, 84.

¹¹⁸ Interview_XN18, Jakarta, January 2015.

¹¹⁹ Gunaratna, *Terrorism Rehabilitation*, 83; IPAC, *Countering Violent Extremism in Indonesia: Need for A Rethink*, IPAC Report No. 11 (Jakarta:IPAC, 2014).

¹²⁰ *Ibid.*

¹²¹ Hearing notes between DPR and BNPT, in 2016 BNPT get a baseline budget allocation of Rp 331 914 878 000, -. In October 2015, BNPT received additional priority spending Rp 200.000.000.000, - by virtue of the Minister of Finance No. S-814 / MK.02 / 2015 dated October 16, 2015 so that the budget allocation BNPT to Rp 531.914.878.000, In 2017, BNPT will propose a budget of Rp 826 379 553 000, -.

¹²² Gunaratna, 84; "Hearing Notes between DPR and BNPT", April 16, 2016, accessed on October 31, 2016 <http://www.dpr.go.id/dokakd/dokumen/K3-23-6227d5ae29bf514f9bec725871ed24d2.pdf>

With regard to improving prevention programming, The BNPT is trying to overcome its shortcomings by designing a blueprint for its terrorism prevention program.⁴⁴⁰ One of the focus areas of the blueprint is the designation to strengthen law enforcement capabilities. The design covers three areas, namely the detection capability of intelligence, intelligence coordination and mobilization, the ability of scientific investigation and coordination of law enforcement, and enforcement capabilities in all fields—mainly by elements of the police and the military.⁴⁴¹

In terms of strengthening intelligence cooperation, sharing, and capacity, BNPT in cooperation with all of the intelligence bodies, is formulating and establishing standard operational procedures (SOP) for early detection within the Indonesian region. These standards are an attempt to enhance the effective alert system to prevent terrorist attacks.⁴⁴² The BNPT structure puts the police in charge of intelligence and operations and the military in charge of prevention, which does not make for smooth cooperation.⁴⁴³ And for improving information sharing, the BNPT added a new element to the mix with a division for operation that includes an intelligence unit.⁴⁴⁴ The current BNPT structure might be viewed as a restructuring of BNPT for the purpose of removing the divide between intelligence operations and prevention.

To strengthen the coordination, collaboration, and information sharing between the military and the police, BNPT initiated a memorandum of understanding (MoU) between the two institutions.⁴⁴⁵ Under this agreement, the TNI would be allowed to actively assist members of

¹²³ Badan Nasional Pencegahan Terrorisme, *Blueprint Pencegahan Terrorisme*, (Jakarta:BNPT, 2014), 43.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*, 72-73; “BNPT dan Penguatan Intelijen Kontraterorisme,” kompas.com, October 8, 2015 accessed October 31, 2016 <http://nasional.kompas.com/read/2010/10/08/02524084/BNPT.dan.Penguatan.Intelijen.Kontraterorisme>.

¹²⁶ IPAC, Countering Violent Extremism in Indonesia: Need for a Rethink, 12-14.

¹²⁷ International Crisis Group, *Indonesia: Debate over a New Intelligence Bill*, 5-8.

¹²⁸ Memorandum of Understanding (MOU) between BNPT and TNI concerning on Socialization of Terrorism Prevention to Local government, BINTER TNI, BINMAS Polri (Kesepakatan Bersama antara BNPT dengan Tentara Nasional Indonesia Angkatan Darat (TNI-AD) tentang Sosialisasi Pencegahan Terorisme kepada Unsur Pemda, Binter TNI AD dan Binmas Polri), signed by the Agus Surya Bakti, the Deputi I of Prevention, Protection and De-Radicalization Mayjen Agus Surya Bakti; and Mayjen Meris Wiryadi, TNI AD on September 5, 2013

the public in tracing any terror suspects or activities.⁴⁴⁶ It will also be permitted to share information regarding alleged terror activities with the National Police.⁴⁴⁷

The MoU also affirms the importance of TNI involvement in order to clarify their role to respond to new kinds of threats to national security.⁴⁴⁸ In terms of terrorism prevention, the TNI utilizes the Village Leadership office (Babinsa)⁴⁴⁹ to conduct familiarization programs for terror prevention in cooperation with local police.⁴⁵⁰ Because neighboring countries such as Phillipines and Vietnam have supplied illegal and homemade firearms to several terrorists groups, the TNI is charged with curbing the distribution of illegal firearms, particularly at Indonesia's border areas.⁴⁵¹ Furthermore, by following the MoU, in addition to joining in raid operations, the TNI also offered to support terrorism prevention by strengthening their territorial command structure in order to monitor terrorist suspects.⁴⁵² After establishing the BNPT, the police and the military have shown gradual progress on collaborating and information sharing at the operational level,⁴⁵³ despite the absence of a regulation that outlines the technical procedures

<http://www.kemenkumham.go.id/v2/berita/369-kerjasama-terpadu-penanganan-terorisme>;

¹²⁹ Memorandum of Understanding (MOU) between BNPT and TNI concerning on Socialization of Terrorism Prevention to Local government, BINTER TNI, BINMAS Polri, 3-5

¹³⁰ *Ibid.*

¹³¹ *Ibid.*, 6

¹³² Initially the anti-terror desk of TNI was attached to the intelligence function of the Territorial Command structure. In each Provincial Military District there is an intelligence detachment obtaining information from the intelligence officers in the lower levels in each Military District, such as Korem and Kodim. In addition to that, in the village level information gathering is conducted through the officers of Village Leadership Office or Babinsa. Through this structure military's 12 komando daerah militer (military command areas) performed a social development and security role by undertaking domestic surveillance and intelligence and maintaining close liaison with local officials mandated with implementing central government policies (Kingsbury, 2003, p. 79). Units of soldiers were thus placed at every level of society, paralleling each tier of the political administration, while both serving and retired military officers were appointed to senior positions in the national and provincial bureaucracies.

¹³³ *Ibid.*, 6.

¹³⁴ Interview X_N20, in Jakarta January 2015.

¹³⁵ *Ibid.*

¹³⁶ Hendra Gunawan, "TNI Gerebek Lokasi Latihan Militer di Bojongpicung," *tribunnews.com*, February 22, 2014 accessed October 31, 2016 <http://www.tribunnews.com/regional/2014/02/22/tni-gerebek-lokasi-latihan-militer-di-bojongpicung>.

of how the military should confront issues of terrorism.⁴⁵⁴ As evidence of this improvement, under the BNPT coordination, the police and the military have been collaborating to fight terrorism.⁴⁵⁵ Military personnel act as a back-up when the police come to pursue, raid, and arrest terrorists,⁴⁵⁶ for example as occurred in the raid operation of Santoso's terrorist networks in Poso.⁴⁵⁷

E. Conclusion

After the all of the Suharto regime, Indonesia has gone through a agonizing democratization process. One of the consequences of this democratization has been the institutional changes in the security sector, such as the police, intelligence services, and the military. For example, following these changes the policing style has evolved into a community policing model. In fact, community policing has been formally adopted as the policing style and has been regarded as the bedrock of the police reform agenda. One of the purposes for this change has been to break from past practices, where the police organization had a strong military image—rather than civilian. The community policing model is still developing; however, the police organization has had some difficulty implementing it.

This difficulty with restructuring policing in Indonesia has been further complicated and compounded by terror bombing attacks and other political disturbances. As

¹³⁷ BNPT and TNI are having discussions to formulate and outline the technical procedures for cooperation to be adopted into regulations. The regulations are expected to completely cover and outline the technical procedures for cooperation and the role of the military in the battle against terrorism. It has been decided by the military that TNI would only serve as a backup force for the police.

¹³⁸ Interview X_N19, in Jakarta 2015; Interview X_N20, in Jakarta 2015

¹³⁹ *Ibid.*

¹⁴⁰ Interview X_N19, in Jakarta 2015; Interview X_N20, in Jakarta 2015; see also "TNI to Play Backup, Role in Terror Fight," Jakarta Post, November 12, 2010; "Loreng Darah Mengalir di Balik Gunung Poso," *republika.co.id*, January 16, 2015 accessed October 31, 2016 <http://www.republika.co.id/berita/koran/teraju/15/01/16/ni94gc36-loreng-darah-mengalir-di-balik-gunung-poso>; Sandro Gatra, "Ini Cerita Panglima TNI Bagaimana Operasi Penyergapan Santoso," *kompas.com*, July 19, 2016 accessed October 31, 2016 <http://nasional.kompas.com/read/2016/07/19/18313581/ini.cerita.panglima.tni.bagaimana.operasi.penyergapan.santoso>.

agencies respond to terrorism and terrorist threats, there has been a growing focus on proactive counter-terrorism, aimed at preventing terrorism. These growing proactive efforts have resulted in early arrests to disrupt plots, thwarting terrorist plots before they expand too far, increasing the use of informers, or in the other words, an approach that is more intelligence-led—and therefore, much more complex.

The complexity of the relationship among the police, military and security intelligence services—as well as the complexity of the organizational structures in charge of counter-terrorism duties—has weakened the coordination among them. The establishment of BNPT aims to promote an inter-agency approach and strengthen coordination among the agencies involved in counter-terrorism efforts. A national agency is still needed to coordinate and share information across agencies, and this might require a restructuring of BNPT to remove the divide between intelligence operations and prevention efforts. The BNPT's programs to date sound systematic, in theory, but their implementation or lack thereof still raises questions about whether they have been able to overcome the lack of inter-agency cooperation.

Chapter V

Intelligence-Led Policing: Comparative Perspectives From The U.K. and The U.S.

A. Introduction

With the increasing complexity of criminal activities in Indonesia, such as transnational crimes and terrorism, new questions have emerged about whether police have the capacity and skill to respond; their old tactics have been under heavy scrutiny. Moreover, since the September 11th attacks, there has been broad agreement that terrorism requires new and robust measures⁴⁵⁸; in this way, the attacks not only impacted society, in general, but also law enforcement and intelligence communities.⁴⁵⁹ Among these impacts is the increased expectation about law enforcement intelligence practices and the need to coordinate intelligence efforts and share information at all levels of government.⁴⁶⁰

Terrorism has influenced many national police agencies to increase their communication and contact with each other.⁴⁶¹ To some extent, terrorism brings the criminal justice systems of the world closer together, as transnational cooperation is required for effective responses.⁴⁶² On a

⁴⁵⁸ For example, the UN has adopted a number of resolutions condemning acts of terrorism. After 9/11, the UN Security Council called on states to take action to curb terrorism and it set up a Counter Terrorism Committee (CTC) to monitor progress through General Assembly Resolution (September 12, 2001), The UN General Assembly condemned the attacks against the US and called for international cooperation to prevent and eradicate terrorism; Security Council Resolution 1368 (September 12, 2001). In this resolution, which was adopted unanimously, the Security Council condemned the terrorist attack and called on all States to urgently bring the perpetrators to justice; Security Council Resolution 1373 (September 28, 2001). This long and detailed resolution called on states to work together to combat terrorism. It compels states to refrain from providing financial and logistical support to terrorist networks, and it created a committee of the Council to monitor state action in conformity with the resolution; Security Council Resolution 1377 (November 12, 2001). During a meeting at the level of foreign ministers, the Security Council unanimously adopted a new resolution, which called on all countries to take “urgent steps” to put into effect resolution 1373.

⁴⁵⁹ AFCEA Intelligence Community, *International The Need to Share: The U.S. Intelligence Community and Law Enforcement*, April 2007.

⁴⁶⁰ David Carter et.,al., “Understanding Law Enforcement Intelligence Processes” (National Consortium for the Study of Terrorism and Responses to Terrorism: Maryland, 2014).

⁴⁶¹ See further at J. Docobo, “Community Policing as the Primary Prevention Strategy for Homeland Security at the Local Law Enforcement Level,” *Homeland Security Affairs* 1, no.1 (2005):4-5.

⁴⁶² See Pakes, F, *Comparative Criminal Justice* (Cullompton: Willan, 2004),176-178.

global level, law enforcement has become more concerned and aware of the new challenges posed by terrorism and the need to use intelligence reports and analysis in an integrated way.⁴⁶³ This awareness has also increased levels of cooperation among police officers from different countries;⁴⁶⁴ many of them are participating in joint training programs,⁴⁶⁵ sometimes followed by the establishment of a new task force team,⁴⁶⁶ gathering and exchange of intelligence,⁴⁶⁷ and co-operation in intelligence-led counter-terrorism operation.⁴⁶⁸

Until now, no country has been able to claim that it has perfected the most effective approach to dealing with terrorism. And due in part to the difficulty in determining which approach is the most effective, concerns have grown concerning the extent to which a heavily intelligence-based approach can best be accommodated to the legal and moral foundations of a democratic system. Of all the policing methodologies available,⁴⁶⁹ intelligence led-policing (ILP)

⁴⁶³ *Ibid.*

⁴⁶⁴ For example, several countries in South East Asia adopted the 2011 ASEAN Declaration on Joint Action to Counter-Terrorism through the Association of Southeast Asian Nations (ASEAN) 7th Summit meeting on November 5, 2001, in Brunei Darussalam. The measures they adopted outlined in the Declaration is incorporating into Terrorism component of the Work Programme to implement the ASEAN Plan of Action to Combat Transnational Crime adopted in May 2002. There are 6 strategies in it, namely, information exchange, cooperation in law enforcement matters, cooperation in legal matters, institutional capacity building, training, and extra-regional cooperation. It can be read further “Asean Effort to Counter Terrorism,” *asean.org*, accessed January 16, 2016, http://www.asean.org/?static_post=asean-efforts-to-counter-terrorism-this-paper-was-prepared-for-the-un-counter-terrorism-committee.

⁴⁶⁵ A number of regional organizations, such as the European Union (EU), African Union, and the Association of Southeast Asian Nations (ASEAN), have delivered formal statements outlining their shared commitment to counterterrorism. EU for example, has followed up with a robust counterterrorism framework, incorporating law enforcement and judicial apparatuses like the EU judicial cooperation unit, EUROJUST and the EU's police force EUROPOL.

⁴⁶⁶ In the U.S, for example, there are 71 Joint Terrorism Task Forces (JTTFs) that have been established since 9/11. They are based in cities nationwide; in Australia, the Australia Federal Police (AFP) established Joint Counter Terrorism Teams in each jurisdiction consisting of the AFP, state and territory police, Australian Security Intelligence, Organization officers, and members from other relevant agencies.

⁴⁶⁷ Artur Gruszczak, “EU Intelligence-led Policing: the Case of Counter-Terrorism Cooperation,” in Maria O'Neill, Ken Swinton and Aaron Winter. *New Challenges for EU internal security strategy* (Newcastle: Cambridge Scholar Publishing, 2013), 16-30.

⁴⁶⁸ For example, in 2002 The Australian and New Zealand Counter-Terrorism Committee (ANZCTC) was a bilateral and intergovernmental high-level body to coordinate counterterrorism capabilities, crisis management, command and control, intelligence and investigation functions composed of representatives from the Australian Government, Australian state and territory governments and the New Zealand Government.

⁴⁶⁹ See Chapter 2 of this dissertation.

is uniquely positioned as a promising method for combatting terrorism and trans-organized crime (TOC).⁴⁷⁰

Through secondary sources, this chapter provides a comparative perspective on the way western countries approach terrorism prevention, including the U.K and the U.S.—countries that have taken steps to adopt the conceptual framework of ILP. This chapter discusses how this concept has been developed and implemented in those two countries. Further, it accounts for the challenges encountered in the process of its implementation.

B. The U.K Policing Landscape And Counter-Terrorism Law

1. Evolving ILP Into A National Intelligence Model (NIM)

In the U.K., “intelligence-led policing” was originally used to describe an approach to crime reduction that shifted away from retrospective crime investigations to pre-emptive operations based on analyzed intelligence.⁴⁷¹ The ILP concept developed in response to government reports that identified many problems associated with traditional policing—where police were spending too much time responding to crime and too little time targeting offenders in a manner that would reduce incidents of crime.⁴⁷²

The Audit Commission recommended focusing on the offender rather than on reported

⁴⁷⁰ Peter Bell and Mitchell Congram, “Intelligence-Led Policing (ILP) as A Strategic Planning Resource in the Fight against Transnational Organized Crime (TOC),” *International Journal of Business and Commerce* 2, no.12 (2013):15-16 ; J.H., Ratcliffe, “Intelligence-Led Policing,” in *Environmental Criminology and Crime and Analysis*, eds. R.W. Wortley and L. Mazerolle (Cullompton, Devon: Willan Publishing, 2008), 270-273.

⁴⁷¹ J.H., Ratcliffe, “Intelligence-Led Policing,” in *Environmental Criminology and Crime and Analysis*, eds. R.W. Wortley and L. Mazerolle (Cullompton, Devon: Willan Publishing, 2008), 272; J.H., Ratcliffe, *Intelligence-Led Policing* (New York: Routledge, 2011), 70-74; *Select Committee in European Union Twenty-Ninth Report*, parliament.uk, accessed May 16, 2016, <http://www.publications.parliament.uk/pa/ld200708/ldselect/lducom/183/18307.htm>.

⁴⁷² Ronald Wells, “Intelligence-Led Policing a New Paradigm in Law Enforcement,” *patc.com*, 2014 accessed February 12, 2015 http://www.patc.com/weeklyarticles/intelligence_policing.shtml; The Audit Commission’s Report, *Helping With Enquiries: tackling Crime Effectively* (London: HMSO, 1993); HM Inspectorate of Constabulary, *Policing with Intelligence* (London: HMIC,1993); HM Inspectorate of Constabulary, *Winning the Race Policing with Plural Communities* (London: HMIC, 1997); J.H. Ratcliffe and Ray Guidetti, “State Police Investigative Structure and the Adoption of Intelligence-Led Policing,” *Policing* 31, no. 1 (2008); Ray Guidetti, “Intelligence-Led Policing—A Strategic Framework,” *The Police Chief* LXXVI, no. 10 (2009).

crime. In doing so, more resources were made available to support intelligence gathering and the proactive targeting of prolific offenders.⁴⁷³ The Commission predicted that the increased use of intelligence, surveillance, and informants to target major offenders might enable police to be more effective in fighting crime proactively—rather than responding to it after the fact.⁴⁷⁴ Intelligence work is considered important for its predictive value, its capacity to inform strategic decision-making and problem solving approaches, and its ability to help organizations manage risk.⁴⁷⁵ By adopting an intelligence model, the UK police changed its approach from retrospective crime investigations to pre-emptive operations based on analyzed intelligence—A model that became known as the National Intelligence Model (NIM).⁴⁷⁶ NIM has become the accepted standard for ILP in the U.K., and it has also served as a model from several European countries.⁴⁷⁷

⁴⁷³ J.H., Ratcliffe and Ray Guidetti, “State Police Investigative Structure and the Adoption of Intelligence-Led Policing,” *Policing* 31, no. 1 (2008): 111.

⁴⁷⁴ *Ibid*; see also Ronald Wells, “Intelligence-Led Policing a New Paradigm in Law Enforcement,” *patc.com*, 2014 accessed February 12, 2015 http://www.patc.com/weeklyarticles/intelligence_policing.shtml.

⁴⁷⁵ James Adrian, *Examining Intelligence Led-Policing Developments in Research, Policy and Practise* (London: Palgrave Macmillan, 2013), 7-9.

⁴⁷⁶ The Audit Commission’s report, *Helping With Enquiries: tackling Crime Effectively* (London: HMSO, 1993); HM Inspectorate of Constabulary, *Policing with Intelligence* (London: HMIC, 1993); J.H. Ratcliffe, “Intelligence led Policing and the Problems of Turning Rhetoric into Practice,” *Policing and Society* 12 (2002):53 ; James Adrian, “The Advance of Intelligence-led Policing Strategies: the Emperor’s New Clothes,” *Police Journal* 76, (2003):45 ; Maguire, M., & John T, “Intelligence, Surveillance and Informants: Integrated Approaches” Police Research Group Crime and Prevention Series, Paper No. 64 (1995); M. Maguire and T. John, “The National Intelligence Model: Key lessons from Early Research,” in Home Office Outline Report 30/04 (London, 2004); Martin Innes and James W.E. Sheptycki, “ From Detection to Disruption: Intelligence and The Changing Logic of Police Crime Control in The United Kingdom,” *International Criminal Justice Review* 14, (2004): 2; Select Committee on European, “Union Twenty-Ninth Report, “Intelligence led-Policing Report”, *parliament.uk*, accessed May 16, 2016, <https://www.publications.parliament.uk/pa/ld200708/ldselect/ldcom/183/18307.htm>.

The NIM has been described as a “model for policing”,⁴⁷⁸ referring to the specific mechanism through which ILP is implemented in England and Wales.⁴⁷⁹ The NIM outlines some key principles that characterize the method as to managing decision making in police organizations, distinguishing primary issues in a criminal environment, and issuing standards for how intelligence agencies should perform their activities.⁴⁸⁰ NIM establishes guidelines on law enforcement intelligence products that are directly linked to the decision making process.⁴⁸¹

NIM uses a business process model for crime control and incorporates an ILP philosophy for introducing intelligence into virtually all aspects of the policing business plan.⁴⁸² The objective of ILP can be seen in the state’s priorities of the UK National Intelligence Model: targeting offenders (especially active criminals through overt and covert means); managing crimes and disorder hotspots; investigating a series of linked crimes and incidents; and applying preventive measures, including working with local partnerships to reduce crime and disorder.⁴⁸³ Through these objectives, ILP appears to offer a way of managing the demand for police services through prioritizing issues and resources in a targeted manner via the development of information and intelligence.⁴⁸⁴ In theory, the NIM aims to drive all police business from neighborhood policing to the investigation of serious and organized crime and terrorism.⁴⁸⁵

Under the Police Reform Act 2002, the Home Secretary issued the ACPO Code of Practice on the NIM and provided a statutory basis for the introduction of NIM minimum

⁴⁷⁸ Stuart Kirby and Ian McPherson, “Integrating the National Intelligence Model with a ‘Problem Solving’ Approach,” *Safer Communities* 3, no.2 (2004):36.

⁴⁷⁹ Karen Bullock, “Intelligence led Policing in the National Intelligence Model,” in *The Future of Policing*, Jennifer M. Brown (New York: Routledge, 2014); Karen Bullock, “Generating and Using Community Intelligence: The Case of Neighbourhood Policing,” *International Journal of Police Science and Management* 12, no.1 (2010).

⁴⁸⁰ *Ibid.*

⁴⁸¹ J.H. Ratcliffe. *Intelligence-Led Policing* (New York: Routledge, 2011), 77.

⁴⁸² T. John and M. Maguire, “Rolling out the National Intelligence Model: Key Challenges,” in *Crime Reduction and Problem Oriented Policing*, eds. K. Bullock and N. Tilley (Cullompton Devon: Willan, 2003), 38.

⁴⁸³ Karen Bullock, “Intelligence led Policing in the National Intelligence Model,” 287-289.

⁴⁸⁴ ACPO/NCPE, *Practice Advice on Resources and the People Assets of the National Intelligence Model* (Wyboston: NCPE,2007).

⁴⁸⁵ ACPO/NCPE, *Introduction to the National Intelligence Model* (Wyboston: NCPE,2007).

standards and its basic principles.⁴⁸⁶ The following sections outline how NIM operates based on NIM's basic principles. The process of generating analytical products and the tasking structure to replicate it takes place at three defined levels. The first level (at the Basic Command Unit level) focuses on local crime problems and anti-social behavior, covering local issues (primarily at Basic Command Unit level). The second level (at force, inter-force level) covers cross-border issues, regional criminal activity, and coordination. The third level covers serious and organized crime on a national and international scale.⁴⁸⁷

This NIM model adopted a holistic view of resources (including human resources) available to the intelligence unit to develop actionable products or to create new information and intelligence on priority subjects.⁴⁸⁸ Its inclusive approach to intelligence responsibilities, whereby specific tasks are given, for example, to patrol officers as well as designated proactive staff, is potentially an important factor in creating a general "intelligence culture" and resolves some of the difficulties associated with the use of intelligence in the police service.⁴⁸⁹

The NIM draws on four standardized intelligence products,⁴⁹⁰ including the Strategic Assessment, which comprises general or big picture within police service area over a six-month

⁴⁸⁶ The Code of Practice on the National Intelligence Model, issued in January 2005 by the Home Secretary under the Police Reform Act 2002, provides a statutory basis for the introduction of NIM minimum standards and its basic principles. An initial set of minimum standards was published in April 2003, and all police forces now comply with them. In order to maintain the impetus of NIM implementation, a revised edition of the minimum standards document was published in November 2004. See further on ACPO, *Guidance on the National Intelligence Model* (Wyboston:NCPE, 2005).

⁴⁸⁷ NCPE, *National Intelligence Model Code of Practice* (Wyboston: Centrex,2004); ACPO, *Guidance on the National Intelligence Model* (Wyboston: NCPE,2005); UNODC, *Criminal Intelligence Manual for Analysts*, (UNODC, 2011),17; Maguire and T. John, *The National Intelligence Model: Key Lesson from Early Research*, Home Office Online Report 30 (2004); Bullock, "Intelligence led Policing in the National Intelligence Model," 289.

⁴⁸⁸ Maguire and T. John, *The National Intelligence Model: Key Lesson from Early Research*, Home Office Online Report 30 (2004).

⁴⁸⁹ Maguire and T John, *Intelligence, Surveillance and Informants: Integrated Approaches, Crime Detection and Prevention* (Series Paper, London: Home Office, 1995); J.H. Ratcliffe, "Intelligence Led Policing and the Problem of Turning Rhetoric into Practice," *Policing and Society* 12, no. 1 (2002), 53-66; Nina Cope, "Intelligence led Policing or Policing Led Intelligence? Integrating Volume Crime Analysis into Policing," *British Journal of Criminology* 44, no.2 (2004):188-203.

⁴⁹⁰ ACPO, *Guidance on the National Intelligence Model* (Wyboston: NCPE,2005).

period; the Tactical Assessments, which comprises trends over much shorter time period; the Problem Profile, which identifies potential crime and disorder problems; and the Target Profile, which profiles suspects/offenders and identifies weaknesses in their criminal activities.⁴⁹¹

The key users (and in some cases, producers) of these four types of products are the core bodies that drive the whole process, tasking and coordinating groups (TCGs).⁴⁹² These groups are, first, the Strategic Tasking and Coordinating Group, where the purpose is to set the overall agenda for intelligence, prevention, and enforcement priorities. Second, the Tactical Tasking and Coordinating group, which aims for implementing the agenda set at the strategic level through a menu of tactical options and to manage any subsequent priorities that might arise.⁴⁹³

These groups, of which the core members are representatives of intelligence units and senior officers with operational responsibilities, meet regularly to undertake informed assessments and prioritization of problems (including crime, criminals, disorder, and the opportunities for crime) and to plan, coordinate, and manage police responses.⁴⁹⁴ In doing so, they use and request the further development of intelligence products, the contents and conclusions of which should underpin both prioritization and operational decisions.⁴⁹⁵ All in all, the results of assessment and analytical products are used for feeding the regular meetings conducted by the TCG's where they coordinate the allocation of police resources.⁴⁹⁶

In short, intelligence can flow within and between each of the levels of the NIM.⁴⁹⁷ The application of NIM is expected to enable police forces to trace the continuum between anti-social

⁴⁹¹ *Ibid*; UNODC, *Criminal Intelligence Manual*, 17; Bullock, "Intelligence led Policing in the National Intelligence Model," 289; Maguire and John, *The National Intelligence Model*, 18.

⁴⁹² Maguire and John, *The National Intelligence Model*, 15.

⁴⁹³ NCPE, *National Intelligence Model Code of Practise* (Wyboston: Centrex, 2004).

⁴⁹⁴ Maguire and John, *The National Intelligence Model*, 16.

⁴⁹⁵ *Ibid*.

⁴⁹⁶ UNODC, *Criminal Intelligence Manual*, 17; Bullock, "Intelligence led Policing in the National Intelligence Model," 289.

⁴⁹⁷ Bullock, "Intelligence led Policing in the National Intelligence Model," 287.

behavior and the most serious crime and then to identify those local issues in most urgent need of attention⁴⁹⁸.

2. The Challenge Of Implementing ILP Into National Intelligence Model (NIM)

An evaluation of four police departments in the U.K. found that agencies that followed and adapted to ILP by making substantial organizational changes made better progress in crime reduction than those that did not.⁴⁹⁹ However, several challenges continue to complicate implementation of ILP, including organizational and cultural challenges, such as a lack understanding of analysis among police officers, the lack of trust of crime analysts embedded in the police culture, and a lack of understanding of among crimes analysts themselves.⁵⁰⁰ These divisions and suspicions derive in part from a culturally reactive policing paradigm that remains strong within police organizations.⁵⁰¹ As its effectiveness depends upon all staff—with both police officers and crime analysts contributing appropriately, this suggests urgent training needs, in order to develop mutual supportive and productive working relationship.⁵⁰²

Another challenge is the infrastructure needed to support ILP.⁵⁰³ To implement ILP effectively, the government must invest and bare direct expenses related to purchasing software,

⁴⁹⁸ NCPE, *National Intelligence Model Code of Practise*, 6.

⁴⁹⁹ Maguire and John, *The National Intelligence Model*, 24; Ratcliffe and Guidetti, “State Police Investigative Structure,” 16-17.

⁵⁰⁰ Angela Veng Mei Leong, *The Disruption of International Organized Crime: An Analysis of Legal and Non-legal Strategies* (New York: Routledge, 2007); Cope, “Intelligence led Policing or Policing Led Intelligence?”, 189-19; Maguire M and T. John, *The National Intelligence Model: Early Implementation Experience in Three police force Areas* (Cardiff: Cardiff University, 2004).

⁵⁰¹ James Adrian, *The Influence of Intelligence-Led Policing Models on Investigative Policy and Practice in Mainstream Policing 1993-2007: Division, Resistance and Investigative Orthodoxy (PhD thesis, LSE, London, 2011)*; Maren Eline Kleiven. “Where's the Intelligence in the National Intelligence Model? *International Journal of Police Science & Management* 9, no. 3 (2007): 257-273; Maguire and T. John, “Led Policing, Managerialism and Community Engagement: Competing Priorities and the Role of the National Intelligence Model in the UK,” *Policing and Society: An International Journal of Research and Policy* 16, no. 1 (2006).

⁵⁰² Leong, *The Disruption of International Organized Crime* 205-207; Cope, “Intelligence led Policing or Policing Led Intelligence? 188-189; Maguire and John (2003); Maguire and John, (2004).

⁵⁰³ Maguire and John (2006); Kleiven, “Where’s the Intelligence.”

investing in an intelligence system, and developing the analytical capacity.⁵⁰⁴ To cover these costs, significant resources must be allocated to police agencies,⁵⁰⁵

Other challenges relate to priority setting within the NIM. Decisions about priorities are essential in proactive approaches to crime control, particularly because they are resource intensive; this is why NIM allows only a small number of initiatives to be conducted at any time.⁵⁰⁶

Overall, the advent of the NIM serves as a testament to the growing emphasis on ILP in police activity outside counter-terrorism efforts. And as a relatively successful model, the NIM provides a substantive platform for implementing a proactive approach to respond to crime. However, the cultural barriers and the deep-rooted reactive approach to police organizations has become the greatest challenge to implementing ILP in the NIM. Despite this limitation, the broader acceptance of the importance of intelligence to counter-terrorism should, at the very least, allay concerns about whether reforms such as the products of the NIM are going to be marginalized.⁵⁰⁷

3. Counter-Terrorism Policing And Counter-Terrorism Legislation In UK: Multi-Agency Approach and Close Collaboration Between Security Services and Police

The U.K has a long history of confronting domestic terrorism, in particular, responding to terrorist acts by the Irish Republican Army (IRA) in Northern Ireland.⁵⁰⁸ Historically, the IRA

⁵⁰⁴ Bullock, "Intelligence led Policing in the National Intelligence Model," 288.

⁵⁰⁵ *Ibid.*

⁵⁰⁶ M. Maguire M, "Policing by Risk and Targets: Some Dimensions and Implications of Intelligence-led Crime Control," *Policing and Society: An International Journal of Research and Policy* 9, no. 4 (2000), 315-336.

⁵⁰⁷ Cope, "Intelligence led Policing or Policing Led Intelligence? 188-192; P. Gill, *Rounding Up the Usual Suspects?* (Ashgate: Aldershot, 2000),226- 243.

⁵⁰⁸ The name IRA has been in use since the organization was founded in 1921. From 1969 through 1997, the IRA splintered into a number of organizations, all called the IRA. The Catholics in Northern-Ireland wanted Northern Ireland and Ireland to be one independent nation, while the Protestants there were loyal to the UK. See more about the history of IRA in Susie Derkins, *The Irish Republican Army. 1st ed. Inside the World's Most Infamous Terrorist Organizations* (New York: Rosen Pub. Group, 2003).

has used terrorist organization tactics such as bombings and assassinations to oppose British rule in Ireland. It is not a religious-based terrorism organization; however, the conflict does involve two major religious communities—Catholics and Protestants. The Catholics in Northern-Ireland have wanted Northern Ireland and Ireland to be one independent nation, while the Protestants there have been loyal to the UK.⁵⁰⁹

There were two significant violence and conflict incidents regarding to the IRA's terror activities, namely "the trouble"⁵¹⁰ and "bloody Sunday."⁵¹¹ In responding the violence and terror, the UK employed special military forces to fight and frighten the IRA. In this sense, the counter-terrorism strategy in the UK was repressive; it also utilized military approach.⁵¹² In 1998, the IRA signing of a comprehensive peace accord, the situation then gradually improved, even though some violence attacks remained ongoing in some occasions.⁵¹³

In July 2006, The UK government released CONTEST (Counter-Terrorism Strategy)⁵¹⁴ as the comprehensive UK's strategy in counting terrorism. It is the highlighted approach within the UK counter-terrorism strategy that it has been formulated through drawing on decades of experience gained through domestic counter-terrorism operations against Irish-related terrorism—and more recently, Islamist terrorism.⁵¹⁵ CONTEST has been based on the four

⁵⁰⁹ Bram van Riezen and Karlijn Roex, "Counter-terrorism in the Netherlands and the United Kingdom: A Comparative Literature Review Study," *Social Cosmos* 3, no. 1 (2012), 104.

⁵¹⁰ In 1969 the conflict escalated when a demonstration of Catholics in Northern Ireland was attacked by the police and, after counterdemonstrations by the Protestants, the violence became uncontrollable. This was the beginning of what became known as "the Troubles." The UK responded to the demonstrations and violence by arresting hundreds of people and ultimately by military engagement

⁵¹¹ The British troops were attacked regularly by the IRA, and this led in 1972 to "Bloody Sunday," when innocent bystanders were killed during a civil rights march. This event escalated the conflict. The IRA started attacking not only British troops, but also civilians in England.

⁵¹² Riezen and Roex, "Counter-terrorism in the Netherlands and the United Kingdom," 104-17; Eddie Tembo, *US-UK Counter-Terrorism after 9/11* (New York: Routledge, 2014).

⁵¹³ "Northern Ireland terror threat level raised in Great Britain," *bbc.com*, May 11, 2016 accessed September 16, 2016 <http://www.bbc.com/news/uk-36267052>

⁵¹⁴ see further at Secretary of State for the Home Department by Command of Her Majesty, *CONTEST: The United Kingdom's Strategy for Countering Terrorism* (London: HMG, 2011).

⁵¹⁵ HMG, *Countering International Terrorism, The United Kingdom's Strategy* (London: HMG, 2006), 5

integrated and interrelated components for combatting terrorism: prevention, pursuit, protection and preparedness.⁵¹⁶ These tenets are described briefly as follows:⁵¹⁷

Prevent: Addressing underlying causes of terrorism in the UK and overseas especially issues relating to Muslim citizens;

Pursue: Using intelligence effectively to disrupt and apprehend the terrorists where the UK has increased joint working and intelligence sharing between governments and law enforcement agencies across the world and the governments also aims to make the UK borders more secure, to make identity theft harder and to curb terrorist access to financial sources;

Protect: Ensuring reasonable security precautions, including those needed to meet a CBRN threat, are in place ranging from physical measures at airports to establishing CTSA's in each police force;

Prepare: Making sure that the UK has the people and resources in place to effectively respond to the consequences of a terrorist attack.⁵¹⁸ To achieve counter-terrorism aims the U.K. uses a multi-agency approach which has been showed by establishing some new inter-agency bodies committee and command groups to enhance cooperation among agencies involved in counter-terrorism.⁵¹⁹

The UK's counter-terrorism legislations developed considerably from the ongoing political conflict in Northern Ireland since the 1960's until the attacks on the London transport system in 2005. The initial counter-terrorism legislation applied only to specific parts of the UK, namely Northern Ireland. The initial legislation was the Northern Ireland Emergency Provisions Act of 1973. This legislation was repeatedly updated into The Prevention of Terrorism (Temporary Provisions) Act of 1989, The Northern Ireland (Emergency Provisions) Act of 1996, and the Northern Ireland (Emergency Provisions) Act of 1998.⁵²⁰ These emergency Acts were later replaced in large part by the Terrorism Act of 2000. A year later, it was amended and

⁵¹⁶ Tembo, *US-UK Counter-Terrorism after 9/11*, 100.

⁵¹⁷ HMG, *Countering International Terrorism, The United Kingdom's Strategy*, 1-2.

⁵¹⁸ Paul Wilkinson, *Homeland Security in the UK: Future Preparedness for Terrorist Attack since 9/11* (London: Routledge, 2007), 206-207.

⁵¹⁹ The new bodies such as the Joint Terrorism Analysis Center (JTAC) within Security Service; the establishment of a Police International Counter Terror Unit (PICTU) based within the Metropolitan Police and the National Counter Terrorism Security Office (NaCTSO) within MI5.

⁵²⁰ GAO Report to Congressional Requesters, *Combating Terrorism How Five Foreign Countries Are Organized to Combat Terrorism* (Washington DC: GAO,2000).

strengthened by the Anti-Terrorism, Crime, and Security Act of 2001 and the Terrorism Act of 2006. In 2008, it was amended again by the Counter-Terrorism Act 2008. In 2011, the UK introduced new system of terrorism prevention and investigation measures by enacting the Terrorism Prevention and Investigations Measures Act 2011. The most current terrorism legislation is the Counter Terrorism and Security Act 2015.

The present definition of terrorism used in UK legal systems is found in section 1 of the Terrorism Act of 2000.⁵²¹ This Act broadens the definition of terrorism to apply to domestic terrorism, as well as international terrorism and terrorism related to Northern Ireland. The definition includes any “political, religious or ideological” cause that uses or threatens violence against people or property;⁵²² creates new offences of inciting terrorism.⁵²³ The Terrorism Act of 2000 deals with a variety of matters, including proscribing organizations as illegal—terrorist organization al-Qaeda, for example.⁵²⁴ The Anti-Terrorism, Crime and Security Act 2001 provides provisions, among others, extends executive powers over freezing bank accounts and assets of suspected terrorists;⁵²⁵ and created wide powers for the Secretary of State to regulate telephone companies and internet providers to retain data for the purpose of national security.⁵²⁶ It also made it illegal to have weapons of mass destruction, such biological or chemical weapons, to create nuclear explosion, or disclose information “which might prejudice the security of any nuclear site or of any nuclear material”.⁵²⁷

This legislation developed further in 2005 through the enactment of the Prevention of Terrorism Act 2005. This new provision in this law the provision of control orders, which allow

⁵²¹ A regularly updated current text of the Terrorism Act 2000 is provided by the government at www.stautelaw.gov.uk

⁵²² Part I, Section 1 of the 2000 Terrorism Act

⁵²³ Part VI, Section 59-61 of the 2000 Terrorism Act

⁵²⁴ Part II of the 2000 Terrorism Act

⁵²⁵ Part I and II of 2001 The Anti-Terrorism, Crimes and Security Act

⁵²⁶ Part 11 of 2001 The Anti-Terrorism, Crimes and Security Act

⁵²⁷ Part 6-8 of 2001 The Anti-Terrorism, Crimes and Security Act

the government to restrict the activities of individuals it suspects of “involvement in terrorist-related activity,” but for whom there is not sufficient evidence to charge with a crime.⁵²⁸ The Terrorism Act 2006 tries to offer a way to control these suspects through the controversial provision, which extends the pre-charge detention period to 90 days.⁵²⁹ In addition, this law introduces a prohibition on the “glorification” of terrorism.⁵³⁰

The Counter-Terrorism Act of 2008 enabled post-charge questioning of terrorist suspects; allowed constables to take fingerprints and DNA samples from individuals subject to control orders;⁵³¹ and amended the definition of terrorism by inserting a racial cause. The insertion of racial cause means to include racism as a motivating cause of terrorism. The aim is to “cement into the law clarity that terrorism includes campaigns of terrorist violence motivated by racism.”⁵³² This Act also introduced further offences and police powers, relating mainly to terrorist support and funding.⁵³³ The Counter-Terrorism Act of 2011,⁵³⁴ Provides for a full review hearing of each case in which the court reviews the Secretary of State’s decision that the relevant conditions were met in relation to imposing the measures. It also introduced a replacement system of terrorism prevention and investigation measures.⁵³⁵

The latest counter-terrorism legislation is the Counter Terrorism and Security Act of 2015. It contains provisions designed to disrupt the ability of people to travel abroad to engage in terrorist activity and then return to the UK; enhance the ability of operational agencies to monitor

⁵²⁸ The Anti-Terrorism, Crime and Security Act 2001 initially enabled the home secretary to indefinitely detain, without charge or trial, foreign nationals who are suspected of terrorism

⁵²⁹ The Criminal Justice Act 2003 had increased it from seven to 14 days.

⁵³⁰ Part I of Terrorism Act 2006.

⁵³¹ “Counter-Terrorism Act 2008”, *guardian.com*, January 19, 2009 accessed September 16, 2016 <https://www.theguardian.com/commentisfree/libertycentral/2009/jan/19/counter-terrorism-act>.

⁵³² Lord Carlile, “The Definition of Terrorism”, March 2007, paragraph 66, accessed September 16, 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228856/7052.pdf.

⁵³³ *Ibid.*

⁵³⁴ “Terrorism Prevention and Investigation Measures Act,” *politics.co.uk*, accessed September 16, 2016, <http://www.politics.co.uk/reference/terrorism-prevention-and-investigation-measures-act>.

⁵³⁵ *Ibid.*

and control the actions of those who pose a threat; combat the underlying ideology that feeds, supports and sanctions terrorism; and improve law enforcement agencies' ability to find out who is responsible for sending internet communications accessing an internet communications service.⁵³⁶ These measures are meant to protect the public from the small number of people who pose a real terrorist threat to security, but who cannot be prosecuted, or in the case of foreign nationals, deported.

The development of counter-terrorism measures in the UK raised the growing tension between protection of national security and human rights. It has been evident in the high-profile campaigns against certain legislative proposals from civil liberties and human rights organizations, from senior judges expressing their disagreement in cases under the Human Rights Act,⁵³⁷ and from parliamentarians rebelling against government plans. The ever-expanding definition of terrorism; the creeping increase in periods of pre-charge detention⁵³⁸; the control order regime and increasing use of closed tribunal proceedings; the widespread use of stop and search powers; and the curtailment of the right to protest, and issues of state terrorism and the right to rebel.⁵³⁹ For example, in regard to “stop and search” power giving police throughout the UK without for reasonable suspicion in order to prevent terrorism. The number of recorder stop and search has skyrocketed.⁵⁴⁰ It rose almost seven-fold in just two years (from 37,000 in the year ending April 2007 to over 256,000 for the year ending April 2009).⁵⁴¹ In addition, a survey on Metropolitan Police found that the number of Asians stopped and searched by the police rose 41% between 2000 to 2001 and searches on black people rose 30%, compared

⁵³⁶ David Anderson Q., C, Independent Reviewer of Terrorism Legislation Terrorism Prevention and Investigation Measures in 2012 (London: The Stationery Office, 2013).

⁵³⁷ *Ibid.*

⁵³⁸ *Ibid.*

⁵³⁹ *Ibid.*

⁵⁴⁰ “Without Suspicion Stop and Search Under the Terrorism Act 2000,” hrw.org, July 4, 2010 accessed May 22, 2017 <https://www.hrw.org/report/2010/07/04/without-suspicion/stop-and-search-under-terrorism-act-2000>.

⁵⁴¹ *Ibid.*

to 8% for white people in the same period.⁵⁴² Furthermore, there are an increase in individual complaints that the Muslim individual being stopped and searched and having the cars and homes searched. The Muslim have been targeted for any reason other than of their religion.⁵⁴³

It has been widely recognized that gathering intelligence is the most critical step in the prevention of terrorism.⁵⁴⁴ Intelligence services are traditionally viewed as the dominant actors in the world of intelligence gathering⁵⁴⁵; however, the adoption of ILP by the law enforcement agencies has placed their ability and the potential of law enforcement agencies in the intelligence world significantly developed and increased.⁵⁴⁶ In relation to the adoption of ILP into NIM, it has been showed that NIM has played an important role in supporting the “Pursue” aspect of the counter-terrorism objectives.⁵⁴⁷ The NIM has also contributed to better standards of intelligence gathering and evaluation⁵⁴⁸

In addition, the police’s role in intelligence activities comports with the “Four P’s” of the UK’s counter-terrorism strategy, particularly as to “Pursue” and “Protection.” As terrorists conduct their activities in secret ways, law enforcement, security, and intelligence agencies depend on covert intelligence to detect and disrupt terrorist activities.⁵⁴⁹ In doing so, the Security Service works closely with the counter-terrorism police to investigate threats using intelligence and share all intelligence works.⁵⁵⁰ For example, after the London attack, structures were put in

⁵⁴² Liberty, *The Impact of Anti-Terrorism Power on the British Moslem Population* (London: Liberty, 2004), 5.

⁵⁴³ *Ibid.*

⁵⁴⁴ Paul Wilkinson, *Terrorism versus Democracy* (London: Frank Cass, 2000), 105.

⁵⁴⁵ Eric Halford, *The Emergence of Command Terrorism Policing Model and Its Impact in Intelligence Sharing between Police and Security Services* (dissertation: Salford University, 2009), 23.

⁵⁴⁶ J.H. Ratcliffe, *Intelligence-Led Policing* (New York: Routledge, 2011).

⁵⁴⁷ Frank Gregory, “An Assessment of Contribution of Intelligence led Counter Terrorism to U.K Home Land Security Post-9/11 within the Contest Strategy,” in *Homeland Security in the UK: Future Preparedness for Terrorist Attack Since 9/11*, Paul Wilkinson (London: Routledge, 2007), 181.

⁵⁴⁸ *Ibid.*

⁵⁴⁹ James Smart, “Intelligence, Security and The Law,” accessed May 22, 2017, <https://www.mi5.gov.uk/news/intelligence-security-and-the-law>

⁵⁵⁰ Peter Taylor, “How Britain Has Been Kept Safe for A Decade,” *bbc.com*, July 17, 2016, accessed May 22, 2017, <http://www.bbc.com/news/magazine-36803542>.

place to ensure that intelligence was properly shared.⁵⁵¹ “This shared intelligence is then passed upwards to the pinnacle of Britain's counter-terrorist pyramid where it's sifted and analyzed by MI5, MI6, the Government Communications Head Quarter (GCHQ) and the police at their weekly meetings in MI's London headquarters.⁵⁵²”

In the case of the UK, close collaboration between the UK's counter-terrorism security intelligence agency (MI5)⁵⁵³ and its law enforcement agencies is internationally recognized as a model for successful collaboration.⁵⁵⁴ The Security Service is the lead agency for counter-terrorism investigations, but only whilst they are in the investigation phase.⁵⁵⁵ The Security Service has no law enforcement capability, governed under separate legislation⁵⁵⁶ from the Police service. The relationship shifts when the Police become the lead agency; while the work of the Police continues to be supported by the intelligence work of the Security Service.⁵⁵⁷ The switched occurs when there is a need of law enforcement or executive action as it is referred to within counter-terrorism arises.⁵⁵⁸

The emergence of Counter-terrorism Command (CTC) and regional Counter-Terrorism Units (CTU's)⁵⁵⁹ has resulted in a remarkable level of cooperation between the Security Service

⁵⁵¹ *Ibid.*

⁵⁵² *Ibid.*

⁵⁵³ For Further reading on MI5 see Chalk & William Rosenau, *Confronting the “Enemy Within” Security Intelligence, the Police, and Counterterrorism in Four Democracies* (Santa Monica, CA: RAND Corporation, 2004).

⁵⁵⁴ Halford, *The Emergence of Command Terrorism Policing Model*.

⁵⁵⁵ *Ibid.*

⁵⁵⁶ Read further, James Beckman, *Comparative Legal Approaches to Homeland Security and Anti-Terrorism*, (Burlington, US; Hampshire, UK; Ashgate, 2007), 55-57; “Law and Governance,” accessed May 22, 2017, <https://www.mi5.gov.uk/law-and-governance>.

⁵⁵⁷ Halford, *The Emergence of Command Terrorism Policing Model*, 23-25.

⁵⁵⁸ *Ibid.*

⁵⁵⁹ The CTU is based at the region. The position of CTU in counter-terrorism structure is to assist the CTC, as a secondary actor in intelligence, and regionally as the lead of law enforcement of counter-terrorism. There are 5 CTU's located in different region, namely, South East Center Terrorism Unit (SECTU), West Midlands Counter Terrorism Unit (WMCTU), North West Counter Terrorism Unit (NWCTU), North East Counter Terrorism Unit (NECTU), Wales Extremism and Counter Terrorism Unit (WECTU)

(MI5) and the Police.⁵⁶⁰ The CTC was established within the Metropolitan Police Service as a result of uniting the two specialist operations departments known as SO12, which was the traditional Special Branch, and SO13, the Anti-Terrorist Branch, and together these branches became positioned as the primary and the national counter-terrorism agency in police department.⁵⁶¹ In addition, CTUs, or regional Counter-Terrorism Units, are operating in police departments that support the work of CTC. The work undertaken by these CTUs is a mixture of intelligence gathering and law enforcement.⁵⁶²

The collaborative work between CTC and CTUs is routinely conducted to include joint operations and joint reporting, shared technical programs, and the exchange of staff.⁵⁶³ In addition, as the result of the emergence of the CTC, the levels of intelligence sharing has increased between police and security service, as well as within the police counter-terrorism units.⁵⁶⁴ A study conducted to assess the CTC role in counter-terrorist threats in the UK has shown that the CTC has been successfully increasing the UK's effectiveness.⁵⁶⁵ There are two significant factors that have been perceived as the most influential in this regard: these are face-to-face and bi-lateral relationships.⁵⁶⁶

Based on the discussion above, it noteworthy that the adoption of ILP in the U.K did not happen only because of concern for fighting terrorism. It is rather as the form and the influence of major progress to develop law enforcement in last two decades.⁵⁶⁷ The evolving of ILP into

⁵⁶⁰ Halford, *The Emergence of Command Terrorism Policing Model*.

⁵⁶¹ Metropolitan Police Service, "Counter Terrorism Command," *police.co.uk*, January 1, 2009 accessed May 16, 2016, http://www.met.Police.uk/so/counter_terrorism.htm

⁵⁶² Halford, *The Emergence of Command Terrorism Policing Model*.

⁵⁶³ HM Government, *Pursue, Prevent, Protect, Prepare: The United Kingdom's Strategy for Countering International Terrorism* (London: HMG,2009), 62

⁵⁶⁴ Halford, *The Emergence of Command Terrorism Policing Model*.

⁵⁶⁵ *Ibid.*

⁵⁶⁶ *Ibid.*

⁵⁶⁷ Edmund F. Garrel, "Intelligence led Policing as a Framework for Responding Terrorism," *Journal of Contemporary Criminal Justice* 23, no.2 (2007): 142-158.

NIM because the recognition of a need for modern law enforcement to create systems that enabled officers to effectively prevent complex and serious crimes, as well as to manage the risks associated with crime prevention.⁵⁶⁸ In term of counter-terrorism, the U.K has developed multi-agency approach. The security service and the police have continually developed relationships, and as a result, the level of cooperation has significantly improved. This close collaboration has been successful in increasing the flow of intelligence, and the adoption of ILP by the law enforcement agencies has benefited to the counter-terrorism strategy as a whole.⁵⁶⁹ Further, the adoption of ILM into NIM has placed the ability and the potential of law enforcement agencies in the intelligence process.⁵⁷⁰ Overall, the NIM has contributed to better standards of intelligence gathering and evaluation.⁵⁷¹

C. The U.S. Policing Landscape and Counter-Terrorism Law

1. Policing in The U.S. Before The 9/11 Attacks: A Fragmented, Decentralized and Uncoordinated Intelligence Setting

The American system has historically had federal, state, county, and municipal components that have resisted centralized direction. The U.S. has more, separate and individual police forces than any other nation in the world.⁵⁷² There are more than 18,000 separate law enforcement agencies, roughly 16,000 of which are run locally.⁵⁷³ As such, the largest

⁵⁶⁸ Karen Bullock, "Intelligence led Policing in the National Intelligence Model," in *The Future of Policing*. Jennifer M. Brown. (New York: Routledge, 2014); Karen Bullock, "Generating and Using Community Intelligence: The Case of Neighborhood Policing," *International Journal of Police Science and Management* 12, no.1 (2010).

⁵⁶⁹ *Ibid.*

⁵⁷⁰ *Ibid.*

⁵⁷¹ *Ibid.*

⁵⁷² Leonard A. Steverson, *Policing in America: A Reference Handbook* (Santa Barbara, California: ABC-CLIO, 2008).

⁵⁷³ Compared to other countries such the U.K, Australia, Israel and Canada, The U.S has many layers and jurisdictions. The U.S contains more and less 3,000 counties and 2,500 cities with 10,000 or more people. It has more than 16 federal intelligence agencies and 17,500 local law enforcement agencies that employ more than 750,000 local law enforcement officers. For the statistics of State and Local Law Enforcement Agencies in the U.S. see Brian A. Reaves, *Census of State and Local Law Enforcement Agencies* (Washington DC: Bureau of Justice Statistics, 2007) <http://www.ojp.usdoj.gov/bjjs/pub/pdf/cslllea04.pdf>.

components of U.S. policing are local: municipal police departments (cities, towns, townships, boroughs, villages) and county sheriff offices.⁵⁷⁴ Even these entities themselves are small and independent of one another.⁵⁷⁵ The U.S. also has a number of specialty forces that overlap in geographic jurisdiction; this overlap routinely causes conflict in the areas of both law enforcement and investigation.⁵⁷⁶

Due to the large number of localized agencies, on the one hand, the police are better attuned and connected to the local communities they serve, and they are immediately accountable and responsible to local political forces.⁵⁷⁷ On the other hand, the complex and decentralized structure has impacted to the police work. At the local and state levels, police officers in the field frequently act alone and without immediate supervision.⁵⁷⁸ Most of their work does not produce any official information, especially when it does not result in a report or arrest; thus, it is rarely subject to later analysis or review.⁵⁷⁹ Often, primary data known to one officer is not available to other officers because the officers do not write official reports; instead, they store it in their personal notes (or it is simply “kept” in the officer’s head).⁵⁸⁰

Information that is not directly connected to an incident, crime, or case does not have a

⁵⁷⁴ Gary Cordner and Kathryn Scarborough, “Information Sharing: Exploring the Intersection of Policing with National and Military Intelligence,” *Homeland Security Affairs* 1, no. 1 (2010): 1.

⁵⁷⁵ *Ibid.*

⁵⁷⁶ Steverson, *Policing in America*, 99-100.

⁵⁷⁷ This more community-oriented approach in the United States is known as community policing, a practice that has been institutionalized over the last two decades in the 20th century. Community policing is widely recognized and celebrated as a crime control model and as a decent answer to the conflict between police and the communities they serve. The community policing practice is characterized by patrols on foot, bicycle, horse, and car, the main tactics utilized in pursuance of maintaining and strengthening contact with the citizens and communities. Geographical information system and problem solving are the other methods employed to identify and to solve the main tendencies and problems that occurred in the communities. The citizen and community satisfactions and the quality of life of the local communities, neighborhoods are the most concerns and outcomes expected in police work; for community policing read further W.M., Oliver, “The Homeland Security Era of Policing,” *Crime & Justice International* 21, no.85 (2005): 12; George L Kelling and William J. Bratton, “Policing Terrorism,” *Manhattan Institute for Policy Research Civic Buletin* 43, 2006.

⁵⁷⁸ Gary Cordner, *Reducing Fear of Crime: Strategies for Police* (Office of Community Oriented Policing Services, 2010), 15-21.

⁵⁷⁹ *Ibid.*

⁵⁸⁰ Peter K. Manning, “Information Technologies and the Police,” in *Modern Policing*, eds. Michael Tonry and Norval Morris (Chicago: University of Chicago Press, 1992), 370.

natural home in the typical police records system. Culturally, information and intelligence are not included in the traditional units of police work. Producing information and intelligence are not rewarded. Incidents, crimes, and cases are traditionally assigned to individual officers (or detectives) who are evaluated on how well they handle and dispose of these events. Consequently, the tendency is for officers and detectives to hold information closely in order to use it later to enhance their own, individual productivity.⁵⁸¹ Furthermore, historically speaking, in the 1960s and 1970s, the military and federal law enforcement had engaged in abuse of intelligence practices. For example there were widespread allegations that the Federal Bureau of Investigation (FBI), had abused its law enforcement powers to harass non-violent political groups, such as attempt to discredit and harass Dr. Martin Luther King, Jr.⁵⁸² In 1976, the Senate Select Committee on Intelligence Activities (Church Committee) showed that information was collected and disseminated in order to serve the purely political interests of an intelligence agency or the administration, and to influence social policy and political action.⁵⁸³ For example between 1960 and 1974, the FBI kept files on one million Americans, and investigated 500,000 so-called “subversives”—all without a single court conviction.⁵⁸⁴ In 1972 alone, the FBI opened 65,000 domestic intelligence files.⁵⁸⁵ Moreover, based on the Committee Church report Intelligence agencies have served the political and personal objectives of presidents and other

⁵⁸¹ Cordner, *Reducing Fear of Crime*, 15-21.

⁵⁸² Morris Panner, *Law Enforcement Intelligence in a Free Society: a Review of the Attorney General's Guidelines on General Crimes Racketeering Enterprise and Domestic Security/Terrorism Investigations*, available at <http://www.law.harvard.edu/programs/criminal-justice/ag-guidelines.pdf>; American Civil Liberties Union Washington National Office, *The Dangers of Domestic Spying by Federal Law Enforcement: A Case Study on FBI Surveillance of Dr. Marthin Luther King*, (Washington DC: ACLU,2002).

⁵⁸³ Intelligence Activities and Rights of Americans. Book II, Final Report of the Select Committee to Study Governmental Operations with respect to Intelligence Activities, April 26, 1976. Available online at https://archive.org/stream/finalreportofsel01unit/finalreportofsel01unit_djvu.txt

⁵⁸⁴ Senate, *Intelligence Activities and the Rights of Americans, Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities United States Senate*, S. REP. No. 94-755, (Washington DC: US Government Printing Office,1976), 6

⁵⁸⁵ *Ibid.*

high officials.⁵⁸⁶ “Every administration from Franklin D. Roosevelt to Richard Nixon had “permitted, and sometimes encouraged, government agencies to handle essentially political intelligence.”⁵⁸⁷ As a result of these abusive practices, intelligence has been demonized, and some agencies have shut down their intelligence functions voluntarily, by court order, or from the political pressure.⁵⁸⁸

With these observations, it is not hard to see how the U.S. has a highly fragmented system and complex structure.⁵⁸⁹ The nature of police work in the U.S. has been more focused on serving the community, and the most common characteristic of police culture has been to work reactively rather than preventively. In addition, the historical stumblings over abuse of intelligence practices all seem to conspire against an intelligence-led approach to policing and the free flow of information.⁵⁹⁰

2. The Counter-Terrorism Legislation And Policing Approach After 9/11: Calls For Sharing Information and Intelligence Led-Approach

The key statutory instrument in dealing with terrorism in the U.S. has been the Patriot Act (2001).⁵⁹¹ The Patriot Act was passed in the wake of the 11 September 2001 terrorist attacks.

⁵⁸⁶ *Ibid*, 5.

⁵⁸⁷ *Ibid*, 9.

⁵⁸⁸ Alberto R. Gonzales, et al, *Intelligence-Led Policing: The New Intelligence Architecture* (Washington DC, Bureau of Justice Assistance, U.S. Department of Justice, 2005).

⁵⁸⁹ This complexity of the American policing structure has been described by Lab and Das as “easily the most extreme case of decentralized multiple uncoordinated systems see S.P. Lab and D.K. Das, *International Perspective on Community Policing and Crime Prevention* (Upper Saddle River, NJ: Prentice Hall, 2003); Steverson, *Policing in America*.

⁵⁹⁰ Cordner, *Reducing Fear of Crime*, 15-21; Ratcliffe, “Intelligence-Led Policing.”

⁵⁹¹ The Patriot Act’s full title is Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (2001). The Act deals with issues such as intrusive surveillance and creating powers for law enforcement agencies and adds several crimes to the list of those considered acts of terrorism, including attacking a mass transit system, using a biological weapon, supporting terrorism and computer hacking. It also increases the penalties for terrorist crimes. The Patriot Act also contain provision on surveillance procedure, information sharing for critical infrastructure protection, improved intelligence, provision to against money laundering abatement and anti-terrorist financing act.

With this Act, Congress aimed to strengthen domestic security and broaden the powers of law-enforcement agencies with regards to identifying and stopping terrorists.⁵⁹²

Another key important statute related to counter-terrorism has been the FISA Amendments Act of 2008.⁵⁹³ This statute supported the Intelligence Community and ensured that the Intelligence Community had the tools it needed to determine who terrorists are communicating with, what they are saying, and what they are planning. Today, it provides critical authority for the Intelligence Community to acquire foreign intelligence information by targeting foreign persons reasonably believed to be outside the United States. It also preserves and provides new civil liberties protections for Americans. And it requires court orders to target Americans for foreign intelligence surveillance—no matter where they are—and it requires court review of the procedures used to protect information about Americans. Finally, it provides critical liability protections for companies whose assistance is necessary to protect the country from terrorist threats.

In terms of counter-terrorism policing, prior to 9/11 the FBI played a lead role in the government's domestic counter-terrorism strategy.⁵⁹⁴ In line with the traditional—reactive law enforcement approach, FBI's spent most of the resources and energy on conducting investigations to develop criminal cases after major terrorist attacks.⁵⁹⁵ Regarding international terrorist organizations, the FBI's conter-terrorism efforts included both intelligence and criminal

⁵⁹² The passing and renewal of the Patriot Act has been extremely controversial. Supporters claim that it has been instrumental in a number of investigations and arrests of terrorists, while critics accuse the act of giving the government too much power, threatening civil liberties and undermining the very democracy it seeks to protect.

⁵⁹³ It modernized the Foreign Intelligence Surveillance Act of 1978.

⁵⁹⁴ "Law Enforcement, Counterterrorism and Intelligence Collection in the United States Prior to 9/11, *Staff Statement no.9,*" *nbcnews.com*, April 13, 2004, accessed February 16, 2016 http://www.nbcnews.com/id/4730791/ns/us_news-security/t/commission-staff-statement/#.WSNbjWjyvIU.

⁵⁹⁵ *Ibid.*

investigations.⁵⁹⁶ Similar to dealing with domestic terrorism, the FBI's approach to international terrorist organizations was focused on the post-attack.⁵⁹⁷ The investigations that were conducted were case-specific, decentralized, and geared toward prosecution. Significant FBI resources were devoted to after-the-fact investigations of major terrorist attacks, which did result in several prosecutions,⁵⁹⁸ such as bombing attacks at world trade center in 1993,⁵⁹⁹ six suspects are convicted of participating in the bombing; Oklahoma bombings attack in 1995, where Timothy McVeigh is convicted on federal murder charges and executed in 2001 and;⁶⁰⁰ A terror attack at Atlanta in 1996, where the bombing suspect Eric Robert Rudolph is arrested and served four consecutive sentences of life in prison plus 120 years for the attacks.⁶⁰¹

In this way, the FBI took a traditional law enforcement approach to counter-terrorism. Its agents were trained to build cases.⁶⁰² Its management was deliberately decentralized to empower the individual field offices and agents on the street.⁶⁰³ It rewarded agents based on statistics reflecting number of arrests, indictments, and prosecutions.⁶⁰⁴ "As a result, fields such as counter-terrorism and counterintelligence, where investigations are longer term and generally

⁵⁹⁶ *Ibid.*

⁵⁹⁷ *Ibid.*

⁵⁹⁸ According to another external review of the FBI, by 2000 there were twice as many agents devoted to drug enforcement matters as to counterterrorism. On September 11, 2001, only about 1,300 agents, or six percent of the FBI's total personnel, worked on counterterrorism.

⁵⁹⁹ "US Terrorist Attack Fast Fact," *cnn.com*, September 10, 2016, accessed May 22, 2017, <http://www.cnn.com/2013/04/18/us/u-s-terrorist-attacks-fast-facts/>.

⁶⁰⁰ *Ibid.*

⁶⁰¹ *Ibid.*

⁶⁰² "Background Report: What Went Wrong?," *pbs.org*, April 13, 2004, accessed February 16, 2016, http://www.pbs.org/newshour/bb/terrorism-jan-june04-wrong_04-13/.

⁶⁰³ *Ibid.*

⁶⁰⁴ *Ibid.*

result in fewer prosecutions, were viewed as backwaters.”⁶⁰⁵ Agents developed information in support of their own cases, not as part of a broader, more strategic effort.⁶⁰⁶

In the investigative arena, the field office had primacy. Counterterrorism investigations were run in the field, not by headquarters. Moreover, the field office that initiated a case maintained control over it, an approach the FBI called the “Office of Origin” model. This decentralized management structure allowed field offices to set their own priorities with little direction from headquarters.

Given the poor state of the FBI’s information systems, field agents usually did not know about the ongoing investigations of agents in their own office, let alone in other field offices. Nor did analysts have easy access to this kind of information. As a result, it was almost impossible to develop an understanding of the threat from a particular international terrorist group.⁶⁰⁷ Agents investigated their individual cases with the knowledge that any case information recorded on paper and stored in case files was potentially discoverable in court.⁶⁰⁸ Thus, there was a disincentive to share information, even with other FBI agents and analysts.⁶⁰⁹ Analysts were discouraged from producing written assessments which could be discoverable and used to attack the prosecution’s case at trial.⁶¹⁰

In addition, before 9/11 the FBI’s ability to collect useful intelligence from human sources was limited. The FBI did not have a formal mechanism for validating source reporting, nor did it have a system for adequately tracking and sharing such reporting, either internally or

⁶⁰⁵ *Ibid.*

⁶⁰⁶ *Ibid.*

⁶⁰⁷ *Ibid.*

⁶⁰⁸“Law Enforcement, Counterterrorism and Intelligence Collection in the United States Prior to 9/11, *Staff Statement no.9,*” *nbcnews.com*, April 13, 2004, accessed February 16, 2016

http://www.nbcnews.com/id/4730791/ns/us_news-security/t/commission-staff-statement/#.WSNbjWjyIU.

⁶⁰⁹ *Ibid.*

⁶¹⁰ *Ibid.*

externally. The “wall” between criminal and intelligence investigations apparently caused agents to be less aggressive than they might otherwise have been in pursuing Foreign Intelligence Surveillance Act (FISA) surveillance powers in counter-terrorism investigations. Moreover, the FISA approval process involved multiple levels of review, which also discouraged agents from using such surveillance. The FBI’s surveillance personnel were more focused on counterintelligence and drug cases. In fact, many field offices did not have surveillance squads prior to 9/11. After all, the FBI did not dedicate sufficient resources to the surveillance.

Recognizing certain limitations undermined a preventive counter-terrorism strategy, the FBI attempted several reform efforts aimed at strengthening its ability to prevent such attacks⁶¹¹ For example, the FBI made several organizational changes at headquarters during the 1990s, including the creation of a Counter-terrorism Center, the exchange of senior FBI and CIA counter-terrorism officials, and the creation of a unit focused exclusively on Usama Bin Ladin.⁶¹² The FBI also expanded its overseas Legal Attache program during this period, largely to improve its liaison with foreign governments on terrorism.⁶¹³ All in all, these broad reform efforts were focused on intelligence collection and analysis, counter-terrorism expertise and training, information technology, and the counterterrorism capacity of field offices.⁶¹⁴ It is,

⁶¹¹ The FBI determined early in the 1990s that a preventive posture was a better way to counter the growing threat from international terrorism. In its first budget request to Congress after the 1993 World Trade Center bombing, the FBI stated that, “merely solving this type of crime is not enough; it is equally important that the FBI thwart terrorism before such acts can be perpetrated.” These broad reform efforts were focused on intelligence collection and analysis, counter-terrorism expertise and training, information technology, and the counterterrorism capacity of field offices

⁶¹² “Law Enforcement, Counterterrorism and Intelligence Collection in the United States Prior to 9/11, *Staff Statement no.9*,” *nbcnews.com*, April 13, 2004, accessed February 16, 2016 http://www.nbcnews.com/id/4730791/ns/us_news-security/t/commission-staff-statement/#.WSNbjWjyIU.

⁶¹³ *Ibid.*

⁶¹⁴ *Ibid.*

however, these same reform efforts did not have significant success at effecting change across the organization.⁶¹⁵

The 9/11 terrorist attacks highlighted the importance of intelligence to state and local law enforcement, both in terms of information sharing and as to analysis of threat information. In the aftermath of 9/11, turf battles and the need for jurisdictional supremacy at all levels of the U.S. law enforcement community, information-sharing weaknesses were considered a major contributing factor in the intelligence failure and nation's failure to prevent these terrorist attacks.⁶¹⁶

Thus, the next paragraphs outline the changes and reforms over counter-terrorism policing in the U.S after 9/11, following the greater call and need for collaboration and information-sharing about terrorist threats among local, state, and federal agencies. The 9/11 attacks caused an evaluation and substantial changes in policing activities and the resources tasked with homeland security and terrorism prevention.

The Homeland Security approach emphasizes crime control.⁶¹⁷ By allocating resources to crime control, the Homeland Security approach hopes to recognize potential threats and gather intelligence.⁶¹⁸ With this model, police take an anti-terrorism role by engaging in several measures, such as local threat assessments, intelligence gathering activities, and

⁶¹⁵ *Ibid.*

⁶¹⁶ AFCEA, *Intelligence Community. The Need to Share: The U.S. Intelligence Community and Law Enforcement.* (AFCEA, 2007), 7.

⁶¹⁷ Jose Docobo, "Community Policing as the Primary Prevention Strategy for Homeland Security at the Local Law Enforcement Level," *Homeland Security Affairs* 1, no.4 (2005).

⁶¹⁸ Marilyn Peterson. *Intelligence-Led Policing: The New Intelligence Architecture*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 2005. <http://www.ncjrs.gov/pdffiles1/bja/210681.pdf>; Williard M. Oliver, "The fourth era of policing: Homeland Security," *International Review of Law, Computers & Technology* 20, 1-2 (2006).

intergovernmental information sharing.⁶¹⁹

Under the Homeland Security approach, the collection, processing, and analysis of intelligence has become of paramount importance to police functioning.⁶²⁰ Police agencies must shift their organizational structures from being decentralized to being more centralized, especially when handling information derived from enhanced intergovernmental relationships and information sharing.⁶²¹ With this model, a centralized decision-making process is necessary.⁶²² This “centralization” process requires internal information sharing to inform centralized decision-making. At the execution level, this centralization affects how a police officer on the street might make decisions (the clear need for continued flexibility of street-level decision-making).⁶²³

Under the Homeland Security model the community remains a significant source of information and intelligence, where the police are more professionally-oriented to the nature of the demand for information, organizational function, and organizational design.⁶²⁴ With this approach, law enforcement’s criminal intelligence activities are not only specific to particular types of crime, such as organized crime and white-collar crime, but they also focus on terrorist threats.⁶²⁵ “Over the past decade, simultaneous to federally led initiatives to improve intelligence gathering, thousands of community-policing officers have been building close and

⁶¹⁹ Willard M. Oliver, “Era of Homeland Security,” *Crime & Justice International* 21, no. 85 (2005): 12.

⁶²⁰ *Ibid.*

⁶²¹ *Ibid.*

⁶²² *Ibid.*

⁶²³ *Ibid.*

⁶²⁴ Robert R. Friedmann and William J. Cannon, “Homeland Security and Community Policing: Competing or Complementing Public Safety Policies” (Criminal Justice and Criminology Faculty Publications, 2007); Janet Ransley and Lorraine Mazerolle, “Policing in Era Uncertainty,” *Police Practice and Research* 10, no.4 (2009); Matthew C. Waxman, “Police and National Security: American Local Law Enforcement and Counterterrorism After 9/11,” *Journal of National Security Law & Policy* 3, (2009).

⁶²⁵ *Ibid.*

productive relationships with the citizens they serve.⁶²⁶ Many of community-policing officers has developed skills that directly support new counter-terrorism responsibilities, among other things, the scientific approach to problem solving, environmental scanning, effective communications with the public, fear reduction, and community mobilization to deal with problems are among the important attributes community policing brings to this challenge.⁶²⁷ The benefits of these skills and the relationship between the officers and community are directly related to information and intelligence sharing: COP officers have immediate and unfettered access to local, neighborhood information.⁶²⁸ Thus, it enhances of law enforcement information-sharing networks.⁶²⁹

To be consistent with the homeland security model, the FBI has undertaken its most significant transformation in history, completely transforming its operations to better detect, penetrate, and dismantle terrorist enterprises.⁶³⁰ This change is just part of the FBI's larger cultural shift to a threat-driven intelligence and law enforcement agency.⁶³¹ As part of this strategic shift, the FBI has overhauled its counter-terrorism operations, expanded intelligence capabilities, modernized business practices and technology, and improved coordination with its partners.⁶³² Some of the significant adjustments include, realignment with the FBI's organizational structure and established operational units,⁶³³ raising the budget.⁶³⁴ Furthermore,

⁶²⁶ David L. Carter, *Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies* 2nd Ed, (Washington DC: US DOJ), 40.

⁶²⁷ *Ibid.*

⁶²⁸ *Ibid.*

⁶²⁹ Raymond A. Guidetti, "Policing the Homeland: Choosing the Intelligent Option," (Thesis, Naval Post Graduate School: California, 2006).

⁶³⁰ Department of Justice, *Fact Sheet: Justice Department Counter-Terrorism Efforts Since 9/11*, September 11, 2008 accessed 16 February 2016 <https://www.justice.gov/archive/opa/pr/2008/September/08-nsd-807.html>.

⁶³¹ *Ibid.*

⁶³² Department of Justice, *Fact Sheet: Justice Department Counter-Terrorism Efforts Since 9/11*, September 11, 2008 accessed 16 February 2016 <https://www.justice.gov/archive/opa/pr/2008/September/08-nsd-807.html>.

⁶³³ There are five branches, including the National Security Branch, which centralized the FBI's national security programs, including its Counterterrorism Division, Counterintelligence Division, Directorate of Intelligence, Weapons of Mass Destruction Directorate, and Terrorist Screening Center, into a single branch. Established

increasing the number of intelligence analysts from 1,203 before 9/11 to more than 2,100 today, and increasing the number of onboard language analysts from 784 to more than 1,300 today.⁶³⁵ Another significant adjustment also includes the established Field Intelligence Groups in all 56 FBI field offices,⁶³⁶ improved intelligence sharing through improved intelligence products, disseminating 8,238 Intelligence Information Reports in Fiscal Year 2007 alone.⁶³⁷

In 2002, the International Association of the Chief of Police (IACP) during the Summit examined closely the U.K. National Intelligence Model (NIM).⁶³⁸ The primary outcome of the Summit was creation of the Global Intelligence Working Group, which comprised approximately 30 intelligence professionals.⁶³⁹ This group gave rise to the National Criminal Intelligence Sharing Plan, which U.S. Attorney General John Ashcroft approved and released in October 2003.⁶⁴⁰

This Plan reflects law enforcement's commitment to take it upon itself to ensure that the dots are connected, be it for crime or for terrorism. The Plan is the outcome of an unprecedented effort by law enforcement agencies, with the strong support of the Department of Justice, to strengthen the nation's security through better intelligence analysis and sharing.⁶⁴¹ The Plan's

numerous operational units that provide new or improved capabilities to address the terrorist threat, including the 24/7 Counterterrorism Watch, the Terrorism Financing Operation Section, document/media exploitation squads, the Terrorism Reports and Requirements Section to disseminate FBI terrorism intelligence to the Intelligence Community, and the Counterterrorism Analysis Section to strategically assess indicators of terrorist activity.

⁶³⁴ Roughly doubled the FBI's budget between Fiscal Year 2001 and Fiscal Year 2008. \$7.1 billion has been requested for the FBI in Fiscal Year 2009.

⁶³⁵ Department of Justice, *Fact Sheet: Justice Department Counter-Terrorism Efforts Since 9/11*, September 11, 2008 accessed 16 February 2016 <https://www.justice.gov/archive/opa/pr/2008/September/08-nsd-807.html>.

⁶³⁶ *Ibid.*

⁶³⁷ *Ibid.*

⁶³⁸ Additional information on the IACP Summit can be located in Recommendations from the IACP Intelligence Summit, Criminal Intelligence Sharing: A National Plan for Intelligence-Led Policing at the Local, State, and Federal Levels. This document is available at: <http://www.theiacp.org/documents/pdfs/Publications/intelsharingreport.pdf>.

⁶³⁹ The National Criminal Intelligence Sharing Plan. *Solutions and approaches for a cohesive plan to improve our nation's ability to share criminal intelligence*. October 2003.

⁶⁴⁰ *Ibid.*

⁶⁴¹ *Ibid.*

vision was to provide a model for intelligence sharing, a mechanism to promote ILP, a blueprint for law enforcement administrators to follow when enhancing or building an intelligence system, and a model for intelligence process principles and policies.⁶⁴² The Plan's vision was also to provide a technology architecture to provide secure, seamless sharing of information among systems; a national model of intelligence training; an outreach plan to promote timely and credible intelligence sharing; and a plan that leverages existing systems and networks, yet allows flexibility for technology and process enhancements.⁶⁴³ Not the least of which is the plan's determination to respect and protect individual privacy and civil rights.⁶⁴⁴

Overall, after 9/11 information-sharing networks expanded to include all levels of law enforcement, intelligence communities, and government.⁶⁴⁵ Today, these information-sharing networks not only include information related to counter-terrorism, but all crime.⁶⁴⁶ The Summit represented a turning point in counter-terrorism policing in the U.S, which has moved toward an intelligence-led policing paradigm. It is clearly shown that the ILP concept gained traction in the U.S after 9/11, as it aligned with the new role of intelligence in law enforcement following the attacks.⁶⁴⁷ In the context of the U.S., ILP has focused on developing an analytical understanding of multi-jurisdictional crime threats, charting pathways to solving crimes by through proactive information sharing, both within the agency and with other law enforcement agencies.⁶⁴⁸ Its

⁶⁴² *Ibid.*

⁶⁴³ *Ibid.*

⁶⁴⁴ *Ibid.*

⁶⁴⁵ *National Strategy for Information Sharing Successes and Challenges In Improving Terrorism-Related Information Sharing* (2007), https://nsi.ncirc.gov/documents/National_Strategy_for_Information_Sharing.pdf ; "Information Sharing Environment: Law Enforcement Information Sharing," *ise.gov*, accessed May 16, 2016 <https://www.ise.gov/law-enforcement-information-sharing>.

⁶⁴⁶ *Ibid.*

⁶⁴⁷ Marylyn Peterson, *Intelligence-Led Policing: The New Intelligence Architecture* (U.S. Department of Justice, Office of Justice Programs Bureau of Justice Assistance, 2005).

⁶⁴⁸ *Ibid.*

purpose is to maximize the number of law enforcement personnel who may identify indicators of threats and intervene.

The following section discusses and examines the implementation of ILP as counter-terrorism policing after it was formally adopted through the U.S. legislations, among other, The Patriot Act, the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) and the U.S. Homeland Security Act.

3. The Application Of ILP Concept And Its Challenge: Information Sharing Environment (ISE) And Fusion Center

While there are similarities in the way the U.S. and Europe use intelligence, the division between intelligence and criminal enforcement in the US is less strict than other Europe.⁶⁴⁹ It is a common practice in preventive counter-terrorism efforts to use both intelligence and criminal investigation. However, information has generally not been shared, either internally in the intelligence community or externally with law enforcement agencies.⁶⁵⁰ At the same time, a certain secret evidence⁶⁵¹ and procedures, such as, for electronic surveillance, physical searches, pen registers, and trap and trace devices are allowed in criminal cases.⁶⁵² As the preventive or proactive enforcement in terrorist investigations has gained momentum,⁶⁵³ the provisions reinforcing these practices were adopted into the USA Patriot Act.⁶⁵⁴ This Act increased the

⁶⁴⁹ Jill E.B. Coster van Voorhout, "Intelligence as Legal Evidence Comparative Criminal Research Into The Viability Of The Proposed Dutch Scheme Of Shielded Intelligence Witnesses In England And Wales, And Legislative Compliance With Article 6 (3) (D) ECHR," *Utrecht Law Review* 2, no.2 (2006).

⁶⁵⁰ Fred F. Manget, "Intelligence and Criminal Law System," *Stanford Law and Policy Review* 17, 411 (2006).

⁶⁵¹ "Secret Evidence in the War on Terror," *Harvard Law Review* 18, 6 (2005):1962-1984. (defining "secret evidence "as" evidence—whether classified or unclassified—that is not disclosed to the accused himself").

⁶⁵² FISA intelligence may be used in criminal proceedings after authorization by the AG. Memorandum 2005 of Attorney General John Ashcroft has now been approved by the FISA Review Court. www.whitehouse.gov/news/releases/2004/08/20040827-4.html Final report of the National Commission on Terrorist Attacks upon the United States ('9/11 Commission'); See also David S., Kris, "The Rise and Fall of the FISA Wall," *Stanford Law and Policy Review* 17, (2006):487.

⁶⁵³ David S., Kris, "The Rise and Fall of the FISA Wall," 487

⁶⁵⁴ Proclamation no. 7463, 66 Fed. Reg. 48,199 (14 September 2001).

information flow between the law enforcement agencies and the intelligence community,⁶⁵⁵ and they also broadened the possibilities for the use of secret procedures and intelligence in criminal cases.⁶⁵⁶

Considering the need for change in operational strategies and tactics and for bridging the gap between the law enforcement agencies and the intelligence community, Congress directed the establishment of an Information Sharing Environment (ISE).⁶⁵⁷ In addition, intelligence and law enforcement communities have also created fusion centers and other such organizations to be better integrated in information sharing.⁶⁵⁸

Under the U.S. Homeland Security Act, the President can require implementing procedures under which the federal agencies can share relevant homeland security information with other federal agencies as well as state and local personnel, including law enforcement.⁶⁵⁹ In addition, the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA)⁶⁶⁰ mandated the establishment of an Information Sharing Environment (ISE) that combines policies, procedures, and technologies that link people, systems, and information across federal, state, local, tribal, and private sector entities.⁶⁶¹

The Homeland Security Act and the Intelligence Reform Act and Terrorism Prevention Act of 2004 (IRTPA) form the legal basis for the government to establish a fusion center. A fusion center aims to facilitate two or more agencies, establishing relationships among federal,

⁶⁵⁵ Kris, "The Rise and Fall of the FISA Wall," 487.

⁶⁵⁶ *Ibid*; Rule 15 (b)) 50 U.S.C. 1801 *et seq*.

⁶⁵⁷ "A Brief History of the Information Sharing Environment," Ise.gov, October 2015 accessed May 16, 2016 <https://www.ise.gov/sites/default/files/Brief-History-ISE-2015.pdf>.

⁶⁵⁸ AFCEA, *Intelligence Community. The Need to Share: The U.S. Intelligence Community and Law Enforcement*. (AFCEA, 2007), 7.

⁶⁵⁹ Pub.L. 107-296, 116 Stat. 2135, enacted November 25, 2002

⁶⁶⁰ Public Law 108-458 of December 17, 2004; 118 STAT. 3638

⁶⁶¹ Implementing Recommendations of the 9/11 Commission Act of 2007, Pub.L.No. 110-53, 511, 121 Stat.266, 322 (2007); Intelligence Reform & Terrorism Prevention Act of 2004, Pub.L.No. 108-458, 1016, 118, Stat. 3638, 3665 (2004).

state, and local agencies, and leading to improvements in information sharing and access to data that had previously been isolated into a single agency.⁶⁶²

This resulting fusion center works for assisting agencies with collaboration and maximizing their roles and abilities for fighting against criminal and terrorist activity. This kind of center supports detection, prevention, and investigation, and it responds to both criminal and terrorist activity because it enables the agencies to provide data, information, resources, knowledge, and expertise to the center. With this centralization, it is able to identify potential threats through data analysis and enhance investigations through analytical support (e.g., flow charting and geographic analysis).⁶⁶³

The main contribution of a fusion center is the knowledge, awareness, and warning mechanisms that stem from this complex intelligence process.⁶⁶⁴ Through a fusion center, information and intelligence are turned into actionable knowledge, where the requirements for it are generated and information is collected, integrated, evaluated, analyzed, and disseminated.⁶⁶⁵

Since this center was established, many state governments and some local governments initiated their own fusion centers.⁶⁶⁶ Some law enforcement agencies built on or refocused existing information-sharing networks specifically around counter-terrorism agencies. The goals of fusion centers are to address gaps in information sharing, terrorism, and law enforcement

⁶⁶² The U.S. Department of Justice's Global Justice Information Sharing Initiative and the U.S. Department of Homeland Security, *Fusion Center Guidelines Developing and Sharing Information and Intelligence in a New Era : Guidelines for Establishing and Operating Fusion Centers at the Local, State, and Federal Levels, Law Enforcement Intelligence, Public Safety, and the Private Sector*, (BJA, 2008) https://it.ojp.gov/documents/d/fusion_center_guidelines.pdf; DHS and the Department of Justice, *Fusion Center Guidelines* (Washington DC: US DHS, 2006) ; Richard A. Best Jr, *Sharing Law Enforcement and Intelligence Information: the Congressional Role* (Washington DC: Congressional Research Service, 2007).

⁶⁶³ *Ibid.*

⁶⁶⁴ *Ibid.*

⁶⁶⁵ *Ibid.*

⁶⁶⁶ U.S. Department of Homeland Security, *DHS' Role in State and Local Fusion Centers Is Evolving* (Washington DC, US DHS, 2008), 8-15; Lois M. Davis et.al, *Long-Term Effects of Law Enforcement's Post-9/11 Focus on Counterterrorism and Homeland Security* (Santa Monica: RAND, 2010), 39-41.

information sharing by the federal government.⁶⁶⁷The network established under the fusion center has resulted in more formalized information-sharing networks among law enforcement agencies within the region and centralized information sharing.⁶⁶⁸ Furthermore, under the fusion center the networks have also formally connected to the federal intelligence community and supported share information horizontally among departments.⁶⁶⁹

The fusion center concept and its established foundation undoubtedly reflect an ILP philosophy, incorporating a collaborative law enforcement approach combining problem solving policing, information sharing, and police accountability, with enhanced intelligence operations.⁶⁷⁰ The ILP approach has guided operational policing activities toward high-frequency offenders, locations, or crimes to impact resource allocation decisions.⁶⁷¹ In this way, the fusion center concept involves various criminal justice agencies, and it opens a number of possibilities for enhancing ILP.

Consistent with these observations about fusion centers, Ray Guedetti an intelligence officer in New Jersey's fusion center stated, "[T]he Fusion center is the first attempt at introducing the concepts of intelligence and ILP to an undeveloped network of potential information collectors and intelligence producers and consumers."⁶⁷² This "American ILP" relies on analytically understanding multijurisdictional crime threats, developing a pathway toward solving crime, and relying on proactive information sharing, both within an agency and

⁶⁶⁷ *Ibid.*

⁶⁶⁸ *Ibid.*

⁶⁶⁹ *Ibid.*

⁶⁷⁰ David Lambert, "Intelligence-Led Policing in a Fusion Center," *FBI Law Enforcement Bulletin* 79, no. 12 (2010), 1-6; Bureau of Justice Assistance USDOJ, *Reducing Crime through Intelligence-Led Policing* (Washington DC: BJA, 2008).

⁶⁷¹ *Ibid.*

⁶⁷² J.H. Ratcliffe. *Intelligence-Led Policing* (New York: Routledge, 2011), 27.

with other law enforcement agencies, to maximize the number of law enforcement personnel who may identify indicators of threats and intervene.⁶⁷³

Despite the idealistic goals and the “success stories” of fusion centers, in general, the adoption of ILP and the existence of fusion centers has also been subjected to criticism. Fusion centers pose several potential risks.⁶⁷⁴ First, there is a risk that the fusion will turn its direction,⁶⁷⁵ or stray from its proper mission.⁶⁷⁶ Fusion centers are established for the narrow purpose of counter-terrorism, but many fusion centers increasingly have moved their focus beyond exclusively terror-related crimes to an “all-crimes” or even broader “all-hazards” approach.⁶⁷⁷ In many cases, a Homeland Intelligence Report (HIR) has collected information irrelevant to any terrorist or even criminal activity.⁶⁷⁸ The fusion centers have also monitored lawful political and religious activities which threatened civil liberties.⁶⁷⁹ These practices have shown that fusion centers provided low-quality intelligence and were not contributing significantly to counter-terrorism efforts.⁶⁸⁰

Related to these concerns, in performing their tasks, fusion centers (and law enforcement agencies now charged with greater intelligence collection functions) potentially violate constitutional limitations for safeguarding the rights of U.S. citizens and residents. The free-flow

⁶⁷³ Bureau of Justice Assistance USDOJ, *Reducing Crime through Intelligence-Led Policing* (Washington DC: BJA, 2008).

⁶⁷⁴ John Rollins, *Fusion Centers: Issues and Options for Congress* (Washington DC: Congressional Research Service, 2008); The Constitution Project, *Recommendation For Fusion Centers, Preserving Privacy and Civil Liberties While Protecting Against Crime and Terrorism* (Washington DC: The Constitution Project, 2012).

⁶⁷⁵ *Ibid.*

⁶⁷⁶ *Ibid.*

⁶⁷⁷ *Ibid.*

⁶⁷⁸ *Ibid.*

⁶⁷⁹ Jason Barnosky, “Fusion Center What’s Working and What Isn’t,” *brookings.edu*, March 17, 2015, accessed February 16, 2016, <https://www.brookings.edu/blog/fixgov/2015/03/17/fusion-centers-whats-working-and-what-isnt/>.

⁶⁸⁰ *Ibid.*

of information in fusion centers may be abused and shared inappropriately.⁶⁸¹ This may affect and put at risk such civil liberties as freedom of speech, assembly, religion, and the right to be free from unnecessary government intrusion,⁶⁸² and it may also violate the Privacy Act of 1974.⁶⁸³

These issues concerning individual rights become particularly tricky in light of the reality of data collection and a fusion center's wide range of tasks toward investigating and performing intelligence-gathering activities. The anecdotal reports show that fusion centers tend to focus their surveillance and investigations based on beliefs and characteristics of individuals, characteristics that should be safeguarded under the Fourth and Fifteenth Amendments.⁶⁸⁴ Moreover, the individuals might be subject to unwarranted scrutiny based on innocuous activities, their political or religious beliefs, or their racial identity.⁶⁸⁵ As such, fusion centers and agencies are at high risk for engaging in profiling, especially racial, religious, and political profiling.

The logistics of data storage are also among the concerns about the practical implementation of fusion centers. Indeed, information collection about the individuals and the way it is stored is closely related to privacy rights. Under federal regulation 28 C.F.R § 23, state

⁶⁸¹ Danielle Keats Citron and Frank Pasquale, "Network Accountability for The Domestic Intelligence Apparatus," *Hasting Law Journal* 62, (2011): 1441.

⁶⁸² The Constitution Project, *Recommendation for Fusion Centers Preserving Privacy and Civil Liberty while Protecting against Crime and Terrorism* (Washington DC: The Constitution Project, 2012); John Rollins, *Fusion Centers: Issues and Options for Congress*, (Washington DC: Congressional Research Service, 2008).

⁶⁸³ 5 U.S.C. § 552a (2011); 18 U.S.C. § 2510 et seq. (2011); 15 U.S.C. § 1681 et seq. (2011).

⁶⁸⁴ Mike German and Jay Stanley, *Fusion Center Update* (American Civil Liberties Union, 2008), 2, http://www.aclu.org/pdfs/privacy/fusion_update_20080729.pdf; see Letter from American Civil Liberties Union, Council on American-Islamic Relations, Asian Pacific American Legal Center, Coalition for Human Immigrant Rights of Los Angeles, South Asian Network & Sikh American Asian Legal Defense Fund to LAPD Chief Beck and Deputy Chief Dowling, *aclu.org*, March. 2, 2012, accessed May 16, 2016 <http://www.aclu-sc.org/lapd-should-halt-destructive-suspicious-activity-reporting-policies/>.

⁶⁸⁵ Citron and Pasquale, Network Accountability, 1441; The Constitution Project, *Recommendation for Fusion Centers Preserving Privacy and Civil Liberty while Protecting against Crime and Terrorism* (Washington DC, 2012); John Rollins, *Fusion Centers: Issues and Options for Congress*, (Washington DC: Congressional Research Service, 2008).

law enforcement agencies that receive federal funding are prohibited from collecting or maintaining personal information about individuals in a criminal intelligence database, unless they find “reasonable suspicion” of criminal activity⁶⁸⁶

In addition, based on the Nationwide Suspicious Activity Reporting (SAR) Initiative,⁶⁸⁷ the fusion centers function as national networks for collecting and sharing local law enforcement reports of suspicious, potentially terrorist-related activity.⁶⁸⁸ This initiative also has the potential to infringe upon constitutional rights of privacy and fundamental notions of appropriate government collection of information.⁶⁸⁹ In particular, the loose definition of “suspicious activity” under these programs could result in the creation of government databases that store files on individuals who have no link to terrorism or any other criminal activity.⁶⁹⁰

In all, fusion centers combine the elements of intelligence and law enforcement. However, data and information collection and data mining are part of sensitive issue related to the infringement of privacy that needs to be resolved. The free-flow of information remains a challenge, even though it has been improved.

D. Conclusion

ILP has become a policing paradigm at the same time that national security issues have expanded to become domestic priorities. It has been lauded as a promising policing strategy to combat terrorism and trans-organized crime (TOC). However, in the implementation stage is

⁶⁸⁶ In *Terry v. Ohio*, 392 U.S. 1, 21 (1968), the “reasonable suspicion” standard requires that a law enforcement official gathering data about an individual be aware of information giving him or her a basis to believe that there is a reasonable possibility that the individual is involved in a definable criminal activity.

⁶⁸⁷ Jerome Bjelopora, *Terrorism Information Sharing and the Nationwide Suspicious Report Initiative: Background and Issues for Congress* (Washington DC: CRS,2011).

⁶⁸⁸ *Ibid.*

⁶⁸⁹ *Ibid.*

⁶⁹⁰ “Findings and Recommendations of the Suspicious Activity Report Support and Implementation Project” (SAR Project Report, 2008) 43- 44; “Information Sharing Environment Functional Standard Suspicious Activity Reporting,” [ise.gov](https://www.ise.gov/sites/default/files/SAR_FS_1.5.5_IssuedFeb2015.pdf), accessed May 16, 2016 https://www.ise.gov/sites/default/files/SAR_FS_1.5.5_IssuedFeb2015.pdf.

managerially challenging. It is the challenge need to be solved to improve the implementation of ILP in the future.

Despite the geographical distance and the different circumstances that led the U.S. and the U.K to adopt versions of ILP, there are similarities worth noting. Even for countries with well-established rule of law and governmental structures, the evidence suggests that both countries are experiencing cultural barriers within police organizations to work under an intelligence-led paradigm. This resistance stems from the nature of police work, which has historically been more focused on serving the community, as well as the common characteristic of police culture to work reactively rather than preventively.

Unlike in the U.S, the evidence of the U.K experience demonstrates that ILP strategies gained traction even in the years before 9/11. The adoption of ILP into NIM in the U.K. can be seen in the growing emphasis on law enforcement intelligence as a core police activity outside of counter-terrorism. It has been utilized, not to replace the existing policing style, but in addition to traditional reactive approaches. In the U.S. after 9/11, every major recent review of U.S. intelligence policy and organization has called for increased information sharing, unity of command and control, and removal of barriers to joint and complementary action among U.S. government departments and agencies. These circumstances have driven the adoption of ILP as counter-terrorism policing there.

Most notably, in the U.S., Information Sharing Environment (ISE) was created to work for better coordinate national security information across the U.S. It is undertaken by the Program Manager for the Information Sharing Environment (in the Office of the Director of National Intelligence) and the Information Sharing Council. In addition, the highlight of the adoption of an ILP philosophy has been marked by the establishment of a fusion center, a

national counter-terrorism center that combines the elements of intelligence and law enforcement.

In comparison to the U.S., it was easier for the U.K. police service to adopt ILP into the NIM, having had a solid history of sophisticated law enforcement intelligence to respond to threats and actions by the IRA. Meanwhile, the historical stumbles over and abuses of intelligence practices in the U.S, as well as the highly fragmented police structure, have made it more difficult to implement an intelligence-led approach to policing or promote the free flow of information.

In summary, the reasons and events, as well as the reasons behind the rise of ILP is different in the UK from the U.S. In the UK, financial issues have provided the impetus for a policing model that would be more efficient and effective in agencies with limited resources; in the U.S., the impetus was a tragic terrorist event that called for a better, proactive, and cooperative policing model.

The comparative perspective on ILP implementation in this chapter is beneficial to identify strength, weakness, challenges and obstacles in implementing ILP both in the UK and the US. The comparative insight from both countries is useful for analyzing the current counter-terrorism strategies used by Indonesian agencies. In addition, the experience from the US and the UK in implementing ILP is beneficial to determine whether and to what extent the current Indonesian counter-terrorism efforts reflect adherence to the ILP strategies.

Chapter VI

Law Enforcement Intelligence In Indonesian Counter-Terrorism Police Practice

A. Introduction

This chapter presents a qualitative analysis of data gathered from interviews with individuals in Indonesia's police counter-terror unit (Densus 88) and the intelligence agencies as well as the national coordinator of counter-terror agencies. The analysis of this data reveals that counter-terrorism policing strategies have been increasingly relying on the use of law enforcement intelligence, and this intelligence has significantly driven police action.

This chapter consists of four parts. The first discusses the counter-terrorism shift from military intelligence to a law enforcement intelligence model. The second part examines whether ILP is being implemented as the current anti-terror policing strategy, focusing on the use of ILP strategies such as the use of law enforcement intelligence, methods of intelligence gathering, proactive intelligence, management structures, and leadership characteristics.

Because ILP strategies emphasize collaboration and information sharing among agencies, the third part examines how and whether Densus 88 has collaborated and shared information with other counter-terror agencies. The last part reflects on how the data contributes to our understanding of current counter-terrorism policing strategies, reflecting on how the proactive intelligence and information sharing was originally conceived and attempting to identify any limitations on the changes that are currently taking place.

B. Counter-Terrorism Policing: The Shift From A Military Intelligence Model To A Law Enforcement Intelligence Model

Historically, the Suharto regime had distinguished two groups that were involved in separatism movements and terrorism. These groups are “right extremists”(ekstrim kanan) and “left extremists” (ekstrim kiri).⁶⁹¹ The right extremists were labeled as radical Islamic movements. They represent the next generation of the rebel group, Darul Islam/DI TII, which during the New Order had morphed into a cell group to fight against the Suharto’s regime. In contrast, the left extremists were labeled as the remnants of the Communist Party of Indonesia (*Partai Komunis Indonesia*, PKI).⁶⁹²

After the fall of the Suharto regime, Indonesia entered a new phase of governance, which transformed into a democratic society; however, this transformation process has also been associated with an increase in security problems. A main cause of this lack of security has been the development of radical ideologies, which have ultimately culminated and converged into the rise of violence and acts of terrorism⁶⁹³ justified by religious beliefs.⁶⁹⁴

The involvement of radical Muslim groups in acts of terrorism is not a new phenomenon within Indonesian political history.⁶⁹⁵ There have been at least three (3) phases of terrorist activities and religious radicalism since Indonesian independence.⁶⁹⁶ The first phase in the

⁶⁹¹ Asvi Warman Adam, *Membongkar Manipulasi Sejarah: Kontroversi Pelaku dan Peristiwa* (Jakarta: Kompas Media Nusantara, 2009), 238.

⁶⁹² Ragna Boden, *The ‘Gestapu’ events of 1965 in Indonesia New evidence from Russian and German Archives* (Koninklijk Instituut voor Taal, 2007); Guy J. Pauker, *The Rise and Fall of Communist Party In Indonesia* (Santa Monica, California: Rand Corporation, 1969); Donald Hindley, *The Communist Party of Indonesia: 1951-1963* (Berkeley: University of California Press, 1964), 5-7.

⁶⁹³ Ansa’ad Mbai, *Dinamika Baru Jejaring Terror di Indonesia* (Jakarta: ASP publisher, 2014), 15.

⁶⁹⁴ Sidney Jones, “Sisi Gelap Reformasi di Indonesia: Ancaman Masyarakat Madani Intoleran,” (Jakarta: Nurcholis Madjid Memorial Lecture VII, 2013); Human Rights Watch, “In Religion’s Name Abuses against Religious Minorities in Indonesia,” *hrw.org*, February 28, 2013 accessed May 16, 2016 <https://www.hrw.org/report/2013/02/28/religions-name/abuses-against-religious-minorities-indonesia>.

⁶⁹⁵ The literature on JI is vast. I have relied on the following for this chapter: Justin Hastings, “Geography, Globalization, and Terrorism: The Plots of Jemaah Islamiyah,” *Security Studies* 17, No.3 (2008), 505-530; Gillian Oka, “Jemaah Islamiyah’s Fifth Phase: The Many Faces of a Terrorist Group,” *Studies in Conflict and Terrorism* 33, no.11 (2010): 989-1018; Ansa’ad Mbai, *Dinamika Baru Jejaring Terror di Indonesia* (Jakarta: ASP publisher, 2014), 15-20; International Crisis Group, *How the Jemaah Islamiyah Terrorist Network Operates: Indonesia Backgrounder*, Crisis Group Asia Report no. 43 (Brussel/Jakarta: ICG, 2002), 5.

⁶⁹⁶ Ahmed S. Hashim, “The Islamic State: From Al Qaeda Affiliate to Caliphate,” *Middle East Policy* 21, no .4 (2014): 69-83; M. Zaki Mubarak, “Dari NII ke ISIS: Gerakan Islam Radikal di Indonesia Kontemporer”, *Episteme*

1950's was characterized by the emergence of the DI/TII Kartosuwiryo movement, and then followed by the movement of Kahar Muzakkar and Daud Beureuh.⁶⁹⁷ The second phase encompassed the Commando Jihad movement from the 1970s to the 1980s; the main actor of Commando Jihad movement was connected to the previous radicalism movement which involved former members of DI/TII Kartosuwiryo.⁶⁹⁸

The terrorism of the third phase occurred during the late 1990's, throughout the reformation era, and it stemmed from the effects of the two previous phases. Radical groups and their violence were aimed at replacing Indonesian state ideology by establishing an Indonesian Islamic State.⁶⁹⁹ During all three phases, the Indonesian government considered their actions as internal security and public order threats. However, the approaches and the ways to handle these threats differed from one regime to another.⁷⁰⁰

During the early years of independence, the country was undermined by internal as well as external threats.⁷⁰¹ In responding to these threats, the military played a dominant role in defending state security and sovereignty. The old order, as the ruling regime at that time, responded to internal security threats by employing military operations, and the police functioned only as supportive forces.⁷⁰² And notably, from 1950 to 1959 there were 58 military operations aimed at tackling internal threats coming from the DI/TII movement.⁷⁰³ In contrast,

10, no.1 (2015):78-98; Romain Quivooij, "The Islamic State," (Policy Report, Singapore: RSIS, 2014), 3-24; Richard Barrett, "The Islamic State", *soufangroup.com*, November 2014, accessed 3 February 2015 <http://soufangroup.com/wp-content/uploads/2014/10/TSG-The-Islamic-State-Nov14.pdf>.

⁶⁹⁷ Andi Widjajanto and Artanti Wardhani, *State-Intelligence Interaction 1945-2004* (Jakarta: Pacivis, 2004), 37-40.

⁶⁹⁸ *Ibid.*

⁶⁹⁹ Ahmed S Hasim, *The Impact of Islamic State in Asia* (Policy Report, Singapore: RSIS, 2015), 10-12.

⁷⁰⁰ *Ibid.*

⁷⁰¹ *Ibid.*

⁷⁰² Marthen Luther Djari, *Terorisme dan TNI* (Jakarta: CMB Press, 2013), 203-211.

⁷⁰³ Widjajanto and Wardhani, *State-Intelligence Interaction*, 37-40.

from 1960 to 1964, this number increased to 78 military operations to handle both internal and external security threats.⁷⁰⁴

Under the new order regime, as discussed in Chapter 4, the military had a dominant role in all aspects of national life. This period gave priority to military intelligence operations in response to terror threats and other kinds of security disturbances.⁷⁰⁵ While both the old order and the new order conducted military operations to overcome internal security problems, it was the new order regime that emphasized the importance of intelligence in military operations.⁷⁰⁶

Looking at the reformation period, we see the counter-terror approach can be divided into two stages: before and after the enactment of the Counter-terrorism Law (CTL). The first period can be labeled as “a loose period.” This is the early stage where the democratically elected government tried to break free from the grip of the new order policies. As these changes were taking place, a series of terror bombings threatened domestic security. The second phase began with the enactment of the Counter-terrorism Law (CTL), which clarified the direction of Indonesia’s counter-terror strategies and policy. The counter-terrorism approach used at this time was placed under the framework of law enforcement and the criminal justice system. As a consequence, the police force was granted responsibility as the front liner to handle terrorism, while the military functioned as back up to the police.⁷⁰⁷ This shift from the first to the second period is described in more detail below.

Entering the reformation era, the public continuously demanded and pushed the new government to protect civil liberties, which had been suppressed for 32 years during the

⁷⁰⁴ *Ibid.*

⁷⁰⁵ *Ibid.*

⁷⁰⁶ In old order era the militarization intelligence had become the character of interaction between state and intelligence. It was because, in this period Indonesia was a new state, the political system was in transitional phase thus there was no non-military institution able to provide basic infrastructure for intelligence offices formation.

⁷⁰⁷ See Chapter 4 of this dissertation on the discussion on the separation task on counter-terrorism.

authoritarian regime.⁷⁰⁸ With this effort, a number of laws that were understood to violate civil rights were repealed.⁷⁰⁹ Public distrust of intelligence agencies and military was very high; the public demanded that the military withdraw from social and political spheres.⁷¹⁰ Regarding counter-terrorism, the direction was less clear; terrorism was not considered to pose a serious threat.⁷¹¹

For example, the following informant from National Intelligence Agencies (BIN) illustrates the confusion and chaos that ensued after the Christmas Eve bombings, where agencies kept silent because of suspicion among the public that the government might respond with militaristic force reminiscent of the Suharto era:

When the bomb blasted in Istiqlal mosque, our systems were disoriented. We knew who did it; we knew the network. The network had been identified. But we had a difficulty because at that time the general public was occupied by the thought that the bomb was part of an intelligence operation, the public was also suspicious that TNI performed the bomb blast intentionally to create chaos in society. After that another bombing occurred, the Christmas Eve 2000 bombings. We knew about this plan. Because public was so suspicious, we just kept silent and let it go. Even the head of BIN was influenced by these public opinions. Gus Dur, as the president at that time, was also puzzled. Gus Dur was surrounded by the people who were new to the bureaucracy and who did not know what was going on. After the Christmas Eve bombings, we started to consider these bombings to be serious threats. After 7 (seven) bombings, we came into action. Next to that, we were also facing the GAM (*Aceh independence movement*). So the situation was chaotic, uncontrolled. I am not telling you to blame anyone else, my point is to give a description of the confused and chaotic situation we were in at that time. Terrorism was not seen as a real threat, but just like any other ordinary crime.⁷¹²

⁷⁰⁸ M.C. Ricklefs, *Sejarah Indonesia Modern 1200-2008* (Jakarta: Serambi, 2008), 725.

⁷⁰⁹ The most controversial law that against civil liberty and human rights had been repeal, e.g. Anti-Subversive Law, see chapter 3 in discussion of Anti-Subversive Law.

⁷¹⁰ L.C. Sebastian and Iisgindarsah, "Taking Stock of Military Reform in Indonesia," in *The Politics of Military Reform, Global Power Shift*, ed. J. Ru'land, et al. (Verlag Berlin Heidelberg: Springer, 2013), 32-33.

⁷¹¹ Interview with X_N05, in Jakarta, 24 November 2014; see also "Wapres Nyatakan Tidak Ada Teroris di Indonesia," *Media Indonesia*, June 11, 2002 accessed September 15, 2016 <http://www.oocities.org/unpatti67/mediaindo120602.htm>. The statement was issued by the former vice-President, Hamzah Haz to respond the terrorism issues after Bali Bombings. He stated that in Indonesia there is no actual a terrorist network or any such terrorist organizations, but otherwise the terrorism issues are simply engineered from foreign countries or certain parties from foreign country; M.C. Ricklefs, *Sejarah Indonesia Modern 1200-2008* (Jakarta: Serambi, 2008), 725.

⁷¹² Interview with X_N05, in Jakarta, 24 November 2014.

These statements suggest how difficult it was for the intelligence agencies to convey to the government intelligence information concerning the terror threats.⁷¹³ The problem was not because the intelligence agencies were unable to detect or to provide early warnings on the potential threats. The statement has shown that the political transition and public distrust to the work of intelligence agencies has resulted in a loose management approach for dealing with terror threats.

Similar to the statement above, an informant from Military strategic intelligence (BAIS) explained that while in the past the military had experience with terrorism, after the reformation and with the Bali bombings, the shift of responsibility to the police caused confusion, not only because of a lack of direction, but also because the police had no experience in handling terrorism:⁷¹⁴

At the time the Bali bomb blasted, we [we in here means *the government, the state of Indonesia, Indonesians (society)—the researcher interpretation*] did not have an anti-terror law; we were in a state of reformation euphoria. We were confused about who should take charge of handling those terror threats. We did not have the tools; we did not have the rules, let alone the units or forces who held responsibility to perform anti-terrorism tasks. We had neither knowledge nor experience. In the past, military had become experienced in handling terrorism; for example, TNI succeeded in handling the WOYLA terror case⁷¹⁵. This success had been acknowledged nationally and internationally. Police didn't have it. Police had no experience in terrorism at that time.⁷¹⁶

This confusion was understandable given that before the reformation, Indonesia had an absence of law enforcement strategies designed to address terrorism threats. And as a result, from the time of the reformation period (1998) until before the enactment of Counter-Terrorism Law (2002) the government had this lack of direction when responding terror threats.

⁷¹³ To corroborate the interviewee's statement can be read further A.C Manulang, *Menguak Tabu Intelijen: Teror, Motif dan Rezim* (Jakarta:Panta Rhei,2001), 34-36.

⁷¹⁴ Interview with X_N04, in Jakarta, 5 December 2014.

⁷¹⁵ Marthen Luther Djari, *Terorisme dan TNI*, 203-211.

⁷¹⁶ See the discussion at sub chapter 4.A, in this period police restructured the policing system from authoritarian to community policing.

The Counter-terrorism Law (CTL) clarified that the police force was in charge of handling terror threats at the domestic level.⁷¹⁷ As the result of the absence of a criminal law strategy and anti-terrorism strategy, the police department established a special task force⁷¹⁸ to handle the terrorism cases and expanded its intelligence activities for performing anti-terrorism tasks. And the legislation that followed the Bali bombings gave more power to police not only in the area of investigations and surveillance,⁷¹⁹ and it also recognized intelligence reports as acceptable preliminary evidence.⁷²⁰

This study confirms that in fact intelligence activity in the framework of counter-terrorism conducted by the police authorities has increased in Indonesia, particularly since the Counter-terrorism Law granted counter-terrorism authority to the police. In other words, the current counter-terrorism strategy places significant emphasis on law enforcement intelligence activities. For example, an informant from Densus 88 stated the following about the role of intelligence activities in the agency:

Based on what I know and my own experience throughout 5 years leading this team, I may say it is almost 80%-90% the work of anti-terror unit is an intelligence work. It is my subjective point of view. It is truly loaded with the works of intelligence.⁷²¹

These statistics that the informant provided illustrate that the majority of counter-terrorism work was intelligence based. Similarly, another informant from Densus 88 explained the following about how law enforcement intelligence contributes to and is involved in current counter-terrorism strategy:

⁷¹⁷ See again the discussion in Chapter 4 related to the unclear division of labor between police and TNI that in charge for deal with internal threats which included terrorism, separatism and sectarianism.

⁷¹⁸ The special task force was established to handle Bali Bombing case, in its development it becomes Densus 88 the anti-terror unit in police organization. See further the discussion in Chapter 4 concerning to the establishment of Densus 88.

⁷¹⁹ Article 25 of CTL.

⁷²⁰ The discussion Article 25-27 of CTL concerning to the use of intelligence in criminal proceedings see Chapter 3 of this dissertation.

⁷²¹ Interview with X_N04, in Jakarta, 5 December 2014.

Currently the ability to perform early detection must be strong. It means that the intelligence capacity must be really powerful. Nearly 80% of the current law enforcement-based counter-terrorism strategies in Indonesia are by performing intelligence activities.⁷²²

Again, these statements corroborate that the counter-terrorism approach has largely emphasized the use of law enforcement intelligence. In this way, law enforcement intelligence has become the backbone of anti-terrorism operations in Indonesia. From data like the statements above, one can infer that that military intelligence no longer has a significant place in counter-terrorism strategies in Indonesia.

Another informant from Densus 88 also estimated a breakdown of time spent on different anti-terrorism activities, noting a strong emphasis on intelligence, and then explaining how Densus 88 processes that information into an intelligence product:

How does the anti-terrorism work? I could say, 80% is intelligence activity, 15% is investigation work and 5% is repressive action. We work for gathering criminal intelligence. We collect information from A-Z. To intervene prior to an imminent attack, or to perform post event investigations, are both based on the results of crime analyses and criminal intelligence. The Densus 88 intelligence team has worked from A to Z to look for information to process the information in order to turn it into an intelligence product to be used as to conduct an anti-terror operation. Its work to collect, gather information related to the terrorist groups, the modus operandi, everything etc., etc.⁷²³

This statement exhibits how the work of Densus 88 is predominantly focused on the intelligence process itself, creating intelligence products that they can use for making decisions about whether to intervene. In addition, Densus 88 has benefitted from the law enforcement intelligence products to prevent and disrupt the terrorism threats and attacks. These intelligence products are not only used for preventing terrorism but also for managing post-events of terrorism attacks.

Another Densus 88 informant stated the following about this process:

⁷²² Interview with X_N07, in Jakarta, 2 November 2014.

⁷²³ Interview with X_N18, in Jakarta, 4 March 2015.

What you have seen on television when Densus 88 strike force teams performed raids, arrests, and other law enforcement acts, basically this was only a small part of anti-terror operations. I may say it is only 5% of the whole anti-terror works. Please pay attention when we conducted law enforcement, there would be a number of terrorists suspects being apprehended and arrested. They spread through Solo, Klaten, Sukoharjo, Depok, Tangerang. This is because we had a long process behind [these actions]. We moved based on intelligence products. We did surveillance for months; we followed the target, and we collected information. After all, we analyzed all we got.⁷²⁴

This statement sheds light on how much energy goes into gathering information and creating the intelligence products that play a role in anti-terror operations, operations that we see conducted by law enforcement. The work of this agency has successfully led to terrorism prevention, identifying potential terror threats and disrupting terror plans. These intelligence activities made Densus 88 able to discover terrorism groups that spread out throughout Java Island. In addition, the informant above also said that Densus 88 has succeeded in preventing and disrupting a number of terror action plans,⁷²⁵ as well as apprehending suspects based on the work of crime analysis and criminal intelligence.⁷²⁶

These descriptions illustrate that the Densus 88 unit has worked based on the elements suggested in the ILP framework, among others, the enhancement of intelligence in directing police activity. As stated by Ratcliffe, the prominent scholar in ILP, “the ILP as the business model because the combined crime analysis and criminal intelligence are used to objectively direct police resources decision.”⁷²⁷

Notably, the collection and analysis of information regarding the commission of crimes is

⁷²⁴ Interview with X_N04, in Jakarta, 5 December 2014.

⁷²⁵ According National Police Headqaurter data from 2009-2014 there are 20 terror planned have been disrupted. The biggest terror planned that have been disrupted among other things: bombing terror plan direct Indonesian President, planned by Noordin M Top’ network, terror action plan to police office in South Jakarta planned by Abu Umar network in 2011, in the same year the terror action plan to the Pipes gas of National Oil Company (Pertamina) planned by Pepi Fernando. In the 2013 the terror action plan succeeded to prevent the action to bombing the Myanmar Embassy in Jakarta.

⁷²⁶ Interview with X_N04, in Jakarta, 5 December 2015; interview with X_N09, in Jakarta, 19 November 2014.

⁷²⁷ Richard Wortley, *Enviromental Criminology and Crime Analysis* (New York: Routledge, 2008), 272.

not a recently acquired responsibility for the police. From the very beginning of police work, particularly in police investigations of crime, police investigators have worked to search for clues, collect evidence, and formulate hypotheses. However, these functions differ from intelligence works aimed at counter-terrorism. One informant in Densus 88 explained it this way:⁷²⁸

The police investigator is used to work from the outside in. They searched for clues and evidence, and made hypothesis, and then conclusions. This is different for the intelligence work. The intelligence team works like a spiral. It works from inside to the outside and the outside to the inside. To make this clear, for example, the occurrence of the rampant motorcycle robbery and the vigilantism of the motorcycle robbers at recent times, for police investigators they will work only on searching for clues, gathering evidence, and formulating hypotheses. Based on these [investigations], investigators concluded those incidents were only vigilantism and motorcycle robberies. The intelligence will work differently, after seeing this phenomenon, the intelligence (BIK or Densus 88) will follow up with the question “what,” “why,” etc. The intelligence team will see this whether or not this phenomenon relates to particular criminal groups, or relates to socio-political tension in particular region, etc, etc. Then the intelligence team will collect information. At the conclusion, it converges into data analyses and results in an intelligence product.

This statement illustrates how differently the “regular” police and Densus 88 use the information that they gather: while the police use the information just to understand the case in front of them, Densus 88 uses the information to create a larger intelligence product that helps them draw connections for anti-terrorism efforts.

The police’s approach to intelligence has been sufficient in the context of general police work, but the intelligence products created by Densus 88 can also help police when dealing with organized criminal groups and more complicated crimes. For example, intelligence reports can describe potential threats that law enforcement should consider, such as imminent threats to a community or region, the person or groups who may pose those threats, or certain threat methodologies those persons or groups might advance.

⁷²⁸ Interview with X_N18, in Jakarta, 4 March 2015.

Notably, several of the informants from Densus 88⁷²⁹ explained that the Densus intelligence unit has also been assigned to work for organized crime other than terrorism, such as drug crimes. In this sense, to some extent, the police organization has taken better advantage and been more able to implement some types of activity to anticipate, prevent, mitigate and monitor criminal activities by using intelligence products. Actionable intelligence—the information that can be followed up with further implication that actions should be taken—has been beneficial for law enforcement agencies to supply them with adequate information to develop interventions to imminent threats.

The following informant from Densus 88 emphasized the view that the enhancement of intelligence involves a combination of intelligence work, scientific criminal investigations, and officers that are skilled at executing police action:

The law enforcement approach will be effective under three stipulations; first the ability of intelligence detection must be powerful. It is the key number one. Second, the police should have a strong capacity in performing scientific criminal investigation. The investigation should be based on scientific evidences. It must be well-built. Lastly, the police must own an effective striking force.⁷³⁰

In this context, intelligence signifies the information collected and compiled into usable products, whereas scientific criminal investigations signify the process of collecting information itself. These two would be useless, however, without a skilled body to intervene on terrorist activities. This view suggests that despite the need to strengthen the use of intelligence, the intelligence must be placed in a framework of law enforcement intelligence for the purposes of prosecution and admissibility of evidence in court. This standard is different from the intelligence and the work of national security intelligence services where principally intelligence is treated as secret, and it need not conform to rules of evidence in criminal investigations.

⁷²⁹ Interview with X_N04, in Jakarta, in 5 December 2014; interview with X_N07, in Jakarta 2 November 2014; interview with N_09, in Jakarta, 19 November 2014.

⁷³⁰ Interview with X_N07, in Jakarta, 2 November 2014.

Again, police work and information gathered by the police is subject to judicial testing in the publicly accessible courtroom,⁷³¹ and it appears that Densus 88 is building that kind of reliability into its intelligence process.

Here another informant from Densus 88 confirms that there has been this shift away from a military intelligence model to a law enforcement model and that its actions are based on a much more complex synthesis of data and analysis of information:

It is clearly different. The involvement of intelligence in counter-terrorism in the past and today is completely different. In the past the approach was like a military intelligence operation. What we are doing now is under law enforcement procedures. We enforce the law based on crime intelligence analysis. Gathering of intelligence does not work based on orders from a commandment structure to target groups or people. Intelligence works starting from observing the phenomenon, making studies, and then analyzing it. We make the decisions to move into action based on the intelligence analysis.⁷³²

The informant emphasized that the current counter-terrorism approaches are based on crime intelligence analysis. The priority and target of the policy activity are based on the result of intelligence product, crime analysis in its process of identifying patterns and relationships between crime data and other relevant data sources.

The criminal intelligence services and the enhancement of criminal intelligence within Densus 88 has worked equally and respectfully. The environment and sociopolitical context in which they evolve significantly affect their informational capability. These developments in the Indonesian police organizations (in this case Densus 88) are consistent with Lemieux's observations. Lemieux, in his article, "Cross-Cultural Comparison of Intelligence led

⁷³¹ *Ibid.*

⁷³² Interview with X_N18, in Jakarta, 4 March 2015.

Policing”⁷³³ stated that when reactive methods and the absence of law enforcement strategies are ineffective, and especially in the wake of radical reforms of a policing system, they can result in the expansion of intelligence activities.⁷³⁴

Lemieux maintains that police agency standards and practices, especially for agencies tasked with conducting intelligence operations, are greatly influenced by factors from the criminal, institutional, legal, political, and social environment.⁷³⁵ Lemieux, in his comparative study, elaborates on several countries’ experiences, to explain how the hostility of environment can trigger to informational and analytical skills, which are superior to those of organizations which progress in a stable environment, in an effort to better manage uncertainty. In response to a hostile international environment, the police in Singapore, as an example, have adopted an array of surveillance mechanisms (at the border and internally) and an integrated approach in the area of criminal intelligence, which puts the emphasis on organizational learning. This intelligence system makes it possible to better detect the expansion of security problems.

In the context of Indonesia, as noted in the discussion above, the political turmoil and the circumstances before the Bali Bombings and after the enactment of CTL brought about great changes, including changes to the criminal, institutional, legal, political, and social environment. These changes have greatly influenced the standards and practices that exist in police agencies tasked with conducting intelligence operations. As such, the criminal intelligence services (within Densus 88) are at the very heart of reforms and identified as the key to ensuring the

⁷³³ Frédéric Lemieux, “A Cross-Cultural Comparison of Intelligence-Led Policing” in *The Handbook of Knowledge-Based Policing: Current Conceptions and Future Directions*, ed. T. Williamson (Chichester, UK: John Wiley & Sons, Ltd, 2008), 37.

⁷³⁴ *Ibid.*

⁷³⁵ *Ibid.*

effectiveness and proactivity of police actions. In addition, the restructuring of policing system stems from the failure by police organizations to adapt to the evolution of criminal problems.

In summary, there are similarities between the past and present approaches to counter-terrorism in Indonesia. For example, intelligence continues to have a powerful role in counter-terrorism activities; the difference lies in the responsible agency. Whereas military intelligence operations used to be used to lead the charge, today law enforcement intelligence is the most vital organ for counter-terrorism. This shift primarily occurred because of the transformation of the institution that holds the primary responsibility for handling terrorism and the political change from an authoritarian to a democratic regime. The interview results show that law enforcement intelligence strategies have largely directed police action in preventing terrorism. Unlike past practices, in which the use of intelligence had been for the political interest of the regime, current practice supports crime prevention and is combined with scientific investigation in order to improve reliability for use in criminal court.

C. Understanding Types Of Information And The Process Of Intelligence Analysis

Intelligence analysis relies in part on what is known as an “intelligence cycle.”⁷³⁶ An intelligence cycle includes planning, collection, processing, analysis, production, and dissemination.⁷³⁷ The collection of information is the process where raw information is gathered and reported to produce finished intelligence.⁷³⁸ There are many sources of raw information, including open sources, such as governmental public records, media reports, the Internet, periodicals, and books.⁷³⁹ Although often underestimated, open source collection is important to

⁷³⁶ UNODC, *Criminal Intelligence Manual for Analyst* (New York: UN,2011), 11-16.

⁷³⁷ *Ibid.*

⁷³⁸ *Ibid.*

⁷³⁹ *Ibid.*

an intelligence unit's analytical capabilities.⁷⁴⁰ There are also confidential sources of information.⁷⁴¹ Law enforcement officers collect such information from various sources, including citizens who report crime, investigations that are conducted, and speaking with persons who participate in criminal activity.⁷⁴² To gather this information, law enforcement officers use a variety of collection methods such as interviews, undercover work, and physical or electronic surveillance.⁷⁴³

Carter, a prominent scholar of ILP, explains that the crucial part of the intelligence process is the collection of raw information for analysis.⁷⁴⁴ This raw information must be limited to certain threat criteria to be useful, and its analysis should be performed through a scientific approach, relying on deductive and inductive reasoning to determine requirements and predict hazards⁷⁴⁵, as well as resulting problem-solving in the outcome.⁷⁴⁶ Analysis may be provided into two qualifications that is quantitative and qualitative, but for strategic and tactical analysis most often is in qualitative.⁷⁴⁷

As an example, the following description from an informant in Densus 88 illustrates how law enforcement intelligence began to gather raw information when Indonesian police responded to the bombing threats that occurred in the early reformation era:

We collected the information starting from the history and culture. We studied why people get attracted to becoming radicalized, we studied this further and deeply from the roots of the culture. After that, we saw fact and reality. What is a radical group? What does it look like? What is its end goal? We see and observe how and why radicals turn violent. We traced it back from the past; we traced it back from

⁷⁴⁰ *Ibid.*

⁷⁴¹ *Ibid.*

⁷⁴² *Ibid.*

⁷⁴³ *Ibid.*

⁷⁴⁴ David L. Carter, "Law enforcement intelligence: A Guide for State, Local and Tribal Law Enforcement Agencies," as cited on David L. Carter and Jeremy G, "Intelligence led policing: Conceptual and Functional Consideration for Public Policy," *Criminal Justice Policy Review* 20, no.3 (2009): 317.

⁷⁴⁵ *Ibid.*

⁷⁴⁶ J.H. Ratcliffe, *Intelligence-led Policing* (London: Routledge, 2011), 70-75.

⁷⁴⁷ Carter and Carter, "Intelligence led policing," 317-319.

Kartosuwiryo, Kahar Muzakir. Afterwards we observed the global issue of terrorism, the clash of civilization between west and east.⁷⁴⁸

The explanation above not only shows how the intelligence unit in Densus 88 collects raw information and analyzes that information to produce a final intelligence product, it also expresses that threats of terrorism have long roots in Indonesian local history and a global dimension as well. Terrorism is not a new phenomenon; the current terror threats in Indonesia are not a fabrication nor are they the result of intelligence apparatus secrets or clandestine operations.

1. Proactive Intelligence Settings

This next section examines how the police in Densus 88 have implemented proactive strategies and how the managerial structure in Densus 88 leads to the creation of intelligence products. This part discusses, among other things, the method of intelligence gathering, the proactive intelligence setting, as well as the Densus 88 management structure, leadership characteristics, recruitment practices, and resource development.

Identifying variables of threats within a community, including the neighboring areas that may generate and support a crime, is of paramount importance under an ILP strategy, as it has focus on the emergence of threats. The identification of threat variables may vary upon the emergence of an extremist group that advances hate or violence, the conflict within a region that may precipitate from violence between ethnic, racial, or religious groups. It is necessary that the identification of the threats and collected information provides information about circumstances

⁷⁴⁸ Interview with X_N09, in Jakarta, 19 November 2014.

and characteristics that will aggravate the conditions, as well as individuals who may be instrumental in exploiting those conditions to commit terrorism or crime.⁷⁴⁹

Under the current policing style, Densus 88 has targeted and oriented their work to certain groups or persons who potentially have links to terrorists groups. Densus 88 also targeted the groups or certain people who spread ideology that promulgate hatred and demonise particular groups of “enemies.”

The following comment illustrates how Densus 88 targets these groups or persons in surveillance and profiling settings—in this example, as to groups that develop in Muslim boarding schools:

We do profiling for a particular Muslim boarding school. We do profiling of the boarding school that teaches hatred to other groups or other religion as well as teaches hatred and provokes to consider that the government is *thogut*. Intelligence has the list of boarding school, social-religious organization and the list of the people who spread hatred.⁷⁵⁰

These types of profiles may trigger a more detailed profile analysis, as well as network analysis to support operations. The purpose of these profiles is to identify the target and reduction opportunities. In further discussions, the informants from Densus 88 provided their views on how to use criminal intelligence to structure police work and reinforce the knowledge of investigators, focusing their information gathering as well as the investigations on a conceptual model of organized crime. In this sense, much of routine investigations happen through analyzing intelligence products behind closed doors.

Here is another statement from a Densus 88 informant that explains the analytical process of determining and identifying a target. The statement shows that most targeting decisions are

⁷⁴⁹ Carter and Carter, “Intelligence led policing,” 317-319.

⁷⁵⁰ Interview with X_N04, in Jakarta, 5 December 2014; see also “PBNU Serahkan Data 12 Yayasan yang Dinilai Berpaham Radikal,” *hidayatullah.com*, Agustus 23, 2013 accessed February 25, 2016 <http://www.hidayatullah.com/read/2013/08/23/5990/pbnu-serahkan-data-12-yayasan-yang-dinilai-berpaham-radikal.html>.

based on interpretation of the data and information available at the time.

We have a particular target. For example a network A, this network may lead us to network B. At the beginning, we may already have a priority target. Let's take an example from recruitment process. Let's say it starts from a given forum group (*tabligh, tamsis*); after that, there will be special person targeted by the recruitment. In many cases, a broken-hearted person, or a person from a broken home will be recruited to be assigned the task of suicide bomber. From this point, there will appear to be a new network. Because the recruitment started from a mosque, [and because of] friendship, marital relationship, and family, the network will expand. We will take a look again, whether this network is still relevant or not, otherwise it will be left out. In communication and relationships there are patterns. By tracing the communication patterns we can find who is the important person in this network. It ultimately will bring us to find who are the leaders in this network or in these groups.⁷⁵¹

The statements above show that Densus 88 has a more proactive and targeted approach that starts by identifying a recruited person and then analyzing that person's connections and relationships. By using this method, Densus 88 can discover key players and unearth larger networks of terrorist groups.

The following informant from Densus 88, explains how the result of target profile and proactive intelligence has been helpful for exposing large networks of bank robbery groups in major cities at provincial capitals in Indonesia. Through analysis of the intelligence, it has been discovered that these robbery groups have links with terrorist groups; specifically, the robberies were being conducted to finance terrorist activities:

For example, in . . . most robbery cases [involving] bank customers [in Medan, most criminals] use firearms. The police investigators in Polda [police in province level] only see those cases as robberies. [In the case of Medan,] they simply concluded, those cases were caused by the negligence or the careless of the bank customers. . . . [thinking] the bank customers were neglectful, imprudent so they became the victims of robbery. Most robberies use firearms or the homemade firearms. Densus 88 collected and examined that information [about the robberies in Medan]; we examined if there were similarities of modus operandi and other characteristics. We connected [this information] to the criminal groups on our suspect lists. We found a common thread: the bank robbery cases in CIMB Medan, Yogyakarta, Depok connected to one another. They have links to terrorist groups on our lists of targets. [In contrast,] the

⁷⁵¹ Interview with X_N04, in Jakarta, 5 December 2014.

police investigators [in Polda] only saw [these incidents] as kind of “ordinary” robberies caused by the negligence of bank customers.⁷⁵² The important detail that can be seen from the statement above concerns how the traditional methods of investigation conducted by the police in criminal investigations units failed to conduct further assessment of the state of the criminal markets, for example, links big bank robbery cases to finance terrorist activities. However, through the implementation of proactive intelligence activities, further criminal activity was detected and revealed. In addition, the terrorists’ (or criminals’) assets, as well as the associated trend in criminality, can be successfully detected through the target profile. In this way, the intelligence division has become “a consultant” in charge of developing new strategies or tactics to target criminals or phenomena that may “hide” from the police control.⁷⁵³

As Ratcliffe explains, “the proactive heart of intelligence-led policing is the identification and interdiction of criminal leaders and offenders identified at the strategic level as priority target.”⁷⁵⁴ By moving forward under the rubric of being “intelligence-led,” police have produced a situation where their crime control strategy no longer pivots around identifying a suspect and the subsequent construction of a prosecution case.⁷⁵⁵ Instead, the crime control strategy is focused on predicting and targeting offenders with reasonable degree of accuracy. In light of this observation, what can be seen from Densus 88 intelligence activities is that the objectives of Densus 88 are increasingly more pragmatic, aiming to disrupt and deconstruct terrorist networks and markets.⁷⁵⁶

2. The Method Of Intelligence Gathering

⁷⁵² Interview with X_N09, in Jakarta 19 November 2014.

⁷⁵³ Frédéric Limieux, *International Police Cooperation: Emerging Issues, Theory and Practise* (Cullompton, Devon: Willan Publishing, 2010), 5-8 ; for the case example see Diko Oktara, “Terduga Teroris di Bekasi, Polri: “Pangantinya” Warga Cina,” *tempo.co.id*, December 24, 2015, accessed March 16, 2016 <http://nasional.tempo.co/read/news/2015/12/24/063730432/terduga-teroris-di-bekasi-polri>

⁷⁵⁴ Ratcliffe, *Intelligence-led Policing*, (2011), 236.

⁷⁵⁵ Limieux, *International Police Cooperation*, 8-12.

⁷⁵⁶ *Ibid.*

In light of the interview results in this study, it appears that the criminal intelligence services method of gathering intelligence is based on a combination of human intelligence and technology intelligence. However, increasingly, the use of intelligence obtained through technology takes precedence as the primary method of gathering and analyzing information. In order to maintain and store data, Densus 88 has an intelligence computer database system that enables them to store and grade quantities of data and increase operational effectiveness.⁷⁵⁷ The following informant emphasized the importance of this system:

. . . unraveling terrorism cases [mostly] succeeds because of our tenacity in utilizing technology—technology information. Technology has helped us. We have employed a high level of technology. Technology is the nerve center for supporting us as we perform anti-terrorism tasks. In communication, the terrorists change their codes nearly every day. We work with IT to crack down those codes. However, also individual skills and industriousness play a role in the success of cracking down the codes.⁷⁵⁸

In this statement, the Densus 88 informant emphasizes the critical role that both technology and IT skills play in the agency's ability to use the information that it collects.

Another informant in Densus 88 corroborated this view when he stated the following:

In principle, the intelligence team works for criminal intelligence or law enforcement intelligence. We develop the intelligence data and information based on facts, instead of based on rumor, issues, perception or opinion. The truth of the facts that we found is tested by technology. Technology is the most reliable intelligence approach; the intelligence world is playing in that arena. Human intelligence is needed and necessary; however, we are now much more focused on technology intelligence. The intelligence products that we provide are facts. They are not based on assumption. What we have is legally proven.⁷⁵⁹

Both statements above show how important technology is to the gathering and analysis of information, and ultimately to the intelligence product. While human intelligence still plays a role,

⁷⁵⁷ Interview X_N09, in Jakarta 19 November 2014.

⁷⁵⁸ Interview with X_N03, in Jakarta, 8 October 2014

⁷⁵⁹ Interview with X_N07, in Jakarta, 2 November 2014.

intelligence developed from technology is growing and becoming indispensable to the intelligence gathering and analysis process.

While human intelligence continues to be used, it is less common than technology intelligence. As explained by one informant in Densus 88, there are risks to using human intelligence, especially with regard to the issue of corruption and tampering with information. These risks are less likely to arise with technology intelligence, which tends to be more reliable because it can generally be verified. Thus today there is much more reliance on technology intelligence and support by information technology (IT). One of this study's informants remarked:

Human intelligence has a tendency to result in innocuous reports [*asal bapak senang*]. To please the commander, a report may be manipulated by mixing assumption with fact for the analysis. However, with the support of accurate intelligence technology, the intelligence product becomes very reliable. Technology cannot lie. Human intelligence is necessary, but we cannot not [solely] rely upon it.⁷⁶⁰

Another informant in Densus 88 further clarified that it is of paramount importance to use technology intelligence; however, human intelligence cannot be abandoned.⁷⁶¹ No matter how sophisticated technology intelligence is, human intelligence is still needed.⁷⁶² The following statement describes how Densus 88 has combined human intelligence and technological intelligence:

For example, we did surveillance of one target using technology intelligence. Based on this, we found . . . that the target was preparing bombs. We used human intelligence surveillance to find out the location. The terrorists also sometimes step ahead of us. They sometimes avoid technology in communication. Because of this, we [sometimes] need human intelligence to get information. Thus, ultimately, we determined the bomb location and we prevented and disrupted a bomb terrorism act.⁷⁶³

⁷⁶⁰ Interview with X_N04, in Jakarta, 5 December 2014.

⁷⁶¹ Interview X_N09, in Jakarta 2014.

⁷⁶² Interview X_N07, in Jakarta 2014.

⁷⁶³ Interview with X_N09, in Jakarta, 19 November 2014; "Lacak dari Sinyal HP, Densus Nyamar Jadi Penjual Mainan," *jpmn.com*, December 11, 2010 accessed March 13, 2016 <http://www.jpnn.com/read/2010/12/11/79323/Lacak-dari-Sinyal-Hp,-Densus-Nyamar-jadi-Penjual-Mainan->

In this scenario, Densus 88 could not have relied on only one source of intelligence: it needed this combination of human and technology intelligence, and this combination plays a large role in collecting and gathering data and information.

The ILP model requires enhancement of information technology as a way to anticipate and manage the volume of information and intelligence.⁷⁶⁴ The incorporation of intelligence distinguishes the ILP model from traditional reactive methods by incorporating information technology and analytical methods to facilitate a greater degree of discernment and thought.⁷⁶⁵ Densus 88's use of technology provides further evidence that it is using an ILP framework.

3. Management Structure and The Leadership Characteristic

ILP strategies are also reflected in the changes to leadership in the police organization. Consistent with an ILP approach, police commanders and executives are have shifted away from more autocratic styles and have worked to create a more democratic workplace and provide more opportunities for officers who show initiative. Further, the interviews in this study showed that the organizational culture in Densus 88 differs from the organizational culture of the police in general. In particular, Densus 88 leadership reflects more democratic characteristics:

There is a new culture in our organization particularly in this team. In all other police organizations the truth [the ultimate decision about whether information is reliable] is in the hands of the top commander or high-level commander. For example, in the police organization, the truth is in the Kapolri's hand (the head of POLRI), even though he may be wrong or make a mistake. But in this unit, in this team, the truth is based on who gives or provides the real truth. Regardless of whether he is a corporal, a sergeant, or a lieutenant colonel, as long as he provides the real truth, we will follow him.⁷⁶⁶

⁷⁶⁴ J.H., Ratcliffe, "Intelligence led Policing and the Problem of Turning Rhetoric into Practise," *Policing and Society* 12, no.1 (2002):

⁷⁶⁵ T. John, and M. Maguire, "Rolling out the National Intelligence Model: Key Challenges," in *Crime Reduction and Problem Oriented Policing*, eds. K. Bullock and N. Tilley (Cullompton Devon: Willan Publishing, 2003).

⁷⁶⁶ Interview with X_N03, in Jakarta, 8 October 2014.

Another informant confirmed the statement above, that the leadership style within Densus 88 is different from that within the police organization in general. Within Densus 88, the role of intelligence analysis and its products are essential to direct their works. As another informant stated:

We follow up based on who gets the valid and reliable data-information. We do not work based on a top commander's order. The police organizational culture has change. We are now becoming solid [strong] by organizing into a more flexible structure.⁷⁶⁷

From this statement, we can glean that the Densus 88 unit is dismantling old power structures in favor of finding real, reliable information from verifiable sources. Similarly another informant corroborated this view:

It is true; there is no correlation between rank, position and the reliability of intelligence information and analysis. As long as the information is reliable and the analysis is accurate, regardless of the rank [of the source] . . . we will use and consider it.⁷⁶⁸

This departure from hierarchy and rank would not be possible without a supportive and informed command structure. In this less autocratic work environment, the commander promotes officers and routinely uses law enforcement intelligence as the basis for strategic decision-making.

Within an ILP framework known a 3-I model,⁷⁶⁹ this model shows the interaction of interpretation, influence, and impact on policing. The 3-i model has three components, namely, crime intelligence analysis, decision-making, and criminal environment, and three processes (i.e. interpret, influence, and impact).

⁷⁶⁷ Interview with X_N09, in Jakarta, 19 November 2014.

⁷⁶⁸ Interview with X_N04, in Jakarta, 5 December 2014.

⁷⁶⁹ The 3-I model is the model where the crime intelligence analysis interprets the criminal environment and influences the decision maker. The decision maker must bring impact on the criminal environment. For the discussion of 3-I model see Ratcliffe, *Intelligence-led Policing*, (2011), 236; Zakir Gul, Ahmet Kule, "Intelligence led Policing: How the Use of Crime Intelligence Analysis Translates into Decision Making," *International Journal of Security and Terrorism* 4, no.1 (2013): 2.

Ratcliffe explains that the 3-i model provides a big picture and aims to apprehend serious and prolific offenders in order to decrease crime. Crime analysts have a critical role to influence the decision-makers in their decisions for achieving efficient outcomes in the criminal environment. All of the three processes (i.e., interpret, influence, and impact) should be included. The absence of any of these processes may result in unsuccessful, inefficient, and undesired outcomes.⁷⁷⁰

Through this model, the management structures enable an organization act based on intelligence products, where analysts interpret and analyze data collected from the criminal environment and then try to influence the decision-makers to establish a policy that might impact the criminal environment.⁷⁷¹ It is assumed in this model that analysts will interpret and analyze the data collected from the criminal environment and then (using those useable outcomes) try to influence the decision-makers to make decisions that might impact the criminal environment. As Ratcliffe states, “the end state of ILP is an attempt to reduce the effects of criminality, either through prevention and disruption or by effectively deploying the criminal justice system.”⁷⁷²

In relation to this framework, there are indications that the Densus 88 management structure has been able to show the embodiment of the elements in the 3-I model. As discussed above, intelligence products have direct the police works. The quality of products also influences decision making within Densus.⁷⁷³ In light of the interviews in this study, the Densus 88 intelligence division appears to conduct regular meetings both in strategic

⁷⁷⁰ J.H.,Ratcliffe and Ray Guidetti, “State Police Investigative Structure and the Adoption of Intelligence-Led Policing,” *Policing* 31, no. 1 (2008): 111.

⁷⁷¹ *Ibid.*

⁷⁷² *Ibid.*, 112

⁷⁷³ Interview with X_N03, in Jakarta, 8 October 2014; interview with X_N04, in Jakarta 5 December 2014; Interview with X_N09, in Jakarta, 19 November 2014.

and tactical tasking, meetings that show how the crime intelligence analyses interpret the criminal environment.

We held a weekly meeting. But also incidental meetings when we face an emergency situation. We will see every big cases, we examine them. Violence cases, shooting cases, big robbery cases we examine all those cases, to see whether or not radical groups interfere in those cases.⁷⁷⁴

Furthermore, an informant also stated that the intelligence product is produced every day and being used by the decision maker (the head of Densus 88) to allocate resources and determine actions taken by Densus 88,⁷⁷⁵ including the impact it has on the criminal environment and crime reduction.

We produce intelligence products every day. They are submitted to Kadensus (the head of Densus 88 unit). These intelligence products are used to determine the Densus 88 actions whether through prevention, disruption or deploy law enforcement.⁷⁷⁶

In other words, intelligence products created through the process of analysis drive the priorities of the commander through increased situational awareness of the operating environment. They are used to guide policy decisions on the topical issues of the day and have been placed in the heart of decision-making.

In sum, Indonesian counter-terrorism policing methodology has shared some characteristics with ILP. In particular, the enhancement of law enforcement intelligence practices. Traditionally, in police organization practice, intelligence has been used merely only for case support. In Densus 88, however, intelligence has been used for strategic planning and resource allocation. Proactive intelligence work is playing a significant role in Densus 88, including a heavy reliance on technology and a reduction of top down governance.

⁷⁷⁴ Interview with X_N09, in Jakarta, 19 November 2014.

⁷⁷⁵ Interview with X_N09, in Jakarta, 19 November 2014.

⁷⁷⁶ Interview with X_N09, in Jakarta, 19 November 2014.

The next section will discuss and examine the information sharing practices among Densus 88, intelligence service agencies, and communities, as well as among police units.

D. The Landscape Of Information Sharing, Collaboration, And Cooperation

1. Within The Police Agency

The core framework of ILP is a law enforcement collaboration approach, combining information sharing and police accountability with the enhancement of intelligence operations.⁷⁷⁷ It is a management philosophy that emphasizes information sharing and collaboration, to solve crime problems in a strategic way at the local and regional level.⁷⁷⁸ Under this model, law enforcement and intelligence organizations recognize the call and the need to collaborate, share, and exchange information.

It has been frequently argued that Densus 88 and intelligence agencies have lacked this coordination and collaboration and that they have been reluctant to share information.⁷⁷⁹ The media has at times been critical;⁷⁸⁰ the legislature has demanded change;⁷⁸¹ and the public has expected more.⁷⁸² It has been suggested that for counter-terrorism tasks to work, there is a need

⁷⁷⁷ Carter, "Intelligence led-Policing," 317.

⁷⁷⁸ J.H., Ratcliffe. "Intelligence-led Policing," in *Environmental Criminology and Crime Analysis*, Richard Wortley (New York: Routledge, 2008), 271.

⁷⁷⁹ IPAC, *Countering Violent Extremism in Indonesia: Need for a Rethink*, Report No. 11, (Jakarta: IPAC, 2014); Muradi, "Intelijen Negara dan Intelijen Keamanan: Perspektif Kepemimpinan Politik dan Efektifitas Koordinasi" in *Negara, Intel dan Ketakutan*, ed. Andi Widjajanto (Jakarta: PACIVIS Center for Global Civil Society Studies, University of Indonesia. 2006).

⁷⁸⁰ "Yang direvisi adalah Pasal-pasal Pencegahan.," *kompas.com*, August 15, 2003 accessed March 15, 2016; "Imparsial: Koordinasi Lemah Teror Berlanjut," *kompas.com*, September 29, 2011 accessed March 15, 2016

⁷⁸¹ "Terorisme Masih DPR Tudung Tak Ada Koordinasi," *tempo.co.id*, July 23, 2013 accessed March 16, 2016 <http://nasional.tempo.co/read/news/2013/07/23/063498881/terorisme-masih-ada-dpr-tuding-tak-ada-koordinasi>; "DPR Curiga Ada Agenda Tersembunyi dibalik Isu ISIS," *sindonews.com*, March 21, 2015 accessed March 16, 2016 <http://nasional.sindonews.com/read/979450/14/dpr-curiga-ada-agenda-tersembunyi-di-balik-isu-isis-1426887869>; "Peran Intelijen Sangat Menentukan dalam Penanganan Terorisme," *jurnal parlemen.com*, September 10, 2012 accessed January 10, 2016 <http://www.jurnalparlemen.com/view/1621/peran-intelijen-sangat-menentukan-dalam-penanganan-terorisme.html>.

⁷⁸² Lembaga Cegah Kejahatan Indonesia dan Kemitraan, "Laporan Kajian dan Perumusan Mekanisme Alternatif Manajemen Pencegahan dan Penanganan Terorisme" (Jakarta: LCKK, 2007).

to enhance the interagency approach.⁷⁸³

This study finds, based on the interview results, it shows that the sectorial ego between agencies does exist among agencies that bring them into a kind of difficulty for collaborate and share information.⁷⁸⁴ However, the view that Densus 88 is reluctant to collaborate and share information with other law enforcement agencies, other agency tasks for counter-terrorism, as well as national intelligence agency, is somewhat misleading.⁷⁸⁵ In fact, there are intermingling factors hindered cooperation and collaboration among agencies. For example, the interview results show that cultural and operational differences and organizational issues have hindered them to share information. Thus, this section discusses and elaborates on the way agencies do and do not collaborate and share information.

Ideally each operational unit involved in the police organization hold takes responsibility for counter-terrorism tasks. The police intelligence unit (*Badan Intellijen Kepolisian*, BIK) and society councilor unit (Bimbingan Masyarakat, BIMMAS) are responsible for pre-emptive tasks. The traffic police (*polisi lalu lintas*), district police (*Polisi Resor*, POLRES), sub-district police (*Polisi Sektor*, POLSEK) and (*Samapta Bhayangkara*, SABHARA) are all responsible for prevention by doing daily patrols.⁷⁸⁶ Notably, most of the counter-terror activities are led by Densus 88, including prevention, pre-emptive, repressive, and law enforcement activities such as conducting covert surveillance, raid operations, investigating terrorism case, arresting the terrorism suspects.⁷⁸⁷ In counter-terrorism activities, Densus 88 also works with the other police unit, BRIMOB. Meanwhile, the other divisions or units at each level of the police organization,

⁷⁸³ Tito Karnavian, *Indonesian Top Secret: Membongkar Konflik Poso* (Jakarta:Gramedia Pustaka Utama, 2008), xxii.

⁷⁸⁴ Interview with X_N04, in Jakarta, 5 December 2014; interview with X_N05, in Jakarta 24 November 2014; interview with X_N07, in Jakarta, 2 November, 2014; Interview with X_N16, in Jakarta, 26 November 2014.

⁷⁸⁵ Interview with X_N03; X_N04; X_N07; X_N01; X_N02

⁷⁸⁶ Interview with X_N04, in Jakarta, 24 October 2014.

⁷⁸⁷ *Ibid.*

such as BIK, BINMAS, BRIMOB, Traffic police, and SABHARA, support Densus 88 in counter-terror tasks.⁷⁸⁸

Shared information in daily police patrols and intelligence of police in *POLSEK*, *POLRES* with the intelligence unit of Densus 88 has worked. The intelligence unit of Densus 88 and the local police in *POLSEK*, *POLRES* have forged an information-sharing relationship, although this relationship does not occur within the entire local police. It does, however, illustrate in practice, how the different agencies share information:

Densus 88 has direct structure with Kapolri (head of Polri), meanwhile in each Polres (local district police) they have intelligence units. Their commando line is direct to their superior (Kasat intel into Dirintel Polda, Dirintel Polda to the Head of Intelligence unit). Among the front liners officer will share each other. After the information collected, they will convey the information to us. Densus has large and complete database, Densus works based on data, all gathered information is compiled into one database. So when there is information from the local police Densus will search and match this information into our database. The person's profile, the name, the photographs. When they get these kinds of information and they share it to us, in that point we do the cooperation.⁷⁸⁹

This statement shows that Densus 88, as the main agency in counter-terrorism, has been equipped with large and complete database systems; as such, it has become a "pooling information center" that receives information and data from local police. In this regard, the local police are front-liners that support Densus 88 intelligence gathering. The same informant elaborated on this observation with this statement:

Their knowledge is limited, they could only identify this person, this group is radical. The radical groups are not identically as terrorist groups, meanwhile all terrorist groups is certainly as radical groups. Sometimes people, community (or officers in local level) misunderstood, when they see radical religious groups they will think they are terrorists. So for make it sure, the information from grass root level will be clarified to us, whether or not the people or groups that they identify as radical is under Densus 88 database/list (or they are already involved in terrorist cells). In terrorist group we could classify; the hard core, follower, support cell, or only the religious study groups). We could identify which person has already in hard-core

⁷⁸⁸ *Ibid.*

⁷⁸⁹ Interview with X_N09, in Jakarta, 19 November 2014.

position. It is operational level. Which one is hard-core or not, we could notice it from the communication pattern.

This statement illustrates that the capacity of the local police is limited to recognizing, gathering, and informing any potential threats to the Densus 88 intelligence unit. The local police do not have the capacity to analyze or determine whether or not potential threats are in fact connected to certain or particular terrorist groups. This capacity is exclusive to Densus 88. The Intelligence of Densus 88 has a firm database; any information we have collected is gathered put into this one database system.⁷⁹⁰ When the local police in POLSEK and POLRES level obtain data and information related to a person or radical groups, they will convey it to Densus 88 intelligence.⁷⁹¹ Local police may find a particular person or group suspected of being a part of radical group.

Because the local or regional police do not have the capacity to evaluate potential threats, there are sometimes misunderstandings that arise in the process of gathering information. These occur when the local police identify, for example, radical religious groups in one community. Since their knowledge is limited, they may only profile such radical people or groups but they do not know whether these people or groups are involved in terrorist activities. The local police may associate these radical groups with terrorism; however, not all radical religious groups are terrorists. Densus 88 intelligence, therefore, must work to “screen out” all of the information collected from the local police.

These explanations confirm that as part of the information gathering process, the local police perform profiling on certain radical (religious) groups. Then the result is given to Densus 88; information received from local police is then inputted and processed in the Densus 88 data base system.

⁷⁹⁰ Interview with X_N09, in Jakarta, 19 November 2014.

⁷⁹¹ Interview with X_N09, in Jakarta, 19 November 2014.

The next statement illustrates the stage in which collaboration and information sharing occurs between Densus 88 and the local police:

There is a process of collaboration and sharing information in this stage. After Densus 88 intelligence receives data and information from the local polices, Densus 88 intelligence will process this data and information by matching them in the databases of Densus 88 intelligence. Densus 88 intelligence will analyse it, to determine if these people or groups are in the terrorist cell. Moreover, Densus 88 intelligence will categorize the level of these groups or individuals, to determine if they are followers, support cells or hard-core cells.⁷⁹²

This explanation shows that collaboration between Densus 88 and local police has in fact occurred. The local police collects information from the local surroundings, and Densus 88 intelligence processes and analyzes that information to determine whether certain groups or individuals are part of the terrorist followers, support cells, or at the higher level, hard-core cells.

The information sharing between Densus 88 and the local polices (POLSEK, POLRES, POLDA) is in two-fold. First is in top-down communications, Densus 88 provides guidelines, clues, general information related to what to look out and to be aware of. The purpose is to enable the local police to detect as early as possible potential problems that may relate to terrorism threats within their scope of authority. Second is the bottom-up communication that occurs when local police find suspicious activities that are considered potentially threatening or activities related to terrorism. Their findings are then be reported to and confirmed with Densus 88.

In addition to this, Densus 88 intelligence also has an activity called “a sharing information meeting forum.”⁷⁹³ Attended by the intelligence community, this forum covers criminal intelligence, custom and border intelligence and others.⁷⁹⁴ As explained by the

⁷⁹² Interview with Interview with X_N09, in Jakarta, 19 November 2014.

⁷⁹³ Interview with X_N09, in Jakarta, 19 November 2014; interview with X_N18, in Jakarta, 2 February 2015; interview with X_N20, in Jakarta, 4 March 2015.

⁷⁹⁴ See Chapter 3 and 4 of this dissertation.

informant, Densus 88 intelligence led the forum to proactively share data and information, and to give guidelines to or to direct community intelligence.⁷⁹⁵ In this sense, there is also two-fold, bottom-up, and top-down information sharing. This means that Densus 88 receives information from community intelligence (bottom-up) in the same time also direct and guiding the community intelligence what to look out and to be aware of.

For example Densus 88 intelligence conducts meetings and gatherings with the intelligence community in Manado. Manado is on the border with the South Philippines and is notorious for its MILF movement where Abu Sayyaf terrorist group exists.⁷⁹⁶ Densus 88 aims to enable the community intelligence to have the ability to detect the earliest potential problem in their surroundings. For example, enabling community intelligence to identify radical cells that may exist in Manado and potential problem related to terrorism or terrorist threat.⁷⁹⁷ It is also to brainstorm them to the major problems in Manado relates to the state border. Densus 88 roles are to deliver sort of knowledge to community intelligence. Furthermore, the meeting was conducted to proactively share general information about community intelligence. The information to be shared is limited; Densus 88 does not share information related to a specific target, such as information about the person who is under the target now, the person planning and making a bomb or mention their name.⁷⁹⁸ In fact, Densus 88 shares only general information.

⁷⁹⁵ Interview with X_N09, in Jakarta, 19 November 2104; interview with X_N20, in Jakarta, 4 March 2015.

⁷⁹⁶ Abu Sayyaf is Islamic separatist groups operating in the southern Philippines and claims to promote an independent Islamic state in western Mindanao and the Sulu Archipelago See further on Sheldon W. Simon, "U.S.-Southeast Asia Relations: The War on Terrorism: Collaboration and Hesitation" https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/111128_Fellman_ASG_AQAMCaseStudy5.pdf; Zack Fellman, "Abu Sayyaf Group" (Aqam Future Project Case study Series, Washington DC, CSIS, 2011).

⁷⁹⁷ See Memorandum of Understanding between the National Counter-Terrorism Agency of the Republic Indonesia and the Anti-Terrorism Council of the Republic of Philippines on Combating International Terrorism, 2014; See also Marguerita Afre Sapiie, "Indonesia to Discuss joint task force with Philippines," *jakartapost.com*, August 1, 2016 accessed September 16, 2016 <http://www.thejakartapost.com/news/2016/08/01/indonesia-to-discuss-joint-task-force-with-philippines.html>

⁷⁹⁸ Interview with X_N09, in Jakarta, 19 November 2014.

From the example above, we can see both top-down and bottom-up information sharing. Top-down means Densus 88 provides guidance to community intelligence. Bottom up means the community intelligence at the local level works as front liner intelligence. There is a meeting where Densus 88 shares general information, community intelligence shares the information they have with Densus 88 intelligence. However, these two-way communication patterns have not yet been institutionalized. This information sharing meetings are not equipped with the mechanism of sharing information among the communities. Within the system of the government, there are no policy or regulation in regard to coordination mechanisms to support the appropriate, effective and timely sharing of both intelligence and sensitive law enforcement. In fact, the willingness to share information seems to correlate to established personal relationships.⁷⁹⁹

In terms of law enforcement activities, the internal and external coordination, collaboration, and shared information has also worked out in limited ways. This limitation is illustrated by the relationship between Densus 88 striking force and the law enforcement unit in the police organizations such as BRIMOB, Satgas Anti Bomb, and POLDA, as well as the military in particular circumstances. For example, to strengthen the Densus 88 striking forces, BRIMOB, POLRES,⁸⁰⁰ POLDA and Military (TNI) provide more personnel and equipment to Densus 88, where the means of force available to Densus 88 are not sufficient. They play not more than to support Densus 88. The informant expresses the extent of cooperation in law enforcement occurs mostly in strategic level.

⁷⁹⁹ Interview with X_N07, in Jakarta, 2 November 2014; Interview with X_N09, in Jakarta, 19 November 2014.

⁸⁰⁰ M Wismabrata, "Keluarga Anggap Penangkapan Terduga Teroris Solo Tak Sesuai Prosedur," *kompas.com*, December 24, 2014 accessed September 16, 2016 <http://regional.kompas.com/read/2014/12/24/1556136/Keluarga.Anggap.Penangkapan.Terduga.Teroris.Solo.Tak.Sesuai.Prosedur>

We do particularly in strategic level. But in all level is also possible. For example, if we want to share when we want to execute or doing raid, or enforcement, we could share it in the local police (Provincial level), or Kodim (military in provincial level), we share to them that we are going to conduct operations on their areas.⁸⁰¹

Similarly, an Informant from Densus 88 stated that Densus has collaborated with and is involved with the army forces, and it has also involved the army forces in its operations. As stated in the following description:

Each development of a case or particular situation that's based on the intelligent data analysis may lead an initiative to prevent, investigate and enforce the law. Whether police will communicate and contact other units internally or externally depends on the problem they are facing. For example, when there was raid operation in Batu Malang on November 9, 2005, the Head of Densus 88/AT at that time coordinated the operation with The Commander of Navy Abdurahman Saleh and the Head of Provincial Police (POLDA) in east Java.⁸⁰²

The explanations above, however, show that there is essentially no actual operational information being shared, but there is a practice of informing other agencies about approaching events, actions or operations. In principle, the Indonesian regional police commanders may obtain the assistance of local TNI forces through a formal request for assistance.⁸⁰³ In addition, in Serdang Bedagai, North Sumatra, the military and the police have been sharing information during counter-terrorism operations.⁸⁰⁴ In this particular case, the TNI joined in a four-day police operation, successfully gathering information that located the position of the terrorist suspects and armed militants; TNI members then shared this information with Densus 88.⁸⁰⁵ The TNI were also involved in surrounding the suspects.⁸⁰⁶

⁸⁰¹ Interview with X_N07, in Jakarta, 2 November 2014.

⁸⁰² Interview with X_N04, in Jakarta, 24 October 2014.

⁸⁰³ "Hearing Notes between DPR and BNPT", *dpr.go.id*, April 16, 2016, accessed on October 31, 2016 <http://www.dpr.go.id/dokakd/dokumen/K3-23-6227d5ae29bf514f9bec725871ed24d2.pdf>

⁸⁰⁴ Ferdinand Waskita, "Polri-TNI Kerjasama Buru Teroris" *tribunnews.com*, October 3, 2010 accessed March 10 2016 <http://m.tribunnews.com/nasional/2010/10/03/polri-tni-kerjasama-buru-teroris>.

⁸⁰⁵ *Ibid.*

⁸⁰⁶ *Ibid.*

Territorial military personnel are then placed under police command for the duration of the agreed operation.⁸⁰⁷ The military then provides the necessary assistance required by the police to combat terrorists, although a regulation outlining technical procedures for cooperation have not yet been adopted.⁸⁰⁸ There is no established or detailed system, such as mechanisms, operational procedures, or review systems for the deployment of military to assist and support Densus 88 in counter-terrorism operations. The mechanics of police-military cooperation are not yet clearly outlined to ensure operational efficiency and effectiveness in the field.

2. Information Sharing And Collaboration Between Densus 88 And PPATK (Financial Intelligence Unit)

As in law enforcement, the issue of dealing with terrorist financing has emerged as an important front, where Indonesia has partnered with its neighboring countries and other international actors.⁸⁰⁹ Along with the evidence is in the Indonesian membership in the Aisa Pacific Group on Money Laundering (APG) and the Egmont Group.⁸¹⁰ The PPATK has memorandums of Understanding (MoUs) with Asia Pacific countries, such as Australia, Korea, Malaysia and Thailand, Samoa, Saudi Arabia, and Romania. It least until 2011, there are 42 MoU's have been signed.⁸¹¹ The effect of such collaborative efforts is significant. For Instance, in recent years there has been a marked increase in the filling of the suspicious transaction

⁸⁰⁷ Interview X_N_15, Jakarta November 2014.

⁸⁰⁸ Interview X_N_16 Jakarta November 2014.

⁸⁰⁹ Musa Tuzuner, *Intelligence Cooperation Practices in the 21st Century: Towards a Culture of Sharing* (Amsterdam: IOS Press, 2010),8

⁸¹⁰ *Ibid.*

⁸¹¹ "PPATK Tandatangani MOU Pertukaran Informasi Keuangan dengan 3 Negara," detik.com, July 16,2011 accessed September 10, 2015 <http://news.detik.com/berita/1682440/ppatk-tandatangani-mou-pertukaran-informasi-keuangan-dengan-3-negara>.

reports (STR). In addition to this, the low of foreign currency and remittances has been brought under increasing surveillance of the central bank.⁸¹²

Studies show that PPATK has performed 23 proactive analyses concerning terrorism financing.⁸¹³ Furthermore, PPATK has done 42 reactive analyses up to now.⁸¹⁴ PPATK and the Central Bank have been publishing and implementing the UN's (UN Resolution 1367) consolidated list of terrorist individuals and groups since 2008 to assist financial services providers in detecting and reporting suspicious transactions. It adds that from 2008 to 2010 PPATK found 128 transactions suspected of being connected to terrorism. Further, 35 suspicious financial transactions were reported to law enforcement agencies⁸¹⁵ Furthermore, the Indonesian task force team consisting of Densus 88, PPATK, BNPT, the ministry of foreign affairs, and the Jakarta District Court have released 200 terrorist suspect lists.⁸¹⁶ PPATK has also been involved in tracing and analyzing monetary transactions to update terrorism cases, such as related to the ISIS case.⁸¹⁷ Another is the case of Abdul Haris, who in 2011 was convicted of collecting funds for the Aceh training camp and sentenced to nine years imprisonment.⁸¹⁸

Since 2003 there have been 15 prosecutions of terrorism funding.⁸¹⁹ One of the notable case was the 2011 trial of radical cleric Abu Bakar Baasyir who was convicted of financing a

⁸¹² Tuzuner, *Intelligence Cooperation Practices*, 8.

⁸¹³ Interview with X_N14, in Jakarta, 5 December 2014.

⁸¹⁴ Interview with X_N14, in Jakarta, 5 December 2014.

⁸¹⁵ Y. Husein, *Naskah Akademik RUU Pemberantasan Pendanaan Terorisme* (Badan Pembinaan Hukum Nasional Kementerian Hukum dan HAM RI, 2012), 20.

⁸¹⁶ Interview with X_N14, in Jakarta, 5 December 2014.

⁸¹⁷ Interview X_N14, see further detail report on <http://www.ppatk.go.id/?reloaded=yes>; see also 'PPATK Temukan Aliran Dana dari Australia Rp 7 Miliar untuk Teroris di Indonesia,' *tribunnews.com*, November 29, 2015, accessed August 10, 2016 <http://jateng.tribunnews.com/2015/11/29/ppatk-temukan-aliran-dana-dari-australia-rp-7-miliar-danai-teroris-indonesia>

⁸¹⁸ Interviews with X_N14; see also Panggabean, E "Pengumpul Dana Teroris Dituntut Sembilan Tahun", *Liputan 6.com*, March 1, 2011 accessed August 10, 2016.

⁸¹⁹ Adam Fenton and David Price, "Forbidden Funds—Indonesia's New Legislation for Countering the Financing of Terrorism," *Australian Journal of Asian Law* 15, no. 1 (2014):1-19.

terrorist training camp in Aceh and sentenced to 15 years imprisonment.⁸²⁰ Most recently, three men were convicted of committing internet fraud and using the funds to finance a terrorist training camp in Poso, Central Sulawesi.⁸²¹

In terms of collaboration between PPATK and Densus 88, both institutions have proactively collaborated to cut off terrorist financing.⁸²² The collaboration, cooperation, and information sharing between Densus 88 and PPATK has generally been performed smoothly.⁸²³ PPATK as the financial intelligence unit (FIU) is in the central position, bridging the monetary industry and law enforcement agencies. In terms of terrorist financing, PPATK produced two kinds of analysis reports, proactive analysis reports and reactive analysis reports.⁸²⁴ The proactive analysis reports are initiated by PPATK, while the reactive analysis reports are released upon request of PPATK's stakeholders and Densus 88 is one of its stake-holders.⁸²⁵

In implementing collaboration and cooperation, Densus 88 conducts incidental meetings with PPATK, instead of regular meetings. When needed, Densus 88 sends letters of request to PPATK's office to hold a meeting with the PPATK analyses team.⁸²⁶ Furthermore, the incidental meeting may also be conducted after Densus 88 receives a proactive analysis report from PPATK.⁸²⁷ These meetings are held to obtain further clarification of the proactive report.⁸²⁸ Densus 88 also holds incidental meetings when they receive reactive reports to clarify the status

⁸²⁰ *Ibid*; see also Australian Associated Press, "Australia Welcomes Baasyir Verdict," *News.com.au*, June 16, 2011.

⁸²¹ Panggabean, E "Pengumpul Dana Teroris Dituntut Sembilan Tahun", *Liputan 6.com*, March 1, 2011 accessed August 10, 2016 <http://news.liputan6.com/read/322431/pengumpul-dana-teroris-dituntut-sembilan-tahun>.

⁸²² Interview with X_N04, in Jakarta, 24 October 2014; interview with X_N07, in Jakarta 2 November 2014; interview with X_N09, in Jakarta, 19 November 2014; interview with X_N14, in Jakarta, 5 December 2014; interview with X_N15, in Jakarta, 5 December 2014; see also "Seperti Inilah Kerjasama Manis Densus 88 dengan PPATK," *jpnn.com*, March 28, 2015 accessed March 12, 2016 <http://www.jpnn.com/news/seperti-inilah-kerjasama-manis-densus-88-dengan-ppatk>.

⁸²³ Interview with X_N14, in Jakarta, 5 December 2014.

⁸²⁴ *Ibid*.

⁸²⁵ Interview with X_N15, in Jakarta, 5 December 2014.

⁸²⁶ *Ibid*.

⁸²⁷ *Ibid*.

⁸²⁸ *Ibid*.

of cases and coverage needed by Densus 88.⁸²⁹ To be short, the collaboration and information sharing between Densus 88 and PPATK has run smoothly and hardly found any barriers in it. It is understandable since between them there is no conflict of duty, and PPATK does not have a law enforcement function.

3. Intelligence Sharing between Densus 88 and BIN

Densus 88 has also cooperated and collaborated on information sharing with the national intelligence agency (BIN). Examples of successful cooperation, collaboration, and information sharing include the “Poso terrorism case”⁸³⁰ and the ISIS case.⁸³¹ In both cases, BIN proactively “fed” the police information for identifying suspects. As described by informant from National Intelligence Agencies (BIN):

The example is Poso case. I’m not allowed to say a lot about this case, but the very good case is Poso. There are weapons and guns trading and transactions from Syria (in poso case). The BIN agents were inside the ship, in the 1st class. The 1st was

⁸²⁹ Interview with X_N14, in Jakarta, 5 December 2014.

⁸³⁰ Poso had been a communal conflict where intense fighting took place between Christians and Muslims between 1998 and 2001, reaching its peak in 2000. It was resolved in peace agreement in 2001. The left behind of the conflict was a network of extremist cells initially mostly initiated with the group of Jemaah Islamiyah but which went on to become the symbolic center of ISIS in Indonesia, where the local commander, a man named Santoso, has sworn an oath to ISIS and is clearly in communication with people in Syria, further reading for Poso related terrorism case see Tito Karnavian, *Membongkar Jaringan Terorisme* (Jakarta: Gramedia Pustaka Utama, 2011); The best and most detailed analysis of the impact of ISIS on Indonesia is the report from IPAC, *The Evolution of ISIS in Indonesia*, Report no.13 (Jakarta: IPAC, 2014); Sidney Jones, *ISIS in Indonesia: Understanding the real threat. Strategic Review*, http://www.sr-indonesia.com/in_the_journal/view/isis-in-indonesia-understanding-the-real-threat?pg=all; Sidney Jones, *Lessons learned from Indonesia’s conflicts: Aceh, Poso and Papua*, <http://www.insideindonesia.org/lessons-learned-from-indonesia-s-conflicts-aceh-poso-and-papua>.

⁸³¹ Interview with X_N05, in Jakarta, 24 November 2014; interview with X_N07, in Jakarta, 2 November 2014; Interview with X_N09, in Jakarta, 19 November 2014; interview with X_N20, in Jakarta, in 4 March 2015; interview with X_N16, in Jakarta 17 December 2015; See also “12 WNI Gagal ke Suriah dibawa Densus 88 ke tempat Rahasia.” *Liputan6.com*. 26 March 2015; “12 WNI Terduga ISIS di Malaysia Segera dipulangkan.” *Republika.co.id*, December 15, 2014, <http://nasional.republika.co.id/berita/nasional/hukum/14/12/15/ngmdqp-12-wni-terduga-isis-di-malaysia-segera-dipulangkan>.

hardly being checked by the security. The agent informed the police about the weapons smuggle, the police then arrested these people. Police won't tell that they received this information from BIN, meanwhile BIN won't publicly tell that BIN gave the information to the Police. Intelligence always and must work behind the scene. Eventually police succeeded to arrest the people, this is as an evidence police has cooperated and collaborated with other party, police doesn't work alone. BIN doesn't have problem in sense of the distribution of the task among intelligence agencies.⁸³²

As such, the public assumption that BIN does not share information with law enforcement is somewhat misleading. The public only knows when law enforcement (including its intelligence) is the only one fighting against terrorism. The public only learns of the action once the final result emerges, when law enforcement succeeds in capturing or arresting terrorists. However, the process leading up to the capture is not well understood. Collaboration and information sharing occurs, but it is unlikely to appear on the surface because of the character of intelligence service work, which is "behind the scenes" without an expectation of public acknowledgement.

An informant from BIN added another example where the collaboration and information sharing in fact occurred in a particular case, such as in the ISIS case:

I divide the target (targeting A group, B group, C group etc). For example in the case of ISIS, we have detected such persons/groups. The intelligence apparatus had coordinated, the Densus 88, Bareskrim (Police) got the information from us (BIN). This is an example we worked and coordinated together. There were 12 people, they had been suspected of joining ISIS. These people went to Syria via Malaysia. Legally they were not violating any law. They were "only" going to travel. Our difficulty in preventing terrorism is because we don't have an ISA (Internal Security Act), we are not allowed to capture and to arrest them. In the case of those 12 people, we gave them shock therapy. When they were in Jakarta Airport, we (our intelligence team) shook their hand, "good bye and said be careful!" It was a soft warning to them that we know their plan. We coordinated with the Indonesian embassy in Turkey, so by the time they arrived at the immigration they were deported. After they were deported and came back to Indonesia, Densus 88 arrested them.⁸³³

This explanation clarifies that intelligence service has detected and given sufficient early warning to the law enforcement (in this case is Densus 88). As the result Densus 88 was able to

⁸³² Interview with X_N05, in Jakarta, 24 November 2014.

⁸³³ Interview with X_N16, in Jakarta, 17 December 2014.

arrest some terrorist group members. This clarification brings the fact that between BIN and Densus 88 has shared information and collaboration to prevent terrorism. The example above demonstrates that the collaboration and information sharing between Densus 88 and BIN has occurred, although it is limited. And the sharing between Densus 88 and BAIS is much less compared to that between Densus 88 and BIN. The information sharing and collaboration that occurs between the among Densus 88, BIN, BAIS has not been has not been institutionally internalized.⁸³⁴

Until today, Densus 88 has never received information from BAIS, in fact BAIS searched the data and information from Densus 88. However, there used to be a meeting between Densus 88 and BAIS. For example, the head of BAIS initiated a meeting with Densus 88 to share information. BAIS wanted to hear and discuss the map, the development and the growth of terrorism and its network.⁸³⁵

The statement above shows that Densus 88 gets very little information from BAIS. The meetings between Densus 88 and BAIS occur only in meetings, and they share only general information on terrorism and its development. Most of the informants in this study assumed that Densus 88 has more complete information than other agencies (BIN/BAIS).

When Densus 88, BIN and BAIS share information, it is not practical in nature. When they speak of “intelligence,” they are usually referring to information—tangible data about personalities and events around the globe. This information is communicated by intelligence officers during the meetings. The end purpose is to provide users with oral briefings, memoranda, and more formal reports, either short or long. All of these are focused on bringing a leader up-to-date on current events or investing the policymaker with a more in-depth comprehension of a topic based on exhaustive research.

⁸³⁴ Interview with X_N09, in Jakarta, 19 November 2014; interview with X_N18, in Jakarta, 2 February, 2015.

⁸³⁵ Interview with X_N09, in Jakarta, 19 November 2014.

Basically, there are regular meetings for sharing information forum facilitated by BNPT as national counter-terror coordinator agency.⁸³⁶ BNPT facilitates meetings forum among Densus 88, BIN and BAIS to overcoming hurdles in interagency communication.⁸³⁷ BNPT intended to act as the bridge between the disparate organizations; however, the meetings did not end up fully meeting that goal.⁸³⁸ The agencies that attended the meetings have been much less inclined to do it.⁸³⁹ To deal with this situation, BNPT, as a coordinating body, is not able to do more since it lacks legal authority to encourage each agency to more proactively share information.⁸⁴⁰ The following statement reflects this difficulty:

The position of BNPT is weak because it has no strong authority, to order or command TNI, Polri, BIN for performing such actions. BNPT may only recommend necessary actions should be taken. BNPT has only Perka as their legal basis is Perka (Perka has its effect only for internal BNPT).⁸⁴¹

Information sharing, on the other hand, happens only with strategic intelligence.⁸⁴² Densus 88 does not share information at the level of tactical intelligence⁸⁴³ or operational intelligence.⁸⁴⁴ What has been understood to be strategic intelligence is broad still and entails looking at the national picture—the bigger picture, involving terrorist groups and terrorist cells

⁸³⁶ Interview with X_N01, in Jakarta, 3 September 2014; interview with X_N04, in Jakarta, 24 October 2014; interview with X_N07, in Jakarta 2 November 2014; interview with X_N09, in Jakarta, 19 November 2014; interview with X_N10, in Jakarta, 26 November 2014; interview with X_18, in Jakarta, 2 February 2015; interview with X_N20, in Jakarta, 4 March 2015.

⁸³⁷ Interview with X_18, in Jakarta, 2 February 2015; interview with X_N20, in Jakarta, 4 March 2015.

⁸³⁸ Interview X_N01, in Jakarta, 3 September 2014; interview with X_N10, in Jakarta, 26 November 2014;

⁸³⁹ Interview X_N01, in Jakarta, 3 September 2014; interview with X_N10, in Jakarta, 26 November 2014;

⁸⁴⁰ Interview with X_16, in Jakarta, 26 November 2014; interview with X_18, in Jakarta, 2 February 2015; interview with X_N20, in Jakarta, 4 March 2015.

⁸⁴¹ Interview with X_N16, in Jakarta, 17 December 2014

⁸⁴² Strategic intelligence aims to provide insight and understanding into patterns of criminal behavior and the functioning of the criminal environment, and aims to be future-oriented and proactive. This intelligence is used by executives and top-level managers who are responsible for organizational planning designed to impact the criminal environment.

⁸⁴³ The tactical intelligence is understood to be intelligence products that support national and local managers of front line units in planning activities and deploying resources to achieve operational objectives.

⁸⁴⁴ The operational intelligence helps decision makers decide which organized crime groups are most vulnerable to enforcement or which areas of a city require the most resources. It allows commanders with limited resources to determine the main priorities for the forthcoming few weeks or months, and provides a big-picture understanding of longer-term problems that cannot be alleviated by making a few arrests.

that are now developing their movements in Indonesia. Strategic intelligence is aimed at providing predictive assessments of current and emerging trends.⁸⁴⁵

The following descriptions may clarify the level of information sharing:

We will not share information related to the ongoing case. It carries a big risk if we share information concerns of the cases that are handled. For example, we will share the big terrorist network, the network is currently playing in certain areas or places. However, we will not share, the information concerning the small networks which are in operation. We have limitations with sharing information. We have to be very careful in sharing and keeping this information. We will not recklessly share the information. What is the benefit for us if we shared this information, who will use this information, what is the purpose, all these things are under our consideration before sharing the information. We do not want this information leaked.⁸⁴⁶

Another informant also added the following:

I don't think Densus 88 will share it, because if the information leaks, Densus 88 won't be able to capture and arrest the suspect/target, it doesn't mean Densus 88 want to compete over the other. If the information falls at the hand of person who does not have security minded, the information will be very easy to be leaked.⁸⁴⁷

In similar tone, another informant affirms the same:

The intelligence community is in the two layers, in the region and central stage. Densus 88 will never share when they are going to perform operational actions. BIN doesn't need to know the Densus 88 business; BIN only needs to know what we need. It is impossible to share all of information. So the perception that we don't coordinate our work (BIN and Densus 88), I think it is misperception. For the beginning, on the transition period, it was true there wasn't coordination, because on that police organization was not yet well organized, but for current situation I think it has improved.⁸⁴⁸

In conclusion, the collaboration and sharing of information among Densus 88 and other units within the police organization, as well as agencies or departments outside the police organization, has occurred in limited ways and in particular situations. The current practice and setting on collaboration and information sharing between the law enforcement (Densus 88) and

⁸⁴⁵ Sheptycki and J.H. Ratcliffe, "Setting the Strategic Agenda" in *Strategic Thinking in Criminal Intelligence*, ed. J.H. Ratcliffe (Sydney: Federation Press, 2004), 194-216.

⁸⁴⁶ Interview with X_N07, in Jakarta, 2 November 2014.

⁸⁴⁷ Interview with X_N20, in Jakarta, 4 March 2015.

⁸⁴⁸ Interview with X_N05, in Jakarta, 24 November 2014.

security services (BIN and BAIS) do not work within intelligence sharing environment framework.

E. Impediments To Collaboration And Sharing Information

1. Absence Of Legal Guidance

The goal of sharing information has a long, murky, and complex history in Indonesia. Part of the problem has been an inconsistent implementation of policies stemming from different interpretations of what is allowed under the law. Furthermore, cultural, goal-oriented, methodological, and operational differences hinder information sharing among the agencies. However, this matter can be seen in a more nuanced perspective, where there are intermingling factors contributing to the difficulty of sharing information between Densus 88, BIN, BAIS and any other intelligence communities.

In the absence of clear occupational differentiation, sometimes tasks or specializations are only vaguely defined, or in other words, the scope of authority is not clearly designated. This generates duplication and overlapping of professional activities and an infringement of expertise, thus fostering the defilement of exclusive domains.⁸⁴⁹ Several informants illustrated how this grey area, in fact, has caused trouble in the field:

There is such area where both of us is not wrong and cannot be blamed. There is a grey area in the aspect of preventing terrorism. These areas need to be clarified. If the police have authority to make arrests in the planning stage, we can do more on terrorism prevention. For example in Poso we have informed the Police. Before 2004 we had not had enough information. If a terrorist network had not performed such actions, we were not able to arrest them. We had known that certain groups were planning an act of terrorism. We had informed the police, but the police had no adequate criminal evidence to capture and arrest these groups. Our information is “useless” in a sense that it can’t be used or followed up by the police because the law does not give the police authority to arrest the terrorist in the planning stage.⁸⁵⁰

⁸⁴⁹ See Chapter 4 of this dissertation for the discussion concerning grey areas among the agencies.

⁸⁵⁰ Interview with X_N05, in Jakarta, 24 November 2015.

In such cases, poor occupational differentiation leads to mistrust, and rivalry among professional groups and, as such, affects the fluidity of communications by favoring the implementation of information withholding mechanisms are not equipped with the mechanism of sharing information among the communities. Within the system of the government, there are no policy or regulation in regard to coordination mechanisms to support the appropriate, effective and timely sharing of both intelligence and sensitive information for law enforcement. They are encouraged to strengthen the information sharing however, the encouragement is not equipped with the mechanisms or policy guidance to implement effective and timely sharing of information. As a result, the absence of legal guidance and mechanism causing poor communication within the intelligence within and outside police organization.⁸⁵¹ The following section elaborates on the other factors that contribute to the difficulty of collaboration and the sharing of information.

2. Rivalry and Lack of Trust

Problems with coordinating and sharing information are not new in Indonesia.⁸⁵² It is not just a problem of “connecting the dots,” but also bridging the gaps within and between agencies because of insufficient resources for analysis.⁸⁵³ Those gathering security-related information are quite properly concerned that they keep control of it so that their sources and methods are not exposed; however, a range of other less worthy motives may also be behind a reluctance to share

⁸⁵¹ Lemieux, *International Police Cooperation*, (2010), 235; International Crisis Group, *Rethinking Internal Security Strategy*, Crisis Group Asia Report no. 90 (Brussel/Jakarta: ICG, 2004); Interview with X_N05, in Jakarta, 24 November 2014; Interview with X_N18, in Jakarta, 2 February 2015.

⁸⁵² Belgian Standing Committee, ed, *Fusion Center throughout Europe, All Sources Threat Assessments in the Fights against Terrorism*. (Antwerp: Intersentia, 2010), 209-210.

⁸⁵³ *Ibid.*

information, including contests over “turf,” jealousy over cases, and competition over budgets.⁸⁵⁴

An informant from BAIS explained the following:

70% we don't trust people outside of us. Even in foreign countries, are also reluctant to share information, America for example. America, in fact, gave us global information and in return America asked us for classified information. Information is power. Because it is power, people have a tendency to look and to have a full power. Trust is ambiguous, to build trust is difficult. I don't think there will be any person who wants to share their power. Sharing power won't occur but when it is joined in power, I think it does exist. However it is only joined in power in a short or temporarily term.⁸⁵⁵

This confirms that in the world of intelligence, information is a precious asset. Thus, sharing information is tantamount to dividing and sharing power. The ways that intelligence agencies perceive information and power affects their willingness to share with other agencies.

Though there are some signs of collaboration and information sharing among Densus 88 and police at local levels, this relationship does not always run smoothly. Densus 88 faces several obstacles when it comes to exchanging information at the local level due to the unequal development of intelligence activities among the local police (POLSEK, POLRES) and the lack of understanding of counter-terrorism strategy.⁸⁵⁶

These obstacles mainly emerge from a large gap in the skill of personnel and the information technology equipment among Densus 88, BIN, the other law enforcements agencies (i.e. POLSEK, POLRES level). This gap is understandable. Densus 88 was established as part of a response to the growing threat of terror organizations that are part of the Al Qaeda network. In its establishment, Densus 88 received funding mainly from the Australian and American government under the anti-terror assistance program, which was designed to support the initiative to respond to 2002 Bali bombings. In addition to providing funding for the unit, both government has trained its personnel, drawing on the resources of various agencies. As part of

⁸⁵⁴ *Ibid.*

⁸⁵⁵ Interview with X_N16, in Jakarta, 17 December 2015.

⁸⁵⁶ Interview with X_N04, in Jakarta, 24 October 2014; interview with X_N09, in Jakarta, 19 November 2014;

anti-terror assistance program Densus 88 is equipped with modern and sophisticated technologies and highly skilled personnel.⁸⁵⁷ Thus, Densus 88 perceives and claims it has the most complete database related to terrorist networks:

The largest and most complete database regarding terrorists and terrorism in Indonesia is only owned by Densus 88.⁸⁵⁸ As such, Densus 88 has understood that to some extent granting, exchanging, and sharing data and information from the other agencies is less useful.⁸⁵⁹ An informant overtly asserted this view:

Densus 88 employs IT, the IT capability that utilized by Densus 88 is high. Local police does not have these abilities, does not know how to operate it, even local police do not know how to operate basic IT. The problem is not merely Densus 88 does not want to collaborate or sharing information, the problem is whether other agencies are capable to fulfill the needs of Densus 88. Are the other agencies ready and do they have sufficient capability?⁸⁶⁰

This shows how Densus 88 perceives its unit as the most powerful in terms of the highly skilled personnel and sophisticated equipment (information technology). As a result, it has not greatly assisted Densus 88 in sharing information or collaborating with other units in the police agency. The local police simply do not have strong information to offer.

3. Differences In Culture, Purposes And Modes Of Operation

The differences between security intelligence and law enforcement are not only cultural, but also legal, operational, and methodological. Regarding cultural differences, one of informant from BIN explained the following:

The inter-connection among agencies is not optimal. There is cultural barrier among us. Management of organization is also another factor where the bureaucracy reformation doesn't work.⁸⁶¹

⁸⁵⁷ Muradi, "The 88th Densus AT: The Role and the Problem of Coordination on Counter-Terrorism in Indonesia," *Journal of Politics and Law* 2, no. 3 (2009): 19.

⁸⁵⁸ Interview with X_N03, in Jakarta, 8 October 2014.

⁸⁵⁹ Interview with X_N03, in Jakarta, 8 October 2014; Interview with X_N09, in Jakarta, 19 November 2014.

⁸⁶⁰ Interview with X_N03, in Jakarta, 8 October 2014.

⁸⁶¹ Interview with X_N16, in Jakarta, 17 December 2014.

In fact, the legal mandate related to intelligence functions between BIN, BAIS, and the police are different; however, there is some overlap or intersection. The following explanation may be used as an illustration of the differences and the intersection between the two:

Densus intelligence is for criminal intelligence. BIN is responsible for upstream to downstream intelligence gathering/production. BIN doesn't have authority to capture, or arrest suspect. The information collected by police intelligence and BIN could be similar however the purpose is different.⁸⁶²

Similarly, as added by another informant:

BIN intelligence reports aim for strategic information, policy maker. Police intelligence report aims for law enforcement. BIN's reports are for the president. It is therefore, it won't be useful for police to use BIN's report. BIN's reports have different focus. Our focus is for policy makers; it is not used for law enforcement.⁸⁶³

These two statements underscore the different functions, purposes, and authorities of BIN and law enforcement intelligence represented by Densus 88. The distinction of functions, purposes and authorities between security intelligence services (BIN) and law enforcement (Densus 88) are one of reasons that information sharing is difficult to be executed.

Given that BIN intelligence products are not made for law enforcement purposes, they are usually not acceptable in court or as a law enforcement tool. Therefore, Densus 88 has perceived that BIN intelligence products are useless for law enforcement. As result, the call for sharing information does not considered as necessary.

In addition, another informant has contrasted and crosscut the function between BIN and police intelligence:

Based on the law the intelligence collected by BIN is for policy makers while police collected intelligence intended for law enforcement. In collecting information we may do the same. For example, BIN and Police may use interception for gathering information, but our focus and goal is different. BIN also performs domestic intelligence. The purpose of BIN to perform domestic intelligence is for statistical

⁸⁶² Interview with X_N04, in Jakarta, 24 October 2014.

⁸⁶³ Interview with X_N16, in Jakarta, 17 December 2014.

matter, for policy making. It is also intended for recognizing and detecting the networks. It is not for law enforcement purposes. BIN is for tactical intelligence; police is for law enforcement purpose. For example the networks of Abu Bakar Baasyir, BIN may detect and find information about Abu Bakar Baasyir's networks. For police, this information will be followed up to capture these networks (law enforcement). But BIN will treat this information differently.⁸⁶⁴

This statement further distinguishes law enforcement intelligence from security intelligence. The method of gathering intelligence maybe similar across those agencies; however, the focus and the final purpose are different. Because on occasion they have the same target, there is an overlap in agency function.

Given the pressure to cooperate on targets that both agencies must pursue, these differences must be understood. Several cases described by the informants show how the two agencies could work more closely together, even though they are, and may always be separate.⁸⁶⁵

For example, one informant described the following:

Let's see in the case of terrorism in Poso. BIN has known the networks and the pattern of the movements; however this intelligence information is not adequate to be used as legal evidence for police to perform law enforcement, such as apprehending the suspects. Police must abide by the law. On one hand police must have adequate legal evidences when they capture a person, on the other hand the Anti-terror law does not adequately equip police with the legal authority to perform prevention. The problem is not merely because BIN and Police do not want to share information. In some cases we already share information; however, police lack authority because the law itself hinders them from performing preventive actions. We do share information but there is a grey area and is unclear until today. There is an area where we cannot blame police or BIN if on a particular occasion they don't share information.⁸⁶⁶

From this statement, it is clear that BIN and Densus 88 cannot be blamed for the conditions under which they operate. Nevertheless, the public has criticized them for failing to prevent terrorist attacks because they are reluctant about collaborating and sharing information. At

⁸⁶⁴ Interview with X_N05, in Jakarta, 24 November 2014.

⁸⁶⁵ Arthur S. Hulnick, "Intelligence and Law Enforcement: The Spies Are Not Cops Problem," *International Journal of Intelligence and counterintelligence* 10, no.3, (1997): 275.

⁸⁶⁶ Interview with X_N05, in Jakarta, 24 November 2014.

certain point, they may initiate collaborative work; however, the law itself does not adequately equip them with the authority to prevent terror activity. They are constrained by the rule of law and democratic values in law enforcement.

It is a challenge to make sure that police forces and security intelligence services share intelligence. Sectoral ego causes each agency to want to display its power and ability, confirming that one agency excels over the other. Informants confirm this dynamic as follows:

Ego-sectorial is a natural issue. It exists in every institution. Let alone in the case of terrorism. In this matter, information is power. When one has accurate information, one will win the battle. Sharing information is not only a problem of intelligence in police organization. It is also the case in BAIS and BIN. There is a tendency among intelligence agencies; they are not able to share the information that they have.⁸⁶⁷

Notably, another informant held this same view:

Ego-sectorial does exist among intelligence units since information may be used as a commodity. Information sharing in the intelligence community/agencies has not been performed properly. It not only occurs in intelligence community but also in every government/state official. There is a mindset that if you interfere me (my portion), it threatens my portion, my position.⁸⁶⁸

This statement confirms that sectoral ego in each agency has resulted the difficulty for sharing information. In the world of intelligence, information is considered to be a powerful tool. Whoever gains more information and the most essential information will be most powerful in performing their intelligence tasks. Sharing information, to some extent, has been considered to run opposite this purpose.

Most intelligence agencies in Indonesia view sectoral ego as natural and a common phenomenon. They also think that the sectoral ego among the agencies should not be understood as a part of competition among the agencies.⁸⁶⁹ An informant from BIN suggested that

⁸⁶⁷ Interview with X_N05, in Jakarta, 24 November 2014.

⁸⁶⁸ Interview with X_N16, in Jakarta, 17 December 2014.

⁸⁶⁹ Interview with X_N04, in Jakarta 5 December 2014; interview with X_N07, in Jakarta, 2 November 2014; interview with X_N016, in Jakarta, 17 December 2014; interview with X_N18, in Jakarta, 2 February 2015.

intelligence agencies face difficulty in sharing information and are a manifestation of misunderstandings or false perception within the public about the intelligence world.

Public or people who commented on the intelligence community work or simply criticize that we don't want to coordinate among intelligence community don't have any idea about what and how intelligence community actually operates, they don't understand our work.⁸⁷⁰

Likewise another informant added the following:

The perception there is no coordination is a part of propaganda. The commentaries from terrorism commentators/observers are considered as truth. What I've seen is when police doesn't share the information/coordinate, it is because they are still in an ongoing process to detect, to investigate, and the police have the right to do so. It doesn't mean there is no coordination but keeping the information to avoid any leak of information. In Javanese term "durung wayae dibagi"(it is not the right time to be shared), but then it becomes a perception as if there is no collaboration, as if each agency is just keep each other away from information, they compete each other, and rivalry over others rules.⁸⁷¹

The interviewees also argued that difficulty arises because the exchange of sensitive data is often hampered by a "culture of secrecy."⁸⁷² For example, as is common in undercover police work, BIN views intelligence as any information that has been covertly obtained.⁸⁷³ From the perspective of this organization, all intelligence is intrinsically secret.⁸⁷⁴ For security reasons, the intelligence produced either by Densus 88, BIN, or BAIS is usually retained in-house and is not shared with the rest of the police department and other community intelligence agencies, particularly at the tactical and operational intelligence level.

I don't think Densus 88 will share it, because if the information leaks, Densus 88 wont be able to capture and arrest the suspect/target, it doesn't mean Densus 88 want to compete over the other. If the information falls at the hand of person who does not have security minded, the information will be very easy to be leaked. Police faces similar condition. Police doesn't want to share because they have different purpose

⁸⁷⁰ Interview with X_N09, in Jakarta, 19 November 2014.

⁸⁷¹ Interview with X_N05, in Jakarta, 24 November 2014.

⁸⁷² Interview with X_N04, in Jakarta, 24 October 2014; interview with X_N05, in Jakarta, 24 November 2014; interview with X_N07, in Jakarta, 2 November 2014; Interview with X_N16, in Jakarta, 17 December 2014; interview with X_N20, in Jakarta 2 March 2015.

⁸⁷³ Interview X_N05 in Jakarta 24 November 2014.

⁸⁷⁴ Interview with X_N16, in Jakarta 17 December, 2014.

and have limitation. BIK (police intelligence unit) and Bareskrim (police reserve and investigation unit) don't share information as well even though they're in the one roof (one organization).⁸⁷⁵

In terms of organizational culture, an old problem persists: intelligence officers want to exploit their sources and law enforcement personnel want to make convictions. It is no wonder that there are serious differences between intelligence and law enforcement with regard to operations and methodology.⁸⁷⁶ Policing methods are premised on the possibility that their methods will be examined in open court; intelligence agencies will go to great lengths to ensure that their "sources and methods" are not exposed.⁸⁷⁷ Regarding this, in this next example, an informant provides further details by describing the cultural differences and differences in mission between Densus 88 and BIN:

BIN succeeded to identify the perpetrator of Bombings Bali I, but on that time Police didn't have a clue yet. After Bali Bombing, I reported to the head of BIN that the suspects were in Bima, my superior ordered me to approach this suspect. The suspect had surrendered and wanted to provide further information to BIN (become BIN's informant). Apparently, it leaked to the police, then this suspect was arrested by the Police. As result, BIN failed to get further information that very much needed to unfold other terror plots and terrorist networks.⁸⁷⁸

The statement above illustrates the different goals and focus between BIN and police (Densus 88). BIN aims to gather and collect more secret information meanwhile police focus on law enforcement to capture and to arrest the suspect. Similarly, another informant added:

For example, there is a suspect, a target, we have to collect and gather information related to this target. For example there is a person, completely rejecting to salute to Indonesian flag, and giving radical speeches. BIN will place this person on BIN's "radar", we will continue putting this person under our surveillance, to see his next action, or to keep an eye on the related group which this person belongs

⁸⁷⁵ Interview with X_N05, in Jakarta, 24 November 2014.

⁸⁷⁶ Hulnick, "Intelligence and Law Enforcement," 276-277.

⁸⁷⁷ Belgian Standing Committee, *Fusion Center throughout Europe*, 210.

⁸⁷⁸ Interview with X_N05, in Jakarta, 24 November 2014.

(radical/extremist group) to. In police perspective, this person may be directly arrested. So that is the difference of our work.⁸⁷⁹

From the above narrations, can be said that the operational and methodological differences between the two are strong because of the differences in end goals. When BIN recruit's sources, the aim is to establish a controlled and secret relationship that will enable the agency to gather information that is not available through other methods. BIN wants an agent who has good access to information, who is reliable, and who can maintain a clandestine relationship over time. The agent is usually recruited based on anticipated requirements for information, as well as in accordance with those requirements already on the books. The recruitment is not a "one-time" deal. Some BIN agents have delivered information over many years of service, and protecting their identities is a key element in any espionage operation.⁸⁸⁰ In contrast, when the law enforcement (for example Densus 88) recruits a source, the source may well be targeted against one criminal event.⁸⁸¹ The law enforcement bounds with the legal rules that the source to collect information may be used eventually in court.⁸⁸² That means that legal disclosure rules apply.⁸⁸³ The methods by which the information was gathered must be proven in the court. These kinds of procedures are an anathema to intelligence officers.

The discussion above on the impediment of sharing information and collaboration has indicated that the ILP framework emphasizing to the enhancement of information, intelligence sharing and interagency collaboration merely as an ideal concept. In fact, there are matters over which compromise is difficult because of the inherent differences. This

⁸⁷⁹ Interview with X_N16, in Jakarta, 17 December 2014.

⁸⁸⁰ Interview with X_N05, in Jakarta, 24 November 2014.

⁸⁸¹ Interview with X_N05, in Jakarta, 24 November 2014; interview with X_N09, in Jakarta, 19 November; interview with X_N20, in Jakarta, 4 March 2015.

⁸⁸² Article 26 of CTL and Criminal Code Procedure (KUHAP).

⁸⁸³ *Ibid.*

notion was suggested by one of the informants:

To some degree we cannot force the idea of collaboration and share information, that idea does not always solve the problem. Because police and BIN have their own area where they should perform their tasks. I think our concern is we should amend the anti-terror law. BIN works for example, stalking, espionage by foreign country, surveillance, but we don't arrest people. Police and BIN have different focus, different needs. We have coordination in some cases. We may share information but for operations we don't share.⁸⁸⁴

Given the various differences that distinguish intelligence from law enforcement, it may be challenging to see how they can work more closely together against common targets. The practical thinking proposed may lie in the area of coordination and cooperation, with continued separation along the lines already discussed. If the differing cultures of intelligence and law enforcement cannot be changed, and there is agreement that the differing operational methods of intelligence and law enforcement systems should also remain unchanged, then a system is needed in which intelligence gathers information about criminal behavior and then hands off its operational responsibilities to law enforcement for exculpatory investigation and eventual arrest and prosecution of criminals. This means that there has to be some sort of “firewall” between the spies and the policies that protect intelligence sources and methods, permit prosecution and, at the same time, protects defendants' rights under the Indonesian legal system.

F. Conclusion

The current approach to counter-terrorism policing in Indonesia has characteristics of ILP, particularly in enhancing the utilization of crime intelligence. However, a number of essential elements considered pivotal to the full implementation of ILP are missing in the current practice of counter-terrorism policing in Indonesia, among other things an integrated intelligence structure, collaboration and sharing information within and outside agencies.⁸⁸⁵

⁸⁸⁴ Interview with X_N05, in Jakarta, 24 November 2014.

⁸⁸⁵ Ratcliffe, “Intelligence Led-Policing,” (2008), 53–66.

The current counter-terrorism policing is dominantly relying on intelligence to target, prioritize and focus interventions. The law enforcement intelligence has successfully driven the police action to counter-terrorism, however it works under a fragmented intelligence structure. The spirit of ILP philosophy has functioned only in one particular unit of police organization that is Densus 88. Considering the nature of the police organization structure in Indonesia as a centralized organization, it is supposed to become the greater opportunity in terms of effective sharing information. As a general rule, the more fragmented the structures of governance are, the less likely it is that states will combine their information effectively.⁸⁸⁶ Unfortunately, in Indonesia, the centralized structure in law enforcement is not yet reflected in the intelligence structure.

The counter-terrorism practices of the Indonesian police, and in particular of Densus 88, are not reflective of a pure intelligence-led policing model, but these agencies aim to be led by intelligence. A service that merely trying to work in a more evidence-based objective mode and of investigations. It is also a service to address the contextual and cultural barriers that hinder the progress in performing countering terrorism tasks.⁸⁸⁷ As part of the more ‘intelligence-led’ style of working, to some extent there is a change emerging in governing logic of policing in Densus 88 unit. Instead of aiming at the detection of crimes that have already occurred, Densus 88 strategies and tactics increasingly aim to disrupt terrorism in such a way as to prevent terrorism from occurring or to reduce the seriousness of the terrorism if it does occur.

The current intelligence process is still constrained by organizational, structural, and cultural factors that are specific to professional bureaucracies, including internal and external organizational complexities. In order to make intelligence valuable and of good quality,

⁸⁸⁶ Belgian Standing Committee, *Fusion Center throughout Europe*, 209-210.

⁸⁸⁷ Ratcliffe, *Intelligence Led-Policing*, (2011), 63.

intelligence depends on an organizational structure that supports the constant sharing of information, as well as clarity about occupational divisions.⁸⁸⁸

This research here reveals the difficulty and the failures that these organizations have faced when trying to share information in the absence of legal guidance to clarify the occupational differences. The complexity of these different mandates and resources has not yet been overcome, even though counter-terrorism is a shared priority. This research also shows that the mechanisms or policy guidelines mechanisms are strongly needed to support the appropriate, effective and timely sharing of both intelligence and sensitive information for law enforcement.

The creed implicitly adopted by each agency that “information is power” is completely contrary to ILP and efficient cooperation and information sharing since it suggests that the information holder, like a sovereign, has control over the flow of information in order to modulate the decision-making process. If information becomes a source of power, promotion or glory, the individual(s) or agency(ies) who holds information will find it difficult to share it and will be unlikely to develop relationships of trust. Moreover, the lack of trust worsens due to conflicting values and beliefs based on personal and organizational status.⁸⁸⁹ The lack of trust among agencies may cause increasing cracks and breaches in the flow of information.

To incorporate ILP into the police organizations does not mean only structural changes are required. These organizations also have to change the traits of their culture in order to stimulate interpersonal trust in the sharing of information.

⁸⁸⁸ Lemieux, *International Police Cooperation*, (2010), 237.

⁸⁸⁹ Belgian Standing Committee, *Fusion Center throughout Europe*, 210.

Chapter VII

Conclusion And Recommendations

This dissertation examines the current counter-terrorism strategies used by Indonesian agencies for the purpose of determining whether and to what extent its efforts reflect adherence to the ILP strategies, strategies that have been recognized as effective for dealing with terrorist threats. From the data examined here, it appears that Indonesia is incorporating certain characteristics of ILP, although it has not explicitly adopted ILP as an official policy. And to the extent that Indonesia has integrated ILP strategies into its existing approach, those strategies have had a limited effect because of a lack of information-sharing mechanisms. In light of this data and the prevailing scholarship on ILP, this dissertation suggests that Indonesian counter-terrorism efforts should incorporate additional legislative reforms and concerted efforts to clarify the structures and improve procedures enabling efficient and effective communication and information sharing among government agencies.

This chapter begins by discussing the data showing that while the ILP strategy, in theory, offers a promising solution to improve uses of intelligence and information among agencies, Indonesian agencies struggle to achieve the necessary level of coordination for effective information sharing. It then offers some insights into future implications of the mechanisms for Indonesian counter-terrorism measures, as well as some suggestions for continued improvement of coordination and implementation of ILP strategies. Finally, this chapter offers recommendations for legislative reforms and future research.

A. Summary Of Findings

1. Formal Changes Post-Suharto/Post-Bali Bombing

The fall of Suharto's authoritarian regime in 1998 ushered in the *reformasi* period. A major part of the broad *reformasi* agenda has been a shift from an authoritarian policing style to a community policing style. Calls for this change were contemporaneous with the end of Suharto's rule, and democratic reformers in Indonesian society continue to consider the full implementation of this shift as a high priority.

One of the consequences of the democratization process has been the institutional changes in the security sector, i.e police, intelligence services and military. Following these institutional changes the policing style has evolved to a community policing model. The adoption of community policing become the major agenda of police institution reform. However, the current adoption of community policing remains weak and faces a number of challenges related to structural organization, the police individual culture, the police professionalism (in the individual and institutional level), the centralized leadership and inadequate support of funding.

For example, the structural organization of POLRI poses a substantial challenge to community policing. Effective community policing requires decentralization and localized engagement with the populace. However, POLRI is a large, complex, and highly centralized organization. There are approximately 180,000 police officers controlled—both operationally and administratively—through a regional command structure, headquartered in Jakarta. Community policing is difficult to implement a diverse society, where the needs of each community are unique and understood best by the community itself, not the centralized power structures. The centralized and large agency somehow has disconnected in handling and understanding the diverse needs and characteristics of the communities.

As a result of these shortcomings, the impact of POLRI's work has been mixed. On one hand, community policing appears to be confined largely to urban areas, areas that the larger, centralized organization are better situated to serve. On the other hands, there is little evidence that POLRI has effectively served poor and disadvantaged groups. More specifically, it occurs in remote areas where police officers in remote areas are not really get the policy guidance/education from the center how to serve the communities in the framework of implementing community policing.

In terms of police (officer) individual and institutional culture, the ongoing association with the military and the memory of past military practices by the police has continued to shape the mentality and the identity of police personnel. The long military history of the police organization in Indonesia continues to make itself felt both at the broad level of organizational culture, and thereby, also in the attitudes of individual officers. A public service identity has not yet been internalized at either the organizational or individual level. As result, the police have generally been ineffective at establishing a partnership relationship with communities. Instead, frequent instances of arrogance and autocracy have perpetuated public distrust toward police personnel and police institutions.

In regards to police leadership, to some degree, police chiefs or commanders and police personnel tend to see community policing as a temporary project or just window dressing program. The community policing is often considered or perceived to be second-class work. The POLRI leadership has been inconsistent in its commitment to the community policing concept, confusing officers who directly interact with the public and threatening the sustainability of the program. Commanders have yet to set as a priority the implementation of community policing in their regions, and accordingly these programs have not received serious attention.

The financial cost of community policing also hinders implementation of community policing. A successful community policing model requires officers to perform more “contact” patrolling, such as walking, stopping, and talking to ordinary citizens. This provides some reward to officers, but requires extra physical effort, time, and communication skills. The level of effort required to conduct foot patrols and community meetings, especially in poor areas, brings no additional financial reward to officers. Without additional financial incentive, police officers have little reason to conduct these patrols or engage in community outreach. As this dissertation shows, with the advent of *reformasi*, community policing was identified as the bedrock of the police reform efforts. The formal changes Indonesia introduced into its policing structures post-Suharto were also consistent with this shift from authoritarian policing to community policing.

But just as this police reform agenda launched, the Indonesian government faced several internal security disturbances, which grew in intensity in the period following 2000. The Indonesian government, therefore, faced a serious paradox in its agenda: at the very moment that the country was emerging from decades of authoritarian government and committing to democratic reform, it also faced anti-democratic terror threats.

The response taken by the Indonesian government was the effect of both external and internal (domestic) pressure. With 9/11, pressure increased for Indonesia to take a more serious view of earlier terrorist events and networks. A number of bombings attack occurred in J.W. Marriot Jakarta, the Capital city, had drew serious public attention, and then Australian embassy which again heightened Australian pressure, but also domestic pressure, because again it was in Jakarta and, victims were Indonesian security personnel. Apparently, The October 2002 terrorist

bombings, in Bali signaled a turning point in government policy in Indonesia a time when terror bombings threatened a number of public spheres within the country.

In response to this pressure, the Indonesian government took several important measures to carefully use law enforcement as a counter-terrorism tool, such as the counter-terrorism decree and the subsequent legislation, establish Densus 88 as the main counter-terrorism police unit that works throughout the country to fight against terrorism. At the same time, however, there was substantial public pressure on the government to avoid militaristic practice patterns that occurred in the Suharto regime.

The dynamic of socio-legal and political changes in Indonesia has affected the way the country fights terrorism. In the Old Order period from 1945-1965, the approach against terror organizations was through deployment of military forces. This approach was based on Presidential Decree No. 11/1963 on the Eradication of Subversive Activities, and it was first issued in the Old Order era. This approach called for a crackdown on any activities that interfere the sovereignty of countries, including acts of terrorism. Military confrontation as practiced in Old Order era had been continued in New Order Era (1966-1998) to handle separatism and terrorism acts. However, in the New Order, the approaches relied more on military intelligence operations. Under both the old order and new order regimes, the Indonesian government has applied special security legislation to fight acts that today would be characterized as “acts of terrorism.” During the old order regime (1945-1966) this special security legislation manifested in the Anti-Subversive Law, which was issued through Presidential Decree No. 11/1963; later, in the new order era (1966-1999), this law was ratified and enacted as Anti-Subversive Law No. 11/1969.

The reform of counter-terrorism policing post-Suharto can be further divided into two stages: before and after the enactment of the Counter-terrorism Law in 2002. In the first period, from 1998 (early reformation period) to 2002 (in the time of Bali Bombings), the stage known as “a loose period,” the democratically elected government tried to break free from the grip of the new order policies. For example, in 1999, POLRI separated from the military organization, and it was unclear which counter-terrorism policing approach was taken.

The second phase, after the enactment of the CTL, is when Indonesia clarified its counter-terror strategy and policy, placing counter-terrorism efforts into a framework of law enforcement and the criminal justice system. As a consequence, the police force placed on the frontline in the battle against terrorism, while the military functioned only as back up. Or in the other word, Indonesia has adopted a law enforcement-based approach in dealing with the threat of terrorism. This approach remains today, where law enforcement intelligence functions as the backbone for anti-terrorism operations in Indonesia.

As noted in Chapter 6, there are both similarities and differences between past and current approaches. As in the past, the use of military intelligence and security intelligence operations continue to be emphasized, having a powerful role in counter-terrorism activities. The difference, however, lies in the type of the intelligence sought and the key institutions that have the responsibility to perform intelligence functions.

In the past, military intelligence and security intelligence were the most influential on counter-terrorism efforts, and the criminal intelligence offered by the police force was marginalized. In contrast, currently criminal intelligence plays a dominant role. This shift occurred primarily because of the transformation of the key institution charged with confronting

terrorism. In the past, this key institution was the military and security operations. In contrast, today's key institution is the police.

2. Whether Indonesia Has Adopted ILP As Its Counter-Terrorism Strategy

Generally, in the context of law enforcement, the responsibilities for counter-terrorism are distributed into three schemes, as follows: (1) to a national agency specializing in counter-terrorism, (2) to one or more national police services, (3) to all police agencies at any governmental level. In all countries where police structures are centralized, police engage in counter-terrorism. Centralized agencies of national government created expressly to be police, in the term of responsible for enforcing the law and also engage in counter-terrorism. Indonesia includes in the first categories, that is, assigning counter-terrorism to a national agency specializing in terrorism. Indonesia's counter-terrorism is primarily assigned to Police (POLRI), who have formed special a counter-terrorism unit namely Densus 88, while the military and Indonesia's intelligence agency are assigned as a supplement to the Police works in response to terrorism.

The establishment of BNPT (counter-terrorism coordinating body), aimed to combine efforts by the police, the military, the judiciary, and civilians in sustainable counter-terrorism activities. The establishment of BNPT aims to strengthen the coordination among the police, security intelligence service and the military. The primary aim has been to strengthen coordination and to formulate a comprehensive national counter-terrorism policy. In order to carry out this task, including preparing and implementing a counter-terrorism program in Indonesia, the BNPT introduced two strategies or approaches. It called these the "hard approach" and the "soft approach." The soft approach focuses on dis-engagement in the radicalization process by changing the individual to return to more moderate society, usually by providing them

with a stable support network, probing their original reasons for radicalizing, and divorcing them from their extreme beliefs and social contacts.

The hard approach focuses on law enforcement activities, including the use of intelligence and infiltration. In addition, good intelligence is considered as vital to preventing and thwarting terrorism through pre-event tactics, an early detection. As such, the Indonesian Counter-Terrorism Law (CTL) has become predominantly directed at the prevention of terrorist acts, amongst other things, by means of the proactive use of intelligence in enforcement. Even in Indonesia, the use of intelligence in law enforcement that was not previously recognized under its criminal law is now being found under its CTL.

Proactive counter-terrorism has a variety of implications for criminal justice, particularly with respect to increasing the use of intelligence-led policing (ILP). In addition, intelligence-led policing (ILP) is the result of the emerging law enforcement based approach for preventing or mitigating trans-jurisdictional criminal and terrorist risk.

As to the second research question, the data in this study shows that Indonesia's restructuring of the police does not represent a full adoption of ILP as a primary counter-terrorism strategy; instead, the restructuring effected a system with characteristics of the ILP philosophy, in particular, enhancing the use of criminal intelligence. The new structure, however, fails to integrate intelligence mechanisms and continues to be a shortage of collaboration and information sharing.

This study confirms that, in fact, intelligence activity in the framework of the counter-terrorism conducted by police authorities has increased in Indonesia, particularly since the CTL granted counter-terrorism authority to the police. In other words, the current counter-terrorism strategy places significant emphasis on law enforcement intelligence activities. Most of the

informants in this study stated that 80%-90% of Densus 88 anti-terror unit is an intelligence work, 15% is investigation work and 5% is repressive action. The work of Densus 88 is predominantly focused on the intelligence process itself, creating intelligence products that they can use for making decisions about whether to intervene. The priority and target of policy activity is based on the result of this intelligence product, crime analysis in its process of identifying patterns and relationships between crime data and other relevant data sources.

Densus 88 has benefitted from these law enforcement intelligence products to prevent and disrupt terrorism threats and attacks. And they are not only used for preventing terrorism but also used for managing post-events of terrorism attacks. This study finds that intelligence has been placed in a framework of law enforcement intelligence for the purposes of prosecution and admissibility of evidence in court. In this sense, the enhancement of intelligence involves a combination of intelligence work and scientific criminal investigations. Densus 88 has a more proactive and targeted approach. Essentially, Densus 88 has targeted and orientated its work to certain groups or persons who potentially have links to terrorists groups. For example, Densus 88 has profiled a particular Muslim boarding school, and it is profiling boarding schools that teach hatred to other groups or other religions, as well as those that teach hatred and provokes to consider that the government is the enemy.

By using this method, Densus 88 can discover key players and unearth larger networks of terrorist groupa. These types of profiles may trigger more detailed profile analysis, as well as network analysis to support operations. The purpose of these profiles is to identify the target and reduction opportunities. The objectives of Densus 88 intelligence activities are increasingly more pragmatic, aiming to disrupt and deconstruct terrorist networks and markets.

The ILP model requires the enhancement of information technology as a way to anticipate and manage the volume of information and intelligence. The incorporation of intelligence distinguishes the ILP model from traditional reactive methods by incorporating information technology and analytical methods to facilitate a greater degree of discernment and thought. Densus 88's use of technology provides further evidence that it is using an ILP framework. For example, the interview results have shown that while human intelligence is continues to be used, it is less common than technology intelligence. The informant of Densus 88 asserted that there are risks to using human intelligence, especially with regard to the issue of corruption of and tampering with information. These risks are less likely to arise with technology intelligence, which tends to be more reliable because it can generally be verified. Thus today there is much more reliance on technology intelligence and support by information technology (IT).

ILP strategies are also reflected in the changes to leadership in the police organization. Consistent with an ILP approach, police commanders and executives have shifted away from more autocratic styles and have worked to create a more democratic workplace and provide more opportunities for officers who show initiative. In relation to this framework, this study showed that the organizational culture in Densus 88 differs from the organizational culture of the police in general. The managerial and leadership setting in the Densus 88 team has worked in a less autocratic environment, where the commander promotes officers and routinely uses law enforcement intelligence as the basis for strategic decision-making.

There are also indications that Densus 88's management structure reflects the elements in the 3-I model. Intelligence products have direct the police works. The quality of products also influences decision making within Densus. In light of the interviews in this study, the Densus 88

intelligence division appears to conduct regular meetings both in strategic and tactical tasking, meetings that show how crime intelligence analyses interprets the criminal environment.

3. Whether And How Indonesia Has Implemented Information Sharing And Inter-Agency Collaboration

In general, any type of organization is familiar with problems of coordination, collaboration and the sharing of information, particularly among organizations in an inter-agency framework. For those institutions responsible for secret and sensitive information, the challenges are even larger. In Indonesia, this challenge is more complex because of the unfinished business of bureaucratic reform and reform in the security sector.

Finally, as to the third question, participants in this study indicated that collaboration, cooperation, and informant sharing has been occurring in limited ways and in particular situations within the police organization, as well as in agencies or departments outside the police organization. More specifically, it has been occurring at the strategic level. Within the police agencies, shared information in daily police patrols and in the intelligence of the police in *POLSEK*, *POLRES* has worked with the intelligence unit of Densus 88. The intelligence unit of Densus 88 and the local police, *POLSEK*, *POLRES*, have forged an information-sharing relationship, although this relationship occurs in particular local police.

The information sharing between Densus 88 and particular local polices (*POLSEK*, *POLRES*, *POLDA*) is two-fold. First is in top-down communications, Densus 88 provides guidelines, clues, general information related to what to look out and to be aware of. Second is the bottom-up communication, it occurs when local police find suspicious activities that are considered potentially threatened or activities related to terrorism. Their findings are then be reported and confirmed to Densus 88.

Densus 88, as the main agency in counter-terrorism, has been equipped with large and complete database systems; as such, it has become a “pooling information center” that receives information and data from local police. In this regard, the local police are front-liners that support Densus 88 intelligence gathering. Given the fact that the local or regional police do not have the capacity to evaluate potential threats, there are sometimes misunderstandings that arise in the process of gathering information.

Since their knowledge is limited, they may profile such radical people or groups, but they do not know whether these people or groups are involved in terrorist activities. For example when the local polices within identify or find a particular person or group suspected of being a part of radical group, the local police may associate these radical groups with terrorism; however, not all radical religious groups are terrorists or representative of terrorist cells. Thus Densus 88 works to “screen out” all of the information collected from the local police. Densus 88 intelligence processes and analyzes that information to determine whether certain groups or individuals are part of the terrorist followers, support cells, or at the higher level, hard-core cells.

Densus 88 intelligence also has an activity called “a sharing information meeting forum.” Attended by the intelligence community, this forum covers criminal intelligence, custom and border intelligence and other types of information.⁸⁹⁰ Densus 88 led the forum to proactively share data and information, and to give guidelines to or to direct community intelligence. In this sense, there is also two-fold, bottom-up, and top-down information sharing.

Information sharing between Densus 88 and security intelligence services has occurred, but in limited ways. Sharing information between Densus 88 and BAIS (military intelligence) is much less compared to that between Densus 88 and BIN (national state intelligence), for example. The information sharing and collaboration that occurs between the among Densus 88,

⁸⁹⁰ See Chapter 3 and 4 of this dissertation.

BIN, BAIS has not been has not been institutionally internalized. When they shared the information, basically the sharing information does not touch the practical level. In this vein, when they speak of “intelligence,” they are usually referring to information—tangible data about personalities and events around the globe.

Basically, there are regular meetings for sharing information forum facilitated by BNPT as national counter-terror coordinator agency. BNPT facilitates meetings forum among Densus 88, BIN and BAIS to overcoming hurdles in interagency communication. The agencies that attended the meetings have been much less inclined to do it. To deal with this situation, BNPT, as a coordinating body, is not able to do more since it lacks legal authority to encourage each agency to more proactively share information. There are intermingling factors contributing to the difficulty of sharing information between Densus 88, BIN, BAIS and any other intelligence communities. Part of the problem has been an inconsistent implementation of policies stemming from different interpretations of what is allowed under the law. Within the system of the government, there are no policies or regulations governing coordination mechanisms to support the appropriate, effective, and timely sharing of both intelligence and sensitive information for law enforcement.

Densus 88, BIN and BAIS are encouraged to strengthen information sharing efforts; however, this encouragement is not equipped with mechanisms or policy guidance on how to implement the effective and timely sharing of information. As a result, the absence of mechanism or policy guidelines provokes the division of staff, causing poor communication within the intelligence within and outside police organization. Furthermore, the cultural, goal-oriented, methodological, and operational differences hinder information sharing among the agencies.

Though there are some signs of collaboration and information sharing among Densus 88, police at the local levels, and security intelligence services, this relationship does not always run smoothly. For example, Densus 88 gets very little information from BIN or BAIS. The meetings between Densus 88 and BAIS occur only formal and informal meeting, and sharing only general information on terrorism and its development. Most of the informants perceived that Densus 88 has more complete information than other agencies (BIN/BAIS). Densus 88 has understood that to some extent granting, exchanging, and sharing data and information from the other agencies is less useful. Densus 88 perceives its unit as the most powerful in terms of the high skill personnel and sophisticated equipment (information technology).

One of the reasons that information sharing is difficult is the lack of distinction among the functions, purposes, and authorities of the security intelligence services (BIN) and law enforcement (Densus 88). Given that BIN intelligence products are not made for law enforcement purposes, they are usually not acceptable in court or as a law enforcement tool. Therefore, Densus 88 has perceived that BIN intelligence products are useless for law enforcement. As result, the call for sharing information does not considered as necessary.

Furthermore, the barrier to sharing information is due to the sectoral ego existed within each agency. This study has confirmed that sectoral ego in each agency has resulted in difficulty for sharing information. Most of the informants in this study view sectoral ego as a natural and common phenomenon. They explain that the sectoral ego among the agencies should not be understood as representative of competition among the agencies. In the world of intelligence, information is considered to be a powerful tool. Whoever gains more information and the most essential information will be most powerful in performing their intelligence tasks. Sharing information, to some extent, has been considered to run opposite this purpose. A range of other

less worthy motives may also be behind a reluctance to share information, including contests over jealousy over cases, and competition over budgets.

At certain point, this study finds that BIN and Densus 88 has initiated the collaborative work; however, the law itself does not adequately equip them with the authority to prevent terror activity. They are constrained by the rule of law and democratic values in law enforcement.

In terms of collaboration between PPATK and Densus 88, both institutions have proactively collaborated to cut off terrorist financing. The collaboration, cooperation, and information sharing between Densus 88 and PPATK has been smoothly performed. The Indonesian task force team, consisting of Densus 88, PPATK, BNPT, the ministry of foreign affairs, and the Jakarta district court have released 200 terrorist suspects lists, and there have been 15 prosecutions of terrorism funding since 2003. PPATK has also been involved in tracing and analyzing monetary transactions to update terrorism cases, for example related to the ISIS case, the case of Abdul Haris, who in 2011 was convicted of collecting funds for the Aceh training camp.

B. Relationship Between The Findings And Theory

In theory, the ILP philosophy offers an effective solution for enhancing the use of intelligence and information among agencies; nonetheless, in practice, adoption and implantation of ILP is managerially challenging—even for countries with well-established rule of law and governmental structures. In the context of Indonesia, this level of management and coordination is particularly challenging given the fragmented and ambiguous structure of organizations, particularly the lack of specificity about individual agency roles and responsibilities with respect to information collection, storage, and sharing. Indonesia is clearly attempting to implement certain ILP strategies, such as the way that the police use criminal intelligence gained from other agencies to disrupt terrorist activities; however, the success of these practices suffers from a lack

of clear and coordinated organizational management. In addition the missing of clear policy guidance the mechanisms or policy guidance to implement effective and timely sharing of information has worsen the sharing information implementation.

Indonesia is not alone in this struggle to adopt effective ILP practices. As Chapter 5 of this dissertation explains, studies in the UK have also identified internal implementation problems associated with ILP in police agencies. These problems include technical, organizational and cultural factors that inhibit adoption of ILP. For example, the strategy emphasizes both horizontal and vertical information and intelligence sharing among police agencies so that executive decision-makers can establish objective crime reduction policies, but this approach is being implemented into a policing environment that has traditionally rewarded individual (not shared) knowledge of the criminal world, knowledge often used to effect arrests without thought to any longer-term crime reduction strategy.

Chapter 5 also shows that the U.S. has experienced a number of problems in sharing information within the law enforcement agencies, as well as between law enforcement and intelligence agencies. The establishment of intelligence sharing environment (ISE) and the creation of fusion centers are the measures taken to deal with the information sharing problems. These measures reflect an ILP philosophy that aimed to improve multi-agency collaboration, information sharing, and access to data that often was isolated in a single agency. However, progress has been slow, and successes have been measured in small steps. Most of the obstacles to meaningful change in this arena are due to ongoing organizational culture, technical complexities and guidelines, and a lack of leadership. In addition, the diversity of legal constraints, jurisdictional parameters, and criminal problems has resulted in a wide array of standards and practices from one state to another.

Comparing the U.K, the U.S., and Indonesian attempts with ILP implementation, this dissertation showed that these governments share several implementation challenges. In addition, as noted in Chapter 5, leadership is also vital to the restructuring of an organization, especially for authorizing the integration of intelligence throughout an organization. Meanwhile, at the institutional level, there continues to be a lack of commitment by organizational leaders at the highest levels, as well as by those in key positions throughout the organization. Such failures underscore that intelligence-sharing among agencies is critically important and will be very difficult to achieve without leadership driving it, changing both the cultural and the organizational structure.

C. Research Implications For Practice

The findings of this study have important implications for law enforcement practices. The use of criminal intelligence in policing, as implemented by Densus 88, may be beneficial as a best practices example for other police agencies or units within Indonesia. It may also be used as a prototype for other police agencies that could use criminal intelligence for investigating crimes that may fall outside the definition of terrorism, especially given that terrorists tend to be involved in such a wide variety of routine and preparatory crimes—such as drug crimes, trafficking in persons, and money laundering, among other trans-organized crimes.

While Densus 88 provides a good model for how to enhance the use of criminal intelligence, counterterrorism agencies continue to need detailed guidance--beyond being told to increase their collaboration and information sharing efforts. They need specific and clear guidelines about their roles and responsibilities, as well as direction on what to do about any perceived overlap.⁸⁹¹ For example, In regards to the flow of information from the intelligence community to the law enforcement community is not well defined under the BIN law. The

⁸⁹¹ It refers to the discussion in Chapter 5

Article 30 governs that the BIN may conduct cooperation with another intelligence agency (which include law enforcement intelligence) and may establish a task force. It is unclear whether or not “cooperation” means or includes sharing information with law enforcement agencies.

D. Recommendations

This research has found that the criminal intelligence has been used as the backbone of counter-terrorism policing in Indonesia. However, the provisions regarding to the use of intelligence in criminal procedure are weak and inadequate. In Indonesian context, future legislation regarding the use of intelligence in criminal proceedings needs to provide a better balance between the importance of intelligence products and protections for a fair trial. Safeguards are needed to keep the democratization process on the right track while promoting security and public order.

With regard to the legal framework of information sharing, the flow of information from the intelligence community to the law enforcement community should be addressed as it continues to be poorly defined, and it is not well regulated. Legal guidance or regulations are needed to devise coordination mechanisms to support the appropriate, effective, and timely sharing of both intelligence and sensitive information for law enforcement.

At the present time, there is still little qualitative research that has been conducted to explore how Indonesian law enforcement officers and security agencies perceive officer and agency roles on terrorism prevention, nor are there substantial studies that examine how agencies perform collaboration and information sharing. This information will be critical for further improvements to counter-terrorism laws, policy, and implementation in Indonesia. This study represents an important first step in understanding the current implementation of counter-

terrorism policing, but it is still just that—a first step. The findings and data expose a clear need for further research.

For instance, more research needs to be conducted to determine the relationship between intelligence led-policing and community policing models. There has not been a systematic investigation into whether the relationships built through community policing can assist in intelligence gathering, while still supporting the goal of reforming Indonesian police to become more community-service oriented. The tension between security intelligence and democratic individual rights is prevalent. The two models of community policing and ILP were developed in response to different needs and goals. Can the two models coexist and either synthesize or accommodate one another's practices so that the techniques required to gather terrorism related intelligence will not destroy trust relationships fundamental to an open society? Indonesia remains on the "frontline" as we seek the answer to this question.

Annex-1: Interview Guidelines

	Preliminary	a. RQ 1 : What formal changes has Indonesia introduced in its policing structures post-Suharto and post Bali Bombing?	b. RQ 2: Does the restructuring that Indonesia has undertaken represent an adoption of ILP as a primary strategy?	c. RQ 3: How do the Indonesian police, intelligence and military units in fact implement collaboration and information sharing to counter terrorism?
Police	Introduction Confidentiality Informed Consent	<ol style="list-style-type: none"> 1. What policing is currently being used to respond/reduce crime? 2. Should police employ different policing tactics in responding terrorism? why/why not? 3. What type of policing is currently being used to respond to terrorism? 4. What is the (legal) basis (or other foundation) to determine the type of policing employed? 5. How did this strategy come into being? In other words; what is its history within Indonesia? 6. What are the philosophical, socio-political and historical contexts that determine the type of policing employed? 7. Does intelligence-led policing fit within current anti-terrorism policy? If so, how? 	<ol style="list-style-type: none"> 1. What are the general strategies to implement policing? 2. What specific policy guidelines were given to the agency for management and implementation of anti-terrorism legislation? 3. A. Does it include such specific tasks and time frames? Do the guidelines formulate goals and targets (ambitions) to be reached? B. How will such ambitions be realized? 4. What initiative or activities are connected with policing and terrorism? Who initiates and determines the investigation focus? 5. How is cooperation organized at strategic level, on an ad hoc basis, by weekly meetings, or only by direct request (i.e., phone call), or by inter-disciplinary teams? 6. Is profiling used as a method to prevent terrorism? How is profiling used? 7. How does police prioritize anti- 	<ol style="list-style-type: none"> 1. What is the stated role of the police in counter-terrorism and prevention of terrorism? 2. How do police perceive their own role in preventing terrorism? 3. How do police perceive the role of other counter-terrorism agencies in preventing terrorism? 4. What are the specific responsibilities of the police in preventing terrorism? 5. What internal interaction, communication, and collaboration within the police organization exists that involves counter terrorism or the prevention of terrorism? 6. What interaction, communication, coordination and collaboration among police and other counter-terrorism agencies exists that involves counter-terrorism/preventing terrorism policy? 7. At what stage (timeline, severity) in an investigation will police contact other agencies? what criteria? 8. What is the basis (MoU, etc) to interact, communicate, coordinate or collaborate with other agencies? 9. How do the police

			terrorism duties with regular police duties? 8. What recommendations would you offer to counter terrorism agencies faced with the task of establishing and implementing an anti-terrorism policy?	perceive their collaboration, sharing information, interaction or intervention, risk management and threat recognition with other agencies? What should improve? 10. What method is being used to recognize/identify and increase awareness of threat in Indonesia? 11. How are proactive investigations being conducted? 12. Are there any non terrorism prevention focused activities that serve a terrorism prevention function? If so, what are they? 13. What is the division of roles between police and other agencies when there is a terrorism emergency?
BNPT	Introduction Confidentiality Informed Consent	1. What policing is currently being used to respond/reduce crime? 2. Should police employ different policing tactics in responding terrorism? why/why not? 3. What type of policing is currently being used to respond to terrorism? 4. What is the (legal) basis (or other foundation) to determine the type of policing employed? 5. How did this strategy come into being? In other words; what is its history within Indonesia? 6. What are the philosophical, socio-political and historical contexts that determine the type of policing employed? 7. Does intelligence-led policing fit within current anti-terrorism policy? If so, how?	1. What are the general strategies to implement policing? 2. What specific policy guidelines were given to the agency for management and implementation of anti-terrorism legislation? 3. A. Does it include such specific tasks and time frames? Do the guidelines formulate goals and targets (ambitions) to be reached? B. How will such ambitions be realized? 4. What initiative or activities are connected with policing and terrorism? Who initiates and determines the investigation focus? 5. How is cooperation	1. What is the stated role of the BNPT in counter-terrorism and prevention of terrorism? 2. How do BNPT perceive their own role in preventing terrorism? 3. How do BNPT perceive the role of other counter-terrorism agencies in preventing terrorism? 4. What are the specific responsibilities of BNPT in preventing terrorism? 5. What internal interaction, communication, coordination, and collaboration within the police organization exists that involves counter terrorism or the prevention of terrorism? 6. What interaction, communication, coordination and collaboration among BNPT and other counter-terrorism agencies exists that

			<p>organized at strategic level, on an ad hoc basis, by weekly meetings, or only by direct request (i.e., phone call), or by inter-disciplinary teams?</p> <p>6. Is profiling used as a method to prevent terrorism? How is profiling used?</p> <p>7. How does police prioritize anti-terrorism duties with regular police duties?</p> <p>8. What recommendations would you offer to counter terrorism agencies faced with the task of establishing and implementing an anti-terrorism policy?</p>	<p>involves counter terrorism/preventing terrorism policy?</p> <p>7. What is the basis (MoU, etc) to interact, communicate, coordinate or collaborate with other agencies?</p> <p>8. How do the BNPT perceive their collaboration, sharing information, interaction or intervention, risk management and threat recognition with other agencies? What should improve?</p> <p>9. What method is being used to recognize/identify and increase awareness of threat in Indonesia?</p> <p>10. Are there any non terrorism prevention focused activities that serve a terrorism prevention function? If so, what are they?</p>
PPATK	<p>Introduction</p> <p>Confidentiality</p> <p>Informed Consent</p>		<p>1. What specific policy guidelines were given to agency for management and implementation of anti terrorism legislation?</p> <p>2. Does it include such specific tasks and time frames? Do the guidelines formulate goals and targets (ambitions) to be reached? How will such ambitions be realized?</p> <p>3. How is cooperation organized at strategic level, on an ad hoc basis, by weekly meetings, or only by direct request (i.e., phone call), or by inter-disciplinary teams?</p> <p>4. Is profiling used as a</p>	<p>1. What is the stated role of the PPATK in counter-terrorism and prevention of terrorism?</p> <p>2. How do PPATK perceive their own role in preventing terrorism?</p> <p>3. How do PPATK perceive the role of other counter-terrorism agencies in preventing terrorism?</p> <p>4. What are the specific responsibilities of PPATK in preventing terrorism?</p> <p>5. What internal interaction, communication, coordination, and collaboration within the police organization exists that involves counter terrorism or the prevention of terrorism?</p> <p>6. What interaction, communication, coordination and collaboration among PPATK and other counter-</p>

			<p>method to prevent terrorism? How is profiling used?</p> <p>5. What recommendations would you offer to counter terrorism agencies faced with the task of establishing and implementing an anti-terrorism policy?</p>	<p>terrorism agencies exists that involves counter terrorism/preventing terrorism policy?</p> <p>7. What is the basis (MoU, etc) to interact, communicate, coordinate or collaborate with other agencies?</p> <p>8. How do the PPATK perceive their collaboration, sharing information, interaction or intervention, risk management and threat recognition with other agencies? What should improve?</p> <p>9. What method is being used to recognize/identify and increase awareness of threat in Indonesia?</p> <p>10. Are there any non terrorism prevention focused activities that serve a terrorism prevention function? If so, what are they?</p>
BIN	<p>Introduction</p> <p>Confidentiality</p> <p>Informed Consent</p>		<p>1. What specific policy guidelines were given to agency for management and implementation of anti terrorism legislation?</p> <p>2. Does it include such specific tasks and time frames? Do the guidelines formulate goals and targets (ambitions) to be reached? How will such ambitions be realized?</p> <p>3. How is cooperation organized at strategic level, on an ad hoc basis, by weekly meetings, or only by direct request (i.e., phone call), or by inter-disciplinary teams?</p> <p>4. Is profiling used as a</p>	<p>1. What is the stated role of the BIN in counter-terrorism and prevention of terrorism?</p> <p>2. How do BIN perceive their own role in preventing terrorism?</p> <p>3. How do BIN perceive the role of other counter-terrorism agencies in preventing terrorism?</p> <p>4. What are the specific responsibilities of BIN in preventing terrorism?</p> <p>5. What internal interaction, communication, coordination, and collaboration within the police organization exists that involves counter terrorism or the prevention of terrorism?</p> <p>6. What interaction, communication, coordination and</p>

			<p>method to prevent terrorism? How is profiling used?</p> <p>5. What recommendations would you offer to counter terrorism agencies faced with the task of establishing and implementing an anti-terrorism policy?</p>	<p>collaboration among BIN and other counter-terrorism agencies exists that involves counter terrorism/preventing terrorism policy?</p> <p>7. What is the basis (MoU, etc) to interact, communicate, coordinate or collaborate with other agencies?</p> <p>8. How do the BIN perceive their collaboration, sharing information, interaction or intervention, risk management and threat recognition with other agencies? What should improve?</p> <p>9. What method is being used to recognize/identify and increase awareness of threat in Indonesia?</p> <p>10. Are there any non terrorism prevention focused activities that serve a terrorism prevention function? If so, what are they?</p>
TNI	<p>Introduction</p> <p>Confidentiality</p> <p>Informed Consent</p>		<p>1. What specific policy guidelines were given to agency for management and implementation of anti terrorism legislation?</p> <p>2. Does it include such specific tasks and time frames? Do the guidelines formulate goals and targets (ambitions) to be reached? How will such ambitions be realized?</p> <p>3. How is cooperation organized at strategic level, on an ad hoc basis, by weekly meetings, or only by direct request (i.e., phone call), or by inter-disciplinary teams?</p> <p>4. Is profiling used as a</p>	<p>1. What is the stated role of the TNI in counter-terrorism and prevention of terrorism?</p> <p>2. How do TNI perceive their own role in preventing terrorism?</p> <p>3. How do TNI perceive the role of other counter-terrorism agencies in preventing terrorism?</p> <p>4. What are the specific responsibilities of TNI in preventing terrorism?</p> <p>5. What internal interaction, communication, coordination, and collaboration within the police organization exists that involves counter terrorism or the prevention of terrorism?</p> <p>6. What interaction, communication, coordination and</p>

			<p>method to prevent terrorism? How is profiling used?</p> <p>5. What recommendations would you offer to counter terrorism agencies faced with the task of establishing and implementing an anti-terrorism policy?</p>	<p>collaboration among TNI and other counter-terrorism agencies exists that involves counter terrorism/preventing terrorism policy?</p> <p>7. What is the basis (MoU, etc) to interact, communicate, coordinate or collaborate with other agencies?</p> <p>8. How do the TNI perceive their collaboration, sharing information, interaction or intervention, risk management and threat recognition with other agencies? What should improve?</p> <p>9. What method is being used to recognize/identify and increase awareness of threat in Indonesia?</p> <p>10. Are there any non terrorism prevention focused activities that serve a terrorism prevention function? If so, what are they?</p>
NGO	<p>Introduction</p> <p>Confidentiality</p> <p>Informed Consent</p>	<p>1. What policing is currently being used to respond/reduce crime?</p> <p>2. Should police employ different policing tactics in responding terrorism? why/why not?</p> <p>3. What type of policing is currently being used to respond to terrorism?</p> <p>4. What is the (legal) basis (or other foundation) to determine the type of policing employed?</p> <p>5. How did this strategy come into being? In other words; what is its history within Indonesia?</p> <p>6. What are the philosophical, socio-political and historical contexts that determine the type of policing employed?</p>	<p>1. Does police strategy to implement counter terrorism policing effective to prevent terrorism?</p> <p>2. Does the policy/regulation concerning to counterterrorism policing adequate?</p> <p>3. What aspect should be improved concerning to counter terrorism policing?</p> <p>4. Does police strategy to implement counter terrorism policing infringe civil rights?</p>	<p>1. Does the cooperation and collaboration between police and other counter-terrorism agencies have been run adequately? Yes/No? Why?</p> <p>2. Does the rivalry to prevent terrorism exist among counter-terrorism agency? Why?</p> <p>3. Does the policy/regulation to regulate cooperation and collaboration among police and counter-terrorism agency adequate? Why?</p> <p>4. Are there any overlapping on task and between police and counter terrorism agencies in preventing terrorism? If so, why?</p>

		7. Does intelligence-led policing fit within current anti-terrorism policy? If so, how?		
Academia	Introduction Confidentiality Informed Consent	<ol style="list-style-type: none"> 1. What policing is currently being used to respond/reduce crime? 2. Should police employ different policing tactics in responding terrorism? why/why not? 3. What type of policing is currently being used to respond to terrorism? 4. What is the (legal) basis (or other foundation) to determine the type of policing employed? 5. How did this strategy come into being? In other words; what is its history within Indonesia? 6. What are the philosophical, socio-political and historical contexts that determine the type of policing employed? 7. Does intelligence-led policing fit within current anti-terrorism policy? If so, how? 	<ol style="list-style-type: none"> 1. Does police strategy to implement counter terrorism policing effective to prevent terrorism? 2. Does the policy/regulation concerning to counterterrorism policing adequate? 3. What aspect should be improved concerning to counter terrorism policing? 4. Does police strategy to implement counter terrorism policing infringe civil rights? 	<ol style="list-style-type: none"> 1. Does the cooperation and collaboration between police and other counter-terrorism agencies have been run adequately? Yes/No? Why? 2. Does the rivalry to prevent terrorism exist among counter-terrorism agency? Why? 3. Does the policy/regulation to regulate cooperation and collaboration among police and counter-terrorism agency adequate? Why? 4. Are there any overlapping on task and between police and counter terrorism agencies in preventing terrorism? If so, why?
Legislative	Introduction Confidentiality Informed Consent		<ol style="list-style-type: none"> 1. What and how does the control mechanism concerning to the police policy in preventing terrorism? 2. Does the budget for preventing terrorism sufficient and has been effectively used by the police? 3. What are the strength and the weakness of the regulation concerning to the terrorism (prevention)? 4. What strategy should be developed by the police to prevent terrorism? 	<ol style="list-style-type: none"> 1. Does the cooperation and collaboration between police and other counter-terrorism agencies have been run adequately? Yes/No? Why? 2. Does the rivalry to prevent terrorism exist among counter-terrorism agency? Why? 3. Does the policy/regulation to regulate cooperation and collaboration among police and counter-terrorism agency adequate? Why? 4. Are there any overlapping on task and between police and counter terrorism agencies in preventing terrorism? If so, why?

Annex-2: Informed Consent

UNIVERSITY OF WASHINGTON CONSENT FORM

Ph.D. Research Subject

Counter-Terrorism Policing in Indonesia

Lead researcher

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Human Subject Information

Questions about rights pertaining to research subjects; call the Human Subjects Division at +1 206-543-0098

24-hour Emergency Contact

Questions pertaining to the research protocol; call Amira Paripurna S.H., LL.M., +62 813-5763-1650

RESEARCHER'S STATEMENT

I am asking you to be in a research study. The purpose of this consent form is to give you the information you will need to help you decide whether to be in the study. Please read the form carefully. You may ask questions about the purpose of the research, what I will ask you to do, the possible risks and benefits, your rights as a volunteer, and anything else about the research or this form that is not clear to you. When I have answered all your questions, you can decide if you want to be in the study or not. This process is called "informed consent." I will give you a copy of this form for your records.

PURPOSE OF THE STUDY

This study aims to (1) assess and explore the ways that Indonesian police and other counter-terror agencies collaborate and share information and (2) to identify their strategic, tactical, and operational procedures and mechanisms. Through this exploration, it will analyze current policing strategies for countering terrorism in Indonesia, hypothesizing that Indonesian police are using Intelligence Led Policing strategies to prevent terrorism, but they face significant

managerial challenges because of the logistical difficulty of coordinating their actions with the other agencies and actors charged with fighting terrorism.

STUDY PROCEDURES

I will interview 30 people for this study, limited to individuals who satisfy the following criteria: upper level managers and staff responsible for anti-terrorism measures within counter-terrorism agencies, academics, NGO's/ mass organizations, and members of selected committees of the Indonesian Parliament.

If you take part in this study, you will be interviewed through semi-structured, face-to-face interviews. You will be asked to answer approximately 25 open-ended questions, including questions that ask you to explain and describe your duties and responsibilities, as well as any counter-terrorism policies your institution follows.

For example, if you work for a counter-terrorism agency, you will be asked questions about (1) the ways that your agency communicates or collaborates with other agencies; (2) the general strategies your agency uses for implementing counter-terror policies, and (3) how your agency perceives of its role in fighting terrorism. If you work for the Parliament, on the other hand, I will ask you questions about how Parliament controls or coordinates with counter-terrorism agencies to fight terrorism. Academics and NGOs will be asked questions eliciting their views and perspectives on whether current counter-terrorism strategies and methods are effective and what aspects could be improved.

The interview will take approximately 2-3 hours to complete, and it will take place at a date and time that is convenient to both of us.

The lead researcher will come to each of the institutions, at a mutually agreed upon date and time, to conduct face-to face audiotaped interviews. You may decline to be audio taped, or you may ask to stop the tape at any time during the interview. I will not draw any negative conclusion from a request that the interview not be recorded.

RISKS, STRESS, OR DISCOMFORT

The interview process may be stressful for some people. In particular, people may experience increased emotional discomfort as they discuss their opinions, views, and experiences related to their work on counter-terrorism matters and the practices of their institutions.

While we will take measures to protect the confidentiality of your information (see Confidentiality section below), there remains a risk of a breach of that confidentiality.

With your permission, the interview will be audio taped and later transcribed. Six to eight weeks following the interview, I will email you this transcript. Within ten days of receiving this email, you must review the transcript to confirm that your responses and the transcription reflect correct information to the best of your knowledge.

BENEFITS OF THE STUDY

You will not directly benefit from this research study, but your participation may contribute to society's understanding of counter-terrorism policing in Indonesia. In addition, the findings of this study may help identify challenges the police face in their counter-terrorism efforts. It may also contribute to the development of new strategies for terrorism prevention in Indonesia and to the improvement of collaboration and coordination among Indonesian counter-terrorism agencies.

CONFIDENTIALITY OF RESEARCH INFORMATION

All of the data you provide will be confidential. All collected data is to be used for research and analytical purposes only. Your name will not be released or mentioned in any reports or publications. Your identity will be coded by your participant number (i.e., Informant #1, Informant #2). Your institution's name is the only identifier that will be mentioned or released in any reports or publications. The electronic data will be kept in password protection and will be stored in encrypted form. The electronic data sent to subjects on external drives will be sent in encrypted form.

While access to the information you provide is confidential, government or university staff sometimes reviews studies such as this one to make sure they are being done safely and legally. If a review of this study takes place, your records may be examined by government or university officials. These reviewers will protect your privacy. The study records will not be used to put you at legal risk of harm.

Although the interview questions are about counter-terrorism policing in Indonesia I am not seeking any classified information. You are free to skip any question for any reason.

After the transcriptions are completed, the audio recordings will be destroyed. Prior to that, you may review the recordings and delete any portions you may wish to delete.

OTHER INFORMATION

The involvement in this research study is voluntarily.

You may refuse to participate and you are free to withdraw from this study at any time without penalty or loss of benefits to which you are otherwise entitled. You are free to withdraw from this research study at any time without penalty or negative consequence. All data connected to you will be destroyed immediately once you choose to withdraw.

RESEARCH CONTACT INFORMATION

Should you have any questions, concerns, complaints, or you choose to discontinue participation in the study or any portion of it, please contact the lead researcher, Amira Paripurna, at +62 813-5763-1650 or e-mail: amira13@uw.edu. You may also contact Jonathan A. Eddy at the University of Washington School of Law in Seattle, Washington, at +1 206-616-5825 or e-mail: eddyj@uw.edu.

COMPENSATION FOR INJURY

No money has been set aside to pay for things like lost wages, lost time, stress, or emotional effects of the interview process. However, you do not waive any rights by signing this consent form.

Printed name of study staff obtaining consent

Signature _____
Date

SUBJECT'S STATEMENT

This study has been explained to me. I volunteer to take part in this research. I have had a chance to ask questions. If I have questions later about the research, or if I have been harmed by participating in this study, I can contact one of the researchers listed on the first page of this consent form. If I have questions about my rights as a research subject, I can call the Human Subjects Division at +1 206-543-0098. I will receive a copy of this consent form.

Printed name of subject

Signature of subject _____

Copies to: Researcher
 Subject

References

Books

- Adam, Asvi Warman. *Membongkar Manipulasi Sejarah : Kontroversi Pelaku Dan Peristiwa*. Cet. 3. ed. Jakarta: Penerbit Buku Kompas, 2009.
- Ashraf, A.S.M.A. "The Five Pivotal Muslim Nations: The Critical Role." In *Intelligence Cooperation Practices in the 21st Century: Towards a Culture of Sharing*, edited by Musa Tuzuner, 77-120. Amsterdam: IOS Press, 2010.
- Afifah, Ratna Nurul. *Barang Bukti dalam Proses Pidana*. Jakarta: Sinar Grafika, 1988.
- Atmakusumah. *Tuntutan Zaman Kebebasan Pers dan Ekspresi*. Jakarta: Spasi&VHR Book, 2009.
- Al A'Raf. "Perppu Anti Terrorisme: Ancaman Transisi di Indonesia." In *Terrorisme Definisi, Aksi dan Regulasi*, edited by Rusdi Marpaung and Al A'raf. Jakarta: Imparsial, 2005.
- Amirudin, Agung Yudha, Supriadi E. "Kajian Terhadap Perppu No. 1/2002 mengenai Pemberantasan Tindak Pidana Terrorisme," in *Terrorisme Definisi, Aksi dan Regulasi*, edited by Rusdi Marpaung and Al Araf. Jakarta: Imparsial, 2005.
- Asshiddiqie, Jimly. *The Constitutional Law of Indonesia: A Comprehensive Overview*. Selangor, Malaysia: Sweet & Maxwell Asia, 2009
- Arianti, V. "Indonesia." In *Handbook of Terrorism in the Asia-Pacific*, edited by Rohan Gunaratna and Stefanie Kam. London: Imperial College Press, 2016.
- Belgian Standing Committee (ed). *Fusion Center throughout Europe, all Sources Threat Assessments in the Fights against Terrorism*. Antwerp: Intersentia, 2010.
- Bourchier, David. "Crime, Law and State Authority in Indonesia." In *State and Civil Society in Indonesia*, edited by Arief Budiman. Clayton, Victoria: Monash University, 1990.
- Bullock, Karen. "Intelligence led Policing in the National Intelligence Model." In *The Future of Policing*, edited by Jennifer M. Brown. New York: Routledge, 2014.
- Bigo, Didier et.al. *National Security and Secret Evidence in Legislation and Before the Court*. Brussel: European Union, 2004.
- Bayley, David H. H., and David Weisburd. "Cops and Spooks: The Role of Police in Counterterrorism." In *To Protect and To Serve: Policing in an Age of Terrorism*, in *To Protect and To Serve: Policing in Age of Terrorism*, edited by David Weisburd., Feucht, Th., Hakimi, I., Mock, L.,Perry, S. New York: Springer Publishers. 2011.
- Banks, Cyndi. *Criminal Justice Ethics: Theory and Practice*. Thousand Oaks, Calif: Sage Publications, 2004.
- Blum, Gabriella and Philip B. Heymann. *Laws, Outlaws, and Terrorists: Lessons from the War on Terrorism*. Cambridge, Mass : MIT Press, 2010.
- Carter, David L. *Law Enforcement Intelligence Operations*. 8th ed. Tallahassee, FL: SMC Sciences, Inc, 2008.
- Cassese, Antonio, Mary D. Fan, and Alex Whitting. *International Criminal Law: Cases and Commentary*. Oxford, New York: Oxford University Press, 2011.
- Blin, Arnaud, Gérard Chaliand and Edward Schneider. *The History of Terrorism : From Antiquity to Al Qaeda*. Berkeley: University of California Press, 2007.
- Congram, Mitchell, Peter Bell and Mark Lauchs. *Policing Transnational Organized Crime and Corruption: Exploring the Role of Communication Interception Technology*. New York: Palgrave MacMillan, 2013.

- Cornall AO, Robert. "The Effectiveness of Criminal Laws on Terrorism." In Andrew Lynch, Edwina MacDonald, George Williams. *Law and Liberty in the War on Terror*. Sydney: Federation Press, 2007.
- Creswell, John W. *Research Design : Qualitative, Quantitative, and Mixed Methods Approaches*. 3rd ed. Los Angeles: Sage, 2009.
- Chalk, Peter and William Rosenau. *Confronting "the Enemy Within" Security Intelligence, the Police, and Counterterrorism in Four Democracies*. Santa Monica: RAND Corporation, 2004.
- Davies, Philip H. J. and Kristian Gustafson. *Intelligence Elsewhere : Spies and Espionage outside the Anglosphere*. Washington, DC: Georgetown University Press, 2013.
- de Frías, Ana María Salinas, Katja Samuel, Nigel White. *Counter-Terrorism: International Law and Practice*. New York: Oxford, 2012
- Deflem, Mathieu. "Police and Counter-Terrorism: A Sociological Theory of International Cooperation." In *Emerging Transnational (In)security Governance: A Statist-Transnationalist Approach*, edited by Ersel Aydinli. London: Routledge, 2010.
- Djari, Marthen Luther. *Terorisme dan TNI*. Jakarta: CMB Press, 2013
- Dekmejian, R. Hrair. *Spectrum of Terror*. Washington, D.C : CQ Press, 2007.
- Dwipayana, G. , Ramadhan KH. *Soeharto: Pikiran, Ucapan dan Tindakan Saya*. Jakarta: Citra Lamtoro Gung Persada, 1989
- Elden, Stuart. *Terror and Territory the Spatial Extent of Sovereignty*. Minneapolis: University of Minnesota Press, 2009.
- Fatwa, Andi Mappetahang, Wakhudin. *Menggugat dari Balik Penjara: Surat-Surat Politik A.M. Fatwa*. Jakarta:Teraju, 2004.
- Forbes, Cameron. *Under the Volcano: The Story of Bali*. Melbourne: Schwartz, 2007.
- Gregory, Frank. "An Assessment of Contribution of Intelligence led Counter Terrorism to U.K homeland Security Post-9/11 within the Contest Strategy." In *Homeland Security in the UK: Future Preparedness for Terrorist Attack Since 9/11*, edited by Paul Wilkinson. London: Routledge, 2007.
- Gregory, Frank. "The Police and the Intelligence Services-With Special Reference to the Relationship With MI5." In *The Handbook of Intelligent Policing: Consilience, Crime Control and Community Safety*, edited by C., Harfield, A., MacVean, JGD Grieve, D., Phillips Oxford: Oxford University Press, 2009.
- Paul Wilkinson. *Homeland Security in the UK: Future Preparedness for Terrorist Attack Since 9/11*. London: Routledge, 2007.
- Gultom, Samuel. *Mengadili Korban, Praktek Pembetulan terhadap Kekerasan Negara*. Jakarta: ELSAM, 2003.
- Gunaratna, Rohan and Mohamed Bin Ali (eds.). *Terrorist Rehabilitation: A New Frontier in Counter-terrorism*. UK: Imperial College Press, 2015.
- Indrayana, Denny. *Indonesian Constitutional Reform, 1999-2002 : an Evaluation of Constitution-Making in Transition*. Jakarta: Kompas Book Publishing, 2008.
- Hamzah, Chandra M. *Penjelasan (Restatement) Hukum Bukti Permulaan Yang Cukup*. Jakarta: PSHK, 2014.
- Hamid, Usman and Edwin Partogi. "Mereformasi Negara Intel Orde Baru: Kasus Penembak Misterius Era 1981-an." In *Negara, Intel dan Ketakutan*, edited by Andi Widjananto. Jakarta: Pacivis, 2006.

- Hindley, Donald. *The Communist Party of Indonesia: 1951-1963*. Berkeley: University of California Press, 1964.
- James, Adrian. *Examining Intelligence-Led Policing: Developments in Research, Policy and Practise*. Basingstoke: Palgrave Macmillan UK, 2013.
- Juwana, Hikmahanto. "Indonesia's Anti Terrorism Law." In *Global Anti-Terrorism Law and Policy*, edited by Victor V Ramraj, Michael Hor, Kent Roach. New York: Cambridge University Press, 2005.
- Johnston, Douglas M and Gery Ferguson. *Asia Pacific Legal Development*. Vancouver: UBC Press, 1998.
- Jones, Sidney. "Terrorism, Nationalism and Disillusionment with Reform." In *Business in Indonesia: New Challenges, Old Problems*, edited by M. Chatib Basri, Pierre van der Eng. Pasir Panjang-Singapore: ISEAS, 2004.
- Lynch, Andrew , Edwina MacDonald, George Williams (eds). *Law and Liberty in the War on Terror*. Sydney: Federation Press, 2007.
- Kartasmita, Ginanjar Joseph J. Stern. *Reinventing Indonesia*. Singapore: World Scientific Publishing, 2016.
- Kartasmita, Ginandjar. *Managing Indonesian Transformation: An Oral History*. Singapore: World Scientific Publishing, 2013.
- Kelana, Momo. *Membangun Budaya Polisi Indonesia : Mencari Strategi, Format, Dan Paradigma Baru Polri Masa Depan*. Jakarta: Panitia HUT Bhayangkara Ke-56, 2002.
- Keohane, D. *The EU and Counter Terrorism*. London: Centre for European Reform, 2005.
- Kingsbury, Damien. *Power Politics and the Indonesian Military*. London; New York: Routledge Curzon, 2003.
- Kleinig, John. *Ethics and Criminal Justice: An Introduction*. Cambridge Applied Ethics. Cambridge, UK; New York: Cambridge University Press, 2008.
- Lemieux, Frederic. "A Cross-Cultural Comparison of Intelligence-Led Policing." In *The Handbook of Knowledge-Based Policing: Current Conceptions and Future Directions*, edited by Tom Williamson. California: John Wiley & Sons, Ltd., 2008.
- Lev, Daniel S. *No concessions: The life of Yap Thiam Hien, Indonesian Human Rights Lawyer*. Seattle: University of Washington Press, 2012.
- Manning, Peter K. "Information Technologies and the Police." In *Modern Policing*, edited by Michael Tonry and Norval Morris. Chicago: University of Chicago Press, 1992.
- Gruszczak, Artur. "EU Intelligence-Led Policing: The Case of Counter-Terrorism Cooperation." In *New Challenges for the EU Internal Security Strategy*, edited by Maria O'Neill; Ken Swinton and Aaron Winter. Newcastle upon Tyne: Cambridge Scholars Publishing, 2013.
- Gunaratna, Rohan and Stefanie Kam. *Handbook of Terrorism in the Asia-Pacific*. London: Imperial College Press, 2016.
- Gunaratna , Rohan and Mohamed Bin Ali (eds). *Terrorist Rehabilitation: A New Frontier in Counter-terrorism*. UK: Imperial College Press, 2015.
- Karnavian. M. Tito. *Indonesian Top Secret: Membongkar Konflik Poso*. Jakarta: Gramedia Pustaka Utama, 2008.
- Mbai, Ansyad. *Dinamika Baru Jejaring Terror di Indonesia*. Jakarta: ASP publisher, 2014.
- Muna, M. Riefqi. *Grey Areas, Kewenangan dan Peran Politik Elit*. Jakarta: ProPatria Institute, 2002.

- Manulang, A.C. *Menguak Tabu Intelijen: Teror, Motif dan Rezim*. Jakarta:Panta Rhei, 2001.
- Meliala, Adrianus. *Problema Reformasi Polri : Buku Kumpulan Tulisan*. Jakarta: Trio Repro, 2002.
- Meliala, Adrianus. *Mungkinkah Mewujudkan Polisi Yang Bersih?* Cet. 1. ed. Jakarta: Kemitraan Partnership, 2005.
- Morgan J., Matthew. *The Impact of 9/11 and The New Legal Landscape: The Day That Changed Everything?* New York: Palgrave Macmillan, 2009.
- Muradi. *Penantian Panjang Reformasi Polri*. Cet. 1. ed. Sleman, Yogyakarta: Tiara Kencana, 2009.
- Muradi. *Politics and Governance in Indonesia: The Police in the Era of Reformasi*. New York: Routledge, 2014.
- Muradi. "Intelijen Negara dan Intelijen Keamanan: Perspektif Kepemimpinan Politik dan Efektifitas Koordinasi." In *Negara, Intel dan Ketakutan*, edited by Andi Widjananto. Jakarta: Pacivis, 2006.
- Leong, Angela Veng Mei . *The Disruption of International Organized Crime: An Analysis of Legal and Non-Legal Strategies*. New York: Routledge, 2007.
- Davis, Lois M., et.al. "Long-Term Effects of Law Enforcement's Post-9/11 Focus on Counterterrorism and Homeland Security." Santa Monica, CA: RAND,2010.
- Nashidik, Rachland. "UU Terorisme Harus Diamandemen." In *Terorisme, Definisi, Aksi dan Regulasi*, edited by Rusdi Marpaung, Al Araf. Jakarta: Imparsial, 2005.
- Osse, Anneke. *Understanding Policing : A Resource for Human Rights Activists*. Amsterdam: Amnesty International, 2007.
- Olong, Hatib Abdul Kadir. *Tato*. Yogyakarta: LKIS, 2006.
- Rabasa, Angel and John Haseman. *The Military and Democracy in Indonesia*. California: RAND, 2002.
- Pamungkas, Sri Bintang and Ernalina Sri Bintang. *Menggugat Dakwaan Subversi: Sri Bintang Pamungkas di Balik Jeruji Besi*. Jakarta: Yayasan Obor Indonesia, 2000.
- Pauker, Guy J. *The Rise and Fall of Communist Party In Indonesia*. Santa Monica, California: RAND Corporation, 1969.
- Pompe, S. *Indonesian Law 1949-1989: A Bibliography of Foreign-Language Materials With Brief Commentaries on the Law*. Dordrecht: Martinus Nijhoff Publisher, 1992.
- Pakes, Francis J. *Comparative Criminal Justice*. Cullompton: Willan, 2004.
- Pickering, Sharon, Jude McCulloch and David Wright-Neville. *Counter-Terrorism Policing*. New York: Springer New York, 2008.
- Pogrebin, Mark. *Qualitative Approaches to Criminal Justice : Perspectives from the Field*. Thousand Oaks, Calif.: Sage Publications, 2003.
- P, Gill. *Rounding Up the Usual Suspects?* Ashagate: Aldershot, 2000.
- Ramraj, Victor V and Arun K. Thiruvengadam. *Emergency Powers in Asia: Exploring the Limits of Legality*. New York: Cambridge University Press, 2010.
- Rajab, Untung S. *Kedudukan Dan Fungsi Polisi Republik Indonesia Dalam Sistem Ketatanegaraan: Berdasarkan UUD 1945*. Cet. 1. ed. Bandung: CV. Utomo, 2003.
- Ratcliffe, J.H., "Intelligence Led-Policing." In *Environmental Criminology and Crime Analysis*, edited by Wortley R. and Mazerolle L. Cullompton, Devon: Willan Publishing, 2008.
- Ratcliffe. J.H. *Intelligence-Led Policing*. New York: Routledge, 2011.
- Ricklefs, M.C. *Sejarah Indonesia Modern 1200-2008*. Jakarta: Serambi, 2008.

- Roach, Kent. *The 9/11 Effect : Comparative Counter-terrorism*. Cambridge; New York: Cambridge University Press, 2011.
- Roach, Kent. "The Case for Defining Terrorism With Restraint and Without Reference to Political or Religious Motive." In. *Law and Liberty in the War on Terror*. Andrew Lynch, Edwina MacDonald, George Williams Sydney: Federation Press, 2007.
- Sajó, András. *Militant Democracy*. Utrecht: Eleven International Publishing, 2004.
- Sebastian, L.C. and Iisgindarsah, "Taking Stock of Military Reform in Indonesia," in *The Politics of Military Reform, Global Power Shift*, edited by J. Ru'land et al (Verlag Berlin Heidelberg: Springer,2012), 29-56.
- Schmit, Leo. "Decentralization and Legal Reform in Indonesia." In *Indonesia: Law and Society*, edited by Timothy Lindsey. New South Wales: Federation Press, 2008.
- Sheptycki, J and J.H., Ratcliffe. "Setting the Strategic Agenda." In *Strategic Thinking in Criminal Intelligence*, edited by J.H., Ratcliffe. Sydney:Federation Press, 2004.
- Sibarani, Santhy M and Gino F. Hadi. *Antara Kekuasaan Dan Profesionalisme*. Cet. 1. ed. Jakarta: Dharmapena Multimedia, 2001.
- Silke, Andrew "Contemporary Terrorism Studies Issues in Research." In *Critical Terrorism Studies: A New Research Agenda*, edited by Richard Jackson, Marie Breen Smyth, Jeroen Gunning. New York: Routledge, 2009.
- S.P. Lab and D.K. Das. *International Perspective on Community Policing and Crime Prevention*. Upper Saddle River, NJ: Prentice Hall, 2003
- Steverson, Leonard A. *Policing in America: A Reference Handbook*. Santa Barbara, California: ABC-CLIO, 2008.
- Sukma, Rizal. "Conflict Management in Post-Authoritarian Indonesia." In *Autonomy and Disintegration in Indonesia*, edited by Harry Aveling and Damien Kingsbury. New York: Routledge, 2003.
- Sukma, Rizal. "Ethnic Conflict in Indonesia: Causes and the Quest for Solution." In *Ethnic Conflicts in Southeast Asia*, edited by Kusuma Snitwongse and Willard Scott. Pasir Panjang-Singapore: ISEAS, 2005.
- Sulistyo, Hermawan and Tjuk Sugiarto. *Polmas Falsafah Baru Pemolisian*. Jakarta: Pensil-324, 2008.
- Sutrisno. *Sosiologi Kepolisian: Relasi Kuasa Polisi dengan Organisasi Masyarakat Sipil Pasca Orde Baru*. Jakarta: Pustaka Obor Indonesia, 2016.
- Suparlan, Parsudi. *Bunga Rampai Ilmu Kepolisian Indonesia*. Jakarta: Yayasan Pengembangan Kajian Ilmu Kepolisian, 2004.
- Suwarni. *Perilaku Polisi : Studi Atas Budaya Organisasi Dan Pola Komunikasi*. Cet. 1. ed. Ujungberung, Bandung: Nusa Media, 2009.
- Tembo, Eddie. *US-UK Counter-Terrorism after 9/11*. New York: Routledge, 2014.
- Tim Imparsial. "Terorisme Dalam Pergulatan Politik Hukum." In *Terorisme, Definisi, Aksi dan Regulasi*, edited by Rusdi Marpaung and Al Araf. Jakarta: Imparsial, 2005.
- Tilley, N. "Problem Oriented Policing, Intelligence-led Policing and the National Intelligence Model," *Crime Science Short Report Series*. London: Jill Dando Institute of Crime Science, 2003.
- Treverton, Gregory F. (et.al). *Moving toward the Future of Policing*. Santa Monica, CA:RAND corporation, 2011.
- Tuzuner, Musa. *Intelligence Cooperation Practices in the 21st Century: Towards a Culture of Sharing*. Amsterdam: IOS Press, 2010.

T., John, and Maguire M. "Rolling out the National Intelligence Model: Key Challenges." In *Crime Reduction and Problem Oriented Policing*, edited by K. Bullock and N. Tilley. Cullompton Devon: Willan, 2003.

Vickers, Adrian. *A History of Modern Indonesia*. Cambridge: Cambridge University Press, 2005.

Walsh, J. *Intelligence Sharing in the European Union: Institutions Are Not Enough*. Oxford: Blackwell Publishing, 2006 ; Block, 2009

Wardlaw, G. and J. Boughton. "Intelligence-Led Policing: The AFP Approach." In *Fighting Crime Together: The Challenges of Policing and Security Networks*, edited by J. Fleming and J. Wood. Sydney: University of New South Wales Press, 2006.

Weisburd, David, Thomas Feucht, Idit Hakimi, Lois Mock, Simon Perry. *To Protect and To Serve*. New York, NY: Springer New York, 2011.

Weisburd, David and Anthony Allan Braga. *Police Innovation : Contrasting Perspectives*. Cambridge, UK ; New York: Cambridge University Press, 2006.

White, J.R. *Terrorism and Homelands Security*. 6th ed. Belmont, CA: Wadsworth Cengage Learning, 2009.

Whittaker, David J. *Terrorism : Understanding the Global Threat*. London: Longman, 2002.

Widjajanto, Andi (ed). *Menguak Tabir Hitam Intelijen Indonesia*. Jakarta: Pacivis. 2010.

Widjajanto, Andi and Artanti Wardhani. *State-Intelligence Interaction 1945-2004*. Jakarta: FES & Pacivis UI, 2004

Wilkinson, Paul. *Homeland Security in the UK: Future Preparedness for Terrorist Attack since 9/11*. London: Routledge, 2007.

Wilkinson, Paul . *Terrorism Versus Democracy*. Frank Cass, London, 2000.

Wilkinson, Paul. *Terrorism Versus Democracy: The Liberal State Response*. Second Edition. Abingdon: Routledge, 2007.

Wittes, Benjamin. *Legislating the War on Terror an Agenda for Reform*. Washington, D.C : Brookings Institution Press, 2009.

Wulan, G. Ambar. *Polisi Dan Politik : Intelijen Kepolisian Pada Masa Revolusi Tahun 1945-1949*. Jakarta: Rajawali Pers, 2009.

Wortley, Richard, Mazerolle and Lorraine Green. *Environmental Criminology and Crime Analysis*. Crime Science Series. Cullompton, Devon, UK: Willan Publishing, 2008.

W, Watson. *Of Self and Injustice: Autobiography and Repression in Modern Indonesian*. Leiden: Brill, 2006.

Zusman, Lynne K. *The Law of Counterterrorism*. Chicago, Ill.: American Bar Association, Section of Administrative Law and Regulatory Practice, 2011.

Journals

Aldrich, R. "Transatlantic Intelligence and Security Cooperation." *Journal of International Affairs* 80, No.3 (2004): 731-753.

Adrian, James. "The Advance of Intelligence-led Policing Strategies; the Emperor's New Clothes?" *Police Journal* 76 (2003): 45-59.

Abadie, Alberto, and Javier Gardeazabal. "Terrorism and the World Economy.(Author Abstract)" *European Economic Review* 52, No. 1 (2008).

Alach, Z., "The emperor is Still Naked: How Intelligence-led Policing has Repackaged

Common Sense as Transcendental Truth.” *The Police Journal* 84 (2011): 75-97.

Bellavita, Christopher. “What Is Preventing Homeland Security?” *Homeland Security Affairs* 1, No. 1 (2005): 1-11.

Bennoune, Karina. “Terror/Torture.” *Berkeley Journal of International Law* 26, No. 1 (2008):1-61.

Borgu, Aldo. “Combating Terrorism in East Asia—a Framework for Regional Cooperation.” *Asia-Pacific Review* 11, No. 2 (2004): 48-59.

Borum, Randy. “Radicalization into Violent Extremism I: A Review of Social Science Theories.” *Journal of Strategic Security* 4, No. 4 (2011): 7-36

Borum, Randy. “Radicalization into Violent Extremism II: A Review of Conceptual Models and Empirical Research.” *Journal of Strategic Security* 4, No. 4 (2011): 37-62.

Boden, Ragna. “The ‘Gestapu’ Events of 1965 in Indonesia - New Evidence from Russian and German Archives.” *Bijdragen Tot De Taal- Land- En Volkenkunde* 163, No. 4 (2007): 507-528.

Butt, Simon and David Hansell. “The Masykur Abdul Kadir Case: Indonesian Constitutional Court Decision No 013/PUU-I/2003.” *Australian Journal of Asian Law* 6, No. 2 (2004): 176-196.

Budiono, Bambang. “Perpolisian Masyarakat dalam Konsep Habermas.” *Masyarakat, Kebudayaan dan Politik* 24, No. 4 (2001): 318-327.

Bullock, Karen. “Generating and using community intelligence: the case of Neighbourhood Policing.” *International Journal of Police Science and Management* 12, No.1 (2010): 1-11.

Bullock, Karen. “Community, Intelligence-led Policing and Crime Control.” *Policing and Society an International Journal of Research and Policy* 23, No. 2 (2013): 125-144.

Brodeur, Paul, Jean. “High and Low Policing in Post-9/11 Times.” *Policing* 1, No. 1 (2007): 25-37.

Bell, Peter and Mitchell Congram. “Intelligence-Led Policing (ILP) as A Strategic Planning Resource in the Fight against Transnational Organized Crime (TOC).” *International Journal of Business and Commerce* 2, No.12 (2013): 15-28.

Campana, Aurélie, and Luc Lapointe. “The Structural “Root” Causes of Non-Suicide Terrorism: A Systematic Scoping Review.” *Terrorism and Political Violence* 24, No. 1 (2012): 79-104.

Carter, D. L., and Carter, J. G. “Intelligence-Led Policing: Conceptual and Functional Considerations for Public Policy.” *Criminal Justice Policy Review* 20, No. 3 (2009): 310-325.

Carter D.L. and Carter, J.G. “Law Enforcement Intelligence: Implications for Self-Radicalized Terrorism.” *Police Practice and Research* 13, No. 2 (2012): 138-154.

Citron, Danielle Keats, Frank Pasquale. “Network Accountability for The Domestic Intelligence Apparatus.” *Hasting Law Journal* 62, (2011): 1441-1496

Clarke V., Ronald and Newman R., Graeme. “Police and the Prevention of Terrorism.” *Policing*, 1 (1) (2007): 9-20.

Cope, Nina. “Intelligence led Policing or Policing Led Intelligence? Integrating Volume Crime Analysis Into Policing.” *British Journal of Criminology* 44, No.2 (2004): 188-203.

Cordner, Gary & Kathryn Scarborough. “Information Sharing: Exploring the Intersection of Policing with National and Military Intelligence.” *Homeland Security Affairs* 6, No. 5 (2010): 1-19.

Crelinsten, Ronald. "Perspectives on Counterterrorism: From Stovepipes to a Comprehensive Approach." *Perspectives on Terrorism* 8, No.1 (2014):1-15.

Creegan, Erin. "Cooperation in Foreign Terrorism Prosecutions." *Georgetown Journal of International Law* 42, No. 2 (2011): 491-529.

Davis, Robert, Nicole Henderson, and Cybele Merrick. "Community Policing: Variations on the Western Model in the Developing World." *Police Practice and Research* 4, No. 3 (2003): 285-300.

Dechesne, Mark. "Deradicalization: Not Soft, but Strategic." *Crime, Law and Social Change* 55, No. 4 (2011): 177-186.

Decker, Scott, and David Pyrooz. "Gangs, Terrorism, and Radicalization." *Journal of Strategic Security* 4, No. 4 (2011): 151-166.

De Lint, W. "Intelligence in Policing and Security: Reflections on Scholarship." *Policing and Society* 16, No.1 (2006): 1-6.

Demant, Froukje, and Beatricede Graaf. "How to Counter Radical Narratives: Dutch Deradicalization Policy in the Case of Moluccan and Islamic Radicals." *Studies in Conflict & Terrorism* 33, No. 5 (2010): 408-428.

Derencinovic, David and Ana Maria Getos. "Cooperation of Law Enforcement and Intelligence Agencies in Prevention and Suppression of Terrorism." *Revue Internationale de droit penal* 78, No.1 (2007): 79-112.

Dishman, Chris. "Terrorism, Crime and Transformation." *Studies in Conflict & Terrorism* 24, No. 1 (2001): 43-58.

Docobo, Jose "Community Policing as the Primary Prevention Strategy for Homeland Security at the Local Law Enforcement Level." *Homeland Security Affairs* 1, No.4 (2005):1-12.

Eijkman, Quirine & Bibi van Ginkel, "Compatible or Incompatible. Intelligence and Human Rights in Terrorist Trials." *Amsterdam Law Forum* 3, No.4 (2011): 3-16

Emmers, Ralf. "Comprehensive Security and Resilience in Southeast Asia: ASEAN's Approach to Terrorism." *The Pacific Review* 22, No. 2 (2009): 159-177.

Fenton, Adam, David Price. "Forbidden Funds-Indonesia's New Legislation for Countering the Financing of Terrorism." *Australian Journal of Asian Law* 15. No.1 (2014): 363-395.

Field, A. "The Problems of Intelligence Sharing Within the UK Intelligence Community." *Review of International Studies* 35 (2009): 997-109.

Garrel, Edmund F. "Intelligence led Policing as a Framework for Responding Terrorism." *Journal of Contemporary Criminal Justice* 23, No.2 (2007): 142-158.

Goodwin, Jeff. "A Theory of Categorical Terrorism." *Social Forces* 84, No. 4 (2006): 2027-2046.

Gul, Zakir and Ahmet Kule. "Intelligence led Policing: How the use of crime intelligence analysis translates into decision making." *International Journal of Security and Terrorism* 4, No 1 (2013): 21-40.

Greenlees, Donald. "Unfinished Business:Reform of the Security Sector in Democratic Indonesia." *Security Challenges*7, No. 3, 2011: 5-22.

Hashim, Ahmed S. "The Islamic State: From Al Qaeda Affiliate to Caliphate," *Middle East Policy* 21, No.4 (2014): 69-83.

Hardy, Keiran and William, Goerge. "What is Terrorism? Assesing Domestic Legal Definitions." *UCLA Journal of International Law* 16, No. 77 (2011): 2013-2016.

Hastings, Justin "Geography, Globalization, and Terrorism: The Plots of Jemaah

Islamiyah.” *Security Studies* 17, No.3 (2008): 505-530.

Hills, Alice. “Responding to Catastrophic Terrorism.” *Studies in Conflict & Terrorism* 25, No. 4 (2002): 243-281.

Horgan, John, and Kurt Braddock. “Rehabilitating the Terrorists?: Challenges in Assessing the Effectiveness of De-radicalization Programs.” *Terrorism and Political Violence* 22, No. 2 (2010): 267-291.

Horgan, John. “De-radicalization or Disengagement? A Process in Need of Clarity and a Counter terrorism Initiative in Need of Evaluation.” *Perspective on Terrorism* 2, No.4 (2008): 291-298.

Hutchinson, Steven and Pat O’malley. “A Crime-Terror Nexus? Thinking on Some of the Links between Terrorism and Criminality.” *Studies in Conflict and Terrorism* 30, No. 12 (2007): 1095-1107.

Hulnick, Arthur S. “Intelligence and Law Enforcement: the Spies Are Not Cops Problem.” *International Journal of Intelligence and counterintelligence* 10, No. 3 (1997):269-286.

Innes, Martin. “Policing Uncertainty: Countering Terror through Community Intelligence and Democratic Policing.” *Annals of the American Academy of Political and Social Science* 605 (2006): 222-41.

Innes, M., Abbott and L., Lowe, T., Roberts, C., “Seeing like a Citizen: Field Experiments in Community Intelligence-led Policing.” *Police Practice and Research* 10, No. 2 (2009): 99-114.

Innes, M and James W.E. Sheptycki. “From Detection to Disruption: Intelligence and The Changing Logic of Police Crime Control in The United Kingdom.” *International Criminal Justice Review* 14, (2004): 2

Jackson, Richard. “The Study of Terrorism after 11 September 2001: Problems, Challenges and Future Developments.” *Political Studies Review* 7, No. 2 (2009): 171-84.

James, Adrian. “Forward to the Past: Reinventing Intelligence-led Policing in Britain.” *Police Practice and Research* 15, No. 1 (2014): 75-88.

Jill E.B. Coster Van Voorhout. “Intelligence as Legal Evidence Comparative Criminal Research into the Viability of the Proposed Dutch Scheme of Shielded Intelligence Witnesses in England and Wales, and Legislative Compliance with Article 6 (3) (d) ECHR.” *Utrecht Law Review* 2, No. 2 (2006): 119-144.

Jones, Sidney. “Briefing for the New President: The Terrorist Threat in Indonesia and Southeast Asia.” *Annals of the American Academy of Political and Social Science* 618, (2008): 69-78.

Jones, Sidney. “ISIS in Indonesia: Understanding the Real Threat.” *Strategic Review The Indonesian Journal of Leadership, Policy and World Affairs*, July-September 2015, http://www.sr-indonesia.com/in_the_journal/view/isis-in-indonesia-understanding-the-real-threat?pg=all.

Kirby, Stuart and Ian McPherson. “Integrating the National Intelligence Model with a ‘Problem Solving’ Approach.” *Safer Communities* 3, No.2, (2004): 36-46.

Kleiven, Maren Eline. “Where’s the Intelligence in the National Intelligence Model?” *International Journal of Police Science & Management* 9, No. 3 (2007): 257-273.

Kochel, Rinehart, Roger Tammy Parks and Stephen D. Mastrofski. “Examining Police Effectiveness as a Precursor to Legitimacy and Cooperation with Police.” *Justice Quarterly* 30, no.5 (2013): 895-925.

Kris, David S. "Law Enforcement as a Counter Terrorism Tool." *Journal of National Security Law & Policy* 5, 1 (2011):1-539.

Kris, David S. "The Rise and Fall of the FISA Wall." *Stanford Law and Policy Review* 17, 487 (2006): 487-530.

Kydd, Andrew, Barbara Walter. "The Strategies of Terrorism." *Journal of International Security* 31, No. 1. (2006): 49-80.

Lee, Vaughn Jason. "Policing After 9/11: Community Policing in an Age of Homeland Security." *Police Quarterly* 13, No. 4 (2010): 347-66.

Levi, Mike, B. Gilmore. "Terrorist Finance, Money Laundering and The Rise and Rise of Mutual Evaluation: A New Paradigm for Crime Control?" *European Journal of Law Reform* 4, No. 2 (2002): 337-364.

Lum, Cyntia , Leslie W. Kennedy and Alison J. Sherley. "The Effectiveness of Counterterrorism Strategies." *Campbell Systematic Review*, (2006): 1-49.

Lubis, Arief Fahmi. "Kedudukan Hukum Laporan Intelijen Sebagai Bukti Permulaan yang Cukup dalam Penyidikan Tindak Pidana Terorisme di Indonesia." *Legalitas* 21, No.2 (2010).

Maguire, M and T., John. "Led Policing, Managerialism and Community Engagement: Competing Priorities and the Role of the National Intelligence Model in the UK." *Policing and Society: An International Journal of Research and Policy* 16, No. 1 (2006):67-85.

Maguire, M. "Policing by Risk and Targets: Some Dimensions and Implications of Intelligence-led Crime Control." *Policing and Society: An International Journal of Research and Policy* 9, No. 4 (2000), 315-336.

Manget, Fred F. "Intelligence and Criminal Law System." *Stanford Law and Policy Review* 17, (2006): 415-436

Manihuruk, Marthin Fransisco. "Tindakan Penyadapan Badan Intelijen Negara terhadap Orang yang Sebagai Permulaan diduga Melakukan Kegiatan Terorisme." *Jurnal Mahupiki* 3, No. 1 (2013).

McCulloch, Jude and Sharon Pickering. "Pre-Crime and Counter-Terrorism: Imagining Future Crime in the 'War on Terror'." *Brit.J.Criminol*, 49 (2009): 628-645.

McCulloch, Jude and Sharon Pickering. "Suppressing the Financing of Terrorism: Proliferating State Crime, Eroding Censure and Extending Neo-Colonialism." *British Journal of Criminology* 45, No.4 (2005): 470-486.

McGarrell, Edmund, Joshua Freilich, and Steven Chermak. "Intelligence-Led Policing As a Framework for Responding to Terrorism." *Journal of Contemporary Criminal Justice* 23, No. 2 (2007): 142-58.

Meliala, Andrianus. "Local Colors for Indonesian National Police. " *Policing and Society* 12, No.2 (2002) : 153–161.

Meliala, Andrianus. "Police as Military: Indonesia's Experience." *Policing: An International Journal of Police Strategies & Management* 24, No. 3 (2001): 420-432.

Monaghan, Rachel. "Single-Issue Terrorism: A Neglected Phenomenon?" *Studies in Conflict & Terrorism* 23, No. 4 (2000): 255-65.

Moore, Mark. "Sizing up Comsptat: An Important Administrative Innovation in Policing." *Criminology & Public Policy* 2, No. 3 (2003): 469-93.

Mubarak, M Zaki. "Dari NII ke ISIS Transformasi Ideologi dan Gerakan dalam Islam Radikal di Indonesia Kontemporer," *Epistemé* 10, no. 1 (2015): 92-93.

- Muradi. "The 88th Densus AT: The Role and the Problem of Coordination on Counter-Terrorism in Indonesia." *Journal of Politics and Law* 2, No. 3 (2009): 85-96.
- Neuman, Gerald L. "Comment, Counter-terrorist Operations and the Rule of Law." *European Journal of International Law* 15, No. 5 (2004): 1019-029.
- Oghi, Felix Ejukonemu Julius O. Unumen. "Military Intelligence and the Challenge of National Security." *International Journal of Research in Humanities and Social Studies* 1, No.2 (2014): 7-13.
- Oka, Gillian. "Jemaah Islamiyah's Fifth Phase: The Many Faces of a Terrorist Group." *Studies in Conflict and Terrorism*, 33, No.11 (2010): 989-1018.
- Oliver, Williard M. "The Fourth Era of Policing: Homeland Security." *International Review of Law, Computers & Technology* 20, (2006): 49-62.
- Oliver, Willard M. "The Homeland security Era of Policing." *Crime & Justice International* 21, No.85 (2005): 9-17.
- Omand, D "Countering International Terrorism: The Use of Strategy." *Survival* 47, No. 4 (2005): 107-116.
- Paripurna, Amira. "The Right to a Fair Trial and Combatting Terrorism: The Case of Indonesia." *Indonesian Journal of International Law* 9, No.1 (2011).
- Pelfrey, William V. "An Exploratory Study of Local Homeland Security Preparedness." *Criminal Justice Policy Review* 20, No. 3 (2009): 261-73.
- Piazza, James, A. "Rooted in Poverty?: Terrorism, Poor Economic Development, and Social Cleavages 1." *Terrorism and Political Violence* 18, No. 1 (2006): 159-77.
- Purwoleksono, E., Didik. "Tindak Pidana Terorisme". *Yuridika* 20, No.6 (2005): 453-469.
- R. Aldrich. "Transatlantic Intelligence and Security Cooperation." *Journal of International Affairs* 80, No.3 (2004): 733-755.
- Ransley, Janet and Lorraine Mazerolle. "Policing in Era Uncertainty." *Police Practice and Research* 10, No.4 (2009):365-381.
- Ratcliffe, J.H. "Intelligence-led Policing and the Problems of Turning Rhetoric into Practice." *Policing and Society* 12, No. 1 (2002): 53-66.
- Ratcliffe, J.H and ay Guidetti. "State Police Investigative Structure and the Adoption of Intelligence-Led Policing." *Policing* 31, No. 1 (2008): 109-128.
- R. Simon, A. Josias, "Paramilitary Policing in the Implementation of Police Departement Tasks: The National Police of the Republic of Indonesia (POLRI)." *International Journal of Criminology and Sociology* 2, (2013): 519-524.
- Reynolds, K., Michael Griset and Pamala Scott. "Law Enforcement Information Sharing: A Florida Case Study." *American Journal of Criminal Justice* 31, No. 1 (2006): 1-17.
- Reveron, D. "Counter Terrorism and Intelligence Cooperation." *Journal of Global Change and Governance* 1, No.3 (2008):1-13.
- Riezen, Bram van and Karlijn Roex. "Counter-terrorism in the Netherlands and the United Kingdom: A Comparative Literature Review Study." *Social Cosmos* 3, No. 1 (2012): 97-110.
- Rosenbaum, Dennis P. "Evaluating Multi-Agency Anti-Crime Partnership: Theory, Design, and Measurement Issues." *Crime Prevention Studies*, 14 (2002): 171-225.
- Sandler, Todd. "Collective Action and Transnational Terrorism." *World Economy* 26, No. 6 (2003): 779-802.

Sandlers, Todd. "Terrorism and Counterterrorism: an Overview." *Oxford Economic Papers*, (2014): 12-15.

Saul, Ben. "Definition of Terrorist in the UN Security Council: 1985-2004." *Chinese Journal of International Law* 4, No. 1 (2005): 141-166.

Savage, Sara. "Four Lessons from the Study of Fundamentalism and Psychology of Religion." *Journal of Strategic Security* 4, No. 4 (2011): 131-50.

Scheppele L., Kim. "Law in a Time of Emergency: [Law in a Time of Emergency: States of Exception and the Temptations of 9/11](#)." *Journal of Constitutional Law* 6, No.5 (2004):1001.

Schmid, Alex P. "Frameworks for Conceptualizing Terrorism." *Terrorism and Political Violence* 16, No. 2 (2004): 197-221.

Sederberg, Peter C. "Conciliation as a Counter Terrorist Strategy." *Journal of Peace Research* 32, No.3 (1995): 295-312.

Shearing, C.D. "The Future of Policing." *Law and Society Review* 20, No.3 (1996); 585-606

Siregar, Sarah N. "Relasi TNI POLRI dalam Penanganan Terorisme Era Megawati." *Widyariset Kapita Selekt*a, 9 (2006): 265-274.

Susanto, Topo "Anti Terrorism Legal Framework in Indonesia: It's Development and Challenges." *Mimbar Hukum* 25, No. 1 (2012): 88-101.

Sutton, Mitchell, Alexander C. Tan and Arabinda Acharya. "Whither Southeast Asia Terrorism?" *Journal of Asian Security and International Affairs* 3, No. 2 (2016): 260-62.

T, Jones and Newburn, T. The Transformation of Policing? Understanding Current Trends in Policing Systems, *British Journal of Criminology* 42, No.1 (2002): 129-146.

Tan, Andrew "Southeast Asia as the 'Second Front' in the War Against Terrorism: Evaluating Threat and Responses." *Terrorism and Political Violence* 15, No.2 (2003), 112-138

Tadjoeddin, Mohammad Zulfan ,Widjajanti I. Suharyo, Satish Mishra. "Regional Disparity and Vertical Conflict in Indonesia." *Journal Of The Asia Pacific Economy* 6, No. 3 (2001).

Waddington, P.A.J. "Policing Terrorism." *Policing* 1, no.1 (2007): 1-8.

Waterman, K., and Samuel Wang. "Prototyping Fusion Center Information Sharing: Implementing Policy Reasoning Over Cross-Jurisdictional Data Transactions Occurring in a Decentralized Environment." *2010 IEEE International Conference on Technologies for Homeland Security (HST)*, (2010): 63-69.

Waxman, Matthew C. "Police and National Security: American Local Law Enforcement and Counterterrorism After 9/11." *Journal of National Security Law & Policy* 3, (2009): 377-407.

Weisburd, David, Tal Jonathan, and Simon Perry. "The Israeli Model for Policing Terrorism." *Criminal Justice and Behavior* 36, no. 12 (2009): 1259-278.

Weisburd, David. and J. Eck. "What Can Police Do to Reduce Crime, Disorder, and Fear?" *Annals of the American Academy of Political and Social Science*, 593 (2004): 42 – 65.

Weisburd, David, Badi Hasisi, Tal Jonathan, and Gali Aviv. "Terrorist Threats and Police Performance." *The British Journal of Criminology* 50, no. 4 (2010): 725-47.

Vervaele, John A. E. "Terrorism and Information sharing between the Intelligence and Law Enforcement Communities in the US and the Netherlands: Emergency Criminal law?" *Utrecht Law Review* 1, No. 1 (2005): 1-27.

...."Secret Evidence in the War on Terror." *Harvard Law Review* 18, No. 6 (2005). 1962-1984.

Governmental and Non-Governmental Reports, Research/Policy Reports or Publications

ACPO/NCPE. *Practice Advice on Resources and the People Assets of the National Intelligence Model*. Wyboston:NCPE,2007a.

ACPO/NCPE. *Introduction to the National Intelligence Model*. Wyboston: NCPE,2007b.

ACPO. *Guidance on the National Intelligence Model*. Wyboston:NCPE,2005.

AFCEA Intelligence Community. *International The Need to Share: The U.S. Intelligence Community and Law Enforcement*. April 2007.

Amnesty International. *Indonesia Anti Subversive Law:A Briefing*. 1997. <https://www.amnesty.org/download/Documents/160000/asa210031997en.pdf>.

Amnesty International. *Unfinished Business Police accountability in Indonesia*. London, UK: Amnesty International Publication, 2009.

Badan Nasional Penanggulangan Terorisme. *BNPT Strategic Plan Year 2010-2014*. Jakarta: BNPT.

Badan Nasional Penanggulangan Terorisme. *Blueprint Pencegahan Terorisme*. Jakarta: BNPT, 2014.

Baird, Zoe, Barksdale, James. *Implementing a Trusted Information Sharing Environment Using Imutable Audit Logs to Increase Security, Trust and Accountability*. New York City: The Markle Foundation, 2006.

Barrett, Richard. *The Islamic State*. The Soufan Group, 2014.

Best Jr., Richard A. *Sharing Law Enforcement and Intelligence Information: the Congressional Role*. Washington DC: Congressional Research Service, 2007.

Bjelopora, Jerome. *Terrorism Information Sharing and the Nationwide Suspicious Report Initiative: Background and Issues for Congress*. Congressional Research Service, 2011

Bureau of Justice Statistics. *Census of State and Local Law Enforcement Agencies*, by Brian A. Reaves. Washington ,DC: Bureau of Justice Statistics, 2007. <http://www.ojp.usdoj.gov/bjjs/pub/pdf/cslllea04.pdf>.

Bureau of Justice Assistance USDOJ. *Reducing Crime through Intelligence-Led Policing. Law Enforcement Information Sharing*. <https://www.ise.gov/law-enforcement-information-sharing>.

Carter, David, and Steve Chermak, Jeremy Carter, Jack Drew. “Understanding Law Enforcement Intelligence Processes.” Report to the Office of University Programs, Science and Technology Directorate, U.S. Department of Homeland Security. College Park, MD: START,2014. https://www.start.umd.edu/pubs/START_UnderstandingLawEnforcementIntelligenceProcesses_July2014_2.pdf.

Carter, David. L. “Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies.” New York: US DOJ, 2004.

Ciluffo, Frank J., Clark, Joseph R., Downing, Michael P., and Squires, Keith D. “Counterterrorism Intelligence Fusion Center Perspective.” Washington, DC: Homeland Security Policy Institute, 2012. <https://cchs.gwu.edu/sites/cchs.gwu.edu/files/downloads/HSPI%20Counterterrorism%20Intelligence%20-%20Fusion%20Center%20Perspectives%206-26-12.pdf>

Command of Her Majesty. “CONTEST: The United Kingdom’s Strategy for Countering Terrorism” 2011.

Global Counterterrorism Forum. *Recommendations for Using and Protecting Intelligence Information In Rule of Law-Based, Criminal Justice Sector-Led Investigations and Prosecutions*.

Criminal Justice Sector/Rule of Law Working Group
<https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/ENG%20-%20Rabat%20Good%20Practice%206%20Recommendations%20-%20ENG.pdf?ver=2016-03-29-134521-373>

Global Counterterrorism Forum. *The Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector*. Criminal Justice Sector/Rule of Law Working Group
<https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/A/GCTF-Rabat-Memorandum-ENG.pdf>.

Departemen Pertahanan Republik Indonesia. *Buku Putih Pertahanan Indonesia 2008*. Jakarta: Departemen Pertahanan RI, 2008.

Department of State's Bureau of Diplomatic. *Security Indonesia 2015 Crime and Safety Report*. 2015. <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=17089>.

Department of State's. *Trafficking in Persons report*. 2012. <http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm>.

Department of Homeland Security. *DHS' Role in State and Local Fusion Centers Is Evolving*. Washington DC : U.S. Department of Homeland Security, 2008.

Department of Homeland Security Office of Inspector General. *Fusion Center Guidelines*. Washington DC :DHS and the Department of Justice, 2006.

Department of Homeland Security Office of Inspector General. *"DHS' Role in State and Local Fusion Centers Is Evolving*. Washington, DC: U.S. Department of Homeland Security, 2008. https://www.oig.dhs.gov/assets/Mgmt/OIG_09-12_Dec08.pdf.

Echeverria, Gabriela and Carla Ferstman (eds). *Terrorism, Counterterrorism and Torture International Law in The Fight Against Terrorism*. London: The Redress Trust, 2004. <http://www.redress.org/downloads/publications/TerrorismReport.pdf>.

David, Anderson Q., C. *Independent Reviewer of Terrorism Legislation, Terrorism Prevention and Investigation Measures in 2012 First Report of the Independent Reviewer on the Operation of the Terrorism Prevention and investigation Measures act 2011*. March 2013

Sheldon W. Simon. *U.S.-Southeast Asia Relations: The War on Terrorism: Collaboration and Hesitation*

Friedmann, Robert R. and William J. Cannon. *Homeland Security and Community Policing: Competing or Complementing Public Safety Policies*. Criminal Justice and Criminology Faculty Publications, 2007.

Frank J. Cilluffo, et.al. *Counter terrorism Intelligence: Fusion Center Perspectives*. Wasington DC: The George Washington University Homeland Security Policy Institute, 2012.

Fellman, Zack. *Abu Sayyaf Group*. CSIS, November 2011. https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/111128_Fellman_ASG_AQAMCaseStudy5.pdf.

Freiderich Ebert Stiftung. *Overview of the Intelligence Sector in Indonesia From Military Domination to Political Control*.
<http://www.fes.or.id/fes/download/Background%20Paper%20Intelligence%20in%20Indonesia.pdf>.

German, Mike and Jay Stanley. *Fusion Center Update*. American Civil Liberties Union, 2008. http://www.aclu.org/pdfs/privacy/fusion_update_20080729.pdf.

Gonzales, Alberto R., Regina B. Schofield, Domingo S. Herraiz (et al). *Intelligence-Led Policing: The New Intelligence Architecture*. Bureau of Justice Assistance, U.S. Department of Justice, 2005. <http://www.ncjrs.gov/pdffiles1/bja/210681.pdf>.

GAO Report to Congressional Requesters. *Combating Terrorism How Five Foreign Countries Are Organized to Combat Terrorism*. 2000.

Hasim, Ahmed S . *The Impact of Islamic State in Asia: Policy Report*. Singapore: RSIS, 2015.

Hasani, Ismail, et.al. *Radikalisme Agama di Jabodetabek & Jawa Barat Implikasinya terhadap Jaminan Kebebasan Beragama/ Berkeyakinan*. Jakarta: Setara Institute, 2010. Accessed December 20, 2012. http://indonesiatoleran.or.id/wp-content/uploads/2012/11/buku_radikalisme-agama-x.pdf.

Human Rights Watch/Asia. *Indonesia: Press Closures in Indonesia One Year Later*. Human Right Watch Short Report 7, no. 9, July 1995.

Human Rights Watch/Asia. *Indonesia Students Jailed for Puns*. Human Rights Watch Short Report 5, no. 5 March 1993.

Human Rights Watch/Asia, *Indonesia's Salman Rushdie*. Human Rights Watch Short Report 3, no.13, April 1991, 1-6.

Human Rights Watch Briefing Paper. *Indonesia's Draft Law on Intelligence: A Threat to the Nation?* 2005.

Human Rights Watch. *In Religion's Name Abuses against Religious Minorities in Indonesia*. 2013.

Her Majesty Government. *CONTEST The United Kingdom's Strategy for Countering Terrorism*. London: Home office, 2013.

Her Majesty Government. *Countering International Terrorism, The United Kingdom's Strategy*. 2006.

HM Inspectorate of Constabulary. *Policing with Intelligence*. London: HMIC, 1993.

HM Inspectorate of Constabulary. *Policing with Intelligence*. London: HMIC, 1997.

HM Government. *Pursue, Prevent, Protect, Prepare: The United Kingdom's Strategy for Countering International Terrorism*, 2009.

IACP Intelligence Summit. *Criminal Intelligence Sharing: A National Plan for Intelligence-Led Policing at the Local, State, and Federal Levels*. <http://www.theiacp.org/documents/pdfs/Publications/intelsharingreport.pdf> .

Imparsial. *Implikasi Perang Melawan Terorisme Terhadap Penegakan HAM di Indonesia: Laporan Monitoring Koalisi untuk Keselamatan Masyarakat Sipil 2002-2009*. Jakarta: Imparsial, 2009.

Intelligence Activities and Rights of Americans. *Book II, Final Report of the Select Committee to Study Governmental Operations with respect to Intelligence Activities*. April 26, 1976, https://archive.org/stream/finalreportofsel01unit/finalreportofsel01unit_djvu.txt.

Ingo, W. *Indonesia's New Intelligence Agency How? Why and What for?* November 1, 2000. <http://www.watchindonesia.org/11776/indonesias-new-intelligence-agency-how-why-and-what-for?lang=en>

International Crisis Group. *Indonesia Mengendalikan Militer*. Crisis Group Asia Report no. 9 (Brussel/Jakarta: ICG, 2000).

International Crisis Group. *Indonesia: Rethinking Internal Security Strategy*. Crisis Group Asia Report no. 90 (Brussel/Jakarta, 2004).

- International Crisis Group. *Indonesia: Debate over a New Intelligence Bill*. Crisis Group Asia Report no. 124 (Brussel/Jakarta, 2011).
- International Crisis Group. *Indonesia: The Deadly Cost of Poor Policing*. Crisis Group Asia Report no. 218 (Brussel/Jakarta, 2012).
- International Crisis Group. *Indonesia National Police Reform*. Crisis Group Asia Report no. 13 (Brussel/Jakarta, 2012).
- International Crisis Group. *Indonesia Backgrounder: How the Jemaah Islamiyah Terrorist Network Operates*. Crisis Group Asia Report no. 43 (Brussel/Jakarta, 2002).
- International Crisis Group. *“Deradicalization” and Indonesian Prisons*. Crisis Group Asia Report no. 142 (Brussel/Jakarta, 2007).
- Institute for Policy Analysis of Conflict. *The Evolution of ISIS in Indonesia*. IPAC Report no.13, 2014.
- Institute for Policy Analysis of Conflict. *Countering Violent Extremism in Indonesia: Need for A Rethink*. IPAC Report no. 11, 2014.
- Information Sharing Environment Functional Standard Suspicious Activity Reporting*, https://www.ise.gov/sites/default/files/SAR_FS_1.5.5_IssuedFeb2015.pdf.
- Lembaga Cegah Kejahatan Indonesia dan Kemitraan. *Laporan Kajian dan Perumusan Mekanisme Alternatif Manajemen Pencegahan dan Penanganan Terorisme*. Jakarta: LCKK, 2007.
- Laporan Singkat Rapat Dengar Pendapat Komisi III DPR RI dengan Badan Nasional Penanggulangan Terorisme (BNPT)*. May 27, 2015, <http://www.dpr.go.id/dokakd/dokumen/K3-14-fbacf50b95f5b98f839a7e0ca42b772d.pdf>.
- Lum, Cynthia, Leslie W. Kennedy and Alison J. Sherley. *The Effectiveness of Counter-Terrorism Strategies: A Campbell Systematic Review*. Washington DC: Crime and Justice Coordinating Group, The Campbell Collaboration, 2006.
- Maguire and T John. *Intelligence, Surveillance and Informants: Integrated Approaches*. Crime Detection and Prevention Series Paper 64. London: Home Office, 1995
- Maguire and T. John. *The National Intelligence Model: Key Lesson from Early Research*. Home Office Online Report 30, 2004.
- Maguire M and John T. *The National Intelligence Model: Early Implementation Experience in Three police force Areas*. Cardiff: Cardiff University, 2004. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.625.4738&rep=rep1&type=pdf>.
- Muradi. *Indonesia’s Police Force: Decentralisation for Better Welfare?* Singapore: RSIS Rajaratnam, 2008.
- National Strategy for Information Sharing Successes and Challenges in Improving Terrorism-Related Information Sharing*. 2007.
- National Criminal Intelligence Service. The National Intelligence Model*. London: NCIS corporate Communication,2000. <http://www.intelligenceanalysis.net/National%20Intelligence%20Model.pdf>
- NCPE. *National Intelligence Model Code of Practise*. Wyboston: Centrex, 2004.
- Paripurna, Amira and Didik Endro Purwoleksono. *Model Kebijakan Penyadapan berdimensi Hak Asasi Manusia dalam Penanggulangan Tindak Pidana Korupsi*. Laporan Penelitian. Surabaya: Universitas Airlangga, 2011.
- Quivooij, Romain. *The Islamic State*. Singapore: RSIS, 2015.

Randol, Mark A. *The Department of Homeland Security Intelligence Enterprise: Operational Overview and Oversight Challenges for Congress*. 2010. <https://www.fas.org/sgp/crs/homsec/R40602.pdf>.

Rollins, John. *Fusion Centers: Issues and Options for Congress*. Washington, DC: Congressional Research Service, 2008. <https://www.fas.org/sgp/crs/intel/RL34070.pdf>.

Saunders, Joe (ed). *In the Name of Security: Counterterrorism Laws Worldwide Since September 11*. New York: Human Rights Watch, 2012. <https://www.hrw.org/report/2012/06/29/name-security/counterterrorism-laws-worldwide-september-11>.

Schrijver, N. & L. van den Herik. *Counter-Terrorism Strategies, Human rights and international law: Meeting the Challenges. Final Report Poelgeest Seminar*. The Hague: Grotius Centre for International legal Studies, 2010.

Singh, Bilveer. *Revising Indonesia's Anti-Terrorism Laws*. Singapore: RSIS, 2016.

Sukadis, Beni (ed). *Almanac on Indonesian Security Sector Reform 2007*. Jakarta: The Geneva Centre for the Democratic Control of Armed Forces and Indonesian Institute for Strategic and Defence Studies, 2007.

Staff Statement No. 9. *Law Enforcement, Counterterrorism, and Intelligence Collection in the United States Prior to 9/11*. http://govinfo.library.unt.edu/911/staff_statements/staff_statement_9.pdf.

The Audit Commission's report. *Helping With Enquiries: tackling Crime Effectively*. London: HMSO, 1993.

The Audit Commission's report. *Helping With Enquiries: tackling Crime Effectively*. London: HMSO. 1993.

The Constitution Project. "Recommendation for Fusion Centers Preserving Privacy & Civil Liberty while Protecting against Crime and Terrorism." Washington, DC: The Constitution Project, 2012. <http://www.constitutionproject.org/pdf/fusioncenterreport.pdf>.

The Eminent Jurist Panel on Terrorism. *Counter-Terrorism and Human Rights. Assessing Damage Urging Action*. Geneva: International Commission of Jurist, 2009.

UNODC. *Criminal Intelligence Manual for Analysts*. New York: UN, 2011.

U.S Bureau of Justice Assistance. *New Realities. Intelligence-led Policing : The New Intelligence Architecture*, by Marilyn B. Peterson. Washington, DC: U.S. Dept. of Justice, Office of Justice Programs, Bureau of Justice Assistance, 2005. <https://www.ncjrs.gov/pdffiles1/bja/210681.pdf>

U.S. Department of Justice. *Findings and Recommendations of the Suspicious Activity Report Support and Implementation Project*. SAR Project Report, 2008. [file:///C:/Users/parip/Downloads/Findings%20and%20Recommendations%20of%20the%20Suspicious%20Activity%20Report%20\(SAR\)%20Support%20and%20Implementation%20Project.pdf](file:///C:/Users/parip/Downloads/Findings%20and%20Recommendations%20of%20the%20Suspicious%20Activity%20Report%20(SAR)%20Support%20and%20Implementation%20Project.pdf).

U.S. Department of Justice, Bureau of Justice Assistance. *Reducing Crime through Intelligence-Led Policing*. Washington, DC: The U.S. Department of Justice, 2008. https://www.ncirc.gov/documents/public/reducing_crime_through_ilp.pdf

U.S. Dept. of Justice. *Policing Terrorism : An Executive's Guide*, by Newman, Graeme R. Washington, DC: U.S. Dept. of Justice, Office of Community Oriented Policing Services, Center for Problem-Oriented Policing, 2008.

U.S. Department of Justice, Bureau of Justice Assistance. "Navigating Your Agency's Path to Intelligence-Led Policing." Washington, DC: The U.S. Department of Justice, 2009.

<https://it.ojp.gov/documents/d/Navigating%20Your%20Agency's%20Path%20to%20Intelligence-Led%20Policing.pdf>.

U.S. Department of Justice, Office of Community Oriented Policing Services. “*Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies, 2nd Edition.*” Washington, DC: The U.S. Department of Justice, 2009.
https://it.ojp.gov/documents/d/e050919201-IntelGuide_web.pdf

U.S. Department of Justice. *Intelligence-Led Policing: The New Intelligence Architecture*, by Marilyn B. Peterson. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 2005.

U.S. Department of Justice’s Global Justice Information Sharing Initiative and the U.S. Department of Homeland Security. *Fusion Center Guidelines Developing and Sharing Information and Intelligence in a New Era : Guidelines for Establishing and Operating Fusion Centers at the Local, State, and Federal Levels, Law Enforcement Intelligence, Public Safety, and the Private Sector.* https://it.ojp.gov/documents/d/fusion_center_guidelines.pdf

U.S. Department of Homeland Security. *DHS’ Role in State and Local Fusion Centers Is Evolving.* 2008.

U.S. Dept. of Justice. *Democratizing the Police Abroad: What to Do and How to Do It*, by David H. Bayley. Washington, DC: U.S. Dept. of Justice, Office of Justice Programs, National Institute of Justice, 2001.

Wahid Z., Yenny, et.al. *Lampu Merah Kebebasan Beragama.* Jakarta: The Wahid Institute, 2011. http://wahidinstitute.org/wi-eng/images/upload/dokumen/laporan_kebebasan_beragama_wahid_institute_2011.pdf.

Yang Hui, Jennifer. Counter-terrorism in Indonesia: Enter the TNI’s Task Force. Singapore: RSIS Rajaratnam, 2003.
<http://www.rsis.edu.sg/publications/Perspective/RSIS1822013.pdf>.

9/11 Commission. *Final report of the National Commission on Terrorist Attacks upon the United States.* Washington DC: US Government Printing Office, 2004.
<https://www.ise.gov/sites/default/files/Brief-History-ISE-2015.pdf>.

Paper presented at a meeting or conference, Research Paper series, Working Papers

Adelman, Rachel. “Such Stuff as Dreams Are Made On’: God’s Footstool in the Aramaic Targumim and Midrashic Tradition.” Paper presented at the annual meeting for the Society of Biblical Literature, New Orleans, Louisiana, November 21–24, 2009.

Bhakti, Nusa, Ikrar, Sri Yanuarti and Mochamad Nurhasim. “Military Politics, Ethnicity and Conflict in Indonesia.” Crise Working Paper 62, January 2009.

Butt, Simon. “Anti-Terrorism Law and Criminal Process in Indonesia.” In *Islam, Syari’ah and Governance Background Papers*. Melbourne: ARC Federation Fellowship, 2008.

Fukuda, Tamotsu. “Regional Cooperation Against Terrorism in East Asia.” Technical Paper, Canberra, 2004.

Galamas, Francisco. “Terrorism in Indonesia: An Overview.” Research Papers 04/2015, Documento de Investigación del Instituto Espanol de Estudios Estrategicos: Madrid, 2015.

Jackson, Richard. “Research for Counter Terrorism: Terrorism Studies and the Reproduction of State Hegemony.” Paper presented at the annual meeting of the International Studies Association 48th Annual Convention, Chicago, February 28, 2007.

Laborde, Paul, Jean.” Countering Terrorism: New International Criminal Law Perspectives.” 132nd International Senior Seminar Visiting Experts’ Papers. Strengthening the Legal Regime for Combating Terrorism.

Praja, Juhaya S. “ Islam Globalization and Terrorism.” 132nd International Senior Seminar Visiting Experts’ Papers.

Praja, Juhaya S. “ Islam Post 9-11: Indonesia’s Experience.” 132nd International Senior Seminar Visiting Experts’ Papers.

Prawindarti, Lianita. “Explaining the Impact of the Global War on Terrorism on ASEAN: the New Regionalism Revisited?” Garnet Working Paper.University of Trento. July 2008.

Sukma, Rizal, Eddy Prasetyono. “Security Sector Reform in Indonesia: The Military and The Police.” Working Paper Series 9, The Hague: Netherlands Institute of International Relations ‘Clingendael’, 2003.

Spencer, Alexander. “The Problem of Evaluating Counter-terrorism.” Discussion Papers. Madrid: UNISCI, 2006.

Thesis and Dissertation

Adrian, James. *The Influence of Intelligence-Led Policing Models on Investigative Policy and Practice in Mainstream Policing 1993-2007: Division, Resistance and Investigative Orthodoxy.* (PhD thesis, LSE, London, 2011).

Anarumo, C. Mark. “What Are Really Afraid of? The Practitioner View of the Terrorist Threat in the United States.” PhD diss., State University of New Jersey, 2005.

Coleen M, Clarke. “Police Response to Anti-Terrorism Policy.” PhD diss., University of Toronto, 2006.

Dayan, MHD Rahmani. “Pidana Terorisme Sebagai Extra Ordinary Crime di Indonesia.”Disertasi, Universitas Sumatera Utara, 2015

Dutcher E., Suzanne. “Not on Watch: The Study of the Role of Local Law Enforcement in Terrorism Prevention.” PhD diss., Capella University, 2011

Ekici, Ahmed. “The Role of Law Enforcement Practices on Terrorist Recruitment: A Study of The Impact of Traditional Community Policing Practices on The Recruitment Terrorist Organization Members.” PhD diss., Sam Houston State University, 2008.

Gazi. “Dinamika Relasi Sosial dalam Proses Meninggalkan Jalan Teror.” Disertasi, Universitas Indonesia, Jakarta, 2016.

Guidetti, Raymond A. “Policing the Homeland: Choosing the Intelligent Option.” Thesis, Naval Post Graduate School: California,2006.

Halford, Eric. “The Emergence of the Counter Terrorism Command Policing model and its impact on intelligence sharing between the Police and the Security Services.” Dissertation, Salford University, 2009.

Hendropriyono, A.M. “Terorisme dikaji Dari Filsafat Analitika.” Disertasi, Universitas Gajah Mada, Yogyakarta, 2009.

Hizal, Virza Roy. “Perlindungan Hak Asasi Tersangka/Terdakwa dalam Pemberantasan Terorisme di Indonesia.” Tesis, Universitas Indonesia, 2007.

James, Adrian. “The Influence of Intelligence Led-Policing Model on Investigative Policy and Practice in Mainstream Policing 1993-2007. Division, Resistance and Investigative Orthodoxy.” PhD Thesis, London School of Economy, 2012.

Johnston, A.K. “Assessing the Effectiveness of De-Radicalization Programs for Islamist Extremists.” Master Thesis, Naval Postgraduate School California, 2009.

Kalidheen, Rufus. "Policing Mechanisms to Counter Terrorist Attacks in South Africa." Master thesis, University of South Africa, 2008.

Kusnadi, Irwan. "Peningkatan Peran Babinsa dalam Membantu Pencegahan Terorisme :Studi di Wilayah Kodim 0609/Kabupaten Bandung." Master thesis, Universitas Gajah Mada, 2010.

Mamoto, Beny Jozua. "**Penanganan POLRI Terhadap Organ Teror dalam Al-Jama'ah Al-Islamiyah.**" **Disertasi, Universitas Indonesia, Jakarta, 2008.**

Meliala, E., Andrianus. "Sensitive Policing: The Case of Indonesia." PhD diss., University of Queensland, 2004.

Setiawan, Bayu. "Perlindungan Hukum Badan Intelijen dalam Melaksanakan Salah Satu Tugas di Bidang Pemberantasan Kejahatan Terorisme di Indonesia ditinjau dari Perspektif Ketahanan Nasional." Master's thesis, Universitas Indonesia.

Usman. "Konsep Hukum Deradikalisasi Narapidana Terorisme Dihubungkan Dengan Upaya Penanggulangan Terorisme di Indonesia." Disertasi, Universitas Padjajaran, 2015.

Yulitasari, Erlina. "Kinerja BIN (Badan Intelijen Negara) untuk Peningkatan Pemberantasan Terorisme dalam Kerjasama Indonesia dengan Amerika Serikat Pasca 11 September 2001." Master's thesis, UPN Veteran, Jogjakarta, 2013.

Laws, Regulations, Treaties and Court Decisions

A. Indonesian

MPR Decree VII/2000.

Law No.9/2013 on Financing Terrorist Law

Law No. 7/2012 on Social Conflict

Law No.17/2011 on National Intelligence Law

Law No.8/2010 on Prevention and Combating Money Laundering Law

Law No.34/2004 on Indonesia's Military Law

Law No.15/2003 on Anti-Terrorism Law

Law No.2/2002 on Indonesia's National Police Law

Law No. 8/1981 on Indonesian Code of Criminal Procedure

Law No. 1/1946 on Indonesian Criminal Code

Law No. 39/1999 on Human Rights

Law No. 26/2000 on Human Rights Tribunal

Law No. 26/1999 on the Revocation of Anti-Subversive Law

Law No. 6/2006 on The Ratification of International Convention for the Suppression of the Financing Terrorism, 1999.

Law No. 30/2002 on the Corruption Eradication Commission Presidential Decree No. 11/1963

Law No. 11/1969 on Anti-Subversive

PERPPU No.1/2002 Government Regulation in Lieu of Legislation of the Republic Indonesia No.1/2002 the Elimination of Criminal Acts of Terrorism

Presidential Decree no. 54/2001 on the Organisation and Work Flow of the Indonesian Police.

Presidential Decree No. 70/2002 on Organization and Structure of Indonesian National Police;

Presidential Instruction No. 2/2002 on Combating Terrorism

Presidential Instruction No. 2/2013 on Combating Internal Threat
The Decree of Chief Indonesian National Police No.30/VI/2003
The Decree of Chief Indonesian National Police No.7/2008 as the basic guideline and strategy of Polmas.

Ministry of Home affairs Decree No. 11/2006.

Keputusan Bersama Ketua Mahkamah Agung, Menteri Kehakiman, Jaksa Agung, dan Kepala Kepolisian Republik Indonesia Nomor : 08/KMA/1984, Nomor : M.02-KP.10.06 Th.1984, Nomor : KEP-076/J.A/3/1984, No Pol :KEP/04/III/1984 Tentang Peningkatan Koordinasi Dalam Penangan Perkara Pidana

Keputusan Bersama Ketua Mahkamah Agung, Menteri Kehakiman, Jaksa Agung, dan Kepala Kepolisian Republik Indonesia Nomor : 08/KMA/1984, Nomor : M.02-KP.10.06 Th.1984, Nomor : KEP-076/J.A/3/1984, No Pol :KEP/04/III/1984 Tentang Peningkatan Koordinasi Dalam Penangan Perkara Pidana,

Case number 629/PID.SUS/2014/PN. JKT TIM, available at <http://putusan.mahkamahagung.go.id/putusan/7f6ed0568c6bb5217e5ad35c8ec3143f>
Case Number 0193/Pid.Sus/2015/PN.Jkt.Pst.

B. Foreign Country

Proclamation no. 7463, 66 Fed. Reg. 48,199 (14 September 2001).

Rule 15 (b)) 50 U.S.C. 1801 *et seq.*

Public Law 107–296, 116 Stat. 2135, enacted November 25, 2002

Public Law 108-458 of December 17, 2004; 118 STAT. 3638

Implementing Recommendations of the 9/11 Commission Act of 2007 Pub.L.No. 110-53, 511, 121 Stat.266, 322 (2007)

Intelligence Reform & Terrorism Prevention Act of 2004, Pub.L.No. 108-458, 1016, 118, Stat. 3638, 3665 (2004).

5 U.S.C. § 552a (2011); 18 U.S.C. § 2510 *et seq.* (2011); 15 U.S.C. § 1681 *et seq.* (2011).

Terry v. Ohio, 392 U.S. 1, 21 (1968)

45 CFR 46.110 and 21 CFR 56.110

UN Conventions and Treaties

1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft.

1970 Convention for the Suppression of Unlawful Seizure of Aircraft.

1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

1973 Convention on the Prevention and Punishment Against Internationally Protected Persons.

1979 International Convention against the Taking of Hostages.

1980 Convention on the Physical Protection of Nuclear Material.

1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.

1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection.
1997 International Convention for the Suppression of Terrorist Bombings.
1999 International Convention for the Suppression of the Financing of Terrorism.
2005 International Convention for the Suppression of Acts of Nuclear Terrorism.
2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation.

General Assembly resolution 60/288, *The United Nations Global Counter-Terrorism Strategy*, A/RES/60/288 (8 September 2006), available from undocs.org/A/RES/60/288.

Magazine/Newspapers/ Online Sources

Amri, Arfi Bambani and Bayu Galih. "BIN Minta Peran Koordinator Intelijen Negara." *Viva.co.id*. January 26, 2011, <http://politik.news.viva.co.id/news/read/201475-bin-minta-peran-koordinator-intelijen-negara>.

Assifa, Farid. "Keluarga Anggap Penangkapan Terduga Teroris Solo Tak Sesuai Prosedur." *Kompas.com*. December 24, 2014, <http://regional.kompas.com/read/2014/12/24/1556136/Kelurga.Anggap.Penangkapan.Terduga.Teroris.Solo.Tak.Sesuai.Prosedur>.

Alvin, Silvanus. "12 WNI Gagal ke Suriah dibawa Densus 88 ke tempat Rahasia." *Liputan6.com*. March 26, 2015, <http://news.liputan6.com/read/2197733/12-wni-gagal-ke-suriah-dibawa-densus-88-ke-tempat-rahasia>.

Djamin, Awaloedin. "Polri dan Intelijen." *Lcki.org*. 2006, http://lcki.org/index.php?option=com_content&view=article&id=68%3Apolri-dan-intelijen-oleh-prof-dr-awaloedin-djamin&catid=43%3Aartikel-lain&Itemid=74&lang=id.

Erdianto, Kristian. "Penunjukan Budi Gunawan dinilai Sejalan dengan Reformasi Intelijen." *Kompas.com*. September 2, 2016, <http://megapolitan.kompas.com/read/2016/09/02/15083171/penunjukan.budi.gunawan.dinilai.sejalan.dengan.upaya.reformasi.intelijen>.

Guidetti, Ray. "Intelligence-Led Policing—A Strategic Framework." *The Police Chief* LXXVI, October 10, 2009, <http://www.policechiefmagazine.org/intelligence-led-policinga-strategic-framework/>.

Jones, Sidney. "Sisi Gelap Reformasi di Indonesia: Ancaman Masyarakat Madani Intoleran." *Paramadina.or.id*. December, 2013.

Jones, Sidney. "Lessons Learned from Indonesia's conflicts: Aceh, Poso and Papua." *Insideindonesia.org*. October 5, 2014, <http://www.insideindonesia.org/lessons-learned-from-indonesia-s-conflicts-aceh-poso-and-papua>.

Sibuea, Haris Y.P. "Keberadaan Detasemen Khusus (Densus) 88 Dalam Pemberantasan Tindak Pidana Terorisme." *Info Singkat* 5, No. 10 (2013): 1-2 http://berkas.dpr.go.id/puslit/files/info_singkat/Info%20Singkat-V-10-II-P3DI-Mei-2013-46.pdf.

Kelling, George L and William J. Bratton. "Policing Terrorism." *Manhattan-institute.org*. Civic Bulletin 43, 2006, http://www.manhattan-institute.org/html/cb_43.htm.

Lambert, David. "Intelligence-Led Policing in a Fusion Center." *FBI Law Enforcement Bulletin* 79, No. 12 (2010), 1-6.

Lindsey, Tim. "Indonesia's New Anti-Terrorism Laws: Damned if You Do, Damned if You Don't." *jurist.org*. October 30, 2002, <http://www.jurist.org/forum/forumnew65.php>.

Margianto, Heru. “Komnas HAM: Penembakan Terduga Teroris Tulungagung Melanggar HAM.” *Kompas.com*. August 4, 2013, <http://nasional.kompas.com/read/2013/08/04/1651331/Komnas.HAM.Penembakan.Terduga.Teroris.Tulungagung.Langgar.HAM>.

Panggabean, E. “Pengumpul Dana Teroris Dituntut Sembilan Tahun.” *Liputan 6*, 1 March, 2011, <http://news.liputan6.com/read/322431/pengumpul-dana-teroris-dituntut-sembilan-tahun>.

Panner, Morris. “Law Enforcement Intelligence in a Free Society: a Review of the Attorney General’s Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations,” <http://www.law.harvard.edu/programs/criminal-justice/ag-guidelines.pdf>.

Pinardi, Sigit. “Tito Fokuskan Program BNPT pada Pencegahan Terorisme.” *Antaraneews.com*, March 16, 2016, <http://www.antaraneews.com/berita/550394/tito-fokuskan-program-bnpt-pada-pencegahan-terorisme>.

Putra, Putu Merta Surya. “Ini Aliran Dana Teroris di Indonesia Versi PPAATK.” *Liputan6.com*. December 29, 2015, <http://news.liputan6.com/read/2399751/ini-aliran-dana-teroris-di-indonesia-versi-ppatk>.

Ramadhan, Bilal. “12 WNI Terduga ISIS di Malaysia Segera dipulangkan.” *Republika.co.id*. 15 December 2014, <http://nasional.republika.co.id/berita/nasional/hukum/14/12/15/ngmdqp-12-wni-terduga-isis-di-malaysia-segera-dipulangkan>.

Roach, Kent. “Indonesia’s Delicate Balancing Act.” <https://www.law.utoronto.ca/documents/Roach/indonesia.pdf>

Sapiie, Marguerita Afre. “Indonesia to Discuss joint task force with Philippines.” *Jakartapost.com*. August 1, 2016, <http://www.thejakartapost.com/news/2016/08/01/indonesia-to-discuss-joint-task-force-with-philippines.html>.

Tashandra, Nabila. “Enam Pasal dalam Revisi UU Terorisme Perlu dikaji Ulang.” *Kompas.com*. September 6, 2016 <http://nasional.kompas.com/read/2016/06/09/18575081/enam.pasal.dalam.revisi.uu.terorisme.perlu.dikaji.ulang>.

Triyana, Bonnie. “Petrus: Kisah Gelap Orba.” *Historia.id*. December 20, 2010, <http://historia.id/modern/petrus-kisah-gelap-orba>.

Wasono, Hari Tri “Terorisme Masih DPR Tuding Tak Ada Koordinasi.” *Tempo.co.id*. July 23, 2013 <http://nasional.tempo.co/read/news/2013/07/23/063498881/terorisme-masih-ada-dpr-tuding-tak-ada-koordinasi>.

Wells, Ronald. “Intelligence-Led Policing a New Paradigm in Law Enforcement.” *Patc.com*. http://www.patc.com/weeklyarticles/intelligence_policing.shtml.

Wilson. “Marulloh, Aktivis HAM Tanjung Priok.” *Indoproggress.com*. May 31, 2013. <http://indoproggress.com/2013/05/marulloh-aktivis-ham-tanjung-priok/>.

Yang, Fang. “Australia Welcomes Baasyir Verdict.” *Xinhuanet.com*, June 16, 2011, http://news.xinhuanet.com/english2010/world/2011-06/16/c_13933893.htm.

“83 Teroris Ditembak Mati, Komnas HAM Tuding Penanganan Berpotensi Langgar HAM.” *Komnasham.go.id*. <http://www.komnasham.go.id/informasi-rekam-media/83-teroris-ditembak-mati-komnas-ham-tuding-penanganan-berpotensi-langgar-ham>.

“PPATK Temukan Aliran Dana dari Australia Rp 7 Miliar untuk Teroris di Indonesia.” *Tribunnews.com*, November 29, 2015, <http://jateng.tribunnews.com/2015/11/29/ppatk-temukan-aliran-dana-dari-australia-rp-7-miliar-danai-teroris-indonesia>.

“Seperti Inilah Kerjasama Manis Densus 88 dengan PPATK.” *Jpnn.com*, March 28, 2015, <http://www.jpnn.com/news/seperti-inilah-kerjasama-manis-densus-88-dengan-ppatk>.

“PPATK Tandatangani MOU Pertukaran Informasi Keuangan dengan 3 Negara.” *Detik.com*, July 16, 2011, <http://news.detik.com/berita/1682440/ppatk-tandatangani-mou-pertukaran-informasi-keuangan-dengan-3-negara>.

“Undang-undang Anti-Terrorisme: Yang direvisi adalah Pasal-pasal Pencegahan.” *Kompas.com*. August 15, 2003.

“Imparsial: Koordinasi Lemah Teror Berlanjut.” *Kompas.com*. September 29, 2011. <http://nasional.kompas.com/amp/read/2011/09/29/21225179/Imparsial.Koordinasi.Lemah..Teror.Berlanjut>.

“DPR Curiga Ada Agenda Tersembunyi dibalik Isu ISIS.” *Sindonews.com*. March 21, 2015, <http://nasional.sindonews.com/read/979450/14/dpr-curiga-ada-agenda-tersembunyi-di-balik-isu-isis-1426887869>.

“Peran Intelijen Sangat Menentukan dalam Penanganan Terorisme.” *Jurnalparlemen.com*. September 10, 2012, <http://www.jurnalparlemen.com/view/1621/peran-intelijen-sangat-menentukan-dalam-penanganan-terorisme.html>.

“PBNU Serahkan Data 12 Yayasan yang Dinilai Berpaham Radikal.” *Hidayatullah.com*. August 23, 2013, <http://www.hidayatullah.com/read/2013/08/23/5990/pbnu-serahkan-data-12-yayasan-yang-dinilai-berpaham-radikal.html>.

“Lacak dari Sinyal Hp, Densus Nyamar jadi Penjual Mainan.” *Jpnn.com*. December 11, 2010, <http://www.jpnn.com/read/2010/12/11/79323/Lacak-dari-Sinyal-Hp,-Densus-Nyamar-jadi-Penjual-Mainan->.

“Wapres Nyatakan Tidak Ada Teroris di Indonesia”, *Media Indonesia*, June 6, 2002.

“Hasil Pengujian UU No. 16 Tahun 2003: Asas Retroaktif bertentangan dengan UUD.” *Mahkamahkonstitusi.go.id*. September 6, 2004. http://www.mahkamahkonstitusi.go.id/public/content/infoumum/majalahkonstitusi/pdf/BOOK_BMK%206.pdf.

“Counter-terrorism Act 2008.” *Theguardian.com*, January 19, 2009, <https://www.theguardian.com/commentisfree/libertycentral/2009/jan/19/counter-terrorism-act>.

“Terrorism Prevention and Investigation Measures Act.” *Politic.co.uk*. <http://www.politics.co.uk/reference/terrorism-prevention-and-investigation-measures-act>

“Northern Ireland Terror Threat Level Raised in Great Britain.” *Bbc.com*. May 11, 2016, <http://www.bbc.com/news/uk-36267052>.

“Terror in South-East Asia: The elusive enemy,” *Economist.com*. August 1, 2002, <http://www.economist.com/node/1259532>.

“Dr. Leo Suryadinata: UU Antiterrorisme Belum Tentu Perbaiki Hubungan Indonesia.” *kompas.com*, October 10, 2002. <https://www.kontras.org/home/index.php?module=berita&id=653>.

BNPT dan Penguatan Intelijen Kontraterorisme <http://nasional.kompas.com/read/2010/10/08/02524084/BNPT.dan.Penguatan.Intelijen.Kontraterorisme>

“TNI Gerebek Lokasi Latihan Militer di Bojongpicung”. *Tribunews.com*. February 22, 2014, <http://www.tribunews.com/regional/2014/02/22/tni-gerebek-lokasi-latihan-militer-di-bojongpicung>.

“TNI to Play Backup Role in Terror Fight.” *Jakartapost.com*. November 12, 2010.

“Loreng Darah Mengalir di Balik Gunung Poso.” *Republika.co.id*. January 16, 2015, <http://www.republika.co.id/berita/koran/teraju/15/01/16/ni94gc36-loreng-darah-mengalir-di-balik-gunung-poso>.

“Ini Cerita Panglima TNI Bagaimana Operasi Penyergapan Santoso.” *Kompas.com*. July 19, 2016. <http://nasional.kompas.com/read/2016/07/19/18313581/ini.cerita.panglima.tni.bagaimana.operasi.penyergapan.santoso>.

“Military Role in Terror Fights ‘Needs Rules’.” *Jakarta Post.com*. October 4, 2010.

“Ini Kronologi Bentrok TNI-Brimob di Karawang.” *Tempo.co*. November 20, 2013, available online at <https://m.tempo.co/read/news/2013/11/20/058530953/ini-kronologi-bentrok-tni-brimob-di-karawang>.

“Laporan Intelijen Belum Pernah Dipakai, dalam mengenang Perpu Antiterorisme.” *Suara Muhammadiyah*, August 2003.

“Ketua MA: Hanya Laporan dari BIN yang diterima di Pengadilan.” *Kompas*, Jum’at 22 November, 2002.

“Korban ‘Petrus’ 1982-1985 Capai 10 Ribu”. *Tempo.co*, June 11, 2012, <https://m.tempo.co/read/news/2012/07/24/078419026/korban-petrus-1982-1985-capai-10-ribu-orang>.

International Organization for Migration (IOM)-Polri Cooperation, Newsletter, April 1, 2008.

“Opening Statement: Strengthening the Implementation of the United Nations Global Counter Terrorism Strategy.” June 13, 2013, <http://www.un.org/en/terrorism/ctitf/pdfs/opening-session-stmt-Indonesia.pdf>.

I. “How Can Police, Military, and National Intelligence be Integrated?” <https://medium.com/homeland-security/how-can-police-military-and-national-intelligence-be-integrated-7af66dfd1822#.af819rqzg>

“Rulers of Muslim Countries Involved in Global Crime with CIA.” *Hizbut-tahrir.or.id*. Februari 25, 2013, <https://hizbut-tahrir.or.id/2013/02/25/rulers-of-muslim-countries-involved-in-global-crime-with-cia/>

“16 Pasal Bermasalah UU Intelijen.” *Beritasatu.com*. January 6, 2012, <http://www.beritasatu.com/nasional/24676-16-pasal-bermasalah-uu-intelijen.html>.

“Press Release Koalisi Advokasi UU Intelijen Negara: UU Intelijen Negara Mengancam dan Membatasi Hak Konstitusional Warga Negara.” *Elsam.or.id*. January 5, 2012, <http://lama.elsam.or.id/mobileweb/article.php?id=1719&lang=in>

“MK Tolak Judicial Review UU Intelijen Negara” <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=7616#.WCaBXfI97IU>;

“ASEAN Efforts to Counter-Terrorism.” *Asean.org*, July 4, 2012. http://www.asean.org/?static_post=asean-efforts-to-counter-terrorism-this-paper-was-prepared-for-the-un-counter-terrorism-committee.

“Letter from American Civil Liberties Union, Council on American-Islamic Relations, Asian Pacific American Legal Center.” *Coalition for Human Immigrant Rights of Los Angeles, South Asian Network & Sikh American Asian Legal Defense Fund to LAPD Chief Beck and*

Deputy Chief Dowling. March 2, 2012, www.aclu-sc.org/lapd-should-halt-destructive-suspicious-activity-reporting-policies/.

“Select Committee on European Union Twenty-Ninth Report, Chapter 4: Working Methods, Intelligence Led Policing.” <http://www.publications.parliament.uk/pa/ld200708/ldselect/ldcom183/18307.htm>.

“Fact Sheet: Justice Department Counter-Terrorism Effort Since 9/11.” September 11, 2008. <https://archives.fbi.gov/archives/news/pressrel/press-releases/fact-sheet-justice-department-counter-terrorism-efforts-since-9-11>.

“Fact Sheet: Justice Department Counter-Terrorism Efforts Since 9/11.” <https://www.justice.gov/archive/opa/pr/2008/September/08-nsd-807.html>.