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ACLU Report Questions 'Suspicious Activity' Reporting

OCTOBER 30, 2013 · 4:40 PM ET

DANIEL ZWERDLING

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The American Civil Liberties Union has obtained internal documents from the federal government's anti-terrorism programs — relying on "suspicious activity reports" — that suggest that state law enforcement officials and others have repeatedly questioned their value.

AUDIE CORNISH, HOST:

From NPR News, this is ALL THINGS CONSIDERED. I'm Audie Cornish.

ROBERT SIEGEL, HOST:

And I'm Robert Siegel.

After the terrorist attacks of 9/11, the Bush administration set up several programs to prevent future attacks. One of those was a national centralized system to help law enforcement report people engaged in suspicious activities, people who might be terrorists.

Today, the ACLU released almost 2,000 pages of internal government documents. And they show that some law enforcement officials themselves have been concerned that the program isn't working right. NPR's Daniel Zwerdling reports.

DANIEL ZWERDLING, BYLINE: The ACLU asked the government for these documents a few years under the Freedom of Information Act. Federal officials refused to turn most of them over. So the ACLU sued to get them. Nusrat Choudhury, one of the ACLU's attorneys, says the government's own emails and memos reinforced what privacy groups have been warning about for years.

NUSRAT CHOUDHURY: Our concern is that the government is collecting oceans of information about innocent people who aren't doing anything wrong.

ZWERDLING: This program is totally separate from the National Security Agency and the way they've collected information about

Americans' emails and phone calls. Under this program, everybody from local police to the FBI is supposed to spot people engaged in suspicious behaviors and then report them to the federal government. Even private security teams of major companies feed reports into the system. The government has online videos to teach officials how to do it.

(SOUNDBITE OF ONLINE VIDEO)

UNIDENTIFIED MAN: This training is designed to increase your awareness of the Nationwide Suspicious Activity Reporting or SAR Initiative.

ZWERDLING: The FBI controls part of this program. They are pieces called eGuardian. The Justice Department oversees all of it.

(SOUNDBITE OF ONLINE VIDEO)

UNIDENTIFIED MAN: SARs focus on observed behaviors and incidents reasonably indicative of pre-operational planning related to terrorism or other criminal activity.

ZWERDLING: But according to the documents the ACLU got, law enforcement officials around the country have different definitions of what reasonably indicative means. For instance, back in 2010, a consultant to the International Association of Police Chiefs wrote this to the Justice Department: What I'm looking for is if there's a definition of a suspicious activity report. And an official in California wrote: Some clarification would really help us out.

And NPR revealed a couple of years ago that police filed a suspicious activity report on an elderly Pakistani man near Minneapolis after he left a cellphone on a table at the Mall of America. They worried the phone might be used in a terrorist attack. Officials there also reported one of the greeters at the Mall of America, one of those men who says, hi, can I help you? He had posted a note threatening the nuclear obliteration of a smelly trash can. Nusrat Choudhury of the ACLU.

CHOUDHURY: What we've seen in these documents obtained by the ACLU are that state and local agencies participating in nationwide suspicious activity reporting programs have been confused and given inadequate guidance about how to collect suspicious Activity reports while protecting American's rights.

ZWERDLING: Nusrat Choudhury, it seems to me there's another way to look at all this, which is, this is a work-in-progress, and the fact that people inside the system raised concerns about it shows they're diligently working up the case and perfecting it.

UNIDENTIFIED WOMAN: Well, unfortunately, that's not what the documents show.

ZWERDLING: We asked spokesmen about the justice department and the FBI to talk with us about the ACLU's report and the documents. They wouldn't give us an interview. But earlier this year, the federal government's watchdog agency put out its own report on the suspicious activity reporting program. The Government Accountability Office said that state and local officials they interviewed generally said it worked well. But the investigators found that federal officials cannot say whether the system has actually made the country safer. Daniel Zwerdling, NPR News.

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