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In terrorism fight, government finds a surprising ally: FedEx

Thursday, May 26, 2005

By Robert Block, The Wall Street Journal

MEMPHIS, Tenn. -- Before Sept. 11, 2001, when federal law-enforcement officials asked FedEx Corp. for help, the company had its limits. It wouldn't provide access to its databases. It often refused to lend uniforms or delivery trucks to agents for undercover operations, citing fears of retribution against employees as well as concerns about customer privacy.

Then came the attacks on New York and Washington and pleas from the government for private-sector help in fighting terrorism. Suddenly, the king of overnight delivery became one of homeland security's best friends.

FedEx has opened the international portion of its databases, including credit-card details, to government officials. It has created a police force recognized by the state of Tennessee that works alongside the Federal Bureau of Investigation. The company has rolled out radiation detectors at overseas facilities to detect dirty bombs and donated an airplane to federal researchers looking for a defense against shoulder-fired missiles.

Moreover, the company is encouraging its 250,000 employees to be spotters of would-be terrorists. It is setting up a system designed to send reports of suspicious activities directly to the Department of Homeland Security via a special computer link.

FedEx's newfound enthusiasm for a frontline role in the war on terror shows how the relationship between business and government has changed in the past few years. In some cases, these changes are blurring the division between private commerce and public law enforcement.

After Sept. 11, the U.S. government altered the definition of a good corporate citizen to include help running down al Qaeda operatives, often asking companies to act as the eyes and ears of federal law enforcement. The Bush administration and Senate Republican leaders are currently pushing an updated version of the Patriot Act that would expand the ability of law-enforcement agencies to demand business records without a warrant. Already, some companies are voluntarily increasing their level of cooperation with the government, say law-enforcement officials.

Federal agents privately praise Western Union for sharing information with Treasury and Homeland Security investigators about overseas money transfers. Time Warner Inc.'s America Online has set up a dedicated hotline to help police officers seeking AOL subscriber information and also proffers advice about wording subpoenas. Wal-Mart Stores Inc., which has a sophisticated supply-chain security system, has been helping U.S. Customs and Border Protection agents

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figure out how to better track international shipping, say Homeland Security officials.

Spokespeople for Western Union, AOL and Wal-Mart all say their companies take consumers' privacy seriously and that they cooperate with legal investigations. They wouldn't provide details about their cooperation with the government.

Business associations say the government's call to arms gets a good reception in part because companies want to prevent the disruption and bad publicity that would come from terrorists using their systems. "All we are trying to do is to protect our assets and not have our assets be used for bad purposes," says Fred Smith, FedEx's chief executive.

Supporters of an expanded role for business in homeland security note that U.S. industry has often been a government ally in wartime. After the 1941 attack on Pearl Harbor, U.S. manufacturers responded by retooling factories to produce tanks, trucks, planes and munitions.

Cooperation between businesses and federal law-enforcement agencies generally isn't advertised and customers are seldom aware of it. In some cases, people waive their right to privacy when they use a particular company's service. With FedEx, customers consent to having shipments inspected as soon as they hand over their packages and sign the shipping forms.

Lee Strickland, a retired Central Intelligence Agency analyst and a specialist in privacy issues, says the new cooperation between business and the government takes place in a legal "gray zone" that has never been tested in court. He says these relationships could undermine existing privacy laws that restrict what the government can do with information it collects directly from individuals. In general, the government can only use information for the express reason it's collected.

"Since you don't know what information is being shared and how it is being stored, or how it is coded or accessed, and since you don't know what the government is looking for, there is always a possibility that it could be factored into other decisions," says Mr. Strickland. He is now the director of the Center for Information Policy at the University of Maryland.

Some companies in a position to assist aren't rushing to help. OnStar, General Motors Corp.'s in-car emergency communications system, says it won't provide information to authorities, such as the location of a vehicle, unless presented with a warrant. "OnStar philosophy is to err on the side of customer privacy," says Terry Sullivan, an OnStar spokesman. He says the company fears the public won't buy the system if people believe it's being used for surveillance.

Other shippers say they have refrained from granting a level of access similar to that of FedEx without court orders. At rival United Parcel Service Inc., spokesman David Bolger says the company won't disclose information about its customers' shipments unless required to do so by law or regulation.

The U.S. Postal Service says it doesn't provide customer payment information without a warrant. In addition, postal officials say, law-enforcement agencies are prohibited from collecting information from envelopes and packages sent through the mail without a court order.

Government officials say that the struggle against terrorism is an unorthodox fight where information and intelligence is as important as guns and bullets. Information is what FedEx has in spades.

To orchestrate its deliveries, FedEx has spent billions of dollars over the past 15 years on elaborate computer systems. It compiles troves of data about its customers and the six million packages carried daily across the world, tracking them from point of origin to final destination.

The company also maintains a large global security force, currently 500 strong. Before 9/11, it concentrated on combating employee theft and intercepting illegal shipments of narcotics, explosives or hazardous materials.

FedEx's change in mindset took place within hours of the attacks amid the confusion and frustration that followed. Mr. Smith sent a message to his subordinates "to do whatever it takes to cooperate" with federal agents, says FedEx spokeswoman Kristin Krause. This included opening up FedEx's operations in the Middle East to federal authorities and asking employees there to help investigators.

The reason behind the shift, FedEx security officials say: The company saw the nature of the threat changing. When the government wanted help fighting drugs and smuggling, FedEx felt many of its requests were intrusive and threatened to slow the pace of their deliveries.

When the worry was terrorism, Mr. Smith says, the company saw its entire system as vulnerable because trucks and planes have been the "instrument of choice" of extremists such as Timothy McVeigh as well as Islamist terrorists. FedEx's security team -- which includes several former federal law-enforcement officials -- took tactics for thwarting drug traffickers and adapted them for use against terrorism. Among them was encouraging employees to report unusual activity, no matter how small.

In December 2001, according to court records in Illinois, a FedEx driver became suspicious after making a series of deliveries of boxes to an apartment complex in suburban Chicago. The cartons were always the same size and shape and came from the same address in Los Angeles. Worried there was something sinister afoot, the driver informed his bosses and FedEx called the police.

Suspecting narcotics or explosives, the police showed up at the FedEx depot with bomb- and drug-sniffing dogs. The dogs didn't signal there was anything illicit in the boxes. FedEx then invoked the authority granted to it by every customer, which the police don't automatically have, permitting it to inspect any package without a warrant.

With a police officer looking on, FedEx popped the carton. Instead of anything dangerous, the boxes contained several hundred pre-recorded compact discs. Local police launched an investigation that eventually uncovered a CD-bootlegging operation.

At FedEx's main hub in Memphis, Tenn., cartons and envelopes whiz around a maze of automatic conveyor belts past giant laser scanners charting each package's journey. The parcels are sorted by employees armed with pocket guides to help identify suspicious packages. Security guards keep watch through a network of cameras. Customs agents' cars marked with the Homeland Security logo are parked outside some of the buildings.

By law, all express courier services are required to provide space for U.S. Customs and Border Protection agents at their facilities. Since 9/11, FedEx has gone further and has granted customs inspectors access to the company's database of international shipments, which includes the name and address of a shipper, the package's origin and its final destination.

The databases also include credit-card information and other payment details that

the government is not entitled to solicit outside of a criminal investigation. "Our guys just love it," says one senior customs official overseeing inspections at international courier companies.

The agents cross-reference the information from FedEx's systems with their own databases. That helps them flag suspicious packages for a manual inspection and also helps them determine whether credit cards have been used in other suspicious transactions. FedEx and customs officials say the close cooperation allows customs agents do their jobs faster and allows FedEx to avoid shipment delays.

Pat Jones, a spokesman for Customs and Border Protection, says having access to FedEx's database has resulted in the seizure of several packages, including forged Iowa drivers licenses sent from Argentina, although nothing related to terrorism.

Sitting in FedEx's huge Washington office, which has a commanding view of the Capitol building, Mr. Smith, 61 years old, dismisses privacy concerns stemming from his company's cooperation with federal agencies. He says people already hand over tremendous amounts of information to the government, including personal-income data and details contained on a driver's license.

"As far as asking people to identify who they are, I don't think that's a real imposition. And to make that information available to the people protecting the public, I don't understand why that's as controversial as that has become," says Mr. Smith, who started FedEx 34 years ago after two tours of duty in Vietnam as a Marine officer. He says FedEx is willing to cooperate with federal authorities "up to and including the line on which we would be doing a disservice to our shareholders."

In a recent article in Chief Executive magazine, Mr. Smith wrote that his fellow corporate leaders had a duty to report suspicious activity. It's only by "training and empowering our own employees" that terrorism can be contained, he wrote.

Mr. Smith also sees a quid pro quo: In the post-Sept. 11 world, he sees the government sharing more with the private sector. As the president of the Security Task Force of the Business Roundtable -- an association of top U.S. chief executives -- Mr. Smith is leading a drive to gain access to the government's secret terrorist watch lists. He says they would be an invaluable tool to help companies screen employees.

So far the FBI, which controls the lists, says there's no sign the government will grant access to the classified databases. But FedEx already has access to some classified information through other channels.

Two years ago, after intense lobbying by FedEx of the Tennessee state legislature, the company was permitted to create a 10-man, state-recognized police force. FedEx police wear plain clothes and can investigate all types of crimes, request search warrants and make arrests on FedEx property. The courier cops say their main job is to protect company property and systems from abuse and fraud and help combat terrorists and criminals.

As a recognized police force in Tennessee, it has access to law-enforcement databases. FedEx also has a seat on a regional terrorism task force, overseen by the FBI, which has access to sensitive data regarding terrorist threats. Robert Bryden, the recently retired vice president of FedEx corporate security, says it's "remarkable" for a private company to have a seat on the task force. Across the country, FedEx is the only one, the FBI says.

FBI agent George Bolds, general counsel in the bureau's Memphis field office, says the bureau believes the FedEx police have a contribution to make. He says

they can't go on raids or undertake surveillance missions with other task-force members.

The government also recognizes FedEx's potential as a vast human-intelligence network. The company's teams of drivers and delivery staff ply regular routes and visit homes and workplaces across the world. That puts them in a unique position to recognize potentially dangerous activity.

In 2002, the Department of Justice, under then-Attorney General John Ashcroft, devised a program to create an army of domestic informants. Operation Terrorism Information and Prevention System, or TIPS, envisioned workers such as couriers, meter readers, utility companies, truck drivers, letter carriers and train engineers organized into a force that would "report suspicious, publicly observable activity that could be related to terrorism," the government said at the time.

TIPS was supposed to be up and running by fall of 2002 but was abandoned after a public outcry and complaints from some companies. When UPS first heard about the program, its officials told the Department of Justice their employees would not participate, says spokesman Mr. Bolger. "We said we don't have time and our employees don't know what to look for. We are not law enforcement," he says.

After the collapse of TIPS, FedEx pressed ahead with its own program, one that embodied many of the same objectives, much to the delight of the government.

In a June 2003 speech delivered at a law-enforcement conference, then-Assistant Attorney General Deborah J. Daniels praised the firm for demonstrating "the tremendous role that companies like FedEx can play in passing along information about publicly observed aberrant behavior."

Mr. Bryden, the former security chief, says FedEx worked with Homeland Security officials last summer to develop a computer system that simplifies the reporting of suspicious behavior. FedEx spokeswoman Ms. Krause says the two sides met again in March and says the program should soon go through testing. The Department of Homeland Security declined to comment on the program.

"We secure our supply chain and help the country," says Mr. Bryden. "And we believe that's exactly what our customers want."

Shipping News

FedEx is one of a growing number of companies that have stepped up assistance to federal law enforcement. Its cooperation has included:

- FedEx Police, a 10-man detective force in Tennessee that assists the FBI
- Encouraging its 250,000 employees to look out for possible threats
- Developing a computer system to report suspicious activity directly to the Department of Homeland Security
- Radiation detectors to sniff for dirty bombs at overseas facilities
- Opening FedEx's international shipping database, including credit-card details, to U.S. Customs

Source: FedEx

Complete Package

Facts about FedEx:

Founded: 1971

CEO: Fred Smith

2004 Revenue: \$24.7 billion

Headquarters: Memphis, Tenn.

Average daily volume: More than six million shipments

Employees: About 250,000

Facilities: Over 3,000

Coverage: More than 220 countries and territories

Air operations: 671 planes and over 375 airports served

Ground fleet: More than 71,000 vehicles

Global security force: 500 plus

Sources: the company

(Gary Fields, Glenn R. Simpson and Rick Brooks contributed to this article.)

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