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FOCUS ON FUSION CENTERS: A PROGRESS REPORT

HEARING

BEFORE THE

AD HOC SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE SECTOR PREPAREDNESS AND INTEGRATION

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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THURSDAY, APRIL 17, 2008

U.S. SENATE,
AD HOC SUBCOMMITTEE ON STATE, LOCAL, AND
PRIVATE SECTOR PREPAREDNESS AND INTEGRATION,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:02 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Mark Pryor, Chairman of the Subcommittee, presiding.

Present: Senator Pryor.

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. I will go ahead and call the meeting to order. I want to thank everyone for being here today.

You may not remember, but years ago there was a game show called "Beat the Clock." That is what we are doing today, because the Senate is trying to schedule a series of votes that will start at 3 or maybe 3:15 p.m.. So I am going to keep my comments short, but if you all want to go ahead and take your full 5 minutes on your opening, you can. I do not think we have to keep it that short, but if you want to abbreviate that, that is fine, too.

Let me welcome everyone here to the Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration. This hearing is entitled "Focus on Fusion Centers: A Progress Report." We have a great witness list today that I am going to introduce in just a moment. In this hearing we are trying to assess the role of the Federal Government in coordinating with and providing guidance to fusion centers. And for the general public who may not know what a fusion center is, we are going to be talking about that today because there are some different definitions. Different States and communities have some nuances within their fusion centers so they are not uniform or easy to define. But basically fusion centers are a cooperation between two or more agencies that provide resources, expertise, and information with the goal of maximizing the ability to detect, prevent, investigate, apprehend, and respond to criminal and terrorist activity. I know that is a mouthful, but that is generally what they do.

I would like to go ahead and introduce the first panel. After introductions you may give your 5-minute opening statements. Then I will have some questions. We may be joined by other Senators.

First, let me welcome Captain Charles Rapp. He is the Director of the Maryland Coordination and Analysis Center. Captain Rapp is a 25-year veteran of the Baltimore County Police Department. In addition to his current position, he has held command positions as a precinct commander, criminal investigations commander, and academy director. He will talk about the day-to-day functions of a fusion center and baseline capabilities.

Next, we will have Matt Bettenhausen, Homeland Security Adviser, State of California. For the past 3 years, he has served the State of California while concurrently acting as Chairman of the National Governors' Association's Homeland Security Advisory Council. Prior to that, he was DHS' first Director of State and Territorial Coordination. He will be looking at coordination and cooperation between State and regional fusion centers, as well as how States can use fusion centers to protect critical infrastructure.

And last, we will have Russell Porter. He is the Director of the Iowa Intelligence Fusion Center. Mr. Porter has been assigned to work criminal intelligence since 1984. In addition to serving Iowa as Fusion Center Director and Chief of the Intelligence Bureau, he also holds the chairmanship of the Law Enforcement Intelligence Unit, the oldest law enforcement intelligence organization in the country. Today he will talk about the importance of prioritizing civil liberties and privacy when conducting this type of analysis.

Captain Rapp, we will start with you.

TESTIMONY OF CAPTAIN CHARLES W. RAPP,[1] DIRECTOR, MARYLAND COORDINATION AND ANALYSIS CENTER

Mr. RAPP. Thank you, Chairman Pryor, and I would like to thank you for inviting me to provide comments to you today. The fusion center program I think is crucial to detecting terrorist activity designed to jeopardize the safety of our citizens.

Obviously, my comments today are based on my experience managing the Maryland Coordination and Analysis Center (MCAC) over the past 2 years. I have learned a great deal about the intelligence community and the role fusion centers should play in that process. The level of information available to State, local, and tribal partners is unprecedented in volume. The flow of this information is greatly improved. One of our greatest challenges is to expeditiously process the profusion of information to determine what is useful to our consumers. State and local public safety officials require a great deal of information on threats and the mechanics of the threats. Managing the information flow is only one challenge for fusion centers.

It is a highly dynamic process. We constantly adjust and refine our procedures to ensure maximum information relevance to our consumers. Local training for our analysts is key to achieving this end. We must teach each analyst to more efficiently glean any and all relevant data for their consumers. Federal training programs can be beneficial, but usually take an analyst away from the job for an extensive period and are not necessarily geared to the local level. We need to develop specialized training for State and local analysts that can be completed in segments and/or using a multi-

[1] The prepared statement of Mr. Rapp appears in the Appendix on page 00.

faceted method of instruction. It is also imperative that we make our Federal partners understand that giving us access to information does not necessarily equate to sharing information.

Another facet of this process is to educate State and local managers about what information they need and what they can expect from the fusion centers. Many State and local managers narrowly seek only tactical information, while ignoring a broader strategic analysis that could benefit their agencies. The intelligence cycle and the information they could receive is still unclear to many of these decisionmakers.

Collection of information is another challenge for the local jurisdictions. In Maryland we have gone to a regional concept. We now have three regional centers that are operating in more rural parts of the State. We hope to take those regional centers and collect information locally which can benefit the local partners of those regional centers and then direct their information into the MCAC as a main hub of information.

In the MCAC, we will be able to take that information and use it with the participating agencies not only to see a better threat picture for the entire State of Maryland, but also hopefully to put information back to the local agencies, both from the Federal Government and from our main center, that will be beneficial to their jurisdictions.

The additional critical role that fusion centers are fulfilling is a conduit to pass information quickly between States so the information is available to first responders when they need it. Fusion centers are poised to detect precursors to terrorist activity. They allow for a vigorous exchange of information on breaking events among first responders nationwide. Shootings at Virginia Tech and Northern Illinois University are recent examples. One of the first issues addressed is establishing if there is a link to terrorism. Obtaining and providing accurate information is essential to the role of fusion centers, and fusion centers need to act as a hub of information as well—places where information can be reported and take the responsibility of passing it to the first responders and others that need the information. Fusion centers are sharing more time-sensitive information about organized activities and gang-related activities more quickly than they have in the past.

Our next largest challenge will be deciding what information and capabilities a fusion center should provide. Last year, I sat on a committee that developed a draft of baseline capabilities for fusion centers. This draft was meant to develop some core capacities and to provide some guidance as to the capacities that the group thought would be important for fusion centers to meet. The baseline capabilities were meant to be obtainable by each center and provide some direction on where they should develop. The criteria for the baseline document was developed based on what would satisfy current gaps and would benefit first responders with a statewide information-sharing strategy. Some of the baseline capabilities represent a challenge for many of the centers, including my own, which has not met all of the baseline capabilities needs.

Once baseline capabilities are accepted and adopted, fusion centers will know where to focus efforts to develop core capacities. The next step will be funding the core capacities. Once a measure has

been developed, then the value of each center can be assessed. However, without a consistent funding stream some centers may never attain the core capabilities. My own center depends on Homeland Security Grant Program Funds and Urban Area Security Initiative Funds to operate the center.

The next step is using the core capacities to develop the operational components within the States. Baseline capabilities require a statewide threat assessment listing vulnerabilities and gaps from which prioritized collection requirements can be derived. Once the centers develop the prioritized information needs, they can clearly communicate that to collectors. Collectors will then report back to the fusion centers enhancing the capacity of the State to detect potential precursors to terrorist activity. This should then be the focal point for Federal agencies to synthesize their intelligence with any intelligence gathered on a local level. This is not happening. The FBI's Joint Terrorism Task Forces have been reluctant to integrate fusion centers into their intelligence-gathering operations. Instead, they continue to rely on State and local task force members to relay information to their agencies. This compartmentalization of information gathering and sharing is counterproductive and counterintuitive to the fusion center concept. Without the full cooperation of our intelligence-gathering agencies, the effectiveness of our fusion centers and thereby the safety of our citizens will always be compromised.

We have made many strides in developing linkages to Federal information streams. The Department of Homeland Security, Intelligence and Analysis Division, headed by Under Secretary Charles Allen, is proactively moving forward. Over the past 2 years, we have developed the Homeland Security Information Network State and Local Intelligence Portal Community of Interest, known as HS SLIC, which has become a vital link and extremely beneficial tool for fusion centers. The advisory board, with one representative from each State, approves membership to the portal which ensures data is being shared with appropriate audiences. The connectivity of the States within this portal is very effective and allows members to exchange information within a secure environment.

In addition, that advisory board has been called by Mr. Allen to offer perspectives to him on the information flow from the State and local governments to the Federal Government, and that has been an open dialogue which has been very beneficial for the States.

With time running down, I am going to cut off there, but I would be happy to answer any of your questions. Thank you.

Senator PRYOR. Thank you. Mr. Bettenhausen.

TESTIMONY OF MATTHEW BETTENHAUSEN,[1] DIRECTOR, CALIFORNIA OFFICE OF HOMELAND SECURITY

Mr. BETTENHAUSEN. Thank you, Senator Pryor, and we appreciate your interest in this as well as your leadership in making America a safer, better prepared Nation, and I appreciate the opportunity to be here on behalf of Governor Schwarzenegger and the National Governors' Association.

[1] The prepared statement of Mr. Bettenhausen appears in the Appendix on page 29.

Because this is also informational, I would like to share a couple stories with you to demonstrate why terrorism prevention is everybody's business.

Prior to September 11, 2001, the view was that terrorism prevention and prosecution was exclusively a Federal function. And it was. The FBI had the exclusive jurisdiction over domestically—CIA and some of the other intelligence community—and foreign. And we had set up a number of walls and barriers to that. And I have spent most of my career as a Federal prosecutor, but I have also spent probably more than anybody else as a State Homeland Security Adviser, both in California and previously in Illinois.

But the example that I like to use is Timothy McVeigh in 1995. When that Oklahoma City bombing happened, the initial part of that investigation moved to Chicago because the Federal building had been bombed there but, more importantly, at the time the two reservation systems for the United States, Sabre and Apollo, were located in Chicago. And we, as a Federal Government, were then looking to the international connections to terrorism with that tragic bombing incident. And while we, as a Federal Government, were busying ourselves looking for that international connection to terrorism, there was a trooper who was out doing his day-in and day-out job who pulled over an individual for a loose license plate. And because he knew something was not right, he held that individual. We subsequently realized that Timothy McVeigh, that individual he held, was the perpetrator of that and changed the entire course of that investigation.

Moving further along, in 1996, Eric Rudolph, the bomber of abortion clinics and the 1996 Olympics, again was the subject of a wide-ranging Federal manhunt for nearly 6 years—over 5 years. Eric Rudolph was brought to justice by a rookie cop on routine patrol while he was dumpster diving behind a grocery store.

What those two examples illustrate is the importance of local law enforcement. They are our eyes and ears that are out there. The combating terrorism and terrorism prevention is not just about the intel community and the Federal Government. In fact, until we fully entrust, empower, and enlist our local first preventers and first responders, we are not going to have a truly effective terrorism prevention program. They are the ones who can collect the dots so that they can be connected. This is not just about international terrorism, but situations like we have also had in California. Day-in and day-out crimes can lead to these kinds of cells, and we saw that in California—in the Los Angeles area—a series of convenience store and gas station robberies that just were connected, but little did we know had a huge connection to a cell that was intending on bombing LAX, synagogues, military recruiting stations, and National Guard depots, which was well along in their operational planning. But it was because we had taken the time to train individual officers on terrorism awareness that when we executed the search warrant on those apartments, rather than pass over jihadi material while they were looking for proceeds, the guns, and other evidence of the robbery, they knew that they had something more. And what ensued then was a model of Federal, State, county, and local law enforcement cooperation to dismantle and prosecute that cell, which will be going to trial this year.

And when I say terrorism prevention is no longer just a Federal responsibility, it is everybody's business. We frequently talk about the public's responsibility to be prepared. But also, if they see something unusual, say something. And the Fort Dix Six case was a perfect example of that where an individual citizen working at a Circuit City where the terrorists presented their training video on how they might attack Fort Dix recognized that something was not right. And the actions of that individual citizen resulted in, again, another cooperative joint investigation that brought down a cell and protected the military folks at Fort Dix.

So this is what is important about making sure that we enlist, entrust, and empower our local law enforcement and other first responders. This includes fire as well. And that is the importance of these fusion centers. It is bringing people together.

The captain just talked about the fact about access. One of the things that we just have not gotten around to since September 11, 2001, is stovepiping of information. The beauty of fusion centers is that you can bring people in who have access to their databases and can then cooperate and work together and break down these barriers that exist and also ensure cooperation and coordination of effort. Terrorism prevention is not just about prosecution. It is about protecting. It is also about interdicting and stopping something from happening. So it is not just simply a law enforcement prosecutorial function.

So our fusion centers need to be focused on all crime because we know terrorists use all crimes, from credit card fraud to the robberies we saw in Los Angeles, to finance their operations. They also need to be all-hazards, and when I say "all-hazards," we need to be looking at the consequences that can happen because we are not going to be 100 percent successful. We cannot bat a thousand. But we also know that we are—in California and throughout the Nation, there is earthquake risk, there are tornadoes, there are tsunamis, there are hurricanes that we also have to be prepared for. And so in that all-hazard perspective and what you also asked me to address is the idea that we also need to enlist the private sector and that these fusion centers must also have an infrastructure protection role. And that is critical because we need to be able, as we better share information on the international risk and our threats, vulnerabilities, and consequences, we need to be able to match that up in terms of what we need to then look at better protect in terms of the critical infrastructure because we know al Qaeda's interest is in killing a lot of American citizens as well as disrupting our way of life. And that includes attacking our infrastructure, whether it is oil pipelines, what makes our country great and our economy moving.

So the idea of integrating infrastructure protection into that is an essential need, and that is what we have done in California by creating a State Terrorism Threat Assessment System that has a State fusion center at the top to coordinate across the State and then four regional fusion centers, again, driving this bottom up so that we have better information sharing.

I see that my time is up, and we look forward to your questions.

Senator PRYOR. Thank you. Mr. Porter.

TESTIMONY OF RUSSELL M. PORTER,[1] DIRECTOR, STATE OF IOWA INTELLIGENCE FUSION CENTER

Mr. PORTER. Thank you, Mr. Chairman, and I am especially pleased to be here with two of my contemporaries, Mr. Bettenhausen and Mr. Rapp, and I appreciate the Subcommittee's interest in this topic.

I want to offer just two points: First, a brief overview about fusion centers and their progress; and, second, some remarks about a key priority that has been established by local, tribal, State, and Federal Governments as we have moved forward together.

I appreciate your acknowledgment in my introduction about my 30 years of experience in law enforcement, 24 of which have been in the criminal intelligence business, much of which has been spent on advocating for the protection of privacy and civil liberties, and I am involved in a host of groups nationally that are advocating for this on behalf of fusion centers and to help ensure that we are successful in that area.

In my 25 years of law enforcement intelligence experience, I would say that fusion centers have emerged as what may be the most significant change in the structural landscape of criminal intelligence in at least the past 25 years. Overall, we have seen significant, but incremental, progress in many areas of information sharing, such as the issuance of national security clearances at unprecedented levels and access to information previously unavailable to local and State officials: Collocation of personnel from all levels of government at the Joint Terrorism Task Forces and other locations, establishment of the Interagency Threat Assessment and Coordination Group (ITACG), and recurring policy-level meetings with local, tribal, State, and Federal officials through the Criminal Intelligence Coordinating Council, the ITACG Advisory Council, and other groups. Each of those has served to improve our information sharing, and while acknowledging the progress, we recognize that there is considerable work yet to be accomplished, and a continued sense of urgency, I think, will help us all maintain the momentum.

But as we establish this national, integrated network of fusion centers and as we work to strengthen our information-sharing capabilities, I think it is important to put first things first. And a key priority that has emerged as fusion centers have been developed is emphasizing the importance of systemic and institutional protections for privacy and civil liberties protections.

In looking at the history of this type of work in the United States, it is one of the key areas that could pose a downfall if we do not give it the priority that it deserves, and let me give a brief history, if I may.

The 1960s, as we all know, were a period of turbulence and unrest. We saw reported crime rise dramatically, and we saw outbreaks of civil disorder. Federal commissions and agencies advocated that local and State law enforcement agencies develop intelligence capabilities. In 1967, the President's Crime Commission urged every major city police department to have an intelligence unit. In 1968, the National Advisory Commission on Civil Dis-

[1] The prepared statement of Mr. Porter appears in the Appendix on page 46.

orders, the Kerner Commission, recommended that police agencies establish an intelligence system. In 1968, the creation of LEAA, the Law Enforcement Assistance Administration, provided funding and technical support from LEIA to establish some of these intelligence systems. And finally, in 1973, the National Advisory Committee on Criminal Justice Standards and Goals recommended that every police agency and every State establish and maintain the capability to gather and disseminate information. In fact, they recommended that every State establish a central gathering, analysis, and storage capability.

We are starting to see much of that history again. We are reliving it at this time. However, unlike the 1960s and 1970s, when we experienced a pattern of violations of privacy and civil liberties in our history and in our practices, we are taking steps to try and prevent that from occurring by establishing and institutionalizing the strongest possible protections for privacy and civil liberties. And, in fact, I would market as a bright spot, as a star, the coordination among levels of government with respect to this particular issue. Rather than separately delivering training and technical assistance to fusion centers, the Federal partners that we have—in particular, the Department of Homeland Security, the Department of Justice, with support from the Program Manager's Office at the Information Sharing Environment, and the Office of the Director of National Intelligence, and the FBI, through support from Global Justice Information Sharing Initiative—have combined their training and technical assistance in this area to deliver it to every fusion center in the country at the beginning of this process of establishing this national integrated network of fusion centers.

And so as with other important issues surrounding the establishment of fusion centers, there is much more work to do in this area, but it is one of the bright spots in our progress with fusion centers. And on behalf of my colleagues with whom I work at all levels of government, I appreciate the opportunity to have appeared here today. Thank you for your time, and I look forward to any questions you may have.

Senator PRYOR. Thank you. I want to thank all of you for your service and for your testimony this morning. What do each of you see as the most important contribution that fusion centers are making or can make to safety and security? What is the most important thing? Do you want to go ahead and start, Mr. Rapp?

Mr. RAPP. Sure. Thank you, Senator. I think probably the most important thing that we find is they are sharing information between States more quickly. We are taking a lot of information that previously would not have been necessarily available to other law enforcement agencies and sending that information out, crossing jurisdictions so you no longer have those boundaries.

The other thing I think is important is we are taking Federal law enforcement information, and we are blending that with local information to make sure the beat cop has information from all the Federal agencies, such as ICE or FBI, information passed down to the street level. I think that is one of the key things I have never seen in my career, and that is working now.

Mr. BETTENHAUSEN. Following on, I agree wholeheartedly with that, and it is about leveraging the resources. Look, there are only

tens of thousands of Federal law enforcement—sworn law enforcement agencies. There are over 800,000 law enforcement agencies sworn at the State and local level. And, again, if we fully enlist with them by providing them the education and information that they need so that they can have terrorism awareness training, this is a key to prevention in this country.

I think the other key idea about this is, look, we are never—it is difficult. It was a sea change for Federal agencies in terms of cooperating and providing information, breaking down the walls, even within the Department of Justice, that the counterterrorism folks could not talk with the criminal investigation people. So breaking down these walls by actually having Federal partners, State partners, county and local working together at that level, it breaks those walls down. There is a lot of bureaucracy that tends to get built up, and it is very hard to change the business process out here in DC. But in the field, where the rubber meets the road, that is the advantage that these fusion centers bring. And just tying it in a little bit more, though, with everyday hazards, having people thinking in advance and what we are doing in terms of infrastructure protection, in terms of what is critical infrastructure, what are the cascading effects, how are we going to protect this, and how would we respond, whether it is an earthquake that knocks down a building or whether it is another criminal act of man, such as Timothy McVeigh, how are we going to respond to save lives and property first, as our first priority, but how do we help them by understanding what is there and what is critical to prevent it from becoming a bigger incident, and how do we quickly recover.

Senator PRYOR. Mr. Porter.

Mr. PORTER. From my perspective, fusion centers are about knowing your environment. For people who manage resources and have stewardship over resources or who must be involved in helping allocate those resources or change security posture, we have to understand the threat environment that exists out there, which comes from sharing information, but that then better allows one to leverage resources. So it is about reducing uncertainty, reducing or preventing strategic surprise and hopefully tactical surprise; and when you are homeland security adviser or public safety commissioner with resources to allocate, you want to make sure that you direct them in the right place based on knowing your environment.

Senator PRYOR. All three of you have touched on information. You have said it in different ways and talked about different aspects of it. But, Mr. Bettenhausen, in your opening statement, you mentioned the traditional problem of stovepiping. I am curious about your thoughts, and the panel's thoughts, on the progress we are making with regard to breaking down the stovepipes. You have all talked about how important it is to share information. As I understand it, you all have access to lots and lots and lots of different databases, some Federal, some otherwise. And are you able to, first, access all the information you need? And, second, are you able to analyze it and understand it and actually use it to help?

Mr. BETTENHAUSEN. It is a work in progress. We have made progress. I think all of us at the Federal, State, and local level are a little frustrated, 7 years after September 11, 2001, that there still

are things that need to be improved. But we are making good progress. Having embedded DHS analysts in our fusion centers, having the FBI there, having State and local representatives at the National Counterterrorism Center is key because part of the problem is that there is a disconnect. They do not understand at the Federal level and at the traditional international community. They hear us yapping all the time that we have information needs and information requirements. But what they are missing is that we are also intel and information producers that you need this information to analyze as well.

I do continue to get frustrated. I mean, we start off on a lot of different pilots that the Federal Government throws out there that are creating new and additional stovepipes, and we are not breaking them down and consolidating them. But the fusion center helps, though, and also can, in essence, do some privacy and civil liberty protection because you bring people who have access to those databases. You ensure the measures that they have in place about who has appropriate access to it. But everybody has access to it by being together, working together in a fusion center. But it still troubles me.

One of the ways that we came around to get around this is because—and this is the same problem for the private sector, and it is the same for law enforcement. Do you want me to get my terrorism information from law enforcement online, HISN online, ATAC's, all of the groups of different places that you could be going? I cannot have terrorism liaison officers and people who have this responsible in the field have to remember their passwords and go onto 17 different sites to search for information. Again, access to the information is not the same as sharing information.

One of the ways that we overcame that in California is we created CalJRIES, and what we do as a State with our partners at DOJ and the Highway Patrol is we visit all of those sites and pull out the relevant counterterrorism information that we want shared with our law enforcement officers and our terrorism liaison officers so that they have a one-stop shop. But the stovepiping continues, and I am afraid the factory is still open here in DC.

Senator PRYOR. Do you have a comment, Mr. Porter?

Mr. PORTER. Yes, if I may just very briefly. The Global Justice Information Sharing Initiative, which is a Federal advisory committee for the Department of Justice, has done some great work in terms of trying to address some of these stovepipes. One of the projects they have underway is called the Global Federated Identity and Privilege Management Initiative, and that is one which will help address some of these stovepipes when that gets rolled out with more people engaged in that.

Senator PRYOR. OK.

Mr. RAPP. A quick comment, Senator. Just looking at the Federal picture, there has been a great deal of information flow. We have some products in the center, like the Homeland Security Data Network, which is the secret-level environment, but we have a lot of access to that. We still have some battles we need to fight because there is a lot of information on there, and we cannot search that portal yet because DOD does not allow us access to search that por-

tal. DHS has taken that fight with DOD, but we are still talking about it, a year after it was introduced to the center.

The second thing I think we are really missing with the FBI, the FBI in Baltimore covers Baltimore and Delaware. They have about 200 agents in their office. We have just in the Baltimore metro area over 5,000 cops. They are starting an initiative where they are going to go out and look to try and develop sources on the street. We already have developed sources on the street that could benefit them. The problem is they still see the JTTF as information that should not be shared with the locals. And they can share it specifically through the fusion centers so it does not get broadcast out to a number of people.

But those are the issues I think we need to work on because I think we are missing some of the local components or the street-level components that need to go back into the Federal intelligence communities.

Senator PRYOR. Some of that sounds a little cultural.

Let me ask, Captain Rapp, a few practical questions about fusion centers. In a fusion center, who is the decisionmaker? If decisions have to be made and it is this shared environment, who actually has the final call?

Mr. RAPP. In our fusion center, which is maybe a little bit different than the others, but, I mean, typical chain of command, the director would make the call if there is information that needs to get out. If there is a dispute between us and the Federal agencies, we also have the Anti-Terrorism Advisory Council (ATAC) for the U.S. Attorney's Office. And we have a U.S. Attorney that sits as Chairman of that Council. So if it comes to butting heads between whether we disseminate information or not, or get it, we can always use the U.S. Attorney as a neutral party to decide because they are the ones that prosecute the cases as well.

Senator PRYOR. Is that how you all do it?

Mr. BETTENHAUSEN. That is true, but the ideal should be that nobody has ownership of the fusion center. I mean, you have a director and you have leadership. But it should be how we respond to disasters, the incident command and unified command that everybody should feel a part of ownership. And so in the ideal world, the director does not have to make that decision. You come to consensus. The director does have the final call, but the difficulty is that oftentimes, in each of our fusion centers, they are different. One is FBI; mostly it is local law enforcement. We have great leaders running our fusion centers. But they do not make the call. If it is originator controlled coming from Washington, DC—and that can be very frustrating if we think that this is a timely piece of information that gets to come out. We don't get to make that need-to-know call, and we have to go back up and fight the chain further above us. Then it is beyond just the director at the fusion center.

Senator PRYOR. Right. One of my colleagues in the House, Jane Harman, said not long ago that she feels like there should be an association of State fusion centers to help advocate and help educate. Do you all agree with Representative Harman on that?

Mr. BETTENHAUSEN. We do, and, in fact, we just had a huge conference, a nationwide conference in San Francisco, where we brought all of the fusion centers together. We have talked about it

here, too, that this bottom-up approach, we are producing and having better information on local incidents that could have national implication or much better sharing State to State. At some point I think the Feds are going to see much more of the value in the fusion centers in terms of how much information we are generating and sharing.

The Nation has broken off into regions. We are also cooperating in regions and, for example, for California, we also have States of interest where we share, for example, with Texas, Arizona, and New Mexico, the Southern border, that we are also meeting and interconnecting our fusion centers.

So in terms of the—the national conference brings us all together, and then we have these regional working groups from the Western to the Northeast, the Southeast, and the Midwest in terms of having these fusion centers working together. But on a day-in/day-out basis, these fusion centers are connecting up on their own.

Mr. PORTER. Mr. Chairman, since that conference there has been considerable interest expressed from fusion center directors through the contacts that I have in these various organizations about trying to move forward with such a consortium or such a gathering as a way of trying to have a consolidated voice and being able to communicate on issues quickly and in an agile kind of way when there are questions that rise up about, what is happening out in the fusion center domain.

Senator PRYOR. OK. All three of you have positive experiences with fusion centers, and you feel like they are good. I assume you all believe in the concept, and we all recognize there are issues and challenges but, still, great concept, doing great things. If you are sitting in my chair here, how do you measure success? How do we know that these really are doing great things? I know there is a lot of anecdotal evidence of it, but how do we measure success?

Mr. BETTENHAUSEN. That is one of the difficult things because if nothing happens, you are proving the negative. And so there are a lot of things in terms of the—it is not just anecdotal. When you look at the prosecutions, such as the JIS case in California that involved prison radicalization and an operational cell in Los Angeles, or the Fort Dix, those things have been interdicted, and the work of the fusion centers has helped in that.

In terms of the analysis that is being done, it is hard and it is a mistake that we only go down the route of prosecutions being the numbers that we count. And that is what FBI Director Mueller has talked about. The sea change that we have to have is that prevention is the key, not prosecution. And you are always going to have—I have thought about this a lot in terms of the metrics that you try to put on top of this. It is difficult because you cannot tell sometimes if you are a success.

But as we get more reporting, for example, on suspicious incident reporting, if terrorists are targeting a site, there is going to be planning, there is going to be targeting, there is going to be operational surveillance. And they also look at this, if the security posture changes, they look elsewhere. But you are never going to know that until you ultimately unravel one of these things. But the more information that we get in collecting suspicious activity reporting—which is a metric. How much more are we hearing from our chem-

ical plants about surveillance? How much more are we hearing from other pieces of key infrastructure about surveillance so that we can look? And do we have a rise off the baseline? And that type of reporting is one way that you could have a metric, but the true success is nothing happening, and then that is a very difficult thing to measure.

Senator PRYOR. Right. Let me ask, Mr. Porter, if I may, about privacy. When I think about the information a fusion center has, it is a very impressive amount of information. You can pull together, things like cell phone numbers, insurance claims, driver's license information, photos, and, you can really collect a lot of information on people. And that ability invites abuse, and I know that is one of the things you have focused on over the last several years. Furthermore, if we are not very careful with that information, it could get into the wrong hands.

So let me ask about privacy. As I understand it, maybe a little less than half, maybe around a third of the fusion centers around the country have submitted privacy plans? Do you know?

Mr. PORTER. I think that is—all of them are in the process of doing that, but I think there are about—more than 20, but I cannot cite the specific number as of today.

Senator PRYOR. OK. So tell me what these privacy plans will be and why we have them and what safeguards we are putting in place to make sure the information is not wrongly used or falls into the wrong hands.

Mr. PORTER. Sure. Great question, and, again, a critically important issue. I appreciate your interest in it.

First of all, in terms of the types of information that you mentioned, there are certainly times when I use my cell phone and list it on, say, a voter registration record or some other type of record where it gets into the public domain and it is available to others. And so much of that information that a fusion center may have access to is something that law enforcement agencies have access for years in investigating crime. But that becomes a key point, is the criminal predication, that is what launches an inquiry or a gathering of information.

When agencies are adhering to 28 C.F.R. Part 23 in the Code of Federal Regulations, the regulations that govern criminal intelligence systems and the operating policies for those systems, there is a requirement that at least for the storage of information that it meet the level of reasonable suspicion. And civil liberties advocates have been very satisfied and supportive of that standard. And that is a threshold that is key in these privacy policies and civil liberties protections policies that they adhere to that.

There are certainly times, however, when fusion centers are receiving information that does not rise to the level of reasonable suspicion, and so through the Criminal Intelligence Coordinating Council, we have drafted a tips and leads policy paper that identifies this issue as one that we need to get our hands around as we receive this information, what is the right way to deal with it and what is the best way to deal with it?

So there are still some challenges there. Those privacy and civil liberties policy templates were developed from a broad array of people across not only the justice system but people that are civil lib-

erties advocates and provided input into those to make sure we have in that framework issues that relate to data aggregation and ensuring that when you bring data from multiple sources together, you are not mixing data about Person A and Person B and causing some erroneous information to take place. That policy addresses things like that.

Senator PRYOR. Great. Well, listen, I want to thank the first panel. You all have been spectacular. Unfortunately, we are going to have to close this panel because we are going to be voting in 30 minutes or so. If I could ask you all to relinquish your seats and let the second panel come forward.

What we will do here as a matter of logistics, we will allow any Senators on the Subcommittee to submit questions in writing. We will leave the record open for 2 weeks, so it is possible you all will get some written questions from various Subcommittee Members.

Mr. BETTENHAUSEN. I also did want to thank you and the Chairs of the overall Homeland Security Committees, both in the Senate and in the House, for their support for fusion centers and the legislation that you put to allow our Federal grant funds to be used for personnel. We are still struggling with U.S. DHS to allow that sustainment funding for these critical positions that are also leveraged by our State and local people serving there. So we appreciate your support on that. Thank you.

Senator PRYOR. You are more than welcome. Thank you.

While the second panel is coming up, I will go ahead and introduce them like I did the first panel. First will be Eileen Larence. She is Director of Homeland Security and Justice for GAO. She joined GAO in 1979 and has managed reviews on Federal programs ranging from defense and intelligence systems to hazardous waste cleanup.

Next we will have Jack Tomarchio, and he is Deputy Under Secretary of Operations at the Office of Intelligence and Analysis at the Department of Homeland Security. Prior to joining DHS in 2005, he was a national security lawyer in private practice.

And third will be Van Hitch. He is the Chief Information Officer at DOJ and DOJ's representative to the National Information Sharing Council. He has an M.A. in systems management, a B.A. in physics, and has served also in the Navy.

I want to welcome all of you, and, Ms. Larence, go ahead.

TESTIMONY OF EILEEN R. LARENCE,[1] DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Ms. LARENCE. Thank you, Mr. Chairman. I am pleased to discuss GAO's work on State and local fusion centers, what they are, challenges they face, and Federal support to date.

After September 11, 2001, States and major urban and regional areas realized they needed their own capability to collect, analyze, and share terrorism information and created fusion centers. They typically include personnel from State, local, and Federal law enforcement and homeland security entities; in some cases, emergency responders, the National Guard, and the private sector. The

[1] The prepared statement of Ms. Larence appears in the Appendix on page 57.

Federal Government provides centers information and access to numerous systems and sources of data and is creating a national network of centers to enhance sharing.

Most recently, the Congress in the 9/11 Commission Act and the Administration in the National Strategy for Information Sharing called for Federal support to centers through grants, technology, training, and other means.

Last fall, we reported that, based on our interviews with center directors in 58 State and select urban areas and our visits to numerous centers, we learned three things: One, centers vary widely; two, Federal help is addressing but has not fully resolved their challenges; and, three, centers are concerned about Federal commitment to sustaining them over the long term.

To elaborate, we learned that most centers were considered operational, but this ranged from having 5 to 80 personnel and from a few to 20 member agencies. Most centers are relatively new, open since January 2004. Forty-one said they focused not only on terrorism but also on all crimes or all hazards because they recognized crime can be a precursor to terrorism and this broader focus brings more partners and more resources to the table.

Law enforcement entities led most centers, and 12 were collocated with FBI field units, such as Joint Terrorism Task Forces. Centers provide intelligence products ranging from alerts and bulletins to in-depth reports. They take tips from the public and share them with Federal agencies as appropriate.

Centers identified five major challenges that Federal support to date is to address, but they are not yet fully resolved. First, some centers said they have to access too many systems and get too much information that can be redundant and not useful, bogging down our analysts. Justice and Homeland Security provide centers access to classified and unclassified systems and networks. The agencies report they are trying to better define centers' information requirements, issue joint products, and solicit feedback on the usefulness of information provided. GAO has not yet assessed these efforts.

A Federal working group was also supposed to review ways to streamline access to some systems, and the new Interagency Threat Assessment and Coordination Group, made permanent in the 9/11 Act, is to ensure threat information is coordinated across Federal agencies before it is disseminated. But the group has had start-up problems. Continued oversight of these issues would be helpful.

Second, some centers say they need more security clearances. It takes too long to get them, and agencies do not always honor each other's clearances, despite mandates to do so. Justice and Homeland Security continue to provide clearances and to reduce processing time, but were not aware of addressing the issue of honoring each other's clearances at the time of our review. Again, oversight could help here as well.

Third, a number of centers want more specific operational how-to guidance and had challenges finding training for their analysts. Justice and Homeland Security issued fusion center guidelines and, more recently, draft baseline capabilities that outline operational standards centers should achieve. This helps but may not provide

the detailed how-to operational steps some centers still need. Agencies are also providing courses, grant funds, and training technical assistance, but centers would like more help with standardized curricula for their analysts and perhaps a certification process.

Fourth, some centers say that it is tough for partner agencies to afford to detail staff, an important source of personnel for centers, and to find, attract, and competitively pay analysts to keep them. The FBI has provided at least 200 personnel across most centers to date, and Homeland Security has personnel in 23 centers. But they still worry about meeting long-term staffing needs.

Finally, a number of centers are concerned about sustaining operations long term. Some say it is tough to compete for State funds and that the Federal grant process is complex, restricted, uncertain, and decreasing. Homeland Security has provided grants for fusion-related activities, expanded allowable costs, and gave centers more time to spend funds. But some centers worry about restrictions, such as 2-year limits on funds for analysts, and whether funds will be available long term.

We recommended that the Federal Government articulate the role it expects to play in centers, especially in sustaining them. The recent National Strategy in the 9/11 Act addressed the Federal role and also stated that the government will help to sustain centers, but how or to what extent must still be answered.

Mr. Chairman, that concludes my remarks, and I would be happy to answer any questions.

Senator PRYOR. Thank you. Mr. Tomarchio.

TESTIMONY OF JACK TOMARCHIO,[1] DEPUTY UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. TOMARCHIO. Thank you, Senator Pryor, for the opportunity to come before you today to talk about the progress fusion centers have made in the last 3 years. I hope my testimony helps this Subcommittee in its continuing efforts to assist the States and the major urban areas in the development and continuing improvement of these centers. In addition to my oral statement, I ask that my written statement, previously provided your staff, be incorporated into the record today.

The first and most important piece of progress I have for you today is that DHS' Office of Intelligence and Analysis now has 23 of its officers deployed and serving in fusion centers around the country. These officers have become the pathfinders for the way the Federal Government shares information and intelligence with its State, local, and tribal partners. These talented men and women are using their varied experiences and skills as intelligence professionals to provide their other Federal, State, local, and tribal partners with the information they need to keep America safe—and connected. Those very same skills allow them to cull the best of what the fusion centers are collecting and analyzing information and seeing that this information gets to where it needs to go. This has never been done before, and this is why Secretary Chertoff, Under Secretary Charlie Allen, and I are proud of these officers

[1] The prepared statement of Mr. Tomarchio appears in the Appendix on page 75.

and what they have accomplished in such a relatively short period of time.

Please don't take just my word for this record of achievement. When I was at the Fusion Center Conference in San Francisco in February, I was gratified by the number of State and local officials who came up to me and to Under Secretary Allen to voice their unsolicited praise for the work our officers are doing. I have no doubt that you will find the same reactions when you talk to your State's homeland security advisers and local law enforcement and public safety officials.

Secretary Chertoff, Under Secretary Allen, and I have committed the Department to increase the number of these officers by the end of this fiscal year and provide them with all the tools that they need to succeed in their collective mission to prevent, protect, and respond to any threat or hazard that America faces.

I am happy to report that one of those tools, the Homeland Security Data Network (HSDN), is now deployed in 19 fusion centers. HSDN, as you know, allows access to the National Counterterrorism Center, the NCTC, online, a classified portal that maintains the most current terrorism-related information at the secret level. HSDN also provides the fusion centers—and through them the States—with a window into the national intelligence community that they can use for their own information needs.

Another progress report I am happy to deliver is one on security clearances. When I arrived at DHS from the private sector 2½ years ago, the wait time to receive a security clearance at the secret level was almost 2 years, and the backlog was enormous. Thanks to the efforts of DHS' Office of Intelligence Analysis and its Office of Security, we have dramatically reduced the amount of time it takes to grant those clearances and nearly eliminated the backlog. The FBI has also played an integral role in reducing this backlog over the past 2 years, especially by working to establish a reciprocal clearance process whereby security clearances for fusion center personnel are recognized by both agencies, regardless of which agency issued the clearance.

The fusion center program is yielding substantial returns on investment. In the past 6 weeks, information from two of the centers has been passed to a key international partner in the war on terrorism, who then opened cases after receiving this information. DHS received a letter expressing that country's gratitude for the information. In another case, information fused at a center in the Midwest was briefed to the President in the President's Daily Brief—a first for a fusion center. This information would not have been gleaned without State and local participation in the process, and it illustrates the importance of the centers to the Federal Government.

However, while successful thus far, there is still much work to do in the creation of policies and procedures that ensure a predictable and uniform approach on how we interact within these centers. The State and Local Program Office within DHS will work hard over the next year to solidify our program and bring certainty to that relationship.

I have given you these progress highlights. Now let me provide some additional context as to how far we have come in the last cou-

ple of years and some of the significant changes and challenges that await us as we move forward to better prepare the American people for the threats that they face.

Working with our colleagues in the Department of Justice, we undertook the challenge of creating the Fusion Center Guidelines. These guidelines, which complement the President's National Strategy for Information Sharing, were an important first step in formalizing the Federal Government's relationship with State and local fusion centers. To assist the States and urban areas in meeting their intelligence and information needs, DHS created a Program Office within I&A to work specifically with the fusion centers as they begin to develop and grow.

Within I&A itself, we have developed an excellent analytical support to our customers. The Analytical and Production Division, A&P, provides support specifically dedicated to Critical Infrastructure Protection Assessment, CBRNE, Borders, Radicalization, and Demographics. Each of these divisions has developed an analytical relationship with their State and local peers. As a result of these relationships, we have seen a tremendous growth in the number of analytical products, sometimes carrying the seals of four and five partners.

To foster collaboration and share best practices and lessons learned within the fusion center network, DHS sponsors the Homeland Security State and Local Intelligence Community of Interest, HS SLIC, a virtual community of intelligence analysts from across the country—currently, 1,000 members from 42 States and the District of Columbia, as well as six Federal departments. Through the HS SLIC, intelligence analysts across the country collaborate via weekly threat conference calls, analytic conferences, and a secure Web portal for intelligence information sharing at the sensitive-but-unclassified level.

I see I am now out of time, but let me just say this in conclusion. The fusion centers are a new and important tool to keeping our Nation safe. They have made exponential progress in the past few years to accomplish that mission. There are still many challenges left to ensure that these centers live up to their full potential. The DHS, together with our colleagues at the Department of Justice, are committed to working with the Congress and with the thousands of State and local law enforcement officers, firefighters, public health officials, and other first responders to ensure that the security of our Nation and its citizens is safeguarded.

Thank you, sir.

Senator PRYOR. Thank you.

We will leave the record open—excuse me. We will allow your written statements to be part of the record. That is something that we will clean up here at the end, but certainly your written statements are part of the record.

Mr. Hitch.

TESTIMONY OF VANCE E. HITCH,[1] CHIEF INFORMATION OFFICER, U.S. DEPARTMENT OF JUSTICE

Mr. HITCH. Good afternoon, Mr. Chairman, and thank you very much for the invitation to speak to you today.

On October 31, 2007, the President issued and released the National Strategy for Information Sharing which basically describes the vision and road map for how the various components of the Federal Government will work with State, local, and tribal, as well as private sector officials across the Nation. As both the Chief Information Officer and the Information Sharing Council representative for the Department of Justice, I am very proud to discuss the accomplishments of the Department in the area of fusion center support. This is truly a departmental effort. I am really here representing many offices, not only the Office of the CIO, the Bureau of Justice Assistance, the Office of Privacy and Civil Liberties, the Executive Office of the U.S. Attorneys, and, of course, the FBI.

The FBI is really our front line for direct operational support to the fusion centers, as you have heard in some of the other testimonies. But the other DOJ law enforcement offices also make contributions on a daily basis to the fusion centers.

Today, I will highlight some of the Department's efforts to implement the National Strategy for Information Sharing as well as the intent of Congress per the 9/11 Act.

As an instrumental partner in all of this is the Attorney General's Advisory Committee, which you have heard a little bit about today, called Global. BJA started the Global Justice Information Sharing Initiative and its subgroup, the Criminal Intelligence Coordinating Council, over 8 years ago. And that was before September 11, 2001. And the CICC has not only nurtured the idea, the framework, and developed guidelines for fusion centers, but also it has worked to ensure that these fusion centers are successful in their stated missions.

We are preparing to release, as you have heard, new fusion center baseline standards in May 2008, which will serve as the foundational elements for integrating fusion centers into the Information Sharing Environment, measuring success and facilitating ongoing operations. Much of the progress we have made can be credited to Ambassador Ted McNamara in his role as Program Manager for the Information Sharing Environment. He has brought the agencies together to make this network of fusion centers a reality. We coordinate all of our fusion center efforts, along with DHS and DNI, via the National Fusion Center Coordinating Group, which has representation within DOJ among four of our offices. The NFCCG has helped move the ball forward by getting Federal officials to agree to plans while also pulling the local representatives together to prioritize their needs.

While many of these fusion centers play a key role in preventing terrorist activities, I cannot overemphasize the valuable role they can and do play in reducing all types of crime. These fusion centers play an important role in protecting their communities by fostering something we call information-led policing efforts and focusing resources on the biggest local problems.

[1] The prepared statement of Mr. Hitch appears in the Appendix on page 83.

Fusion centers, as you know, first sprang up after September 11, 2001, as a mechanism to coordinate and share information among jurisdictions. Their main value-add is putting people and information together to connect the dots. Fusion centers are critical to helping solve interstate and national crime, such as drug or gun trafficking. My office, on behalf of the Deputy Attorney General, plans and coordinates the Law Enforcement Information Sharing Plan, which I developed in the year 2004. We are now beginning to see the benefits of this plan as we roll out sharing solutions across the country.

I could talk for a long time about that, but we will refer this Subcommittee to my OCIO website and also a website called NIEM for further technology information.

My colleague from DHS has discussed the sharing of classified information and the necessary safeguards and protections that must be employed. With regard to sensitive-but-unclassified information, where really the bulk of information sharing can and should occur, we have worked very closely with the DHS element of ICE to make our approach both joint and seamless to the State and locals.

Also, fusion centers operate under a multitude of regulatory frameworks intended to ensure that information is handled in a way that protects both the privacy and the legal rights of Americans. Fusion centers are owned and operated by State and local governments, and they are required to comply not only with State and local laws but also Federal laws.

Also, grants awarded by both DOJ and DHS in 2007 included conditional language that mandated the use of the National Information Exchange Model (NIEM), for all technology projects to assure that they will be interoperable and be able to share information. This is significant for two reasons in that it validated the use of NIEM and it also illustrates that DHS and DOJ are basically on the same page on technical issues.

In conclusion, I would like to leave this Subcommittee with one final thought. Validating a negative is just as important as proving a positive. Said differently, building an integrated network of fusion centers will enable local decisionmakers to quickly know if an event is either local or national in scope.

Just recently, here in the Nation's capital, we had two current examples, with the Pope's visit and the recent food poisoning scare at Reagan National Airport. State and Federal officials worked together to create an excellent threat assessment for the Holy Father as he traveled from Maryland to DC to New York, and on April 3, the fusion centers were able to quickly respond to an event that initially caused alarm and identify it as non-terrorist so that counterterrorism and law enforcement forces were not mobilized for an isolated bad-fish issue at a local hotel.

We, in the Federal Government, must empower the fusion centers, leverage them, and help them build their capabilities. There is much work to be done, but we have made a lot of progress so far and look forward to providing Congress with updates on our progress.

Thank you, and I would be happy to answer any questions.

Senator PRYOR. Thank you, and I thank all of you for your testimony and your statements.

Let me start with you, Ms. Larence. Your GAO report, which I believe was dated October of last year, roughly 6 months ago. Are you aware of anything that has changed in the last 6 months that you might want to update your report?

Ms. LARENCE. No, sir. We did do some basic updating with both the Departments and the recent legislation that came out, the National Strategy that came out since our report was updated. And we also had staff in the National Fusion Center Conference recently in March that helped us to make sure that the issues that we were talking about were still relevant.

Senator PRYOR. Ms. Larence, you have been able to look at these fusion centers objectively. As I understand it, you have identified a number of things that are very promising and very positive, and then you have identified some areas where they have their challenges and they need to resolve those and improve, etc.

You are probably the most objective person in the room about this. What do you think the next step for these fusion centers is? What are the areas where they really need to focus to take the concept of fusion center where it is really achieving the objective?

Ms. LARENCE. I think they have a couple of issues to deal with. One, as we mentioned, the centers vary tremendously. If you have been to New York City's center, it is the gold standard for fusion centers. I am not suggesting that all centers have those capabilities, but there are other centers that are just in the planning phases. And so some centers still need basic help to maintain this baseline level of capability, and they need help developing their fusion process and developing analysts that have the capabilities to do the work that they need to do on the information.

I think, second, the biggest concern, since a lot of the centers—not all of them, because some of them are well funded through their State partners, but some of the centers are very concerned about their ability to sustain operations long term. Some are very dependent on Federal grants, but there are time limits to those grants, and they are concerned about being able to compete for State funds if Federal grants do dry up.

So I think funding and building analytical capabilities are probably two of the most important pieces that they are facing.

Senator PRYOR. All right. Let me ask about that grant piece because I have heard from some local officials that it is hard for them to really plan for the future if they are not certain about their funding sources.

Do you have a recommendation on what the Congress or the Federal agencies should do to make sure that these local fusion centers can plan?

Ms. LARENCE. Well, I think our recommendation put on the table the policy call that the Federal Government needs to decide whether it wants to be sort of more of a weed-and-seed program, so they provide initial funding to get these centers started, but then the centers really need to develop some other mechanisms to sustain operations over the long term; or if the Federal Government is building a national network of centers, relying on these centers, asking them to meet baseline capabilities, then does the Federal

Government feel an obligation to be able to continue to fund these centers over the long term? So I think that is probably the policy trade-off call there, sir.

Senator PRYOR. I see. Let me ask our two Federal agency witnesses about the issue of funding these centers long term. I know to some extent that is a Congressional question, but it also is an agency departmental question as well.

Do you think that we should make a long-term commitment to funding these fusion centers. Let me start with you, Mr. Tomarchio.

Mr. TOMARCHIO. Senator Pryor, I think that would be a well-reasoned consideration by the Federal Government. We see about 58 fusion centers that are up and running right now. As Ms. Larence said, they are in various stages of maturity. Some are very robust. Others are really just getting their sea legs. But the problems that we see across the full spectrum of the fusion centers are, I think, fairly consistent. There are training issues, and there are issues of connectivity and certainly issues of sustainability. And I know when we were at the National Fusion Center Conference in San Francisco, I spoke to a number of folks from around the country, and several of the fusion centers felt that they were living on borrowed time. And if you can imagine a dark black map of the United States with a light in the different States that have the fusion centers. I think it is not beyond the pale that within a certain period of time, you will see lights blinking out. And I think we need to recognize that because the advancements that we have made and that have been made by the State and locals within the fusion centers and their interrelationship with the Federal Government and the intelligence community and the Federal law enforcement community have been, I think, very admirable. And for us to go back to square one and say, well, that was a great idea but we have a funding issue and, I am sorry, it is not going to work, I think that would be a disservice not only to the country, but it would certainly be a disservice to the dedicated folks that work in the State and local fusion centers around the country.

So I think it is a very prudent approach for, I think, the Congress to take a real hard look at that as a possible solution.

Senator PRYOR. OK. Did you have anything you wanted to add to that, Mr. Hitch?

Mr. HITCH. Yes. I agree with that very much. I think fusion centers have been and will continue to be a prudent investment in public safety. I think that it should be a joint investment, however, not fully funded by the Federal Government but certainly a significant share in funding by the Federal Government, but also State and local, because of the point that I made earlier how important fusion centers are to the solving of local crime and cross-border crime and so forth. And, also, the fact that while we are developing standards across the board and there are certain things that we want of every fusion center, each fusion center has to be customized, to some extent, to its local environment. A fusion center for Delaware is going to be very different from a fusion center for California.

But I do think we owe them a horizon of funding so that they know what to expect and, therefore, they can plan because I think

they think it is a good idea, too. So I think we all think it is a good idea, but without a funding horizon and an expectation of what they will get, they cannot really plan.

Senator PRYOR. I am glad you mentioned this idea that each fusion center should be customized to the locality where they are because that does make sense. But it also does raise an administrative question from the Federal end because they may be so different that, if you are not careful, they may not be meeting the objectives that the Federal Government has for them. The Federal Government has an interest in the State and local law enforcement being very effective, and I think everybody agrees with that. But, still, there are other Federal objectives that some of these may not meet.

So do you think we should have a set of standard criteria for all of them? Or do you think it really should be a fusion-center-by-fusion-center analysis for the Federal Government?

Mr. HITCH. Well, I believe that there are standards that all of them should meet, and, in fact, as Mr. Porter mentioned in the last panel, there is a set of what we call baseline standards that are being developed right now by Global, which is the group that I mentioned earlier that is supported by the Department of Justice. They are working with the fusion center heads to develop performance criteria and baseline capabilities that any fusion center should do. That does not mean that they are all going to look alike. It is not a cookie cutter. But it does give some baseline capabilities and some measures of success so that we know when they are doing their job.

Senator PRYOR. Have you all had the experience yet where one of these fusion center's objectives really are at odds with your objectives? Have you run across that situation yet?

Mr. HITCH. I have not run into that situation. They all seem to be welcoming of the support that we, as a Department, have given them. They all appreciate the work that Global has done and the ongoing work that they have done, and certainly the FBI and its tremendous ongoing presence in their facilities.

That does not mean there will not be operational issues that have to be worked out. But I think in general the congruence of objectives is pretty good.

Senator PRYOR. Did you want to comment on that, Mr. Tomarchio?

Mr. TOMARCHIO. I would concur with that, Senator. I have had no experience where we have been at odds with any of the fusion centers, and I have been to about 32 of these centers around the country. And these people really want to do the right thing for their communities, and they are working very hard to provide the level of protection that they think that they are mandated to do. So we have had no issues.

Senator PRYOR. Yes, that has been my experience as well. I have not heard about problems in that regard, but I wanted to see if you all were hearing any.

Let me also ask, Mr. Tomarchio, it is really the same question I asked the previous panel, and all of you have sort of touched on this already. But, Mr. Tomarchio, how do you measure success with these fusion centers? You talked about objective criteria. I think,

Ms. Larence, you talked about having standards and criteria, etc. So how do we measure success? How do we know that they are really effective and that they are worthwhile and that they are really doing the job out there?

Mr. TOMARCHIO. Certainly. There are a couple of metrics that I like to look at.

First of all, I think that the amount of information that is being passed between fusion centers and the Federal Government and the Federal intelligence community, it is good and valuable information. And one of the things that we were concerned about was that we did not want to just have information passing for the sake of passing information. We wanted to make sure that the information was relevant, was important, and resulted in actionable intelligence. And we are seeing that. We are seeing good products.

We are also seeing a great understanding of what the requirements are at the State and local level from the intelligence community, and they are learning what our requirements are of them. And what we are seeing is we are learning about things that happened at the local level that within the Beltway we do not see. You can put a bunch of analysts at the FBI or the DHS to look at the issue of prison radicalization in Illinois. But the persons that are going to know what the situation is with prison radicalization in Illinois are the folks in Illinois. And we are seeing that information filter up to the Beltway and to the community, and that is important.

I think also, as I think Mr. Bettenhausen said, the idea of proving a negative is important, too. I can give you a case in point. A year ago yesterday, we had the tragedy at Virginia Tech, and when that happened, the Virginia Fusion Center within minutes of getting the information, they made a determination, they put out horizontally to other fusion centers around the country that this is an isolated activity of a deranged individual; there is no nexus to terrorism, and there is no need for all the colleges and universities around the country to go to Def-Con 1 because there was a possible raft of these shootings. And that was done very quickly. They were able to spin down concern, and that in itself is important.

So I think that you see situations like that—that is a metric of success for me.

Senator PRYOR. Did you want to add something to that?

Mr. HITCH. I was just nodding my head because I agree with what he was saying. One of the things—this is a challenge, obviously. Ultimately, we want to find success stories, and we want to find things that were prevented. And that is the gold standard. There is nothing that will really live up to that.

But, as an IT guy, one of the things that we try to build into our systems is logs and things that will measure the amount of activity and the amount of what in law enforcement is called deconflictions. When you are interested in something and you then get in contact with another law enforcement officer from a completely different jurisdiction, perhaps across the country because of the information that you found—and we log that stuff in. We ask for feedback as part of the information systems process so that we can begin getting real measures of success as an intermediate level, below the gold standard, but certainly something that would let us know that

there is a lot of activity and there is a lot of good dialogue that is happening.

Senator PRYOR. OK, great. Mr. Tomarchio, let me ask you about a very specific fiscal year 2008 DHS grant issue. Fiscal year 2008 DHS grant guidance apparently restricts how DHS grants to State and local fusion centers can be spent in ways that contradict congressional intent. Specifically, the guidance limits spending on fusion center maintenance and sustainment.

Does DHS have any plan to fix the problem by changing the guidance? Do you know anything about that?

Mr. TOMARCHIO. I do know a little bit, probably enough to get me in trouble. I know that one of the things that we do at the Department, especially with regard to our folks that deal with the grants, is we really try to listen to the needs of the folks in the fusion centers. And, nothing is etched in stone, and we are trying to take their input with regard to what their needs are.

Now, for example, bricks and mortar, which I think that refers to, is right now—grant money for bricks and mortar is prohibited. We have talked to some fusion centers that have some real bricks-and-mortar problems that right now fall outside of our guidelines.

We will look at that, and we will see if that, for whatever reason, needs to be adapted or changed. So, we realize this is a very dynamic and changing process and that this whole fusion center stuff is like building an airplane while in flight. So we are not trying to close our minds to saying, sorry, that is just verboten, we are not going to do that. At the same time, we have to—obviously, we cannot say yes to everyone.

So everything is always being looked at, Senator, and I think we are trying the best that we can to try and meet their requirements, with also keeping in mind our fiscal and our monetary restraints.

Senator PRYOR. Good. Well, let's continue to talk about that because it appears that Congress had one intent, maybe the grant guidelines say something a little differently. But let's keep watching that and see if we can make sure that we are all on the same page there.

Let me also ask our two agency witnesses here, you both have talked about how fusion centers are a relatively new concept, and how they are growing, and how they differ from center to center. You mentioned it is like trying to build an airplane while you are in flight. I know that you all have spent a lot of time on these fusion centers. What do you hope to achieve with them over the next year? Obviously, we are talking about crime prevention and terrorism prevention, but in terms of the fusion centers themselves, what would you like to see accomplished over the next 12 months? In other words, tell us what your goals might be and what we might be looking for over the next 12 months to make sure these are up and running and effective.

Mr. TOMARCHIO. I think one of the biggest and most important challenges that we face and one thing I would like to see us do more of and maybe do it better is to tackle the issue of training. I know that Captain Rapp spoke a little bit about that.

I think as a result of the fact that we are melding two cultures, we are melding a law enforcement and criminal intelligence culture with an intelligence culture. And as I think Captain Rapp said,

there are instances where folks in the fusion centers do not understand the Federal intelligence community, they do not understand the intelligence cycle. And I think what we need to do collectively, both the Federal Government, the State and locals, is to ensure that we can raise the amount of training and awareness in the fusion centers of what needs to be done.

The folks that I have met in the fusion centers are incredibly motivated to do the right thing. They need the tools and they need the training to do that. And I think that that is one of the biggest priorities that I think we have to have. We have to be able to get mobile training teams out to the centers. We have to be able to bring in folks from the centers to come to DHS or come to the FBI to receive training. There are numerous courses out there that exist that would be beneficial to these folks.

Now, the problem that we understand is that it is difficult if you are a police officer or if you are a watch commander in a fusion center to send one of your best analysts to Washington for 8 weeks to go to CIA University and receive an analyst course. We realize that is a difficulty. We have to find a way to bring that knowledge to them, whether it is through online training, whether it is through train the trainer. I think we have to start looking at that, and we are doing that. But I think that is a very important challenge for us and I think one that will be met, but, again, it is an ongoing job.

Senator PRYOR. All right. Do you want to comment, Mr. Hitch?

Mr. HITCH. I certainly agree on the training and also technical assistance. One of the things that was mentioned earlier about these annual fusion center meetings that are held, the recent one in San Francisco, it shows the tremendous demand for the information that is being provided by both DHS and DOJ. There were people who could not sign up; there just was not enough room for them. We had a huge audience, and I expect that to continue.

Another thing is, anecdotally you still hear about some organizational issues because this is new and cultures need changing. And I think the agreements are there, the President's information-sharing plan is clear, but yet that does not mean that it works out very smoothly every single day. And that is what I would like to see happen; as issues happen, I think we need to resolve them because our guidance is clear. So I would like to see that. That is really more of a smooth working machine as opposed to organizations that are in a start-up mode.

Senator PRYOR. Great. And I assume there will be some new fusion centers coming online. I know my home State of Arkansas is in the process of setting one of those up. I do not know if they have made final decisions or not. And I am sure other States and regions are doing that.

Well, listen, I want to thank you all for being here and being part of this panel. And, Ms. Larence, I understand that this is your second time before the Subcommittee. Is that right?

Ms. LARENCE. It is, sir.

Senator PRYOR. And you win the prize because we haven't ever had the same witness twice. [Laughter.]

Ms. LARENCE. Thank you.

Senator PRYOR. And we are going to hold a hearing next year for you to come to.

Ms. LARENCE. It is a deal.

Senator PRYOR. Based on one of your GAO reports, just give us any ideas and we will have a hearing—no, I am teasing about that. But thank you. It is great to have you back and great to have our witnesses here. And like I said a few moments ago, we are going to leave the record open for 2 weeks. We are going to include all of your prepared written statements. If you have charts or anything else we can include those in the record.

I want to thank you for your time and your preparation, and once more thank you all for being here today. But even more importantly, thank you for doing what you do because you all are making a difference, and we appreciate it very much. The good news is I am going to be able to get over and get those votes cast in a few minutes.

So, with that, I will adjourn the hearing. Thank you.

[Whereupon, at 3:23 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Captain Charles W. Rapp

Director

Maryland Coordination and Analysis Center

April 17, 2008

I would like to thank Chairman Pryor and Ranking Member Sununu and the members of the subcommittee for inviting me to provide comments today. The fusion center program is crucial to detecting any terrorist activities designed to jeopardize the safety of our citizens.

My comments today are based on my experience managing the Maryland Coordination and Analysis Center (MCAC), Maryland's state fusion center. Over the past two years, I have learned a great deal about the intelligence community and the role fusion centers should play in that process. The level of information available to state, local, and tribal partners is unprecedented in volume. The flow of this information is also greatly improved. One of our greatest challenges is to expeditiously process the profusion of information to determine what is useful to our consumers. State and local public safety officials require a great deal of information on threats and the mechanics of the threats. Managing the information flow is only one challenge for fusion centers.

This is a highly dynamic process. We constantly adjust and refine our procedures to ensure maximum information relevance for our consumers. Local training for our analysts is key to achieving this end. We must teach each analyst to more efficiently glean any and all relevant data for their consumers. Federal training programs can be beneficial, but usually take an analyst away from the job for an extensive period and are not necessarily geared to the local level. We need to develop specialized training for state and local analysts that can be completed in segments and/or using a multifaceted method of instruction. It is also imperative that we make our federal partners understand that access to information does not necessarily equate to sharing information.

Another facet of this process is to educate state and local managers about what information they need and what they can expect from the fusion centers. Many state and local managers narrowly seek only tactical information, while ignoring a broader strategic analysis that could benefit their agencies. The intelligence cycle and the information they could receive is still unclear to many of these decision makers.

Collection of information is another challenge for the local jurisdictions. In Maryland we realized that we were not capturing information from areas that were not in the Baltimore Metropolitan region. To counter that lack of information flow, we developed a regional plan. We currently have three regional centers operating in Hughesville, Salisbury and Frederick Maryland. We are working with local officials to open another center in Allegeny County and possibly another center on Maryland's Eastern Shore. These centers were designed much like our main fusion center. Each center has a governance board comprised of Chief Executives of participating agencies. The governance boards are meeting monthly at this point to determine the direction of the centers and discuss policy for the centers. Control of these centers is maintained locally and they are networked into our main center. The value of these centers is collecting local information that will

benefit the participating agencies. These centers, outside the metropolitan area, act as a hub to collate information on local criminal activity and pass the information to the MCAC. It also allows our main center to look for trends and patterns throughout the state and pass federal information back to these communities. Critical information is passed daily and we are gathering information to coordinate monthly reports which will add value to the entire process. The regional centers add value to the agencies within their area by providing crime information and identifying local patterns. They are tracing criminal activity and participants and looking for travel patterns within their communities and helping solve criminal incidents by linking associates and acts. The information they develop can then be analyzed by our main center and matched against federal information or simply passed into the intelligence community via intelligence reports. Fusion centers will play a critical role by detecting criminal activity which may reveal precursors to terrorist activity.

The additional critical role fusion centers will and are fulfilling is a conduit to pass information quickly between states so the information is available to first responders when they need it. Fusion centers are poised to detect precursors to terrorist activity. They allow for a vigorous exchange of information on breaking events among first responders nationwide. Shootings at Virginia Tech and Northern Illinois University are recent examples. One of the first issues addressed is establishing if there is a link to terrorism. Obtaining and providing accurate information is essential to the role of fusion centers. Fusion centers need to act as a hub of information as well. Places where information can be reported and take the responsibility of passing it to first responders and others that need the information. Fusion centers are sharing more time sensitive information about organized criminal activities, gang-related activities and other information that previously may have only been shared in response to a specific request. It also gives investigators a point of contact within each state or region to connect investigators that have specific information requirements. Investigators from outside Maryland only need to call the fusion center to either obtain information or be connected with someone who will be able to provide information.

Our next largest challenge will be deciding what information and capabilities a fusion center should provide. Last year I sat on a committee that developed a draft of baseline capabilities for fusion centers. This draft was meant to develop some core capacities and to provide some guidance as to the capacities that the group thought would be important for fusion centers to meet. The baseline capabilities were meant to be obtainable by each center and provide some direction on where they should develop. The criteria for the baseline document was developed based on what would satisfy current gaps and would benefit first responders with a statewide information sharing strategy. Some of the baseline capabilities represent a challenge for many of the centers. My center has not met

all of the baseline capabilities recommended in the draft, it was not meant to define a fusion center, rather to provide a template for a fusion center to follow to adopt a core capacity that can be standardized across the country.

The baseline capabilities draft provides another measure to determine how fusion centers will carry out their missions. Some of the capabilities are readily obtainable, like having a clear mission statement in writing. Others, such as having a statewide standard for reporting suspicious activity may take longer for local and state officials to obtain. This may involve developing coalitions and investing money to make reporting more standardized and capturing the data in a searchable database. However, I think this document is extremely important for fusion centers. It not only gives an outline to fusion centers of where they should be developing capacity, but it provides goals for them to reach and provides a means to measure success. By reaching these capacities the fusion centers will demonstrate their value to local communities. As we have developed we continue to learn how we can add value to our communities and consumers so these baseline capabilities may expand as we move ahead.

Once the baseline capabilities are accepted and adopted, fusion centers will know where to focus efforts to develop core capacities. The next step will be funding the core capacities. Once a measure has been developed, then the value of each center can be assessed. However, without a consistent funding stream some centers may never attain the core capabilities. My own center depends on Homeland Security Grant Program Funds and Urban Area Security Initiative Funds to operate our center. State and local funding comes from the assignment of detailed personnel to the center. However, this funding stream is still left to the discretion of the Governors. Thus, in some states none of the funding is used for fusion centers, in others funding may be limited or inconsistent. This year, my funding has not been released. Aside from funding contractual analysts, I have no funds to spend on operational needs. This makes planning and developing baseline capabilities difficult. Truly, one of the most valuable steps Congress could take is designating some of the Homeland Security Grant funding be spent directly on fusion centers tying it to development or sustaining core capacities.

The next step is using the core capacities to benefit the operational components within the states. Baseline capabilities require a statewide threat assessment listing vulnerabilities and gaps from which prioritized collection requirements can be derived. Once the centers develop prioritized information needs, they can clearly communicate that to collectors. Collectors will then report back to the fusion centers enhancing the capacity of the state to detect potential precursors to terrorist activity. This should then be the focal point for federal agencies to synthesize their intelligence with any intelligence gathered on a local level. This is not happening. The FBI's Joint Terrorism Task Forces have been reluctant to integrate fusion centers into their intelligence gathering operations. Instead, they continue to rely on state and local task force members to relay information to their

agencies. This compartmentalization of information gathering and sharing is counter-productive and counter-intuitive to the fusion center concept. Without the full cooperation of our intelligence gathering agencies, the effectiveness of our fusion centers and thereby the safety of our citizens will always be compromised.

We have made strides in the area of developing linkages to federal information streams. The Department of Homeland Security, Intelligence and Analysis Division, headed by Undersecretary Charles Allen is proactively moving forward. Over the past two years the development of a Homeland Security Information Network State and Local Intelligence Portal Community of Interest (HS SLIC) has become a vital link and extremely beneficial tool for the fusion centers. The SLIC advisory board with one representative from each state, approves membership to the portal which ensures data is being shared with appropriate audiences. The connectivity of the states within this portal is very effective and allows members to exchange information within a secure environment.

In addition, Mr. Allen has incorporated an advisory board of the vice-chairs of that portal to advise him on issues regarding information sharing that need to be addressed. This advisory board incorporates all of the regions involved in the portal, thus giving each fusion center a pipeline to voice concerns or needs regarding information requirements. It has also allowed unit supervisors in the Intelligence and Analysis Division the opportunity to see the types of questions fusion centers are asking and provides a way for the units to interact with fusion centers to address their needs. The most important piece of this is establishing an open dialogue that allows the fusion centers to have a voice in how we can interact with federal agencies. This concept should be emulated with all of the federal intelligence agencies. An open dialogue will allow us to solve issues more quickly and with better results than having any one agency design a plan that they think will address needs, but not receiving input from the consumers of their product.

Another aspect of the core capacities was to benchmark the centers to determine how successful they have been. This has been a segment that is difficult to measure. Much of the information that comes into the fusion centers that is terrorism related is pushed to systems that are linked to the JTTF. Once the JTTF opens a case and investigates the information, it can either move forward as a classified case or be closed. This information is generally not reported back to the fusion centers. Other bits of information may not fit anything and may only be entered into a database. The fusion center may never know whether any of the information played a significant role in an investigation. Thus most of the success stories from information sharing have been anecdotal. We can quantitatively measure factors like how many calls are received per day, how many information requests are processed daily, the number of products produced, etc. However, I am not convinced that these measures will give you the true value of the centers or provide an accurate picture of their capabilities. Fluctuations in these measures would be of limited value because we may not be able to identify reasons for the changes.

The concept of fusion centers is extremely valuable. The inclusion of fusion centers in the intelligence enterprise is a necessary component because it ties local information into the threat picture. We have already seen successes with the centers merely by the ability they have to link states and how quickly they share information in that realm. The next steps for fusion centers hinge on funding. There needs to be a sustainable stream of funding to support the core capabilities. Congress should allocate money through the Homeland Security Grant Funding earmarked for fusion centers. Congress should require that fusion centers demonstrate that they are incorporating multiple agencies and serving multiple communities. They should further be required to demonstrate that they are adding or improving information sharing within their state or region. Congress should have frequent contacts with state and local fusion center directors to hear how the information sharing needs of communities are being met and that federal partners are active participants in the process.

On the state and local fusion center side, we need to come together and form a representative body with national participation to address Congress with one voice. A group similar to the Major Cities Chiefs Association should be developed so the many issues can be presented to you in a coordinated, cohesive way.

Thank you for allowing me to address the sub-committee and I would welcome any questions you may have.

Statement of Matthew Bettenhausen

Director

California Office of Homeland Security

April 17, 2008

Before the Senate Homeland Security and Governmental Affairs Committee

Subcommittee on State, Local, and Private Sector Preparedness and Integration

Fusion Centers: A Progress Report

Good afternoon, Chairman Pryor, Ranking Member Sununu, and Members of the Subcommittee. I am pleased to be here today to demonstrate Governor Arnold Schwarzenegger's commitment to preventing terrorism.

As the Director of the California Office of Homeland Security, I want to share with you the invaluable role fusion centers play in California's homeland security strategy and how these centers have enhanced our information sharing capabilities. It is also important to recognize the progress being made by the Department of Homeland Security and the Department of Justice in this effort and the important resources and policy direction the Congress has provided. Homeland Security Grant programs are absolutely essential if we are to build an effective network of fusion centers capable of protecting

our communities and critical infrastructure from terrorist attacks. Finally, I want to highlight some of the areas where the Department of Homeland Security can do more to enhance the effectiveness and sustainability of fusion centers.

California's State Terrorism Threat Assessment System

To determine an accurate depiction of our adversaries, their intentions, and their capabilities, California moved quickly after 9/11 to establish a Terrorism Threat Assessment System. The State Terrorism Threat Assessment System (STTAS) is responsible for regional and statewide information collection, analysis and sharing activities. The STTAS is comprised of four Regional Terrorism Threat Assessment Centers (RTTAC) and one State Terrorism Threat Assessment Center (STTAC). The RTTACs are located in San Diego, Los Angeles, San Francisco Bay Area and Sacramento. These locations mirror the Federal Bureau of Investigation areas of responsibility within California and are comprised of a mixture of State, local, and federal public safety agencies.

The State fusion center is designed to provide California's senior leaders with: situational awareness of identified threats; visibility of and coordination with the critical infrastructure of the state; and constant access to the latest local, state and national information analysis products and assessments. The STTAC provides: statewide assessment products; information tracking and pattern analysis; geographic reporting linkages; and connection with the latest national information from the FBI, DHS and other federal agencies.

The Regional fusion centers: integrate the intake, analysis, fusion, and synthesis of intelligence information with an emphasis on terrorist threat intelligence; identify patterns and trends that may be indicative of emerging threats; and provide relevant, timely and actionable intelligence products for the region. The RTTACS establish policies to share and exchange terrorism-related information and intelligence products with public and private sector organizations having public safety and infrastructure protection responsibilities.

There are currently 15 analysts assigned the STTAC from a mix of state agencies. The regional fusion centers vary in size from 15 individuals in the Sacramento and San Diego RTTACs, 40 individuals in the Los Angeles RTTAC, and 44 individuals in the San Francisco Bay Area RTTAC.

The State and regional centers are supported by a network of Terrorism Liaison Officers (TLOs) and a secure web-based information sharing system to distribute and receive information. The TLOs serve as the local public agency and private entity point of contact for all terrorism-related issues. At the local level, law enforcement and public safety agencies are designating TLOs who are trained in the review and assessment of local reporting and in conducting outreach to other public safety agencies, critical infrastructure operators and community groups. The TLO is the local agency point-of-contact for all terrorism-related alerts and suspicious activity reports, requests for information, warnings and other notifications from regional, state or federal homeland security agencies. The TLOs review local-agency reports, manage local reporting and initiate or respond to requests for information. The TLOs have an ongoing relationship

with other local agencies, especially those with daily contact in the community, and develop relationships with critical infrastructure sites within their respective jurisdictions, establishing a personal connection with their security and management staff.

California has trained over 4,300 TLOs through a formal training program, approved and certified by both DHS and California Commission on Peace Officer Standards and Training (POST). We have also expanded the TLO program to include an initial group of over 70 individuals representing state agencies in Sacramento who will be connecting state government directly to the STTAC.

With the support of the federal homeland security grants, our future investments will include: (1) expanding the existing threat assessment analytical capabilities at the fusion centers; (2) expanding the training of Terrorism Liaison Officers; (3) expanding the existing statewide information sharing technology platform; (4) expanding law enforcement counter-terrorism case de-confliction efforts; and (5) enhancing public and private sector information sharing partnerships.

National Support Has Contributed to the Success of Fusion Centers

I first want to recognize the initiative the Department of Homeland Security has taken to embed DHS Intelligence Analysts in State and regional fusion centers. This effort is to be applauded. Similarly, I would be remiss if I did not recognize the contribution of the FBI Special Agents in Charge in California for their partnership and support of California's fusion centers. In particular, cooperation by the Los Angeles FBI office resulted in space being donated to house the Los Angeles area analysts. This

collaboration continues, as the Los Angeles RTTAC is being ably led by Ms. Leslie Gardner of the FBI. I can not underscore enough the value of these partnerships to the overall success of our fusion centers.

The National Strategy for Information Sharing (Strategy) is also praiseworthy, as it provides clear and concise direction to all levels of government. The Strategy recognizes the critical role of State and local first responders and first preventers in preventing acts of terrorism. Being enfolded by this strategy validates the unique perspectives of State and local public safety agencies and represents a much needed change away from a federal-centric approach to combating terrorism.

We are committed to quickly implementing the Strategy and I am pleased to report that one of the key elements - suspicious activity reports - is being piloted in California by the Los Angeles Police Department (LAPD). The goals of the pilot program are to standardize internal processes and institutionalize counter-terrorism throughout the LAPD. The collection of this data will enable the LAPD, and other departments, to develop a measurement tool for terrorism related behavior and activities to identify indicators of emerging threats.

The establishment of the Interagency Threat Assessment and Coordinating Group (ITACG) is another positive step being taken by DHS. The ITACG has the potential to bring a State and local perspective to products produced by the Intelligence Community. The ITACG also has the potential to enhance our ability to turn information analyzed at the national level into action at the operational level. However, more work needs to be done to better define the requirements of the Intelligence Community from State and

local public safety agencies. Locals need clearer direction on the types of information that should be shared.

At the operational level, fusion center analysts have been pleased with the Department of Homeland Security's deployment of the Homeland Security Information Network (HSIN), a system for sharing sensitive analytical products. Under Mr. Charlie Allen's leadership, the Department has improved both the timeliness and the quality of the HSIN products. Responses to requests for information from State and local agencies have also been more timely.

Another positive development as been the establishment of the Homeland Security State and Local Intelligence Community Interest (HSIN-SLIC). The HSIN-SLIC provides a secure forum for analysts from over 40 states and 6 federal agencies to directly share information with each other. The forum is also supported by weekly threat teleconferences. Early feedback as indicated that this is one of the more promising venues to share information horizontally and to identify emerging national threats.

Fusion Centers' Role in Protecting Critical Infrastructure

Fusion centers should also be leveraged to enhance critical infrastructure and prevention capabilities. DHS should act on the recommendations made by the State, Local, Tribal and Territorial Government Coordinating Council (SLTTGCC) to establish the critical infrastructure and key resource desks (CIKR Desk) at State fusion centers. As the SLTTGCC noted, the key function of the CIKR Desk in fusion centers would be the

integration of threat, vulnerability, and consequence data to develop information products for public safety and private entities with security responsibilities.

In California, fusion centers are being utilized to extend training to our private sector partners. At the Governor's direction, the requirements for licensed security professionals were modified to mandate enrollment in a four-hour terrorism-awareness training program. This common sense policy change will ultimately provide terrorism training to the approximately 400,000 licensed security professionals in California. We have also implemented a terrorism-awareness training program amongst professional and trade associations to ensure that they have current trend and pattern information, threat assessments and connectivity to their RTTAC. The State fusion center is also working closely with the agricultural industry to protect this critical resource, by formulating an initiative with the California Department of Food and Agriculture to deliver a one-day TLO course to each of the 58 county agriculture commissioners. A partnership is also being formed with the State's Rural Crime Task Force to train its members in terrorism awareness and California's information sharing protocols.

The RTTACs have been working closely with my office to identify, prioritize and protect the State's broad array of critical infrastructure and key resources (CI/KR). These efforts have been closely coordinated with a broad array of private-sector partners—those entities that own and operate the bulk of the State's assets and resources. Such partnerships include site owners and operators, first responders, public and private organizations and associations, and other levels of government, including local, State, federal, and tribal partners.

The Automated Critical Asset Management System (ACAMS) is the data-management tool that has been selected to specifically capture, store, retrieve and review CI/KR data. The ACAMS data-management tool coordinates: Critical Asset Inventory and Prioritization Modeling; Asset Manager Questionnaires (promotes Public/Private partnerships); Critical Asset Assessments (CAAs); Site-Specific Pre-Incident Security Enhancement Plans; Buffer Zone Protection Plans; Building Inventories; and Site-Specific Post-Occurrence/Response Plans.

Building a More Robust and Sustainable Network of Fusion Centers

As I mentioned earlier, embedding DHS personnel in regional and state fusion centers is a positive development. DHS should take every opportunity to replicate the success of this initiative by detailing analysts from other components of the Department. Fusion centers should be the logical base of operations for DHS's Protective Security Advisors, rather than being assigned to Secret Service field officers. Additionally, Congress is provided additional to resources to the Department to deploy Mass/Surface Transit Security and Aviation Security analysts. These personnel would also the be good candidates for embedding in regional and state fusion centers. Indeed, all agencies and Departments with either law enforcement or emergency response capabilities should have a significant presence at regional fusion centers. Currently the United States Coast Guard, Federal Bureau of Investigation, and the Drug Enforcement Agency participate in California's fusion centers. Our prevention, analytical and information sharing capabilities could only be enhanced by a sustained commitment from the Immigration

and Customs Enforcement Agency, the Alcohol, Tobacco, and Firearms and Explosives Agency, and Transit Security Administration.

DHS should also expedite the fielding of the Homeland Security Data Network (HSDN) system to the State fusion center. This long awaited project is a needed improvement to California's information sharing and analytical capabilities, as the HSDN system will allow the STTAC and OHS analysts access to some levels of classified information and connectivity with the RTTACs and DHS at the classified level.

Security clearances - both in terms of availability and proper level - remain an issue for State and locals. Perhaps the most recent and best example I can provide you with, is the classification of the new Presidential Homeland Security Directive regarding cyber security at the Top Secret level. Unfortunately, the Department has not recognized the need to issue Top Secret clearances to State and local public safety officers - even those whom bear the responsibility of implementing national security directives.

Finally, inconsistent guidance (Information Bulletins 235 and 281) regarding the use of federal funds under the State Homeland Security and Urban Area Security Initiative Grant programs has been extremely counterproductive and detrimental to State and local efforts to build and sustain a network of fusion centers.

To be effective, fusion centers must be staffed with well trained and properly cleared personnel. The National Strategy for Information Sharing acknowledges the importance of personnel and states, "the Federal government will support the establishment of these centers and help sustain them through grant funding, technical

assistance, and training."[1] Congress also recognized the value of staffing fusion centers in passing H.R. 1, the Implementing Recommendations of the 9/11 Commission Act (9/11 Act), which explicitly allows states and locals to utilize homeland security grants to hire personnel to staff fusion centers. Notwithstanding the urgent operational need and unequivocal legislative intent, the Department has continued to issue contravening grant guidance. For these reasons, I was heartened to learn of the recent letter sent by the Senate and House Homeland Security Chairs and Ranking Members to Secretary Chertoff admonishing this inconsistent guidance. I agree with the Committee that the guidance is a short sighted and detrimental change to existing practices and destructive of the nation's prevention and protection efforts and, therefore, should be retracted. Additionally, IB 281, which sought to alleviate some of the overly restrictive guidance, should be modified to reflect the permitted uses of the grant funds under the 9/11 Act.

State and locals have invested a lot of time, money and personnel to terrorism prevention and have absorbed the vast majority of the costs for prevention, protection and infrastructure preparedness with state and local funds. Creating, establishing and sustaining fusion centers has been a success story. Staffing them with qualified, cleared analysts has been and remains a challenge. These analysts and fusion centers also clearly work to the benefit the federal government by allowing for better information sharing and real time communication during a crises.

Putting unnecessary restrictions on funding while we are still in the developmental stage of the fusion centers and the information sharing is unwise. The lack of analysts will have adverse consequences in our infrastructure protection efforts,

[1] National Strategy for Information Sharing, October 2007

including their review of classified information and providing information back to DHS's Infrastructure Protection Directorate. California is conducting a number of comprehensive reviews with the Department and fusion center analysts are assisting in these efforts. We have also developed and invested significant resources in the identification and training of several thousand TLOs at government and private agencies throughout the state. Without a functioning fusion center system, the information gathered by these TLOs will be at risk of not being collected, as the system needs constant attention and skills refreshment.

DHS should heed the advice of Secretary Chertoff's Homeland Security Advisory Council, which recently recommended that, "outgoing DHS leadership should continue to vigorously support the establishment of state fusion centers with both funding and personnel."[2]

Again, thank you for this opportunity to be here today. I will be happy to take your questions.

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[2] Homeland Security Advisory Council, Report of the Administration Transition Task Force, January 2008

"FOCUS ON FUSION CENTERS: A PROGRESS REPORT"

STATEMENT OF

RUSSELL M. PORTER
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LAW ENFORCEMENT INTELLIGENCE UNIT (LEIU)

BEFORE THE

SUBCOMMITTEE ON STATE, LOCAL,
AND PRIVATE SECTOR
PREPAREDNESS AND INTEGRATION

COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENT AFFAIRS
UNITED STATES SENATE

APRIL 17, 2008

Statement of
Russell M. Porter

Director, State of Iowa Intelligence Fusion Center,
Iowa Department Of Public Safety
and
General Chairman,
Law Enforcement Intelligence Unit (LEIU)

Before the
Subcommittee on State, Local, and Private Sector Preparedness and Integration
Committee on Homeland Security and Government Affairs
United States Senate

"Focus on Fusion Centers: A Progress Report"

April 17, 2008

Chairman Pryor, Ranking Member Sununu, Members of the Subcommittee, thank you for convening this hearing today to focus on fusion centers and the progress that has been made in making our communities, our state, and our nation safer. I want to acknowledge the hard work of my many colleagues at the local and state level, and I'm especially pleased to appear with two of my contemporaries, Mr. Charles Rapp from Maryland and Mr. Matthew Bettenhausen from California. I also want to acknowledge the partners at the federal level with whom we work each day.

I would like to provide you with a report on fusion centers by offering a very brief overview of some of the progress that has been made with fusion centers, followed by some remarks about a key priority that has been established as local, tribal, state, and federal governments have moved forward together.

Because this is my first time appearing before the Subcommittee, I would like to highlight my professional experience as it relates to the subject of this hearing. I began my career as a local law enforcement officer in 1978. Since 1984 I have been continuously assigned full-time to the law enforcement intelligence discipline, and now hold the rank of Director at the Iowa Department of Public Safety where I report to the

Commissioner of Public Safety for the State of Iowa. At the national and international level, I have been elected by my peers and am now serving my second two-year term as General Chairman of the Law Enforcement Intelligence Unit, the oldest professional association of law enforcement intelligence units in the U.S. I also currently serve as Chairman of the Criminal Intelligence Coordinating Council (CICC), and as Chairman of the Global Intelligence Working Group (GIWG) (part of the Global Justice Information Sharing Initiative, a Federal Advisory Committee to the Attorney General of the United States). I am a member of the Interagency Threat Assessment and Coordination Group (ITACG) Advisory Council, which was created in 2007 at the direction of the President and Congress and chaired by the Under Secretary of Intelligence and Analysis for the U.S. Department of Homeland Security. Additionally, I currently serve on the National Fusion Center Coordination Group; the Police Investigative Operations Committee for the International Association of Chiefs of Police (IACP); the Executive Advisory Board for the International Association of Law Enforcement Intelligence Analysts (IALEIA); and the Advisory Board for Michigan State University's Criminal Justice Intelligence Program. I previously participated in the monthly meetings of the U.S. Department of Justice Intelligence Coordinating Council at FBI Headquarters, and served as a Fusion Group Subject Matter Expert for the Intelligence and Information Sharing Working Group of the U.S. Department of Homeland Security's Homeland Security Advisory Council (HSAC), and for the *LLIS* Intelligence Requirements Initiative. At the state level, I lead our state's fusion center, and serve as a member of the Executive Committee and the Operating Council for the Safeguard Iowa Partnership, a voluntary coalition of the state's business and government leaders, who share a commitment to combining their efforts to prevent, protect, respond, and recover from catastrophic events in Iowa.

I assisted with drafting the IACP's *Criminal Intelligence Sharing: A National Plan for Intelligence-led Policing at the Local, State, and Federal Levels* in 2002; Global's *National Criminal Intelligence Sharing Plan* in 2003; the HSAC's *Homeland Security Intelligence and Information Fusion* report in 2005; and the jointly-issued Global – DOJ – DHS *Fusion Center Guidelines* in 2006. Since the creation of the Global Intelligence Working Group in 2002 until my appointment as CICC and GIWG Chairman in

December 2007, I served as the Chairman of the GIWG's Privacy and Civil Liberties Task Team. During the past several years I have worked closely with our federal partners on the joint delivery of training and technical assistance regarding privacy and civil liberties protections in fusion centers. (I will provide more details about this important effort later in my statement.) In 2007 I was awarded the IALEIA President's Distinguished Service Award for championing the protection of privacy, civil liberties, and civil rights in criminal intelligence work.

Thus, because of the responsibilities associated with each of these roles and initiatives, I work closely and regularly not only with my local and state counterparts in fusion centers across the U.S., but also with our federal partners. I would be remiss if I did not acknowledge our work with and the support received from U.S. Department of Homeland Security (DHS), and especially the Office of Intelligence and Analysis; the U.S. Department of Justice (DOJ), with strong support received from the Bureau of Justice Assistance; the Federal Bureau of Investigation through their National Security Branch; the Program Manager's Office of the Information Sharing Environment; and the Office of the Director of National Intelligence. Finally, much of the progress that has been made with fusion centers is possible by a collaboration of local, tribal, state, and federal agencies who are part of the Global Justice Information Sharing Initiative (Global), the Criminal Intelligence Coordinating Council, and the Global Intelligence Working Group. These are colleagues who commit countless hours of their time each week to improve information sharing in the United States, including help to establish an effective national, integrated network of fusion centers.

A PROGRESS REPORT ON FUSION CENTERS

Following the terrorist attacks on the United States on September 11, 2001, law enforcement and other government agencies joined together to strengthen information sharing and analysis capabilities. Many State and major urban areas have since established information fusion centers to coordinate the gathering, analysis, and

dissemination of law enforcement, homeland security, public-safety, and terrorism information.

The *National Strategy for Information Sharing* released by the White House in October 2007 describes fusion centers as "a valuable information sharing resource," and as "vital assets critical to sharing information." The *Strategy* further states, "A sustained Federal partnership with State and major urban area fusion centers is critical to the safety of our Nation, and therefore a national priority." Similarly, the *Implementing Recommendations of the 9/11 Commission Act of 2007*, enacted in August 2007, also endorsed and formalized the development of a national network of State and major urban area fusion centers.

In my experience, fusion centers have emerged as what may be the most significant change in the structural landscape of criminal intelligence in at least the past twenty-five years. Continued support to and coordination with fusion centers is essential. Because these are led and operated by local and state governments, and because responsibilities and laws vary among local and state governments, there is no single structure or governance form for fusion centers. Additionally, because these entities are relatively nascent, their capabilities are developing at different rates. Thus, the day-to-day management of, governance of, capabilities for, and intra- and interstate coordination among fusion centers differs and is based on these diverse and changing conditions. At this time, relationships with federal agencies may also vary from one center to the next.

Overall, we have seen incremental but significant progress in many areas of information sharing, such as issuance of national security clearances and access to information previously unavailable to local and state officials; collocation of local, state, and federal personnel at fusion centers, Joint Terrorism Task Forces, and other locations; the establishment of the Interagency Threat Assessment and Coordination Group (ITACG); and recurring policy level meetings with local, tribal, state, and federal officials through the Criminal Intelligence Coordinating Council, the ITACG Advisory Council, and other groups. Each of these has served to improve our information sharing capabilities. While

acknowledging this progress, we recognize that much more needs to be accomplished, and a continued sense of urgency will help all of us maintain the momentum.

As we establish a national, integrated network of fusion centers it is important to put "first things first." I have been encouraged by a key issue that has consistently been made a priority as the emergence of fusion centers has occurred: emphasizing the importance of systemic and institutionalized protections of privacy and civil liberties.

PROGRESS IN STRENGTHENING
PRIVACY AND CIVIL LIBERTIES PROTECTIONS

"Those who cannot remember the past are condemned to repeat it."

George Santayana (1863–1952), U.S. philosopher, poet.

Fusion centers are being established to serve as hubs for the sharing and analysis of information and intelligence – activities on which law enforcement agencies must rely each day. While these activities are fundamental and essential tools for protecting the public from serious crime,[1] history has shown us that these activities may also pose significant threats to the constitutional rights of individuals.[2] Although it is not possible to provide a comprehensive history in this statement, there is great value in understanding – and acting on – the lessons learned from a brief overview of this history.

[1] Geller, William A. and Norval Morris. 1992. "Relations Between Federal and Local Police." In Michael Tonry and Norval Morris (Eds.), *Modern Policing: Crime and Justice – A Review of Research, Volume 15*. Chicago, IL: The University of Chicago Press, pp. 231-348. Campbell, Kurt M. and Michèle A. Flournoy (Principal Authors). 2001. *To Prevail: An American Strategy for the Campaign Against Terrorism*. Washington, DC: The CSIS Press, at p. 77.
[2] American Friends Service Committee. 1979. *The Police Threat to Political Liberty*. Philadelphia, PA: American Friends Service Committee. Donner, Frank J. 1991. *Protectors of Privilege*. Berkeley, CA: University of California Press.

Historical Perspective

In the 1950's, the vast majority of law enforcement agencies did not have intelligence units.[3] Those that did had few resources committed to the function.[4] Furthermore, when it came to sharing information with other agencies, some departments jealously guarded the information they possessed,[5] while others who wanted to share it were hampered by the lack of a central clearinghouse.[6] In 1956, a voluntary information sharing system was begun by twenty-six departments from seven states.[7] This organization, comprised of state and local law enforcement agencies, was called the Law Enforcement Intelligence Unit (LEIU). In the ensuing years, LEIU membership increased, with participating agencies from across the country. Aside from LEIU, however, there were few formalized methods of intelligence information exchange during this time.[8]

The 1960s were a period of turbulence and unrest in America. Following on the heels of a dramatic rise of reported crime and outbreaks of civil disorder, federal commissions and agencies advocated that local and state law enforcement agencies develop intelligence capabilities. Funding was also provided to local and state governments by the federal government to help establish these capabilities. For example:

- In 1967, the President's Commission on Law Enforcement and the Administration

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[3] International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 56, citing Lumbard. 1963. "Local and State Action Against Organized Crime." *Annals of the American Association of Political and Social Scientists* 347: 82, 87.
[4] International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 56.
[5] International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 57, citing Ploscowe, Morris. 1963. "New Approaches to the Control of Organized Crime," *Annals of the American Academy of Political and Social Scientists* 347: 74, 79.
[6] International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 58.
[7] International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 59.
[8] A more thorough account of the history of LEIU can be found at Donald O. Schultz and Loran A. Norton. 1968. *Police Operational Intelligence*. Springfield, IL: Charles C. Thomas, Publisher, pp. 23-25; and Wayne Bishop. 1971 (September). "Intelligence systems: LEIU – An Early System." *Police Chief*, p. 30. LEIU continues to exist today and provides leadership and promotes professionalism in the criminal intelligence community.

of Justice[9] urged every major city police department to have an intelligence unit to focus on gathering and processing information on organized crime. The Commission also recommended that the U.S. Justice Department encourage the development of efficient systems for intelligence gathering and dissemination by offering financial assistance.[10]

- In 1968 the National Advisory Commission on Civil Disorders[11] recommended that police agencies establish an intelligence system to help prevent civil disorders and to institute effective control measures in the event a riot erupts.

- In 1968 the creation of the Law Enforcement Assistance Administration (LEAA) allowed the U.S. Department of Justice to carry out some of these recommendations. LEAA recognized that a major problem in dealing with crime was a lack of intelligence data.[12] Numerous intelligence systems received technical and financial support from LEAA during this time period.[13]

- In 1973 the National Advisory Committee on Criminal Justice Standards and Goals[14], in Standard 9.11, recommended that every police agency and every state immediately establish and maintain the capability to gather and evaluate information and to disseminate intelligence in a manner which protects every individual's right to privacy while it curtails crime and disorder. It further

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[9] President's Commission on Law Enforcement and Administration of Justice. 1967. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office.
[10] President's Commission on Law Enforcement and the Administration of Justice, 1967, *Task Force Report: Organized Crime*, p. 22.
[11] Report on the National Advisory Commission on Civil Disorders. 1968. Washington, D.C.: Government Printing Office.
[12] Remarks by Richard Velde, Administrator of LEAA, 115 *Congressional Record* 4706-4708 (daily ed., May 9, 1969).
[13] Among the projects that received support were the New York State Identification and Intelligence System (NYSIIS) (see Robert J. Gallati, 1971, "The NYSIIS Story," *1971 IACP Police Yearbook*, pp. 158-162); the New England Organized Crime Intelligence System (NEOCIS) (see Law Enforcement Assistance Administration, 1972, *Evaluation of the New England Organized Crime Intelligence System*, Washington, DC: U.S. Government Printing Office); and the Law Enforcement Intelligence Unit's computerized Interstate Organized Crime Index (IOCI) (see Frank A. Zunno, 1971 (September), "LEIU, An Early System," *Police Chief*.
[14] National Advisory Committee on Criminal Justice Standards and Goals. 1973. Washington, DC: U.S. Government Printing Office.

recommended that:

- every state should establish a central gathering; analysis, and storage capability, and intelligence dissemination system.
- every police agency should actively participate in providing information and receiving intelligence from this system.
- every police agency should designate at least one person to be responsible for liaison with the state intelligence system.

As these information gathering and sharing capabilities became more robust, however, they also became the subject of widely-publicized civil liberties complaints, lawsuits, and consent decrees.[15] Following these revelations, a number of police organizations or governmental bodies established policies, laws, and regulations intended to control the criminal intelligence function. In 1976, the Law Enforcement Intelligence Unit formulated an early set of file guidelines for criminal intelligence units.[16] And in 1980, federal regulations governing the operation of criminal intelligence systems – 28 CFR Part 23 – were promulgated.[17] Nevertheless, many law enforcement agencies either scaled back these information gathering and sharing capabilities, or eliminated them altogether.

The Contemporary Approach

As mentioned earlier in these remarks, information fusion centers have emerged on the criminal intelligence landscape since 2001 to coordinate the gathering, analysis, and

[15] See, for example, chapters on police intelligence practices in Seattle, Los Angeles, Philadelphia, Baltimore, Jackson, Mississippi, and references to activities in New Orleans, Chicago, and Memphis, in: American Friends Service Committee. 1979. *The Police Threat to Political Liberty.* Philadelphia, PA: AFSC. See also Donner, Frank J. 1991. *Protectors of Privilege.* Berkeley, CA: University of California Press.

[16] Peterson, Marilyn B. (Managing Ed.), Bob Morehouse and Richard Wright (Eds.). 2000. *Intelligence 2000: Revising the Basic Elements.* Sacramento, CA: Law Enforcement Intelligence Unit, and Lawrenceville, NJ: International Association of Law Enforcement Intelligence Analysts, Inc. Appendix I contains a copy of the file guidelines, first developed in the mid 1970s, of the Law Enforcement Intelligence Unit (LEIU), as well as 28 CFR Part 23, the federal regulations governing the regulation of criminal intelligence systems.

[17] See Code of Federal Regulations, Title 28 – Judicial Administration, Chapter 1- Department of Justice, Part 23 – Criminal Intelligence System Operating Policies.

dissemination of law enforcement, homeland security, public-safety, and terrorism information. Much like the recommendations found in the reports of national commissions and advisory bodies in the 1960s and 1970s, emergence of these centers has been encouraged through the publication of recommendations found in Global's *National Criminal Intelligence Sharing Plan* in 2003; the HSAC's *Homeland Security Intelligence and Information Fusion* report in 2005; the jointly-issued Global – DOJ – DHS *Fusion Center Guidelines* in 2006; the Information Sharing Environment's Implementation Plan in 2006; and the National Strategy for Information Sharing in 2007. The creation of these fusion centers has also been initially supported by the funding that has been made available to local and state governments by the federal government, as well as from local and state investments.

In those ways, history is starting to repeat itself. But while fusion centers work to improve the vital information sharing capabilities needed to protect our communities, our state, and our nation, it is critically important that they avoid the historical practices that led to recurring violations of privacy rights and civil liberties.

To that end, and in my view, establishing and institutionalizing the strongest possible protections for privacy and civil liberties has been made the highest priority in establishing a national, integrated network of fusion centers.

More specifically, from a policy, technical assistance, and training standpoint, the protection of privacy and civil liberties has been consistently emphasized among those at the local, tribal, state, and federal levels who are working together to provide support to and coordination of the fusion center implementation effort. One of the brightest spots in this effort to coordinate among levels of government has been through the jointly-offered (rather than separately delivered) training and technical assistance initiatives available to fusion centers. The U.S. Department of Homeland Security and the U.S Department of Justice, supported by work from the Global Justice Information Sharing Initiative and with the assistance of the FBI, PM-ISE, and the ODNI, have made significant

investments to provide real protections for privacy and civil liberties in the environment in which information is being shared.

To assist fusion centers in getting the right policies and procedures in place, the joint DHS/DOJ Fusion Process Technical Assistance Program has been providing, and continues to provide, technical assistance in the area of privacy, civil liberties, and civil rights policy development. This technical assistance was provided in late 2007 to all fusion centers as part of a series of regional meetings which focused on the topic. During these sessions, fusion center personnel were provided with information on the history described above, and on the importance of ensuring that privacy, civil liberties, and civil rights are protected.

The training and technical assistance sessions also included a hands-on workshop, where attendees were guided by subject matter experts through the completion of a privacy policy development template. At the completion of the sessions, attendees were asked to complete their draft privacy policies for their fusion centers, and were offered personalized technical assistance, via e-mail, phone, or on-site if needed, in order to facilitate completion of the policies. As of April 15, 2008, more than twenty fusion centers have submitted completed draft policies for review and feedback by a team of subject matter experts. DHS and DOJ intend to follow-up with all fusion centers to provide every possible avenue of assistance within the available resources.

As with other important issues surrounding the establishment of fusion centers, there is much more work to do. But getting this part right is critical to our success, and to the oath we take to support and uphold the laws and Constitution of the United States, and the states in which we work.

On behalf of the colleagues with whom I work at all levels of government, we appreciate the support for and interest in fusion centers that has been expressed by this Subcommittee. Thank you for your time, and I look forward to any questions you may have.

United States Government Accountability Office

GAO

Testimony

Before the Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration, Committee on Homeland Security and Governmental Affairs, U.S. Senate

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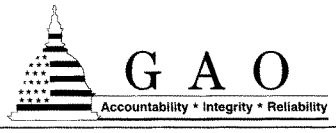
HOMELAND SECURITY

Federal Efforts Are Helping to Address Some Challenges Faced by State and Local Fusion Centers

Statement of Eileen R. Larence, Director
Homeland Security and Justice Issues



GAO-08-636T

April 17, 2008

GAO
Accountability · Integrity · Reliability

Highlights

Highlights of GAO-08-636T, a testimony before the Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration, Committee on Homeland Security and Governmental Affairs, U.S. Senate

HOMELAND SECURITY

Federal Efforts Are Helping to Address Some Challenges Faced by State and Local Fusion Centers

Why GAO Did This Study

Following the September 11 terrorist attacks, state and local governments formed fusion centers, collaborative efforts to detect, prevent, investigate, and respond to criminal or terrorist activity. Recognizing that the centers are a critical mechanism for sharing information, the federal government—including the Department of Homeland Security (DHS), Department of Justice (DOJ), and the Program Manager for the Information Sharing Environment (PM-ISE), which has primary responsibility for governmentwide information sharing—is taking steps to partner with fusion centers.

This testimony focuses on (1) the characteristics of fusion centers as of September 2007 and (2) federal efforts to help alleviate challenges centers identified. This testimony is based on GAO's October 2007 report on 58 fusion centers and related federal efforts to support them as well as updated information GAO obtained in March 2008 by reviewing plans describing selected federal efforts and attending the second annual national fusion center conference.

What GAO Recommends

While this testimony contains no new recommendations, GAO has recommended that the federal government define and articulate its long-term fusion center role and whether it expects to provide resources to help ensure their sustainability. PM-ISE agreed with the recommendation and is in the process of implementing it.

To view the full product, including the scope and methodology, click on GAO-08-636T. For more information, contact Eileen Larence at (202) 512-8777 or larencee@gao.gov.

What GAO Found

Almost all states and several local governments have established or are in the process of establishing fusion centers that vary in their characteristics. Centers were generally established to address gaps in information sharing, and the majority of the centers GAO contacted had adopted broad missions that could include both counterterrorism and law enforcement–related information. While law enforcement entities, such as state police, are the lead or managing agencies in the majority of the centers GAO contacted, the centers varied in their staff sizes and partnerships with other agencies. The majority of the operational fusion centers GAO contacted had federal personnel, including from DHS or the Federal Bureau of Investigation (FBI), assigned to them as of September 2007.

DHS and DOJ have several efforts under way that begin to address challenges fusion center officials identified.

- DHS and DOJ have provided many fusion centers access to their information systems, but fusion center officials cited challenges accessing and managing multiple information systems.
- Both DHS and the FBI have provided security clearances for state and local personnel and set timeliness goals for granting clearances. However, officials cited challenges obtaining and using clearances.
- DHS, DOJ, and the PM-ISE have also taken steps to develop guidance and provide technical assistance to fusion centers, for instance, by issuing guidelines for establishing and operating centers. However, officials at 21 centers cited challenges with the availability of training for mission-specific issues. DHS and DOJ have continued providing a technical assistance program for fusion centers and disseminated a baseline capabilities draft in March 2008 that outlines minimum operational standards for fusion centers. While this support and guidance is promising, it is too soon to determine the extent to which it will address challenges identified by officials contacted.
- Finally, officials in 43 of the 58 fusion centers contacted reported facing challenges related to obtaining personnel, and officials in 54 centers reported challenges with funding, some of which affected these centers' sustainability. To support fusion centers, both DHS and the FBI have assigned, and continue to assign, personnel to the centers. To help address funding issues, DHS has provided funding for fusion-center related activities.

The National Strategy for Information Sharing, issued in October 2007 by the President, states that the federal government will support the establishment of fusion centers and help sustain them through grant funding, technical assistance, and training. However, some fusion center officials raised concerns about how specifically the federal government was planning to assist state and local governments to sustain fusion centers as it works to incorporate fusion centers into the ISE and to implement the strategy.

Mr. Chairman, Ranking Member, and Members of the Subcommittee:

Thank you for inviting me to participate in today's hearing on fusion centers. Since the attacks of September 11, 2001, most states and several local governments have established fusion centers to address gaps in homeland security and law enforcement information sharing by the federal government and to provide a conduit of this information within the state. While fusion centers vary, reflecting differences in state and local needs, the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Commission Act) defines a fusion center as a "collaborative effort of two or more federal, state, local, or tribal government agencies that combine resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity."[1]

With information-sharing weaknesses recognized as a major contributing factor in the nation's lack of preparedness for the September 11 attacks, a number of information-sharing initiatives were mandated in the Intelligence Reform and Terrorism Prevention Act of 2004 (Intelligence Reform Act). For example, the Intelligence Reform Act, as amended in August 2007 by the 9/11 Commission Act, requires the President to take action to facilitate the sharing of terrorism-related information by establishing an Information Sharing Environment (ISE) to combine policies, procedures, and technologies that link people, systems, and information among all appropriate federal, state, local, and tribal entities and the private sector.[2] To oversee development and implementation of the ISE, the act also required the President to appoint a program manager, which the President did in April 2005.[3]

The Program Manager for the ISE (PM-ISE), the Department of Homeland Security (DHS), and the Department of Justice (DOJ) are taking steps to partner with fusion centers as part of the information sharing environment. In November 2006, the PM-ISE issued a plan for implementing the ISE that incorporated presidentially approved recommendations for federal, state, local, and private-sector information

[1]Pub. L. No. 110-53, § 511, 121 Stat. 266, 322 (2007).

[2]See Pub. L. No. 108-458, § 1016, 118 Stat. 3638, 3664-70 (2004), amended by Pub. L. No. 110-53, § 504, 121 Stat. at 313-17.

[3]On June 2, 2005, the President issued a memorandum placing the PM-ISE and its staff within the Office of the Director of National Intelligence.

sharing. The implementation plan acknowledges that the collaboration between fusion centers and with the federal government marks a tremendous increase in the nation's overall analytic capacity that can be used to combat terrorism, and it identifies the creation of an integrated nationwide network of fusion centers as a way to promote two-way information sharing with the federal government. Under the plan, DHS and DOJ are to assume responsibility for technical assistance and training to support fusion centers. Both DHS and DOJ have established program offices to oversee their relationships with fusion centers. In October 2007, the President issued the first National Strategy for Information Sharing: Success and Challenges in Improving Terrorism-Related Information Sharing (National Strategy), which further highlights the importance of state and local fusion centers as valuable information-sharing resources to be incorporated into the national information sharing framework.

In addition, the 9/11 Commission Act contains several provisions related to fusion centers.[4] For example, in accordance with the act, DHS established a fusion center program office. This office is responsible for providing operational and intelligence advice and assistance to fusion centers, facilitating coordination and information flow between fusion centers and DHS, and deploying DHS personnel to fusion centers. In addition, the act requires that the Secretary of DHS, in consultation with the Attorney General, establish guidelines for fusion centers that include standards related to privacy policies and training.

My testimony today discusses (1) the characteristics of state and local fusion centers as of September 2007[5] and (2) the extent to which efforts under way by the PM-ISE, DHS, and DOJ are helping to address some of the challenges identified by fusion centers. My statement is based on (1) the results of our October 2007 report[6] that discusses the status and characteristics of 58 state and local fusion centers as well as federal efforts underway to help address challenges the centers identified; and (2) updated information we obtained in March 2008 about selected federal

[4]See, e.g., Pub. L. No. 110-53 § 511, 121 Stat. at 317-24 (adding section 210A to subtitle A, title II of the Homeland Security Act, Pub. L. No. 107-296, 116 Stat. 2135).

[5]For purposes of this report, we use "local fusion center" to refer to centers established by major urban areas, counties, cities, and intrastate regions.

[6]GAO, *Homeland Security: Federal Efforts Are Helping to Alleviate Some Challenges Encountered by State and Local Information Fusion Centers*, GAO-08-35 (Washington, D.C.: Oct. 30, 2007).

efforts to support fusion centers.[7] To obtain updated information, we reviewed plans and documents describing these federal efforts and attended the second annual national fusion center conference.[8] We conducted this work according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

Fusion centers, which vary in their characteristics, are operating or being established in almost all states and several local jurisdictions across the country. Specifically, officials in many (43 of 58) of the fusion centers we contacted described their centers as operational as of September 2007.[9] These centers were generally created by state and local governments to improve information sharing across levels of government and to prevent terrorism or other threats. While 9 of these operational centers had opened within the couple of years after September 11, 2001, 34 had opened since January 2004. The majority of the centers had scopes of operations and missions that included more than just counterterrorism-related activities, such as a focus on all crimes or all hazards. Adopting a broader focus helped provide information about all threats and increased the center's sustainability, for instance, by including additional stakeholders who could provide staff and support, and is consistent with the definition of a fusion center in the 9/11 Commission Act. Law enforcement entities, such as state police, were the lead or managing agencies in the majority of the operational centers we contacted. While the centers varied in their

[7]Because we selected a non-probability sample of fusion centers to include in our review, the results of our work are not generalizable to the population of all fusion centers. However, because we selected all state-operated fusion centers, as well as local fusion centers on the basis of their stage of development and geographic diversity, the information we gathered from these centers provided us with an overview of challenges encountered and federal efforts to support the centers.

[8]Over 900 federal, state, and local law enforcement and homeland security officials attended the conference, according to its sponsors, which included the Office of the Director of National Intelligence, DOJ, DHS, FBI, PM-ISE, and the Global Justice Information Sharing Initiative.

[9]We contacted all 50 states, the District of Columbia, and 8 local areas. However, 1 state did not plan a fusion center. For that reason, we reported responses from 58 fusion centers—43 operational and 15 in the planning or early stages of development.

staff sizes and partnerships with other agencies, as of September 2007, at least 34 of the 43 operational fusion centers we contacted reported that they had federal personnel assigned to their centers. Twelve of the centers were colocated with Federal Bureau of Investigation (FBI) field units. Many of the operational centers reported having access to unclassified and, to a lesser extent, classified DHS and FBI systems and networks. Thus far, products disseminated and services provided varied from daily bulletins to in-depth reports or assessments.

We reported in October 2007 that fusion centers face challenges in several areas and that—in light of the importance of fusion centers in facilitating information sharing among levels of government—federal efforts are under way that begin to address these challenges.[10] As of March 2008, many of these efforts are still ongoing.

- DHS, DOJ, and the PM-ISE have taken steps to provide fusion centers access to federal information systems, but some fusion center officials cited challenges accessing relevant, actionable information and managing multiple, competing, or duplicative information systems. For example, officials in 30 of the 58 centers we contacted reported challenges related to volume of information or managing multiple systems. As a result, these center officials said that their ability to receive and share information with those who need it may be limited. Ongoing efforts to improve the quality and flow of information include the Interagency Threat Assessment and Coordination Group's efforts to provide a nonfederal perspective to the intelligence community and its products.
- Both DHS and the FBI have provided clearances to numerous state and local officials and have set timeliness goals for the issuance of new clearances. However, obtaining and using security clearances represented a challenge for 44 of the 58 centers we contacted, which could limit their ability to access and use some information. In addition, while law and executive order provide that a security clearance granted by one federal agency should generally be accepted by other agencies, officials in 19 of the centers encountered difficulties with federal agencies, particularly DHS and the FBI, accepting each others' clearances. DHS and DOJ officials reported that they were not aware of recent fusion center challenges with reciprocity of clearances. However, they said that there were complications in the clearance process, for instance, because several

[10]We presented information about challenges encountered by 58 fusion centers—those in all stages of development—as they were establishing and operating their centers. Fusion centers may have encountered more than one challenge related to a particular area, for example, related to guidance and training.

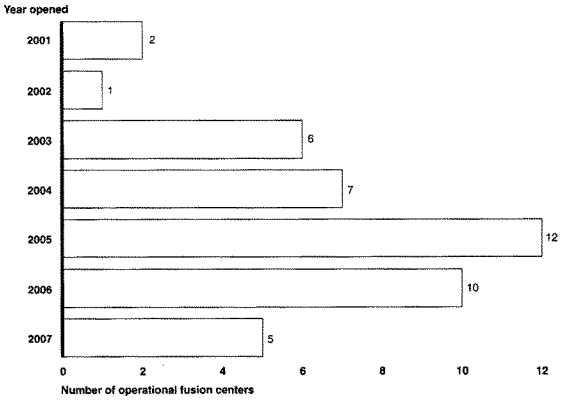
federal agencies conduct their own processes without central coordination.

- Fusion center officials also cited challenges obtaining guidance and training. In particular, they cited the need for clearer and more specific guidance in a variety of areas, including standards for analyst training and information-sharing policies and procedures, to help address operational challenges. DHS, DOJ, along with the PM-ISE, continue to take steps to develop guidance and provide technical assistance and training. For instance, DHS and DOJ disseminated a draft baseline capabilities document that outlines minimum operational standards for fusion centers to state and local officials in March 2008 for feedback.
- Notwithstanding DHS and FBI efforts to deploy personnel to fusion centers and DHS's grant funding to support their establishment and enhancement, fusion center officials reported challenges obtaining and retaining qualified personnel and ensuring sufficient funding to sustain the centers. To improve efforts to create a national network of fusion centers, in our October 2007 report we recommended—and DHS and the PM-ISE concurred—that the federal government determine and articulate its long-term fusion center role and whether it expects to provide resources to centers to help ensure their sustainability. The National Strategy, issued by the President in October 2007, states that the federal government will support the establishment of fusion centers and help sustain them through grant funding, technical assistance, and training. However, some fusion center officials raised concerns at the national conference about how specifically the federal government plans to assist state and local governments to sustain fusion centers as it works to incorporate these centers into the ISE and to implement the strategy.

Most States and Several Local Jurisdictions Have or Are Planning Fusion Centers That Vary in Their Characteristics

Almost all states and several local governments have established or are in the process of establishing a fusion center. Specifically, officials in 43 of the 58 fusion centers we contacted described their centers as operational, and officials in 15 centers considered their centers to be in the planning or early stages of development as of September 2007. Officials cited a variety of reasons why their state or local area established a fusion center. To improve information sharing—related to homeland security, terrorism, and law enforcement—among federal, state, and local entities and to prevent terrorism or threats after the attacks of September 11 were the most frequently cited reasons for establishing a fusion center. Several officials cited the need to enhance information sharing within their own jurisdictions across disciplines as the reason why they established a center. While 9 centers opened in the couple of years after the attacks of September 11, 2001, 34 of the 43 operational centers have opened since January 2004 as shown in figure 1.

Figure 1: Number of Operational Fusion Centers GAO Contacted Opened by Year



Source: GAO analysis, information from fusion centers.

Consistent with the 9/11 Commission Act's definition of a fusion center and the purpose of a fusion center, as defined in the Fusion Center Guidelines, officials in 41 of the 43 operational centers we contacted said that their scopes of operations focused on more than just counterterrorism. For instance, officials in 22 of these centers described their centers' scope as all crimes or all crimes and counterterrorism, and officials in 19 operational centers said that their scopes of operations included all-hazards information (such as related to public health and safety or emergency response). Further, 23 of the 36 operational fusion centers that provided us mission statements had missions that involved collecting, analyzing, and disseminating criminal as well as terrorism-related information. Eleven other fusion centers had missions that involved enhancing, supporting, or coordinating information and intelligence dissemination to both law enforcement and homeland security agencies. Officials told us that adopting a broader focus helped provide information about all threats because of the link of many crimes to terrorist activity and also increased the centers' sustainability, for instance, by including additional stakeholders. Indeed, the National Strategy highlights the importance of the centers fostering a culture that

recognizes the importance of fusing "all crimes with national security implications" and "all hazards" information, which often involves identifying criminal activity and other information that might be a precursor to a terrorist plot.

Law enforcement entities, such as state police or state bureaus of investigation, were the lead or managing agencies in the majority of the operational centers we contacted. The centers varied in their staff sizes and partnerships with other agencies, ranging from fewer than 5 employees to over 80. In addition to a variety of state and local law enforcement agencies, some centers included personnel detailed from emergency management, fire, corrections, or transportation partners. As of September 2007, at least 34 of the 43 operational fusion centers we contacted reported that they had personnel from at least one federal agency assigned to their centers. For example, DHS had deployed full-time intelligence officers to 17 of the 43 operational fusion centers we contacted and was in the process of staffing 8 additional centers. About three quarters of the operational centers we contacted reported that the FBI had assigned personnel, including intelligence analysts and special agents, to their centers. Additionally, 12 of the operational centers we contacted were colocated in an FBI field office or with an FBI task force, such as a Joint Terrorism Task Force or a Field Intelligence Group. Further, 19 of the operational centers reported that they had other DHS or DOJ components represented in their centers, such as personnel from Customs and Border Protection; Immigration and Customs Enforcement; Transportation Security Administration; Bureau of Alcohol, Tobacco and Firearms; or Drug Enforcement Administration.

Many fusion centers reported having access to DHS's and DOJ's unclassified networks or systems, such as the Homeland Security Information Network (HSIN) and Law Enforcement Online (LEO), containing, among other things, terrorism-related information.[11] For example, as of September 2007, 40 of the 43 operational centers reported they had access to HSIN, and 39 reported having access to LEO. In addition, 16 of the 43 centers said they had or were in the process of obtaining access to DHS's classified network of secret-level homeland

[11]HSIN serves as DHS's primary nationwide information-sharing tool for communicating sensitive but unclassified homeland security information. LEO serves as a real-time online controlled-access communications and information-sharing data repository for sensitive but unclassified information about, among other things, antiterrorism, intelligence, law enforcement, and criminal justice.

security data, and 23 reported they had or were in the process of obtaining access to the FBI's classified systems containing, among other things, secret-level investigative case files.

Thus far, products disseminated and services provided also varied. Fusion centers reported that they issued a variety of products, such as daily and weekly bulletins on general criminal or intelligence information and assessments that, in general, provided in-depth reporting on an emerging threat, group, or crime.

Federal Agencies' Efforts to Support Fusion Centers Help Address Some Reported Challenges

Fusion center officials identified challenges in establishing and operating their centers in several areas, such as accessing and managing multiple information systems, obtaining and using security clearances, finding sufficient guidance and training, obtaining and retaining personnel, and obtaining funding. DHS and DOJ, recognizing the importance of fusion centers in information sharing, have efforts under way that begin to address many of these challenges.

DHS, DOJ, and PM-ISE Have Some Actions Under Way to Address Fusion Center Challenges with Accessing and Managing Information Systems

Fusion center officials reported challenges accessing and managing multiple information systems. In October 2007, we reported that DHS and the FBI had provided many operational fusion centers access to their primary unclassified information systems (HSIN and LEO) and had outlined plans to provide access to their primary classified networks to state and local centers that had federal personnel at the center. However, officials at 31 of the 58 centers we contacted reported challenges obtaining access to federal information systems or networks. For instance, officials in some centers cited challenges with DHS and the FBI not providing fusion center personnel with direct access to their classified systems. Fusion center personnel in these centers had to rely on federal personnel who were assigned to the center or other state personnel assigned to FBI task forces to access these systems, obtain the relevant information, and share it with them. Further, officials in 12 fusion centers reported challenges meeting system security requirements or establishing the technical capabilities necessary to access information systems, and DHS and the FBI had taken some steps to address these challenges. For example, we reported that DHS reviews the fusion centers' security status and assesses its adequacy in light of its intention to deploy personnel and information systems to the center. In March 2008, the DHS Under Secretary for Intelligence and Analysis stated that DHS planned to deploy its secret-level homeland security data network to 41 fusion centers by the end of fiscal year 2008.

While officials in many fusion centers cited challenges obtaining access to systems, primarily classified ones, officials in 30 of the 58 fusion centers we contacted reported that the heavy volume of information or the existence of multiple systems with often redundant information was a challenge to manage. Officials in 18 fusion centers said that they had difficulty with what they perceived to be the high volume of information their center receives, variously describing the flow of information as "overwhelming," "information overload," and "excessive." For example, officials described how center personnel must sort through the large amount of information, much of which is not relevant to the center, to find information that is useful or important to them. In addition, officials in 18 fusion centers found the lack of integration among these multiple, competing, or duplicative information systems challenging, or said they wanted a single mechanism or system through which to receive or send information.

In October 2007, we reported that officials from the PM-ISE's office were collaborating with other agencies, including DHS and DOJ, to identify potential opportunities to streamline system access and improve the quality and flow of information. For example, PM-ISE officials reported that these entities had completed a review of the most commonly used systems, such as HSIN, LEO, and the Regional Information Sharing Systems,[12] that included an examination of users' needs to identify potential areas to streamline system access. In October 2007, we also reported that such a review was in accordance with recommendations that fusion centers made during the first annual national fusion center conference in March 2007 and with what several officials we contacted told us. Specifically, officials in 23 of the 58 fusion centers told us that DHS and DOJ, to facilitate implementation of a national network of fusion centers, should reduce the number of existing systems or develop a unified platform or mechanism for information sharing with fusion centers. In addition, the PM-ISE, along with DHS, DOJ, and other federal agencies, are taking steps to improve the quality and flow of information through the establishment of an Interagency Threat Assessment and Coordination Group (ITACG), which was made a statutorily mandated body by the 9/11 Commission Act.[13] This group, which is to include state,

[12]The Regional Information Sharing Systems is a nationwide initiative to share sensitive but unclassified criminal intelligence among stakeholders in law enforcement, first responders, and the private sector.

[13]See Pub. L. No. 110-53, § 521, 121 Stat. at 328-32 (adding section 210D to subtitle A, title II of the Homeland Security Act, Pub. L. No. 107-296, 116 Stat. 2135).

local, and tribal representatives detailed to work with the National Counterterrorism Center, is to provide advice, counsel, and subject-matter expertise to the intelligence community about the types of terrorism-related information needed by state, local, and tribal governments and how these entities use that terrorism-related information to fulfill their counterterrorism responsibilities. In doing so, the PM-ISE reported that the ITACG is to enable the timely production by the National Counterterrorism Center of clear, relevant, and federally coordinated terrorism-related information products intended for dissemination to state, local, and tribal officials. In October 2007, we reported that PM-ISE officials indicated that the ITACG had achieved an initial operational capability. As of March 2008, four state and local law enforcement representatives had been detailed to the ITACG to provide a nonfederal perspective to the intelligence community in its situational and threat reporting and intelligence products, by, for example, requesting changes to report language to better address state and local needs. According to one of the representatives, these changes have involved requesting that specific tactical information be included in reports or that, where possible, the security classification of a report be lowered so that it could be disseminated more broadly to state and local officials. While these efforts to improve the quality and flow of information to state and local users are promising, it is too soon to determine the extent to which they will address the challenges in accessing and managing information reported to us by fusion center officials.

DHS and the FBI Provide Clearances to Fusion Center Officials, but Officials Cited Some Challenges with Obtaining and Using Clearances

Both DHS and the FBI have provided security clearances for numerous state and local personnel in order to access classified information and have set goals to reduce the length of time it takes to obtain a security clearance. For example, DHS set a goal of 90 days to complete a Secret clearance, and the FBI set a goal of 45 to 60 days to complete a Secret clearance and 6 to 9 months to complete a Top Secret clearance. DHS and the FBI have also provided centers with information about the security clearance process and time frames, stating that processing time for individual security clearances can vary, depending on complexity. However, obtaining and using security clearances represented a challenge for many of the fusion centers (44 of 58) we contacted. For instance, officials at 32 of the centers cited difficulties with the length of time it takes to receive a security clearance from DHS or the FBI. However, some fusion center officials acknowledged that that the length of time to conduct the required background checks was necessary to ensure that clearances were only given to individuals who meet the requirements.

In October 2007, we also reported that while law and executive order provide that a security clearance granted by one government agency should generally be accepted by other agencies, officials in 19 of the centers we contacted encountered difficulties with federal agencies, particularly DHS and the FBI, accepting each others' clearances. This reported lack of reciprocity could hinder the centers' ability to access facilities, computer systems, and information from multiple agencies. DHS and DOJ officials said that they were not aware of fusion centers encountering recent challenges with reciprocity of security clearances. However, they said that there were complications in the clearance process because, for example, multiple federal agencies carry out their own processes and grant clearances without central coordination.

DHS and DOJ Continue to Provide Guidance, Technical Assistance, and Training to Fusion Centers

DHS, DOJ, and the PM-ISE continue to provide fusion centers with guidance, technical assistance, and training to help address their challenges in these areas. In October 2007, we reported that DHS and DOJ had, in August 2006, issued jointly developed Fusion Center Guidelines that outline 18 recommended elements for establishing and operating fusion centers. Intended to help ensure that fusion centers were set up and operated consistently, they cover elements such as ensuring appropriate security measures are in place for facility, data, and personnel. Officials in many (48 of 58) of the fusion centers we contacted said that they found the guidelines generally good and useful, however others said they were not specific enough to address their challenges. In addition, officials at 19 fusion centers said that they lacked guidance on specific information-sharing policies and procedures, such as privacy and civil liberties issues. Furthermore, officials at 21 of the centers we contacted said that the availability of adequate training for mission-related issues, such as training on intelligence analysis, was a challenge. Officials in 11 centers, most of which were operational centers that had been in existence for more than 2 years, expressed a need for the federal government to establish standards for training fusion center analysts. This could help ensure that analysts are trained in a similar way nationwide, thereby facilitating communication amongst fusion center analysts.

DHS and DOJ provide a technical assistance service program for fusion centers, which, among other services, includes assistance developing a

comprehensive privacy and civil liberties policy,[14] and have ongoing efforts to provide training to fusion centers. Additionally, along with the PM-ISE and others, DHS and DOJ have sponsored regional and national conferences, including the second annual national fusion center conference in March 2008, which was designed to support fusion centers in building capabilities and understanding their roles and responsibilities as described in the National Strategy. In addition, DHS and DOJ, in collaboration with others, disseminated in March 2008 a draft baseline capabilities document.[15] Building on the Fusion Center Guidelines, the document outlines baseline capabilities and steps that fusion centers could take to ensure compliance in 12 topic areas, including management and governance, security, intelligence analysis and production, and intelligence and information dissemination. The document states that when a fusion center achieves all of these standards, it is considered to have the standards, structures, and tools in place to support the gathering, analysis, and dissemination of terrorism, homeland security, and law enforcement information. Such a baseline level of capability is critical to establishing a national, integrated network of fusion centers, according to the National Strategy. DHS and DOJ solicited the feedback of state and local officials on this document at the national fusion center conference—the results of which have yet to be compiled and released.

Fusion Center Officials Cited Challenges with Personnel and Funding; DHS and the FBI Are Helping to Address These Issues to Some Extent

Many fusion center officials we contacted reported challenges related to obtaining personnel (43 of 58) and obtaining and maintaining funding when establishing and operating their centers (54 of 58)—challenges that some of these officials also said affected their centers' sustainability. For example, officials in 37 centers said they encountered challenges with federal, state, or local agencies not being able to detail personnel to their fusion center, particularly in the face of resource constraints. Fusion centers rely on such details as a means of staffing the centers and enhancing information sharing with other state and local agencies.

[14]The 9/11 Commission Act requires that the guidelines established by DHS for fusion centers include standards for centers to develop, publish, and adhere to a privacy and civil liberties policy that is consistent with federal, state, and local, law, and standards for providing privacy and civil liberties training for all representatives at the fusion center. Further, the act requires that DHS employees who are detailed to fusion centers receive privacy and civil liberties training.

[15]DHS, DOJ, Global Justice Information Sharing Initiative, *Baseline Capabilities for State and Major Urban Area Fusion Centers, A Companion Document to the Fusion Center Guidelines* (March 2008).

Furthermore, officials in 20 of the centers we contacted said that they faced challenges finding, attracting, and retaining qualified personnel. For instance, one official said that it was challenging to find personnel with the expertise to understand the concept behind the development of the center and to use the tools to build the center. While many of these reported challenges were attributed to difficulties at the state and local level, we reported that DHS and the FBI had ongoing efforts to assign personnel to support centers and facilitate information sharing. Both DHS and the FBI have continued to support fusion centers by deploying personnel, consistent with the 9/11 Commission Act. As of March 2008, DHS had deployed 23 officers to fusion centers and has plans to place officers in as many as 35 centers by the end of fiscal year 2008, and the FBI had assigned about 200 personnel to 44 fusion centers, according to DHS and FBI officials respectively.[16]

In terms of funding, officials encountered challenges obtaining both federal and state funding. Specifically, officials in 35 of the 58 centers encountered challenges with the complexity of the federal grant process, uncertainty as to whether they would receive federal funds, or declining federal funding, and officials from 28 of the 58 centers reported having difficulty obtaining state or local funding. They said that these issues created confusion for their centers over the steps needed to secure federal funds, made it difficult to plan for the future, and created concerns about the fusion centers' abilities to sustain their capabilities for the long term. Fusion center officials also identified challenges with restrictions on the use of federal grant funds, unclear and changing grant guidance, and a lack of understanding of how federal funding decisions are made.[17] For example, officials in 21 fusion centers said that obtaining adequate funding for personnel was difficult, and officials in 17 fusion centers found federal time limits on the use of grant funds for personnel challenging.[18]

[16]These deployments may be to fusion centers other than the 58 centers that were included in our October 2007 report.

[17]A primary federal funding source for fusion centers is DHS's Homeland Security Grant Program, which awards funds to state, local, and tribal governments to enhance their ability to prepare for, prevent, and respond to terrorist attacks and other major disasters.

[18]According to the fiscal year 2007 DHS homeland security grant program guidance, Urban Areas Security Initiative and Law Enforcement Terrorism Prevention Program funds could be used to hire new staff or contractor positions to serve as intelligence analysts to enable information and intelligence sharing capabilities. The costs associated with hiring the new intelligence analysts were allowable for 2 years, after which states and urban areas shall be responsible for supporting the costs to sustain those intelligence analysts.

In October 2007, we reported that DHS had provided grant funding for fusion-related activities and had made some changes to ease the grant process and adjust some of the restrictions on the timing and use of grant funds. For example, DHS expanded grant funding in fiscal year 2006 in the area of allowable costs for information sharing and collaborative efforts. Funds could be used by states to develop and enhance fusion centers, particularly by hiring contract or government employees as intelligence analysts; purchasing information-technology equipment; or hiring consultants to develop and enhance fusion centers. However, we also reported that, despite this funding, fusion center officials were concerned about the extent of federal support they could expect over the long term, especially in relation to the role of their state or local jurisdictions. Given that at the time, federal plans or guidance did not articulate the long-term role the federal government expected to play in fusion centers, we recommended, and the PM-ISE and DHS concurred, that the federal government determine and articulate its long-term fusion center role and whether it expects to provide resources to help ensure their sustainability. Further, we stated that particular emphasis should be placed on how best to sustain those fusion center functions that support a national information-sharing capability as critical nodes of the ISE.

In promoting that fusion centers achieve a baseline level of capability, the National Strategy states that the federal government will support the establishment of fusion centers and help sustain them through grant funding, technical assistance, and training to achieve such a baseline level of capability. The strategy outlines specific roles and responsibilities for federal, state, local, and tribal authorities in five areas that are related to the establishment and continued operations of fusion centers and for establishing a national integrated network of centers. It notes that these roles and responsibilities were developed in partnership with state and local officials and represent a collective view. While the strategy acknowledges that fusion centers are owned and managed by state and local governments, it identifies the objective is to assist state and local governments in the establishment and sustained operation of these centers. However, some fusion center officials raised concerns at the national fusion center conference about how specifically the federal government was planning to assist state and local governments to sustain fusion centers. For example, whether federal funding for fusion centers would continue to be available through DHS's homeland security grant program or whether in the future there would be fusion-center specific funding has yet to be determined. In addition, some officials raised questions about limits on federal funding for personnel. For example, according to the fiscal year 2008 homeland security grant program

guidance, costs associated with hiring new intelligence analysts are still allowable for 2 years. After which, the states and urban areas will be responsible for supporting the sustainment costs of those intelligence analysts (as well as providing a budget plan for doing so) after the 2-year federal funding period is over. In our October 2007 report, we reported on challenges that officials found with federal time limits on the use of grant funds for personnel. In particular, some of these officials expressed concerns about maintaining their personnel levels, and one official told us that the 2-year limit on the use of DHS grant funds for personnel made retaining personnel challenging because state and local agencies may lack the resources to continue funding the position, which could hinder the center's ability to continue to operate. In discussing the implementation of the National Strategy at the fusion center conference, a Homeland Security Council official stated that the question of federal versus state and local roles in sustaining fusion centers is a very difficult question and one that is not yet resolved but is ongoing.

In closing, Mr. Chairman, fusion centers are operating or are being established in almost all states and several local jurisdictions. Although fusion centers were primarily established to meet or enhance information sharing within a state or local area, they have become a critical component of the federal government's plans as it works to improve information sharing in accordance with law and policy. Indeed, the National Strategy recognizes fusion centers as vital assets to information sharing and critical in the creation of an integrated national network to promote two-way sharing of terrorism-related information. Given the federal interest in fusion centers and the centers' interest in supporting such a national network, it is important that the federal government continue to provide fusion centers with added value as an incentive to facilitate such a network. In October 2007 we reported that DHS's and DOJ's efforts to assist fusion centers, such as providing access to information systems, security clearances, guidance and technical assistance, personnel, and funding, had begun to address a number of the challenges fusion center directors identified to us. Several of those efforts are continuing and evolving, including the establishment of ITACG to improve the quality of information provided to state and local users and the release of baseline capabilities for the operation of fusion centers. These efforts are promising; however, it is too soon to determine the extent to which they will address all of the challenges reported to us by fusion center officials. It is also important for fusion center management to understand the federal government's role with respect to these centers since this affects state and local governments' support to centers. In this regard, we recommended in our October 2007 report that the federal government

define and articulate its long-term fusion center role. The National Strategy clearly articulates a vision for the federal government's role in supporting centers—that is by helping to sustain centers through grant funding, technical assistance, and training. However, fusion center officials raised some concerns about sustainability of funding and personnel as the federal government continues work to incorporate fusion centers into the information sharing environment and implement the National Strategy.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members of the subcommittee may have at this time.

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Statement for the Record

of

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Before the

United States Senate
Committee on Homeland Security and Governmental Affairs
Ad Hoc Subcommittee on State, Local and Private Sector Preparedness and Integration

Focus on Fusion Centers: A Progress Report

April 17, 2008

Thank you, Senators Pryor and Sununu, for the opportunity to come before the Senate Homeland Security and Governmental Affairs Committee's Ad Hoc Subcommittee on State, Local and Private Sector Preparedness and Integration to talk about the progress the 58 fusion centers have made in the last three years. I hope my testimony helps this committee in its continuing efforts to assist the states and major urban areas in the development and continuing improvement of these centers.

The Department of Homeland Security is working closely with our federal, state, and local colleagues to implement the President's National Information Sharing Strategy, a key element of which are state and major urban area fusion centers. With Secretary Chertoff's support, Under Secretary Charles Allen, who serves as the Department's Chief Intelligence Officer, has made the development of fusion centers a priority, and I am pleased today to present you with a report of our progress. As a Department, we are supporting fusion centers by deploying DHS intelligence officers to centers, providing grant funding for their development and operation, connecting networks and systems, strengthening communities of interest, and promulgating guidelines and common standards that enable best practices to flourish.

The first and most important piece of progress I have for you today is that DHS' Office of Intelligence and Analysis now has 23 officers deployed and serving in fusion centers around the country. Many of you will remember how we struggled two and half years ago to get the first officer deployed to Los Angeles. That officer and his 22 counterparts now have become the pathfinders for the way the federal government shares information and intelligence with its state, local and tribal partners – precisely what the 9/11 Commission and Public Law 110-53, *Implementing Recommendations of the 9/11 Commission Act of 2007* said we needed to do.

These talented men and women are using their varied experiences and skills as intelligence professionals to provide their other federal, state, local, and tribal partners with the information they need to keep America safe – and connected. Those very same skills allow them to cull the best of what the fusion centers are collecting and analyzing and ensure that this information gets to the appropriate people. This level of information sharing has never occurred before, and Secretary Chertoff, Under Secretary Allen and I are proud of these officers and what they have accomplished in such a relatively short period of time.

Please don't take just <u>my word</u> for this record of achievement. When I was in San Francisco for the National Fusion Center Conference in February, I was gratified by the number of state and local officials who came up to Under Secretary Allen and me to voice their unsolicited praise for the work our officers are doing. I have no doubt that you would find the same reactions when you talk to your state homeland security advisers and local law enforcement and public safety officials.

Secretary Chertoff, Under Secretary Allen and I are also committed to providing fusion centers with all the tools they need to succeed in our collective mission to prevent, protect, and respond to any threat or hazard America faces. I am pleased to report that the Homeland Security Data Network (HSDN) is now deployed in 19 fusion centers. HSDN enables access to the National Counterterrorism Center (NCTC) On-line, a classified portal that maintains the most current terrorism-related information at the Secret level. HSDN also provides the fusion centers – and

through them the states – with a window into the national intelligence community that they can use for their own information needs. We are working with the Department of Defense and other members of the Intelligence Community to expand the offerings available through HSDN and have received helpful support from our state and local customers in this effort.

Another progress report I am pleased to deliver is on security clearances. When I arrived at DHS from the private sector two and half years ago, the wait time to receive even a Secret-level clearance was nearly two years and the backlog of applicants was enormous. Thanks to the efforts of the DHS and I&A Offices of Security, we have dramatically reduced the amount of time it takes to grant those clearances and nearly eliminated the backlog. The FBI also played an integral role in reducing this backlog over the last two years, especially by working with DHS to establish a reciprocal clearance process whereby security clearances for fusion center personnel are recognized by both agencies, regardless which agency issued the clearance.

The fusion center program is yielding substantial returns on investment. In the past six weeks, information from two of the centers has been passed to a key international partner in the war on terror, which then opened cases upon receiving the information. DHS received a letter expressing that country's gratitude for the information. In another case, information fused at a center in the Midwest was briefed to the President in the Presidential Daily Brief. This information would not have been gleaned without state and local participation in the process and illustrates the importance of the centers to the federal government.

However, while successful thus far, there is still much work to be done, such as the creation of policies and procedures that ensure a predictable and uniform approach to how we interact with these centers. The State and Local Program Office, under my leadership, will work hard over the next year to solidify our program and bring certainty in the relationship. Moreover, state and local leaders continue to work tirelessly to assist in protecting our nation. We ask Congress to ensure their efforts are recognized and rewarded. This relationship is proving to be an excellent model for keeping America safe.

I have given you the progress highlights. Now let me provide some additional context as to how far we have come in the last couple of years, and some of the significant changes that await us as we move forward to better prepare the American people for the threats they face. You will recall that after 9/11, the federal government had been working with state and local officials to find a way to assist with their information-sharing efforts, primarily through the development of policy and guidelines, not direct support. Working with our colleagues in the Department of Justice (DOJ) and in coordination with the Global Justice Information Sharing Initiative and the Criminal Intelligence Coordinating Council (CICC), a DOJ-sponsored group whose members include the Major City Chiefs, International Association of Chiefs of Police, Major County Sheriffs and many other law enforcement and public safety organizations, we undertook the challenge of creating the *Fusion Center Guidelines*. These guidelines, which complement the President's *National Strategy for Information Sharing*, were an important first in many steps in formalizing the federal government's relationship with state and local fusion centers. The guidelines also served as a roadmap for the Department of Homeland Security, as we used these same guidelines when determining our own involvement in the fusion centers.

The process of carrying forward the guidelines to create our own involvement in the centers was well underway when I arrived at DHS. After Secretary Chertoff asked I&A to improve our information and intelligence-sharing efforts, we drafted a plan with participation from all 22 areas within the Department that recommended direct participation in fusion centers with the deployment of DHS personnel, both intelligence professionals as well as operational personnel. The Secretary also identified I&A as the executive agent within DHS for coordinating the Department's activities with the centers.

To assist the states and urban areas in meeting their intelligence and information needs, DHS created a Program Office within I&A to work specifically on addressing the concerns of state and local officials and to manage the deployment of intelligence and operations personnel to the centers. The State and Local Program Office, which reports directly to me, has become a focal point for information sharing with our state and local partners, not only within I&A, but the Department at large.

This office also has the responsibility of managing the Department's Homeland Security Information Sharing Fellows Program, the creation of which was directed in the recent 9/11 legislation. I am pleased to report that this office has met every goal and milestone established by DHS in sharing intelligence with our state and local partners. Let me take my remaining time to raise your awareness of the level of effort now being exercised to support these centers.

Within I&A, we are extremely fortunate to have Under Secretary Allen's and Deputy Under Secretary for Intelligence Mary Connell's complete support of our work. Under their leadership, we have delivered excellent analytical support to our customers. The analytical and production (A&P) divisions provide support specifically dedicated to Critical Infrastructure Protection Assessment, CBRNE (Chemical, Biological, Radiological, Nuclear, and Explosive), Borders, Radicalization, and Demographics. Each of these divisions has developed analytical relationships with their state and local peers. As a result of these relationships we have seen a tremendous growth in the number of analytical products, sometimes carrying the seals of four and five partners.

The A&P divisions have sponsored a series of analytical conferences for state and local analysts with specific topics such as Borders, CBRN, and radicalization. These conferences allow for direct interaction among DHS, other federal intelligence professionals, and their state and local counterparts. The feedback from these conferences indicate they are well received and useful to our customers.

Another area where I&A has improved its support to fusion centers has been in production management and analysis. Over a six month period, DHS I&A undertook a pilot project, working with six of our fusion center partners to examine their day-to-day information needs. By working with I&A deployed personnel, assigned pilot personnel within I&A headquarters and most importantly our state and local partners, I&A was able to develop a precise set of information needs. The contractor who conducted the pilot said in his report that there was a need for more precise information streams and greater participation by the state and locals in the development of the information. As a result, we changed how information flowed within the department and created a single point of service for supporting our state and local partners.

Another focus of the pilot was to further exercise the benefits of open source information. Working with the Office of the Director of National Intelligence, I&A was able to conduct training catered specifically for use in fusion centers. Feedback on this training has been among the most positive concerning I&A's offerings. These changes have helped simplify processes both in the field and at headquarters. We believe that much of the criticism of these efforts fails to account for these facts, and it ignores the many substantial improvements we have made in this area. Because it is in the interest of our customers and the taxpayers that we continue to improve our service, we are extending the pilot to a complete review of our efforts with all fusion centers. We hope this committee and others in Congress support our efforts.

The fusion centers have also seen an increased level of support from I&A's policy and training divisions. Specific training plans are being developed to support not only our deployed officers, but the training needs of the state and local analysts assigned to the centers. We have conducted Reports Officers training, as well as intelligence-writing courses, and the Training Branch is working with the DHS Office for Civil Rights and Civil Liberties and the DHS Privacy Office to develop the Privacy and Civil Liberties training required by the 9/11 Act. In Mission Integration, we continue to work with our component partners to weave them into the fusion process practiced in the 58 fusion centers throughout the United States. In many centers, DHS components such as Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), Transportation Security Administration (TSA), and the Coast Guard routinely work with state and locals officers to better understand what DHS does day-to-day within their geographic areas and to find common methods and practices of keeping their areas of responsibility safe.

Guiding all of our fusion center efforts is our attention to privacy and civil liberties rules, including the appropriate use and share of data. The DHS Privacy Office and Office for Civil Rights and Civil Liberties are essential partners in this effort and are working closely with I&A to ensure the centers operate in accord with current statutes and guidelines. Both offices have conducted Impact Assessments as required by the 9/11 Act, and both offices are increasingly recognized by the centers as playing a key role as the centers evolve. Both offices have conducted and continue to develop training to ensure Americans' individual rights are well protected, and that protections become inherent across all fusion centers. I have made it a priority under my watch that both offices be engaged in every aspect of our relationship, and recently directed the transfer of a significant amount of Program Office funds to these two Offices to ensure these mandates are met. They are already working in conjunction with the DOJ Bureau of Justice Assistance to make this training available to fusion centers starting in 2008. This effort will build on existing training in this area.

To foster collaboration and share best practices and lessons learned within the fusion center network, DHS sponsors the Homeland Security State and Local Intelligence Community of Interest (HS SLIC), a virtual community of intelligence analysts from across the country -- currently, 1,000 members from 42 states, the District of Columbia, and six federal departments. Through the HS SLIC, intelligence analysts across the country collaborate via weekly threat conference calls, analytic conferences, and a secure Web portal for intelligence information sharing at the sensitive-but-unclassified level.

The HS SLIC Steering Group, comprising SLFC leaders, advises the DHS Office of Intelligence and Analysis on state and local issues. A sub-set of the Steering Group, the HS SLIC Advisory Board, provides advice to the Under Secretary and Deputy Under Secretary of Intelligence on issues affecting the intelligence relationship between DHS and the state and local intelligence community. The advisory board is comprised of two steering group members from each of the four HS SLIC regions, and at-large members appointed by the Under Secretary or Deputy Under Secretary for Intelligence, as appropriate.

I&A has developed tools for supporting information exchanges, specifically to support the fusion centers. The HSIN-Intelligence portal hosts a restricted portion for the HS SLIC and is the means for disseminating all I&A finished intelligence products. I&A also provides access to classified national security systems, such as secret telephones and the Homeland Security Data Network (HSDN).

The HSIN-Intelligence secure Web portal has fused technology with the governing business processes to ensure the proper protection of sensitive intelligence and privacy-related information; supporting and upholding federal laws and policies, as well as accommodating the laws and policies uniquely applicable to the state and local jurisdictions from which participating agencies and their assigned government officials are represented. The HS SLIC, and its enabling HSIN-Intelligence portal, enjoys robust membership and supports important analytical communications between fusion centers and the federal Government. In doing so, it makes a significant contribution to the National Strategy for Information Sharing, which calls for an "information sharing framework that supports an effective and efficient two-way flow of information enabling officials at all levels of government to counter and respond to threats."

I now want to address the fine work of I&A's DHS partners, who through fusion centers have set benchmarks in how the department should work collaboratively to exercise the benefit of all of DHS combined national security efforts. One of the closest relationships the State and Local Program Office in I&A has within the Department is with FEMA's Technical Assistance Branch. Working with I&A and DOJ, this office has delivered nearly 100 joint technical assistance services to fusion centers across the United States. This should please members of this Committee, as the focus of this joint effort with DOJ's Bureau of Justice Assistance is to ensure that redundancy is eliminated and that grant resources are optimized and exercised to improve the capability of the centers. I am sure my colleague here today, Mr. Van Hitch from the Department of Justice, will also emphasize this relationship as we believe it is the model within DHS and the federal government.

Both the Intelligence Liaison Officers Program and Terrorism Liaison Program demonstrate the effectiveness of this relationship. Each program is designed to ensure the information contained within fusion centers reaches the street level police officer and firefighter, and just as important, provides them with a pathway for providing information back to the center and through it to the federal government. These programs are administered jointly by, and the training conducted with participation of, grant and technical experts from both Departments.

I&A is also working with FEMA to begin understanding how to better transfer the knowledge and situational awareness contained within fusion centers to FEMA's Emergency Operations

centers during times of crisis. My deputy, Chet Lunner, has met with FEMA and Emergency Management officials from across the country to begin exploring how fusion centers can better support FEMA's response and recovery efforts in times of crisis. I am confident this is the type of coordination Congress anticipated when the Department was created.

Another joint I&A-FEMA joint effort concerns the development of the Fire Service Intelligence Enterprise. Though not a federally sanctioned establishment or organization, its establishment by state and local fire service officials and industry groups was a result of advice and support provided by the State and Local Program Office to the New York City Fire Department (FDNY) and FEMA's United States Fire Administration. This relationship contributed to a draft approach for state and local fire services to share threat and related information among the country's nearly 1.2 million firefighters and EMS customers. I&A continues working with the United States Fire Administration and the National Fire Academy in Emmitsburg, Maryland, to incorporate intelligence training into their course curriculum and ensure our first responders better understand the events surrounding or leading up to their involvement in an incident.

As the executive agent within the Department for fusion centers, I&A has also started to identify, with the help of the DHS Operations Directorate, a more predictive and robust level of support in the National Operations Center (NOC) and the other DHS operations centers located within DHS components. Recent presentations to state and local officials at a national conference received warm support in this area, which has been identified by our customers as a source of frustration. By identifying a single access point within the Department and bringing broad Department support to the fusion centers through the NOC, DHS has mitigated the confusion of how best to interface with a department of our size, with 22 different components and 208,000 employees.

In addition, we are engaged with a variety of efforts, as part of the Information Sharing Environment to standardize and institutionalize suspicious activity reporting (SAR) nationwide. Internally, we are developing a process that will ensure SAR reporting across the Department and component agencies is standardized and information is ready for distribution to fusion centers.

I&A and the State and Local Program Office have also worked with DHS' Office of International Affairs to support the State Department-led June 5, 2007, Tri-lateral Counter-terrorism Consultations in Sydney, Australia. Taskings from this Consultation have the State and Local Program Office working with our International Affairs Office to develop relationships with fusion centers in Australia and Japan to share best practices, most notably the expansion of awareness concerning Privacy and Civil Liberties and Civil Rights within these centers.

Our DHS component partners also have reached out to embrace fusion centers, with many planning on expanding their participation in future DHS budgets. In Las Vegas for example, the Transportation Security Administration, Customs and Border Protection, United States Secret Service, Immigration and Customs Enforcement, the locally assigned Protective Security Advisors and I&A all have robust and fruitful relationships.

A recent addition to DHS efforts to assist state and local governments has given a boost to growing our relationship with these centers. The appointment of Ted Sexton as the Assistant

Secretary for Law Enforcement in DHS has paid immediate dividends. Mr. Sexton, an acting and elected Sheriff from Tuscaloosa County, Alabama, has worked with I&A to ensure we understand the homeland security-related needs of law enforcement, not only in the centers, but in local police departments that interact with fusion centers as well. The re-establishment of the Major City Chiefs Association Intelligence Commanders Working Group, which Mr. Sexton's office serves in an advisory capacity, is an example of the success he has achieved in a very short time.

DHS has been able to accomplish a great deal in the last three years of supporting the development of fusion centers. However, none of this would have been possible without the support of our federal partners, most notably at the DOJ, the DNI, and Program Manager of the Information Sharing Environment.

The National Fusion Center Coordination Group (NFCCG), co-chaired by the Director of I&A's State and Local Program Office and the Deputy Director of Intelligence in the FBI and established as part of the Information Sharing Environment, has membership from the FBI, DOJ, DHS, DNI, PM-ISE and five regionally appointed state and local fusion center leaders. This group works primarily to bring solutions to federal government leadership in a variety of areas concerning fusion centers. Some examples of their work include the drafting and follow-up of a letter sent to the governors of each state asking for designation within each state of a primary fusion center to better assist federal efforts in ensuring the development of a national integrated network of state and major urban area fusion centers, as called for in the President's National Strategy for Information Sharing.

This group has also developed a draft baseline capabilities document, *Baseline Capabilities for State and Major Urban Area Fusion Centers*, to ensure that a minimum capability is realized within each designated fusion center as part of the national integrated network. This work is vital in assisting state and local governments in determining information-sharing gaps and possible issues common across the national network.

The NFCCG has also worked to assist DHS and the FBI in ensuring overlap in the support of these centers is minimized to the fullest extent possible. The NFCCG has also conducted its first annual assessment of fusion centers to determine areas that federal partners should concentrate on to continually improve.

Last, but certainly not least, the NFCCG has coordinated a series of national and regional fusion center conferences. The two most recent national conferences, in Destin, Florida, in 2007, and San Francisco, California, in February 2008, are widely considered by fusion center managers and personnel to be highly productive and successful. Nearly 600 delegates attended in 2007, and we reached capacity this year at almost 900, with several hundred interested participants turned away. Staffers from this Committee were in attendance and can attest to it being the seminal information-sharing conference of state and local governments, fusion centers and their federal partners. All of this work is done jointly and again illustrates how fusion centers have set a standard in cooperation within DHS, across federal agencies and with our state and local partners.

Thank you for your consideration of this testimony about the Department of Homeland Security's efforts to support the development of state and major urban area fusion centers.

Department of Justice

STATEMENT OF

VANCE E. HITCH
CHIEF INFORMATION OFFICER
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE SECTOR PREPAREDNESS
COMMITTEE ON HOMELAND SECURITY GOVERNMENT AFFAIRS
UNITED STATES SENATE

AT A HEARING ENTITLED
"FOCUS ON FUSION CENTERS: A PROGRESS REPORT"

PRESENTED

APRIL 17, 2008

Statement of
Vance E. Hitch
Chief Information Officer
Department of Justice

Before the
Subcommittee on State, Local, and Private Sector Preparedness
Committee on Homeland Security Government Affairs
United States Senate

"Focus on Fusion Centers: A Progress Report"

April 17, 2008

Good afternoon and thank you, Mr. Chairman and Members of the Committee, for the invitation to speak to you today. On October 31, 2007, the President released the *National Strategy for Information Sharing* which describes the vision that has guided the Administration for the past six years and sets forth our plan to build upon progress and establish a more integrated information sharing capability to ensure that those who need information to protect our Nation from terrorism will receive it and those who have that information will share it. As reflected in the *Strategy*, a critical part of this Administration's efforts to improve information sharing has centered on the establishment of a national integrated network of State and major urban area fusion centers. The *Strategy* sets forth a roadmap for how the various components of the Federal government will work with State, local, tribal and private sector officials across the nation to make this goal a reality.

As both the Chief Information Officer and the Information Sharing Council representative for the Department of Justice, I am proud to discuss the accomplishments of the Department in the area of fusion center support. This truly is a Departmental effort and I want to recognize the invaluable support of my colleague, Domingo Herraiz, who as the Director of the

Bureau of Justice Assistance (BJA) has done great work on behalf of State and local law enforcement through a variety of grants and direct support programs over the years. BJA has been a critical facilitator and coordinator with our other Federal partners such as DHS and the ODNI as the Administration has implemented a single approach to supporting and working with State and local fusion centers.

Today I will highlight some of the Department-wide efforts to implement the National Strategy for Information Sharing, and I will cover BJA's accomplishments in support of the fusion centers which include training, technical assistance and on-going Department-wide efforts to protect the privacy, civil rights and civil liberties of our citizens. I would like to emphasize that many offices within DOJ support the fusion centers, and our employees focus on more than just providing them money and policy guidance. Across the board, we are trying to leverage existing partnerships, programs and technologies to support the fusion center mission. Agents, deputies, analysts and intelligence personnel from the FBI, DEA, ATF, USMS and US Attorney's Offices sit side by side at the fusion centers with local law enforcement personnel in our communities every day. While many of these fusion centers do aim to prevent terrorist activities, we cannot forget the valuable role they can and will play in reducing any type of crime. These fusion centers play an important role in protecting their communities by fostering *information led policing* efforts and focusing resources on the biggest **local** problems. Fusion centers are key to helping solve interstate and national crimes such as drug trafficking.

The Department's support to fusion centers is done in coordination with many partners across the Federal government. It is not easy to get multiple Federal agencies moving in the same direction at the same time; in his role as Program Manager for the Information Sharing

Environment, Ambassador Ted McNamara leads the inter-agency process established to make this network of fusion centers a reality and he has been critical to the progress we have made so far on fusion centers. Through his leadership, various agencies within Federal, State and local governments were brought together to put in place a unified approach to support fusion centers.

It bears mentioning that fusion centers are owned and operated by State and local governments and the Federal government's partnership with fusion centers recognizes respective States' sovereignty. The success we have seen so far with the establishment of fusion centers is mainly due to a select group of committed State and local law enforcement and homeland security professionals who recognized the need to enhance their counterterrorism and homeland security capabilities, and to do that in such a way that it could be integrated into their core mission to protect the public's health and safety. This can include emergency and non-emergency services. In particular, the steady leadership of the Global Justice Information Sharing Initiative's Criminal Intelligence Coordinating Council has not only nurtured the idea, framework, and guidelines for fusion centers, but also has worked to ensure these fusion centers are successful in their stated missions.

Introduction

Last month, we co-sponsored, along with DHS and various members of the Intelligence Community, the 2nd annual National Fusion Center Conference in San Francisco. Over 800 people attended from all levels of government, including Federal, State, local, and tribal law enforcement and homeland security professionals who are responsible for various aspects of a fusion center including: legislative and executive oversight, management, and the analytic/technical operations. Numerous Senate and House staff attended, Congresswoman

Harman was a luncheon speaker and my co-panelist from GAO was a speaker for the breakout panel on legislative oversight. The feedback we have received is very positive, and evidence that we are moving the ball forward in terms of improving communication, coordination and most importantly adapting to the needs of our customers who you have just heard from on the earlier panel.

In accordance with the recommendations approved pursuant to Guideline 2 of President Bush's December 16, 2005 Memorandum -- a Fusion Center Coordination Group (FCCG) was established to facilitate a coordinated Federal approach to the establishment of a national integrated network of State and major urban area fusion centers. The group is co-chaired by DHS and FBI and includes participation by State and local representatives, three offices within the Department of Justice, as well as other Federal agencies. It has the responsibility to support the implementation of relevant guidelines and minimum standards to advance the nationwide development of fusion center capabilities and ISE operations in order to maximize interoperability on a national basis. My testimony today will highlight the accomplishment of this group which has been in existence for about two years.

Training, Technical Assistance and Outreach

Following the August 2006 publication of the *Fusion Center Guidelines* report[1], the partners identified a need to assist State and local agencies with establishing fusion capabilities. As a result, four conferences were held between August and October 2006, and those in State and urban area fusion center leadership positions were provided training, guidelines, tools, and resources in a regional setting. The regional conferences culminated in a National Fusion Center

[1] www.it.ojp.gov/documents/fusion_center_executive_summary.pdf

Conference sponsored through a partnership among DHS, DOJ, DOJ's Global Justice Information Sharing Initiative (Global), the FBI, the ODNI, and the PM-ISE.

In January 2007, DOJ and DHS announced an effort to provide technical assistance services to support the development and enhancement of a national network of State and local fusion centers. The DHS/DOJ Fusion Process Technical Assistance Services catalog is made available to local users via the National Criminal Intelligence Resource Center (NCIRC) Web site. These services are gaining momentum, and requests have increased since the recent national conference. Delivery of training and technical assistance relating to privacy, criminal intelligence, information technology, and fusion center operations has been given to four regional groups and is pending in multiple States, including Alabama, Arizona, Indiana, Iowa, Michigan, Minnesota, New Hampshire, New Jersey and California.

A focus group composed of subject-matter experts from fusion centers across the country and sponsored by DOJ's Global, the PM-ISE, and DHS convened in January 2007. The group was charged with operationalizing the *Fusion Center Guidelines* and expanding upon the guidance detailed in the President's National Information Sharing Strategy by developing baseline capabilities and suggested business processes that fusion centers should include in their operation. The baseline standard, expected to be completed in May 2008, will serve as foundational elements for integrating fusion centers into the ISE, while facilitating continuity and sustainability of fusion center operations at the State and local levels.

Grants

In both the DOJ and DHS grants in 2007, we had well coordinated conditional language that mandated the use of the National Information Exchange Model (NIEM)[2] for all technology projects to assure interoperability. This is significant for two reasons, in that it validated the use of NIEM and it proved DHS and DOJ were in sync on key technical issues. This same language was also applied to the COPS grants awarded later in 2007. The importance of using the same technical standards will be covered later in my testimony.

The President's Strategy calls for DHS and DOJ to work together to ensure that State and local fusion centers received both the grant funding and technical assistance needed to achieve and maintain a baseline level of capability DHS and DOJ have broadened the allowable expenses under these programs to address concerns raised by State and local officials. DOJ and DHS have jointly established and are managing the "DHS/DOJ Fusion Process Technical Assistance Program" which provides training and other technical services to State and local officials. This technical assistance (TA) has already been provided to 94 jurisdictions and numerous new TA sessions are planned in the upcoming 12 months.

At the most recent National Conference, a dedicated panel presented information relative to grant funding and how to write more effective proposals, while the speakers explained the process for grant submission and the internal review mechanisms back here in Washington.

I cannot conclude my comments on grants without highlighting the important work of the Global community. This advisory body (made up of volunteers from many State and local agencies and organizations across the country), acts as the voice of the customer for the entire justice community. As the Federal organizations develop new ideas and tools relating to sharing,

[2] www.niem.gov

Global is our sounding board. BJA is the designated Federal lead who coordinates partnership activities on behalf of the Department, and the other Federal agencies involved in the ISE. BJA and my office support Global by providing funding and actively participating in its programs and governance.

Safeguarding Privacy and Civil Liberties

Fusion centers operate under a multitude of statutory and regulatory frameworks intended to ensure that information is handled in a way that protects both the information privacy and the legal rights of Americans. Fusion centers are owned and operated by State and local governments; and they are required to comply with State and local regulations that pertain to the protection of an individual's information privacy and legal rights as it relates to the gathering, handling, storing, and dissemination of information. In many cases, these State and local laws enhance the protections found under Federal law. Fusion centers implement Federal privacy laws and policies when processing information collected and created by Federal agencies. Furthermore, Fusion Centers supported by grant funding provided by DOJ's Office of Justice Programs must comply with 28 CFR Part 23, which governs the collection, maintenance, and sharing of criminal intelligence information and which specifically states that the collection and maintenance of criminal intelligence information may occur only if there is a **reasonable suspicion** that the individual is involved in criminal activity and the information is relevant to that activity. Reasonable suspicion is a **defined** standard that requires that information exists which establishes sufficient facts to give a trained law enforcement or criminal investigative agency officer a basis to believe that there is a reasonable possibility that an individual or organization is involved in a definable criminal activity. 28 CFR Part 23 has become the **de-**

facto standard used by State and local law enforcement as well as fusion centers whether or not such entities receive grant funding.

As part of the Information Sharing Environment (ISE), Fusion Centers will be required to comply with the President's Privacy Guidelines for the Information Sharing Environment and other procedural, oversight and technological mechanisms established to protect the information privacy and legal rights of Americans in connection with the exchange of data with Federal agencies. Furthermore, an interagency effort to develop a unified process for the reporting, analysis, and sharing of information related to suspicious activities and circumstances specifically seeks to address how Personally Identifiable Information (PII) will be protected in these Fusion Centers and the ISE. Grants guidance and fusion center guidelines distributed by DHS and DOJ require that State and major urban area fusion centers establish privacy policies and appoint a privacy officer. FBI personnel assigned to Fusion Centers, operate under clearly defined processes and protocols, approved by the Attorney General, designed to safeguard sensitive information regarding individuals from inappropriate handling and disclosure.

At DOJ, all of our work on fusion centers is coordinated with the Office of Privacy and Civil Liberties (OPCL). Our Chief Privacy and Civil Liberties Officer is the co-chair of the ISE Privacy Guidelines Committee (PGC) required by the Privacy Guidelines released by the President in December 2006 to support the development and operation of the ISE. The State/Local/Tribal Working Group of the PGC submitted an addendum to the Fusion Center Guidelines to strengthen further the recommended protection policies that should be implemented nationally. Protection policies range from ensuring a clear understanding of the legal authorities governing the operation of a fusion center to designating a privacy officer to

serve as a focal point. BJA is currently collaborating with DHS on the development and delivery of privacy, civil liberties and civil rights training required under the 9/11 Commission Act, Section 513(a)(2). This training will be made available to the fusion centers in 2008 and 2009 and will build upon existing training and work by DOJ on these challenging issues.

Within the last year, Global developed and released the Privacy Policy Development Guide and Implementation Templates, which provide justice practitioners with practical guidance on developing and implementing a policy to ensure and enhance safeguards for privacy rights and civil liberties. State and local criminal justice practitioners recognize this Global effort as important foundational work.

The Department, in cooperation with DHS and ODNI through the National Fusion Center Coordinating Group (NFCCG), conducted Technical Assistance (TA) sessions on the ISE Privacy Guidelines at four regional meetings with the result so far of twenty-five Fusion Centers submitting draft Privacy Protection Polices for peer review with the expectation that all Fusion Centers will complete such policies before the end of the summer.

Security

Significant work has been done by FBI and DHS personnel to bring classified capabilities to the fusion centers. There has also been work done on information technology, personnel and facility security. Fusion centers implement Federal information security laws and policies when processing information collected and created by Federal agencies. Additional detail concerning the protection of classified information and the physical security of the fusion centers can be provided to the subcommittee in private meetings.

Security is an important feature of a workable information sharing system, and the Federal government has the expertise and training capabilities to help the State and local personnel establish appropriate security safeguards in an expedited manner.

Technology

DOJ is implementing its Law Enforcement Information Sharing Plan (LEISP)[3] and as evidence of the inter-agency cooperation, my office has worked closely with DHS Immigration and Customs Enforcement (ICE) to implement a similar and complementary strategy within DHS. We are implementing the strategy of the President[4] and the guidance passed by Congress in 2007[5].

In support of the President's plan, we are also connecting our networks at the SBU level to provide connectivity and encrypted collaboration (document posting, email, alerts) to the fusion centers. DOJ is investing and expanding both LEO and RISS to support the needs of law enforcement across the country. We are also very proud of the FBI-CJIS Division, as they launched the first phase of the National Data Exchange last month, and this system will be a critical tool for the fusion centers and the approximately 18,000 law enforcement agencies across the country.

As I mentioned earlier, this sharing is enabled by the use of standards. DHS and DOJ have agreed to use NIEM, and we continue to work with our other Federal partners to implement information exchanges utilizing this common data model. We are now able to connect systems in months versus years because of the utilization of standards.

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[3] http://www.usdoj.gov/jmd/ocio/ppp.htm
[4] http://www.whitehouse.gov/nsc/infosharing/index.html
[5] HR-1 Implementing Recommendations of the 9/11 Commission Act of 2007

And what I know is an important issue for the previous panelists, the FBI has provided classified capabilities to 26 fusion centers so far, and they are on track to add this capability to 20 more by the end of the year. Connectivity will allow appropriately cleared local personnel to securely collaborate with other organizations around the country, and it will provide them access to NCTC Online. DOJ, DHS and the DNI are working to streamline secret level communication through NCTC via this web portal at the secret level.

Rather than creating competing websites or portals, DOJ, DHS and the DNI have agreed to make NCTC Online (NOL-S) the SECRET-level repository for all terrorism-related products written by NCTC, DHS, or FBI, whether issued as single-agency, joint, or fully-vetted community products.

Staffing

The FBI has assigned 80 agents, 88 analysts and 22 specialized support personnel (language/financial experts) specifically to fusion centers across the country. Our US Attorney's Offices, DEA and ATF also assign agents and anti-terrorism personnel to sit in fusion centers part-time.

Having Federal agents and analysts sitting side-by-side with the locals helps everyone. They are sharing information sources, they are learning new operating methods and most importantly, they are prioritizing in a joint manner so that certain crimes are the focus of attention, based on the needs of the local community/region.

Conclusion

I would like to leave this committee with one final thought. Validating a negative is just as important as proving a positive. Said differently, building an integrated network of fusion

centers will enable local decision makers to quickly know if an event is local or national in scope. The central hub in each State will communicate with other hubs, so that forces can be mobilized or relaxed; based on facts gathered and shared in a controlled manner.

Fusion Centers are doing this every day. We in the Federal government must empower them, leverage them and help them build their capabilities. We feel we are doing this, constantly improving what we do in partnership with the locals who run **their** fusion centers. There is much work to be done, but we have made great progress so far and look forward to providing Congress with updates on our progress.

Thank you for your time this afternoon. I will be happy to answer any questions you have.

Post-Hearing Questions for the Record
Submitted to Charles Rapp
From Senator Mark Pryor

"Focus on Fusion Centers: A Progress Report"
April 17, 2008

1. Do you receive any feedback from DHS or DOJ regarding how the intelligence you have provided is being used in federal criminal or terrorism investigations?

   No feedback has been received regarding how the information is used or if it was useful for any federal purpose.

2. In conversations with my staff, several different centers reported that they thought the weakest link in the fusion center network was information sharing between states. Do you agree with that assessment? How do you recommend that link be improved?

   This is a two sided area. Technology connections between states have not been good due to the use of multiple systems, insufficient budgets and outdated state technologies. In my opinion, we need a neutral party to evaluate technology systems for us and give us a rating on what the systems will do and what they could provide for fusion centers. One of the main issues with technology is that some states have invested in systems that are not compatible with other states. In other cases, states do not have the funds to upgrade or purchase technology that could enhance information sharing. Many vendors exist that could provide solutions, but their technology may be unproven and costs more than states can afford. In some cases it does not perform as it was described.

However, information between centers conducted by personal contacts or email requests is good. In the National Capital Region area, Maryland, Virginia and DC fusion centers meet monthly, talk to each other frequently and share information on a routine basis. We have done joint products and have collaborated on other issues as well.

DHS has also assisted particularly with the development of the Homeland Security State and Local Intelligence Community portal (HS SLIC). This portal has enhanced collaboration among all fusion centers and is continually building capacity. I believe that there are 43 states involved in this portal now and it provides a great mechanism for state to state collaboration and secure messaging between the states and with federal intelligence community partners.

Another issue states must solve is deciding which among the many collaboration portals they will use. Many portals exist to share information with different groups. However, it becomes labor intensive to keep up with all of these sites. While one access to information portals will never exist, it is important to narrow the number used and have states agree on which they value and will use routinely. This should help limit redundant reporting and allow analysts to focus on a limited number of portals to share information.

Post-Hearing Questions for the Record
Submitted to Matthew Bettenhausen
From Senator Mark Pryor

"Focus on Fusion Centers: A Progress Report"
April 17, 2008

1. *Do you receive any feedback from DHS or DOJ regarding how the intelligence you have provided is being used in federal criminal or terrorism investigations?*

   Three of California's five Fusion Centers are co-located with the FBI and two of the four Fusion Centers house DHS Intelligence Officers on-site. Plans are under way for the two remaining Fusion Centers to join the FBI under co-location within the year.

   FBI and DHS representation at these Fusion Centers bridge the gap between State and Local law enforcement and the Federal Government. These collaborative efforts at Fusions Centers offer a rapid and efficient exchange of information both from the top down and from the bottom up. Feedback is immediate between all parties and the collective products are used routinely in both cases support, tactical planning and strategic assessments.

   While there is little formal evaluation made on the level of assistance and intelligence value provided by state and local agencies, the level of integration on the tip and lead process in California's regional centers is illustrative. In the Los Angeles Regional Terrorism Threat Assessment Center for example there is a daily review of the combined tips and leads with a potential terrorism nexus from all participating agencies, federal, state and local. Based on the assessments and content, agencies would reference the material against local databases and determine relevance, criminal predicate and assign further actions. The entire process is totally integrated between all of the partners, clearly demonstrating the total partnership in the process, and the value that state and local participants bring to the operations.

2. *How do state homeland security advisors and governors evaluate the usefulness of the information/intelligence derived from fusion centers? What benchmarks do the centers use to evaluate their own progress?*

   The most difficult aspect of developing measures of effectiveness and benchmarks for evaluating the success of intelligence and information sharing is determining metrics to aid in the evaluation process. In California, the Homeland Security Advisor, the Fusion Centers, and participating agencies statewide struggle with determining how to evaluate the effectiveness of our system. A number of factors contribute to the challenge of doing this. Key to the prevention process are the efforts, at every level, of deterrence, detection and disruption. Deterring terrorism and terrorist efforts by presenting formidable and constant barriers to surveillance, planning and logistical preparation for an attack. Detection activities that allow enforcement and investigative agencies to identify key components and personnel of potential terrorist threats, and take actions to expose, arrest or deter their plans. Disruption through active steps taken to interdict a planned terrorist operation or activity and prevent it from occurring, primarily through arrest and seizures of key personnel and materials.

   While Disruption activities are easy to quantify, and generally result in arrests and prosecutions, detection often fails to provide sufficient information to proceed to arrests or seizures. Deterrence is the most problematic to document since it is undetected and is most often proved successful through non-occurrence of any terrorist activity.

   So the vast majority of the information received and the situational awareness provided to the public safety community from the fusion centers, whether in the form of specific information about potential suspects through tips and leads, or awareness derived from intelligence about potential tactics, techniques and procedures that terrorists might employ, or through the analysis of groups, or through the assessment of the vulnerabilities of specific critical infrastructure groups, can only be broadly evaluated.

Perhaps the most important method of evaluation for the worth of the information received from the Fusion centers throughout the U.S. is determined by demand from agencies within the public safety sector itself. The level to which information is requested, personnel are committed to participation, and the degree to which participating agencies remain committed to and consumers of fusion center products over time, are the signature of their assessment of value received. In California we have seen significant and consistent growth in the number of participating agencies within our TLO program, where currently 4,300 personnel have been trained. We continue to see significant and ongoing demand for analysis and assessment products. We see increasing demand for tailored assessments and analysis specific to a regional topic or issue. We see the emergence of multiple-center analysis, and the exponential growth of the HSIN-Intelligence system in the last year.

While difficult to quantify precisely, this consistent and growing demand by consumers and participants within the public safety system for products, training and assessments, demonstrates a collective perception of significant value for both the specific information/intelligence products as well as the overall value of the system itself. This demand and participation by an increasing number of agencies over time is the signature of value.

April 17, 2008 SLPSPI Fusion Center Hearing
QFRs from Russell M. Porter

1. Do you receive any feedback from DHS or DOJ regarding how the intelligence you have provided is being used in federal criminal or terrorism investigations?

Generally, there is not a standard, nationally-centralized mechanism for providing feedback. Feedback can be and is obtained, however, through relationships established locally, with field offices of the federal agencies. Local trusted relationships can be established through participation in the Joint Terrorism Task Forces (JTTFs) and, in some cases, the FBI's Field Intelligence Groups (FIGs). At some locations, personnel from the DHS Office of Intelligence and Analysis as well as the FBI are assigned to fusion centers and they can assist with acquiring feedback. Also, the Terrorist Screening Center has made great strides in the past year in sharing aggregate information with local and state officials, through the TSC's relationship with state and major urban area fusion centers. The TSC calls fusion centers with information about encounters occurring within or affecting a fusion center's jurisdiction, and also provides an aggregated analysis upon request. This aggregated information, as well as the tactical information affirmatively shared on a case-by-case basis, provides excellent situational awareness for personnel assigned to, or working in cooperation with, fusion centers.

2. What kinds of public outreach programs exist to let regular citizens know that there are civil liberties protections in place to govern information collection at fusion centers?

Formal public outreach programs have not yet been consistently established for all fusion centers to let citizens know that civil liberties protections are in place to govern information collection at fusion centers. Some steps, however, have been taken that lay the foundation for this type of outreach. First, each fusion center has been provided with training and technical assistance on multiple occasions to assist with developing written policies to protect privacy, civil liberties, and civil rights. Fusion centers have been strongly encouraged to make these policies highly visible and publicly available (e.g., posting on a web site). Second, fusion centers have been and continue to be encouraged to foster transparency and openness by allowing the media to report on the existence of fusion centers and their purpose. Searches of local and national media will provide examples of news media reporting in which fusion centers have opened their doors to promote public awareness of fusion centers, including the importance of effective privacy, civil liberties, and civil rights protections. Third, dialogue has been established with (a) representatives from privacy, civil liberties, and civil rights advocacy groups and (b) elected officials, including the development of outreach and awareness programs that will provide, among other things, awareness of the policies and protocols in place at fusion centers for the protection of constitutional rights. Certainly, funding and policy support for additional work in this area would be useful.

3. What specific improvements would you recommend to DHS and DOJ to help them improve and/or standardize the training sessions available to fusion center analysts?

As previously mentioned, one of the bright spots in efforts to coordinate among levels of government has been through the jointly-offered (rather than separately delivered) training and technical assistance initiatives available to fusion centers. The U.S. Department of Homeland Security and the U.S Department of Justice, supported by work from the Global Justice Information Sharing Initiative and with the assistance of the FBI, PM-ISE, and the ODNI, have made significant investments to work together jointly to sponsor training and technical assistance, including the National Fusion Center Conference, and other valuable and cost-effective initiatives. Offering the training via this framework helps standardize the training available, and both DHS and DOJ have been extremely open to feedback that improves these sessions. More training should be offered through this framework. One concern rests with potential lack of coordination between (a) the awarding of grants used to develop new training programs, and (b) the actual identification and delivery of existing training programs. Coordination between these programs is imperative to ensure that unnecessary duplication does not occur in the development of training programs that may already be available, and to increase the likelihood that needed curricula is developed to fill the gaps in available training programs. Finally, DHS and DOJ currently do not have enough resources to meet the demand to train personnel at fusion centers (as well as fusion center partner and stakeholder organizations). State and local officials have suggested building on the success of existing training programs, and expanding training to more police officers, investigators, and analysts. Effective training is crucial to increasing our capacity to improve homeland security information sharing at the ground level. Valuable training exists in the federal arena, and it could be expanded so that more of it is provided to local, tribal, and state agencies. Some local and state agencies have encouraged an emphasis on mobile training as a delivery mechanism. All of this requires additional resources for training. DHS and DOJ should seek funding to provide and sustain these training programs.

Question#:	1
Topic:	training programs
Hearing:	Focus on Fusion Centers: A Progress Report
Primary:	The Honorable Mark Pryor
Committee:	HOMELAND SECURITY (SENATE)

Post-Hearing Questions for the Record Submitted to
Jack Tomarchio, Deputy Under Secretary for Intelligence and Analysis,
U.S. Department of Homeland Security

Question: There are a number of technical assistance training programs available through both DHS and DOJ. However, many fusion centers have commented that trainings take analysts out of the office for weeks. They suggest a shorter, baseline certification program that ensures that analysts in different centers or who attend different programs have the same skill sets. In the question and answer portion of the hearing, you mentioned that one of DHS' goals over the next year would be to examine shorter, more concise training sessions, possibly on-site or electronically.

Could you please describe in more detail the training program options DHS and DOJ are considering?

Is there a standardized training program in the works that would discuss or relate to the baseline capabilities?

How coordinated is trainings between DOJ and DHS? Are analysts trained by DOJ qualified/ able to assess DHS information and vice versa?

How much money does DHS have to devote to the training of fusion center analysts? Is it adequate?

Question: There are a number of technical assistance training programs available through both DHS and DOJ. However, many fusion centers have commented that trainings take analysts out of the office for weeks. They suggest a shorter, baseline certification program that ensures that analysts in different centers or who attend different programs have the same skill sets. In the question and answer portion of the hearing, you mentioned that one of DHS' goals over the next year would be to examine shorter, more concise training sessions, possibly on-site or electronically.

a) Could you please describe in more detail the training program options DHS and DOJ are considering?

Answer: The Federal government has worked diligently to increase the scope of training and technical assistance offerings to state and local personnel while being mindful of the centers' resource and time constraints.

Question#:	1
Topic:	training programs
Hearing:	Focus on Fusion Centers: A Progress Report
Primary:	The Honorable Mark Pryor
Committee:	HOMELAND SECURITY (SENATE)

The Department of Homeland Security, Office of Intelligence and Analysis, established an Intelligence Analyst training course for State and local personnel assigned to the fusion centers, entitled "DHS Critical Thinking and Writing Skills Workshop." This course is being offered by mobile training teams to fusion center staff regionally across the country in order to minimize personnel time away from their respective centers. Additionally, work is underway to reconfigure the Basic Intelligence and Threat Assessment Course (BITAC) so that it may be offered in separate modules to fusion centers regionally across the country. Longer term plans include a potential electronic offering of BITAC as well.

By design, these courses will be from 3-5 days in length. We are also examining what types of training may be suitable for distance learning delivery methods, such as on-line training.

State and local fusion centers may leverage allowable homeland security grant funds to support related training activities of fusion center analysts

Currently, the following courses have been approved for use of DHS grant funds:

1. Anti-Terrorism Intelligence Awareness Training Program (AIATP); FLETC,
2. Introductory Intelligence Analyst Training Program (ITATP); FLETC,
3. Foundations of Intelligence Analysis Training (FIAT),
4. Florida's Law Enforcement Analyst Program,
5. Advanced Criminal Intelligence Analysis to Prevent Terrorism (ACIAPT); National White Collar Crime Center,
6. Office of the Director for National Intelligence (ODNI) Analysis 101,
7. California's Terrorism Liaison Officer Program,
8. Developing an Intelligence Capacity in State, Local and Tribal Law Enforcement Agencies: A Quick Start Program; Michigan State University, and
9. Basic Intelligence and Threat Analysis Course (BITAC) (DHS/ I&A).

Analyst training courses, such as those applicable courses listed above, that leverage DHS grant funds are expected to be in accordance with the Department of Justice's Global Justice Information Sharing Initiative's (Global) Minimum Criminal Intelligence Training Standards for Law Enforcement.

The establishment of a network of fusion centers to facilitate effective nationwide information sharing is a top priority that requires close collaboration among Federal, State, and local partners. To facilitate the development of national fusion center capabilities, the DHS FEMA National Preparedness Directorate (NPD) and the U.S. Department of Justice (DOJ), Bureau of Justice Assistance (BJA), have partnered to

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Topic:	training programs
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develop the Fusion Process Technical Assistance Program. This program has been developed in support of the DHS Office of Intelligence and Analysis (I&A) and in coordination with the Office of the Director of National Intelligence (ODNI), the ODNI Program Manager for the Information Sharing Environment (PM-ISE), the Federal Bureau of Investigation (FBI), and experts from the State and local community to include Global, including its working groups the Global Intelligence Working Group (GIWG), and the Global Privacy and Information Quality Working Group (GPIQWG) and the Criminal Intelligence Coordination Council (CICC).

In an effort to accelerate the implementation of baseline capabilities within all state and local fusion centers, DHS and DOJ have partnered to develop targeted Fusion Process Technical Assistance Services. Each service supports the implementation of the Global Fusion Center Guidelines and the ODNI Information Sharing Environment Implementation Plan to facilitate the nationwide development and/or enhancement of the fusion process. To date, the joint DHS/DOJ Fusion Process Technical Assistance Program has delivered over 115 separate technical assistance services to fusion centers to support their development and implementation of a baseline level of capabilities. Currently available services include:

- Fusion Process Orientation;
- Fusion Center Governance Structure and Authority;
- Fusion Center Concept of Operations (CONOPS) Development;
- Fusion Center Administration and Management;
- Fusion Center Privacy Policy Development;
- Fusion Center Technology Technical Assistance;
- 28 CFR Part 23 Technical Assistance;
- Fusion Liaison Officer Program Development;
- Fusion Liaison Officer Program Implementation;
- State and Local Anti-Terrorism Training;
- Criminal Intelligence for the Chief Executive;
- Intelligence Commanders Course; and
- National Information Exchange Model.

DHS provides training to the I&A officers located in fusion centers to ensure that they are providing the highest quality support to their centers. The I&A Intelligence Workforce Training Branch funds and sponsors the Basic Intelligence and Threat Analysis Course (BITAC) and makes it available for DHS Intelligence Officers deployed to fusion centers. The BITAC provides extensive awareness, instruction, and practical exercises on various intelligence-related topics, including: Critical thinking analytical methods, vulnerabilities threat risk assessment, and intelligence writing and briefing.

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In addition, all DHS Intelligence Officers deployed to fusion centers must receive privacy and civil liberties training, and are eligible to attend intelligence-related training courses offered by the Federal Law Enforcement Training Center (FLETC). FLETC offers a variety of courses appropriate for work in fusion centers, including an Intelligence Analyst Training Program and an Anti-Terrorism Intelligence Awareness Training Program. Attendance for DHS officers at these FLETC courses is funded and sponsored by DHS I&A.

Question: There are a number of technical assistance training programs available through both DHS and DOJ. However, many fusion centers have commented that trainings take analysts out of the office for weeks. They suggest a shorter, baseline certification program that ensures that analysts in different centers or who attend different programs have the same skill sets. In the question and answer portion of the hearing, you mentioned that one of DHS' goals over the next year would be to examine shorter, more concise training sessions, possibly on-site or electronically.

b) Is there a standardized training program in the works that would discuss or relate to the baseline capabilities?

Answer: All TA services are developed based upon and aligned to support specific objectives identified in the fusion center guidelines. Upon completion of the Baseline Capabilities document for fusion centers, all TA services will be re-evaluated to determine exactly which capabilities each individual service supports.

Additionally, the services support the recommendations identified in the National Information Sharing Strategy, National Criminal Intelligence Sharing Plan, Global Fusion Center Guidelines, and Information Sharing Environment Implementation Plan. The TA services have also been cross-walked against the Fusion Center Guidelines.

It should also be noted that—with regards to intelligence analyst training—the FY 2008 Homeland Security Grant Program (HSGP) guidance stated, "All intelligence analyst training should be in accordance with Global's Minimum Criminal Intelligence Training Standards for Law Enforcement and Other Criminal Justice Agencies in the United States, which outlines the minimum categories of training needed for intelligence analysts. These include subject-matter expertise, analytic methodologies, customer-service ethics, information handling and processing skills, critical thinking skills, computer literacy, and objectivity and intellectual honesty."

Each TA service has been developed with standard service materials and templates to ensure that consistent materials are being presented to each fusion center, and are

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consistent with national doctrine. These materials have also been presented before Federal and State and local (through Global and the CICC) counterparts to ensure consistency. For example, through the regional TA deliveries to the 4 fusion center regions, standard services and templates were provided to all fusion centers to support their development of privacy policies and Concept of Operation Plans (CONOPS). These services leveraged common templates and SME support to aid in the development of these products.

It must also be recognized that different fusion centers are at different levels of maturity, and therefore may or may not need different services. For example, a center that has been operating for several years may not need assistance in developing management or governance structures, while a newly developing center may need much more assistance on these efforts. Services must be flexible enough to meet the needs and mission of specific jurisdiction, considering their local needs/priorities and mission (i.e. whether it is all-crimes or all-hazards in scope). For example, a mature center that is looking to develop and implement a liaison program may or may not want to incorporate Critical Infrastructure and Key Resource (CIKR) efforts into the program. The TA services must be flexible enough to meet the expectation/needs of the jurisdiction, while still delivering common and consistent services that further strengthen a common operating network of fusion centers.

Question: There are a number of technical assistance training programs available through both DHS and DOJ. However, many fusion centers have commented that trainings take analysts out of the office for weeks. They suggest a shorter, baseline certification program that ensures that analysts in different centers or who attend different programs have the same skill sets. In the question and answer portion of the hearing, you mentioned that one of DHS' goals over the next year would be to examine shorter, more concise training sessions, possibly on-site or electronically.

c) How coordinated are trainings between DOJ and DHS? Are analysts trained by DOJ qualified/ able to assess DHS information and vice versa?

Answer: All technical assistance offerings are coordinated between DHS and DOJ, and all associated materials have been vetted through both departments, as well as Global and the Criminal Intelligence Coordinating Council (CICC), which is reflected by the joint seals on all materials.

With respect to analyst qualifications, the FY 2008 Homeland Security Grant Program (HSGP) guidance outlines the minimum categories of training needed for intelligence

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analysts. This baseline training standard ensures that analysts, whether trained by DHS or the DOJ, are qualified to assess information from all sources.

In addition, for the privacy and civil liberties training required for State and local fusion center representatives under the 9/11 Commission Act, the DHS Privacy Office and Office for Civil Rights and Civil Liberties have teamed with DOJ's Office of Privacy and Civil Liberties and BJA, as well as the Privacy Guidelines Committee under the PM-ISE take advantage of existing training and technical assistance programs developed at DOJ through Global that bolster the coordination and cooperation of local, state and federal governments, including the development and implementation of safeguards for privacy and civil liberties. Together, this collaborative effort works to ensure training modules reflect the collective thinking of these fusion center participants and are presented in a single coherent forum to the fusion center representatives who receive it.

Question: There are a number of technical assistance training programs available through both DHS and DOJ. However, many fusion centers have commented that trainings take analysts out of the office for weeks. They suggest a shorter, baseline certification program that ensures that analysts in different centers or who attend different programs have the same skill sets. In the question and answer portion of the hearing, you mentioned that one of DHS' goals over the next year would be to examine shorter, more concise training sessions, possibly on-site or electronically.

d) How much money does DHS have to devote to the training of fusion center analysts? Is it adequate?

Answer: The answer to this question is classified and provided separately.

Question#:	2
Topic:	strategy
Hearing:	Focus on Fusion Centers: A Progress Report
Primary:	The Honorable Mark Pryor
Committee:	HOMELAND SECURITY (SENATE)

Question: What is the current DHS strategy with respect to supporting state fusion centers? What are DHS' primary objectives in providing funds and personnel to state fusion centers? Do these objectives match the state fusion centers' objectives? How do you envision folding fusion centers into the DHS homeland security strategy in the long-term?

Answer: The *DHS Support to State & Local Fusion Centers Strategic Plan* established three goals for developing and supporting the fusion center initiative. The first goal was to establish a DHS presence in state and local fusion centers by deploying personnel and information systems, to include the Homeland Security Data Network (HSDN), a classified communications and information resource. The second goal was to enable the National Fusion Center Network by developing and implementing an intelligence and information capability that professionalizes the fusion centers, further enabling them to add value to the national knowledge base. The third goal was to operate and sustain investment and activities by providing support to the DHS staff, updating tools and information systems as necessary and ensuring DHS operations in fusion centers support information exchange and the intelligence cycle.

DHS aims to nurture a mutually supporting partnership with state and local fusion centers. This partnership facilitates the two-way flow of timely, accurate, actionable, "all-hazard" information between state and local governments and the National Intelligence and Law Enforcement Communities. DHS performs comprehensive assessments of fusion centers prior to deploying I&A staff to determine the center's unique requirements. DHS then lends support by embedding DHS personnel with access to information and technology in fusion centers as well as providing training to state and local personnel.

The Department's objective is to support and maintain a mechanism where law enforcement, public safety, and private sector partners can come together with a common purpose and improve the ability to safeguard our homeland and prevent criminal activity. The fusion centers are that mechanism. DHS recognizes that the fusion centers are owned by the states and urban areas that have established them, and that each fusion center has unique mission objectives against which it directs its finite resources.

The Department is eager to work with Congress to continue supporting fusion centers in the long term because effective fusion center work is a critical component of our own mission as well as the overall national preparedness goal. In our federal system, there is and should be substantial overlap between the missions of Federal government agencies

Question#:	2
Topic:	strategy
Hearing:	Focus on Fusion Centers: A Progress Report
Primary:	The Honorable Mark Pryor
Committee:	HOMELAND SECURITY (SENATE)

and the missions of state, tribal, and local authorities. Given this overlap, it is our responsibility to work to ensure their continued success.

The U.S. Department of Homeland Security (DHS) has made significant progress in its efforts to coordinate an effective, unified strategy across the Federal spectrum for Suspicious Activity Reporting (SAR).

As more effective standards for SARs are created and promulgated, DHS has made the integration of Federal, State, Local, Tribal, and private sector organizations a top priority. DHS has identified innovative ways to utilize data collected by State and Local law enforcement. The Department has also strived to sensitize its internal operating Components to the context in which information is gathered, resulting in more effective analysis at the strategic and operational levels.

Across the Nation, DHS has worked closely with the Major City Chief's Association and the Department of Justice, observing and analyzing local jurisdictions, including Los Angeles, Miami, Boston, and Chicago, to understand their approach to SARs and how to best promote cross-integration.

The Department has worked over the past year to align its internal approach to SARs, focusing on not only data management, but also the significant analytic value of such Reports. The Department also continues looking at the use of information technology across its Components to understand how technology applications can maximize the value of the data. These collaborative efforts closely aligned to Department of Justice, and Program Manager for the Information Sharing Environment efforts have propelled the SAR initiative forward.

DHS continues to evolve common reporting and utilization practices both within the Department, as well as external law enforcement organizations. DHS has evaluated the utility of expanding the spectrum of incidents covered in SARs, while carefully balancing the need to protect the privacy of citizens.

Question#:	3
Topic:	NAO
Hearing:	Focus on Fusion Centers: A Progress Report
Primary:	The Honorable Susan M. Collins
Committee:	HOMELAND SECURITY (SENATE)

Question: The Department is now in the process of setting up the National Applications Office (NAO) to help leverage Intelligence Community (IC) capabilities for homeland security and other civil applications. This office has been the subject of concern and scrutiny because of privacy and civil liberties concerns about the use of IC assets domestically. On March 5, 2008, the Officer for Civil Rights and Civil Liberties released a Civil Liberties Impact Assessment noting that DHS Analysts embedded at Fusion Centers might be used to help draft state and local requests to the NAO. The assessment goes on to suggest that without any guidance to the contrary, analysts might be put in the position of advocating for state and local requesters and use their institutional knowledge to circumvent existing civil liberties safeguards in the interest of accomplishing the requester's goal. Such problems, of course, are not confined to Fusion Centers and may arise with requests from other entities authorized to submit requests. Nonetheless, the Civil Liberties Impact Assessment has raised this concern with Fusion Centers specifically. The NAO Charter has several mechanisms designed to vet requests to ensure that they meet applicable privacy and civil liberties standards. How do the current safeguards address this concern? What additional steps – if any – do you intend to take with regard to requests from Fusion Centers?

Answer: Education, established procedures, and careful review are the key ingredients to ensuring proper standards of privacy and civil rights and civil liberties are maintained.

First and foremost, all requests processed by the NAO will be subject to review regardless of where the requirement originated, and irrespective of who wrote it. These requests must stand on their own merits. All requests coming to the NAO will undergo in-house legal, privacy, and civil rights/civil liberties reviews. The DHS personnel at the State and local fusion centers will be educated on the purpose of the NAO and its procedures. This education will include a discussion of the relevant civil rights and civil liberties principles.

In addition to the NAO review, the other key check in the system is the policy and legal review conducted by the Intelligence Community Functional Managers. These are the managers of those assets that may potentially be used to provide information in response to an information requirement. These assets cannot be used without the approval of the Functional Managers, who have procedures in place to prevent improper collection, processing, storage, or dissemination of data.

Question#:	3
Topic:	NAO
Hearing:	Focus on Fusion Centers: A Progress Report
Primary:	The Honorable Susan M. Collins
Committee:	HOMELAND SECURITY (SENATE)

The DHS personnel at the State and Local Fusion Centers (SLFC) provide expert advice to SLFC's customers seeking support from the federal government. This advice may include how to articulate mission requirements to the NAO and serving as a liaison between the NAO and the SLFC customers. While the DHS personnel located in the fusion centers may support a request, this will not serve as a substitute for the NAO's internal review processes, which are based in part on the results of a NAO Privacy Impact Assessment, an NAO Civil Liberties Impact Assessment, and an Inspector General Review of the privacy aspects of NAO. The Secretary of Homeland Security has certified that the NAO meets all applicable privacy and civil liberties laws, and his certification is currently under review by the General Accountability Office.

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