

A REPORT CARD ON HOMELAND SECURITY INFORMATION SHARING

HEARING BEFORE THE SUBCOMMITTEE ON INTELLIGENCE, INFORMATION SHARING, AND TERRORISM RISK ASSESSMENT OF THE COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES ONE HUNDRED TENTH CONGRESS SECOND SESSION

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Wednesday, September 24, 2008

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON INTELLIGENCE, INFORMATION SHARING,
AND TERRORISM RISK ASSESSMENT,
Washington, DC.

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 311, Cannon House Office Building, Hon. Jane Harman [Chair of the subcommittee] presiding.

Present: Representatives Harman, Dicks, Langevin, Carney, Reichert, Shays, and Dent.

Ms. HARMAN. The subcommittee will come to order.

The subcommittee is meeting today to receive testimony on “A Report Card on Homeland Security Information Sharing.”

Earlier this month, we all sent our greatest American assets, our children and our grandchildren, back to school. One of the first things that new students need to do each year is to reflect upon what they have learned the prior year. This adage might also apply to Members of Congress, perish the thought, and the Executive branch. So, as godmother of the Department of Homeland Security and as Chair of this subcommittee, I think it is time for the Federal Government and Congress to reflect on what has been done to ensure that timely, accurate and actionable information is shared with America’s first preventers.

Information sharing is a two-way street. While there has been some progress in breaking down information stovepipes at the Federal level and some promising efforts initiated by State and local leaders themselves, much work remains to be done.

On September 11 of this year, Secretary Chertoff’s Homeland Security Advisory Council made this clear in a report that assessed the top 10 challenges facing the next Secretary of Homeland Security. Among other things, the council, headed by William Webster, concluded that DHS must strengthen and continue to build partnerships with organizations outside DHS, such as State, local and tribal governments, as well as the private sector. Where have we heard this before?

The report also cited concerns about the broken classification process and recommended that common standards be built for fusion centers and that funding be sustained. Where have we heard this before?

These are concerns obviously shared by this subcommittee on a unanimous basis, and they are concerns which could impair connecting the dots in time to prevent the next attack.

If anybody thinks that we are home-free here, I would just remind us all that last weekend in Islamabad, a city that takes great steps to protect its infrastructure and its tourist sites and so forth, there was a massive car bomb at the Marriott hotel that killed over 50 people and wounded hundreds.

This subcommittee has been and will continue to be a champion for the needs of State and local law enforcement, an unusual practice in Washington. We are your champion. We think that we are representing you here, rather than representing Washington in our own neighborhoods.

We have demanded that threat information be shared with cops on the beat who need it in a form that they can use, while also ensuring that information worth sharing is not overly classified. We have challenged DHS to help State and local law enforcement in their efforts to think about the threats we face in a way that can improve their police work by approaching all crimes and hazards with a critical eye while also respecting privacy and civil liberties.

We understand that it is a tough assignment, given the number of bureaucratic hurdles that exist and the fact that America's law enforcement system is highly decentralized. But our police and other first preventers are most attuned to their local communities and are directly accountable to the concerns of those communities. They are the ones, you are the one, not some bureaucrat or politician, who will know if something is suspicious.

Our first panel includes first preventers from around the country who are on the receiving end of DHS information. Our question to you is: Are DHS and its partner agencies creating intelligence products that meet your needs? If those products aren't perfect, what gaps do you see? The ultimate question before us today is: How can we better serve you?

In a few short months, the President-elect will need to set his priorities. Implementing lessons learned on information sharing should, in my opinion, be among them.

I want to thank our Ranking Member, Sheriff Reichert, as well as all of our members, some of whom are arriving a bit late in this hearing, for their focus and dedication to the hard work of our subcommittee of the past 2 years. Many of you have traveled with me to see fusion centers around the country and the impressive command centers which were stood up for both political conventions.

Some enormously critical and necessary activity is under way, and our goal is to nurture and sustain it and to make sure that it does comply with privacy and civil liberties needs.

Millions of schoolkids and their families are depending on us to keep them safe. As I mentioned, that recent attack last weekend and recent attacks in Yemen and elsewhere and attacks planned around the globe remind us that the world remains vulnerable. It is up to us and especially up to you to make sure that the American public is protected.

I now yield time to the Ranking Member, Sheriff Reichert, for opening remarks.

Mr. REICHERT. Thank you, Madam Chair.

It is good to be here today. It has been a busy couple of weeks, and most of our Members, at least I know on our side here, are busy this morning, listening to the Under Secretary on some of our economic issues. So I just left that meeting; it is still on-going.

But, first of all, I want to take this opportunity to thank you, Madam Chair. This is most likely our last hearing of this Congress. I would like to start my remarks by publicly thanking you for your bipartisan leadership of this subcommittee and for working with me to get many of our priorities through the House and into law.

I also want to applaud you for your willingness to focus on the State and local enforcement community, of which I used to be a longtime member. It is essential that, going into the next Congress, we continue to shine the light on their efforts and their needs, because we need them more than ever in the fight against terrorists. So thank you very much.

I also want to take a moment—Mr. Porter, welcome to you—but I have two great friends on the panel this morning, another sheriff that I have had the opportunity to grow to know. We attended NEI, National Executive Institute, together. It seems like 100 years ago, but I am sure it wasn't that long ago.

And my good friend, John McKay, who worked hard during the time that I was the sheriff, the two of us working together, trying to implement a system called the LInX System, which would greatly enhance the ability of local law enforcement in our community and across the Nation. I know Sheriff Baca is also looking at the LInX System as a part of his regional security information-sharing system.

We ran into some difficulties in the Seattle area with trying to implement that system, but I will tell you, John McKay was a champion for us there and was a great salesman who finally brought together local, Federal, State enforcement agencies, recognizing the need for us to work together and share information. For that, I greatly appreciate his patience with me and my skepticism at first in working with a Federal Government.

As we all know, the famous line is, "I am from the Federal Government. I am here to help." Sheriffs sometimes don't believe that, but now I find myself saying that. So I am hoping that local law enforcement and those around the country begin to believe that more and more. Because this committee, I know, this subcommittee, I know, is very dedicated to bringing people together around this country, from the smallest police department, smallest sheriff's office, with the State police or State patrol and with any Federal agency that has responsibility for keeping this Nation safe.

I was going to read a statement, but I won't do that. It is just so essential that we work together, here in Congress, with all of you who represent local law enforcement and for those who, in the next panel, represent the Federal side of things. For this country to be safe, we have to work together, both Democrats, Republicans, Federal agencies and local agencies.

We have made great progress, in my opinion, from when I took office as sheriff in 1997 and came here in January 2005. Great partnerships and friendships have been developed. I really, truly believe, on a personal level, that those relationships, those friendships and those partnerships are absolutely key in making any sys-

tem that we put in place, any plan that we have in place, any technology that we want to share with each other—none of that will work unless the people sitting at the table in front of us today make a conscious decision that they will be the change agent, that they will be the ones holding the responsibility to keep this country safe.

I thank you all for being here today. I look forward to your testimony. Good to see my good friends here.

I thank you, Madam Chair. I yield my time.

Ms. HARMAN. Thank you, Mr. Reichert. Thank you for your nice words about our relationship.

Just what you said to our witnesses applies to Congress, as well. If we don't figure out how to work together in a bipartisan basis, nothing will happen. I am especially proud of the track record of this subcommittee over the last 2 years. We have authored a lot of legislation; a lot of it has passed the House.

Just yesterday, we got some progress on your bill, which I strongly support, to provide sustained funding for fusion centers and another bill, authored by Mr. Perlmutter, which we all support, to provide some assist for public sources as a critical part of our intelligence information.

We have two more bills that we are going to push hard to get. One is on declassification. I think all of you are going to speak to that today; I know you are. Another is on reducing the number of pseudo classification markings on Federal documents, another critical activity. It seems to us that all of these go in the same direction, and that is to help push information out, to change a need-to-know culture to a need-to-share culture. We will not connect the dots if you don't have the dots, because you are the ones who will figure out what the dots mean.

So let me say hello to our witnesses, all of whom I know. I will now introduce each of you briefly, and look forward to your testimony, and then we will ask you questions.

Let me point out for the record that other Members of the subcommittee, under committee rules, may provide opening statements for the record.

Now, let me welcome first my sheriff, Sheriff Lee Baca. The last time I saw him was on Venice Beach, California, where he and I and Secretary Chertoff did a little R&R early in the morning. He is the oldest of the three of us, but he may be the most fit; I hate to admit it. But we will catch up.

At any rate, Sheriff Lee Baca leads the Los Angeles County Sheriff's Department, the largest sheriff's department in the United States, with a \$2.4 billion budget. He supervises over 18,000 sworn and professional staff who serve over 4 million people living and working in 40 incorporated cities, 90 unincorporated communities and 9 community colleges in southern California.

Sheriff Baca is the director of homeland security-mutual aid for California Region I. Among his accomplishments, he developed the Office of Independent Review, comprised of six civil rights attorneys who manage all internal affairs and internal criminal investigations. A strong advocate of education, he developed LAFD University in conjunction with 13 universities, where over 950 of his officers are enrolled in bachelor and master's degree programs.

He earned his own doctorate from the University of Southern California.

Our second witness, Russell Porter, is the director of Iowa Fusion Center and Intelligence Bureau and the Iowa Department of Public Safety. He is also a member of the Operating Council for Safeguard Iowa Partnership, a voluntary coalition of the State's business and government leaders who combine efforts to prevent, protect, respond and recover from catastrophic events.

Mr. Porter serves as general chairman of the Law Enforcement Intelligence Unit and is a member of the Executive Advisory Board for the International Association of Law Enforcement Intelligence Analysts. He is also the current chairman of the Criminal Intelligence Coordinating Council and the Global Intelligence Working Group, which is part of DOJ's Global Justice Information Sharing Initiative.

In addition, Mr. Porter serves as a member of the Interagency Threat Assessment Coordination Group, ITACG, Advisory Council. He was in San Francisco, I think, a few months ago, at a major international conference which I attended, which was focused on this same set of issues.

Our third witness, John McKay, is a professor from practice at Seattle University School of Law where he teaches national security law and the constitutional law of terrorism. He previously served as United States Attorney for the Western District of Washington, where he successfully prosecuted the terrorist Ahmed Ressam, the so-called Millennium Bomber, someone well-known to people who live in and around my district, because Ressam, had he been able to enter the United States, was intending to come down to Los Angeles International Airport, LAX, and blow it up.

During his tenure, Mr. McKay also oversaw a pilot program for an information-sharing network called LInX, which Sheriff Reichert has just mentioned, which linked the Naval Criminal Investigative Service with State, local and tribal law enforcement. For his success with LInX, he earned the United States Navy's highest civilian honor.

He also previously worked as a White House fellow during the Bush 41 administration, where he worked as the special assistant to the director of the FBI. For several years, he served as president of the Legal Services Corporation, a private, nonprofit corporation in Washington, DC, established to ensure equal access to justice under the law for low-income Americans.

Let me commend you for that, in addition to everything else you have done.

We, the subcommittee, traveled to Mr. Reichert's district and we saw Mr. McKay there, as we evaluated the fusion center in Washington State. Congressman Dicks was there, and we now have Congressman Dicks and Congressman Carney in attendance.

Without objection, the witnesses' full statements will be inserted into the record. I would now ask each witness to summarize your statement for 5 minutes, starting with Sheriff Baca.

**STATEMENT OF SHERIFF LEROY D. BACA, LOS ANGELES
COUNTY SHERIFF'S DEPARTMENT**

Sheriff BACA. Thank you, and good morning. It is an honor to be here to testify before you. I want to compliment all of you for the hard work that you have been doing. This is certainly something that all of you are familiar with, this subject. I will try to make my comments as brief as I can.

Los Angeles, with the Los Angeles Police Department and the FBI and 45 other police agencies, does have a Joint Regional Intelligence Center. You know about what the intelligence centers are all about. We are fortunate to have a representative from the U.S. Department of Homeland Security as a part of that operational center. It is an all-fusion center, all-crimes. We do an awful lot of work there, but we do need help.

Second, we have a Terrorism Liaison Officer Program that connects all of our 45 regional police departments together. We have a cop LInX System, along with the LInX System that Mr. Reichert was alluding to, that ties together all of the southern counties of California, including the metropolitan Las Vegas area. That gives us the opportunity to serve 18 million people in a network of intelligence gathering, unclassified. Of course, the classified section of that is with the FBI.

We have a California Regional Terrorism Threat Assessment Center system, and that is California itself putting together three additional regional centers. Fourth, we have a Homeland Security Advisory Committee made up of businessmen who are key leaders throughout our national and international business community.

Fifth, we have a Muslim-American Homeland Security Congress that has the key leaders of the Muslim communities, including the Chair of the Sharia Council, as part of a nonprofit educational institution to show patriotic support against terrorism.

Sixth, we use in Los Angeles County, in the sheriff's department particularly, a public trust policing concept. Information is not going to be given right to law enforcement officers from sources that do not trust who they are giving this information to. So there is a comprehensive amount of public trust policing strategies that are necessary to engage the public to share what they know.

Now, let me tell you about the present concerns. Sharing information for local operational training, this is really where the issue is. A local deputy sheriff or police officer is not interested in the source of the information nor the means that were used to obtain it. The deputy or officer does need the tactic, technique, the procedures and method or resources of being reported on to ensure that he or she recognizes the precursors of an attack and when the situation is encountered on the street. However, without operational knowledge, that person may or may not be able to report this to the Joint Regional Intelligence Center for analysis and potential piece of information that may be missed.

So, therefore, what we are saying is, take whatever we have in the way of specific case intelligence, and scrub it up, and allow us to use what is a generalized form of information that can help us train ourselves to be better prepared and have the street cop in a position where he would have a greater sense of what is going on.

Second, we do need a Department of Homeland Security analysis capability in our fusion centers. So we are supporting the idea that analysts are critical, but we want DHS analysts in our fusion center.

Third, the security clearances still have to be on a more timely basis. When you are dealing with various forms of analysis work, whether classified or unclassified, we certainly can do a better job in that respect.

Fourth, the lack of sustained funding for the local JRICs. This is a Federal, State and local program, and we pump a lot of our own dollars into these operation centers, and we need a little more help from the Federal funding source.

Fifth, the LETPP funds should be administered by the assistant secretary for State and local law enforcement. There is a constant shifting of prioritization when it comes to local funds and local grant programs. We just think that law enforcement, as much as being a preventer of terrorism, along with a responder to terrorism, should have a lot more priority, and the FEMA system is not adequate.

Sixth, more local input to Federal policy. Currently, local leaders do not have enough influence in development of policy that we will eventually be tasked to implement. Therein is the telling of the story. I have had many discussions with the major city police chiefs throughout the United States, including the great NYPD. Our common concern is that everybody is subject to a set of policies that we don't quite often understand. We want to have a greater voice. We are not suggesting that we have the total voice.

Seventh, our national law enforcement agencies must function as a nationally policed system. This is where I run into a lot of challenge when you are dealing with foreign countries, because most nations abroad have a law enforcement system that can be construed as a national police model. We have 19,000 police and sheriff's departments in the United States.

I will tell you, if our voice is heard in the White House or in some higher level of governance, it isn't because we are invited in, it is because we basically are needed to be brought in. Yet, it should be systemically established that all the JRICs, all of the police departments in America and sheriff's departments are networked, and you can network these systems through the major JRICs throughout the States that are existing today.

Last, let me say this. There has to be an international police diplomacy program. I have been to so many countries in the Middle East, and in my testimony you will see all of them. I have spoken to President Musharraf, I have spoken to King Abdullah, I have spoken to the intelligence director of Saudi Arabia, including Qatar. These individuals are not reluctant to tell us the kind of information we need to know so that we in the United States can have a greater sensitivity as to how the terrorists are operating in countries that I have mentioned.

So, clearly, what I am saying is that there is a need to expand our international reach through perhaps a committee or a group of major-city chiefs and sheriffs, and minor-city chiefs and sheriffs for that matter, who would do what has to be done to create the inter-communicative skills that we need with our counterparts inter-

nationally. Currently my department has an international liaison unit, and we work 100 consulates.

Thank you very much.

[The statement of Sheriff Baca follows:]

PREPARED STATEMENT OF LEROY D. BACA

SEPTEMBER 24, 2008

Although more than 7 years have elapsed since the tragedy of 9/11, the Los Angeles County Sheriff's Department remains committed to institutionalizing the lessons learned that day. Together with our Federal, State and local partners, we are aggressively pursuing new ways to integrate our disparate agencies into a seamless network of information sharing cooperatives. This approach creates a national police system that can be respected internationally as well as locally.

To understand where the Los Angeles County Sheriff's Department is headed as a national partner, there must be an understanding of where we have been.

LOS ANGELES JOINT REGIONAL INTELLIGENCE CENTER

Recognizing the value of cooperation between Federal, State and local agencies, leaders from the FBI, United States Attorney General's Office, State Office of Homeland Security, Los Angeles Police Department, and Los Angeles County Sheriff's Department decided more than 5 years ago to join together and create a model for intelligence fusion and sharing. The dream became a reality in July 2006, with the grand opening of the Los Angeles Joint Regional Intelligence Center (JRIC). Using the unique analytical processes originally developed by the Terrorism Early Warning (TEW) Group, the efforts of law enforcement, fire service, public health personnel, and analysts from a variety of agencies and disciplines were combined to create an expansive view of trends and potentials which could indicate a pending terrorist attack. This information is shared with the "cop on the street" through such publications as the JRIC Daily Report and the monthly "Force Multiplier" (a monthly newsletter directed at field deputies/officers).

The United States Department of Homeland Security is also present in the JRIC and provides direct connectivity to other Federal agencies within their Department. These institutions possess critical information that must be synthesized with local products to provide the clearest possible forecast of potential threats. In fact, to ensure the best possible analysis, I continue to strongly encourage the participation of any public agency involved in issues of Homeland Security with its local fusion center. The JRIC is unique in that it operates independently of its contributing agencies with oversight provided by a steering committee of the Los Angeles County Sheriff's Department, the Los Angeles Police Department and the Federal Bureau of Investigation. This cooperative management team of local and Federal partners is a concept designed to overcome the traditional bureaucratic inertia in the field of intelligence sharing.

TERRORISM LIAISON OFFICER PROGRAM (TLO)

One program operating out of the JRIC that has national relevance is the Terrorism Liaison Officer (TLO) program. Originated shortly after 9/11, this program seeks to create a network of trusted agents within each law enforcement, fire and health agency in Los Angeles County. These TLOs are committed to passing critical information from the JRIC to their field personnel as well as answering requests for information. Numerous leads of investigative interest have been generated by local police officers, firefighters and health professionals as a result of this program. This level of information sharing and connectivity between field personnel and the fusion center is unprecedented and has enabled the JRIC to achieve the highest levels of situational awareness possible. Information provided by the TLO network contributes to the development of intelligence that is disseminated weekly to the executive staff of participating agencies, field operators and line personnel.

CALIFORNIA REGIONAL TERRORISM THREAT ASSESSMENT CENTERS

The State of California quickly realized the value of such intelligence cooperatives and funded three additional Regional Terrorism Threat Assessment Centers (RTTACs), which are based on the Los Angeles JRIC model.

HOMELAND SECURITY ADVISORY COMMITTEE (HSAC)

Outreach from the JRIC is not limited to public safety personnel. Shortly after 9/11, I established the Homeland Security Advisory Council (HSAC) in an effort to network corporate leaders with the work of the JRIC. HSAC is comprised of senior corporate leaders from Los Angeles and Orange Counties. Its affiliation with the Business Executives for National Security (BENS) has greatly benefited both of our organizations. Members of the HSAC provide technical, political and financial support to our counter-terrorism and emergency management missions. Through their large sphere of influence they also provide thousands of eyes and ears via corporate security departments who have shared dozens of incidents of investigative interest to the JRIC.

MUSLIM-AMERICAN HOMELAND SECURITY CONGRESS (MAHSC)

The world's nations will never win the war against terrorism without the diverse Muslim society's participation. To this extent, the Sheriff's Department helped form our Nation's first patriotic Muslim-American, not for profit, organization composed of leaders of all Islamic organizations within Southern California. Asians, Middle-East, African, and South Asian religious leaders and organizations are the leadership core of MAHSC's Board of Directors.

The executive director of the Shura Council is also on the Board, all mosques in Southern California are represented.

As MAHSC continues to mature, visits to Detroit, Dearborn, Dearborn Heights, Chicago, and New York have been made. MAHSC is an educational institution designed to fight extremism. As it grows, it will become a promising program to acquire organized Muslim-American participation to prevent a homegrown terrorist attack.

PUBLIC TRUST POLICING

A fundamental reality of intelligence is the willingness of the public to share what they perceive or factually know with those they trust. The Los Angeles County Sheriff's Department has extensive relationships, advisory councils and programs with diverse people, including Muslim-American organizations, citizens and leaders.

All leaders of these communities can easily reach the Sheriff on a 24/7 basis. This trust-based attention to details facilitates easy access to critical information that often travels through a series of people to the public safety community.

PRESENT CONCERNS

Sharing Information For Local Operational Training

With all the positive things that have occurred in the past several years, there are still lingering impediments to unobstructed information sharing between the Federal Government and local law enforcement agencies. I applaud the efforts of Congresswoman Harman with respect to the issue of overclassification of intelligence. HR 4806 is a logical response to the Federal Government's tendency to keep pertinent information from deputies and officers on the beat.

The local deputy or officer is not interested in the source of the information nor the means that were utilized to obtain it. The deputy or officer does need the tactic, technique, procedure, method, or resource being reported on to ensure he or she recognizes precursors of an attack when encountered on the streets. However; a lack of operational knowledge will impact the ability to report such activity to the JRIC for analysis, and a potentially vital piece of information may be missed. Classification must protect the integrity of National Security investigations and the personal privacy guaranteed by the Constitution.

However, I submit that most classified reporting can be "scrubbed" so that crucial operational information is available for dissemination to local law enforcement.

Need for DHS Analysis in Local Fusion Centers

A second shortcoming is the lack of Department of Homeland Security analysts available to fusion centers. In the JRIC, we are fortunate to have a bright and extremely capable DHS I&A analyst. His input into the analytical process is invaluable, but he is only one person. The JRIC would benefit from having several DHS analysts. The assignment of additional personnel from DHS would be a visible sign of the Department's commitment to local public safety while continuing the process of breaking down the barriers to information sharing. The founding members of the JRIC have committed significant numbers of personnel even during times of critical staffing shortages within our agencies. Our commitment is proven. We challenge the DHS to match that commitment.

Untimely Security Clearances

Third, the security clearance process is still not timely. Routinely, deputies, officers and analysts wait a year to receive a National Security clearance that required to have a Top Secret clearance prior to employment in the workspace. This was done to ensure that classified systems would be available to all personnel in an open environment. The lack of a timely background investigation results in un-cleared personnel (or those in the process) being excluded from access to critical information sharing. For a local agency to augment or replace personnel, the clearance process is a disincentive and has resulted in a net loss of personnel assigned to the JRIC. I suggest that the sponsoring agencies set a reasonable goal of 3 to 6 months to complete a background investigation.

Lack of Sustained Funding for Local JRICs

One other impediment to information sharing is the lack of sustained funding for the JRIC. Each year, the JRIC struggles with accumulating enough funding from the local participants and various UASI and SHSGP grants just to remain functional. In the past, funds from the Law Enforcement Terrorism Prevention Program (LETPP) were also available as a separate funding source for this purpose. However; with the existing grant restrictions on personnel and operational needs, and the elimination of LETPP as a separate funding source, the future sustainment of the JRIC is uncertain. I believe that only sustainable funding through the Department of Homeland Security will ensure the critical efforts of the JRIC, and fusion centers across the Nation are not in danger of curtailment. Therefore; I am recommending to Congress that the LETPP grant be reestablished under the authority and administration of the Department of Homeland Security's Assistant Secretary for State and Law Enforcement. This will ensure that vital funding for our prevention efforts are no longer diluted within the existing grant structure, and the future of fusion center operations will be secure.

As an example, there is a critical need for the sustained funding of contract analysts and the Terrorism Liaison Officer program contained within the JRIC. Currently, there are only two full-time personnel assigned to the TLO program.

These two individuals are responsible for the coordination of information flow from 7 counties comprised of 89 independent agencies in an area of 8,000 square miles. As you can imagine, this is a near-impossible task.

LETPP Funds Should Be Administered by the Assistant Secretary for State and Local Law Enforcement

I propose that with fewer restrictions on the guidelines for LETPP (ability to hire personnel), these additional positions can be filled to ensure the critical information from the beat cop does not go unreported. The administration of LETPP funds under the Assistant Secretary for State and Local Law Enforcement's purview will facilitate the ability to formulate and implement a suitable national vision for law enforcement prevention efforts. A standardized training and education program will improve information sharing, as well as serve as an effective means to enhance the connectivity among fusion center operations across the Nation. Specific funding for strategic planning for terrorism prevention for law enforcement on a national scale will, in effect, allow the nearly 19,000 police agencies to function as one in the Global War on Terrorism (GWOT).

More Local Input to Federal Policy

The common theme among all of our efforts is the sharing of information from police, fire, health, and corporate or community sources, which must be analyzed and shared. We have begun to overcome the distinction between Federal, State and local priorities. However; an issue yet to be resolved is the better integration of local input into Federal mandates. Currently, local leaders do not have enough influence in the development of policy that eventually we will be tasked to implement. We must ensure that policies we are asked to foster are not in conflict with local laws, ordinances, or values. Only through unified planning and policy development with direct participation by local authorities can the legitimate policy be developed. I believe that all available means whether technological, social, political or operational must be considered in order to ensure that the events of 9/11 are not repeated. I fully support Congresswoman Harman's call to replace the intelligence community's requirement of the "need to know" with the "need to share."

Our Nation's Law Enforcement Agencies Must Function as a National Police System

As the elected leader of the Los Angeles County Sheriff's Department, I am committed to expanding cooperation with all Federal, State and local agencies in our efforts to combat terrorism. The citizens of Los Angeles County and the Nation deserve a secure homeland. No single entity can provide that security. Only by work-

ing together in a collaborative, mutually supportive environment can we provide the security we all felt prior to September 11. Our Nation, Sheriff and police department and Federal agencies must function as a national police system when it comes to international crime such as terrorism.

International Police Diplomacy

The Sheriff's Department, the N.Y.P.D., and the L.A.P.D. have engaged in extensive international police relations activity. America has no national police. Major counties and cities are doing this work.

To further effective counter-terrorism strategies, I have met with key political and police leaders of Pakistan, Jordan, Israel, Saudi Arabia, Qatar, Turkey, Azerbaijan, Armenia, England, Italy, France, Sweden, the Netherlands, China, Taiwan, Russia, and Canada. These contacts are invaluable for best practices development, cross-country training and technology support.

The Sheriff's Department has an International Liaison Unit that interacts with more than 100 consulates in Los Angeles County. My strategy is to work closely with our foreign partners in the fight against terror. Assistant Secretary Ted Sexton traveled with me to Pakistan.

Our Nation must lead in trust-based solutions with other nations and not leave local major counties and cities behind as we build a global solution with local applications of success. I thank you for the opportunity to address the committee.

Ms. HARMAN. Thank you, Sheriff Baca.

Mr. Porter, you are recognized for 5 minutes.

STATEMENT OF RUSSELL M. PORTER, DIRECTOR, IOWA INTELLIGENCE FUSION CENTER AND INTELLIGENCE BUREAU, IOWA DEPARTMENT OF PUBLIC SAFETY

Mr. PORTER. Madam Chair, Ranking Member Reichert, Members of the subcommittee, thank you for convening this hearing and for all of your important work. I appreciate it very much. I appreciate this opportunity to provide you with a perspective of a local and State law enforcement person of 30 years' experience, 24 of which are assigned to the intelligence discipline.

Earlier this month, I informally surveyed members of the Law Enforcement Intelligence Unit, the oldest association of law enforcement intelligence units in this country, as well as fusion center directors. I asked them to share their views as it relates to what works, what needs improvement and what kind of recommendations they would offer as a way forward. Those are detailed in my written statement, but I do want to highlight a few of those this morning in my remarks.

First of all, for what works: As a community, we have seen incremental but significant improvements in many areas of homeland security information sharing: leveraging of existing programs; certainly there has been a great emphasis on privacy and civil liberties protection and training in that area, which is critical to our success. We have to do that and make it first things first. There has been development of regional meetings and the development of personal contacts across the country to strengthen the fabric for information sharing; and co-located environments that have facilitated information sharing.

I want to highlight a couple of them, though, that are particularly salient and relevant for what works. One of them is the outreach that has been done by the Terrorist Screening Center. The Terrorist Screening Center, since the National Fusion Center Conference that was held in March in San Francisco, as the Chair pointed out, has started an outreach to State and local fusion centers to provide them with an aggregate picture of the Terrorist

Screening Center hits, the positive hits that are occurring within their jurisdiction. This provides a great situational awareness for those jurisdictions, and it has been a very positive thing toward what works.

A second item I wanted to highlight is the Homeland Security State and Local Intelligence Community of Interest, which is run by DHS's Office of Intelligence and Analysis. This is a network primarily of State and local fusion center analysts in 45 States, the District of Columbia, and seven Federal agencies, who share sensitive homeland security information and analytic products on a daily basis through a secure portal, but they also teleconference once a week to share information in that context, which forms this community.

By all accounts provided to me by my colleagues around the country, those who participate in the HS SLIC, as it is called, find it to be a highly valuable initiative. Many of the participants attribute the success of this initiative to the dedicated staff members that are assigned to it. But I will say it is a limited community in its size. These are key people who participate, but it is a smaller group.

One of the good things about that particular system is they have started to leverage other existing capabilities that had already been developed to integrate that with other systems. I will give you an example. When you log in to this particular system, you can not only use the HS SLIC log-on and authentication procedure, but you can also use something called the Global Federated Identity and Privilege Management, or GFIPM, framework, which was developed by Global, mentioned earlier by the Chair. So that has been a positive entity that helps share information and is starting to streamline some of the access points.

What can be improved? My colleagues pointed out several challenges to information sharing.

First of all, and the one that was a strong, consistent and emphatic theme: Uncertain sustainment funding for fusion centers. Local and State officials have raised this consistently as perhaps the most significant threat to effective homeland security information sharing.

In fact, I will read one quote from one fusion center director. "Frankly, our fusion center is coming down to the wire regarding the 2008 grant. Our local agencies, who have staff in the fusion center, have told us if they are held to the requirement of promising to sustain staff beyond the 2008 grant period in order to accept funding, then they will opt out."

The House of Representatives has responded by passing H.R. 6098. Thank you. But we have not heard anything regarding movement in the Senate on this issue. For our fusion center, time is running out, with a pending deadline for the local agencies to make application and no idea yet what to tell them, other than, "There has been no change." This poses a serious threat not only to the existence of fusion centers, but to strong information-sharing across the country.

A second theme that our colleagues pointed out was a continued lack of coordination across and among national information systems. Many local and State officials decry the multitude of systems

that the local and State agencies must access to use and stay informed. Ultimately, it results in inefficiency and information overload.

National security clearances continue to be raised as an issue, in terms of the time that it takes to get them; the reciprocity issue; and also the overclassification issue.

Similarly, a respondent shared his concerns that some in the Federal Government believe incorrectly that they are sharing information widely with State and local law enforcement through classified channels, such as HSDN and NCTC Online. But unfortunately most law enforcement agencies in this country do not have those systems, and many in the local and State communities believe that they never will.

Here were the recommendations that my colleagues offered, and I will highlight just a few of those.

First of all, support and build on the existing partnerships and systems that have been effective. These include things like the Global Justice Information Sharing Initiative and the Criminal Intelligence Coordinating Council, as well as HS SLIC that I mentioned earlier.

Continue to make the protection of privacy and civil liberties a top priority. As we continue to establish a national integrated network of fusion centers, it is essential that we put first things first.

Simplify the funding. It is mysterious and even nonsensical to many in the State and local community as to why they cannot use funding to support some of the necessary activities.

Finally, aggressively promote intelligence-led policing. Consistent with an earlier proposal contained in this subcommittee's LEAP report, which was published in 2006, homeland security information-sharing would benefit from a coordinated, consortium-like approach rather than individual, disconnected efforts to foster and promote intelligence-led policing.

Focusing on two areas is what I would suggest: Establishing and coordinating information needs from local and State agencies, much like a criminal intelligence priorities framework that the Federal Government could receive to know what the State and local information needs are; and, second, emphasizing and strengthening the analytic capacity in local, tribal and State agencies.

The last thing I would point out is the need to move faster. Following the attacks of 9/11, we moved with a great deal of urgency, and today, in some areas, we are moving much more slowly. A renewed sense of urgency would help us all maintain that momentum.

With all other issues in homeland security, this is critical, and there is much to do. I pledge my continued support and those with whom I work.

[The statement of Mr. Porter follows:]

**“A REPORT CARD ON
HOMELAND SECURITY INFORMATION SHARING”**

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 INTELLIGENCE, INFORMATION
SHARING, AND TERRORISM RISK ASSESSMENT**

**COMMITTEE ON HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES**

SEPTEMBER 24, 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 Intelligence,
Information Sharing, and Terrorism Risk Assessment**

**Committee on Homeland Security
United States House of Representatives**

“A Report Card on Homeland Security Information Sharing”

September 24, 2008

Chairwoman Harman, Ranking Member Reichert, and Members of the Subcommittee, thank you for convening this hearing today to focus on homeland security information sharing – an activity that is critical to making our communities, our states, and our nation safer. I want to acknowledge the hard work of my many colleagues at all levels of government, but especially those at the local and state level with whom I work. I’m also especially pleased to appear today with this distinguished panel of witnesses.

I appreciate this opportunity to provide an update on homeland security information sharing from the perspective of local, tribal, and state officials, and especially of those who work in the law enforcement and homeland security information sharing and criminal intelligence domains.

INTRODUCTION

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 as you know was created in 2007 and is chaired by the Under Secretary of Intelligence and Analysis for the U.S. Department of Homeland Security; and of the Advisory Board for DHS's Homeland Security State and Local Intelligence Community of Interest (HS SLIC). 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. In 2007 I was awarded the IALEIA President's Distinguished Service Award, and in 2008 I received the IACP Civil Rights Award in the category of Individual Achievement for a "consistent and vocal presence in law enforcement stressing the importance of protecting civil rights in policy, training and ethical practice of the intelligence function."

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 homeland security information sharing, 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 in homeland security information sharing is made 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, as a community, commit countless hours of their time each day to improve information sharing in the United States, including help to establish an effective national, integrated network of fusion centers in support of homeland security information sharing.

**HOMELAND SECURITY INTELLIGENCE
AND INFORMATION SHARING: FUSION CENTERS**

“Of all the functions and capabilities encompassed in the term “homeland security,” none is more important than intelligence.”

America At Risk: A Homeland Security Report Card, p. 8¹

Following the terrorist attacks on the United States on September 11, 2001, law enforcement and other government agencies joined together to strengthen information and intelligence 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 intelligence and information.

The *Implementing Recommendations of the 9/11 Commission Act of 2007* (P.L. 110-53), enacted in August 2007, endorsed and formalized the development of a national network of State and major urban area fusion centers. Similarly, the *National Strategy for Information Sharing* released by the White House in October 2007 also 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.”² As one recent report noted:

“The potential value of fusion centers is clear: by integrating the various streams of information and intelligence from Federal, state, local, and tribal sources, as well as the private sector, a more accurate picture of risks to people, economic infrastructures and communities can be developed and translated into protective action.”³

¹ Progressive Policy Institute. 2003 (July). *America At Risk: A Homeland Security Report Card*. Accessed July 3, 2004 at http://www.ppionline.org/documents/HomeSecRptCrdr_0703.pdf.

² The White House. 2007 (October). *National Strategy for Information Sharing*, p. A1-1, accessed September 21, 2008 at http://www.whitehouse.gov/nsc/infossharing/NSIS_book.pdf.

³ U.S. House of Representatives, Report 110-752, Report to Accompany H.R. 6098, Personnel

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 remain 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.

The perspective that I offer today is based in part on my thirty years of experience as a law enforcement officer – twenty-four of those years assigned full-time and continuously to the law enforcement intelligence discipline, and most recently as the Director of a State Fusion Center. In some places, my statement is extensively augmented by the views of other local and state law enforcement professionals. Earlier this month, I informally surveyed members of LEIU and leaders from fusion centers across the United States. I asked them to share their views as they relate to homeland security information sharing. Specifically, I asked them to provide their input on (a) what's working, (b) what could be improved, and (c) what recommendations they would offer as a "way forward" in the months and years ahead. I sincerely appreciate and respect their views, and any errors of commission or omission in representing them are mine, and mine alone.

WHAT WORKS

As a community, we have seen incremental but significant improvements in many areas of homeland security information sharing. I will begin by highlighting just a few of these initiatives that have proven to be valuable at the state and local level.

Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act. Accessed September 21, 2008 at <http://frwebgate.access.gpo.gov/cgi->

Leveraging of existing programs. Many improvements related to homeland security information sharing have been achieved when local and state officials leveraged successful and proven programs that have been in place for years. These include the Regional Information Sharing Systems (RISS®) and RISS' associated network (RISSNET™) and the RISS Automated Trusted Information Exchange (ATIX™) (supported by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance), as well as the FBI's Law Enforcement Online (LEO). These programs have served as staples for many agencies that are engaged in homeland security information sharing. The services associated with these existing systems have also expanded to meet the needs of local and state officials, such as the development of RISSafe (an event deconfliction system) and LEO's Virtual Command Center (VCC) (an electronic information sharing and crisis management command center).

Emphasis on protecting privacy and civil liberties. 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. The jointly-offered (rather than separately delivered) training and technical assistance initiatives made available to fusion centers by 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 progress in providing real protections for privacy and civil liberties in the environment in which information is being shared. 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

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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. DHS and DOJ continue to follow-up with all fusion centers to provide every possible avenue of assistance in this important area.

Regional meetings, personal contacts. The development of regional working group meetings in several areas of the United States has been cited as an improvement to our national information sharing capacity. Some of this enhancement to homeland security information sharing is based on the development of personal contacts among fusion center personnel, which facilitates information sharing. But participants say that these regional meetings also allow them to leverage existing knowledge in the areas of policy and procedure, training, intelligence and information sharing technologies, staffing requirements, and other areas. Respondents believe that continued involvement with the working groups will continue to improve homeland security information sharing strategies in the future.

Collocated environment with clear and mutually-shared homeland security objectives. Comments from my local and state colleagues also point to an overall improvement in communication and information sharing with their federal partners in recent years (sometimes referred to as vertical information sharing), as well as to significant improvements in information sharing among state and local agencies (i.e., horizontal information sharing), based relationships and trust. For example, a fusion center leader described improved information sharing as it related to a recent National Special Security Event (NSSE). The fusion center leader said that this improvement was specifically noted in the interactions among personnel at a central information and intelligence center, which was hosted by a federal agency. Representatives from all major agencies were present in the center, which became the clearinghouse for security-related information and intelligence sharing for the event. During the planning cycle for

the NSSE, local, state, and federal representatives spent a great deal of time working together to share information toward a specific goal. These interactions helped build relationships and trust, which ultimately fostered a very open environment within the center. This fusion center leader also noted that because of established relationships with other fusion centers, the personnel at the information and intelligence center were able to quickly obtain needed information and intelligence to support the mission of providing security to the event in that state.

Training and Technical Assistance. Local and state officials note there has been a great deal of progress with training programs that enhance homeland security information sharing. Courses like the State and Local Anti-Terrorism Training (SLATT) program, the Criminal Intelligence Commanders Course, the Criminal Intelligence for the Chief Executive briefing, and the 28 CFR Part 23 training programs (all of which have been supported by the Bureau of Justice Assistance), and intelligence analyst training programs such as the Fundamentals of Intelligence Training (FIAT) (provided by IALEIA, LEIU, and the National White Collar Crime Center) have greatly improved the ability of local and state agencies to carry out homeland security information sharing and criminal intelligence efforts. Additionally, one of the significant bright spots in support of local, state, tribal, and federal information sharing has been the partnerships established among DHS, and especially the Office of Intelligence and Analysis and FEMA; DOJ, and especially BJA; the FBI; the PM-ISE; the ODNI; and Global, the CICC, and the GIWG. These groups have worked together to jointly sponsor training and technical assistance, information sharing meetings, the National Fusion Center Conference, and other valuable and cost-effective initiatives.

Terrorist Screening Center (TSC) outreach. 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. This aggregated information, as well as the tactical information affirmatively shared on a case-by-case basis, provided excellent situational awareness for fusion centers.

HS SLIC. Created in 2006, the Homeland Security State and Local Intelligence Community of Interest (HS SLIC) allows a nationwide network of intelligence personnel – primarily analysts, and many of them at state and local fusion centers – in 45 states, the District of Columbia and seven federal agencies to share sensitive homeland security information and analytic products on a daily basis. The HS SLIC Steering Group, comprised primarily of local and state officials, provides governance to the initiative. In addition to the secure information sharing portal that is used, HS SLIC members conduct a virtual meeting every week via the secure portal and by teleconference, to discuss current and emerging threats and analytic topics. DHS also hosts national HS SLIC analytic conferences and regional conferences at both the classified and unclassified level. At these conferences, participants discuss important analytic topics and threat trends, such as border security and threats to critical infrastructure. An HS SLIC Advisory Board has also been established as a subset of the HS SLIC Steering Group. I serve as an At-Large Member of the Advisory Board, which provides advice on issues affecting the intelligence and information sharing relationship between DHS and the state and local intelligence community. The Advisory board just completed its third meeting with Under Secretary for Intelligence and Analysis (I&A) Charlie Allen, Deputy Under Secretary for Intelligence Mary Connell, and members of their staff. By all accounts provided to me, those who participate in HS SLIC find it to be a highly valuable initiative that provides information and context that is otherwise not readily available to them. Many of the participants attribute the success of this initiative to the dedicated staff members that are assigned to it. I have been especially encouraged by the efforts of the DHS staff to integrate HS SLIC, where possible, with other existing initiatives. Specifically, authentication to the HS SLIC information portal can now be accomplished not only by using the HS SLIC log-on and authentication procedure, but also by using the log-on credentials associated with the Global Federated Identity and Privilege Management (GFIPM) framework, a joint effort of many local, state, and federal government agencies. Affiliated with the Global Justice Information Sharing Initiative that I mentioned earlier, the GFIPM framework provides the justice community and partner organizations with a standards-based approach for implementing federated identity. This willingness by DHS I&A to integrate with and leverage existing and

developing information sharing initiatives is to be commended.

Although not an exhaustive list, the examples provided above have served to improve our homeland security information sharing capabilities.

WHAT CAN BE IMPROVED: CHALLENGES TO INFORMATION SHARING

While acknowledging the progress above, local and state officials recognize that much more needs to be accomplished, and that room for improvement remains. Next, I will identify some of these issues that affect homeland security information sharing, based in input from others.

Uncertain sustainment funding for fusion centers. Local and state officials consistently and emphatically note that one of the most significant threats to effective homeland security information sharing – perhaps *the* most significant threat – is the potential lack of sustainment funding for fusion centers. The President's National Strategy for Information Sharing describes the commitment to fusion centers as a "national priority," yet the current DHS grant guidance falls short of fully supporting this priority. State and local recipients of DHS grants can use grant funds to hire and retain intelligence analysts for three years, as long as the agencies make an up-front commitment to pay 100% of the sustainment costs for intelligence analysts – but at the risk of losing all federal funding in the future. This leaves many local and state officials in a serious quandary. State and local officials are willing to seek other sources of funding to help sustain this indispensable network of fusion centers. But state and local officials cannot immediately predict if they will be successful in securing this funding from other sources – and if they cannot arrange these other sources of funding, they will be disqualified from hiring analysts with federal funds in future program years.⁴ One fusion center leader plainly pointed out:

⁴ U.S. Department of Homeland Security, *Fiscal Year 2008 Homeland Security Grant Program*, 2008, Accessed September 21, 2008 at http://www.fema.gov/pdf/government/grant/hsgp/fy08_hsgp_guide.pdf.

“Frankly, [our fusion center] is coming down to the wire regarding the 2008 grant. Our local agencies who have staff in the [fusion center] have told us that if they are held to the requirement of promising to sustain staff beyond the 2008 grant period in order to accept funding then they will opt out. The House of Representatives has responded by passing H.R. 6098 but I have heard nothing regarding movement in the Senate on this issue and whether or not if something is passed, will it have any tangible affect on the 2008 guidance. For [our fusion center] time is running out with a pending deadline for the local agencies to make application and no idea yet what to tell them other than there has been no change.”⁵

I’m confident that officials at the DHS I&A State and Local Program Office support the sustainment of State and Local Fusion Centers. Those officials have been working hard to finalize the approval of the *Baseline Capabilities for State and Major Urban Area Fusion Centers*, which should help focus sustainment funding on achieving these baseline capabilities. Still, the present circumstances jeopardize the existence of many fusion centers, and thus put effective homeland security information sharing in the United States at risk. The current requirements also endanger long-term effectiveness, and place limits on our ability to sustain a “culture of constitutionality” and effectiveness by retaining trained and qualified staff. Numerous local and state officials have advocated for designated federal grant funding for fusion center sustainment until other funding sources are identified.

A continued lack of coordination across and among national information systems. Many local and state agencies still decry the multitude of systems that local and state officials must access and use to stay informed. Ultimately, the result can be inefficiency and information overload. As one local officer responded:

⁵ Communication from local/state official to the author, in response to request for information, September 2008.

"My one big complaint is that we don't yet have a single place to go for information . . . I have, by the way, nearly 30 passwords to change every quarter . . . If the US Government was to truly increase the law enforcement role in intelligence – both for criminal and homeland security issues – SOMEONE needs to tell all these folks that enough is enough. Get on one website where I can get a criminal history on a guy, a gun trace, find where the alien came from and when, and find suspicious activity reports for financial information. Something like that would save time and money on a scale I can't even fathom . . . What should take 30 seconds takes 30 minutes . . ." ⁶

Another state law enforcement leader noted:

" . . . my shop is really reaching overload on all of the information sources we have to monitor on a daily basis to keep current. It seems that many of these . . . are sponsored by various federal agencies . . . Each one requires a separate sign in . . . I can't help but think there has to be a better way to share information." ⁷

Finally, a state fusion center official said:

"The maturation of [*existing systems*] has enabled analysts and investigators to access more information than they had previously. Other [*new information*] resources . . . provide a wealth of information. The next step would be to consolidate some of these sources into a coherent, streamlined manner so that analysts wouldn't have to check 10 websites to gather information." ⁸

National security clearances: issuance and reciprocity. Clearance issues still plague local and state officials. Responses from the field suggest that the process still takes too

⁶ Communication from local/state official to the author, in response to request for information, September 2008.

⁷ Communication from local/state official to the author, in response to request for information, September 2008.

⁸ Communication from local/state official to the author, in response to request for information, September 2008.

long, and that clearances granted by one federal agency are frequently not recognized by another. Finally, the sharing of important homeland security information continues to be hampered by overclassification, and the proportionately small number of clearances that can be issued to local officials. Local and state officials pointed out that front-line police officers, detectives, and their immediate supervisors are left uninformed because overclassification prevents important information from being shared. Similarly, a respondent shared his concerns that some in the federal government believe – incorrectly – that they are sharing information widely with state and local law enforcement through such classified channels as HSDN and NCTC Online. Unfortunately, the vast majority of law enforcement agencies don't have these secure networks, and many believe that most of the 18,000 local and state law enforcement agencies in the U.S. never will.

The lack of a pervasive “responsibility to provide” culture among agencies. Local and state officials in some jurisdictions said that information affecting local communities is still not routinely shared with appropriate officials. They attribute this to the fact that a limiting, strict, and overpowering “need to know” approach, rather than a “need to share” or “responsibility to provide” culture, is still prominent in some jurisdictions.

Unrealistic expectations. In the words of one fusion center official, achieving baseline capabilities for fusion centers will take five to seven years, especially with limited sustainment resources. Local and state officials pointed out that attempting to develop and implement a long-term homeland security information sharing strategy without a stable funding mechanism poses substantial obstacles and unrealistic expectations. They note that while the baseline capabilities provide an excellent implementation guide, the baseline capabilities will have little impact on day-to-day operations if they aren't connected to sustainment funding. The baseline capabilities also create a substantial amount of administrative work to facilitate a long-term strategy, develop policies and protocols, collection requirements, staff training plans, and establish continuity of operations and other contingency plans, which may require the hiring of project managers or other staff.

Non traditional information sharing remains undeveloped. Some local and state officials saw the need for more emphasis on information sharing with the private sector, including funding to develop private sector training programs. It was noted that the private sector may see trends before the public sector, so effective relationships are critical for homeland security information sharing.

RECOMMENDATIONS

These observations provide us with an opportunity to begin identifying the way ahead. Much has been accomplished since September 11, 2001, and significant progress has been made toward improved homeland security information sharing. All of us are mutually interested in continuing the progress that we have jointly achieved. I turn now to some recommendations that might help us all continue to move forward together.

Support and build on the existing partnerships that have been effective. Among the most effective partnerships are those borne from, or associated with organizations that are part of, the Global Justice Information Sharing Initiative, and in particular with the Criminal Intelligence Coordinating Council. Funding and other support to Global's efforts reinforces the work of all stakeholders in homeland security information sharing. These participating organizations are inclusive in their approach; much of the work thus far in coordinating homeland security information sharing among local, state, tribal, and federal agencies has been done by Global, the CICC, and organizations who participate in these joint efforts.

Continue to make the protection of privacy and civil liberties a top priority. As we continue to establish a national, integrated network of fusion centers it is essential that we put "first things first." Together, all of us must continue to emphasize the importance of systemic and institutionalized protections to privacy and civil liberties. Awareness, training, and accountability measures in this area are critical to our continued success.

Simplify funding. For many recipients, decisions about grant funding are mysterious or

even nonsensical. Provide grant recipients with the needed flexibility to sustain the fusion center programs that serve their jurisdictions, consistent with the provisions found in H.R. 6098.

Aggressively promote intelligence-led policing. Consistent with an earlier proposal contained in this Subcommittee's LEAP report published in 2006, homeland security information sharing would benefit from a coordinated, consortium approach – rather than individual, disconnected efforts – to foster and promote intelligence-led policing in the United States. The concept has proven successful in the United Kingdom, Canada, Australia, New Zealand, and elsewhere. Although it's true that the number of law enforcement agencies in those countries is far fewer than the 18,000 that exist in the U.S., implementation of intelligence-led policing might be manageable and effective if first introduced in the 50 to 100 fusion centers in America. This implementation could focus on two areas: (1) establishing and coordinating information about the criminal intelligence priorities (or priority information needs – much like a "criminal intelligence priorities framework") of local, tribal, and state jurisdictions, and providing these priority information needs to federal agencies; and (2) emphasizing and strengthening the analytic capacity in local, tribal, and state agencies. Our overall effectiveness in sharing homeland security information will be hampered until we establish clear and prioritized information needs, and unless we develop effective analytic capacity in selected agencies.

Integrate information systems. In 2003, the *National Criminal Intelligence Sharing Plan* highlighted the many disaggregated information sharing systems in the United States, and called for the creation of a more integrated approach to these systems. Five years later, some progress has been made in this regard, but the proliferation of systems continues. More attention needs to be directed toward interoperable and interconnected systems. Global has done extensive work in this area, but additional resources directed to these projects could accelerate the development of solutions to support end users.

Increase training capacity. State and local officials 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.

Revisit persistent challenges that remain unresolved. Some topics that were raised as challenges or problems seven years ago – such as issues surrounding clearances, or cultural barriers that affect information sharing – continue to surface. It's imperative to revisit, understand, and obtain resolution to each of these longstanding issues.

Move faster. Following the attacks of 9/11/2001, we moved with a great deal of urgency. Today, in some areas we are moving much more slowly. Perhaps we need to remember that today's adversaries move more swiftly than those of the past. A renewed sense of urgency will help all of us maintain the momentum we need to improve our efforts to share homeland security information.

CONCLUSION

As with other important issues surrounding homeland security information sharing, there is much work to do. Hearings such as this one help all of us focus on the work that remains. On behalf of the colleagues with whom I work at all levels of government, we appreciate the support for and interest in homeland security information sharing, and in the protection of privacy, civil liberties, and civil rights, that has been consistently demonstrated by this Subcommittee.

I pledge my continued support of our important work together. Thank you for your time, and I look forward to any questions you may have.

Ms. HARMAN. Thank you.

Mr. PORTER. Thank you for your time.

Ms. HARMAN. Thank you, Mr. Porter.

Mr. McKay, you have the 7 minutes that each of the other witnesses took to summarize your remarks.

STATEMENT OF JOHN MCKAY, PROFESSOR FROM PRACTICE, SEATTLE UNIVERSITY SCHOOL OF LAW

Mr. MCKAY. Thank you, Madam Chair. It is an honor for me to be here at the committee. I keep reminding your very capable staff that I am a former law enforcement official, that I was fired as

United States attorney, and I wasn't sure what I had to contribute, as a humble Irish——

Ms. HARMAN. Let me interrupt right there. We know what you have to contribute, and we are very happy that you are here.

Mr. MCKAY. Well, thank you. Having been schooled by Congressman Dicks as a young congressional aid, I must say there is nothing like speaking to Congressman Dicks and briefing him on a bill that he thought rightly he should have been briefed on before I sat in his office. Mr. Shays and I worked together, when I was president of legal services, and it is a privilege to be here.

As a law professor and not owning any of the funding that some of the Federal agencies provide, I can be blunt and a little less kind, I think. I would give a grade, which is now my profession, of maybe at best a C-minus to Federal partners in law enforcement information sharing. I would reserve an A-plus for one little agency in the Department of Defense called the Naval Criminal Investigative Service who have led the way in the national leadership on the LInX program, which I know Mr. Dicks is well-aware of because the first place in which it was launched was in his district.

I give a C-minus—and I think I am being generous—because one might ask the question: Who is in charge in the Federal Government in building regional law enforcement information-sharing systems? The answer is: No one. The question of who is designing the standards which are implementable, which can actually be implemented, is that they are not in existence other than in the LInX program.

No one gets the geography in Federal agencies. They do not seem to understand that the real leadership is seated to my right and to the people who they represent here in the fusion centers as sheriffs, police chiefs, and heads of State police. The Federal approach has been a DC-centric planning experience and not one that recognizes the leadership of individuals such as our former sheriff and the Ranking Member here, Sheriff Reichert, who understated his role dramatically in the build-out of the first LInX program in the Northwest.

What is it? Information sharing is now a buzzword, unfortunately. What I believe it is, is the synthesizing and exploiting of all shareable data. That means that, through a single click, like we do with Google, we in law enforcement should have the ability to have a single composite record. It is the local leaders who are actually leading the way here.

My concern about fusion centers is that they do not have fused data. The data systems are disparate. As Sheriff Baca has pointed out, 18,000, 19,000 State and local agencies have no legal obligation to share their data with the Federal Government, none.

Now, that means that if we are going to build real information-sharing systems that will help us solve all crimes first but lead the way in identifying potential terrorists, then we have to do so in a shared, cooperative, partnership basis. I believe the Federal Government must fund these systems, and they must be co-owned in equal partnership with State and local partners. That is the basis of the LInX program.

I am not here to sell the committee LInX. I am here to say there are basic standards that should be agreed upon. I listed those in my statement.

This is also not about buying technology. This is about real partnerships. This is about solving crimes. I challenge any Federal official to indicate what efforts they have made to work interdepartmentally. This shouldn't be owned by the Homeland Security Department, it shouldn't be owned by the Department of Justice, and it surely cannot be owned by the Department of Defense. The public has a right to be protected in civil liberties, civil rights.

As I tell my students in a final lecture that I give, called "Doomsday Lecture," we are not going to like each other very much when we are attacked next and we haven't strengthened our systems within the law to keep people safe.

Thank you for the opportunity to be here today.

[The statement of Mr. McKay follows:]

PREPARED STATEMENT OF JOHN MCKAY

SEPTEMBER 24, 2008

Good morning Madam Chair and members of the Homeland Security Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment. I am John McKay, the former United States Attorney for the Western District of Washington. I am currently Professor from Practice, at Seattle University School of Law, where I teach Constitutional Law of Terrorism and National Security Law. I am pleased to appear before you to present information regarding "A Report Card on Homeland Security Information Sharing."

I had the privilege of testifying before the subcommittee during its hearings in the district of the Ranking Minority Member, Mr. Reichert, in March 2007 on the topic of law enforcement information sharing and warned that meaningful law enforcement information sharing was blocked by turf and failed coordination among Federal agencies. While local sheriffs and police chiefs have risen to the occasion in the implementation of the standards-based exploitation of law enforcement information sharing, DHS, DOD and DOJ have missed a golden opportunity to make this possible on a national scale by funding and leading implementation of the Law Enforcement Information Exchange (LInX). As I reported to the subcommittee:

"I am convinced that the standards of senior executive law enforcement leadership, a cost efficient technology, and a fervent commitment to share all legally sharable law enforcement records is the recipe for successful information sharing among our 18,000 law enforcement agencies in our country. This is an effort which must be led from the most senior ranks of government, and one which must meet the operational needs of our sworn law enforcement officers and analysts who are on the front line every day attempting to find the proverbial needle in the haystack that might lead them to a terrorist support network, or to quickly capture a serial pedophile, random rapist or violent criminal. Neither crime, criminals nor terrorists know any borders. In fact, they now know how to exploit our geographical borders and bureaucratic jurisdictions to their own advantage. We need a new weapon in our fight to preserve our freedoms, and I believe we may have found such a weapon in the deployment of the LInX program."

WHY LAW ENFORCEMENT INFORMATION SHARING IS CRITICAL TO OUR SECURITY AND SAFETY—AND HOW WE ARE FAILING

In the aftermath of September 11, a consensus emerged that American law enforcement had to dramatically improve the sharing of law enforcement information among Federal, State, and local agencies.

This consensus has led to the elevation of the concept of "information sharing" as an unquestioned priority in virtually every Federal agency. Today, information sharing committees abound in Federal departments and professional associations, and information sharing is used to justify the majority of the technical systems being budgeted and deployed in Federal agencies.

"Offices of Information Sharing" have made their way into most law enforcement agencies, as have new job descriptions for information sharing officers and special-

ists. Information sharing committees within agencies are fast at work developing strategies, reviewing and revising policy, designing technical approaches, and studying vexing problems associated with security, privacy laws, and overcoming other traditional obstacles for effective information sharing. In short, the post 9/11 consensus has given the term “information sharing” a prominent place in the management of Federal law enforcement agencies.

Unfortunately, this near frenetic activity has not produced the results we all expected. Let me be more specific. The assumption following the events of September 11 was that the “stove-piped” character of American law enforcement would be transformed and that difficulties of sharing information among the approximately 20,000 independent police agencies in the United States would soon be overcome. It was also assumed that refusal of Federal agencies like the FBI, DEA, ATF, and ICE to share their information with one another and with their State and local partners on matters of shared interest would give way.

A tradition of “need to know” would actually be replaced by a mutually agreed upon doctrine that emphasized the “need to share”.

The assumption that the post-9/11 era would be characterized by a new term—transparency—has unfortunately proven to be unfounded. And efforts to make you and other Members of Congress think otherwise is untrue and, in my view, unethical.

You have heard, and you will continue to hear Federal officials and their supporters in associations boast of fusion centers, interdepartmental information sharing systems, national networks, and grant funds made available for regional information sharing systems.

I urge you to probe carefully the assertions that such initiatives are providing the expected transparency or enhancing law enforcement effectiveness. In my view, the initiatives have cost a lot of money, put lots of people to work, put new technologies into the public service, and given agency officials political cover with the illusion of progress, but have not produced meaningful information sharing and have had virtually no operational impact.

Despite their lofty claims, Federal officials are misleading you if they have caused you to believe that fusion centers are actually “fusing” any data, that interdepartmental systems in DOJ, DHS, or DOD are integrating anything but inconsequential records, or that Nation-wide networks like N-DEX and HSDN are systematically transporting data that is being used by State and local police departments.

If you accept these assertions at face value, you will be misinformed.

Those of us willing to honestly address this issue will conclude that “information sharing” has no clearly understood meaning, is poorly managed, and has been made overly complicated. From a national perspective, there is no concept of success, no agreed-upon jurisdiction, no designated authority, no effective leadership. And despite the large sums of money being spent over the past decade and many, many promises, there remains no consensus on the way to proceed.

Let me quote from a June 2008 Status Report from the Government Accountability Office on the progress of Federal Information Sharing Environment (ISE), which was mandated by the Intelligence Reform and Terrorism Prevention Act of 2004. The report was critical of the lack of progress in implementing the ISE, declaring that, “. . . the desired results to be achieved by the ISE . . . have not yet been determined”.

This conclusion, which is entirely accurate, should not be acceptable to this subcommittee 7 years after 9/11 and 4 years after a law mandating information sharing.

FEDERAL EFFORTS FAIL TO FOCUS ON STRATEGIC PLANNING AND COORDINATION WITH STATE AND LOCAL LAW ENFORCEMENT

Part of our challenge is the ISE focus on Federal records, which does little to add to the information sharing capabilities of State and local police. From a national perspective, law enforcement information sharing should have two distinct, but related, objectives.

First, for State and local law enforcement, information sharing should eliminate problems associated with the limited jurisdictions and separate, incompatible record systems of most city and county police departments. The various departments all have different record systems and rarely permit one department unlimited access to another’s records. But as every deputy sheriff and police officer knows, law enforcement files often contain otherwise innocuous records—parking tickets, associates, addresses, phone numbers—that don’t show up on incident reports but often provide the critical information that solves the case. While some jurisdictions are

taking steps to integrate their records, progress here is woefully slow and there is no prospect of a comprehensive solution for years.

Second, a national information sharing system should ensure that Federal agencies have access to information maintained in State and local agencies that may be pertinent to terrorist threats and complex drug, organized crime, and fraud investigations. As I have said many times, evidence of a potential terrorist threat or organized criminal enterprise is far more likely to be found in the incidental contact with the 10,000 police officers in the State of Washington, than by the less than 150 FBI agents assigned to the Seattle Field Division.

This is no more clearly evidenced than by the fact that the Arlington, VA Police Department issued a speeding ticket to Hani Hanjoor, the pilot of Flight No. 77 which attacked the Pentagon, 6 weeks prior to the 9/11 attack. The information collected by the Arlington Police, if automatically shared with the FBI, most probably would have alerted the FBI that a suspected al Qaeda operative was present only miles from our Capital and seat of Government. Imaging the possibilities had we embarked upon a real commitment of law enforcement information sharing among all local, county, State and Federal agencies.

From a national perspective, making State and local law enforcement records available to Federal agencies is a critical component of 21st Century public safety. How could the stakes be any higher? What Federal official would testify before this or some other committee to explain—after a devastating terrorist event—that information which might have prevented the attack was found, after the fact, in the files of a municipal police department? I'm sure you will agree that the scene would be ugly, the consequences profound, and the blame would be earned by all. Progress since September 11 has been minimal. And we are, I strongly believe, unnecessarily vulnerable.

Moreover, the gains to be made by synthesizing and systematically exploiting both Federal and State/local data are clear to every Federal agent and police officer I have spoken with on the subject. Yet they also share a profound pessimism that this will come about any time soon—a sentiment I find very sobering. The benefit that would accrue to U.S. national security in having police records integrated in a strictly controlled fashion with sensitive Federal data and would be nothing short of remarkable.

LEARNING THE LESSONS OF LInX

The one notable exception to this general assessment has been the strong contribution made by the Naval Criminal Investigative Service funding and deploying LInX to areas of U.S. Navy interest.

As the committee is aware, I was an active leader in the development and early implementation of the LInX system. Prior to my 2007 dismissal as United States Attorney in Seattle, I worked with law enforcement agencies in the State of Washington to develop a comprehensive strategic plan to enhance our capacity to address terrorist threats, to more effectively attack a growing drug trafficking problem in the Pacific Northwest, and to address an emerging problem associated with criminal enterprises in my district. A key part of the strategy called for new and innovative approaches to sharing information among Federal, State, and local law enforcement agencies in the Puget Sound area.

NCIS had also just completed a strategy that called for aggressive action to develop strategic partners and to share information in areas of NCIS interest and jurisdiction. Since the Seattle area, specifically Bremerton, Washington within the district of subcommittee member Mr. Dicks, is home to the Pacific Nuclear Submarine Fleet it seemed natural that NCIS would become a key participant in an area information sharing effort. Keep in mind, at this time we had no settled technology, nor any specific approach. However, together with innovative local law enforcement leaders such as then King County Sheriff Dave Reichert, we shared a commitment to improve our collective capabilities in the face of very real threats.

I was fortunate to work with a team that addressed all of the legal, policy, technical, and cultural obstacles that continue to limit information sharing efforts, and produced—in an unbelievable short time and for an incredibly low cost—an information sharing system that now serves as a model for regional intelligence systems.

The Northwest LInX project is an unqualified success, and has been critically examined and reviewed by all Federal departments. It is now used by virtually all law enforcement agencies in the State of Washington and is producing examples of operational impact that would not otherwise have occurred. Moreover, 5 years later, the NCIS has deployed LInX to 13 States (26 percent of the Nation), involving more than 500 agencies, and serving more than 10,000 users. It includes interfaces to DOJ and DHS systems and is piloting interconnectivity to N-DEX.

FIVE STANDARDS OF SUCCESSFUL INFORMATION SHARING

The key to the success of Northwest LInX was in clarifying the objectives of the project, directly addressing legal, policy, and cultural concerns, and developing and implementing clear program standards that were designed to ensure effectiveness. Technology is not the answer to the information sharing problem, but just one part of the solution. There are five standards which are essential for any program to work. Let me summarize them for you.

First, developing an information sharing project with the law enforcement community at the regional level requires strong leadership and effective governance. While the decentralized system of local law enforcement has generally served our Nation well, it is a serious obstacle for efforts that require close coordination, detailed oversight, and transparency. Law enforcement in any community involves Federal, State, and local agencies each with different jurisdictions and different missions. The only entity with the jurisdiction, the authority, and the power to bring this disparate group together is the United States Attorney who, in my view, must function as the Chief Law Enforcement Officer for his or her District.

Leadership is not only personal, it must have structure, and we immediately decided that a formal body must be incorporated to provide authoritative decisions, to act on behalf of the member agencies, and to be accountable for the operation of the system. Part of the problem had been the lack of any organized entity to discharge the management responsibilities of this complex project. Organizing dozens of police agencies, designing a technical architecture, integrating their data, and executing the legal and policy documents required will simply not happen by itself.

The establishment of the LInX Governance Board is viewed by many, including DHS, as the critical success factor in the success of the LInX project. It has been the foundation of all nine LInX sites. And it has been the vehicle that ensures inter-departmental collaboration among Federal officials, local chiefs and sheriffs, and the U.S. Attorney.

Second, in order for an information sharing system to “connect the dots”, there must be dots to connect. There is currently no standard and minimal guidance about what records should be included in an information sharing system. Decisions are left to the discretion of the participating agencies. In Seattle, we viewed this as untenable—why have a system designed to prevent terrorism if agencies had the discretion to limit the data they chose to share? So we included a requirement in the LInX Charter—signed by the heads of all participating agencies—that requires the inclusion of “all legally sharable data”. This ensures that the system will produce a composite record of any search that reflects all knowledge maintained by community.

Third, while this is not about technology, the technology is clearly an enabler. From an information sharing perspective, the system must be able to retrieve the needed records with a single search and produce an accurate composite picture in seconds that reflects the information maintained by all participants, must provide the ability to exploit the data to discover otherwise unknown associations, and must instantly produce documents of interest to all participating agencies. The technology is complex, and of course there are many considerations here. But from a project perspective—these three requirements should drive the performance of the system.

Fourth, to overcome the legitimate concerns of police officers to protect the integrity of their investigations, the system must be secure. In initiating the LInX project, we believed that all participants and potential participants must have no concerns that data might be compromised. So the LInX system was designed to provide all necessary audit trails, system security that can meet TOP SECRET level security requirements, and physical security by housing and maintaining the system in the Seattle office of the FBI. It is my understanding that most of the LInX sites have followed this model and have housed the system in a secure Federal facility. The effects of this have been clear—during the 5-years of LInX operations, not one report of compromised information has been reported.

Fifth, rigid oversight must be provided in the form of regular audits and evaluations to ensure that the system is reliable, performing as expected, and producing the anticipated impact. Put simply, we must have a system like LInX that helps us arrest the bad guys and catch terrorists.

These five project standards provide the foundation for the success of LInX and should serve as the basis for a national model under any name or administered by any agency or department. These standards were developed in an effort to directly address and overcome all of the traditional issues that were being cited to limit information sharing; the ability of NCIS to incorporate these five standards into their model Charter and to obtain the signatures of 500 Chiefs of Police who support the program clearly validates the correctness of this approach. I strongly suggest that

this subcommittee consider adopting these standards as the basis for a national plan and imposing these or similar standards as a condition for Federal funding of information sharing systems in the future.

FEDERAL AGENCIES AND DEPARTMENTS ARE FAILING TO LEAD

Federal Agencies, with the exception of NCIS, have taken a totally different and ultimately ineffective approach to information sharing. Where the focus of the LInX program is on data maintained in specific communities, Federal efforts have focused on process and technical standards, not operational outcomes that would positively impact our communities. This is understandable, though not forgivable, when one considers that DEA addresses drug trafficking, ICE illegal smuggling, ATF guns, FBI terrorism, organized crime, and fraud—and that their concern is specifically limited to areas within their mission responsibilities. The real shortcomings of the various Federal efforts post 9/11 have been their predominant focus on process over operational concerns.

This is exactly the difference between the LInX program and every other LE information sharing efforts. The LInX program is a partnership between Federal, State, county and local agencies, with clearly identified leaders, accountable for success or failure. Local leaders such as Los Angeles County Sheriff Lee Baca with whom I am proud to appear today are providing the real leadership in these efforts and underscore Federal failures to lead and fund effective information sharing systems. Without Federal leadership, clear accountability and a passion to achieve operational results, all such future endeavors by DHS or DOJ acting alone will achieve mediocre results, at best.

I have been able to identify no Federal official or staff member who feels that it is his or her job to integrate the law enforcement records of local law enforcement, in spite of the universal understanding of the critical need to integrate and analyze these records for the security and safety of our homeland. In fact, senior executives in both DOJ and DHS have shunned this responsibility and have offered no coherent approach to solve these problems. No one has developed a plan or a strategy, or an approach, or even suggested standards like those in the LInX program. Today, the Federal Government is silent on the issue, in spite of an opportunity to provide the leadership that today, would have integrated most law enforcement records for analysis by security and intelligence agencies within the purview of this subcommittee.

TOWARD A NATIONAL INFORMATION SHARING SYSTEM AND A MEANINGFUL ROLE FOR DHS

In 2004, I joined with four United States Attorneys to develop a white paper suggesting that the model we developed in Seattle be expanded to include other jurisdictions, and that the U.S. Attorneys from Hampton Roads, Jacksonville, Corpus Christi, and Honolulu join in a pilot program to assess the concept on a wider scale. Then Deputy Attorney General Jim Comey was intrigued by the issue, and after discussions with Gordon England, Dave Brant, and the heads of the DOJ law enforcement agencies, agreed to support the project. Mr. Comey issued definitive guidance on a pilot, specifically calling for the involvement of the FBI and other DOJ components.

FBI and DOJ staff came back with a counterproposal suggesting that DOJ should concentrate on integrating internal DOJ records first, before embarking on participating on project of sharing information with State and locals. The result—nearly 4 years later—is that only very limited and highly screened information is being provided to State and local agencies through these systems. These systems are so cumbersome that, where available, DEA and FBI users are strong supporters and have become prolific users of the LInX system—to the exclusion of the DOJ information sharing systems.

In 2006, I was asked by the incoming DOJ Deputy Attorney General Paul McNulty to head a working group of U.S. Attorneys and to devise a plan for wider application of information sharing on a regional basis. My working group consisted of more than fifteen U.S. Attorneys interested in participating in an information sharing system for their districts. The resulting plan endorsed the LInX system and recommended significant roles for all three Departments and leading to the convening of a seminal meeting during the summer of 2006, of the Deputy Attorney General, the Deputy Secretary of Defense, and the Deputy Secretary of Homeland Security. While the plan met with the concurrence and “handshakes” of all participants, it was ultimately opposed by the DOJ and DHS staff and the effort lost the support of their Departments.

Following collapse of the interdepartmental effort, the Navy continued to pursue development in areas of its strategic interest. Over the next 3 years, new sites were initiated in New Mexico, the National Capital Region, North Carolina, and—just a week ago—in Southern California as Sheriff Baca will testify. And the demand for LInX throughout the country continues to grow.

In spite of the failure of DOJ, DHS and DOD to create an interdepartmental effort, the local successes of LInX has proved four things: (1) A transformational project can be implemented quickly and efficiently; (2) it can have tremendous impact; (3) it will not break the budget; and, (4) no single department can do it alone. I cite the LInX experience not merely because I was intimately associated with it, but because it has been widely acclaimed and has produced a near consensus among law enforcement officials that it provides a successful model for effective information sharing. Among other things, the LInX experience has proven that meaningful information sharing:

- can have a substantial impact on crime and national security;
- is technologically feasible, and not expensive;
- should be funded federally;
- will require positive collaboration and cooperative management by the three Departments that share jurisdiction in this area—DHS, DOJ, and DOD.

As I said at the outset, in this environment, no one Federal official admits responsibility for the development of a meaningful and effective law enforcement information sharing program or whether it happens in upstate New York, or Houston, or San Francisco, or Chicago. I have found no one in the Federal Government who cares sufficiently about this to assume responsibility for designing, funding, implementing and managing a national system—despite the clear value to the American people.

This subcommittee and the Congress play a critical role in stimulating the leadership which has been lacking at DHS and the other departments who share the responsibility and the blame.

In my view, the Congress should clarify the jurisdiction issues by declaring that law enforcement information sharing is the joint responsibility of the three Departments, and that specific responsibility resides as follows:

(1) DOD/NCIS should assume responsibility to continue to extend its LInX program along the coastal United States. The LInX approach to management, its technical approach, and governance process should be taken as the model for the rest of the country.

(2) DOJ should reestablish the organizing and coordinating role of U.S. Attorneys that have been so critical to the success of the LInX program. DOJ should ensure that the FBI, DEA, ATF, USMS and BOP are full participants, and should explore new ways to involve sensitive Federal data in these efforts. DOJ should identify 10 regional sites around the country in which it will assume the leadership role played by NCIS in the LInX projects. DOJ should assume the role of organizing information sharing governance processes in those regional sites in full coordination with DHS grant funding while leveraging the DOD expertise and lessons learned.

(3) DHS should provide startup funding, technical support, and the restriction of grant funding only to those information sharing projects that will meet the LInX project standards. DHS agencies such as ICE, CBP, Secret Service, U.S. Coast Guard and others should fully participate in all sites. ICE has shown through its law enforcement leaders such as Seattle Division SAC Leigh Winchell that it plays a critical LE role in information sharing. ICE should assume the same leadership role for DHS as that played by NCIS in deploying the LInX projects. DHS will assume the role of coordinating the grants for, and the deploying of information sharing programs in those areas not addressed by NCIS.

(4) The Congress should also authorize the creation of an Intergovernmental Governance Board—to support Federal integration, networking, development and execution of a national plan. Different from the ISE, this would consist of the heads of Federal law enforcement agencies, and would have as its primary objective, the full integration of law enforcement records of State and local law enforcement throughout the country. The Board would be led by the Director of a major Federal law enforcement agency who would serve on a rotating basis for a 2-year assignment. The Governance Board should clarify definitions, roles and responsibilities, and develop a national implementation plan within 90 days of its establishment. The plan would seek to place LInX like information sharing projects throughout the country within a 3-year period, with at least five new regional projects funded for 2009. I do not believe that this type of aggressive leadership is taking place anywhere.

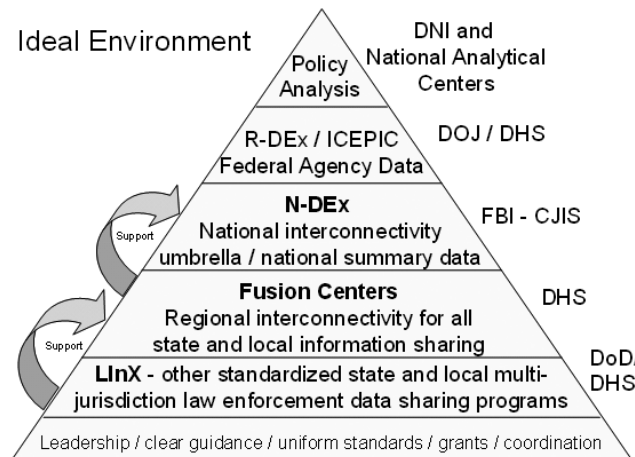
(5) Congress should assure the standards of a national law enforcement information-sharing program, while safeguarding the civil liberties and civil rights of all Americans. This would include incorporating the five LInX program standards as requirements for Federal funding. Most importantly, the committee should adopt the standard of “all legally sharable information” as a requirement for any Federal assistance. Information sharing in this age should be viewed as “synthesizing and exploiting” all sharable data, thereby providing a composite record that does not otherwise exist. This is perhaps the single most important attribute of information sharing systems and one that is not now in existence outside of the LInX program. This will greatly narrow the competing approaches to information sharing and begin to provide consistent guidance.

(6) Finally, success breeds success. Take information sharing out of the Beltway meeting rooms and into the community. In 2009, begin funding programs in interior sites. Develop them as pilots to be refined over time. But realize that within 120 days of a decision to deploy a system, law enforcement in the community has been dramatically enhanced, crimes are solved that wouldn’t otherwise be solved. Child predators are apprehended that would still be on the loose. Lives will be saved. Communities ranging from Syracuse to Houston, to Santa Clara County are ready now.

This subcommittee will make a major contribution by addressing the lack of leadership on this issue and mandate the development of a national plan, minimal information sharing requirements, and funding some regional startup projects in 2009.

I am enormously proud of the many State and local leaders who have joined with a few brave Federal compatriots to address an issue critical to the security and safety of our country. Now is the time for action. We are vulnerable to the attack of our enemies and the exploitive tactics of criminals. Congress will play a critical role in assuring these challenges are met.

Thank you, Madam Chair and Members of the subcommittee for the opportunity to share my views with you today.



Ms. HARMAN. Thank you very much for a very brief and succinct statement that was hard-hitting, and that is exactly what we are inviting today.

I now yield myself 5 minutes for questions.

To all of you, we put your panel on before the Federal panel for a reason. We want your messages to be responded to by Charlie

Allen and Mike Leiter. So I want to be sure that they are crystal-clear.

I want to invite each one of you to make a comment or pose a question to Charlie Allen and Mike Leiter. That is what my question is. It is an opportunity for you to think about what you have already said in your testimony and anything else you want to say. What is your one top message to them?

It should be constructively critical. I think that is fair, and I think that is what they would welcome.

My second question—I might as well ask these at the same time; both Mr. Porter and Mr. McKay mentioned privacy and civil liberties—is that every time we talk about making fusion centers more robust, either in terms of fusing data that is there, adding people, sustaining funding, sustaining focus, some of these civil liberties group, some of our favorites chime up and say, “Oh, no, this is harmful.” I have said every single time, I am asked, that what fusion centers do—and you just said it, Mr. McKay—has to be consistent with the strict regard for the law.

But I would like each of you—because, Sheriff Baca, I don’t think you addressed this at all in your testimony—to, No. 1, to pose your toughest question to Allen and Leiter, but, No. 2, clarify for all of us precisely what, in your case, you do, Sheriff Baca, or you, Mr. Porter, and, in your case, Mr. McKay, what you now teach, about the need for fusion centers to comply strictly with the law and respect privacy and civil liberties.

Let us start with Sheriff Baca.

Sheriff BACA. Okay. The first question to Mr. Allen is certainly, No. 1, saying he has a great, big job that all of us have to depend on for leadership.

The question would be, regarding intelligence theory—local, national, international—what authority does he have to incorporate the fusion centers into a policy discussion as to how we can do this job better with what we each have to do?

The second question would be, relative to making fusion centers more robust, what restrictions does the Department of Homeland Security have in allocating its funds in a concentrated way to build out the fusion center network throughout the United States? Which would mean that major fusion centers—New York, Chicago, Los Angeles, DC and cities like that—could have the core responsibility for networking with smaller communities so they wouldn’t have to, “Put up another fusion center”?

So, thus, the question would be: How can the State and local fusion center concepts be wedded into a national strategy under Charlie Allen’s guidance?

Ms. HARMAN. Thank you.

Mr. Porter.

Mr. PORTER. My colleagues would like to know: When are we going to get serious about domestic terrorism issues and reaching information all the way out to the officer on the street concerning those things that happen here in the United States?

Madam Chair, I didn’t understand the second question with respect to the privacy issue.

Ms. HARMAN. I just wanted more specific information about how your agencies comply with laws respecting privacy and civil liberties.

Mr. PORTER. Extensive training for all of our people, and we encourage transparency. We had Fox News network in our offices, and we are not afraid of that. We certainly want to protect the information that is within there to protect privacy and civil liberties. We hang a 7-foot-tall Bill of Rights on the front door to make sure people see it every day when they come in.

Ms. HARMAN. Thank you, Mr. Porter.

Mr. McKay.

Mr. MCKAY. Madam Chair, I am stunned that the Department of Homeland Security, the White House, the Department of Justice have not articulated anywhere that I have seen the urgent need to migrate local law enforcement information in a coherent form to Federal agencies.

At the back of my statement is what we term the LInX Logic Model. You will see something we are right up front with local leaders in the Seattle area, that in the end the Federal Government has a very important mission in acquiring this data for purposes of keeping us safe, in particular from terrorist attacks.

What I mean by this is there are a number of agencies that can integrate this data into classified settings. So while this data coming from law enforcement is unclassified, there are classified environments where the application of even a traffic ticket can make the difference, as it might have in the 9/11 attacks.

So I am stunned that there has not been an articulation for Federal leadership, in working with State and local partners, to integrate this data and make it movable. There are 18,000 to 19,000 different record systems in the United States. But we know through LInX and systems like LInX that they can be combined if they are owned by the locals.

Madam Chair, that is the answer to your second question, I believe. That is, local ownership of law enforcement records is overseen by local city councils, local county councils, local judges who apply State privacy laws. Where there is Federal leadership, as we had in LInX, where United States attorneys assured that no information violated Federal privacy laws, all data was owned by the locals, nothing migrated that didn't come attached to it with all State laws on privacy, all Federal laws on privacy and all ownership staying with the locals.

Ms. HARMAN. Thank you, Mr. McKay. My time has expired. Next time Mr. Dicks gives you any trouble, just let me know.

Mr. MCKAY. Thank you.

Ms. HARMAN. Mr. Reichert is now recognized for 5 minutes.

Mr. REICHERT. Thank you, Madam Chair.

Mr. McKay, you mentioned that, in your opinion, no one was in charge, no one had responsibility for the overall intelligence community in sharing information. I was just wondering, who would you think, in your opinion, should be the lead in the Federal Government?

Mr. MCKAY. Well, I would say that DNI clearly has that role. What I mean is that no one has taken responsibility for building with the locals the information-sharing system that we have been

talking about. There is no way to migrate, as you know, the local law enforcement information into the Federal system unless the Federal system helps build regional systems.

What I am saying is no one at DNI, to my knowledge, has taken responsibility for this, no one at the Department of Homeland Security has taken responsibility for it, and no one at the Department of Justice has taken responsibility for it. Only DOD has done it, in the LInX System.

So my proposal simply is that there be an interdepartmental program management office. We made this proposal in the summer of 2006. It was agreed to by the deputies of all three departments, and then they all dropped the ball. So we don't have an interdepartmental PMO. That is what we should have, or the FBI is going to start fighting ICE tomorrow over who gets these records. I don't want to pick on my friends at the FBI because you could insert any other agency.

We have a model, and the model is OCEDEF, "OCEDEF" meaning the counter-drug agency. I know you are very familiar with it. But there is precedent for interdepartmental PMOs, and we could name others. That is what I believe is needed here.

Mr. REICHERT. Thank you. I remember the struggle we had back in 2006 with those issues.

But I wanted to ask also Sheriff Baca and Mr. Porter, is it your feeling, too, that there is no one responsible? Is anyone taking responsibility? Is there a person that you see as taking the lead role here for the Federal Government? Do you have the same opinion as Mr. McKay?

Sheriff BACA. To an extent, yes. The thing about the job that was given to Assistant Secretary Allen, I think they are asking him to do too much, in a sense that, how far does his authority reach? That is why my question is posed the way it is. That if he can't reach out and coordinate a national system of intelligence gathering and have a classification modification that lets you scrub specific cases for local training purposes, then who does? If we don't know the answer to that, then this is probably the subject of a congressional piece of legislation.

Mr. REICHERT. Mr. Porter.

Mr. PORTER. I believe in the field there is a lack of clarity about the lanes in the road in the Federal Government and who has the authorities and roles for some of these various functions. So, as a result, yes, there is a lack of clarity as to who has the lead responsibility for this.

With the revisions to Executive Order 12333, that information I don't think has caught up to most of the people in the field. But I understand there has been some adjustment to authorities there. Mr. Allen, in my meetings with him, he has been very open to listening and wanting to hear what State and local law enforcement officials want from his office in my recent meetings with him.

Mr. REICHERT. Thank you.

Very quickly, in regard to your comment on the legislation that has passed the House, we mentioned earlier, the Chair mentioned, that this piece of legislation has actually passed through the Senate. Hopefully—we don't know how long we are going to be here,

but hopefully before we leave the President will sign that legislation regarding the funding for intel analysts.

So we are pushing hard on that. The Chair is helping us out with that, and we are hoping for some success there in the next few days.

Mr. PORTER. Thank you. We have appreciated your leadership of this subcommittee on getting that through. Thank you.

Mr. REICHERT. We would allow the sheriff to respond. Did you have a comment?

Sheriff BACA. Yes. I would say that, clearly, in one of my points, FEMA is not the right place for intelligence funding, and yet all of what we do in the law enforcement sector is administered through the FEMA prism.

So I just want to make a distinction that, the first 5 years, first responders got quite a bit of equipment and training and sets of information they needed. But when you are going to prevent terrorism, that is a whole different strategy. Therefore, it involves purely the law enforcement and the Federal law enforcement systems with the local systems to be fully integrated. To say is it worth more to prevent the terrorist attack, at the same time we have done a lot to help first responders.

Mr. REICHERT. Thank you for making that clear again, because that has been a consistent, common complaint, even back when I was the sheriff. So it is something I think that we need to address here in this committee, hopefully next year.

Thank you for your comments, and I yield.

Ms. HARMAN. I thank you, Mr. Reichert.

Let me point out to our Members that, following this panel, we will have our Federal panel, with the head of the NCTC and the head of Intelligence and Analysis at DHS. Mr. Allen, the head of I&A, has to be at the White House at noon, something I just learned. So if anyone here wants to pass on questions for this panel, you will be recognized first, in the order you arrived, to ask questions of the next panel. That way, we may be able to get more testimony there.

The Chair now recognizes Mr. Langevin for 5 minutes.

Mr. LANGEVIN. I thank the Chair, especially for holding this hearing.

I want to thank our panel here this morning. I had a couple of question areas I wanted to focus on.

Some say that a central mission of the Office of Intelligence and Analysis at DHS should be pulling intelligence from the State and local fusion centers and then combining it with Federal intelligence to create situational awareness of threats at a national level.

Do you agree? To your knowledge, to what extent is this happening already, and where? What direction would you like to see this kind of work take?

Let me start with that, and then I have one other question.

Sheriff BACA. Well, currently, in talking with my colleagues in New York and here in Los Angeles—well, in Los Angeles—we have a direct relationship with the FBI. The FBI is considered to be the funnel whereby we push up everything we do in JRIC, especially if it leads to active cases. It has done so in Los Angeles, and I am confident that New York has had the same experience.

The issue of passing up information has been one that I think we have closed with the major JRICs. That is the purpose of the Federal JRIC system that has been funded federally but it has been operated locally, that we would share information without any restrictions.

The key of the issue, however, is not what do we generate locally. It is, how does the Federal-generated intelligence come down? I think that is where we have a need for more questioning, as is currently being done.

Mr. PORTER. I would like to see the Department of Homeland Security focus on identifying information needs of State and local agencies, so that there is clarity for them as to what types of information are important for a given jurisdiction, be it information about several other countries from around the globe that they might be able to help provide context to when developments occur on the other side of the world and provide that back to that local community. I think that would be of great help.

Mr. MCKAY. I think that it should go the other way, frankly. I think that State and local law enforcement agencies have information that is much more valuable to the Federal Government than the Federal Government has for locals.

I think that the aggregate information contained in the records of 18,000 police agencies around the country, when utilized by an appropriate analyzing agency—and there are several in our Federal Government—that that is a more pressing issue, frankly, than what goes the other direction.

Sheriff BACA. May I add one thing?

Mr. LANGEVIN. Sure.

Sheriff BACA. My issue is not information alone. It is: How do you get it? You see? The theories of intelligence gathering from a domestic point of view have not been fleshed out. We are all operating on our own experiences.

But I believe, when I mentioned earlier that public trust is the key to any kind of information that will pop in to the system. A system that is most self-serving is not going to get what it needs on the local level.

Mr. LANGEVIN. So are you saying that we have to scrap at the Federal level what they have created and—

Sheriff BACA. Absolutely not. I think the Federal system is intact and doing quite a bit. But what I am saying is that the likelihood of a terrorist plot is going to come forth in a variety of sources. It could come forth from a Federal source, it could come forth from a local source.

But the local sourcing, as how to find proper information, is what we are lacking. We don't have a national strategy on local intelligence gathering.

Mr. LANGEVIN. Let me ask you this. Fusion centers are obviously a major focus of the information-sharing effort nationally. The Department of Homeland Security, earlier this year, issued grant guidance that really limited what funds could be used for what purposes at fusion centers.

Contrary to the White House's own statements about sustainment funding for these centers, what observations do you

have about the funding issues and how are folks coping? Why is the Department not getting the message?

Sheriff BACA. Clearly, the Department will fund the creation of a fusion center, but will rarely staff a fusion center. Los Angeles has one person from the Department of Homeland Security. We are asking for more analysts.

We believe that the Department of Homeland Security should have local analysts in the major fusion centers throughout the Nation. Those analysts will help bridge whatever Federal sourcing is with local sourcing and help train local sourcing techniques into what the local cops should be able to do.

Mr. PORTER. This is a key issue for survival of some fusion centers, a critical issue to keep them in existence. We are hoping—and one of the things we have done in the last 2 weeks is finalize and approve the baseline capabilities for State and major urban-area fusion centers, so that that can hopefully, we understand, help provide focused funding toward those capabilities at fusion centers in a directed way.

Mr. LANGEVIN. I want to thank the panel for your answers to the questions this morning.

I have always believed that the good information, good intelligence is always going to be our best and first line of defense. We obviously have a lot of work to do to get this right. Your testimony here has been very helpful. Thank you.

Ms. HARMAN. Thank you, Mr. Langevin.

What we have worked out is that Mr. Dicks wants to make a brief comment and Mr. Dent has a brief question. We will then move to our second panel. I hope all of you can stay around. We will begin questions of that panel with Mr. Dicks.

Mr. DICKS. I just wanted to say, Madam Chairman, that I wanted to welcome John McKay, who has been a longtime friend, and I have enjoyed working with him.

Your leadership in creating LInX and giving it security and making it work have been truly extraordinary. For the good of the order here, I am going to forego questions. But I look forward to continuing on our working relationship on this issue and many others.

Thank you.

Ms. HARMAN. Thank you, Mr. Dicks.

Mr. Dent, for one question.

Mr. DENT. I will be real brief to accommodate the schedules.

Sheriff BACA. you mentioned in your testimony that our law enforcement agencies must function as a national police system. Would you quickly elaborate on what you mean by “national police system”?

Then I will yield back my time. Thank you.

Sheriff BACA. In a limited context of intelligence-sharing and gathering—and the theory, of course, is that all terrorist activity can occur at any part of our country. Conspiracies of cells are not going to be occurring at the target area exclusively. They could be in rural America, they could be in urban America, they could be in the major cities.

So, if we are going to do prevention strategies with intelligence as a key source of prevention, we need to federate all of the 19,000

law enforcement agencies into the JRICs that are currently in place operating and those that are about to be implemented.

So what it would do is it would cause for seamless participation by smaller agencies, who we know have a vital role to play, as well as the major cities.

That is basically what it is about. It is taking technology, giving it a greater capacity, tying all the agencies together in America and then let it go under a standard that hopefully we can all subscribe to so that we don't step outside of the boundaries of the civil rights issues and pick on particular societies for the sake of being clumsy in what we do.

So I think standards, technology, and sharing what we have together is the key to what we call a national counterterrorism strategy.

Mr. DENT. Thank you.

I will yield my time to Mr. Shays.

Mr. SHAYS. Thank you.

Just one question. When we are consolidating information—local, State, Federal and all the agencies—are we also—what is the role of public information? Because, frankly, if we had had integrated public information, there are a lot of us—and I am one—who believes that 9/11 never would have happened.

Mr. BACA. Clearly, public cautiousness on this issue—

Mr. SHAYS. I am not talking about the public. I am talking about information that is available that is not classified.

Mr. BACA. I think that any information that we have that indicates certain key critical targets are public information as it stands. What is the key to your question is, what do we share when it comes to suspicious activity or investigations of those engaged in suspicious activity? That kind of information definitely has to be confidential. The public—

Mr. SHAYS. I am sorry to interrupt. But what I am really trying to add is this: The 9/11 terrorists were saying things publicly that no one paid attention to. Had we integrated that in, we would have seen relationships and we would have been more alert to what happened on September 11. That is true in a lot of attacks that have taken place around the country.

I want to know—and maybe the answer is this. On the State facilities, we aren't doing that, and maybe we are just doing it on the Federal level. If that is the answer, I just need to know that.

Mr. BACA. I think we are doing it at both levels.

I think you are absolutely right. Suspicious activity is something that we all can be trained to do more of. That is, be sensitive to it. But I think your point about how the public can be helpful is something that we need to further develop in the way of this intelligence theories.

Mr. SHAYS. Okay. I am just going to make this last point. It is not just the public. It is what is on the Internet. It is the open source information that is there. It stares us in the face. Sometimes I look at classified information and say, that is less valuable than some of the open source. But because it is open source, we don't value it. I think that on the national level we are trying to do that. I am wondering if that is happening on the State and local level.

Mr. BACA. Yes, it is.

For example, there are web sites that we know extremists communicate on, maybe 300 or 400. We also know where they are being served. We also believe it is better to monitor than to just shut them down. So there is a consistent strategy between the Federal, State and local level when it comes to examining that kind of open source information.

Mr. SHAYS. Thank you.

Ms. HARMAN. Thank you.

The time of the gentleman has expired, and I want to thank this panel for enormously important testimony which has been listened to either in the audience or in the back room by our two next witnesses. That is why I hope you can stay for their testimony.

Our goal, as I mentioned in my opening remarks, is to help you get the information you need to do your jobs better. Our goal means our subcommittee's goal. Nobody gave us a grade, but I would give us one, and it is fairly high, at least for the effort to make that happen, both through additional legislation if necessary, but certainly cajoling and pointing out gaps if legislation isn't necessary.

So let me excuse you but welcome you to stay here and call our next panel, our Federal panel.

To Mr. Allen, we know you have to leave at 11:45. Is that about right? What time do you need to leave, Mr. Allen?

Mr. ALLEN. I can stay until at least 11:50.

Ms. HARMAN. Okay. So we will have time for all Members to ask their full allotment of questions to these witnesses, and we will start with Mr. Dicks in this case. But the others will stick around, so there will be a possibility, if necessary, to ask some of them to respond, too, which I think will make for a better hearing record.

So on this second panel our first witness is Under Secretary for Intelligence and Analysis, Charles Allen, the Department of Homeland Security's chief intelligence officer. Under Secretary Allen leads the Department's intelligence work through the Office of Intelligence and Analysis, I&A. He is responsible for ensuring that information is gathered from Department component intelligence units as well as Federal, State, local, tribal and private sector partners. It is also his job to ensure that this information is fused with intelligence from other parts of the Intelligence Community to produce analytic products and services for those partners. Under Secretary Allen has provided decades of distinguished service to his country within the intelligence community and has led several key initiatives during his tenure at DHS.

As you know, Charlie, we have tried to be your partner. We have also tried sometimes to be your mother. But, at any rate, it has been an intense collaboration; and we do, all of us, see a lot of progress. We want to be sure you know that.

Our second witness, Michael Leiter, is the Director of the National Counterterrorism Center. Mr. Leiter previously served as the Deputy Chief of Staff for the Office of the Director of National Intelligence, where he assisted in the establishment of the ODNI and coordinated all of its internal and external operations.

Mr. Leiter also has been involved in the development of national intelligence centers, including the NCTC and the National Counterproliferation Center, and their integration into the larger intel-

ligence community. In addition, he served as an intelligence and policy advisor to the DNI and his principal deputy director.

Before coming to ODNI, Mr. Leiter served as deputy general counsel and assistant director of the President's commission on the intelligence capabilities of the United States regarding weapons of mass destruction. He in a prior life was a law clerk to Associate Justice Stephen Breyer on the Supreme Court and to Chief Judge Michael Boudin of the U.S. Court of Appeals for the First Circuit.

It has been impressive, Mr. Leiter, to see how NCTC has changed over recent years under your leadership and our prodding to be a much more active advocate for local law enforcement and, actually, as the ITACG has been stood up to include law enforcement in the designing of intelligence products.

So welcome to both of you.

We will start with Mr. Allen for 5 minutes.

STATEMENT OF CHARLES E. ALLEN, UNDER SECRETARY, OFFICE OF INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY

Mr. ALLEN. Thank you, Chairman Harman, Ranking Member Reichert, other Members of the committee.

My written statement I asked to be put in the record.

Ms. HARMAN. Without objection.

Mr. ALLEN. It is far more extensive. So I will just briefly summarize what my thoughts are on intelligence information sharing.

As you know, previously, prior to September 11, interaction with State and local was limited or nonexistent. We did not look at that as a partnership. September 11 changed the paradigm, and that created the Department eventually, and it also created my job as chief intelligence officer to integrate and develop programs for the intelligence programs of the Department.

I have been at this almost 3 years. My effort, of course, is to develop a vision for, design the architecture of, and implement a comprehensive homeland security intelligence program where one really did not exist at all.

I have had to integrate this program within the traditional intelligence community. But I want to emphasize that, in addition to working within the Department, equally important has been my outreach and efforts to share information with my partners at the State and local government as well as with the private sector.

My priorities when I came aboard were to improve intelligence analysis. Analysis was not the strong point of the Department. Integrating DHS intelligence across the Department, which you have assigned to me, as you noted in some of the legislation, the 9/11 Implementation Act makes it very clear that I have to implement an integrated intelligence program for the entire Department, to build a strong information-sharing relationship with State and local and to take our place as a full member of the intelligence community and, of course, to develop an open and transparent relationship with you and the Congress.

The breadth and depth of our customer set is vast and unique. It is truly unique within the intelligence community. We have to support the Secretary, the Deputy Secretary, the headquarters, elements and the components, the operating components of the De-

partment with intelligence and information. But equally vital and crucial is our support to State and local partners, ensuring that they have access to key intelligence and information, while ensuring the Department has access to information obtained at the local level.

I just heard comments, the need to share information, to harvest that which is at the State and local and bring it to the Federal level. We are doing that.

Third is the support for the intelligence community's priorities and requirements.

Let me talk about information sharing. Building and deepening our relationship with State, local, tribal, and private sector is a cornerstone of the Department's intelligence and information-sharing efforts. Fusion centers are an essential part of our entire intelligence effort. I serve as the Department's executive agent for its program to support fusion centers Nation-wide. I am the executive agent for information sharing on behalf of the Secretary. I am responsible for deploying officers to fusion centers Nation-wide.

The core activities of these officers include providing daily intelligence support in a multitude of ways, routinely communicating, exchanging information with other fusion centers. Because we do want to develop what was referenced earlier, a network of fusion centers both regionally and nationally across this country routinely communicating and exchanging information broadly with all fusion centers.

Writing for and with—our analysts sitting and writing with State and local partners. We have a lot of common seals, sometimes up to eight common seals in our products which will be fusion centers, maybe NCTC and the FBI, but it would also be primarily State seals on the product.

Collaborating on research, delivering intelligence products to the customers.

Our deployed officers also provide analytic training opportunities real time to analysts down at the fusion center. I heard the need for this. We have mobile training teams that go around across this country at fusion centers doing training of intelligence officers in the fusion centers. We have 25 officers and 23 fusion centers. We will have 35 by the end of this year. My goal is to have 70 officers in the field, one to each State designated fusion center as well as officers in the larger cities.

Building strong bonds with State and local partners is really the watchword of what I am trying to do. I am very pleased to hear Mr. Porter talk about SLIC, the Homeland Security State and Local Intelligence Community of Interest. It is a virtual community of Federal, State and local intelligence analysts focused on homeland security issues. This group meets weekly by teleconference, and we have hundreds of officers attend those.

SLIC is available to 45 States. Only five States are not part of SLIC. We have the District of Columbia and seven Federal agencies involved, and we also have a secret level conference every 2 weeks over a homeland security data network which I have established and which I am putting across the country.

The HSDN has something that is really unique. It not only has our products that we produce but it has NCTC's on-line products,

secret level products. We are talking about hundreds if not thousands of assessments that come from Mike Leiter here.

On the ITACG, we are a full partner in it. We are a leader in it and a staunch supporter of the ITACG. We could talk about the ITACG and what we have done over the last 9 months in great detail; and if you have questions, I will be happy to answer them. But let it be said, it is up and operating. I meet monthly either by teleconference or in person with the advisory council of the ITACG, half of whom have to come from State and local governments. Believe me, we have worked at this issue hard so that we will not only expand the current stable of detailees but more than double it. We will take over full—the FBI is sharing some of the funding now, but we will take over full funding in fiscal year 2010. If you have questions on the ITACG, I think it is extremely robust; and I am very pleased with what we have done.

DHS intelligence programs are young and growing. We are working hard and increasing our effectiveness to integrate homeland security with State and local. I will be happy in a question period to try to respond to some of the questions posed by the first panel.

Thank you, Chair.

[The statement of Mr. Allen follows:]

PREPARED STATEMENT OF CHARLES E. ALLEN

SEPTEMBER 24, 2008

INTRODUCTION

Chairwoman Harman, Ranking Member Reichert, and Members of the subcommittee: Thank you for the opportunity to appear before you today to discuss the progress that the Department of Homeland Security has made, and will continue to make, on its intelligence and information sharing programs.

As you know, the intelligence community's focus traditionally has been aimed at foreign threats and its customer set focused on international level partners. The community's interaction with State, local and tribal law enforcement and other first responders intentionally was limited or non-existent. But homeland security, in a post-9/11 world, requires a new paradigm for intelligence support. My task as Under Secretary for Intelligence and Analysis and the Chief Intelligence Officer for the Department has been to lead the effort to develop the vision for, design the architecture of, and implement a comprehensive homeland security intelligence program that is fully integrated into the traditional intelligence community but which equally reaches out to new, essential partners at all levels of Government and within the private sector.

This was no small task and required new authorities, new structures, and new kinds of cooperation across the community. I commend Congress for providing key authorities to the DHS intelligence efforts in support of our mission, particularly through the Implementing Recommendations of the 9/11 Commission Act of 2007. By elevating the head of Intelligence and Analysis to an Under Secretary level and significantly expanding the position's authorities to integrate and standardize the intelligence components, products, and processes of the Department, these authorities have provided an essential foundation for development of an effective Department-wide intelligence effort.

THE DHS INTELLIGENCE MISSION

DHS intelligence authorities were first established in the Homeland Security Act of 2002, with additional authorities provided later in the Intelligence Reform and Terrorism Prevention Act of 2004 and, as mentioned previously, the 9/11 Commission Act. The specific mission of the Office of Intelligence and Analysis (I&A)—DHS' primary representative in the intelligence community—has been reinforced since the Homeland Security Act, including in the recent amendments to Executive Order 12333.

The Secretary personally defined the role of intelligence in the Department as a result of his 2005 Second Stage Review, in which he emphasized that, "intelligence

is at the heart of everything we do.” One central conclusion from this review was that the Department required a strong intelligence arm to focus on Departmental needs. As a result, the Secretary established the position of Chief intelligence Officer to lead and manage the integration of the Department’s intelligence programs.

When I arrived at DHS in late 2005 after the conclusion of the Second Stage Review, I committed to delivering results against the critical priorities identified by the Secretary. My overarching priorities for the DHS intelligence Enterprise have been:

- Improving the quality of intelligence analysis across the Department;
- Integrating DHS intelligence across its several components;
- Strengthening our support to State, local, and tribal authorities as well as to the private sector;
- Ensuring that DHS intelligence takes its full place in the intelligence community; and
- Solidifying our relationship with Congress by improving our transparency and responsiveness.

Before providing you the details of the progress we have made on these priorities, I want to emphasize the breadth of the customer set we serve. It is unique in the intelligence community. The DHS Intelligence Enterprise must effectively serve all homeland security customers, including all of DHS, our State, local, tribal, territorial, and private sector partners, and the intelligence community. Each of these customers has different needs.

Let me start by discussing our fundamental responsibility to support our primary customer—the Department—including both headquarters as well as operational components. The Secretary defines the Department’s mission as keeping dangerous people and dangerous goods from crossing our air, land, and sea borders and protecting our critical infrastructures. This requires having reliable, real-time information and intelligence to allow the Department to identify and characterize threats uniformly, support security countermeasures, and achieve unity of effort in the response. As you will see when I discuss our analytic efforts, I have aligned our intelligence efforts to support these needs.

An equally important customer is our State and local partners—we must meet the intelligence needs of our State, local, tribal, and territorial customers. We are ensuring these stakeholders have access to our key intelligence and information capabilities, and the Department, in turn, has access to information obtained by these partners in the course of their operations.

In addition, DHS Intelligence and Analysis is reaching out to a broad spectrum of private sector representatives. We have learned that private sector information requirements are not only numerous, but have become more complex as our private sector partners have become more knowledgeable about our capabilities to support them. As a result we have focused products and services to meet these particular needs.

Finally, the intelligence community remains a key customer. DHS Intelligence and Analysis is a trusted member of the intelligence community, under the leadership of the Director of National Intelligence (DNI). My Office is taking its place in all the senior intelligence community forums, including serving as a member of the DNI’s Executive Committee. We also contribute to the President’s National Intelligence Priorities Framework, and prepare analytic assessments for the President’s Daily Brief and the National Terrorism Bulletin.

INTEGRATING THE INTELLIGENCE MISSION ACROSS DHS

As noted above, one of my key priorities has been to create an integrated intelligence enterprise that unites the efforts of the entire Department. I have taken significant steps to build such an enterprise, for example, establishing the Homeland Security Intelligence Council composed of the heads of the intelligence components in the Department. It is the principal decisionmaking forum for ensuring effective integration of all of the Department’s Intelligence activities. I also directed the creation of the DHS Intelligence Enterprise Strategic Plan. First issued in January 2006, it established a strong, unified, and long-term direction for our enterprise. We have just updated this plan to reflect our new authorities and responsibilities.

These efforts were enhanced by the issuance of the DHS Policy for Internal Information Exchange and Sharing that was signed by the Secretary in February 2007. Referred to as the “One DHS” memorandum, its purpose is to promote a cohesive, collaborative, and unified Department-wide information-sharing environment. The Secretary expanded this policy in May 2008 when he issued the DHS Information Sharing Strategy, which provides strategic direction and guidance for all DHS information-sharing efforts, both within DHS and with our external partners.

IMPROVING INTELLIGENCE ANALYSIS

Intelligence analysis is at the very core of what we do and is why I made improving our analysis my top priority. It is driven by a dynamic threat environment; the need to support legacy, new, and ever-expanding homeland security customers; and the need to respond quickly to emerging threats that require synthesizing intelligence from both traditional and non-traditional sources.

Our analysis is focused on five critical areas that are closely aligned with the Secretary's mission priorities:

- Border security to keep out dangerous people and materials;
- Chemical, biological, radiological, and nuclear (CBRN) threats as well as other health threats;
- Critical infrastructure protection;
- Demographics to understand the flow and movement of potentially dangerous people; and
- Radicalization in order to understand the development of potentially dangerous ideologies in the domestic arena.

Let me provide a little more detail about each of these.

Border Security

I created a Border Security Branch—the first of its kind in the intelligence community—to fulfill a critical need for strategic intelligence on threats to our country's borders. To keep out dangerous people, my analysts track the full range of threats to our borders, including terrorists, special interest aliens, narco-traffickers, alien smugglers, and transnational gangs.

CBRN

To help protect our Nation against dangerous materials brought across U.S. borders, I have established a CBRN Branch, that assesses the threats in-bound and globally. My analysts support other Department and interagency offices and programs, such as DHS' Domestic Nuclear Detection Office, the National Bio-Surveillance Integration System, and the National Center for Medical Intelligence. We provide detailed assessments that are incorporated into the design and development of high-tech sensors for harmful CBRN materials at airports and other sites. Our analysts also assess threats from pandemic diseases, such as avian influenza, and biological threats such as foot-and-mouth disease that could cross our borders and devastate our agricultural economy.

Critical Infrastructure

To protect our critical infrastructure, our analysts assess the threats to each of the 18 critical infrastructure/key resource sectors in this country. We produce detailed assessments characterizing the threats to critical infrastructure in all 50 States, the National Capital Area, and U.S. territories, including baseline assessments on each of the 18 critical sectors. These assessments are routinely written with and shared with our State and local stakeholders.

Demographic Movements

Our analysts also assess demographic movements around the world and into the United States to develop an accurate picture of dangerous people who might come to our borders. Using the mandate from the 9/11 Commission Act, the DNI designated DHS as the lead intelligence community entity responsible for biennial Visa Waiver Program assessments. We independently assess the integrity and security of travel processes and documentation for each country in or applying to the program to address the potential for illicit actors—including transnational criminals, extremists, and terrorists—to exploit travel systems and the security environment that can facilitate unlawful access to the United States.

Radicalization

Our analysts also are concerned about dangerous people inside our borders, especially those who are trying to recruit for or engage in violent extremism. We focus primarily on the process of radicalization, or how individuals adopt extremist belief systems that lead to their willingness to support, facilitate, or use violence to cause social change. I should add that we are concerned with all types of violent extremists, including racial supremacists, anarchists, eco-terrorists, Islamic extremists, and animal rights radicals. All of our analysis is performed while abiding by applicable rules that protect our citizens' rights to privacy and civil liberties.

INFORMATION SHARING

Central to our intelligence responsibilities is the sharing of intelligence and information with the State and local partners as well as the entire intelligence community. DHS has a statutorily mandated role in information sharing as prescribed by the Homeland Security Act of 2002 and ensuing legislation. It has taken important steps to fulfill this role. I have already mentioned the important One DHS Memorandum that provides an essential foundation for the Department's information-sharing efforts. Other foundational pieces include the Department's Information Sharing Governance Board (ISGB) that serves as the executive level steering committee and decisionmaking body for all information sharing activities within the Department. I serve as chair for the ISGB. We also formed the DHS Information Sharing Coordinating Council (ISCC), an advisory, action-oriented body that is fully representative of the Department's many organizational elements.

We are also establishing Shared Mission Communities (SMCs) within DHS. The SMCs are cross-cutting information-sharing efforts that address the need to build integrated cultures, processes, and policies that facilitate information sharing across organizational boundaries. I am pleased to share with the committee our efforts with the Law Enforcement Shared Mission community (LE SMC). The LE SMC was the first shared mission community to be established and unites the full breadth of DHS law enforcement elements to enhance information sharing among components, other Federal agencies, and State, local and tribal law enforcement elements.

State and Local Program Office

Building and improving our relationships with State, local, tribal, and private sector partners is the cornerstone of the Department's information-sharing efforts. As the 9/11 Commission Act and the President's National Strategy for Information Sharing make clear, fusion centers are an essential part of this information flow and framework. As you know, I am the Department's Executive Agent for its program to support fusion centers Nation-wide. DHS is committed to providing fusion centers with the people and tools they need to participate in the Information Sharing Environment.

DHS recognized the importance of these fusion centers and established a State and local fusion center program office in 2006, even prior to the enactment of the 9/11 Commission Act. Our program office is responsible for deploying intelligence officers to fusion centers Nation-wide. These officers are my representatives in the field who ensure that DHS is fulfilling its information-sharing responsibilities. Core activities of our intelligence officers include providing daily intelligence support; routinely communicating and exchanging information with other fusion centers; writing products for and with State and local partners; collaborating on research; and delivering intelligence products to all customers. Deployed officers provide analytic training opportunities and real-time threat warning guidance directly to State and local partners. These officers can also collaborate with FBI analysts to develop joint products.

As of today, my Office has deployed 25 intelligence officers to 23 fusion centers Nation-wide. Our goal is to deploy 35 officers by the end of 2008. DHS would like to eventually deploy up to 70 officers to the field, one to each State-designated fusion center as well as officers in several major cities. The presence of these important DHS personnel assets in the field has served to create strong personal relationships with our State and local partners. They serve as the front line of the DHS Intelligence Enterprise and help ensure that DHS is meeting these important customer needs.

In addition, to meet specific State and local information needs, we have developed a national set of SLFC Priority Information Needs (PINs) that reflect the critical mission needs of fusion centers. We are using these PINs to expand analytic exchanges between fusion centers and I&A analysts and to drive I&A production planning.

Information Sharing Networks for State, Local, and Tribal Customers

My office also provides these non-Federal authorities direct access to DHS intelligence and information through both classified and unclassified networks. A critical part of our efforts at the unclassified level is the Homeland Security Information Network's "Intelligence" portal. Known as HSIN-Intelligence, this portal provides more than 8,000 people with access to unclassified intelligence products. More significantly, my office has created the Homeland Security State and Local Intelligence Community of Interest (HS SLIC). The HS SLIC is the first Nation-wide network of Federal, State, and local intelligence analysts focused on homeland security ever created in the United States. The HS SLIC is a virtual community of intelligence analysts that fosters collaboration and sharing of best practices and lessons learned

through access to a special portal within the HSIN network. Through the HS SLIC, intelligence analysts collaborate via weekly For Official Use Only level threat teleconferences and biweekly Secret-level secure video teleconferences. Members are able to share intelligence and information in appropriately secure and privacy-sensitive environments. The community also sponsors regional and national analytic conferences based on the interests of its members. As evidence of its value and success, its membership has grown dramatically from a 6-State pilot in 2006 to now having members representing 45 States, the District of Columbia, and seven Federal Agencies. In addition, I have established an HS SLIC Advisory Board that includes State and local partners to advise me on issues relating to intelligence collaboration with our non-Federal partners.

For our classified networks, we are in the process of deploying the Homeland Secure Data Network (HSDN) at fusion centers across the country. With this network, we are delivering, for the first time, classified threat information to State and local authorities on a regular basis. I believe this unprecedented type of communication will lead to a sea change in relations between Federal and State analysts. To date, we have deployed HSDN to 24 fusion centers Nation-wide and are working to have it in 40 centers by the end of this year.

To further expand State and local connectivity to the intelligence community, HSDN provides access to NCTC On-line—a classified portal that maintains the most current terrorism-related information at the Secret level. Our long-term goal is for each fusion center to have not only HSDN access but its own web page to which relevant products can be posted and made available to other fusion centers and the broader intelligence community.

Protection of Privacy, Civil Rights, and Civil Liberties

My office continually is taking preventative steps to ensure that the rights of American citizens are safeguarded; this is especially true as it relates to the State and Local Fusion Center program. DHS requires all deployed intelligence officers to take an annual intelligence oversight and information handling course that addresses proper handling of U.S. person information. DHS also collaboratively developed and is implementing privacy and civil liberties training for all its deployed intelligence officers, in accordance with the 9/11 Commission Act.

Interagency Threat Assessment and Coordination Group

DHS remains a full partner in, a leader within, and a staunch supporter of the Interagency Threat Assessment Coordination Group (ITACG). This group has become a critical mechanism for serving the information needs of our State, local, tribal, and private sector partners. Established at the direction of the President in his Guideline 2 report and the 9/11 Commission Act, it pulls together Federal and non-Federal homeland security, law enforcement, and intelligence officers from a variety of disciplines to guide the development and dissemination of Federal terrorism-related intelligence products through DHS and the FBI to our non-Federal partners. While the ITACG is integrated into NCTC, its mission is more expansive than the scope of the NCTC mission. The ITACG officers monitor sensitive databases, and screen hundreds of highly classified finished intelligence reports each day to determine what should be sanitized and/or enhanced for sharing with our non-Federal partners.

The ITACG consists of two elements: The ITACG Detail and the Advisory Council. The Detail is the group of individuals who sit at the NCTC and conduct the day-to-day work of the ITACG. The Council sets policy and develops processes for the integration, analysis, and dissemination of federally coordinated information, as well as overseeing the ITACG Detail and its work.

The Detail achieved initial operating capability just 8 months ago—on January 30, 2008. While fully integrated into the work and leadership at NCTC, the Detail is led by one of my senior intelligence officers who serves as the ITACG Director. The Deputy Director is a senior analyst from the FBI. The FBI and my Office have each provided an additional senior analyst to help with the operation of the Detail. Currently there are four law enforcement officers from State and local police departments, a tribal representative who works at NCTC, and two NCTC contractors with extensive experience in the intelligence community and State and local law enforcement assigned to the Detail. These non-Federal participants provide critical insight into the needs and perspectives of our State, local, tribal, and private sector partners. We are working hard to expand the number of non-Federal participants to 10 in order to include a broader range of State and local expertise.

The members of the Detail have essential systems connectivity in NCTC, participate in key briefings, and are engaged in the NCTC production processes and activities that provide broad perspectives of the intelligence community. They then act

as advocates for State, local tribal and private sector partners by informing and shaping intelligence community products to better meet the specific needs of State, local, tribal and private sector entities. They support the production of three types of reports: alerts; warnings; notifications; as well as updates of time-sensitive information related to terrorist threats to the United States; situational awareness reports regarding significant events or activities occurring at all U.S. levels and internationally; and strategic and foundational assessments of terrorist threats to the United States. In the event of conflicting reporting or as the need arises, the ITACG facilitates Federal coordination to ensure that reporting on threat information is as clear and actionable as possible.

We have also established the ITACG Advisory Council that I chair on behalf of the Secretary. The Council, at least 50 percent of whose members must represent State, local, and tribal organizations, has become a robust organization with participation of its non-Federal members in all of its decisionmaking processes. Although the 9/11 Commission Act requires that it meet a minimum of four times a year, its work is too important and too pressing to meet so infrequently. Instead, I directed that we meet in person or by teleconference monthly. Five face-to-face meetings have been held to date with the sixth scheduled for late October. Meetings in other months are conducted via teleconference—the next one is scheduled for this week. These meetings address a priority challenge that this new organization faces—especially recruiting outstanding State, local, and tribal personnel to serve on the Detail, establishing an attractive Fellowship Program for the selected detailees, developing formal mechanisms to ensure that information is getting to the right customers, and creating a feedback process tailored for State, local, tribal, and private sector customers. I am extremely proud of the team we have assembled—both for the Detail and the Advisory Council—and expect great things from their continuing contributions to this critical work. I also am grateful for the strong support that I receive from Mike Leiter and NCTC in the overall management of the ITACG program.

OTHER ACCOMPLISHMENTS OF DHS INTELLIGENCE

I recognize that this hearing is geared toward establishing a “report card” on information-sharing activities of the Department. Information sharing, however, supports and is interwoven into key enabling programs managed by DHS intelligence. Therefore, I want to share with the committee the progress we have made in creating an integrated DHS intelligence program beyond just sharing information.

Quite candidly, we are building a new departmental intelligence organization where one did not exist 3 years ago. We have had to recruit and train new cadres of intelligence officers, integrate existing departmental and external intelligence and information sharing functions, comport Department practices with intelligence community standards, and fundamentally define the realm of homeland security intelligence.

Our intelligence is distinct from that of CIA, the FBI, NCTC, and elsewhere in the intelligence community as it encompasses the totality of threats to the homeland—not just terrorism.

Collection Responsibilities and Reforms

I&A collection activities have improved support to our customers and enhanced our readiness posture relative to the Department’s all-hazards threat environment. We are the Department’s collections focal point for delivery of intelligence community capabilities to the Department and to other Federal, State, local, tribal, private sector, and international partners.

My office’s mission is unique within the intelligence community as we are at the crossroads of the intelligence community and the Department’s law enforcement organizations. For example, in coordination with the National HUMINT Requirements Tasking Center, we have developed the southwest and northern border National HUMINT Collection Directives (NHCDs) in support of U.S. southwest border enforcement initiatives. Collection directives provide the Department’s components with the critical HUMINT reporting required to support Homeland Security operations. The border collection directives represent the first time DHS has led development of a national collections strategy.

As part of our intelligence, surveillance, and reconnaissance (ISR) architecture, my office completed an ISR baseline for and in coordination with U.S. Customs and Border Protection. This baseline will help identify gaps and redundancies in order to facilitate the most informed ISR resource decisions, while allowing the Department to develop new capabilities and create enterprise-level collection management processes that meet tactical, operational, and strategic intelligence needs.

The DHS Open Source Enterprise has been established to acquire and disseminate domestic open source information on homeland threat issues, and represents

departmental and State and local interests in the National Open Source Enterprise's National Open Source Committee.

I released the DHS Open Source Enterprise Strategic Vision on September 12 at the National Open Source Conference, which we co-hosted with the Office of the DNI and the Open Source Center. Our Open Source vision clearly establishes DHS' intelligence role as a focal point for open source among the homeland security law enforcement and first-preventer communities. We are now implementing it and are in the process of formally documenting our actions through an Implementation Plan.

We have a close and mutually supportive relationship with the intelligence community on Open Source. I have a senior executive who represents the homeland open source community on the National Open Source Committee (NOSC) and all sub-committees. We continue to provide open source reporting on the DHS homepage in Intelink-U, the DNI's unclassified information network, and began providing actionable open source reporting on the Homeland Security State and Local Intelligence Community of Interest web portal in March 2008. In sum, we have a robust program underway that is focused on State and local government support.

DHS Intelligence Products

My office has successfully adjusted our production in response to communicated stakeholder needs. I streamlined my office's finished intelligence product line from more than 25 types of products to 6 distinct, standardized products that are customer-friendly and better aligned to our core missions. Since 2005, we have disseminated 1,470 finished intelligence products, the majority at the Unclassified/For Official Use Only level. Many of the most important products are collaborative joint products it co-authors with State and local fusion center personnel.

My production elements house the reports officer program, which facilitates the timely sharing of homeland security-related information obtained by DHS components, State, local, and tribal partners, and the intelligence community. Currently, 19 reports officers are located at I&A headquarters; 18 others support DHS components and elements, including the Human Smuggling and Trafficking Center. In addition, two officers are deployed to State and local elements along the Southwest border and in Florida.

My reports officers access and share valuable intelligence and information on topics such as transnational threats from the Caribbean and Latin America and sensitive information from ports of entry. This information is produced and distributed in the form of Homeland Intelligence Reports, or HIRs, and is precisely the granular level of information that is of greatest value to State and local authorities. Since 2005, I&A has produced, and disseminated 8,777 HIRs to State, local, and tribal partners and the intelligence community.

Intelligence Enterprise Training and Recruitment

Intelligence training is critical to develop an all-source cadre of DHS intelligence professionals who have standardized knowledge and competencies across the enterprise. The keystone of the learning roadmap is our Basic Intelligence and Threat Analysis Course (BITAC), which provides a foundational understanding of intelligence and analysis tradecraft. We have piloted four iterations of the 5-week course to date, reaching students from across the Department's intelligence components. As a complement to BITAC, I am proud to announce that our Mid-level intelligence Threat Analysis Course (MITAC) started on September 15. This pilot is a 10-day course targeted at DHS intelligence components' mid-career (GS 12–14) personnel.

ADDITIONAL DHS INTELLIGENCE PROGRAMS OF NOTE

National Applications Office

The National Applications Office (NAO) will be on the cutting edge for supporting key DHS stakeholders. DHS has acquired and installed lawful and appropriate intelligence capabilities to allow the NAO to access commercial satellite data and national technical means. In preparation for production, the NAO has developed performance management metrics; a training plan to comply with the NAO charter requirements to train staff and affiliates regarding privacy and civil liberties safeguards; and a communications strategy. As a training exercise, NAO analysts assisted the National Geospatial-Intelligence Agency's preparation for the Democratic and Republican National Conventions and in support and response to Hurricanes Hanna and Ike.

The NAO was designed with strong protection of privacy, civil rights, and civil liberties. DHS has worked with the Homeland Security Council and across the Federal Government to develop the now-signed charter for the NAO. The Secretary certified that the NAO charter complies with all existing laws, including all applicable privacy and civil liberties standards. Further, by law the Government Accountability

Office (GAO) conducted a review of the Secretary's certification. DHS has incorporated GAO's two recommendations into various policy and procedural documents of the NAO. Thus, the NAO is prepared to begin operations to support the civil and homeland security domains.

Counterintelligence

In January 2007, Secretary Chertoff directed the establishment of a DHS Counterintelligence Program to detect and deter the growing threat posed by foreign intelligence services, terrorists, and foreign criminal enterprises. At the Secretary's direction, I stood up a counterintelligence policy office within I&A. In conjunction with the DHS Office of Security, we have drafted a strategic plan and counterintelligence concept of operations, and sought review—working with the DNI's Office of the National Counterintelligence Executive—to ensure that the departmental counterintelligence program benefits from the intelligence community's experience and best practices.

Integrated Border Intelligence Program

I&A's Integrated Border Intelligence Program (IBIP) fills a unique role within the Department as the only program that can collectively leverage State and local fusion center, intelligence community, and the Department's own dedicated intelligence collection, analysis, and reporting staff to strengthen intelligence support to and promote information sharing among border security and interior enforcement stakeholders.

The Homeland Intelligence Support Team (HIST)—a key component of the IBIP—is co-located with the El Paso intelligence Center. The HIST serves as a conduit for providing stakeholders along the U.S. southwest border with reachback to intelligence collection, analytic expertise, and access to the intelligence community. The HIST's cadre of professional intelligence analysts and program managers uses its unique and routine access to information in order to pull specific, relevant information for the border mission stakeholders, and produce and disseminate reports with mission-specific comments and context.

Partnering with Operations

I&A has been supporting the new DHS Office of Operations Coordination and Planning (known as OPS) since its inception in July 2008. The Intelligence Division of OPS is a unit detailed from I&A to optimize and provide daily intelligence support to departmental and Federal interagency planning and operational coordination efforts. The Division's mission is to facilitate—at the departmental “strategic operational” level—development of a common threat picture and prioritized intelligence requirements, resources, and capabilities in support of contingency planning and operations coordination across DHS components.

Highlights of the OPS Intelligence Division's efforts include identifying intelligence, surveillance, and reconnaissance personnel to support the DHS actions relating to Hurricanes Gustav, Hannah, and Ike; and leveraging DHS and intelligence community products to support incident response and recovery efforts.

Cybersecurity

As a member of the intelligence community, my office supports the planning and execution of the administration's National Cyber Security Initiative, serving as a member of the Cyber Study Group. We have also placed intelligence analysts at the National Cyber Security Division's U.S. Computer Emergency Readiness Team (US-CERT) to enhance this partnership between DHS and its stakeholders to protect the Nation's cyber infrastructure. Our analysts provide threat assessments and fuse intelligence community information with daily intrusions monitored by US-CERT. We are developing plans for Homeland Intelligence Reports to include unique DHS information gleaned from US-CERT reports of intrusions and attacks against Federal networks.

CHALLENGES AND THE WAY AHEAD

Despite the gains we have made, we need to remember that challenges continue as DHS intelligence remains a start-up effort and is still evolving. I see these challenges in four critical areas: Facilities; recruitment and retention; excepted service; and procurement and acquisitions.

As our mission and work force have grown, we are working with DHS Facilities to ensure we provide adequate facilities and infrastructure.

Throughout the Department and in the intelligence community, there has been a significant effort to recruit and retain an outstanding intelligence work force. As a result of the number of vacancies throughout the intelligence community and the

private sector, I&A and its counterparts throughout the DHS Intelligence Enterprise are facing great challenges to fill our vacancies and retain the staff we have on-board.

At times, our progress in recruiting and retaining the best and brightest has struggled because we cannot compete effectively with intelligence community agencies that have excepted service status. I recognize that several authorization bills contain language to grant DHS intelligence the same excepted service flexibility available to its partner organizations in the intelligence community. I strongly urge the committee to support enactment of excepted service authority for DHS intelligence to help us create the more unified and mobile intelligence work force envisioned by the 9/11 Commission Act and intelligence community reform.

Another significant challenge for my office has been the ability to achieve timely planning, development, and execution of procurement and acquisitions. Working closely with the DHS Office of Procurement Operations we have made significant improvements in our acquisitions program and continue to work toward establishing the right contractual vehicles to meet our ever changing needs.

Continuing the task of building a quality intelligence organization that can overcome these challenges is of critical importance as we move to a new administration. We are on the right track; we must now execute these programs.

CONCLUSION

On September 11, 2008, Secretary Chertoff wrote “. . . [on September 11, 2001,] our country was senselessly attacked and nearly 3,000 lives were tragically lost. That fateful day changed our Nation and our lives.” Even though that day was over 7 years ago, the threat has not passed and our adversaries remain committed to doing us harm. They have been foiled by many factors, including the dedicated men and women of the Department of Homeland Security who defend our Homeland every day.

To enable and support our critical departmental mission, we are developing and honing homeland security intelligence. DHS intelligence programs are young and growing, but we are working hard and with increasing effectiveness to create integrated homeland security structures where the operating components and DHS headquarters elements work together. We are also making good progress to provide a unifying role—developing and integrating the Department’s Information Sharing activities. My intention today was to crystallize these major accomplishments in such a short time as well as to focus on the challenges that we still need to overcome.

We remain committed to protecting the homeland, to improving our analysis and information sharing—especially with our State and local partners—and to integrating DHS intelligence programs. In doing so, we scrupulously adhere to the protection of our cherished privacy and civil liberties rights. Protecting our Nation from the myriad of threats that we face requires courage and resolve. It is my steadfast belief that our accomplishments show we are up to the task.

Ms. HARMAN. Thank you, Mr. Allen. I understand that the clock is malfunctioning and is not visible. But you did quite a good job of keeping to the time, and I expect Mr. Leiter will do the same.

STATEMENT OF MICHAEL E. LEITER, DIRECTOR, NATIONAL COUNTERTERRORISM CENTER

Mr. LEITER. Thank you, Chair Harman and Mr. Reichert, Mr. Dicks.

Actually, in an effort to get to a discussion rather than having this be a hearing, adversarial or not, I am going to skip over a lot of what I had prepared. I want to give you five areas where I think we have improved significantly, because it is supposed to be a scorecard and a grade. I want to tell you what we have done in the last 6 months, and then I want to at least briefly touch on some of the questions that were posed by my three State and local colleagues.

First, 6 months ago, the National Counterterrorism Center did not actually have a daily product at a secret level. We had it at top secret and compartmented that went out to State, local, tribal, pri-

vate sector. Today, we do. Today, every day, Monday through Friday, we produce a secret document that is available in State local fusion centers and JTTF outlining all of the major activities that are going on in terrorism throughout the world. That is an improvement, and I think it is a very good thing.

Second, 6 months ago, frankly, the interface that State and local government had to get secret level documents from NCTC, NCTC online secret was lousy. It was antiquated. It didn't look like Google. It looked like kind of AOL 1.0. Today, it is vastly improved; and, frankly, it is better than what Federal officials get. It is user friendly, and people can find what they need. That is tangible improvement, if you ask me.

Third, expanding access to unclassified material. NCTC does not focus on the unclassified. Understanding the value and importance of that, we focus our work at the top secret for the Federal Government and then down to the secret and confidential for State and local officials with some unclassified. But we do produce unclassified material. The fact is, we didn't have any way to actually get that out to State and local officials 6 months ago. Today, we now have agreements, and we are currently posting it through both the Homeland Security Information Network and FBI's law enforcement on-line so they can get those documents that we are actually producing.

Four, we had started the ITACG 6 months ago, and it was good, and we had quality people, but it was not firmly established. Today, we already have plans and have begun the recruiting and have succeeded in some of that recruiting to expand to 10 local officials, not just police but homeland security, Health and Human Services. We just hired our first firefighter from Seattle, I would add. These are people who are sitting full-time time in our spaces. Frankly, I see them virtually every day; and I think they are doing an outstanding job.

Finally, fifth, and this may sound bureaucratic, but it is incredibly important. We had a hard time recruiting 6 months ago to get team people to come to the ITACG. We have changed that radically. With the cooperation of DHS and FBI, we have made equivalent the pay that these people are getting; and we provided them, frankly, with more incentives to come work for the Federal Government than I think any other position in the Federal Government.

I just spoke with the FBI yesterday. Members of the ITACG will now have preference when they apply to the FBI National Academy, critical for State and local law enforcement officers.

Charlie and I are now working on a system to get them credit to integrate them into George Washington University's programs for advanced educational credits. So we have done everything we can in this Government and, frankly, some very innovative things to make this a place that they want to come.

Now, those are just some things we have done, and I wanted to give you the tangible examples. There are a lot of things we still have to do. We have to continue to grow and expand the breadth, scope and number of our terrorism information and product sharing. These are the documents the ITACG helps shape specifically for State and local governments. We have to get more of them.

But I do want to note in the last year, from June of last year to July of this year, NCTC has increased by 250 percent the number of secret level reports that we have issued for State and local use. Two hundred and fifty percent in a year isn't too bad, and it is because of a concerted effort to get that information out.

Second, one thing that we are working on and I think will help is for the first time we are actually going out and surveying State and local governments to understand what they need. Although we imagine what they need, we don't always know. So we are going to ask that question. We are doing that in conjunction with DHS, FBI and the ODNI; and I think that will be positive.

Finally, something I mentioned to Ms. Harman recently, we have produced the first-ever user's guide to Federal intelligence for State and local partners, and it is user-friendly. It doesn't have nearly as many acronyms that are, frankly, in most of our testimony and covers how you use Federal intelligence, explaining sourcing, what types of products are available. I believe this will be a useful tool.

Last, I want to note that we have expanded our outreach largely using the ITACG significantly. We are looking for ways to bring State and local officials into the Federal Government. So one initiative, Ms. Harman, that we have spoken about previously is the LAPD obviously has done a fantastic job; and we have now fundamentally poached their lead on the suspicious activity reporting and bringing them to NCTC. Working with Chief Bratton and Deputy Chief Downing, we have now recruited to have Commander McNamara come from the LAPD to NCTC to help us understand what would be useful.

Now in a brief minute of time—because I will note that Charlie went over by 2 minutes, so I also get another minute and 30 seconds—

Mr. DENT. You are very astute.

Mr. LEITER [continuing]. I do want to note very quickly three questions.

First, Sheriff Baca, how do we incorporate fusion centers into a comprehensive national solution? I think this is a very fair question and one that Charlie and, very importantly, the FBI and I have been discussing more. Because, frankly, it is not just about State and local fusion centers. It is also making sure that they are integrated regionally and they are well and effectively coordinated with the corresponding Joint Terrorism Task Forces.

So I think it is a fair criticism to say we are not there yet, but this is something that we have been building. So you have to have it built before you know exactly what you are going to do with it.

Second—I am going to skip to Mr. McKay—the question of how do we incorporate State and local tribal information into a Federal model. Let me just note there are huge civil liberties associated with this; and we can't dive into it too quickly because not all information, from my perspective, is counterterrorism information. We simply have to move this intelligently because, otherwise, we can put ourselves in a very bad position.

Third—and I left my friend, Russ Porter, for the last—is when are we going to get serious about domestic terrorism and getting info to the street? Accepting the last part of that, when are we going to get serious about getting information to the street? I have

tried to explain some of the ways we are doing that. But I will challenge him on the premise of when are we going to get serious about domestic terrorism.

I can tell you, from my perspective, every day, I don't care if it happens in Pakistan, Peshawar, or Philadelphia, it is terrorism. It is not going to make a bit of difference to me if Americans are killed by someone from Pakistan or domestic terrorists in Philadelphia. There is no question in my mind that the Department of Homeland Security, FBI and NCTC are deadly serious about domestic terrorism.

Thank you for your time.

[The statement of Mr. Leiter follows:]

PREPARED STATEMENT MICHAEL E. LEITER

SEPTEMBER 24, 2008

INTRODUCTION

In October 2007 the President issued his National Strategy for Information Sharing. This strategy sets forth his vision for establishing a more integrated information sharing capability aimed at ensuring that those who need information to protect our Nation from terrorism receive that information. The Director of National Intelligence (DNI), in his role as the leader of the intelligence community, has guided the community's implementation of key parts of the President's strategy to include the establishment of the Interagency Threat Assessment and Coordination Group at the National Counterterrorism Center (NCTC). Under the leadership of the DNI, NCTC, along with our partners at the Department of Homeland Security (DHS) and Federal Bureau of Investigation (FBI), continues to make the timely flow of accurate information to our State, local, and tribal (SLT) partners a critical mission priority and focus. Through a variety of activities, including meetings with city, State and regional law enforcement and security officials, presentations at key law enforcement conferences and training centers, as well as briefings and training sessions at State and Local Fusion Centers, NCTC informs SLT partners of the Center's mission, its capabilities and the range of intelligence products available to them. Working closely with our key Federal partners, we provide SLT organizations with terrorism intelligence analysis and other appropriate information needed to fulfill their missions. Finally, we inform and help shape intelligence community products by providing advice, counsel, and subject-matter expertise to better meet the needs of our SLT partners. Let me briefly elaborate on some ways in which NCTC has facilitated improved information sharing with our State and local partners.

NCTC'S PERSPECTIVE ON INFORMATION SHARING

The NCTC understands the importance of preparing intelligence products that address the counterterrorism concerns of SLT agencies. As a result, the NCTC launched the Terrorism Summary (TERRSUM)—a SECRET collateral digest of terrorism-related intelligence of interest to Federal and non-Federal law enforcement, security and military personnel. Produced Monday through Friday, the Terrorism Summary includes terrorism-related intelligence available to NCTC and other intelligence community elements. The product is posted on NCTC Online-Secret (NOL-S) and is available to State and Local Fusion Centers Nation-wide via a number of SECRET-level networks. Thanks to DHS, there are 300 State and local analysts with access to NOL-S through their accounts on the Homeland Secure Data Network (HSDN) system installed in fusion centers around the country. The Terrorism Summary joins existing products designed to support SLT entities, including the Threat Review—a SECRET collateral compilation of terrorist threat reporting received at the Federal level and the Terrorism Intelligence Product Sharing (TIPS) product line. TIPS products provide SLT consumers increased access to NCTC finished intelligence analysis through the accelerated review and sanitization of highly classified products for publication at the SECRET level.

We recognize the need for improved dissemination of products and making our intelligence as accessible as possible to our SLT partners. The ITACG has worked closely with NCTC's software developers to improve the NOL-S portal to ensure that the "look and feel" of the portal is conducive to SLT partners' needs especially at the State and Local Fusion Centers Nation-wide. As a result, the new interface

is more intuitive and easier to use. In addition, the portal contains a greater number of products and more up-to-date counterterrorism information from throughout the intelligence community. We have begun incorporating additional recommendations from the ITACG into the next version of the portal interface.

To better understand the needs of SLT authorities, the ITACG has prepared a survey in coordination with the FBI, DHS, and the Program Manager—Information Sharing Environment (PM-ISE). The survey will help the intelligence community understand how well its intelligence products are received by SLT consumers of intelligence, the difficulties that SLT organizations may encounter trying to receive intelligence products, and how to better address the SLT need for intelligence. The survey is undergoing final review, and will be disseminated to the field shortly.

The ITACG has also identified several instances where intelligence community “For Official Use Only” (FOUO) products were not easily accessible to SLT organizations. These products were perfectly suited for SLT consumers of intelligence, but were not previously available on official UNCLASSIFIED systems. The ITACG negotiated the posting of these products onto DHS’ Homeland Security Information Network—Intelligence (HSIN-I) and FBI’s Law Enforcement Online (LEO), the primary vehicles through which SLT entities access unclassified counterterrorism, homeland security and WMD information. Today, our SLT partners, particularly State and Local Fusion Centers around the country, can access information from NCTC, the Department of Defense, and other agencies via HSIN-I and LEO.

The ITACG is also drafting a reference guide for SLT consumers of intelligence. This SLT Glossary will help SLT entities better understand source statements and estimative language found in intelligence community threat products, so that SLT decisionmakers can appropriately address threat reporting within their jurisdictions. This glossary contains a list of acronyms, abbreviations, and terminology typically found in intelligence reporting and used within the intelligence community that will assist SLT intelligence consumers better understand the context of the reports they receive.

The ITACG will continue to evolve. In consultation with our Federal, State, local and tribal counterparts on the ITACG Advisory Council, we are in the process of expanding representation on the ITACG Detail. The Detail currently consists of four State and local law enforcement officers and one part-time tribal representative. We hope to increase those numbers to a total of ten State and local personnel, including a full-time tribal representative, a firefighter, a health and human services representative, a homeland security officer, and a State and local intelligence analyst. This will allow ITACG to provide perspectives beyond law enforcement to intelligence community reporting. Additionally, having given greater consideration to the level of responsibility of the ITACG Director, we have proposed making the ITACG Directorship a Senior Intelligence Service-level position. This will place the ITACG leadership on a more even playing field with its intelligence community and SLT partners, and reflects the level of commitment the intelligence community has made to ensure the success of ITACG.

THE WAY AHEAD

NCTC, indeed the entire intelligence community, understands that we must continue to stress the dissemination and access of counterterrorism, homeland security, and weapons of mass destruction (WMD) information to our SLT consumers of intelligence. Increased access will allow SLT entities to more effectively identify, preempt, and respond to terrorist threats. To accomplish this goal, we will collectively need to expand the number of SECRET clearances granted to SLT partners; we also need to continue to build upon the work that has already been done to streamline and expedite the security clearance adjudication process. SLT consumers of intelligence will also require greater access to SECRET intelligence information technology systems. DHS has and continues to increase the number of HSDN sites Nation-wide.

Intelligence community leaders will need to continue encouraging their analytic organizations to prepare FOUO versions of their products whenever possible. Additionally, we must continue to encourage the production of intelligence reporting which directly addresses the needs and concerns of SLT entities. The ITACG will continue its outreach to intelligence community analytic entities to promote the production of intelligence products written at the FOUO level and tailored for SLT consumers of intelligence.

NCTC also believes that increased Federal and State and local analytic interaction, especially with State and local fusion centers, has shown demonstrable and positive results and should be further expanded. Periodic, formal, intelligence community-sponsored, SLT-focused forums serve to enhance information sharing by ce-

menting the Federal and SLT intelligence partnership. Analytic forums—such as NCTC’s “Current Terrorist Enemies of the United States: Prospects for a New U.S. Administration” and DHS’ Homeland Security—State and Local Intelligence Community of Interest (HS–SLIC) “National Analytic Conference: Domestic Extremist Subcultures in America”—are crucial to developing our SLT analytic counterparts. Continued and expanded outreach to SLT agencies is vital to everyone’s success in this critical mission.

Information sharing is among NCTC’s and our intelligence community partners’ highest priorities, and significant progress has been achieved. Challenges to information sharing remain as we seek the proper balance between and among a host of technical, legal, security and privacy issues; however, as NCTC and our partners at DHS, and FBI and PM–ISE are committed to ensuring information sharing between the Federal Government and our SLT partners continues to improve.

Ms. HARMAN. Thank you, Mr. Leiter.

Thank you both for addressing questions posed by the prior panel. The subcommittee sees enormous progress in both of your operations. I said that at the beginning, and I think your testimony has really nailed it in terms of what has changed.

I now yield 5 minutes to Mr. Dicks for questions.

Mr. DICKS. Charlie, let me ask you this. On the fusion centers, is it a question about funding this, how it is financed? I mean, I know you are sending out an agent to each one of these things. But hasn’t there been some concern by the locals? They think the Fed should fund this? Or can you tell me about that?

Mr. ALLEN. I certainly can, Congressman.

The funding issue is a policy decision that is reached by the Secretary and by the Department in consultation, obviously, with the Office of Management and Budget. Our job, of course, is to provide the information, put the officers out. In some fusion centers we have more than one officer. In fact, we hope to put multiple officers in some of the major fusion centers.

But the funding issue is a very serious one. We do the threats. We do the domestic threat working with NCTC, working with the FBI. We look at the grants, urban assistance grants. There are State grants, port grants, transportation grants. We participate fully in the threat side, but the decisions ultimately are made at the policy level as to what money should flow.

The UASI grants are very vital for the fusion centers to stay on. I took a position that after 2 years the Federal Government was not going to fund intelligence analysts. The Secretary did a recon with OMB, and we have extended that for 3 years. We are very sensitive to that. There is a lot of—some of these fusion centers are very immature, some are very mature, and they do need assistance.

Mr. DICKS. I just think that somehow we have to work this out, to make it as easy as possible for the States to use their grants. Or maybe we ought to have—maybe we ought to authorize it and fund it. I mean, this is such an important part of our approach here to have these things work effectively locally. I believe that you are going to get a lot of the potential threats, suspicious activities.

You know, we had the situation in California where these guys were in prison and then they came out and there was some good police work locally that maybe stopped a terrorist attack. To me, we have got to make these fusion centers work. It is not that much money. I mean, think about all the money we are spending on homeland security. We have got to figure out a way to do it. I just think it is unacceptable.

Ms. HARMAN. If you will just yield to me, and I will give you additional time. The bill that we offered in the subcommittee on sustainment funding is now poised to pass the Senate. So we are making a dent in this problem.

Mr. DICKS. I just think we have to figure out an answer to it. I know this administration has been very tight on money. I am a subcommittee chairman on Appropriations. I know what they have done to my bill. It is not easy, and we have a major problem here with the budget. So I take that seriously.

The other thing is, I am glad to hear that you are taking this seriously. I mean, we just heard three individuals testify before you, people who have had enormous experience, and they still are saying to us, we have a ways to go yet. We haven't finally gotten there.

But it seems to me, Mr. Leiter, what you just said in your five points is that we are making some serious progress on this. I just think that this information sharing and working this thing out and then having it sustained so that everybody can be confident that it is in place and the information is going to flow and it is going to be funded, somehow we have to—we just can't dump this back on the locals. I mean, this is like an unfunded mandate, I think. I mean, this is a national problem; and we are asking them to help us work in these fusion centers. I think we have to step up and make it possible for the grants and other things to be utilized or directly funding this initiative.

That is all I have. Thank you.

Ms. HARMAN. Thank you, Mr. Dicks.

Mr. SHAYS is now recognized for 5 minutes.

Mr. SHAYS. Thank you very much.

Before September 11, the committee I chaired was called the National Security Subcommittee of Government Reform; and one of the things that we were struck with was that there was so much information that was available that was not classified. Then we have had hearings where some think that we overclassify 90 percent. In other words, we should classify 10 percent of what we classify. Then we even had DOD say at least 50 percent of what they classify probably shouldn't be. Then we have "for official eyes only" and so on. Can each of you speak to the danger of overclassification? Not in any great length. But tell me what is the danger. There is a danger to overclassification. I want to know how you define the danger.

Mr. ALLEN. Well, historically, Congressman, we have protected sources and methods; and we have overprotected them even during the Cold War. We have found that in information sharing, you can shred out the basic facts, hide and protect sources and methods and get the information out. This is the reason ITACG is so valuable to us. This is a reason my embedded officers—

Mr. SHAYS. Thank you. But I just want to make sure that I—but is that the only danger? It seems to me another danger—well, let me hear from you, Mr. Leiter, first.

Mr. LEITER. Congressman, the preeminent danger to me and this is a danger—

Mr. SHAYS. Of overclassifying?

Mr. LEITER. Yes—was in some ways much less important pre-9/11. Is if the information is not getting to the operators in the field who get need to get it——

Mr. SHAYS. Yes. So isn't it a fact that—this isn't a trick question. This is just the reality. Isn't it a fact that with your fusion centers we are dealing with classified information; and so, in some cases, they may know things that they can't tell their fellow coworkers because it is classified?

Isn't one of the dangers of overclassification—I mean, you said it, I think. But let me emphasize it. Isn't the real danger of overclassification is that too few people end up knowing what they need to know and too many people don't know what they need to know?

Mr. LEITER. It is. But let me raise two points. One, this is not something which is different in national security matters than any other law enforcement investigation. People may be working with an undercover that they don't want every police officer on the street to be aware of. You have to create systems whereby you can run those operations, protect your sources——

Mr. SHAYS. I understand why you have to protect your source. I understand why you have classified material. But, in our hearing, outside sources thought—who used to be in intelligence thought we were overclassifying.

Mr. LEITER. I agree wholeheartedly, Congressman.

Mr. SHAYS. So it would strike me that those in intelligence have to keep working at ways to make sure that we are not overclassifying.

Ms. HARMAN. Would you yield to me for 1 second, Mr. Shays? I will give you additional time.

That is just to say that we passed a bill here, the House passed it about a month ago, on overclassification. Because we feel so strongly that the only reason to classify is to protect sources and methods and not to protect somebody from political embarrassment or protect turf, a point made repeatedly.

I just wanted to—sir, I think it is different in counterterrorism than it is in a classic law enforcement case, because the stakes are so high. I mean, if overclassification prevents one of these cops on the beat from uncovering the plot to put the huge fertilizer bomb on the truck that blows up LAX, I think that that is a horrible consequence. I just wanted to state—and I will yield back to you—my view that this is a hugely important issue; and I am very disappointed that, at least as of yet, the Senate hasn't seized this issue.

Mr. SHAYS. Well, if anyone knows about this, it would be someone like yourself who has been on the Intelligence Committee and with such an active and central——

Yes, Mr. Allen.

Mr. ALLEN. Congressman, things have changed I think dramatically, because we are getting that information out. We published and reviewed by the ITACG hundreds of advisories, some may be threat warnings, threat assessments like we did on the weekend because of the Marriott bombing. But we put out a lot of foundational work, working with the NCTC and the ITACG and the FBI, which is very useful; and we have got a lot of stuff out

there for official use which can be brought down to the lowest first responder.

On clearances, when I came there we weren't clearing anyone at the State and local. I have cleared at the secret level 1,500 officers.

Mr. SHAYS. Let me congratulate you on that. Because that is another problem, and it is hugely important.

Mr. ALLEN. Yes.

Mr. SHAYS. Let me just quickly ask Mr. Leiter. It is my sense that when we are talking about open source data where we can use computers to, you know, to just see relationships, that would happen more likely I would think in the National Counterterrorism Center than it would in the different fusion centers around the country. Can I feel comfortable that open source data is getting integrated?

Mr. LEITER. I have representatives from the open source center embedded in the National Counterterrorism Center, and we routinely use it both domestically and overseas to link with classified information, yes.

Mr. SHAYS. Thank you. Thank you both.

Mr. Allen, I just have to say, you have that classical look of someone in intelligence; and it makes me feel very comfortable that you are there.

Mr. ALLEN. Thank you, sir. I appreciate that.

Mr. LEITER. Congressman, may I ask—and this is not a trick question, either—are you suggesting that I don't provide you with that?

Mr. SHAYS. I am just saying you both are a wonderful team and collectively you carry the whole gamut. Good question.

Ms. HARMAN. Thank you, Mr. Shays. Your time has expired. We all think you give us confidence, too. So we want to observe this.

Mr. Reichert is now yielded time for 5 minutes of questions.

Mr. REICHERT. Thank you, Madam Chair.

Great to have you both again, and thank you for taking time to come and visit with us and answer further questions.

You do make a great team, and I just want to take a moment to specifically thank Mr. Allen for his service to our Nation. You didn't have to take on this challenge over the past 3 years, but you did, and the Nation is better for it. So thank you, sir.

Mr. ALLEN. Thank you, Congressman. My wife agrees. I didn't have to take this on.

Mr. REICHERT. Maybe we should call her as a witness next time.

Just to touch on that topic a little bit more, you know, as you heard the first panel testify, they suggested that there might be a disconnect to your leadership to the field. I can certainly understand that, that that is a national—you are one man, and this is a national effort. So a disconnect I think would be a natural phenomena that people would experience. But Sheriff Baca mentioned specifically that you might need some help.

Mr. ALLEN. Sheriff Baca is one of the very wiser individuals across this country in law enforcement and information sharing. I think I do have the authorities and responsibilities to be able to work with my colleague here and with the FBI in particular to get the information out. It is just that we are very early in this process. The 9/11 bill that was passed gave me significant authority to

direct that information sharing on behalf of the Department and to unify the Department intelligence activities.

Bureaucracy grinds slowly in Washington sometimes. So I have not achieved as much as I wanted to in the last couple of years, particularly in integrating intelligence across the Department. But I am working on it very hard.

But I think I have the authorities, and I certainly have the support of Secretary Chertoff. So it is just a matter of grinding on, working with the NCTC, working with the ITACG, working with my officers out in the fusion centers and working with my good friends at the FBI, where we have a very rich relationship.

Mr. REICHERT. I just want to ask one more question, Madam Chair; and that is related to also some comments that were made by Sheriff Baca that have been a concern of mine and were a concern of mine when I was the sheriff in Seattle. That is the grant process. As it is set up, it is housed now essentially under the FEMA side of Homeland Security and does create some consternation for the law enforcement world in not feeling like there is enough attention paid to the needs of those sheriffs and police chiefs across the country. Do you see that as an area where we need to do some additional work? Have you listened those concerns and taken a look at a solution that might apply?

Mr. ALLEN. I have listened to those concerns, and I have similar concerns. I do believe that part of it is—my responsibility is to reach out to Chief Paulson, Under Secretary at FEMA, and to his Deputy Director. We are building closer relationships so that—and we brief them regularly on the threat, foreign and domestic, so that they know as they make decisions and make recommendations of the Secretary, final funding decisions, that the threat is fully represented.

In my view, we need to get the threat a little higher in the overall algorithm by which those decisions are made. That is my personal view, and I am going to push toward that goal.

Mr. REICHERT. Okay. Thank you, Madam Chair. I yield.

Ms. HARMAN. Thank you, Mr. Reichert.

I now yield myself 5 minutes of questions.

Again, I want to observe that enormous progress has been made; and this hearing record is very different from the hearing record we would have had 2 years ago. I am sure both of you agree. You are nodding your heads. I think a lot of the credit for that goes to State, local, and tribal entities who have helped us push in the right direction not as your adversary, Mr. Leiter, but as your partner, which is I think our correct role, to make this more seamless. We have all pointed out that if the information about what to look for and what to do is not in local hands, the chances of our unraveling the next plot are far slimmer. No one is disagreeing with this.

I want to now come back to privacy and civil liberties, because it is a conundrum. Clearly, what we want to do is collect the right information that is accurate and actionable and timely in these fusion centers. They are not spy units. That has been alleged. That is false. They are units that fuse information collected elsewhere, hopefully in products that are useful. So we want to do that correctly.

I think most of us believe that one size does not fit all because different regions have different needs. I personally have been to a number of these places. They all look different for a reason, I believe, because the needs are different. But, on the other hand, everyone believes that strict privacy and civil liberties protections have to apply.

Now Sheriff Baca asked you both this question: How do we build a more robust national capability that is closer to a one-size-fits-all capability? You, Mr. Leiter, said, ooh, problem, civil liberties problem.

Could I ask you both to elaborate on this? Are we better off trying to standardize and impose Federal standards that are existing Federal standards on this? Or are we better off not doing that and making sure there is rigid training at the local and State levels? Or is a hybrid a better model?

Mr. LEITER. Madam Chair, if I suggested that a network of fusion centers posed significant civil liberties concerns I think that leaves you with the impression that I think fusion centers pose such a problem to start. I think the record of the fusion centers is outstanding. They are collecting information. They are not spying. They are conveying it.

I do think that there are potential civil liberties issues with every bit of information concerning every traffic stop, for example, being sent to the National Counterterrorism Center. That is, I think, far beyond our mandate and more information sharing than we should actually seek.

Sheriff Baca's point, I took it to be: Do we have a clear plan to make sure that all the fusion centers out there—which undoubtedly in my view will have to stay hybrid. There is no one size fits all. You are absolutely right. What works in L.A. is different than what works in Seattle, different from Kansas City and so on. But that whatever models you have out there, they are all linked together in a sensible way and then linked back to Washington.

That is the challenge. We have built these fusion centers. We have built JTTFs. They work incredibly well together. But do we then have a regional system that then feeds back to Washington consistent with civil liberties protections? From my perspective, Sheriff Baca is correct. Charlie and I and the Director of the FBI and the like have to work harder at coming up with that sensible system to link all of this together consistent with civil liberties.

Ms. HARMAN. Mr. Allen.

Mr. ALLEN. Madam Chair, I support what Mike has said as far as privacy, civil rights, civil liberties. That is very much on our mind. There are massive amounts of data at the local level that are not necessarily related to our security.

But there are a lot of data that we harvest, and I have about 40 reports officers assigned around the country in addition to my embedded officers who do report information that is lawful and legally collected that is of a national security and particularly of terrorism interest. We are moving out to build a national fusion center network. It is happening naturally, as fusion centers begin to work together, as regions begin to work together.

For that reason, in addition to my embedded officers, I have now appointed regional coordinators or circuit writers. I have an officer

who focuses only on the Southeast, one that focuses on the Northeast, one that focuses on the Midwest.

Ms. HARMAN. Are all of them aware of civil liberties and privacy concerns?

Mr. ALLEN. They are all rigorously trained in civil rights and civil liberties. I have four lawyers who hover around me every day. So we absolutely do give them rigorous training. They know what can be harvested and what can't.

We have put out about 3,000 homeland intelligence reports, HIRs, which is a raw intelligence report. Some of them, I and my senior officers say, no, that doesn't quite meet the standard. We do not have reasonable belief in this case for reporting this out to our Federal partners.

But I think we have a very high standard for privacy, civil rights, and civil liberties. I am very comfortable in that arena. We have a lot of work to do to build this network of fusion centers and regional centers, as was pointed out by Mr. McKay. But we are on our way, and we are doing the right thing right now.

Ms. HARMAN. Thank you, Mr. Allen.

I often say that privacy and civil liberties are not a zero-sum game. We either get more of both or less of both. Actually, the first fellow who said that was named Ben Franklin.

I would just like to remind you and our Members and our audience of what Mr. McKay said, that if some other attack comes, the first thing that goes is going to be our Constitution and some of our rules, and that is not something I want to see. We have got to get this right, right now.

We are now going to do something unorthodox.

Mr. Allen, I know you have, I think you said, 5 more minutes. Our first panel is still here; and in the spirit of information sharing, I am offering to our first panel the opportunity to take the mic and make any additional observations you would like to make since you have heard the testimony of the two Federal witnesses. You can be shy and hide out, but I knew Leroy Baca wouldn't be shy. Do identify yourselves for the record.

Mr. Allen, let me add that we will understand that you have to leave in 5 minutes. But I appreciate your staying to hear any comments focused on the conversation we have been having.

Mr. BACA. Let me say, first of all, the testimony of our colleagues is one of not only collegial admiration amongst all of us here, it is the fact that we, both from the local and Federal levels, believe that our Nation can always do better. That is the spirit of this conversation.

Policy relative to shifting from a first responder strategy to a more balanced prevention strategy is the issue as I see it, and the only way we are going to prevent any form of a terrorist attack is if the local resources are fully integrated with the Federal resources when it comes to intelligence information. This means that the national policy that is under the control of Mr. Allen and the Secretary of Homeland Security should be intact and remain as it is. But the advice of the local law enforcement officials throughout our Nation needs to be brought to the table.

Clearly, funding becomes an arguable strategy as to how to best spend the dollars. I say that our response community—we are a

part of it, law enforcement is—has been well-served and so has our firefighting systems and our medical systems. But if we are going to economize our dollars nationally, we have to say, what is cheaper, preventing a terrorist attack or responding to one? At what point do we start moving more dollars into the prevention side?

I think that local law enforcement through the LinX program has clearly proven that traffic stops are a critical part of gathering this kind of information. That can be easily pushed up into a national system without violating anyone's civil rights, because we have clearly the right to stop people when they violate the law, even if it is traffic law.

The complexity of the task is that there are not 20 dots or 100 dots. There are millions of potential dots that have to be connected. You can't do that without this full build-out of the regional intelligence centers as nodes to all the other police departments.

I am not asking for a small police department to have an intelligence center. They don't need one. But they should be in partnership with those of us that have an intelligence center, and their liaison officers can work in a trained fashion to make sure that civil rights are not violated and that information is gathered in a format that is sensible.

Analysts will be able to look at that data for the sake of preventing a terrorist attack or alerting an investigation. Those are the two things. Alerting an investigation. As was indicated by all panel members of this committee, when do you do something that is obvious, when someone asks for flight training in a flight school and says I am not interested in taking off or landing. All I want to know is how to fly the plane when it is—I mean, that is such an obvious thing that it defies common sense that that wouldn't be acted upon. But somehow that got lost because of the lack of robust analytical participation.

The backup system is you have got more than one analyst looking at the same stuff, and the policy issue is you have got more than one reviewer at the top looking at the same stuff. All we are saying at the local level is we want to be part of the process of reviewing some of the more critical stuff, especially if it affects New York, especially if it affects Chicago, especially if it affects the District of Columbia, and especially if it affects Los Angeles. Because the theory is the more you know and the more who have the responsibility to know know, then everyone gets blamed if it goes wrong.

But, currently, if we don't know locally, I can assure you when the next one occurs and it is in Los Angeles and I don't know and Chief Bratton doesn't know, then we are going to blame the Feds.

Ms. HARMAN. Okay.

Mr. BACA. So intelligence gathering is not only good theory, it is good management theory.

Ms. HARMAN. Thank you.

I would just amend that to say this isn't about who we are going to blame next time. It is about how we are going to prevent the next one. Then we don't have to blame anyone.

Mr. Porter, Mr. McKay, do you have any additional thoughts? We have a vote on the floor, but we have enough time to hear from each of you.

Mr. PORTER. A brief rejoinder to Mr. Leiter. But let me introduce it by noting that I am in probably a unique position where I meet with Mr. Allen probably monthly as a State and local official, and I also meet with Mr. Leiter on a bimonthly basis at the ITACG Advisory Council meetings. As I pointed out earlier, they do listen. They take notes as we speak.

But I think sometimes we all get caught up in the business of the agenda, and we sometimes don't hear one another. Sometimes we speak past one another.

My colleagues at the State and local level still tell me we have a long way to go to get information out to the outer reaches, and it is a challenge with respect to the domestic issues, and I look forward to further communication about that. Thank you.

Ms. HARMAN. Thank you.

Mr. McKay.

Mr. MCKAY. Thank you, Madam Chair.

I think that the prior panel has underscored the point that I tried to make to the subcommittee earlier. I would just urge those who are making decisions in Washington, DC, to look at the LinX system. Because the question of civil liberties that you asked both of the speakers in the prior panel is we have run this already. We have taken the records locally. They have been—they have migrated into a Federal system. They are in the MTAC now, which is the analytical center at NCIS. They have passed every legal review of every municipality, county, State and the Federal Government. There are no civil liberties issues associated with the law enforcement records that are being analyzed.

Intelligence products and perhaps open source information is different, and those have to be carefully reviewed and absolute strict scrutiny paid to the civil liberties and civil rights of individuals if they are targeted without a reasonable suspicion of a crime. That is the issue.

Put privacy aside for a moment. We know this can be done legally. It has already been carried out in the model program in the LinX.

So I agree with my colleague to my right. I mean, we are talking past each other.

Again, the question I asked before I think remains unanswered. Who is in charge of building the local systems and migrating them to the Federal Government?

The first person who told me that the most important record of any investigator is the small record. It is the seatbelt violation, believe it or not. It is the traffic offense. That was Sheriff Baca. I think every Federal agent would agree with him.

Ms. HARMAN. Thank you very much.

If any panel member wants to make one additional sentence or comment, please go ahead.

I just want to thank all of our witnesses. I think this has been a conversation, which is rare, in a hearing format. Our goal is to make that conversation as robust as possible and make it two ways, from Federal down to local and from local back to Federal.

The ITACG is a huge improvement over where we were. I will see our first four ITACG members later today as they leave. But growing to 10 is a good start, Mr. Leiter. Growing to more than 10

is a better idea, Mr. Leiter. But I do want to congratulate you, not just pick on you, for visible progress under your watch.

Any other comments?

Mr. Dicks.

Mr. DICKS. I just want to say thank you. It has been very enlightening. We still have a lot of work to do, but I think we are making progress. I think we have got the attention of both sides.

I agree. I think some of this is we are talking past each other. We have got to figure out a way not to do that and to end that and to come to grips with the remaining issues.

Thank you.

Ms. HARMAN. Thank you all. The hearing stands adjourned.

[Whereupon, at 11:55 a.m., the subcommittee was adjourned.]

