



Department of Justice

STATEMENT OF

**VANCE E. HITCH
CHIEF INFORMATION OFFICER
DEPARTMENT OF JUSTICE**

BEFORE THE

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

**AT A HEARING ENTITLED
“FOCUS ON FUSION CENTERS: A PROGRESS REPORT”**

PRESENTED

APRIL 17, 2008

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Committee on Homeland Security Government Affairs
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“Focus on Fusion Centers: A Progress Report”

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

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

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

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

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

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

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

Introduction

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

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

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

Training, Technical Assistance and Outreach

Following the August 2006 publication of the *Fusion Center Guidelines* report¹, the partners identified a need to assist State and local agencies with establishing fusion capabilities. As a result, four conferences were held between August and October 2006, and those in State and urban area fusion center leadership positions were provided training, guidelines, tools, and resources in a regional setting. The regional conferences culminated in a National Fusion Center

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

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

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

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

Grants

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

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

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

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

² www.niem.gov

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

Safeguarding Privacy and Civil Liberties

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

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

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

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

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

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

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

Security

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

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

Technology

DOJ is implementing its Law Enforcement Information Sharing Plan (LEISP)³ and as evidence of the inter-agency cooperation, my office has worked closely with DHS Immigration and Customs Enforcement (ICE) to implement a similar and complementary strategy within DHS. We are implementing the strategy of the President⁴ and the guidance passed by Congress in 2007⁵.

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

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

³ <http://www.usdoj.gov/jmd/ocio/ppp.htm>

⁴ <http://www.whitehouse.gov/nsc/infosharing/index.html>

⁵ HR-1 Implementing Recommendations of the 9/11 Commission Act of 2007

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

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

Staffing

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

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

Conclusion

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

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

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

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