

“FOCUS ON FUSION CENTERS: A PROGRESS REPORT”

STATEMENT OF

**RUSSELL M. PORTER
DIRECTOR, STATE OF IOWA INTELLIGENCE FUSION CENTER,
IOWA DEPARTMENT OF PUBLIC SAFETY
AND
GENERAL CHAIRMAN,
LAW ENFORCEMENT INTELLIGENCE UNIT (LEIU)**

BEFORE THE

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

**COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENT AFFAIRS
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**Statement of
Russell M. Porter**

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

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

“Focus on Fusion Centers: A Progress Report”

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

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

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

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

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

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

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

A PROGRESS REPORT ON FUSION CENTERS

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

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

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

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

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

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

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

PROGRESS IN STRENGTHENING
PRIVACY AND CIVIL LIBERTIES PROTECTIONS

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

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

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

¹ Geller, William A. and Norval Morris. 1992. “Relations Between Federal and Local Police.” In Michael Tonry and Norval Morris (Eds.), *Modern Policing: Crime and Justice – A Review of Research, Volume 15*. Chicago, IL: The University of Chicago Press, pp. 231-348. Campbell, Kurt M. and Michèle A. Flournoy (Principal Authors). 2001. *To Prevail: An American Strategy for the Campaign Against Terrorism*. Washington, DC: The CSIS Press, at p. 77.

² American Friends Service Committee. 1979. *The Police Threat to Political Liberty*. Philadelphia, PA: American Friends Service Committee. Donner, Frank J. 1991. *Protectors of Privilege*. Berkeley, CA: University of California Press.

Historical Perspective

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

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

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

³ International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 56, citing Lumbard. 1963. "Local and State Action Against Organized Crime." *Annals of the American Association of Political and Social Scientists* 347: 82, 87.

⁴ International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 56.

⁵ International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 57, citing Ploscowe, Morris. 1963. "New Approaches to the Control of Organized Crime," *Annals of the American Academy of Political and Social Scientists* 347: 74, 79.

⁶ International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 58.

⁷ International Association of Chiefs of Police. 1976. *History of Police Intelligence Operations, 1880-1975*. Gaithersburg, MD: IACP, p. 59.

⁸ A more thorough account of the history of LEIU can be found at Donald O. Schultz and Lorán A. Norton. 1968. *Police Operational Intelligence*. Springfield, IL: Charles C. Thomas, Publisher, pp. 23-25; and Wayne Bishop. 1971 (September). "Intelligence systems: LEIU – An Early System." *Police Chief*, p. 30. LEIU continues to exist today and provides leadership and promotes professionalism in the criminal intelligence community.

of Justice⁹ urged every major city police department to have an intelligence unit to focus on gathering and processing information on organized crime. The Commission also recommended that the U.S. Justice Department encourage the development of efficient systems for intelligence gathering and dissemination by offering financial assistance.¹⁰

- In 1968 the National Advisory Commission on Civil Disorders¹¹ recommended that police agencies establish an intelligence system to help prevent civil disorders and to institute effective control measures in the event a riot erupts.
- In 1968 the creation of the Law Enforcement Assistance Administration (LEAA) allowed the U.S. Department of Justice to carry out some of these recommendations. LEAA recognized that a major problem in dealing with crime was a lack of intelligence data.¹² Numerous intelligence systems received technical and financial support from LEAA during this time period.¹³
- In 1973 the National Advisory Committee on Criminal Justice Standards and Goals¹⁴, in Standard 9.11, recommended that every police agency and every state immediately establish and maintain the capability to gather and evaluate information and to disseminate intelligence in a manner which protects every individual's right to privacy while it curtails crime and disorder. It further

⁹ President's Commission on Law Enforcement and Administration of Justice. 1967. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office.

¹⁰ President's Commission on Law Enforcement and the Administration of Justice, 1967, *Task Force Report: Organized Crime*, p. 22.

¹¹ Report on the National Advisory Commission on Civil Disorders. 1968. Washington, D.C.: Government Printing Office.

¹² Remarks by Richard Velde, Administrator of LEAA, 115 *Congressional Record* 4706-4708 (daily ed., May 9, 1969).

¹³ Among the projects that received support were the New York State Identification and Intelligence System (NYSIIS) (see Robert J. Gallati, 1971, "The NYSIIS Story," *1971 IACP Police Yearbook*, pp. 158-162); the New England Organized Crime Intelligence System (NEOCIS) (see Law Enforcement Assistance Administration, 1972, *Evaluation of the New England Organized Crime Intelligence System*, Washington, DC: U.S. Government Printing Office); and the Law Enforcement Intelligence Unit's computerized Interstate Organized Crime Index (IOCI) (see Frank A. Zunno, 1971 (September), "LEIU, An Early System," *Police Chief*).

¹⁴ National Advisory Committee on Criminal Justice Standards and Goals. 1973. Washington, DC: U.S. Government Printing Office.

recommended that:

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

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

The Contemporary Approach

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

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

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

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

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

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

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

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

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

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

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

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

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