



**TESTIMONY OF
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**ON BEHALF OF
MAJOR CITIES CHIEFS ASSOCIATION
MAJOR COUNTY SHERIFFS ASSOCIATION
AND
LAS VEGAS METROPOLITAN POLICE DEPARTMENT**

**BEFORE THE
COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON INTELLIGENCE, INFORMATION SHARING, AND
TERRORISM RISK ASSESSMENT**

UNITED STATES HOUSE OF REPRESENTATIVES

“Homeland Security Intelligence: Its Relevance and Limitations”

MARCH 18, 2009

Chairwoman Harman, Ranking Member McCaul, and distinguished Members of the Subcommittee: Today I speak for both the Major Cities Chiefs of Police, representing the 56 largest cities in the Nation, as well as the Major County Sheriffs, representing the top 100 counties. We protect the majority of the American people and have authority in every major urban area. To exemplify the coordination between Chiefs and Sheriffs, I serve as both Chair of the Homeland Security Committee for Major Cities, and I am Vice President of the Major County Sheriffs.

I am the Sheriff of the largest law enforcement agency in the State of Nevada: the Las Vegas Metropolitan Police Department. Because Las Vegas is home to many of the world’s largest hotels, and a major center of international tourism and entertainment, my jurisdiction is continuously mentioned by our enemy as a potential target.

I will begin my remarks by quoting from a report prepared by the Committee, LEAP: A Law Enforcement Assistance and Partnership Strategy. This document challenged Federal agencies to leverage the vast resources of our Nation’s “first preventers” in the Global War on Terrorism – State, Local and Tribal law enforcement. As the authors correctly concluded in 2006, “Unfortunately, five years after 9/11, critical failures of imagination continue to leave these ‘first preventers’ as a largely untapped resource in the war on terror.”¹ Speaking for Chiefs and Sheriffs across the Nation, I can report today that while progress has been realized in the more recent years, we have not reached the goals established by the Committee.

¹ LEAP-Law Enforcement Assistance and Partnership Strategy: Improving Information Sharing Between the Intelligence Community and State, Local and Tribal Law Enforcement. (2006) Prepared by the Democratic Staff of the Committee on Homeland Security, U.S. House of Representatives. (p.1)

This should not be construed as an indictment on the Department of Homeland Security (DHS), the Federal Bureau of Investigation (FBI), or any other agency included in the Intelligence Community. Indeed, the progress made by the Intelligence Community with regard to information sharing has been laudable. DHS has led the charge by incorporating State, Local and Tribal law enforcement into the national effort to protect our homeland. The Department's success in organizing and funding a robust network of 70 Fusion Centers in three short years is nothing short of remarkable. The FBI has achieved dramatic improvement in sharing information by enhancing the Joint Terrorism Task Force (JTTF) program, and by sponsoring security clearances for senior police officials so that they can receive the information from their employees assigned to these JTTF's. The achievements notwithstanding, there is still significant room for improvement as State, Local and Tribal law enforcement strives to be full partners with the Federal government in the fight to keep America safe.

We are committed to Intelligence-Led Policing.

The Major Cities Chiefs Association endorses, and the Las Vegas Metropolitan Police Department employs, the Intelligence-Led Policing philosophy. The analysis of crime data, coupled with the execution of innovative policing tactics, is the cornerstone of our efforts to successfully fight crime. But before analysis can be effectively accomplished, information and crime data must be collected. The same is true in our efforts to combat terrorism in our homeland. Before analysts from our Fusion Centers and Intelligence Community can synthesize and analyze data, the data must be collected from the source. The 800,000 State, Local and Tribal law enforcement officers are better positioned than the Federal government to collect this information at the State, Local and Tribal level.

Suspicious Activity Reporting (SAR) is long overdue.

Las Vegas has joined with Los Angeles and other agencies across the Nation to establish a process for recording, screening and reporting suspicious activity. We are pleased that the Federal Government came to the Major Cities Chiefs to establish the SAR effort, and today the Committee is hearing from Commander Joan McNamara who pioneered SAR for the LAPD and the Major Cities Chiefs. Las Vegas is a partner with LAPD in SAR and we are moving forward with sensitivity to privacy concerns and appropriate safeguards. Las Vegas will be adopting the privacy and civil liberties policies that have been developed by the DOJ in collaboration with the American Civil Liberties Union, to ensure maximum accountability, transparency, protection of civil liberties.

We must apply All-Crimes policy to Fusion Centers.

To establish robust information and intelligence sharing capabilities in the Las Vegas area, I established the Southern Nevada Counter Terrorism Center (SNCTC) as an all-crimes and all-hazards fusion center. The SNCTC's core mission is to provide tactical and strategic analytic support to regional stakeholders. The tactical analysis section provides timely and actionable information to command staff and field personnel. The strategic analysis section complements tactical operations by developing analytical products. Gang, counter terrorism, narcotics, and criminal analysts produce a variety of issue-specific products on issues facing our region.

The SNCTC has established strong relationships with local industry, the public health community, and emergency management agencies. Awareness training is provided to major employers on how to identify and report suspicious behavior.

Co-located with the analysts, the SNCTC houses a 24/7 watch capability, investigators that handle tips, leads and suspicious activity reports, critical infrastructure protection group, and the All Hazards Regional Multi Agency Operations and Response (ARMOR) Detail. The team consists of local, county, state and federal experts in chemical, biological, radiological, nuclear, and explosive (CBRNE) response, detection, and identification.

At the SNCTC, we have developed a privacy policy that is founded on 28 CFR part 23, and with the guidance provided by the DOJ *Privacy Policy Development Guide*, LEIU *Intelligence File Guidelines*, and the Global Justice Information Sharing Initiative (Global). We are open with our Privacy policies, and welcome the review and input from our local civil liberties community.

The Las Vegas ricin case as a case study.

The discovery of ricin in a Las Vegas area hotel last year was a timely demonstration of why local agencies must be able to prepare for, prevent and respond before any federal agency publishes a report. An individual was suffering from respiratory distress, and because of evidence at the scene, it was suspected that he had been exposed to ricin. It would later be determined that he had in fact manufactured ricin from castor beans.

Throughout the incident and the subsequent investigation, the SNCTC provided officers on scene with critical information on ricin, background on potential suspects, as well as intelligence on known potential terrorist threats involving ricin. SNCTC provided situational awareness to the hotel and casino industry and area hotels, alerting them on what to do if anyone else displayed signs of ricin poisoning.

The Committee should mandate all the provisions of LEAP.

For the Chiefs and Sheriffs, we wish to formally commend the Committee for your report, *Law Enforcement Assistance and Partnerships (LEAP)*. We endorse all seven of the initiatives articulated in the report published by the House Committee on Homeland Security and we urge Congress to provide appropriations to carry out those critical law enforcement programs. Until your report is fully adopted, our intelligence efforts will have limited success.

All too often, the information we have received from Federal agencies is less timely and less helpful than what is available from CNN. For years, we have waited for a system to provide timely threat intelligence, especially classified reports that contain information that might help law enforcement to protect particular targets and sectors. While progress has been made, much more needs to be done. On behalf of the Chiefs and Sheriffs, I offer these recommendations:

ITACG is a critical element in the national framework.

We are grateful to Chairwoman Jane Harman and those who supported her efforts to establish this ITACG. A key recommendation in the LEAP report is the Vertical Intelligence Terrorism Analysis Link (VITAL). The core mission of VITAL is to improve the information sharing between the Intelligence Community and the front line “first preventers.” We cannot, and should not, rely on the Federal government to find and implement the solutions unilaterally – State, Local and Tribal governments need to help carry this effort forward. All we ask is the opportunity to be full partners in these efforts.

But ITACG has been slow to realize its full potential and carry out the intent of this Committee. For example, ITACG is not allowed to share intelligence with the local agencies that it is intended to serve. Rather, ITACG is limited to editing intelligence and returning those products to originating agencies where the information may or may not reach state and local law enforcement agencies. The NCTC must work with DHS and the FBI work to adopt a process that ensures this vital information will get to the front lines. I believe that the creation of the ITACG is a giant step in solving this problem. I believe in the ITACG program so strongly, that I have assigned a Detective Sergeant to the National Counterterrorism Center in Washington, DC for a one year tour. This was not an easy decision, as staffing levels in Las Vegas are at a critical level, and we are working hard in these difficult economic times to increase our staffing.

Better intelligence products are needed and direct connectivity with major agencies.

We commend Director Mike Leiter and the staff at NCTC for a new report termed “Roll Call,” a new unclassified report for law enforcement agencies. Other excellent classified NCTC resources are available to some fusion centers but not accessible by operating intelligence units. NCTC has pledged to work with major agencies to allow access through DHS and the FBI.

Major Cities Chiefs’ Intelligence Commanders Group plays a vital role.

As Chairman of the Homeland Security Committee, it has been my pleasure to form an unprecedented alliance of the Nation’s most valuable intelligence resources – local police and sheriffs’ intelligence enterprise across the Nation. We ask for your support to build an integrated national intelligence capability to counter terrorism and protect our communities from crime. The purpose of the Intelligence Commanders Group is to strengthen and coordinate the intelligence capabilities and operations of law enforcement agencies in major metropolitan areas. To date this vital network of intelligence resources has been ignored and not funded by Federal agencies and we ask the Committee to support this effort so that your objectives may be realized.

NCTC must establish a stronger working relationship with law enforcement agencies.

I have been to NCTC and visited with the excellent staff who stand ready to support law enforcement. But there has been no NCTC training and this invaluable resource is not accessible by most local law enforcement agencies. We ask that NCTC expand and empower its outreach components to include training access and use of intelligence systems and databases. Liaison personnel and desk officers are needed to maintain a flow of current intelligence to state and local agencies.

Foreign Liaison is Essential.

I would like to discuss one of the programs recommended in the LEAP document: the Foreign Liaison Officers Against Terrorism (FLOAT) program. There is exceptional value in this program and it warrants further dialogue and close consideration. The Major Cities Chiefs Association recognizes the legal authority of the FBI to engage in the investigation of crimes against U.S. citizens abroad. But the needs of State, Local and Tribal law enforcement are different than those of the FBI. We have little need to participate in the investigation and ultimate prosecution of acts of terrorism occurring in foreign lands. But, we have a tremendous need to quickly learn about acts of terrorism, so that we can translate those lessons to better prepare our street-level first responders for similar attacks. As my good friend and colleague, Chief Bill Bratton, said, “The aim is not to sever or supplant information from Homeland Security and the Department of Justice, but to have a multiplicity of channels of information that will allow chiefs of police to make decisions...”²

The July 7 London subway attacks and the Madrid train bombing best illustrate the fact that the enemy may already be within our borders, and State, Local and Tribal law enforcement stand ready to help in the fight against these terrorists. More recently, when terrorists attacked the City of Mumbai on November 26, 2007, cities across America watched as armed gunman created chaos and carnage in a metropolitan city of 15 million. Every Major City Police Chief in America asked him or herself: “Could this happen in my city?” and “How would we react to a similar attack?” Thankfully, the Indian government was extraordinarily forthcoming with details, and U.S. news media was providing near-constant coverage, so information was easily and quickly obtained. Had this not been the case, State, Local and Tribal law enforcement (exactly those agencies tasked with responding to the attacks) would not be able to prepare for them.

We understand that the information will ultimately be provided by the Federal government. That is not the issue. The problems lie in the timeliness of distribution, and the relevance of the content. Would an FBI agent or DHS analyst know what questions a street cop or hotel security chief in Las Vegas would ask?

We urge the distinguished members of this sub-committee to objectively consider the advantage that State, Local and Tribal law enforcement would realize - as well as our private sector partners – by quickly collecting and reporting the facts surrounding an overseas terror attack. The decisions made by public safety executives and their private sector counterparts in response to terror attacks overseas can cost taxpayers and private industry millions of dollars. The Federal government should not interfere with, indeed they should facilitate, the efforts to collect and transmit the most current and most accurate information on which these leaders will base these decisions.

² Robert Block, “Miffed at Washington, Police Develop Own Terror Plans,” Wall Street Journal (Oct. 10, 2005) at B1, available at <https://online.wsj.com/article/SB112889637083663974.html?>

Violent crime and drug trafficking remain our top priority.

I would like to address the threat of violent crime and our borders – particularly our southern border – and how intelligence can be applied to address violent crime. While Nevada does not have a common border with Mexico, we have seen the well publicized violence spread to our community. In October of last year, a three-year old boy was violently kidnapped from his home in Las Vegas. It was quickly determined by our investigators that he had been taken and was being held hostage by members of a Mexican drug cartel for a drug debt owed by his grandfather.

What we found during the investigation was that if properly applied, the information gathering capability of the Fusion Centers could be a true investigative asset. What we also found was that local law enforcement could work with the FBI, DEA, and other federal agencies without degenerating into “turf battles” over jurisdiction. This case has a happy ending, the young boy was recovered unharmed in Las Vegas – abandoned on a suburban street by his abductors when media and public attention became too great of a risk for the kidnappers.

We know that hostage taking for revenge, ransom and profit is widespread in South and Central America, and we can reasonably assume that this crime trend may spread north into the United States as the conditions in Mexico continue to deteriorate. As a crime that directly affects State, Local and Tribal law enforcement, yet with a clear Federal nexus, we recommend that discussions begin in earnest to consider the options available to Federal, State, Local and Tribal law enforcement.

Sustainment funding is needed for Fusion Centers.

In the LEAP document, it was recommended that State and Local Fusion Centers receive funding for the operational costs, as well as the costs associated with contracting and training intelligence analysts. It is in this area that we have seen the greatest improvement. DHS has performed admirably in ensuring that funding was available to train incumbent analysts, as well as allocate monies so that agencies without sufficient analytical capability could contract specially-trained personnel. Thanks to the efforts of Chairwoman Harman and distinguished members of this sub-committee, DHS was moved to eliminate all time restrictions related to the funding of analytical personnel assigned to Fusion Centers. As the Committee has recommended, Congress should establish a dedicated grant program for this purpose, the Fusion and Law Enforcement Education and Training (FLEET). We further propose an advisory panel for DHS to identify how to further strengthen UASI and LETPP funding for intelligence and fusion centers.

Private security personnel are critical.

Included in the VITAL program was a recommendation to “develop clear policies and procedures for converting highly classified intelligence into an unclassified or ‘less classified’ law enforcement sensitive format that can be shared rapidly with state, local and tribal law enforcement.”³ Yet, there is an entire population of “First Preventers”

³ LEAP, supra note 1, (p. 21)

employed in the private sector, who still are unable to receive intelligence documents identified as “law enforcement sensitive” (LES) or “For Official Use Only” (FOUO). In Las Vegas, our highly-skilled, highly-trained cadre of security professionals more than doubles the number of sworn police officers employed by the Las Vegas Metropolitan Police Department, and is larger than all but the very largest police agencies in this country. Furthermore, they are the best positioned to detect suspicious activity, identify the behavior consistent with pre-operational activities, and report or interdict the activity. Yet, because of LES or FOUO handling restrictions, we cannot provide private security with these documents that would allow them to be better informed. Before State, Local and Tribal law enforcement can effectively team with our private sector partners, we need to consider the necessity of including LES and FOUO handling requirements. The default should be “unclassified” unless there is a compelling need to include handling restrictions, due to attestable criminal case sensitivity, or National Security reasons.

Security clearances remain a problem.

DHS has been very accommodating for sponsorship of security clearances and the FBI has likewise sponsored clearances for police officials that have membership in the JTTF, and those in the responsible chain of command. Constant promotions, retirements, and transfers of assignment in State, Local and Tribal law enforcement can make it very difficult for the FBI to keep up.

While the Major Cities Chiefs and Major County Sheriffs applaud the FBI and DHS for their willingness to provide clearances, there has been little progress in accomplishing a process for reciprocal acceptance of those clearances to access systems and conduct briefings. Refusal by one Federal agency to routinely accept the clearances issued by another is a disruptive policy that contradicts information sharing and threatens our progress toward realizing the goals of this committee. Chiefs and Sheriffs ask for your help to resolve this issue once and for all.

DHS must restore the Law Enforcement Terrorism Prevention Program (LETPP).

Contrary to the intent of Congress, OMB, and DHS eliminated the Law Enforcement Terrorism Prevention Program (LETPP) - the only program dedicated to prevention of a terrorist attack. Although funded, LETPP is merely a quota and no longer a separate program with goals and a required plan. If there is truly a commitment on the part of the federal government to the prevention of terrorism on U.S. soil, the appropriation should be maintained at its original level of \$500 million. I am submitting for the record a letter we previously sent to the Committee and we ask that you call on the Administration to correct this condition.

We need consistency in the Urban Areas Security Initiative (UASI).

Repeated changes to the UASI program have caused unnecessary conflict and confusion, a “roller coaster ride” for agencies like my own. It is impossible to plan intelligence programs from year to year when we cannot rely on consistent funding to support those efforts. Passing funds for urban areas through governors has caused waste and delay. Annual revisions to the list of eligible urban areas preclude effective planning and coordination where it is most needed—in the urban areas most likely to be attacked.

Congress should provide more clarity, stability and consistency to the UASI program. The approved list of high threat urban areas should be finalized and unchanging.

Fellowships are key to strong partnerships.

Major Cities Chiefs and Major County Sheriffs are grateful to DHS I&A and NCTC for the recent assignment of local law enforcement officers who serve tours in Washington, D.C. It has been my privilege and my pleasure to assign personnel from Las Vegas to serve at DHS in the National Operations Center, our new assignment to ITAGC and I look forward to the future assignment of our personnel to the DHS I&A Directorate.

DHS I&A should establish an advisory panel of Major Cities Chiefs.

To receive guidance and assistance from local law enforcement, we urge DHS I&A to establish an Advisory Panel from the major cities and counties. This sounding board would help to guide the new products and services to be provided by DHS, including threat advisories and other intelligence products. The Under Secretary for Intelligence and Analysis would receive support and technical assistance across a wide range of issues, including fusion centers, infrastructure protection and threat assessments.

Madame Chairwoman and Ranking Member McCaul, those of us on the front lines look to you for your leadership and support of our mission. Local law enforcement is charged with the solemn duty to discover, disrupt and stop plots hatched within the U.S. Please know that my colleagues and I are committed to a purpose shared by this Committee – the prevention of another attack and the interdiction of those who would bring us harm. We need your continued help to be successful, and I look forward to working with the distinguished members of this sub-committee in the future.

Thank you.