

Statement of Chief Richard Beary President of the International Association of Chiefs of Police

Subcommittee on Counterterrorism and Intelligence
Committee on Homeland Security
United States of House of Representatives

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Good Afternoon Chairman King and Members of the Subcommittee:

I am pleased to be here today on behalf of the International Association of Chiefs of Police.

The IACP is the world's largest association of law enforcement leaders, with more than 22,000 members in 98 different countries. For over 120 years, the IACP has been launching internationally acclaimed programs, speaking out on behalf of law enforcement, conducting ground-breaking research, and providing exemplary programs and services to the law enforcement profession around the globe.

IACP's Past Efforts

The IACP has a long history of commitment to information sharing. In 2002, the IACP convened the *"National Summit of Criminal Intelligence Sharing"*.

The findings of this summit provided the groundwork for the adoption of the National Criminal Intelligence Sharing Plan and led to the creation of the Criminal Intelligence Coordinating Council. The Criminal Intelligence Coordinating Council (CICC), established in May 2004, is made up of members representing law enforcement and homeland security agencies from all levels of government and is an advocate for state, local, and tribal law enforcement and their efforts to develop and share criminal intelligence for the purpose of promoting public safety and securing the nation. The CICC operates at the policy level—setting priorities, directing research, and preparing advisory recommendations.

In 2007, the IACP held a follow up summit entitled *"Criminal Intelligence Sharing: Measuring Success and Setting Goals for the Future"*. This summit reviewed the work that had been accomplished following the 2002 summit and identified remaining gaps and weaknesses in our national criminal information and intelligence sharing framework.

Since the time, the IACP has worked closely with a wide array of federal, state, local and tribal agencies on a number efforts to promote greater cooperation and collaboration.

Importance of Information Sharing

The 9/11 terrorist attacks taught us that information exchange between local, state, tribal, and federal law enforcement and homeland security partners is absolutely critical to ensuring the safety and security of our Nation and the communities we serve. As the 9/11 commission properly noted, the lack of effective information and intelligence sharing among federal, state, tribal, and local law enforcement agencies was a major handicap in our nation's homeland security efforts.

However, due to the hard work of our Nation's law enforcement professionals, advances in technology, and increased partnership and trust between federal, state and local authorities our ability to share information has improved tremendously in the thirteen years that have passed since 9/11., As a result, our capacity to identify, investigate, prevent and respond to these events has enhanced significantly.

Collaboration, information and intelligence sharing among federal, state, tribal, and local law enforcement agencies needs to continue. Although we have made great strides, our work is not done.

For this reason, the IACP continues to work closely with its federal, state, and local partners to make the processes for communicating and sharing information as easy and efficient as possible. Through a range of efforts, from clarifying how and to whom one should report suspicious activity to and implementing technological enhancements for information sharing systems, these initiatives aim to improve the ability of all levels of law enforcement to combat the increasingly diverse threats facing the United States.

These efforts include the work of the Unified Messaging Task Force; the National SAR Initiative; the ISE Shared Space; N-Dex; E-Guardian; the National Network of Fusion Centers and, "If you see something, say something,"

All of these efforts are designed to enhance law enforcement's ability to quickly and effectively share information among and between essential federal, state, and local law enforcement partners. While there are still areas that individuals within the law enforcement community can improve, there has been substantial movement in the right direction.

Business Executives for National Security Report

I have had the opportunity to review the report of the Business Executives for National Security (BENS) and I am pleased to say that, in general, the recommendations contained within the report are consistent with the work and recommendations of the IACP over the last 14 years. In particular, I am very pleased that the report recognizes the essential and critical role that must be played by state, local and tribal law enforcement officers in building and sustaining an effective, nationwide criminal information and intelligence sharing system.

The IACP strongly agrees with the reports recommendation that ownership and management of the integrated fusion centers should continue to be managed by state and local stakeholders, with the federal entities supporting and collaborating with their state and local counterparts through their counterterrorism and other domestic security efforts.

However, while the report appropriately recognizes the need for a robust information sharing capability in major urban centers, we cannot, and must not, overlook the importance of fully engaging agencies in non-urban areas. Experience has repeatedly shown that while attacks may take place in densely populated areas, planning and preparation for these crimes often occur in small or rural communities. Failure to ensure that these agencies are actively engaged in our national information and intelligence sharing efforts would greatly undermine our efforts.

Going Dark

Of course, before law enforcement is able to share information and intelligence, it must first have the capability to obtain it. Unfortunately, those of us who are charged with protecting the public aren't always able to access the evidence we need to prosecute crime and prevent terrorism *even though we have the lawful authority to do so*. We have the legal authority to intercept and access communications and information pursuant to appropriate legal processes, *but we lack the technological ability to do so*.

The law hasn't kept pace with technology, and this disconnect has created a significant public safety problem, which is what we mean when we refer to **"Going Dark."**

In response to this critical issue, earlier this month the IACP held a "Going Dark" Summit to explore the technological, operational, and policy changes needed order to address these issues, while respecting the privacy interest, civil rights, and civil liberties of the public.

It is important to note that law enforcement is *not* seeking broad new surveillance capabilities above and beyond what is currently authorized by the U.S. Constitution or by lawful court orders, nor are we attempting to access or monitor the digital communications of all citizens. Rather, we are simply seeking the ability to lawfully access information that has been duly authorized by a court in the limited circumstances prescribed in specific court orders—information of potentially significant consequence for investigations of serious crimes and terrorism.

There are technological issues, such as the encryption capabilities that are being built in new digital devices, by such companies as Apple and Google, but there are also legal and policy issues, such as the Communications Assistance for Law Enforcement Act (CALEA), which needs to be changed to incorporate new communications technologies.

Critical investigations increasingly rely on digital evidence lawfully captured from smart phones, tablets, and other communications devices. Our inability to access this data,

either because we cannot break the encryption algorithm resident in the device, or because the device does not fall under CALEA or the developer has not built the access route, means that lives may well be at risk or lost, and that guilty parties remain free.

We recognize the public's demand for privacy, and we respect the legal and Constitutional provisions that are designed to ensure civil rights and civil liberties of our citizens, but we must act to address these issues for our own safety and security.

In conclusion, Terrorism prevention and protection of the American people can be achieved only when law enforcement works together, communicates effectively and consistently, and looks for solutions. We are committed to meeting this challenge and continue to work each day to ensure that we fulfill our mission of protecting the public.