



STATEMENT FOR THE RECORD

Mike Sena

President, National Fusion Center Association  
Director, Northern California Regional Intelligence Center

United States House of Representatives  
Committee on Homeland Security  
Subcommittee on Counterterrorism and Intelligence  
“Addressing Remaining Gaps in Federal, State, and Local Information Sharing”

February 26, 2015

---

Mr. Chairman, thank you for inviting me to testify on this important topic. My name is Mike Sena and I am testifying today in my capacity as President of the National Fusion Center Association (NFCA). I am currently the director of the Northern California Regional Intelligence Center (NCRIC), one of the 78 fusion centers in the National Network of Fusion Centers (National Network). Fusion centers bring together law enforcement, public safety, fire service, emergency response, public health, protection of critical infrastructure and key resources (CIKR), and private sector security personnel to understand local implications of national intelligence, as well as add state and local information and context to federal intelligence, thus enabling local, state, and federal officials to better protect our communities.

Up front, I will say emphatically that our public safety, law enforcement, and intelligence communities have made dramatic progress over the past decade in analyzing and sharing information related to threats to the homeland. Information sharing on these threats - both criminal and terrorist in nature - has become routine. Relationships have been developed and sustained across state and agency lines that are helping investigators solve crimes and prevent further crimes. Technology has given us better tools to support the process of analyzing and sharing threat information, and enhancing situational awareness during critical incidents.

An essential part of the improvement is the Federal support provided to fusion centers. That Federal support includes assignment of intelligence officers and analysts, technical assistance, training and exercises, linkage to key information systems, grant funding, and security clearances. These tools add critical value to the resources committed by state and local governments to make the National Network a foundation of homeland security information sharing. Over the past several years, the state and local share of budget resources allocated to fusion centers has grown substantially - state and local governments provided over half of all funding for fusion centers in FY 2014.

Federal funding support through FEMA Preparedness Grants - SHSGP and UASI - remains critically important. The NFCA has joined other law enforcement associations on a letter to Congress urging that the Law Enforcement Terrorism Prevention Activities (LETP) requirement in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) be strengthened. The law requires that 25% of SHSGP and UASI funding be used for “law enforcement terrorism prevention activities” and specifies some of those types of activities including support for fusion centers. While states have latitude to allocate funding according to risk and priorities, we agree with the intent of the 2007 law and believe that terrorism prevention activities should be constant priorities, especially as grant funds have declined over the past five years. The Government Accountability Office (GAO) found in its November 2014 report on information sharing and fusion centers that in 2012 states inaccurately categorized about \$60 million in projects as “related to fusion centers” when in fact those funds did not support fusion centers. As we have suggested in our letter to Congress, requiring a governor-designated state law enforcement executive to review the LETP portion of grant plans would help to ensure those funds truly support terrorism prevention activities.

Thanks to fusion centers we are sharing *more* information *more effectively* than ever before. This is happening despite the fact that no single entity has the authority to enforce effective information sharing practices. Because of the decentralized nature of public safety in America, policies on sharing information cannot be dictated by any one organization. Common policies and practices have been developed by consensus through multilateral and interagency policy bodies - including the Global Justice Information Sharing Initiative (Global) and the Criminal Intelligence Coordinating Council (CICC) and must be continually reinforced through day to day engagements between Federal,

state, and local partners. As you might imagine, this is extraordinarily difficult to achieve in practice, but we have made excellent progress and are continuing to build on that progress.

Even as we pat ourselves on the back, we must recognize that we are not where we need to be - or where our citizens expect us to be. That is not because of a lack of will. I have not encountered anyone at the Federal, state, or local levels who does not share the same goal of protecting our communities. Rather, it is mainly due to policy and turf challenges that require persistent effort to overcome. To that end, as president of the National Fusion Center Association I am in discussions every day with my fusion center colleagues, our federal partners, our counterparts in other public safety disciplines, and with private sector stakeholders to develop stronger processes and build stronger relationships. With the active support of this committee and the rest of Congress and our state legislatures, we must continue our commitment to a true nationwide information sharing enterprise with the National Network of Fusion Centers as a centerpiece and build on the success we have achieved to date.

In July of 2013, this committee released a report titled “Majority Staff Report on the National Network of Fusion Centers.” It reflected the painstaking work of several committee staff who visited more than 30 fusion centers across the country and met with dozens of federal, state, and local fusion center partners. This level of investigative effort and analytical rigor contrasts with a 2012 report from the Permanent Subcommittee on Investigations under the Senate Homeland Security and Governmental Affairs Committee that was highly critical of fusion centers. Among the key findings of this committee’s 2013 report was an acknowledgement that “the National Network is a National asset that needs to realize its full potential to help secure the Homeland.” The report also recognized the direct impact of fusion center information sharing on terrorism investigations by noting that according to information provided by the FBI and DOJ, between December 2008 and December 2012, “176 SARs [suspicious activity reports] entered by fusion centers into the eGuardian or Shared Spaces SAR databases [...] resulted in the FBI opening new terrorism investigations.” “Additionally, 289 Terrorist Watchlist encounters reported by fusion centers enhanced existing FBI cases.” The level of productivity mentioned in the report has increased since it was published. In the one-year period between August 2013 and July 2014, 238 SARs submitted by fusion centers supported FBI investigations. When I hear people question the value of fusion centers to federal counterterrorism efforts, I point them directly to these statistics. The value of the National Network is crystal clear.

From the NFCA’s perspective, the most important recommendation in this committee’s 2013 report was calling for the development of a National Strategy for the National Network of Fusion Centers. I am pleased to report that we took your recommendation to heart, formed a working group comprised of law enforcement and public safety groups, emergency management, and the National Governors Association,

and dedicated hundreds of hours to developing that strategy. The resulting work - the National Strategy for the National Network of Fusion Centers 2014-2017 - was published in July of 2014. The strategy can be found at our website: [www.nfcausa.org](http://www.nfcausa.org).

The NFCA took the lead role in organizing the strategy development effort. We led a team that included representatives from the International Association of Chiefs of Police (IACP), the National Sheriffs Association (NSA), the Major Cities Chiefs Police Association (MCCA), the Major County Sheriffs Association (MCSA), the Association of State Criminal Investigative Agencies (ASCIA), the National Governors Association (NGA), the fire service, the Regional Information Sharing Systems (RISS), the High Intensity Drug Trafficking Areas (HIDTA) Investigative Support Centers, and David Paulison, former administrator of FEMA. Throughout the process, we consulted with our Federal partners at Department of Homeland Security (DHS), the Department of Justice (DOJ), the Federal Bureau of Investigation (FBI), the Office of the Program Manager for the Information Sharing Environment (PM-ISE), the Office of the Director of National Intelligence (ODNI), and other field-based information sharing partners. We worked with all of these partners through the Criminal Intelligence Coordinating Council (CICC).

The NFCA led the strategy development effort and a dedicated team skillfully coordinated the tedious effort to solicit and organize stakeholder inputs, drafting, and feedback. During the months we spent working on this effort, our development team could sense progress being made in identifying barriers that need to be overcome and creating new consensus around information sharing and analytical collaboration. The resulting strategy objectives and priority initiatives are now driving efforts to improve analysis and sharing, including in areas related to recommendations made by this committee's 2013 report. It is an ambitious strategy - we specified 37 initiatives that advance each of the four goals - yet we are optimistic that progress will become evident soon.

The strategy development process was just the beginning. While several strategy initiatives are already well underway, we are in process of developing an implementation plan that will prioritize our actions through 2017 to achieve objectives under the strategy.

In addition, this committee's 2013 report called for a Federal strategy to support the National Network of Fusion Centers. Late last year we worked with DHS Intelligence & Analysis, the FBI, and other members of the Information Sharing and Access Interagency Policy Committee (ISA-IPC - the federal interagency forum that oversees the planning and implementation of the Information Sharing Environment) to support their development of an "Engagement Strategy" which is fully complementary with our strategy. Working together with our Federal partners, we identified a dozen initiatives that will be joint priorities over the next several years. For the first time, there

is a clear Federal strategy that directly supports the state and locally driven National Network.

Central to that support our ongoing engagement with the DHS Office of Intelligence and Analysis. The National Network continually relies on our partners at I&A. The support provided by I&A personnel assigned to fusion centers is critically important. I&A Undersecretary General Frank Taylor and his staff have invested considerable time and effort in determining the best path forward for I&A's deployment of personnel in the field. They have regularly interacted with the NFCA and sought our input along with that of our state and local partners. Unfortunately, the Intelligence Authorization Act of 2014 constrained I&A's choices through limiting language in the classified annex to the bill - a move that was made by the Intelligence Committees without consulting any fusion center directors or other state and local stakeholders impacted by the decision.

The impact of the new I&A field deployment plan won't be known until the changes are in place, but there is concern across the National Network about what it will mean for fusion center connectivity to certain classified systems and information that is essential to sharing threat intelligence with state and local law enforcement and other public safety partners. One of the primary objectives in the fusion center strategy (and in the BENS report) is enhancing analytical collaboration in the field. Limiting I&A presence in fusion centers threatens to inhibit that collaboration.

Every fusion center should have an I&A intelligence professional with the authority to collect and share raw information to include release authority, execute joint production, and effectively share information across all classification levels. Decisions regarding the appropriate type of intelligence professional for each fusion center should be the result of discussions between those state and regional fusion centers and I&A.

A common misconception that is often repeated in news stories and in advocacy papers is that fusion centers are "DHS fusion centers". This is simply not true: DHS does not exercise operational control of any fusion center. State and local governments own and operate fusion centers, and we collaborate closely with DHS, the Department of Justice, and other federal agencies to facilitate wider analysis and sharing of threat information.

Each governor designates a primary fusion center in each state. Together with other recognized fusion centers, these centers comprise the National Network of Fusion Centers. The national network is a decentralized, distributed network of analysts, public safety partners, and in a growing number of cases CIKR and private sector partners. Most centers have representation from DHS and in some cases the FBI and other Federal investigative agencies. This organizational structure allows for each center to be directed according to the priorities of its agency sponsor, while maintaining a direct upward and

downward link to national counterterrorism intelligence. This is squarely in line with what the 9/11 Commission called for in its report.

Since fusion centers are owned and operated by state and local entities, there is wide variation among the centers in terms of budget and capabilities. Fusion center priorities in Tennessee are different from priorities in New York State and from our center in the San Francisco Bay area. The interests are different because their populations are different, and the fact that they are free to address the issues they feel need addressing is a strength of the national network of fusion centers.

The first of two common threads through all the centers – and the key Federal interest – is a link to Federal partners and to each other through information sharing mechanisms. The Critical Operational Capabilities (COCs) that are maintained (and measured through an annual assessment process facilitated by DHS) in each center ensure the centers are ready and able to support homeland security missions regardless of their local priorities.

Of central importance is the access each center has to local, regional, and state sources of information - public safety records, criminal intelligence databases, and personal relationships across communities - that allow the center to add local and regional context to national intelligence, as well as provide information and value-added intelligence to support counterterrorism and other criminal investigations that would otherwise be difficult or unlikely for lead Federal investigative agencies to obtain. Also critically important from the national perspective is that each fusion center has methods of distribution across local, regional, and statewide technical and personal networks that Federal investigative and intelligence agencies could not possibly build or maintain.

Thus, the dual value proposition of the National Network of Fusion Centers is that no other organizational structure can provide faster or more efficient access to state and local information that may support national counterterrorism investigations, or enable faster or more efficient situational awareness across relevant jurisdictions. Refining the processes that allow this to happen is an ongoing priority and is at the heart of the strategy we are executing today.

The second of the two common threads through all centers is a focus on vigilantly protecting against infringements of citizens' privacy, civil liberties, and civil rights. Fusion centers are part of a much larger domestic security enterprise whose mission is the protection of the American people - including our ability to exercise Constitutional rights and be free from unwarranted government intrusions in our lives. Privacy protections are not an afterthought for the NFCA, the National Network, or our Federal, state, and local partners. In fact, the first order of business last year during the development process of our national strategy was to address privacy, civil liberties, and civil rights. That is why it is literally Goal Number 1 in the strategy: "Uphold public confidence through the

safeguarding of information and the protection of the person and the privacy, civil rights, and civil liberties of individuals.”

All fusion centers have strong publicly available privacy policies in place, we train our people on them, and we emphasize transparency. Privacy policies have been established across all 50 States and all operational fusion centers at least as comprehensive as the Information Sharing Environment (ISE) Privacy Guidelines. Training has occurred for more than 200,000 local, tribal, state, and federal front line officers to identify and report suspicious activity in accord with the ISE Suspicious Activity Reporting (SAR) Functional Standard, and several thousand analysts have been trained in accord with vetting guidelines to ensure that ISE SARs are demonstrably behavior-based and their handling (retention, redress, and other related considerations) is fully compliant with privacy policies. The very first initiative in our strategy relates to training and education for law enforcement and public safety partners on fusion centers’ role in the protection of privacy, civil rights, and civil liberties. The strategy’s second initiative relates to conducting assessments on the impact of certain technologies on privacy, civil liberties, and civil rights of citizens, and developing policies to mitigate any impact *prior* to procurement. We look to the Technology Policy Framework published by the IACP in January of 2014 to support these efforts.

Measuring the impact of terrorism prevention activities is a continuing challenge across all sectors - including with fusion centers. However, fusion centers in particular have been subject to extensive and rigorous assessments in recent years. The purpose has been to ensure that gaps in critical operational capabilities of individual fusion centers are addressed to ensure they can be fully capable participants in the National Network.

There are quantitative measures like the number of SARs that are analyzed by fusion centers and shared with the FBI if they bear the indicators of terrorism-related activity. Those number in the hundreds. There are also quantitative measures like the number of “requests for information” that are generated and shared across the network of fusion centers. Those are also numerous. There are numbers of cases in which fusion centers provided critical information that enabled federal partners to advance terrorism investigations. All of these measures indicate a high level of information sharing and analysis activity across all levels of government and across jurisdictional lines. In other words, preparedness capability exists today that never existed in such a routine and organized fashion in the past. FEMA preparedness grants have played an essential role in the development and maturation of this capability.

Other measures are tougher to quantify, yet positive outcomes happen virtually every day in fusion centers across the country. There are hundreds of anecdotal fusion center “success stories.” The vast majority of these successes relate to criminal incidents that have nothing to do with terrorism, but have everything to do with “connecting the

dots” through analytical efforts and sharing information to support decision makers and front line investigators to protect communities.

The imperative to better share information vertically and horizontally in support of terrorism prevention and counterterrorism investigations undergirds the recommendations made by Business Executives for National Security (BENS) in its report on domestic security published in 2014. I believe the BENS report contains several very helpful recommendations and I agree with many of them. In particular, establishing a domestic threat framework for assessing and prioritizing threats and information needs; enhancing intelligence analyst capabilities at all levels and establishment of standardized training for intelligence personnel; and improving the flow of information related to counterterrorism investigations to state and local partners in real-time would improve our overall domestic security posture.

Some of the assumptions of the BENS report, however are not fully reflective of the role of state and local law enforcement and public safety - particularly fusion centers - in supporting national counterterrorism efforts. Counterterrorism analysis and information sharing functions are components of the fusion center mission but they are not - and they should be - the sole components. That is because our fusion centers report to governors, state law enforcement executives, county, and municipal public safety leadership. They do not report to the federal government, nor should they. The vast majority of fusion centers are “all-crimes” centers, which reflects the fact that criminal intelligence analysis, data sources, interagency relationships, and information sharing capabilities resident in the centers are useful for all types of investigations - not just terrorism. While the Federal interest in fusion centers relates primarily to their ability to contribute to counterterrorism efforts, the reality is that the fusion process is effective for any public safety effort. Whether the crime is terrorism, child abduction, gang violence, or auto theft, the fusion process maximizes efforts to prevent, deter, or investigate the crime. Institutionalized collaboration through information sharing and co-location is effective no matter the nature of the crime. Our Federal partners benefit from the all-crimes approach because it amounts to “drilling” on real-world scenarios using the fusion center critical operational capabilities every day. When a terrorism threat emerges, fusion center participants and customers “know the drill.”

The BENS report recommends the establishment of regional fusion centers on top of what we have today. I fully understand the intent of that recommendation, but I believe it could have a negative effect on the ability of fusion centers in those areas to accomplish their core missions in support of chiefs, sheriffs, state investigative agencies, state police agencies, and governors. The fact is that fusion centers are already performing the functions that are called for in the BENS report, and with the new National Strategy for the National Network of Fusion Centers being implemented, I am optimistic that the support provided by the National Network to counterterrorism investigative partners will increase.



I am still often asked whether fusion centers duplicate the FBI's JTTFs. This committee should understand that JTTFs are federally run investigative bodies that support the FBI's unique mission to investigate terrorism threats in this country. Fusion centers play a much different role; they're not only information sharing hubs in states and metropolitan regions. Fusion centers are where we train a cadre of terrorism liaison officers (TLOs), including police officers, firefighters, EMS workers, and our private sector partners on indicators and warnings of terrorism. Fusion centers have the ability to catalogue critical infrastructure in each state and region and analyze incoming suspicious activity reports (SARs) against the national threat picture and against what we know about our critical infrastructure. We have the ability to then rapidly share information and intelligence among the entire National Network and with the FBI. But often that SAR information has no nexus to terrorism. It's about drug dealing or gang activity or firearms trafficking or mortgage fraud. So the all-crimes approach mentioned above gives us the ability to analyze that information and funnel it to the right place. And we know that, sometimes, information that at first blush appears to be criminal in nature -- the Torrance, California gas station robberies, the smuggling of cigarettes in North Carolina, the sale of pseudoephedrine in California -- actually is linked to terrorist activity.

It does not make sense to try to separate crime and terror in our daily work of analyzing threat information and criminal activity. We have to knock that wall down. If we're going to continue to improve, we have to understand that the sharing of information makes communities safer. Our ultimate goal is to prevent terrorism. But in every community across the country there are violent crimes that terrorize neighborhoods and families and affect lives and businesses every day. Fusion centers are uniquely situated to do things that JTTFs or no other program can do. We can bring together disparate resources, data sets, analytical perspectives, and personnel in order to analyze and share information on terror, crime, or other threats to public safety. We can make sure that JTTFs get the information they need, but that the DEA and HSI and chiefs and sheriffs and governors get the information they need about non-terrorism public safety threats as well.

Fusion centers are increasingly contributing analytical and information sharing efforts to address threats in the cyber realm against law enforcement, other government agencies, and the private sector. Last year the NFCA created a Cyber Threat Intelligence Subcommittee to organize fusion center engagement in multi-stakeholder efforts to clarify "lanes in the road" for cyber threat analysis and information sharing, and to support efforts across the National Network to build cyber threat analysis and sharing capabilities. As this committee knows, cyber threats come in all sizes and shapes. Individual citizens have their identities stolen and personal credit wiped out, while government agencies and companies face threats to their daily operations. An increasing number of fusion centers have analytical personnel that are trained in cyber threat

analysis. And an increasing number of fusion centers are being asked to support cyber threat information sharing.

One recent example of the role fusion centers are playing in the cyber threat domain was in late November and early December 2014 during the events in Ferguson, Missouri. Cyber threats and attacks directed at public safety agencies had a significant impact during that period. To facilitate situational awareness and share information across agencies about these threats, the NFCA Cyber Intelligence Network (CIN) hosted a virtual situational awareness room (referred to as CINAWARE) on the Homeland Security Information Network (HSIN). More than 350 individuals from fusion centers and other federal, state and local agencies around the country participated in the CINAWARE room between mid-November and early December, with an average of 50 to 90 users in the room at any given time each day. The room was supported 24/7 including overnight support from the Multi-State Information Sharing and Analysis Center (MS-ISAC). During that period, there were more than 250 queries submitted and answered via the room, enabling rapid sharing of information with decision makers. Leaders in state, local, and Federal agencies were being briefed on the information from the CINAWARE room. That level of threat information sharing was impossible only a few years ago, yet it is becoming essential.

Mr. Chairman, on behalf of the National Fusion Center Association, thank you for inviting me to testify today. I commend you for your focus on this topic. It should continue to be a high priority for this committee and for all of Congress - especially in this dynamic threat environment. Please know that my colleagues across the country together with all of our partners at the state, local, and Federal levels are working hard every day to get better and live up to the expectations of our citizens. We look forward to continuing to work closely with the committee to help meet those expectations.