

TESTIMONY
OF
CHAIRMAN NED NORRIS, JR.
TOHONO O'ODHAM NATION
HOUSE COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON INTELLIGENCE INFORMATION SHARING AND TERRORISM RISK
ASSESSMENT
HEARING ON, "THE FUTURE OF FUSION CENTERS: POTENTIAL PROMISES AND DANGERS "
APRIL 1 , 2009

Good morning Chairman Thompson and Members of the Subcommittee. I appreciate the opportunity to appear before this Committee to present the views of the Tohono O'odham Nation and Indian Country I am Ned Norris Jr., Chairman of the Tohono O'odham Nation.

Since 9-11 the need to share information with Federal, Tribal, State and the local governments, is a priority and must not be diminished. Fusion centers are an integral part of the system of information sharing. Fusion centers represent law enforcement, public safety and our first responders, who come together with a common purpose to safeguard our communities and to prevent or intervene in criminal activity, and ultimately to prevent terrorist activity. I support fusion centers but I emphasize that we must ensure that all of our citizens privacy, legal rights, civil liberties, and information privacy are protected. This is particularly critical in Indian country. As you may or may not know Tribal members have a separate set of civil rights as defined in the Indian Civil Rights act (1968 25 USC 1301-03) although similar to the US Constitution bill of rights these rights protect Tribal members within Indian Country. Fusion center architects must be made aware of the ICRA and it application.

Acts of Terrorism Start at the Local level

The first response to any threat or act of terrorism starts at the local level, Indian Country is no exception and in fact Indian Country is more vulnerable because of the current ineffective communication or lack of information sharing between Federal, County, State and local agencies. The Tohono O'odham Nation within our Department of Public Safety identified the need for preparedness and developed an Office of Emergency management to enhance cooperation with our counterparts at the County, State and local level. But a glaring deficiency is the lack of formal criminal information and intelligence sharing between our law enforcement counterparts at the Federal, State and local level. The state of Arizona has a fusion center (ACTIC) that has been recognized as an exceptional program, despite this recognition there has been minimal if any participation with Tribal law enforcement. Without Tribal Police participation the State program cannot not be completely effective. The State of Arizona has made efforts to seek out Tribal law enforcement participation, and we are pleased with their outreach effort, we will work with the State to strengthen their program. Although there remains allot of work to do the State of Arizona recognized that Tribal law enforcement participation will

maximize the availability of resources, and I suggest that the State of Arizona's example be used as a model of cooperation between Tribal Police and State, Local and Federal agencies.

Intelligence Led Policing

Tribal, State, and local law enforcement have recognized that there is a need for increased collaboration for information and intelligence sharing, and are strengthening their capabilities to develop Intelligence Led Policing as a philosophy. This concept links directly into the initiative or reason for Fusion Centers. Much like the Community Oriented Policing programs, intelligence led policing is a reality that must be embraced by all law enforcement agencies. Potential terrorist targets such as public facilities, telecommunications, energy, transportation, and other infrastructures require that law enforcement actively develop partnerships with private security and the management of these establishments. Again Fusion Centers are an ideal information and intelligence sharing program linking Law enforcement, public safety, Fire, health and the private sector to effectively safeguard our communities.

Remove Barriers that hinder information sharing at the Federal level

We found that information sharing at the Federal level is fragmented as a result this hampers our efforts to develop information and intelligence sharing with our Federal partners specifically Department of Homeland Security agencies Custom and Border Protection and Immigration and Customs Enforcement (ICE). This is particularly critical as we have seen a growth of intrusions and violence connected to the drug and human smuggling along our 75 miles, of border. Customs and Border protection estimates that there are between 400-450 crossings along our border and about 10% (40-50) of the illegal crossers are criminal aliens, with criminal histories including rape, drug transporting, assaults and murder. These numbers demands that an effective information sharing system be established with Tohono O'odham Law enforcement.

Remove barriers that impede information sharing with Indian Country

The basic method of information sharing enjoyed by State, Federal, local and some Tribal law enforcement is access to the National Crime Information Center (NCIC). Access to NCIC is controlled by the States, and there are several Tribal law enforcement agencies that are denied access to NCIC, by their respective State, because the State does not recognize Tribal law Enforcement. This creates officer and public safety concerns and more important created a significant gap in the information/intelligence sharing community. In California Tribal Police are not recognized and are denied access to NCIC despite the fact that they receive the same training as their counterparts within the State. In the State of New York, Tribal Police in compliance with the Adam Walsh Act requested from the State a list of sexual offenders released from state prisons, They were denied the information based on the States refusal to recognize their agency as a law enforcement agency, additionally they are not allowed to enter their offenders into the State Sexual offender tracking system. Despite Federal efforts to assist Tribal police in this dilemma there has been little if any progress on resolving the problem. The International Association of Chiefs of Police-Indian Country Law enforcement Section was able to acquire regional seats on the FBI's Criminal Justice Information Services – Advisory Policy Board, a Board that recommends revisions and policy to the FBI Director. Through this route we are hopeful that changes can be made to remedy the restrictions on Tribal Police access to NCIC. Despite this effort it is safe to assume that it will be several years before the problem is adequately addressed therefore I request that this Congressional committee address this issue immediately so this significant gap in our information sharing system can be closed and we can

honestly tell our citizens that we are doing all we can to ensure there is no gap in our information sharing system.

An Example of Indian Country Involvement- Global Advisory Committee

An example of Indian Country participation at the National level is Global (GAC), a Federal Advisory Committee that reports directly to the U.S. Attorney General providing advice on criminal justice information sharing. Global serves as the focal point for justice information systems integration activities and includes representatives from local, Tribal, State, and Federal agencies. Global has in place working groups addressing Infrastructure standards, Intelligence, Privacy and Information Quality and Security. Global developed Fusion Center resources and products that include, but not limited to, (1) Applying security Practices to Justice Infrastructure Sharing, (2) Privacy, Civil Rights and Civil Liberties Policy Templates for Justice Information Systems, (3) Fusion Center Guidelines: Law Enforcement, Public Safety and the Private Sector, (4) Privacy, Civil Liberties and Information Quality Policy Development for the Justice Decision Maker and a (5) Privacy and Policy Development Guide and Implementation Templates: Policy development Checklist.

The current Federal regulations that provides some guidance on protection of civil liberties and privacy is Chapter of the 28 Code of Federal Regulations (CFR) Part 23, which provides guidelines for law enforcement agencies, on the implementation of standards for operating Federally grant-funded multijurisdictional criminal intelligence systems. It specifically provides guidance in five primary areas: (1) submission and entry of criminal intelligence information, (2) security, (3) inquiry, (4) dissemination, and the (5) review-and-purge process. But 28 CFR Part 23 does not provide specific, detailed information on how agencies will implement the operating guidelines, but instead, allows each agency to develop its own policies and procedures. Because of this lack of Standards Global initiated a review and developed recommendations of 28 CFR part 23 to address standards and to specifically include Indian Country Law Enforcement. The uniqueness of Global is there is a representative from Indian Country that contributes to the development of the various products. Global is an example of how an advisory board or committee must be structured to adequately include the three sovereign governments in the United States, Federal, Tribal and the States, to work seamlessly on the critical area of information sharing while protecting the civil and privacy rights of all of our citizens.

Conclusion:

I appreciate the opportunity to share with you the unique perspective of Indian Country Indian Country Law Enforcement, and the essential role Tribal Police must share with Federal, State and local law enforcement in protecting our homeland. The border that the Nation and other Tribal Governments share with Mexico demands that our law enforcement and other public safety personnel, be directly involved in the formation and production of policy and guidelines of Fusion Centers. Its necessary that there be an understanding of the unique governmental structure, laws and cultural strength of Indian Country, to do this we must always have a seat at the table. I urge the continuation of Fusion Centers and strongly recommend that a national standard be established in the operation, training and development of Fusion centers. Thank you again for this opportunity.