

Testimony for Indian Law and Order Commission Public Hearing

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Thank you for the opportunity to testify today on the important topic of Tribal information sharing, law enforcement, and criminal justice in Indian Country. It is a privilege to appear before the Indian Law and Order Commission.

My name is Joe LaPorte, and I am the Senior Tribal Advisor to the Program Manager for the Information Sharing Environment (PM-ISE). I currently serve as the Chair of the Indian Country Section of the International Association of Chiefs of Police. Additionally, I serve on the FBI Criminal Justice Information Services (CJIS) AP Board, and sit on several other state, local and national committees.

I joined the office of the PM-ISE as Senior Tribal Advisor in September, 2010 after spending many years in Tribal law enforcement. My law enforcement career began almost 40 years ago in 1973. I was the Director of Public Safety at the Little Riverband of Ottawa Department of Public Safety in Michigan for 10 years. Prior to joining PM-ISE I was detailed to the National Counter Terrorism Center representing all of Indian Country. In my current role, I represent the concerns and interests of Tribal Law Enforcement as it relates to the Information Sharing Environment. I feel very fortunate that I am able to continue my passion representing Indian Country while continuing to help protect the Nation. At the office of the PM-ISE, I am leading efforts to further integrate Indian Country into our national information sharing architecture, with a focus on the national network of fusion centers and related ISE initiatives.

In the past few years, while working at the ISE, I had the opportunity to attend many conferences and speak at various events regarding the importance of Tribal Law Enforcement

partnering up with state, local and federal agencies within their jurisdictions. My message is simple: Realizing that the criminal will always exploit our weaknesses, we can close those gaps by communicating and collaborating between Tribal Law Enforcement and other state, local and Federal law enforcement organizations. As we are all well aware, our criminal is their criminal and theirs, ours.

In my role at PM-ISE, I have heard about many best practices and success stories where the tribes, local, and federal agencies collaborated in the interest of public safety and were very successful in their missions. These types of missions help ensure the safety and security of our people and property.

The men and women who work to enable the ISE understand and have great interest in the inclusion of Tribal law enforcement as a mission partner. I have enjoyed collaborating with Indian Country from my position; sharing their concerns with PM-ISE; and seeing the positive results as we work to secure the country.

President Obama vowed that this administration would, in partnership with Native Americans, empower Tribal governments. In response, the PM-ISE uses its government-wide authorities to address a wide range of initiatives to improve Tribal government involvement in national information sharing efforts. Indian Country covers an expansive area of the United States. Indian land areas contain nearly 56.2 million acres across 36 states. It has presence at U.S. ports and also spans borders. Tribal governments counter threats to homeland security, alongside their state, local and federal counterparts, every day.

The Federal Bureau of Investigation's National Crime Information Center (NCIC) has been called the lifeline of law enforcement—an electronic clearinghouse of crime data that can be tapped into by virtually every criminal justice agency nationwide, 24 hours a day, 365 days a

year. NCIC has operated under a shared management concept between the FBI and state, local, federal and Tribal criminal justice users since its inception.

In 2010, Congress enacted the Tribal Law and Order Act. Section 233 of that act statutorily ratified FBI's pre-existing policy of allowing Tribal criminal justice agencies access to NCIC and other criminal information sharing databases. Although the applicable law has been amended, policy, technical, and other barriers at the state and tribal levels still need to be overcome.

In 2011, a joint action by the Department of Justice's Office of Tribal Justice, other DOJ components, and the PM-ISE, worked to overcome persistent policy obstacles to ensure Tribal access to the NCIC. This access provides the ability to securely monitor the movement of personnel and vehicles across jurisdictional lines, to include known or suspected terrorists. NCIC assists law enforcement officers in performing their official duties more safely and provides them with information necessary to aid in protecting the public. However, not all Tribal law enforcement entities on the state level have the ability to run arrest warrants or obtain basic criminal justice information.

The National Law Enforcement Telecommunications System (NLETS) is the national Justice and Public Safety Information Sharing Network—a state-of-the-art secure information sharing system for state and local law enforcement agencies. Because tribes are sovereign nations, each tribe interacts with state, local, and federal law enforcement in different ways. Tribes in some states, for example, have comprehensive law enforcement agencies that can access NLETS through the state-owned systems. However, some of the tribes with law enforcement organizations have less sophisticated systems, limiting their ability to access the state system. The sharing of information between state and local law enforcement and Tribal law

enforcement is essential to ensure state, local, and Tribal law enforcement officers approach vehicles with all the information necessary for a safe traffic stop.

Approximately one year ago, the NLETS Program Management Office asked PM-ISE to assist in garnering increased NLETS access for Tribal law enforcement organizations. PM-ISE reached out to Indian Country, explained the benefits of using NLETS, and through a pilot program, helped connect four tribes in separate regions of the United States to the network, whereby also increasing their tribal-level information sharing.

The Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI) is a multifaceted approach designed to increase the effectiveness of state, local, and Tribal law enforcement professionals in identifying, reporting, evaluating, and sharing pre-incident terrorism indicators to prevent acts of terrorism. This national initiative requires an overarching training strategy to facilitate agency implementation of the SAR process and to enhance a nationwide SAR capability that protects Americans' privacy and civil liberties. Some Tribes have used SAR for many years, particularly those that have gaming facilities. PM-ISE has partnered with the NSI Program Management Office (PMO) to provide the training materials that are used to prepare law enforcement officials to recognize suspicious behaviors and report them accordingly. The NSI PMO has sent training material to 172 of the approximately 200 Tribal law enforcement agencies thus far. One of our major partners in this effort was the IACP Indian Country Section.

Additionally, over the past twelve months, the NSI PMO implemented the standards, policies, and processes of the NSI across the national network of fusion centers. As of March 2012, 68 fusion centers have the capability to contribute and share SAR. The NSI, through the national network, now reaches over 14,000 law enforcement agencies in 46 states and the

District of Columbia. Outreach efforts are underway to implement the final participating sites into the NSI process with an expected completion of September, 2012.

The national network of state and major urban area fusion centers blend relevant law enforcement and intelligence information and coordinate security measures to reduce threats in local communities. Due to the proximity with Tribal lands, Tribal law enforcement is a vital participant in the fusion center mission. Fusion centers are expanding the participation of Indian Country.

Through PM-ISE leadership, with various state authorities, Tribal law enforcement personnel are integrated into four fusion centers in Oklahoma, Arizona, Michigan, and Washington. Tribal presence to date has been realized through the liaison programs and an embedded analyst. These programs allow the fusion centers to close any gaps on lands under complete control of Indian Country, generating a robust snapshot of threats across the region.

There continue to be some recognized gaps in Tribal information sharing. Geography and relationships often dictate what to share. That said, I want to assure you that many of the PM-ISE's efforts are focused on addressing and improving some of the foundational policy, governance, relationship, and capacity issues related to Tribal information sharing. While all fusion centers do not allow Tribal representation yet, we continue to make progress.

The Washington State Fusion Center's Fusion Liaison Officer (FLO) program was started in December 2010 with 19 candidates from around the state. They now have 634 FLOs from law enforcement, fire, critical infrastructure/key resources, the military and Indian tribes. The FLO program is continuing to grow and they expect to have over 800 officers by the end of the year.

Indian Country has a significant presence on both the southern and northern borders of the United States. Border security on Indian Country land continues to be a strategic focus in the homeland security community, and while federal and Tribal law enforcement officials on the border have a fairly good relationship, there are still some areas of concern. For example, it is reported that occasionally there might be a radio frequency that is not being shared with tribes that share a border. This causes a delay in info sharing. To improve Indian Country border security, tribes that share a border must increase their communications interoperability by sharing frequencies in order to expedite and improve information sharing.

While the southern borders of the U.S. receive much attention, we must not lose focus on our northern borders. They face many of the same problems as the southern border, including human trafficking, guns, drugs, etc., and these problems are not limited to one reservation, but touch many. Criminals will find the weakest link and will take advantage of our vulnerabilities. These vulnerabilities are highlighted when we struggle to accomplish this very challenging mission without the appropriate levels of manpower, technology or equipment.

Operation Stonegarden grants are very important to border security. They direct critical funding to state, local and Tribal law enforcement operations across the country. They help provide additional flexibility to ensure that our first responders are equipped with the resources they need to confront the complex and dynamic challenges that exist along our borders. The funds are used for additional law enforcement personnel, overtime, travel and other related costs in order to further increase our presence along the borders. Unfortunately, these grants will be discontinued soon, and this is a concern.

The Shadow Wolves are a U. S. Immigration and Customs Enforcement (ICE) tactical patrol unit based on the Native American Tohono O'odham Nation in southern Arizona. They

are another critical element to southern border law enforcement. Shadow Wolf officers are known for their ability to track alien and drug smugglers as they attempt to smuggle their illegal commodities across the border. The unit boasts an esteemed history of tracking passed down from generation to generation. The name "Shadow Wolves" refers to the way the unit hunts, like a wolf pack. When one wolf finds prey, it calls in the rest of the wolf pack. They survive in the desert for up to weeks at a time. It is reported that the Shadow Wolves currently have 20 openings and only enough funding to fill two of those vacancies.

There are major traditional public safety and law enforcement issues in Indian Country. For example over 100 abandoned cars were found on the reservation last year, which will cost the Tohono O'odham Nation an estimated \$2 million to handle. They were also responsible for the autopsies and associated costs for about 125 bodies that were found on the reservation last year. The Tohono O'odham Nation has over 400,000 crossings on average per year, many of which are criminals. Due to the lack of manpower and equipment it makes the job very difficult. The Tohono O'odham Nation on the border currently has only about 91 on staff to cover over 72 miles, which is clearly not enough support.

Due to local or regional considerations, history, or other factors, some states do not allow Tribal law enforcement into their fusion centers, do not fully recognize Tribal law enforcement, and in some cases do not share information. In many areas of the country, Tribal law enforcement is "cross-deputized" with local or state law enforcement to enable effective collaboration and information sharing. This is done in a relatively ad hoc way, without benefit of a national policy template or guidelines, and thus results in the need for one-off solutions as it pertains to integration into the national network.

For example, there are still some gaps in California and New York. California does not allow tribes into fusion centers and does not recognize Tribal law enforcement. We hope to get this taken care of in California. A model or test case is being developed in San Diego with the Sycuan Tribe. The same issue is found in New York, where the state only lets one tribe in, but not the rest. Professional standards are being created in associations such as IACP, which is helping the situation. However, the states do not always recognize Tribal authority. Furthermore, not all the tribes want to share their information because they may not trust the Federal government.

As the Senior Tribal Advisor on Indian Country at the PM-ISE, I am leading a government-wide working group that is developing a case for a new policy on Tribal information sharing. Additionally, the working group is collaborating with the Department of Justice (DOJ) Global Justice Information Sharing Initiative (Global) to develop a related white paper on transforming the public safety business model. This new business model will help fundamentally improve how the justice system collects, shares, and uses information to support critical justice and public safety decision-making.

State and local law enforcement fit together, but historically Tribal law enforcement is seen as different due to lack of recognition by some of its sister agencies at the state and local level. Tribal law enforcement must be integrated into the future law enforcement strategy and should not be seen as an add-on. The Tribal white paper being written is an effort to include Tribal law enforcement in the federal or national policy on information sharing. This white paper is a national effort representing the collaboration between many professional associations and agencies including PM-ISE, BIA, DOI, DOJ, FBI, and IACP. We are attempting to create national standards for the fusion center network, similar to the standards that are used for

industry. If we can allow private industry access to the fusion centers, then we should do what it takes to allow tribes to have access as well. PM-ISE and our mission partners support this concept, and the white paper is just a starting point to help draw more attention to this issue. There is more work to be done.

Public safety has been a top priority for Tribal communities. The federal government's role in Tribal public safety stems from the U.S. Constitution, statutes, court decisions, and the government-to-government relationship between the United States and the 566 federally recognized tribes. Due to a complex evolution of legal principles governing criminal jurisdiction in Indian country, depending on the circumstances of each individual circumstance, a case might be handled by Tribal, federal, state, or some combination of these authorities. Therefore, it is very important that all Tribal law enforcement entities are recognized by state, local, and federal governments as bona-fide police departments.

At PM-ISE, we are engaged and trying to work through the many issues discussed here today. Our vision is to enhance national security through responsible information sharing. At the end of the day, this is all about national security for this country. We need to protect all Americans, including those in Indian Country. Our stakeholders have asked us to do this, and we want to help. In order to move forward, the tribes involved need funding and training, which are the most critical components at this time.

Thank you again for the opportunity to testify today to the members of this Commission. I look forward to your questions.