

HEARING OF THE INTELLIGENCE, INFORMATION SHARING AND TERRORISM RISK ASSESSMENT SUBCOMMITTEE OF THE HOUSE HOMELAND SECURITY COMMITTEE SUBJECT: "BEYOND ISE (INFORMATION SHARING ENVIRONMENT) IMPLEMENTATION: EXPLORING THE WAY FORWARD FOR INFORMATION SHARING" CHAIRED BY: REPRESENTATIVE CHRIS CARNEY (D-PA) WITNESSES: THOMAS E. MCNAMARA, PROGRAM MANAGER, INFORMATION SHARING ENVIRONMENT, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (ODNI); COLONEL JOSEPH R. FUENTES, SUPERINTENDENT, NEW JERSEY STATE POLICE; JEFFREY H. SMITH, STEERING COMMITTEE, MARKLE FOUNDATION LOCATION: 311 CANNON HOUSE OFFICE BUILDING, WASHINGTON, D.C. TIME: 10:00 A.M. EDT DATE: THURSDAY, JULY 30, 2009

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REP. CARNEY: The subcommittee will come to order. The subcommittee is meeting today to receive testimony on the current status of information-sharing and to explore the future outlook for information sharing at today's hearing, entitled "Beyond ISE Implementation: Exploring the Way Forward for Information Sharing." In the early hours of the morning on September 9, 2001, a Maryland state trooper pulled over a red sports car headed north on I- 95 at 90 miles an hour. It was a routine traffic stop. The officer asked the driver for a license and registration, and asked him a few questions. Eventually, a ticket was issued and he sent him on his way. The driver was Ziad Jarrah. Two days later, he was at the controls of the hijacked United Flight 93 when it crashed in Western Pennsylvania. Jarrah was on the CIA watch list but that information was not available to Maryland State Police. If it had been, who knows what might have happened.

Information sharing at the federal, state and local level has come a long way since that night in 2001. This administration's homeland security agenda supports that trend and endorses many promising efforts, including the iTAGG, the nationwide SAR initiatives and fusion centers.

Today, if a police officer were to pull over a suspected terrorist like Jarrah, there's a reasonable chance that the officer would have the necessary real-time information to do something about it. But there's a reasonable chance that he might not.

In June of this year, the program manager for the information sharing environment reported that, quote, "the challenges to appropriate information sharing remain formidable," unquote. Although many hearings in the subcommittee -- we have learned that the greatest challenge is cultural; transitioning the relevant agencies from the old, quote, "need-to-know," unquote, mentality to one that embraces the need to share. And that is no small task, indeed.

The ISE report makes it clear that the old mind-set remains entrenched, citing turf conflicts and agency tunnel vision. These problems are not new. And for the past few years, this subcommittee has focused on identifying and removing the obstacles that hinder information sharing. I believe it is vital for the national security. The next terrorist attack isn't going to be stopped by a bureaucrat in Washington. It will be a cop on the beat familiar with the rhythms of his or her neighborhood and armed with timely actionable information.

In an effort to get that information into the hands of the people who need it most, this subcommittee drafted a bill to reduce the problem of intelligence over-classification -- H.R. 553 -- which is currently being negotiated in the Senate. The bill calls for a framework that would, as the ISE report puts it, minimize the effect of excessive originator controls. In short, it seeks to ramp up the way training for those who classify documents is done

and create incentives for classified intelligence the right way -- only to protect sources and methods, not to protect turf.

It also clarifies the need for portion marking -- separating out paragraphs in a classified document that are unclassified and that can be shared with law enforcement. Some agency officials have already begun to embrace the need to share. Last month, this subcommittee heard encouraging testimony from DHS Acting INA Undersecretary Bart Johnson. He outlined an impressive vision for a new era of state and local cooperation within the Office of Intelligence and Analysis that is consistent with our efforts.

The questions before us today are, how can we further break down the barriers to information sharing? And what can we do to make sure the right people are getting the right information at the right time? To answer those questions, I'd like to welcome someone who was, for a long time, a lone voice in the wilderness: Ambassador Ted McNamara.

Mr. Ambassador, today you are in friendly territory. Thank you for your long service and particularly for responding to the call to work on this issue of vital importance. I hope that in the summary of your testimony, you will talk about the unfinished business you will leave to your successor. You are the foremost expert on this issue; its founding father. But we -- that is, we have discussed, much more needs to be done.

I also welcome and thank Colonel Rick Fuentes and Jeff Smith for joining us this morning. Thank you. Colonel Fuentes understands the need to share. He is a forward-thinking officer who has led the charge to support iTAGGs by lending some of the first manpower to this critical mission.

And Jeff Smith is a trusted friend and advisor. His work as CIA general counsel, expert on FISA and board member at the Markle Foundation make him superbly qualified to testify on this subject. Markle recently released a report about information sharing that is, in fact, required reading. So welcome to the witnesses, and I look forward to hearing a summary of your testimony. I now recognize the ranking member from the subcommittee, the gentleman from Texas, Mr. McCaul, for his opening statement.

REP. MICHAEL MCCAUL (R-TX): I thank the chairman and welcome the witnesses here today -- in particular, Ambassador McNamara for your tremendous service you've given to our nation. Today's hearing will examine, as the chairman said, the current status of the information-sharing environment and the challenges that still exist for information sharing across all levels of government. As we all know, ensuring the critical information is shared with all key stakeholders is absolutely central to the security of our nation.

The National Commission on Terrorist Attacks Upon the United States, also known as the 9/11 Commission, identified 10 lost operational opportunities to prevent the 9/11 attacks, the majority of which were the result of the failure of government agencies to properly share information with one another -- one example pointed out by the chairman in his opening statement.

Additionally, one of the commission's key recommendations was for agencies to have a more unified effort in information sharing. It was under this impetus that the ISE was first established in 2005. And almost eight years have passed since the attacks of 9/11, and the urgency of this key mission seems to have died down. This complacency is worrisome because it prevents the

transformation in the information sharing culture and processes that were so critically needed.

However, the threats facing our nation are still very real. And the need for the ISC framework is still as crucial now as it was after 9/11. much has been accomplished since the ISC was first implemented, including the establishment of a network of state and major urban area fusion centers and the implementation of a nationwide Suspicious Activity Reporting initiative -- SAR.

These initiatives are key elements in how information sharing is extended to state and local partners. Nonetheless, we still face many challenges in achieving the ISC framework as it was envisioned. And we must not forget the urgency of this critical mission. I look forward to hearing the testimony from the witnesses and I yield back.

REP. CARNEY: I thank the gentleman. Other members of the subcommittee are reminded that under committee rules, opening statements may be submitted for the record. And without objection, the gentleman from New Jersey, Mr. Pascrell is authorized to sit for the purpose of questioning witnesses during the hearing today. I'm hearing no objections, so ordered. I believe Mr. Pascrell, at the proper time, will introduce Colonel Fuentes, as well.

I now welcome the witnesses this morning. Ambassador Thomas McNamara has been the program manager for the information sharing environment since March 2006. After over three years of overseeing the ISC, he sits before the subcommittee today to deliver his last testimony in this capacity -- certainly not his last testimony before us, I hope.

Mr. Ambassador was a career diplomat, having held several senior positions in the Department of State and the National Security Council. He retired from government service in 1998 and spent three years as the president and CEO of the Americas Society and the Council of the Americas. However after the attacks of September 11th, 2001, he was asked to return to government service. Mr. Jeffrey Smith forms part of the Markle Foundation Taskforce on National Security and the Information Age Steering Committee. He took a leading role in preparing the report "Nation at Risk: Policymakers Need Better Information to Protect the Country," which was released in March of 2009. He is also currently a partner at Arnold and Porter, LLP. Prior to this, he held government positions, such as general counsel for the CIA and general counsel for the Senate Armed Services Committee.

Without objection, their full statements will be inserted in the record. I now ask Mr. Pascrell to introduce Colonel Fuentes.

REP. BILL PASCRELL (D-NJ): Thank you Mr. Chairman. Mr. Chairman, Chairman Carney, ranking member McCaul, I want to thank you for allowing me to be part of this particular subcommittee. I think it's very critical, this subcommittee.

It's my privilege to be able to able to introduce my fellow New Jersey native, Colonel Rick Fuentes who serves as the superintendent of our state police. He became the 14th superintendent of New Jersey state police in 2003 and is currently one of the highest ranking law enforcement officers in Governor Corzine's administration and I must say he has brought the state police in our state to an entirely new level.

Total respect, integrity of his department -- the finest men and women I know in the state of New Jersey are state troopers. Period. Colonel Fuentes enlisted in the state police in January of 1978, rose through the ranks and prior to being named acting superintendent he was assigned as the chief of the intelligence bureau.

We can learn much from him. Oversaw nine units I believe in the intelligence section. He is the recipient of numerous awards and has been recognized by the U.S. Justice Department, the Drug Enforcement Administration and 1993 was a co-recipient of the New Jersey police trooper of the year award.

Superintendent Fuentes earned a bachelor of science degree from Kean College of New Jersey in 1977, a master of arts in criminal justice from John Jay College of Criminal Justice in New York in 1992 and a doctorate of philosophy in Criminal Justice from City University of New York in 1998.

I want to note that he is here testifying at this hearing in his role as chairman of homeland security committee for the international association of chiefs of police. So he joins two other distinguished -- what a great panel -- of people who know what they're talking about. Isn't that something new? (Laughter.)

Colonel Fuentes has the experience necessary on many levels necessary to speak on this critical subject. I look forward to hearing his testimony. Mr. Chairman, so many times we've heard since 9/11 that one of the major problems confronting all of us -- and we've tried to tackle it in a bipartisan way -- and that is the lack of cooperation and sharing of information between those intelligence committees that are out there doing their job.

I think we have moved the ball a little bit and I know your commitment to this goal. I'm glad you put this particular committee together and I'm honored to have introduced Colonel Fuentes.

REP. CARNEY: Thank you Mr. Pascrell. I now ask Ambassador McNamara to summarize his statement for five minutes.

MR. MCNAMARA: Thank you very much Chairman Carney and ranking member McCaul and members of the subcommittee. I find as I wrap up my career and my term here as program manager, the great pleasure to appear before this subcommittee I want to begin by thanking the subcommittee and the committee for their sustained report in building the information sharing environment over the past three-and-a-half years that I have spent in this job.

I can say correctly that were it not for your support and that of your Senate Colleagues on the homeland security committee in the Senate; the attentiveness and oversight that you showed, the support you've given me and others throughout the country who are trying to build the ISE, we could not have reported the progress that we have reported in our annual report to the Congress.

The ISE is groundbreaking, not just for the information sharing it's effecting, but because it's a catalyst for change. Indeed, it is a radical change in government information management. I'm pleased to report that the information culture of the bureaucracy is changing, but slowly. Having no template to pattern our efforts, we in the program manager's office have invented and designed a foundation by a methodology of rationalizing,

simplifying and harmonizing existing policies and practices and technologies at all levels of government.

That was your legislative mandate to us and we are implementing it. The business processes we have defined -- for example, as the chair mentioned, SAR. The policies we have changed, for example, privacy policies. And the technology platforms we have established such as new architectures and new standards in the federal government's IT arsenal.

These are in fact the new information sharing environment. These are the elements that will make it up. We are already seeing its contribution. It has helped with the FAA's modernization effort, it has helped with a health IT initiative that's underway and it has helped with creation of the maritime and air domain environments.

The ISE is fundamentally changing information management throughout the federal government. This is relevant to you because Congress never envisaged the ISE to be another bureaucracy, but rather a change agent. And, in that respect, it's already a success. You've done your part, as have many others, including my two colleagues who represent our strong partnership with nongovernmental and the state, local, tribal and territorial partners. I'm going to step down as program manager tomorrow. So I appreciate this final opportunity to update the subcommittee on the highlights of the challenge as it remains eight years the horrific events of 9/11.

As I look back, I see that we've made substantial progress. But as I look forward, I see that even more remains to be done. So let me list some of the priorities and also some of the obstacles that we've faced. I'll start with the obstacles.

Accomplishing anything in the federal bureaucracy requires a formidable effort. The complexity of the challenges for the ISE are indeed formidable. This is because culture change is by far the most difficult problem for any bureaucracy -- and the bigger the bureaucracy, the harder the cultural change is. And by "cultural change," I mean the way we do business every day.

What I've encountered are differing agency missions, conflicts over turf, resource shortfalls, bureaucratic inertia and agency tunnel vision. And these remain the major impediments to a functional ISE, not the technology. The technology is there to be used. It's the cultural problems that hold us back.

But we have made, as I said, some accomplishments. And let me list a few of them. First of all, we've been able, with our state and local partners, to ensure that fusion center are in fact up and running. And the priority for the future is to be sure that they are well-staffed, mission oriented and, above all, sustainable. They need access to classified and controlled unclassified information in the same way as federal officials.

They, in turn, must analyze and produce high-quality products to share with localities and other fusion centers and the private sector while at the same time being aware of and observing privacy and civil liberties requirements.

The second priority for the future I think is to adopt a nationwide common security clearance set of standards, and also common identity management and common role-based access. These are essential in the IT world if we are to share information -- somewhat arcane, but nonetheless it must be done and it can be done.

Thirdly, what we need to do is to fully implement the CUI, controlled unclassified information, framework. This is especially critical for the federal government working with the state, local, tribal and territorial authorities because they work primarily in that domain.

Fourth, a priority must be given so that there are more resources for privacy officers in the agencies of the federal government so that they can draft, review and publish their ISE privacy policies. Right now they are woefully understaffed across the federal government. And secondly in this priority, we need to stand up to privacy and civil liberties oversight board which was mandated by the Congress.

Fifth priority area is to reduce over-classification, to replace need-to-know with need-to-share, as you have mentioned, Mr. Chairman; and to take need-to-share and authorize use, those terms, and define them carefully so that they can assist us in moving information in the information-sharing environment. We need also to limit originator controls that needlessly impede discovery and sharing of information.

Sixth priority is to institutionalize a nationwide capability to gather and share SAR information. This is a very practical and achievable objective within the next six months to a year. We're well on the way to achieving that objective, even now.

Seventh priority -- to coordinate agency budgets, reduce funding overlaps and gaps and monitor investments to drive the agencies towards compatible technologies and business processes and to maximize resource use.

In section 1016 of the Intelligence Reform and Terrorism Prevention Act, the IRTPA of 2004, I was asked to recommend a, quote, "a future management structure for the ISE including whether the position of the program manager should continue." I've been in this position since 2006 and so as I depart I'd like to leave some personal observations in response to that request in 1016.

REP. CARNEY: Mr. Ambassador, we will get to those in a moment. We need to move onto the next witness if we don't mind.

MR. MCNAMARA: Okay, fine.

REP. CARNEY: Thank you so much. Colonel Fuentes for five minutes, please.

COL. JOSEPH R. FUENTES: Good morning, Mr. Carney, and ranking member Mr. McCaul. I find myself sitting in the room once again with my distinguished congressional representative from New Jersey and trying to live up to his expectations. Thank you Congressman.

REP. PASCRELL: (Chuckles.)

REP. CARNEY: Very good luck with that (?).

COL. FUENTES: When it comes to information sharing and intelligence, I'm also sort of the thorn here between two roses. These are the experts; my colleagues, Mr. Smith, authoring the Markle report is a much dog-eared and referenced document on many committees that I serve on and is a very preeminent document. As to Ambassador McNamara -- I want to thank him certainly from the

bottom of my heart and on behalf of all the initiatives that are going on in state and local right now. Much of what I'm about to say here relates to a robust information-sharing environment and that's largely an attribute to the ambassador's talent and strong sense of collaboration as program manager of the ISE.

He has effectively and successfully navigated the PMISE to a watershed of national information-sharing initiatives that will continue to have a profound impact on improving our nation's homeland and hometown security -- and make no mistake about it, those two things are connected very strongly.

In many ways, he established within the PMISE office the integrity and reputation of a neutral third party -- certainly not easy to do -- creating and refereeing a mutually beneficial information-sharing environment across the spectrum of intelligence and first responder agencies and I know I join everybody that I work with and on the many committees that I'm on in wishing him well in the future and thanking very much for what he's done.

I'd like to just frame the remainder of my remarks around the issue of fusion centers and their critical link to the effective federal, state, tribal and local information sharing in this country. First off, the success of information sharing will hinge on the adherence the privacy interest and civil liberties.

I have attended numerous information summits and stakeholder meetings sponsored by the ICP, DOJ and DHS and the issues of policy and privacy are always and foremost closely linked to those discussions. Each fusion center is required to submit a privacy policy that's guided by a federal matrix which must be approved by DOJ and DHS.

Since 2007, the Bureau of Justice Assistance has developed privacy policy templates and provided training and technical assistance to the fusion centers and in conjunction with the National Suspicious Activity Report initiative that the ambassador mentioned, there's been numerous training that was provided by the Bureau of Justice Assistance has been a tremendous aid to those of us who must manage fusion centers.

As a matter of fact, the first time that the SAR initiative was used was on Inauguration Day. In January, more than 4,000 police officers were trained and recognized in suspicious behaviors and it was one of the first times that the SAR was used and obviously the success and the safety of that event is testament to the success of that initiative.

Presently there are 72 fusion centers in this country, 50 of which are state-designated fusion centers, 22 are urban area security initiative fusion centers that are either located in the major cities or in densely populated regions. They are at varying levels of maturity, which raises some concerns for purposes of this discussion, but they are guided in their revolution by a set of baseline capabilities that have been put out by the global committee, the Bureau of Justice Assistance, PMISE and DHS.

I'm impressed by this administration's commitment to fusion centers as is evident in both the words and the actions of Secretary Napolitano. Besides DHS and DOJ support for the fusion centers, I'd like to once again highlight the work of BJA who's been a leading partner in providing training and tactical assistance in helping all the fusion centers to achieve baseline capabilities. Fusion centers bring all the relevant partners together to maximize the ability

to prevent and respond to terrorism and criminal acts using an all hazards, all crimes approach. By embracing this concept these entities will be able to effectively and efficiently safeguard our homeland and maximize anti-crime efforts and so often terrorism is found to have linked itself.

Sir, Mr. Carney, you mentioned it with Ziad Jarrah -- he was stopped for a traffic offense, and had we had that information just a very few days before 9/11 there may have been more action that could have been taken. So there is constantly a nexus between terrorism, crime and traffic that we are sort of on the front lines of that -- all the police in this country and aggressive traffic and criminal enforcement to resolve some of the issues of terrorism.

The national strategy for information sharing calls for the fusion centers to be the backbone of information sharing involving state and local governments. The fusion centers help to organize and channel the information flow from the numerous federal partners so that it's usable and actionable to the states and to the locals.

The fusion centers have a very difficult job and that is to harness the 18,000 state, local and tribal law enforcement agencies into an effective collection process so that the eyes and ears and the community of one million police officers in this country can collect the dots of information that arise in the routine course of their duties where those leads are going to generate good investigations.

And then be assured through the fusion center that there will be a place to connect those dots if warranted and produce lead value information so that terrorist plots or criminal plots or conspiracies can be interdicted.

In 2006 our homeland security advisor Dick Canas came before this subcommittee and announced the soon-to-be opening of the regional operations and intelligence center in the state of New Jersey. That center has been open now for three years. It contains the New Jersey Office of Emergency Management, the state EOC, emergency operations center, mobile 911 call center, a watch operation center and an analysis element. If I could just quickly talk about two of those components, sir? REP. CARNEY: In the question phase, please.

COL. FUENTES: Okay.

REP. CARNEY: Mr. Smith, please summarize for five minutes. Thank you. (Laughter.)

JEFFREY H. SMITH: I can probably do this in less than five minutes, Mr. Chairman. Mr. Chairman and Mr. McCaul, it's an honor to appear here this morning --

MR. CARNEY: Your microphone please.

MR. SMITH: I'm so sorry. Mr. Chairman, Mr. McCaul, it's an honor to appear here this morning on behalf of the Markle taskforce and I'm grateful that you put my full statement in the record. I also want to join my colleagues and this committee in thanking Ambassador Ted McNamara -- the nation owes him our thanks for a job well done. However, as the ambassador's report acknowledges, much work remains.

In March of this year the Markle taskforce released a report that found nearly eight years after the September 11th attacks the United States is still at risk. Policymakers from the president to local police chiefs still need better information to defend our homeland. The good news is that new laws have been passed and in our judgment, no further legislation is required at this point.

Unfortunately, however, the sense of urgency has diminished. Congress and the president must provide robust oversight and leadership to help ensure that officials charged with implementing these laws do so vigorously. This hearing this morning is a step in the right direction and again I commend the subcommittee for its leadership.

Our taskforce's report makes concrete recommendations for addressing the cultural, institutional and perceived technological obstacles that are slowing progress on information sharing. Let me use the remainder of my time to discuss three areas where we think future work is needed.

First, strong, sustained leadership from the president and the congressional oversight are needed. Although the program manager, ISE, has made great contributions, the position is widely but incorrectly seen as an adjunct of the intelligence community.

The White House is currently taking action to improve the existing structure, but we think additional strength needs to be added to the position of the information-sharing council and the White House. But the good news is the White House has taken increased ownership of this issue. We take heart from these early actions, but it's critical that the official charge with leading the government-wide coordination of information-sharing policy have adequate horsepower to drive interagency coordination. Otherwise wasteful duplicative efforts by individual agencies working independently are inevitable. Many believe that this official should be appointed by the president and confirmed by the Senate.

This will ensure accountability to Congress and will increase the position's clout providing the necessary horsepower to overcome the bureaucratic resistance and turf wars that stymie progress. Giving the officials some budgetary authority should also be considered.

The second point -- all government information relevant to national security should be discoverable and accessible to authorized users while audited to ensure accountability. Authorized users must have the capacity to discover and locate relevant information -- a capability we call discoverability.

The Director of National Intelligence issued a directive last year, ICD 501 is a step in the right direction but the implementation of this will be critical.

Third, enhanced government wide privacy and civil liberties policies must be developed. The PMISE has taken good first steps but much remains to be done. The guidance in our judgment that has been provided by the PMISE is still too vague. We suggest a series of very specific measures in the privacy field that we think should be taken.

Among those are of course the early creation and populating of the privacy oversight board which sadly has languished. With that, Mr. Chairman, I'll end a little bit early and look forward to your questions.

REP. CARNEY: (Chuckles.) Thank you, Mr. Smith. And I want to thank all of you for your testimony. It's like -- this is only an indication of its importance. So we really want to drill down into the issues you raised. I will remind each member that he or she will have five minutes to question the witnesses per round.

I will now recognize myself for five minutes. Mr. Ambassador, you offered in your testimony to share your personal observations and please that is my question to you. Please share those observations.

MR. MCNAMARA: I can be very brief. There are five points I'd like to make. One, I believe the PM should be a presidential appointee who reports to the White House and the Congress independent of any agency as an honest broker. I think this is critical and it's the one role that we've been able to perform which has in fact loosened up some of those cultural rigidities and enabled us to act in the successful, I believe, manner that we have. The second -- program manager needs to be a senior official with extensive interagency experience and a recognized ability and stature to manage major bureaucratic issues. This is important because in fact the program manager works 90 percent of the time with the interagency. In fact, it is an interagency job -- every aspect of information sharing cross cuts different agencies so that there is no one agency that I go to and expect to get full implementation of these cross cutting issues. They are all multiagency issues.

Thirdly -- we need to strengthen I think the effectiveness so that the program manager in addition to being the program manager should, I believe, be the chair of the White House interagency policy committee on information sharing that reports to the deputy committee. Fourth, I think the PM office should continue until the ISE is fully mature. And although it exists and is functioning, it is not fully mature yet. And also, it should remain until ISE is well anchored in state and local government practice and to do all of this in as brief a period as possible.

Fifth and finally, at full maturity I want to point out that the ISE functions will not end. What will come to an end, I expect, at full maturity, is that the office will go out of existence. But the functions will be institutionalized in agencies throughout the federal government and those agencies will be acting as executive agents carrying out the functions that are now being performed by the PMISE office.

That's, I think, already begun. If you take a look we have turned over to NARA -- that's the archivist of the United States -- the CUI function, that function is being performed primarily by and as an executive agent by NARA.

Suspicious activity reporting -- we expect, as I mentioned -- to bring that to maturity in the next six months to a year and I expect that the Department of Homeland Security and Department of Justice will be able to take on that function. The other functions -- fusion centers, privacy and civil liberties -- remain to be institutionalized. And as they are institutionalized, as I see it, the agencies will act as agents for the federal government working with the state and locals.

Those I think are the answer to what is the future of the program manager's office.

REP. CARNEY: I appreciate those observations -- and one question that kind of popped to mind immediately was -- in your opinion, and based on your experience -- how long for maturity? What sort of time frame are we looking at?

MR. MCNAMARA: I've been asked that several times in recent weeks especially. It's difficult for me to put a specific time frame on it. What I can say is that I believe we have gone just beyond the tipping point recently. That is to say we're not going back to the old way of doing things. That's not an option. The option is to move forward. The tipping point having been reached, there are several paths to go forward. And there's not just one solution. I think we're about roughly halfway towards that maturity level. Since it's taken us three, three-and-a-half years, and we're halfway there, one might imagine another three, three-and-a-half years to do it.

I think it's been mentioned here, and certainly has been mentioned to me -- the train left the station rather slowly. I would say that of that path that we have now accomplished of getting towards full maturity, fully half of that was done in the last year. So we are picking up momentum. We are moving faster and therefore I would hope it would not be a full three, three-and-a-half years before it comes to full maturity.

I welcome the incoming administration, the current administration's immediate and vocal support for this as a priority. I also by the way want to say how much I appreciated the support I got from the former administration throughout my three-and-a-half years as they built with me and with the state and local and private sector people the foundation phase of the ISE.

We've completed the foundation phase; now comes the final push to maturity.

REP. CARNEY: I appreciate that so much. I now recognize the ranking member from the subcommittee, the gentleman from Texas, Mr. McCaul for questions.

REP. MCCAUL: Now, thank you, Chairman. And I would like to ask some questions about the program managers -- some of the current authorities. But before I'd do that I'd like to ask Colonel Fuentes -- the example of a hijacker, 9/11 hijacker was mentioned in the opening statements. He was on a CIA watch list, was pulled over by a state trooper, obviously was not forwarded.

How would that be different in today's scenario under this new program?

COL. FUENTES: Well, there is a database that's routinely checked when you do an NCIC -- a national criminal information center inquiry -- which is pretty routine on a motor vehicle stop. It's called a VIC-TOF (ph); it's a database that has violent criminals, gang members in it, including the terrorist watch list.

So notification would be near instantaneous if that was run. And then there would be guidance that would be provided to the police officer or to the trooper to hold that person possibly for additional inquiry -- perhaps by a member of the terrorism taskforce -- or simply to note a location, a license plate, a name, other occupants that are in the vehicle. But that police officer would now be guided in ways that were probably unimaginable prior to 9/11.

REP. MCCAUL: So you feel very confident that if that type of person was pulled over today they would be detained.

COL. FUENTES: My confidence is building every day, sir.

REP. MCCAUL: The suspicious activity reporting: How is that working?

COL. FUENTES: Well, the suspicious activity reporting is a very good initiative that really looks at what are the routine activities that a police officer does every single day? Responding to a report of somebody taking photographs of planes taking off at an airport could be completely normal reason for doing that, and there may be a nefarious reason for doing that.

That information is captured and when a police officer responds it goes into a records management system and then prior to the initiation of the SAR it would have languished. It would have simply been part of that records management system.

Now with the SAR process, that information is captured in that records management system by the fusion center. And it's compared to other records management systems so that car that might have been sitting for instance taking pictures of a refinery on the side of the New Jersey Turnpike two days later is also comes up in the record, perhaps another record, another county or another municipality of being next to another refinery.

So when you put those two things together, interest in that individual heightens considerably. Maybe they're writing a book, or maybe they have another motive that the police need to take a look at.

And that's the purpose of the SARs; to use the information that's routinely developed over the course of a police officer's shift and then collate and compare that within records management systems to see if there's any behavior that you should be taking a look at.

REP. MCCAUL: Thank you. My time is limited. I don't know if we'll have another round of questions but I do want to talk about the program manager authority. Ambassador and Mr. Smith, if you'd like to weigh in on this -- your authorities are set fourth in section 216 of the Intelligence Reform and Terrorism Prevention Act, yet section 1018 seems to take away a lot of that authority and aggregate a lot of that authority.

I wanted to see if you could comment on that and in the future the program manager having more authority and also how is that going to -- how is this position going to work in conjunction with now the new position of senior director for information-sharing policy within the Executive Office of the President? MR. MCNAMARA: (Off mike.)

REP. CARNEY: Your microphone, please?

MR. MCNAMARA: Sorry.

I'll answer the second question because my answer is that I really don't know how it's going to mesh because the White House is the one who's going to make the decisions and the calls on that and not I. However, the senior director for information sharing and information issues is not entirely new since there was one in the outgoing administration also.

But this one has taken on -- appears to be taking on a higher role and a more pronounced role. But I really don't have the answer to that because no announcements have been made as to what the structure is and I'm not involved in that aspect of it.

Quickly on 1016 and 1018, indeed as you note, the authority on 1016 seems to be quite strong but there is 1018 which says that this shall not interfere with existing authorities by -- and then it lists a whole bunch of agencies and agency heads.

The result is that the program manager is less the manager of the ISE than the negotiator and the conciliator and kind of compromiser to produce the ISE. One area that I think -- as I mentioned in my list of things that needs to be done -- I think the program manager needs to have a much stronger role in the budget process.

Right now, as a result of our cooperative approach with OMB, we do get an insight into the budget process on information-sharing issues and how the budget is being used by several of the agencies to implement information-sharing initiatives.

But it's a partial look at a partial number of agencies. We don't have a regular seat at the table when it comes to budget issues. I think that's something that needs to be done.

REP. MCCAUL: I see my time has run out, but let me just make a final comment. I think and I recommend to the chairman that we look into both these statutory provisions to see if there are changes we can make to strengthen the role of the program manager.

And Ambassador and Mr. Smith I look forward to your recommendations as to how we can achieve that. And with that I yield back.

REP. CARNEY: Okay. I would like to assure the gentleman that we'll have at least one more round of questioning and continue with this. And it's something that we can do from the Oversight and Investigations Management Subcommittee as well.

Okay, I will now recognize other members for questions that they may wish to ask the witnesses. And in accordance with committee rules, I will recognize members who were present at the start of the hearing, based on seniority on the subcommittee, alternating between majority and minority. Those members coming in later will be recognized in the order of their arrival.

I now recognize for five minutes the gentleman from Texas, Mr. Green.

REP. AL GREEN (D-TX): Mr. Chairman, I will yield to Mr. Pascrell and assume a later position

REP. CARNEY: Without objection, so ordered. Mr. Pascrell for five minutes, please.

REP. PASCRELL: I thank the gentleman from Texas, and thank you, Mr. Chairman.

Ambassador McNamara, I want to thank you for your service. You've really moved us down the field to what we want as a truly integrated system in this country.

We still are part of the problem this side of the table and throughout the Congress in that the secretary, your, really, boss over the last three-and-a-half years, can still be brought before 108 different oversight committees in the House of Representatives. We are not moving off that dime and that's why we are stuck. This committee, I know, wants to move forward but, again, it's only one of the committees.

We created the Department of Homeland Security. When we did that, it was done with the idea that we could house all our critical domestic security agencies under one roof. And in that environment we would have the kind of information sharing between these agencies that we feel could have prevented the 9/11 attacks.

Unfortunately, the lack of information sharing, not only between different agencies but within agencies, continues to be one of the biggest problems we face in the Congress.

And, Colonel Fuentes, you know that I'm really proud of what you've cited today because New Jersey is really a role model in terms of state agencies throughout the country to be on the forefront of providing bottom-up intelligence and operations.

You've made that a core of the operation yourself, and Homeland Security Director Richard Cañas. It makes the state of New Jersey's homeland security infrastructure so effective. There are some things, Mr. Chairman, we do well in New Jersey, and there's some things we're trying to improve upon. Colonel Fuentes, can you talk more about how information is shared within the state of New Jersey and how this is an integral part of Governor Corzine's statewide crime plan? And I would appreciate if you could especially hit upon two effective programs -- I think they're effective -- in our state: the New Jersey Data Exchange, New Jersey DEX; and the Suspicious Activity Reporting, the NJ SARs.

And, finally, how do you think we can best apply these practices on the federal level?

COL. FUENTES: Well, we're a small state with a lot of police departments, so we're shoulder to shoulder. Everybody knows everybody. That makes the environment a little bit easier. Although the state is not a large state, there's 479 full-time police departments and 21 county prosecutors offices and 21 county sheriffs offices. That's a lot of information that needs to be collected.

And our fusion center has operated as a juncture box, so to speak, for pulling that information in, but mostly -- the purpose of every fusion center, incidentally, not just ours, is to produce tactical and early warning products on issues that are of imminent concern.

And that is always going to be, first and foremost, terrorism. New Jersey is a 9/11 state. The New Jersey State Police has lost three troopers in the last 30 years in shootouts with domestic terror groups.

And the case that almost never gets mentioned is the 1988 arrest of Yu Kikumura, a member of the Japanese Red Army, on the New Jersey Turnpike; arguable the first attempt at attack on this country by an international terrorist group. And in addition to that, on 9/11 we lost communications to our force in the entire north part of the state.

So the experience of terrorism is not one that is certainly lost on us. And so the idea of putting a fusion center together actually occurred right after 9/11 and then evolved to where we are right now with a great deal of federal help and partnership and a lot of advice by the two gentlemen that are to my left and to my right.

I mentioned homeland and hometown security because if you're aggressive on crime and criminal enforcement, you are going to develop the information that could get you to the terrorist plot.

You mentioned NJ DEx, Congressman. That is in line with the National Data Exchange Program at the federal level, which is pulling together information from the states, you know, to the federal agency.

What we did in New Jersey is -- and we're in the process; this is evolving -- is to have a Google-type search with appropriate security clearance to police agencies, police officers, troopers who can run a name both for deconfliction purposes and to see if anybody else in the state may be working in investigation -- a criminal investigation that would aid their own.

We went up on this program literally months ago and just recently dumped 300,000 investigation reports, complete with narratives, into that database and now two counties in New Jersey have done the same, and we're looking to build that through 21 counties.

So that program is a very, very robust program and is one that I think is going to produce a lot of results in terms of reducing crime in the state of New Jersey.

You mentioned the SAR program. The SAR program -- and the ambassador can certainly tell you a great -- you know, more about that program -- has been used in a number of other cities, I think perhaps as many as 40 or 50 up to this point. New Jersey is just beginning to come online with that program.

One of the places we're taking a look at employing that is actually Atlantic City. And in the aftermath of both Mumbai and the Jakarta attacks, we're very sensitive to the fact that we have 14 casinos in Atlantic City, and making sure that there is the proper communication between those casinos in that information of suspicious activity, and each one comes into the fusion center and then is compared to the others to see if we can produce lead-value information.

So we're excited about both the programs that you mentioned, and they're evolving and I think are going to hold great promise for the future.

REP. PASCARELL: Thank you, Colonel. Thank you, Mr. Green. And thank you, Mr. Chairman, for your courtesies.

REP. CARNEY: Of course. The chair now recognizes, for five minutes, my good friend from Pennsylvania, Mr. Dent.

REP. CHARLIE DENT (R-PA): Thank you, Mr. Chairman. And for the record, I want it to be known I do love New Jersey. My mother-in-law is from Phillipsburg.

MR. : (Off mike, laughter.)

REP. DENT: Thank you. When New Jersey does things well we consider New Jersey part of greater Pennsylvania. I just want you to know that. (Laughter.)

Seriously -- I had to get that off my chest. Mr. McNamara, what do you see as the next steps for this whole information sharing environment, this ISC, and what do you think the Obama administration plans are for ISE?

MR. MCNAMARA: Well, once again, on the second question I would like to leave that to the Obama administration officials who have just come in, who are now getting themselves settled, warming the chairs and taking action. I'll leave it to them to talk about that.

I listed my priority areas that I think need to be looked at. Interestingly enough, in my conversations with the incoming administration, they seem to have roughly the same priorities as I just listed.

I think it's important that we look at this -- and let me very briefly refer back to Congressman Pascrell's remarks about the problems with cross-cutting issues, as I refer to them. I think both the executive branch and the Congress need to restructure the manner and the way they handle cross-cutting issues.

You have -- in the administration, agencies get the authority. Agencies get the funding. When someone like me comes along or the individuals who run -- who is supposed to run and is running the cyber security program or a whole range of other cross-cutting interagency issues, we are appealing to agencies to do what is in the common good, but the agency has its own missions, its own perspectives.

And each agency -- I'm dealing with 17 of them every day of the year for the last three-and-a-half years -- 17 different agencies who have agency missions that they have to accomplish, their budgets are limited, and for them to move their budgets the way I want them to move it is not easily done. Cross-cutting issues, it seems to me, have got to be dealt with by the executive in a different way.

I think also the committee system in the Congress leads to agency focus, an agency attention. It doesn't address cross-cutting issues in the way that it needs to be done.

Now, I don't know exactly how one would restructure the cross-cutting issues that the executive branch has to deal with. Nor would I suggest -- I'm not expert enough to suggest how the Congress should adjust its structures, but it seems to me that in this 21st century, these cross-cutting issues are becoming more and more numerous.

And I cite as an example of that, and a demonstration of the truth of that, look at all the so-called czars that keep popping up downtown.

REP. DENT: Right

MR. MCNAMARA: They're not really czars; they're like me. I've been referred to as the information-sharing czar. Believe me, I'm not a czar. I'm almost a petitioner at times because the agencies are the czars, just as committees are the czars up here. REP. DENT: Can I just --

MR. MCNAMARA: Yeah, go ahead.

REP. DENT: -- follow up on that line of thought? What kind of incentives, or in some cases penalties, are in place, you know, for organizations or individuals, to encourage or reprimand actions, you know, to bring about greater sharing of security-related information?

MR. MCNAMARA: Well, the --

REP. DENT: If there aren't any incentives or penalties, you know, should there be?

MR. MCNAMARA: There are some but they're relatively weak incentives, as compared with the incentives to fulfill the agencies' main mission, which may not be information sharing, although information sharing underlies much and many of the agency missions.

What I think needs to be done is that a shift in the manner in which resources are allocated needs to be done. If you're going to have a cross-cutting issue such as information sharing, such as cyber security, such as -- well, you name it, they're out there; there are dozens of them, drugs, et cetera.

Then the way the resources are allocated have to take into account, starting with the legislation, in my opinion, and going on through the administrative allocations in the executive branch, have to take into account cross-cutting issues. Otherwise, the non-cross-cutting issues will get priority.

REP. DENT: I see my time has expired and I yield back.

REP. CARNEY: Thank you. The chair now recognizes the gentleman from Texas for five minutes, Mr. Green.

REP. GREEN: Thank you, Mr. Chairman. And I thank the witnesses for appearing.

I would like to, because he is retiring again, thank Ambassador McNamara for your services, sir. You may not and you probably would not want to be referred to as a kingpin, but you clearly are a lynchpin in this process, and you've become sort of the glue that has bonded a lot of our intelligence services together, and I thank you very much for your service to your country.

My suspicion is that this is not the last time we will see you. My suspicion is you have a lot of productive years ahead and we will find you back in government services at some point. Although I don't want to speak for you, that's just my suspicion. Now, let me speak, if I may quickly, to Mr. Smith. Mr. Smith, I have information on you but very little on the foundation. Can you tell us, just briefly, a little bit about the foundation?

MR. SMITH: Of course. The Markle Foundation is headquartered in New York. It's chaired by Zoe Baird. It's a foundation that's been in existence since the mid-'30s. Among its other achievements are we've done a lot of funding for Children's Television Workshop. In fact, Big Bird is one of their creations.

And the Taskforce on National Security in the Information Age emerged after 9/11 when Ms. Baird and Jim Barksdale of Netscape got together and decided that something needed to be done and the task force was created. Most of us have volunteered our time. We've issued now four reports over the years, and frankly are pleased at the reaction that our reports have gotten.

REP. GREEN: Thank you.

To the ambassador and to you, Mr. Smith, the Privacy and Civil Liberties Oversight Board -- the first question is, has that board come into being in the sense that we now have it staffed and we have appointees to it? Ambassador, I'll start with you.

MR. MCNAMARA: The board came into existence. It did have members and a staff, but for reasons not completely clear to me sort of became inactive within six months to a year of its standing up. And I believe now there are no members actively engaged, and the board is moribund.

REP. GREEN: Can you briefly tell us what the function of the board was, or should be?

MR. MCNAMARA: Yes. It was, briefly, to be an independent reviewer of policies relating to privacy and civil liberties throughout the government. And it was to act as a -- I've referred to it several times as kind of the "Good Housekeeping Seal" on privacy and civil liberties policies as practiced by the federal government.

REP. GREEN: Do you see worth in this board?

MR. MCNAMARA: I see enormous worth in that board. One of the problems that I've had in dealing with privacy and civil liberties issues is when I've put forward policies and issued them, it would have been easier and I think more credible if I could have submitted those policies to this board and had them comment on it, we could have made changes, adjustments, et cetera, and then have them endorse, in effect; tell us that, okay, that's fine; go ahead and issue it.

REP. GREEN: I'm running short of time. I apologize. Mr. Smith, do you have comments that you'd like to make about the Privacy and Oversight Board?

MR. SMITH: Yes, Mr. Green. I think it's critical that the board -- that the president promptly name people and that the Senate confirm them. The problem is that in the last administration, some of the people that had been named got tangled up in confirmation issues on the Senate side.

I think it's critical that this board be named and that it be very active. So I encourage this committee to keep the heat up.

REP. GREEN: Thank you. I have many other things, but I want to go to you, Colonel, to be fair to everybody, make sure everybody has a chance to say something.

You had two observations that you wanted to make. Did you have an opportunity to make the observations?

COL. FUENTES: Basically everybody has a copy of those opening remarks, which really just describe some of the function of the two most important components in the fusion center, and I would -- you know, I certainly don't have to take up the time here.

REP. GREEN: Well, this is your opportunity to reply personally and concisely.

COL. FUENTES: I've already sort of inferred to what the analysis element does. That's really where the fusion takes place in the fusion center. That's a very collaborative environment involving a lot of federal partners: DHS, FBI, Coast Guard, DEA, ICE. There is no shoulder-patchers and there's no egos in that group.

Every morning they get together. At 10:00 a.m. they have a huddle. They talk about what everybody knows from their respective agencies. They figure out what the priorities should be for the day, and especially if any information that's being generated in that meeting should be disseminated very, very quickly out to the law enforcement partners, the fire departments, whoever are in the state of New Jersey.

Most of the initiatives that I mentioned that Congressman Pascrell brought up -- New Jersey SAR; NJ DEX; NJ Trace, which looks at weapons that are recovered in crime; the gang work analysis that gets done up there, plus products that may relate to international or domestic terrorism investigations -- Mumbai.

One case in point, without being asked, the fusion center, in a couple of days, put together a product: What does the Mumbai attacks mean to the state of New Jersey and the infrastructure that's in the state of New Jersey? And certainly instructions to tactical teams, police teams who may have to respond to these events. And as you certainly all know from Mumbai, there was a secondary ambush that was set up on those responding teams. And every single one of these events there is a lesson to be learned, and the fact that we're sitting in little ol' New Jersey and not in some other place of the world that experiences this more, the lessons of what goes on around the world are very, very important to us, and that is really the essence, I think, of information sharing and the best thing that we can get out of it.

REP. GREEN: Thank you, Mr. Chairman. I yield back.

REP. CARNEY: Thank you. The chair now recognizes the gentleman from Indiana, Mr. Souder, for five minutes.

REP. MARK SOUDER (R-IN): Thank you. Part of the reason I'm on this committee is I was working to coordinate narcotics efforts before 9/11 and this -- homeland security has become a lot like narcotics in stove-piping and laying another -- (inaudible).

A friend of mine sent me a joke about Congress. Perhaps seeing a scrap yard in the middle of the desert we hire a watchman. Then we decide the watchman needs training and so we hire people to train him.

And then he needs to be paid so we hire people to pay him. And then we need people to write the reports on all that. And then we need to have a supervision over that and how it's going to interrelate. And then we decide to cut the budget and run off the watchman but the bureaucracy is there.

And sometimes in homeland security and narcotics, it seems to me we keep layering. And part of the goal here is how to enforce it. And there are some fundamental things in here, some that we've touched on.

We've tried in Congress, in the drug czar, to give him ability to decertify the budget, but no drug czar had the courage to do it because they have to get along with each agency afterwards. He doesn't have as much line because it's a staff, like a czar, which has tried red-flagging. That would be one way to give each kind of czar person the ability to put some kind of red flag that they're not meeting the criteria, which would be less than complaining about the budget.

We've tried oversight in the Government Reform and Oversight grade cards, but that's hard to do if you don't have inside people leaking information to you, and then they tend to get destroyed in whistle-blowing, even with protection, because you want to move up and not do that.

But clearly we have to find a way to do this, because it's true of education, it's true of national parks, it's true in every category of government, this cross-cutting of different agencies. But it's really severe here because Homeland Security has a big share of narcotics and immigration, which is really -- and traditional customs, which is really the bulk of what they do.

The number-one priority is prevention, which is a whole lot riskier and harder than trying to catch criminals because you are dealing with more gossip - - basically high-level gossip, trying to speculate and put pieces together that haven't occurred yet.

The New York harbor is probably the best, where New Jersey and Connecticut and New York pull together and basically have the terrorism and narcotics working together there, but now we're going to lay these fusion centers over.

And the fundamental question I want to -- because I'm wondering how they're interrelating with OCIDEF (ph) and HIDTA, all of which have two-thirds overlapping missions. When we come here and say, let's change the need-to-know to share, and we move into terrorism -- and we've already been having these problems for financial reasons.

In other words, agencies know if they don't claim the credit in a narcotics bust they may not get funded by whoever is funding them. You have ego questions. But when we get into terrorism, it's even harder because here we're getting -- the more you proliferate, the more you potentially risk and burn your source, who may in fact get killed, much like being in narcotics on the Mexican border.

For example, it may expose -- even just describing somebody, when you put out a notice, it may suggest to -- if it leaks out, what phone you have tapped, what information you have. And, plus, a lot of it is gossip. It's kind of a like a background check on people when we had that stuff leak.

And I would like to have each of you briefly describe how you ever think we can move from practical need-to-know ensuring, particularly with something as risky as terrorism.

COL. FUENTES: Yes, sir. As far as OCIDEF, the terrorism task force, the HIDTA groups, that relationship is very good in the state of New Jersey. I have personnel that are assigned, in large numbers, actually, to all of those entities. And their representatives in the fusion center basically hook into the databases that are proprietary to them. You said something about information and the sharing of information. When there is terrorism information -- incidentally, that should be the first filter that every single bit of information should go through first, whether it appears to be criminal or not.

My first concern is always going to be when information comes in, what does it mean to the state of New Jersey and how do I have to redeploy my personnel to somehow counter that threat?

I'll be honest with you; I don't need to know techniques, I don't need to know tactics, I don't need to know methodologies, how you got that information and where it might have come from. I just sort of need to know the bottom line, not what's below the tear line, for lack of a better term. That may be the accepted term. You know, I want the information quick and we want to be able to push it out quick.

I think recognizing that in a number of fusion centers, and especially in the discussions that have occurred, whether it's in the global committee or IICP committees, the PMISE, is that there is a sensitivity to that.

You know, classification of information has been a concern of fusion centers and how you can get your hands on things that you need. And we're not quite there yet, and I think Ambassador McNamara, you know, referred to that, but I think we've come a long way.

That information gets to us pretty quickly, and I know that it's juggled, you know, elsewhere, and thankfully I don't have to deal with that.

MR. MCNAMARA: If I could just say a word or two on that.

One, the information that is most generally used and shared is not information that reflects on or leads to dangers for methods and sources. That is a very small percentage of the information that gets moved through the information-sharing system.

In fact, it's a very small percentage of the information that generally is used by law enforcement, by the intelligence community and by the federal government at large.

So it is a problem, but it's been my observation, and that of experts much more knowledgeable than I, that in an information-sharing environment, with technology geared to provide that protection, we are much better off than we are today without having an information environment and its accompanying technology functioning for us.

I think the best example of that is the case of Hanssen, who functioned as a spy, getting access to information for 15, I believe -- over 15 years before he was caught. In an information-sharing environment, I think most experts would agree that Hanssen wouldn't have lasted more than a couple of

years because the system would have, through various algorithms and methods used to track the information by Hanssen and his access to that information, it would have registered within the system and been sent to somebody, saying this is out of the ordinary; check it out.

So I'm not one who thinks that information-sharing environments mean more information is loosely moved. I think it's more accurate to describe an information environment, the ones we're trying to build and are building, as more information is more tightly controlled so that it gets to the individuals who need it to get their job done.

And technology offers tremendous advantages for moving information. And since we can't go back to the pre-1990 way of handling information, we really do have to move into the 21st century of information management, as I refer to it.

The best example of that is your credit card. It's an information-sharing environment, works worldwide. You only get the information you need to work within the credit card system. The bank gets what it needs. The store where you use the credit card gets what it needs. But they don't get information that doesn't apply to their jobs.

And there's double and triple checking by the system to make sure that the information is not misused, and if somebody starts misusing it, the system - - the computers tell the humans that there is an anomaly here that needs to be checked. That's what I see is the information -- something parallel. It's not exactly like that but it's something parallel to that that we need to build into federal government information management.

It goes beyond information sharing. It goes to information security. It goes to privacy and civil liberties rules. It's a very broad -- it's a complex set of new methodologies for managing information.

REP. CARNEY: The chair now recognizes, for five minutes, the gentlelady from New York, Ms. Clarke.

REP. YVETTE CLARK (D-NY): I want to thank both you, Mr. Chair, and Ranking Member McCaul for holding this very important hearing, which explores the current status of and future outlook for information sharing, the information-sharing environment. I want to thank you, the witness panel, for appearing this morning.

This issue is of particular importance to me because effective information sharing is a critical component of cyber intelligence and cyber security, as has been indicated and asserted by Ambassador McNamara in responding to Mr. Dent's question. As the chairwoman of the subcommittee to this committee on cyber security, the findings -- it's important to highlight the findings of both the ISE annual report and the Markle Foundation's report, which only buttresses the results of the president's 60-day cyber review report, which lists information sharing as a key component.

The administration has stated that effective information sharing and access throughout the government is top priority and established the new position of the senior director for information sharing policy within the Executive Office of the President to review current status of information sharing and make recommendations to the president.

Certainly, the new senior director will work closely with the new White House cyber coordinator.

So my question is to both Mr. Smith and Ambassador McNamara regarding the White House priority. And one of the recommendations in the Markle report is to move the ISE into the Executive Office of the President, and the report notes that this change will give the PM-ISE presidential backing, and therefore, greater authority. What additional, positive effects would such a move have?

MR. SMITH: Well, first of all, Congresswoman, I am pleased you raised cyber, because that really is a major threat we're facing and it's very difficult to get on top of this, so I encourage you to keep focused on that. We're also pleased that Mr. Brennan's announcement here of about a month or so ago moved the -- increased the level of attention that the National Security Council would pay attention to this and the creation of the senior director.

Ambassador McNamara has testified that he believes his position should be subject to -- should be a presidential appointment subject to advice and the confirmation by the Senate, and that his successor should also chair the information policy council. I think that's a very good idea and worthy of consideration. I don't think we have a fixed view on what the right answer here is, but the point is that the person should be in the White House, should have a lot of horsepower, should be able to speak for the president.

One of the reasons behind the Senate confirmation, on the other hand, was to make sure that the individual was accountable to Congress. When we briefed our report earlier to this subcommittee and to the Senate committee, they were concerned that if this individual were moved into the White House, he or she may no longer be reachable by Congress. We don't think that's a good idea, and I think this has yet to be developed, but these are considerations that we believe ought to be taken into account.

REP. CLARKE: Ambassador McNamara?

MR. MCNAMARA: Thank you. I, as I've said, believe that the link between the White House and the program manager's officer and the functions of the program manager is critical. It is a necessary link; it needs to be strengthened, and I understand that the intention of the current administration is to strengthen it. I think there are two areas where that strengthening needs to be done. One is in the policy role of the program manager -- establishing the policies that will govern and implement the information sharing environment. Strengthening that is important. And then the second area where this strengthening needs to be done is, as I've said before, with respect to the resource allocation process. Those are the two areas where I believe that the program manager needs additional support from the White House, but also to be part of the White House process would strengthen the program manager's position.

REP. CLARKE: Well, do you see any drawbacks to relocating the PM-ISE?

MR. MCNAMARA: To relocating?

REP. CLARKE: To White House authority.

MR. MCNAMARA: Well, with respect to the authorities to function, I think the White House has a substantial role. If you mean relocating -- moving it out from the Director of National Intelligence, where it is now located -- that is a question for the White House to decide. It's primarily an

administrative connection. And I want to take this opportunity, since you asked the question, to say that the three directors of national intelligence have been among my strongest supporters over the three-and-a-half years I've been in this job.

And one of the things we've never had to worry about was the administrative issues and the administrative processes for our office. We've been able to focus on building the ISE because we knew that we were going to get the resources for the functioning of the office -- that is, you know, keep the lights lit, pay the employees, make sure the paper clips are all coming in and make sure the computer systems work. We've gotten that without any trouble, and I think the three directors of national intelligence have been extraordinarily supportive of us.

REP. CLARKE: Well, thank you, and I yield back, Mr. Chair.

REP. CARNEY: Thank you. The chair now recognizes the gentlelady from Arizona, Ms. Kirkpatrick, for five minutes.

REP. ANN KIRKPATRICK (D-AZ): Thank you, Mr. Chairman, and I thank our panelists for being here today. I wanted to expand a little bit on the ranking member's question regarding NCIC. We're both former prosecutors, and I know we've relied on that database. I represent a huge, rural district in Arizona. In fact, my congressional district is bigger than the state of Pennsylvania.

And I've been working with law enforcement in terms of interoperability problems. And we've got a situation where we know that the drug cartels now are using the back roads, their taking advantage of the wide-open space and they're moving faster than technology. So my question to you is, what efforts are being made to provide rural law enforcement officers in the field access to NCIC databases, and then also the technology to allow them to report suspicious activity? And I'll start with you, Colonel Fuentes.

COL. FUENTES: Thank you, ma'am. To the best of my information here, they should have access to NCIC as a matter of the routine course of their patrol duties. Would you be referring to access to the VIC-TOF database that I described a little bit earlier?

REP. KIRKPATRICK: Yes, yes.

COL. FUENTES: Okay. That, if I'm not mistaken, also ties in with the NCIC -- that those databases have a link where one will ping the other, and if there is information in one, that will come back in an NCIC response. That should be available to everybody in this country, again, to the best of my knowledge.

Where -- you know, where the fusion centers come in is -- and this is very, very crucial because you're kind of bringing up a point that I was going to make a little bit earlier on -- if you've seen one fusion center, you've seen one fusion center, which means that beyond the baseline, there's individual customer needs in every single state, and it may be distinctly different in Arizona than it is in New Jersey or than it would be in Iowa, about what those police chiefs or county sheriffs are going to need from that fusion center.

And obviously, cross-border illegal immigration, drug cartel violence is going to be an enormously important issue in Arizona. And quite frankly, Congresswoman, that's the responsibility of that fusion center to recognize that

those law enforcement agencies in your state need that information. That's compelling to them to do their job if only from an officer safety standpoint.

REP. KIRKPATRICK: Thank you. Ambassador McNamara?

MR. MCNAMARA: Yes, a couple of points. We -- and generally, when talks about fusion centers -- we tend to look at the fusion center as being a state or a major urban area institution. But what your question brings up is the importance that the fusion centers play for the smaller organizations and the rural areas, where the numbers and the sophistication of the agencies in those rural areas is not the same as the major city police organizations or the state police organizations.

And as Colonel Fuentes said, it's very important that the fusion centers provide the services out to those rural areas. The fusion centers can make the connections with NCIC when a very small town police force doesn't have the capacity, but does have the capacity to get to the fusion center and ask the fusion center's assistance to process data that it may not have sufficient resources to process. I think that as the fusion center network increases and as fusion centers begin to look at their real role in their states and in their regions, that they will see the tremendous value that they can provide in services to rural police, rural homeland security officials, rural mayors, et cetera. One of the evolutionary elements in the fusion center network has got to be the ability to move beyond the major urban areas and get out to the rural areas of this country. And in states like Arizona and Texas -- border areas -- that's critically important. REP. KIRKPATRICK: Let me just -- one follow-up question -- are you aware of any efforts through your department to expand that information sharing in rural areas, aside from the fusion centers?

MR. MCNAMARA: Right. That was going to be my second point. The second point is, in addition to the fusion centers, any law enforcement agency that has the basic capability of linking its computers into the fusion center network and/or the FBI's JTTF networks, they can get the information directly if they want it directly.

In other words, if they want the raw information that's in the NCIC, for example, but if they want it in a processed form and they don't have the capacity to do it, then they can plug into the fusion center. So the two ways of getting it is either directly, by simply joining and actually getting the network capability that allows you to join and connect with the NCIC or to go through the fusion center to do the same thing.

REP. KIRKPATRICK: Thank you. I will tell you that my district has the least amount of broadband coverage and cell phone coverage, telecommunications, so you know, the basic infrastructure just is not there at this time. But we'll keep working on it. Thank you very much.

REP. CARNEY: I think we just have a couple more questions. I have a question I'd like to direct to Mr. Smith and to the ambassador. Given the Markle report and its recommendations, could you please tell the panel where you think congressional efforts ought to focus on this issue?

MR. SMITH: One's always reluctant to give advice to the Congress, but --

REP. CARNEY: Well, we're asking this time. (Chuckles.)

MR. SMITH: It's an honor, Mr. Chairman. I think the overall point we want to make is that this needs to remain a high priority, and having holdings like this is very important, asking detailed questions -- these have been very good questions from the panel this morning. And I really commend you for doing your homework and asking hard questions.

There are a few things I might call your attention to. One thing I had intended to mention in my opening remarks was, there are a lot of exciting things going on. One of them, for example, is there's a project in Washington called the Project on National Security Reform, which is a private organization that's brought together people like Brent Scowcroft and people of that level to focus on how to reorganize national security to improve decision-making.

One of the things that they've been talking about doing is a pilot project, working with some selected agencies and the National Security Council, to try to implement some of Ambassador McNamara's recommendations on a very small scale on information sharing. I think one of the things this subcommittee ought to do is, assuming that the administration does do this pilot program, keep an eye on it, see how it's done. Encourage that kind of thing, because it's very hard to break through all of this.

I think another thing -- Mr. McCaul mentioned section 1018 -- I think you ought to take a hard look at that. That raises questions more broadly than just Ambassador McNamara's position, because it gets into the relationship between the Director of National Intelligence and the other agencies. That's caused some problems that you may have noticed, unfortunately, surfaced in the press. And these issues are now in the White House for resolution. So there are some things that can be done, and again, I think certainly, the Markle taskforce will remain in place, we're honored to work with this committee, and anything we can do to help move this process along, we are happy to do.

REP. CARNEY: Thank you. Mr. Ambassador?

MR. MCNAMARA: I would say one of the most important things that needs to be done in the coming months -- in fact, I asked -- I've called back in the fall of last year that the year 2009 be the year of sustainment for fusion centers -- that is to say, the year when we all focus on, how do we take the fusion center networks that have developed and make them sustainable for the long run?

My fear is that, as the colonel mentioned, there are 72 of them. No one has sat back and taken a look to see whether 72 is the right number. They've grown up. They represent huge differences in capabilities and focus of attention, depending upon the state and the region in which they're in, all of which is quite proper. But I think it's time now -- the fusion centers have developed and they're a cost, an expense for state, local authorities and for the federal government -- we ought to look very carefully at what constitutes a sustainable fusion center network for this country for the next 15 or 20 years.

We built something -- we built a capability that it's grown so fast because the need was so high, but it's gone far enough that I think we can now sit back and say, what do we have to do to make sure that: A, it's sustainable; and. B, that the fusion centers are doing what they ought to be doing and not getting involved in things they might not be as properly involved in. So I would put that at the top of the list of something the Congress can do. You can shed a lot of light on what is the best fusion center network for this country over the long run.

REP. CARNEY: Colonel Fuentes, you probably have some insight on that.

COL. FUENTES: I couldn't agree more with the ambassador. The issue of sustainability has something to do with the discussion with the congresswoman about, is that fusion center in the state making itself accessible to all of its law enforcement partners and first responders. Different fusion centers around the country have, in the course of their own evolution, developed some best practices.

There needs to be, beyond the baseline, an export of those best practices to other fusion centers that may be having difficulty in their states. One of the things that was discussed a couple of weeks ago in the IACP intelligence summit was the formation, perhaps within DHS or the national fusion center coordination group within DHS, of an auditing team composed not necessarily of members of the federal government, but perhaps directors or analysts from state and local or tribal fusion centers who can go around the country on behalf of DHS and see that those practices are established or encouraged, and even to do a bit of a survey with the customers to see if that fusion center is up to the standards that are expected of them, since, you know, a lot of them are funded, in one way or another, by federal money, so it should be the expectation of the taxpayers that they're doing their job correctly.

REP. CARNEY: Thank you. My time has expired. I now recognize the ranking member, again, for the five minutes.

REP. MCCAUL: And thank you, Mr. Chairman, and thank you, Ambassador, for that recommendation -- certainly, one of the strongest ones coming from the panel is sustainment of the fusion centers for the next decade. And Colonel, I'm glad to hear that they are sharing best practices. I think it's important that fusion centers have independence to tailor their needs to local jurisdictions, but at the same time, I think it's good that there's an organization out there where you can share best practices and make sure they're up to the standards they should be.

And Mr. Smith, I did want to follow up, because you didn't have a chance to answer my question last time about the program manager, looking forward. You did reference 1018 -- the language in section 1018 -- and also, the role that the program manager is going to have at the White House, given this new senior director for information sharing policy, and I just wanted to give you the opportunity to respond to that. MR. SMITH: Well, I appreciate that, Mr. McCaul. I wish to associate myself with that Ambassador McNamara said -- that ideally, this is a job that should go away. And I think one of the things that happens in Washington is, that doesn't happen very often. So I think encouraging whoever the new program manager is, for he or she to understand that one of their jobs is to make their job go away by institutionalizing this across the government as much as possible.

And that may wind up shifting the responsibility for the policy and the implementation into the White House in some senior person who should be, in my judgment, subject to Senate confirmation. I would give that person, again, as Ambassador McNamara has suggested, some budgetary authority. The drug czar is a pretty good model for that. We have, in my judgment, too many czars at the moment, but there does need to be some ability to work across all of the government. So I think that the object should be to find some way of creating a position that has the responsibility to ensure policy -- to develop policy, to ensure it's being carried out by the agencies that, at the end of the day, have

to execute it. And it's going to be hard to do that, but again, this committee -- there are some ideas out there that are some pretty good ones and I encourage you to look hard at them and keep the pressure up.

REP. MCCAUL: Thank you for that response and, Ambassador, do you agree with that assessment?

MR. MCNAMARA: I do, indeed. I agree completely. I would say the second area where the Congress can really make a contribution is to examine what I refer to as these cross-cutting issues. How are they managed by the Congress and by the executive? I think the system is broken with respect to cross-cutting issues. And I've spent three- and-a-half years with a high-priority cross-cutting issues. And the Congress can do a lot if it could sit down, examine itself and examine the executive branch and come up with some new solutions to, how do you manage issues that cut across five, 10, and in my case, 17 -- all of them major -- agencies of the U.S. government.

REP. MCCAUL: Well, thank you for that, and we look forward to working with you in the future on your recommendations. And I yield back.

REP. CARNEY: Thank you. We now recognize the gentleman from Texas, Mr. Green.

REP. GREEN: Thank you, Mr. Chairman. I would like to address, if I may, Mr. Smith. Mr. Smith, what I'd like for you to do is, on a scale of one to 10, I'd like for you to -- let's make it one to five -- (chuckles) -- I'd like for you to give me the grade that you would give with reference to each of the recommendations that you have made. I have five recommendations from your "Nation at Risk" report, released March of 2009.

So let's start with the number one recommendation, which is to reaffirm information sharing as a top priority. I understand that ISE has been moved into the executive office; I understand that recommendation that the Congress hold hearings -- well, we're doing that. So on a scale of one to five, how do you rate recommendation number one?

MR. SMITH: I'd give it a three-plus.

REP. GREEN: And because time is of the essence, I probably won't be able to accept the commentary. So if you would, let me just make a note that it gets a three-plus. Let's move quickly to number two -- and we may come back, if I have time. Number two -- this has to do with discoverable and accessible information. My understanding is that you'd like to use off-the-shelf technology. One to five, how do you rate it?

MR. SMITH: Three.

REP. GREEN: Moving to number three, which deals with security and privacy protection, we talked about the board. How do you rate it? And within that, you have three recommendations. I won't go through all three of them, but you wanted a consistent privacy policy, you wanted the president to nominate and confirm people to the oversight board; you wanted Congress to conduct their oversight. How do you rate this one?

MR. SMITH: One-point-five. One-plus.

REP. GREEN: One-plus. All right. Let's move to number four, which deals with the culture. And you would like to transform this culture from a need-to-know culture to one that is more productive in information sharing, still with only the appropriate persons having the appropriate knowledge. And you suggested there'd be metrics and incentives to do this. And I appreciate many of the recommendations made, by the way. I'm going to try some of this in my office -- (laughter) -- good points. How do you score this one?

MR. SMITH: Three.

REP. GREEN: And number five, which deals with empowering the users and what we call communities of interest -- how do you rank this one?

MR. SMITH: Two.

REP. GREEN: Two. All right, now given that I know you want to make comments, let me make one additional comment and then I'll let you comment on whichever one you'd like to give me additional information on. I want to compliment, if I may, Mr. Chairman, the staff -- I was remiss in not doing this earlier, and my fear is that if I don't do it now, I may not -- because they provided us with a great deal of intelligence.

It was very beneficial to me. I don't come from the intelligence community, but they help us to appear to be intelligent. (Laughter.) So I thank the staff. Now, with this said, we'll hear from you, Mr. Smith. Give us your comments, please.

MR. SMITH: Well, as former Senate staff, Mr. Green, I greatly appreciate your appreciation of your staff. I think there has been a great deal of progress, and I may have been a little too harsh in some of my grades, but I think it's important to realize that we have a long way to go. And the building blocks are there; the basic outline is there; Ambassador McNamara and his people have put together some suggestions on architecture, on getting the technology in place.

Overall, within the intelligence community -- the world that I know best -- there's been a great deal of progress, but it's still really hard. And what I'm also encouraged, today, to hear from Colonel Fuentes is how the fusion centers are working. And I think that that's an area where the rubber is going to meet the road.

REP. GREEN: With 38 seconds left, one final question: On a scale of one to five, how important is the oversight board?

MR. SMITH: The privacy oversight board -- I would give that a four.

REP. GREEN: In terms of importance?

MR. SMITH: Yes.

REP. GREEN: Mr. McNamara, one to five.

MR. MCNAMARA: I'd agree -- at least four.

REP. GREEN: And Colonel, if you'd like to weigh in, of course you may.

COL. FUENTES: A lot of discussion on privacy, so I would also rate that pretty high. Everywhere I go, it's the top of the list.

REP. GREEN: Thank you, Mr. Chairman. I yield back.

REP. CARNEY: Thank you. Ms. Kirkpatrick.

REP. KIRKPATRICK: Thank you, Mr. Chairman. I wanted to give my five minutes to the panelists to make any further comments they wished to go to the grading system that Mr. Green just presented. And so, Mr. Smith, any further comments? And you've got five minutes.

MR. SMITH: Well, I certainly don't want to grade myself; I would probably give myself a minus grade. (Laughter.) One thing that does occur to me as I listen to this committee, particularly with some of the broader issues you've raised -- it might be worth to have a conversation with this group I mentioned earlier -- the Project on National Security Reform. They've made a great deal of progress. They've issued a big report. This is led by a man named Jim Locker, who was the key Senate staffer for the Goldwater-Nichols Act, which reorganized the Department of Defense, which generally is recognized as quite a good achievement. There are some things in there that relate very directly to information sharing and to improving decision-making on the national security issues.

It doesn't deal with local law enforcement but there are some lessons in here that I think the subcommittee might want to take a look at.

REP. KIRKPATRICK: Colonel Fuentes?

COL. FUENTES: Between these two gentlemen, I was glad to be an audience member most of the time today and learn a lot. So I thank you for the invitation to come here. The one thing that I did want to bring up is that we depend a great deal on our crime analysts in the fusion center. Every day, depending upon their skill and ability, they have to navigate dozens of databases -- many of those databases are federal -- in order to draw out the information that they need to put together the assessments that they're working on.

Thanks to the PMIC and BJA and DHS, they've come up with a national information exchange model that, between the states and the locals, have developed a series of common terms so that a car in one database is also a car in another database and not an automobile and not a vehicle in a third database, because obviously, when you're looking to get information, you may not get access to information that you want.

I would ask that this subcommittee think about doing the same thing, certainly, at the federal level among those databases -- to come up with a common data standard that I think will make information sharing an awful lot easier within the fusion centers and even among the agencies that manage those proprietary databases. Thank you again for the invite.

REP. KIRKPATRICK: Mr. Ambassador.

MR. MCNAMARA: Thank you, Congresswoman. I would endorse Jeff Smith's recommendation about taking a look at the PNSR project and Jim Locker's recommendations or the recommendations of the project, not just of Jim. It was a very credible and serious look at many, many aspects of government

functioning, and it does get -- it does touch on information sharing and the need for revising the way we manage information in the federal government.

I participated in it myself, so I know fairly well the recommendations that they made in these areas. And I'd like to take, since Jeff doesn't want to do it himself, the opportunity to say that I've found the Markle reports to be an enormous aid to me in my job over the last three-and-a-half years. It's always good inside government to have somebody outside government looking critically at what you're doing. It's a burden at times, but in the end, it leads to better government. And the Markle Foundation is to be congratulated, in my opinion, for making a signal contribution to national security in its efforts.

REP. KIRKPATRICK: Gentlemen, thank you so much.

MR. SMITH: I'd just like to add one -- you didn't ask me, Mr. Green, to rate Ambassador McNamara, but I would give him a five-plus. (Laughter.)

REP. KIRKPATRICK: Thank you.

REP. CARNEY: Well, seeing that there are no further questions, I truly want to thank the witnesses for their testimony. You know, occasionally, we have edifying hearings in Congress, and this certainly is one of them. I think we all learned a lot. And I certainly want to thank the subcommittee members for their questions as well.

I would like to remind the panel -- the witnesses -- that we may have other questions that we didn't get a chance to ask today, but as we discussed, those things may come up. Please respond in writing expeditiously. Once again, thank you very much. This subcommittee stands adjourned.

END.