

# **MAJOR CITIES CHIEFS** **WASHINGTON UPDATE**



**ISSUE:** **ACLU Privacy Press Conference/Media Release Regarding Intelligence**

**DATE:** **Immediate - Any Day in December**

## **SUMMARY:**

The ACLU has planned a major national press conference in Washington D.C. to focus press and public attention on intelligence activities by local police and sheriffs. The Washington D.C. press event is being coordinated with the media, including the Washington Post. Chiefs and Sheriffs should expect to see an article in their local press and may be asked questions about their work with Federal intelligence agencies. The focus of the ACLU concern is expected to be the development of fusion centers that are tied to Federal intelligence efforts. It may be alleged that local law enforcement is assisting the Federal Government in Fusion Centers without proper safeguards to protect privacy and civil liberties.

Some have recently questioned fusion centers and law enforcement's commitment to privacy and civil liberties. Lafayette Group has worked with national organizations to develop the following talking points for use by chiefs and sheriffs.

## **TALKING POINTS:**

- State and local fusion centers are established by state and local governments, not the Federal Government.
  - Accordingly, all must comply with state law and local ordinance concerning privacy and civil liberties protections
  - All are governed by state and local law enforcement commanders
  - Most fusion centers have already developed or are in the process of developing privacy policies consistent with state and local regulations.
- Chiefs and sheriffs support the involvement of non-law agencies in fusion centers
  - Fusion centers represent the collaboration of law enforcement and first responder agencies such as fire, public health, emergency management entities to safeguard the public.
  - Fusion centers utilize information that is in the public record and access to sensitive information is strictly controlled to protect privacy rights and civil liberties.
  - Multi-disciplined participation greatly increases the ability of fusion centers to analyze information.
  - This collaboration and information sharing is essential - criminal and terrorist activities cross jurisdictional lines and natural disasters have regional impacts.
  - All non-law enforcement personnel in fusion centers, including public and private partners are screened before they are given access to information – most have security clearances, which make them subject to federal laws governing the handling of classified and sensitive information and State and local privacy protection laws.
- State and local agencies have consulted national references when established Fusion Centers. These sources include the Global Intelligence Working Group and the National Criminal Intelligence Sharing Plan.
  - The plan calls for all agencies to comply with the federal regulation 28 CFR 23 as it pertains to the collection and dissemination of criminal intelligence
  - The plan calls for all agencies to take steps to ensure the protection of individual's privacy and constitutional rights
  - It includes recommended minimum training standards for intelligence personnel
- Federal Regulation 28 CFR 23 provides direction on the operation of multiagency intelligence databases and has been adopted by the National Criminal Intelligence Sharing Plan.
  - Requires that reasonable suspicion that a crime is about to occur be developed before personally identifiable information can be placed into an intelligence database.

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- Prohibits any information about "political, religious or social views, associations or activities" to be entered into the intelligence database unless such information relates "directly" to definable criminal conduct or activity and the subject of the information is reasonably suspected of involvement in that conduct
  - Requires the periodic review and purging of information that is no longer relevant to criminal activity
  - Information can only be disseminated for a law enforcement purpose
  - Most state and local privacy laws are more rigorous than Federal regulations, although each fusion center is strongly encouraged to develop privacy policies that are at a minimum compliant with 28 Code of Federal Regulations (CFR) Part 23.
  - State and local agencies consult the National Fusion Center Guidelines when establishing a fusion Center. The guidelines call for each center to develop, publish and adhere to a privacy and civil liberties policy
  - Law enforcement agencies continue to train fusion center personnel on the appropriate handling and uses of information.
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- The Department of Justice and the Department of Homeland Security, working with the Office of the Director of National Intelligence have developed a Fusion Process Technical Assistance Services Program to aid fusion centers in developing appropriate policies and procedures to protect privacy.
    - The program is on track to have provided training to every fusion center by the end of CY 2007 in the development of a fusion center privacy policy.
    - The program will have provided training to every fusion center by the end of CY 2007 in the development of a fusion center Concept of Operations that will fully describe the roles, responsibilities and limitations of each fusion center.