



Maine Information and Analysis Center Advisory Board Agenda
Lieutenant Michael Johnston
Maine State Police
Director of the Maine Information and Analysis Center
6/11/2020

- Location: Attended Remotely Via Go To Meeting Application
 - Meeting posted for public awareness and attendance on DPS Website on 5/26/2020
 - <https://www.maine.gov/dps/news/meetings.html>

 - Start and end times below are an approximation
1. 8:30-9:15 Setup on Go To Meeting
 Welcome and Introductions

 2. 9:15-10:15 MIAC Audit Results

 3. 10:15-11:00 MIAC Intake Process

 4. 11:15-12:00 Use of Open Source Research and Information in Pre-planning for Special
 Events

 5. 12:00-12:30 Board Discussion (Executive Session as Needed for the Aforementioned
 Topics)

 6. Adjournment

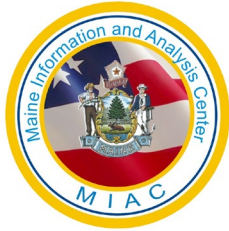
Notes from Meeting

The following in substance is a summary of the meeting and should not be viewed or treated as a literal transcription.

- **It is important to note that although MIAC's Advisory Board is exempt from record keeping requirements pursuant to 1 MRS §403(6) we nonetheless maintain and publish them in the interest of transparency and clarity.**

Members in attendance

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Lt. Michael Johnston



- Lt. Michael Johnston, Maine State Police
- Chief Jason Moffitt
- FBI Supervisory Special Agent Gregory Hughes
- Michael Feldman (Private Citizen)
- Maine Emergency Management Director Peter Rogers
- Tracy Collins (Private Attorney)
- Hancock County Emergency Management Director Andrew Sankey
- Adjutant General and State of Maine Homeland Security Advisor Douglas Farnham
- Major Chris Grotton, Maine State Police
- Staff Attorney Christopher Parr, Maine State Police
- Sgt. Mathew Casavant, Maine State Police
- Attorney General Aaron Frey – Had to leave early for press conference.
- Critical Infrastructure Member-Vacant

- **Introductions of attendees and Orientation on Go to Meeting Application and Share Drive to Access Documents**

- **Lt. Johnston presented MIAC Audit Report and its findings. He advised that during each audit period in addition to reviewing reports that are chosen at random the audit team would also review all E-Guardian submissions during that audit period.**
 - Audit Covers Sept 2019 to December 31, 2019.
 - Key Finding: Found we were in conformance with our policy
 - E-Guardian submissions also audited.
 - Discussions
 - Chris Parr – Question from privacy standpoint.
 - E-Guardian entries are not purged by the Federal agency that maintains that system. Should the MIAC be purging the Center’s own entries into E-Guardian? Example -0016 juvenile student that includes images of subject. Discussion continued after examples.
 - Chris Parr – Should we have an outside entity do audits every other year?
 - Major Grotton loves the idea and it has been explored before but there is no mechanism currently to do that.



Would like the federal government to provide a body to do outside audits. Trouble finding people for that purpose. We have explored this possibility with other fusion centers and through the National Fusion Center Association but at this time there is not process in effect.

- Parr- Knows of the International Association of Privacy Professionals, not law enforcement, but may be able to review.
- E-Guardian Incidents were presented and reviewed by board. Details of E-Guardian entries are law enforcement sensitive and full documentation and records were provided to board members.
- Discussion Regarding Purging of Records:
 - Greg Hughes- Believes access to historical information with E-guardian is important for multiple agencies to gain information otherwise not accessible. Supports retention when properly protected.
 - Jason Moffitt- Agrees with Greg. If information is legally obtained. Points to 9/11 complaint of agencies not sharing information.
 - Michael Feldman- appreciates hearing pros and cons from law enforcement about process.
 - Lt. Johnston- E Guardian created to help connect dots and fill in gaps of information between agencies. If information is obtained lawfully and safeguarded there is value in retaining E-Guardian absent a law or regulation to the contrary in case those incidents are potentially connected, show a pattern or related to future suspicious/criminal activity.
 - Tracy Collins- The point is to create situational awareness. Due to communication factor it seems it would be irresponsible to remove a “dot” that could assist in an emergency.
 - It was the collective opinion of the board that retaining E-Guardian entries absent a regulation or law that compelled purging was valuable and should continue in the interest of connecting future incidents with past incidents.
- **MIAC Intake Process for the receipt, review, retention and dissemination of information.**



- Lt. Johnston provided an explanation of the information flow process.
- Lt. Johnston was clear that MIAC makes a record of all the information it receives as long as the threshold question of “on its face does the information appear to have been obtained lawfully” absent clear indicators to the contrary. The important question is what action MIAC takes on the information, who do they share it with and making sure any action is defensible and justifiable and predicated on crime, suspicious activity and public safety.
 - MIAC receives info from variety of sources primarily by email and secure online platform from primarily law enforcement but also from the public, and private and public sector entities. Public will often report incidents via social media.
 - Watch Desk: This is the intake or first line of processing for MIAC. Analyst or supervisor receives information, reviews and determines if there is anything actionable based on MIAC’s policy and mission. An important question that is asked and answered is whether the information on its face was obtained lawfully. If yes, record is made in system. (activity report for statistical, documentation and accountability purposes)
 - Analysts reviews. Is there anything actionable here based on criteria for suspicious activity or established criminal predicate or legitimate public safety mission? Do we need to share this information with those who have a bona fide need to know and right to know? (Bulletin or targeted share.)
 - At times no further action is required and the information is documented for statistical accountability purposes. It is difficult sometimes to know when a piece of information will be valuable at a future time. A record is necessary to show what was done with information or in some cases what was not done. (We live in a post-Parkland world of accountability).
- Sgt. Casavant follow up
 - We review information in its totality to try and identify patterns or escalation. Need to gather and keep information to make determination. At the day what we share who we share it with is a judgement call and



would rather err on side of sharing rather than not sending something out that could have saved a life.

- Lt. Johnston-

In today's public safety world there is arguably more liability for not documenting something than the liability of retaining it. In a world where law enforcement is held accountable as to "when and why something was done". The question that also needs to be answered is "why was action not done" if a crime or tragedy occurs later.

- We live in a post "Parkland World" where accountability and defensibility for action and inaction is critical.
- All info entered into our system goes through analyst and is reviewed by MIAC personnel and approved by supervisor.

- Casavant- Comments are now coming back to negatively affect people. These comments are public. We're keeping something that Google is also keeping in their records.

- Parr- We're a State entity. Different standards. Would Board Members' comfort level be the same if information the MIAC maintained included information pertaining to Board Members directly?

- Michael Feldman- As private citizen. Concerned about careful distribution and protecting information. Understands importance of holding on to info to see pattern.

- Andrew Sankey- Believes policy should be fluid depending on societal environment.

- QUESTION- Parr- Are Board Members OK with First Amendment-protected speech being entered into a MIAC system?

- Sankey- Points to societal environment. Something decided today could be looked at 6 months now and reconsidered.

- Casavant- Provided an example that someone could say something today on Twitter which is 100 protected First Amendment. They could escalate and still be First Amendment protected. They could make a final comment which is a threat and constitutes a crime and the first 2 comments show a pattern of behavior and context for the final comment.

- Feldman- Needs to find middle ground and balance both.

- Major Grotton - Privacy rights are always about a balance. Concern exists that if MIAC received information lawfully and they did not act on it. If no record, would not be able to review that decision. Without MIAC an individual agency



will store information with inability to share and their agencies individual policies of retention and protection.

- Moffitt- Many RMS systems have records dating back 30 years.
 - Hughes- MIAC does not dictate how the information is utilized by law enforcement. MIAC doesn't tell people how to use information the simply provide it along with context. MIAC provides the information for consideration and evaluation. It is not MIAC's role to decide what a law enforcement agency should do with the information. The end user of information is accountable for what actions if any they take as a result of receiving the information. MIAC information sharing adds value to process but is only part of the overall process.
 - Question- Parr- Is there any type of information that the MIAC shouldn't hold on to?
 - Lt. Johnston has examples directly from MIAC to review later to try and address this question.
 - Sankey- Reiterates- This is a topic that should be reviewed on a routine basis. Based on societal perceptions and be fluid on in striking balance.
- **Overview and explanation of MIAC's use of Open Source Research and information in pre-planning for special events.**
 - Lt. Johnston provided overview of MIAC's role and its process on these events.
 - We are a fusion center not criminal intelligence center. We are support unit made-up of both analytical and law enforcement serving in an analyst type role for the most part. Don't engage in collection of information in the field. We don't deal with subpoenas or search warrants or the mass collection of information via electronic or technological means.
 - Lt. Johnston used the protest of the last week and MIAC's supportive efforts on those to provide some real-life context and dispel misinformation.
 - MIAC sent out email before dissemination product to all agencies. Explains efforts and addresses First Amendment issues directly. Clarified unit's involvement and role on these events to ensure protection of civil rights and civil liberties.



- Peter Rogers- States civil unrest bulletins were a positive and helpful.
- Major Grotton - Overall feedback from law enforcement was positive. Helpful to get info and get adequately prepared. Assisted in creating an appropriate response and not overreacting. Example: Some agencies found a comradery with protesters was unsuccessful and found to incite unlawful behavior.
- Casavant- 95% info came from officials within the area of the report. MIAC was able to downplay 95% of potential threats as being unsubstantiated by vetting information. Question to ask. Wouldn't someone who plans to participate in a protest (sometimes with their children) want to know possible threats are being addressed with appropriate response by local agencies?
- Hughes- Informing the decision-making process so law enforcement efforts and government officials based on information and intelligence. Important factor. But not the only factor. Information and contextual relevant from MIAC helps to inform decisions not dictate or drive them. If there is a discretion on what is and isn't released, may think it's not a reliable source.
- Moffitt- Only source of centralized vetted information. Which is very useful during protests?
- Feldman- Being able to respond with appropriate action and protecting amendments a positive.
- Johnston- Being able to dispel information and amp down or deescalate some information is critical in the preplanning and response stages. Actions should be intelligence and information led.
- Question- Chris Parr- Referring to table of protests in bulletin. Are we collecting and documenting the underlying data that is being used to enter table? Example- attendance of protest. Do we save the post or are we just visually confirming and entering?
- Casavant- We source it. Also taking some screenshots and saving. Some situations are captured but not all.



- **MIAC and NICS**
 - Lt. Johnston- Explains MIAC's involvement with National Instant Criminal Background Check System
 - NICS- Division within FBI. Background checks to review people who want to purchase gun to ensure they are legally allowed to possess a firearm.
 - Historically this had to do with criminal gang members entered NCIC by MIAC when that was a program we maintained. NICS sends request to us when a person is flagged in NCIC. We then check that person to see if we have any information that would prohibit them via state/federal law to own a gun.
 - New initiative as of 2020: DOJ sent list to fusion centers of all people who attempted to buy guns but were denied based on a statutory prohibitor (federal or State). Lists are sent to fusion centers across the country. The list is valuable from both a situational awareness and investigator perspective. Example of denial reason is state prohibitor.
 - Question- Chris Parr- Are these lists updated to reflect pardons?
 - Casavant- Monthly list. Acted on monthly and current denial status for subjects.

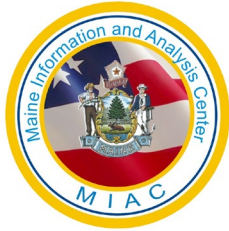
Scenarios Presented to Board Members

Several real-life scenarios were presented to the board based on information the MIAC had received. MIAC recognizes that there may be sensitivity surrounding how information like this is handled so Lt. Johnston showed these to the board to get their input and feedback.

- Doxing- Received e-mail from citizen who reported to a State Police Lieutenant who then referred to. Lt. Johnston posed the question to the board as to what if anything they expected MIAC to do in terms of retaining the record, sharing the record with those who have a need to know etc.
 - Do we sit on the info? What is the liability? Should we notify of possible violent reprisal or targeting against these people.
 - Moffitt- would like to know information because these can sometimes incite violence.



- Tracy Collins- Thinks appropriate to share any behavior that is potentially inciting action or violence should be shared. Situation awareness.
 - Chris Parr- Wondered sharing information like this creates liability on behalf of law enforcement by creating a public duty to act.
 - Casavant- Looked at info from perspective of supplying info to specific agencies as situational awareness. MIAC pushes this information to law enforcement as a FYI. You have the heads up this is occurring.
 - Example- Census information was pushed out to alert and inform agency of unusual legitimate activity that may be reported to them as “suspicious” activity.
 - Moffitt- Finds the situational awareness updates is helpful.
 - Hughes - There is value in disseminating it.
 - Feldman- Agreed need to get it out and not hold it.
 - Farnham- People are only able to see what is in their general area at on certain time. Not able to see everything everywhere. MIAC is collecting this information to provide complete picture.
- Chris Parr- By receiving a link like this believes there is no liability. But by acting on it liability is created.
 - Example- Live feed on Twitter. Evolving daily. Practical question- Does law enforcement have personnel to monitor feed?
 - Quantity of similar feeds/ similar threats. Do we follow all feeds? Do we follow up on threats made towards and from individuals exposed on site?
 - Subject arbitrary process.
 - Question- Parr- If a Twitter feed owner approached the MIAC, would that person have a right to know



of any documents the MIAC has regarding the feed?

- Farnham- It's all public info. Go look and see what you put out.
 - Parr- Does the owner have a right to know what MIAC knows/has?
 - Lt. Johnston stated this would be handled pursuant to Freedom of Access Act Laws based on law and policy.
 - Parr- Does the board have thoughts as a public policy?
 - Gregory- There is a process to solicit information.
 - Parr- A matter of policy.
 - Hughes- No it's not MIAC's responsibility they just share whatever relevant information they have and agency they share it with makes decision on what to do with it.
 - Lt. Johnston- example of doxing information being provided to police chief for situational awareness would provide additional context for subsequent calls that might prove suspicious or concerning when considering it in light of that information. That additional information shared gives the call more context and allows for additional follow up for the law enforcement agency
 - Collins- MIAC should provide information to generally advise all agencies rather than investigating individual targets. Understands Parr's earlier comment re: personnel and quantity of feeds from practical standpoint.
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- **General Discussion by Board**
 - Sankey- Address old matters from last meeting. Regarding terms of board members.



- Johnston- Some can be on longer than three years to supply historical knowledge and assist with succession.
 - Feldman- Has worked on these issues with a lot of non-profits and willing to help.
 - Major Grotton- agrees.
 - Johnston- Can come up with bylaw language and run by the board.
 - Collins- Agrees to plan for succession and staggering appointment of board members
- Scheduling meetings- Tentative for fall 2020. Details to be discussed later.
 - Major Grotton's Closing comments.
 - Trying to be as transparent and clear with media.
 - Appreciates input from board.

Action Items

- State Police will come up with draft language amending current by-laws that achieves the desired purpose of staggering terms for board members.