

February 20, 2020
W.Va. House Judiciary Committee
W.Va. House of Delegates

To whom it may concern:

This statement and documents are submitted and accompany my testimony in a public hearing today on HB 4176. These reflect my past and current concerns about the improper, legally undefined and possibly illegal acts of the West Virginia Fusion Center and those granted access to its resources and gathered intelligence.

For background, I am a long time critic of our current Governor. As Chairman of the Wood County Republican Party, our group voted unanimously to support the impeachment of the Governor in June of 2018, citing his refusal to attend work or live at the seat of government in disobedience of our W.Va. Constitution.

Later in the summer of 2018, I was informed by visitors to the Fusion Center and Capitol Complex that a photo of me had been posted at security desks and guard shacks at those locations. A picture of the posting of my picture with a cryptic warning to "call the Fusion Center if (I) show up" is in this packet.

At no point have I been contacted by law enforcement authorities, charged with a crime, sought for questioning or accused of any illegal act. Quite simply, I am a critic of the Governor and have pointed out publicly the use of the Fusion Center to surveil civilians without cause.

Last summer, in 2019, on several occasions, I publicly pointed out again on social media this likely illegal behavior by the Fusion Center to target private citizens.

In July, following one of these postings, the Chief Counsel to the Governor visited my wife's office in this building. The purpose was clearly to intimidate or threaten. That visit has since been reported to the State Police, due to questions about her safety.

Despite having no relationship with her, friendly or otherwise, he presented her a multi-page file of information on me, including research on me and surveillance of social media by the Fusion Center. He claimed he "had no way to contact me", despite having been a recipient of several FOIA requests to his office since 2017. The intent was clear to her.

The file he presented her included the photo posted at security desks and proof of their own inability to keep operational security details of the Fusion Center out of public records and FOIA.

More importantly, why was the Chief Counsel for the Governor in possession of surveillance intelligence from an alleged law enforcement entity? And, why was he using it to intimidate the spouse of a public figure under no legitimate investigation?

This situation has bubbled considerably in the last 6 months. Last week, on February 11th, I was called as a witness by a member of the House to speak to this bill as it was presented to the Veterans' Affairs and Homeland Security Committee.

I was called after the testimony of the Director of the W.Va. Fusion Center, Thom Kirk, who I believe, quite clearly, perjured himself. Kirk is an attorney, as well as Deputy Secretary of the existing DMAPS division.

There is extensive coverage of this hearing in several media that week, but the broadest coverage, in addition to the tape/transcript, was in the Beckley Register-Herald at https://www.register-herald.com/news/state_region/lawmakers-vote-for-intelligence-center-oversight/article_3905578c-ba98-5b6b-a9fa-682b2f382be0.html

According to Kirk's testimony last week, the Fusion Center is supposed to be a black box that only shares information on a need to know basis, and "cannot gather intelligence" on someone or something that is *not* under investigation. Further, any of their intelligence cannot leave that facility unless "there is an open case."

Kirk was asked very specifically by Delegate Wilson if the Fusion Center is used to surveil citizens without cause, political opponents and the like. He answers negatively to all such questions.

The Register-Herald report states: *"Under questioning from Del. Marshall Wilson, an Independent representing Berkeley County, Thom Kirk, deputy cabinet secretary for the West Virginia Department of Military Affairs and Public Safety, said that intelligence that the center shares requires probable cause and must be "actionable." Kirk said while he didn't know if could "accurately" define intelligence, he described it as "information that's been able to be vetted and now is actionable."*

Based on the information in the possession of Abraham and pushed at my spouse last summer, that doesn't seem to cross truthfully with Kirk's statements about the activities at Fusion.

More important, this broad sharing of intelligence on civilians seems to be occurring with few limits if any, and includes non-secure employees of the Executive. Like junior gubernatorial assistant Bray Cary.

In an article on MetroNews in the summer of 2018, reporter Brad McElhinny obtained a large FOIA document, linked within this article:

<http://wvmetronews.com/2018/06/03/public-words-are-few-for-bray-cary-senior-adviser-in-the-governors-office/>

On page 4 of the document

(<https://www.documentcloud.org/documents/4492866-20180523153229155-2.html#document/p1>), e-mails headers show that Fusion Center staffer Morgan Minor was sharing Twitter tracking of public sentiment with then-staffer Jimmy Gianato, who then immediately shared with staff outside of Fusion or DMAPS, like Abraham, Cary and others.

Again, according to Kirk's testimony last week, the Fusion Center is supposed to be a black box that only shares information on a need to know basis, and "cannot gather intelligence" on someone or something that is *not* under investigation. Further, any of their intelligence cannot leave that facility unless "there is an open case."

Those are Kirk's words, not mine, from the February 11th transcript.

There is a greater issue with internet and electronic surveillance by the current executive of his employees, state employees and citizens more generally.

Beyond the concerns with Fusion, I would encourage those interested in civil rights to examine the current and former roles of Cary, Michael Sechrist, Paula Taylor and Donnie Adkins in this administration and their scope of duties and activities.

Respectfully,



Robert Cornelius

Parkersburg, W.Va.

The story behind the Twitter article appears to be as follows:

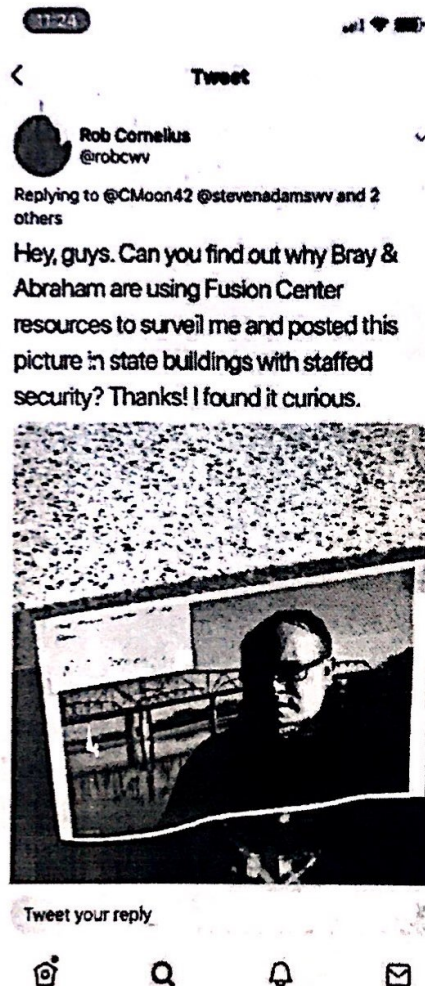
- On 6/28/18 a tweet by ByrdsFinger Twitter account was posted in response to WV MetroNews article published 3 June 2018. The article was entitled, "Public words are few for Bray Cary, senior adviser in the Governor's Office." Original article that released Morgan's information in a FOIA request without redacting her signature line. <http://wvmetronews.com/2018/06/03/public-words-are-few-for-bray-cary-senior-adviser-in-the-governors-office/>
- Also, on 6/28/18 Byrds Finger (@ByrdsFinger) tweeted at 2:43 PM stating "This tweet is for Morgan Minor and everyone monitoring civilian twitter at the WV Fusion Center for @WVGovernor & his babysitter @BrayCary. Pretty sure watching me isn't in your mission statement. Don't worry. We've got people inside your shop, too. They know where Butch is". <https://t.co/hzJtnhAX8O> (<https://twitter.com/ByrdsFinger/status/1012406172425576449?s=09>)



- As a result of the 2:43 PM Tweet Cornelius brought attention to Fusion Center employee Morgan. Also, Morgan's position and telephone number were released to the public.
- On 6/29/18 the West Virginia Intelligence/Fusion Center (WVI/FC) was notified of the above tweet and it raised concern by WV Department of Military Affairs & Public Safety Director of Communications Director, Lawrence Messina.
 - Due to the nature of WVI/FC work, employees identifying information is typically not released to the public. We found the tweet by Mr. Cornelius and the publication of identifying information to be a safety concern for WVI/FC employees.

○ For this reason, as well as for incidents that were occurring during this same timeframe in other states regarding Fusion Center staff, the following safety precautions were taken:

- Mr. Cornelius's photo was provided to TransCanada Security desk on or about June 29th, 2018.



- Ms. Minor's work cell phone number was immediately changed.
- It has been confirmed that this is a picture of the security desk at the business location of the Fusion Center.
- The picture in question was taken down on or before August 2018.
- No photographs of Cornelius have been posted for security precautions since July/August 2018.

Abraham, Brian R

From: Abraham, Brian R
Sent: Wednesday, May 2, 2018 2:37 PM
To: Hall, Mike; bcary@wvnh.com
Subject: Fwd: Doh incidents on 64

Sent from my iPhone

Begin forwarded message:

From: "Gianato, Jimmy J" <Jimmy.J.Gianato@wv.gov>
Date: May 2, 2018 at 2:18:33 PM EDT
To: "Sandy, Jeff" <Jeff.Sandy@wv.gov>, "Kirk, Thomas L" <Thomas.L.Kirk@wv.gov>, "Abraham, Brian R" <Brian.R.Abraham@wv.gov>, James Hoyer <james.a.hoyer.mil@mail.mil>
Subject: Fwd: Doh incidents on 64

I asked the Fusion center to pull this together after the second fatality last night on 64 and I have shared it with Highways. I contacted them last night after seeing complaints about the incident and how long traffic was tied up.

Jimmy Gianato
Director/Homeland Security Advisor
WV Division of Homeland Security
304 541 9990

Begin forwarded message:

From: "Minor, Morgan M" <Morgan.M.Minor@wv.gov>
Date: May 2, 2018 at 12:41:29 PM EDT
To: "Gianato, Jimmy J" <Jimmy.J.Gianato@wv.gov>
Subject: RE: Doh incidents on 64

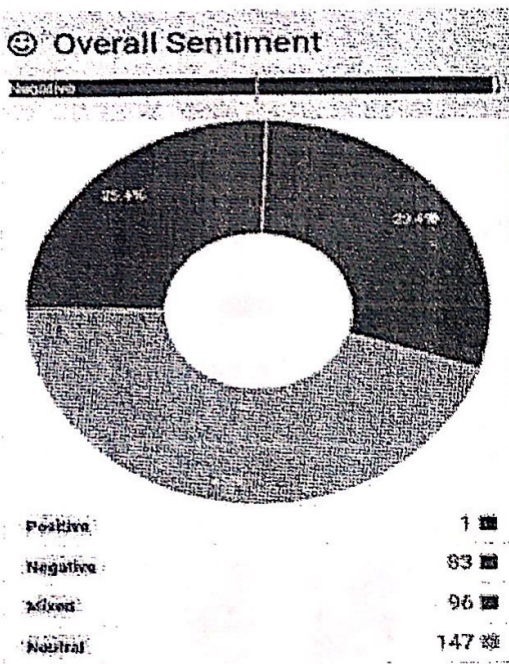
Sir,

Below is information relating to public sentiment surrounding the construction. Additionally, there is another four (4) vehicle accident on I-64 being worked now. Putman County, Hurricane PD, and WVSP are on scene.

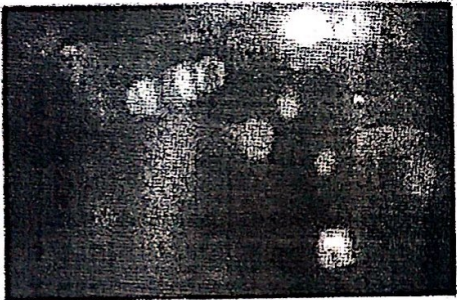
(U//FOUO) The ongoing construction on I-64 has resulted in an increase in negative public sentiment being expressed via social media. Numerous citizens have commented on the four (4) fatalities along the construction route and have requested enhanced State Police presence in the area.

The West Virginia Intelligence/Fusion Center (WVI/FC) has not received any specific threat to public safety. This information is being provided solely for situational awareness.

Below are posts relating to the vehicle accident fatalities and the congestion on I-64:



Debbie Edline @DebbieEdline · 13h
 @GovComer please help keep us safe on I-64 between Norfolk and Milton WV. ANOTHER DEATH. Please... better Signal? Police? SOMEBODY?



Officers responding to multi-vehicle accident on I-64
 It happened after 6 p.m. along I-64 in the westbound lanes near the Teays Valley accident

Jeff Blackburn @WV101 · 2h
 @WV101 @WVStatePolice Would it be possible to have a WV State Police presence at the Hurricane I-64 work...we have had too many deaths (4), I am including the unborn child, and accidents with people distracted with cell phones, etc. Maybe this would slow people down



Melissa VanHooser

Been sitting in traffic now for over an hour. It was a pretty bad wreck. no way of getting thru yet. both lanes closed.

Use Reply: In



Gerald Lee Florence II - 60606 West Virginia

Wife is trapped in the backed up traffic now. as of 6:05 pm traffic is backed up 6 miles from the Mason Exit.

Leo - Reply: In

If you would like additionally information, please let me know.

Morgan

Morgan M. Minor | Supervisory Intelligence Analyst
West Virginia Intelligence / Fusion Center
1900 Kanawha Blvd. | Building 1, Room W-400
Charleston, WV 25305 | Office: 304.558.4831
Cell: 681.313.7708 | Fax: 304.558.6592
Morgan.M.Minor@wv.gov



See Something, Say Something™

From: Gianato, Jimmy J
Sent: Tuesday, May 1, 2018 7:55 PM
To: Minor, Morgan M <Morgan.M.Minor@wv.gov>
Subject: Re: Doh incidents on 64

Thanks

Jimmy Gianato
Director/Homeland Security Advisor
West Virginia Division of Homeland Security
and Emergency Management
1900 Kanawha Blvd, E
Building 1 Room EB -80
Charleston, WV 25305
(304) 558-5380 office (304) 541-9990 cell
jimmy.j.gianato@wv.gov
HSDN jimmy.gianato.sle@dhs.sgov.gov
www.dhsem.wv.gov

From: Minor, Morgan M
Sent: Tuesday, May 1, 2018 7:54:12 PM
To: Gianato, Jimmy J
Subject: Re: Doh incidents on 64

Yes, Sir. I will advise of any findings.

Respectfully,
Morgan M. Minor
West Virginia Intelligence Fusion Center
304.558.4831
681.313.7708

Sent from my iPhone

- > On May 1, 2018, at 19:51, Gianato, Jimmy J <Jimmy.J.Gianato@wv.gov> wrote:
- >
- > Please start monitor any info ref construction on 64 near teays valley and the two fatal wrecks in the last week.
- >
- > Jimmy Gianato
- > Director/Homeland Security Advisor
- > WV Divison of Homeland Security
- > 304 541 9990