

DHS/DOJ Fusion Process Technical Assistance Program and Services



Fact Sheet: Enhancing the Privacy, Civil Rights, and Civil Liberties Framework for State and Major Urban Area Fusion Centers

Privacy, Civil Rights, and Civil Liberties Framework

- Over the past three years, federal, state, and local officials¹ have worked tirelessly to ensure that robust privacy, civil rights, and civil liberties protections are integrated into fusion center policies and business processes. These efforts have included developing Baseline Capabilities² and model privacy policy templates and providing training and subject-matter expertise to fusion centers.
- The goal is for every fusion center to establish a comprehensive framework for protecting privacy, civil rights, and civil liberties. The framework includes:
 - Developing and implementing a written privacy policy that:
 - Is “at least as comprehensive” as the Information Sharing Environment (ISE) Privacy Guidelines.
 - Addresses the requirements to participate in the Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI), as appropriate.
 - Meets the requirements of state and local privacy and civil liberties laws, ordinances, and regulations designed to protect the privacy of individuals and organizations.
 - Designating a fusion center Privacy Official.
 - Providing annual training to personnel on privacy, civil rights, and civil liberties protections.
 - Conducting local outreach and collaboration with privacy and civil liberties advocacy groups.
- This framework leverages the results of a two-year pilot project that demonstrated that local implementation of a uniform privacy, civil rights, and civil liberties framework is critical to enabling the sharing of information across jurisdictions.

¹ Partners involved in the support and guidance for this program include the U.S. Department of Justice (DOJ), Bureau of Justice Assistance and Office of Justice Programs; the privacy and civil liberties offices of the U.S. Department of Homeland Security (DHS), DOJ, and the Office of the Director of National Intelligence (ODNI); the Program Manager for the Information Sharing Environment (PM-ISE); the ISE Privacy Guidelines Committee; the Justice Management Institute; SEARCH, The National Consortium for Justice Information and Statistics; the Institute for Intergovernmental Research; and the Global Justice Information Sharing Initiative’s (Global) Criminal Intelligence Coordinating Council, the Global Advisory Committee, the Global Privacy and Information Quality Working Group, and the Global Intelligence Working Group.

² The *Baseline Capabilities for State and Major Urban Area Fusion Centers*, September 2008, was developed by fusion center officials and produced by the Global Justice Information Sharing Initiative and endorsed by DHS and DOJ. It identified 12 core capabilities, one of which addressed privacy and civil liberties protections.

Complying With New Privacy Requirements in the 2010 Homeland Security Grant Program Guidance

- To encourage implementation of the framework, the U.S. Department of Homeland Security (DHS) added a requirement in the 2010 Homeland Security Grant Program (HSGP) limiting the use of grant funds if fusion centers are not able to certify that privacy, civil rights, and civil liberties protections are in place within 6 months of their award date.
 - Privacy and civil liberties protections must be determined by the ISE Privacy Guidelines Committee (PGC) to be “at least as comprehensive as” the *Guidelines to Ensure That the Information Privacy and Other Legal Rights of Americans Are Protected in the Development and Use of the Information Sharing Environment* (ISE Privacy Guidelines).
 - Grant applications are due in June 2010, and it is estimated that fusion centers will receive grant awards in late summer 2010. According to this timeline, fusion centers should have a completed privacy policy in place no later than February 2011.
 - It is strongly recommended that fusion centers submit initial privacy policies for review **prior to receiving a FY2010 HSGP grant award**. Early submission of draft privacy policies will allow fusion centers to receive privacy technical assistance and support for the development of their privacy policies.

Technical Assistance for Developing a Fusion Center Privacy, Civil Rights, and Civil Liberties Policy

- Technical assistance and training to help fusion centers meet these requirements is being provided through the joint DHS and the U.S. Department of Justice (DOJ) Fusion Process Technical Assistance Program and Services.
- Members of a federally sponsored Privacy Policy Review Team are available for one-on-one assistance.
- Fusion centers are not required to develop a new policy. They may instead refine an existing privacy policy to ensure that it addresses all the ISE Privacy Guidelines requirements for enhanced protection of terrorism-related information.

Participation in the Nationwide SAR Initiative

- Fusion centers and other agencies participating in the NSI must develop a written privacy policy as a precondition to sharing or receiving any personal information contained in the ISE-SAR Privacy Fields in the ISE-SAR Shared Space.
- NSI participants may address ISE-SAR requirements either within the fusion center’s comprehensive privacy policy or by completing a separate NSI-specific policy using the NSI Privacy, Civil Rights, and Civil Liberties Protection Policy Template.

Fusion Center Privacy, Civil Rights, and Civil Liberties Templates and Tools

- The *Fusion Center Privacy Policy Development: Privacy, Civil Rights, and Civil Liberties Policy Template* is a technical assistance workbook for fusion centers to follow when drafting their privacy policies. This template, updated in February 2010, guides center personnel through the structured format and provisions of a comprehensive privacy policy. In addition, the template addresses ISE-Suspicious Activity Reporting (ISE-SAR) requirements for centers participating in the Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI).
 - The template provides guidance to fusion centers to address specific areas in their privacy policies, including Purpose Statement; Policy Applicability and Legal Compliance; Governance and Oversight; Terms and Definitions; Information; Acquiring and Receiving Information; Information Quality; Analysis; Sharing and Disclosure; Redress; Security Safeguards; Information Retention and Destruction; Transparency, Accountability, and Enforcement; and Training.
- The following documents also serve as useful guidance documents for fusion centers developing privacy policies:
 - *Global Privacy and Civil Liberties Policy Development Guide and Implementation Templates*— For use in educating fusion center personnel on privacy policy concepts, governance structure, establishing privacy policy development teams, and the basic components of a privacy policy. The Guide and templates were most recently updated in February 2010.
 - *Baseline Capabilities for State and Major Urban Area Fusion Centers* (Baseline Capabilities), Section II.B: Management and Administrative Capabilities, Information Privacy Protections. Section II.B of the Baseline Capabilities provides guidance on the baseline privacy capabilities (privacy official, privacy policy, outreach, and accountability) necessary for operational consistency and to be considered capable of performing basic fusion center functions.
 - Privacy and Civil Liberties Issues, Resources, and Training for State, Local, and Tribal Justice and Public Safety Agencies Web site at <http://www.it.ojp.gov/default.aspx?area=privacy>.

Training and Outreach Assistance

- An important focus of the Fusion Center Privacy Policy Technical Assistance Service is the provision of training and hands-on technical assistance by privacy and civil liberties subject-matter experts.
- Areas of training include:
 - Development of privacy policies.
 - Conducting outreach to and collaborating with members of the community and privacy and civil liberties advocates.
 - Focused training for analysts on how to incorporate privacy and civil liberty protections into the research, development, and review of analytic products.
- Additional privacy and civil liberties training is being scheduled for 2010.

Fusion Center Privacy, Civil Rights, and Civil Liberties Policy Review Process

- Fusion center personnel who have questions regarding the fusion center templates or need assistance as they draft their policies are encouraged to send an e-mail to fusionprocessprogram@ncirc.gov or call (850) 385-0600, extension 318.
- The Privacy Policy Review Process consists of the following steps:
 1. Once a fusion center has developed a privacy, civil rights, and civil liberties protection policy, it is encouraged to submit the policy for review by the Privacy Policy Review Team via e-mail to fusionprocessprogram@iir.com.
 2. The Privacy Policy Review Team reviews the policy and compares its language and provisions against the policy areas detailed in the *Fusion Center Privacy Policy Development Template*. It then provides feedback, comments, and recommendations to the center on its draft privacy policy.
 3. The Review Team conducts as many reviews as requested to assist fusion centers in addressing the template requirements, including the ISE Privacy Guidelines provisions. Typically, one to four draft versions of a policy have been submitted for review prior to finalizing the policy.
 4. The Privacy Policy Review Team will then submit the final draft privacy policy to the U.S. Department of Homeland Security's (DHS) Chief Privacy Officer for review. The DHS Chief Privacy Officer will review the draft privacy policy to determine whether it meets the standards of the ISE Privacy Guidelines.
 5. The DHS Chief Privacy Officer will provide written notification to fusion centers of completed privacy policies that are determined to be "at least as comprehensive as the ISE Privacy Guidelines."
- Questions regarding whether a fusion center's privacy policy is at least as comprehensive as the ISE Privacy Guidelines will be resolved by the DHS Chief Privacy Officer, in consultation with the other ISE Privacy Guidelines Committee (PGC) Cochairs.

NSI-Specific Policy Review Process

- NSI participants who have questions regarding the NSI-specific requirements or need assistance as they draft their policies are encouraged to send an e-mail to fusionprocessprogram@ncirc.gov or call (850) 385-0600, extension 318.
- Once the Privacy Policy Review Team has completed its review of an NSI-specific privacy policy, the Review Team will submit the draft policy to the Office of the Program Manager for Information Sharing Environment (PM-ISE) and the cochairs of the PGC for their review.
- After the PM-ISE and cochairs of the PGC determine whether an NSI-specific policy meets the applicable requirements of the ISE Privacy Guidelines, DOJ's Bureau of Justice Assistance is formally notified that the NSI participant is authorized to "go live" in sharing and accessing privacy field information in the ISE Shared Spaces.