
Fact Sheet

Initial Privacy and Civil Liberties Analysis of the Information Sharing Environment-Suspicious Activity Reporting (ISE-SAR) Functional Standard and Evaluation Environment

The Program Manager for the Information Sharing Environment (PM-ISE) – in consultation with the Civil Liberties and Privacy Office of the Office of the Director of National Intelligence (ODNI), the Office of Privacy and Civil Liberties of the Department of Justice (DOJ), and the Legal Issues Working Group of the ISE Privacy Guidelines Committee (PGC)—has prepared and publicly released a report entitled, *Initial Privacy and Civil Liberties Analysis of the Information Sharing Environment – Suspicious Activities Reporting (ISE-SAR) Functional Standard and Evaluation Environment (Report)*. The purpose of this Report is to ensure that the implementation of the ISE-SAR Functional Standard and Evaluation Environment is conducted in a manner that fully protects the legal rights of Americans, including information privacy, civil rights and civil liberties guaranteed by the Constitution and the laws of the United States. This is an interim privacy and civil liberties analysis that will be updated as more information is obtained during the ISE-SAR Evaluation Environment initiative, including lessons learned from participants and feedback received from privacy and civil liberties advocates and other interested parties.

The Report:

- Describes the ISE-SAR Functional Standard and associated Information Exchange Package Document (IEPD) and examines its potential impact on the privacy and other legal rights of Americans;
- Describes how the ISE-SAR Functional Standard will be evaluated in a limited operational environment and articulates those protective measures that will be established to ensure that privacy and other legal rights are fully protected within the scope of this evaluation; and
- Recommends specific protective measures that should be established prior to the national deployment of the ISE-SAR Functional Standard to ensure that privacy and the other legal rights of Americans are fully protected.

The Report recognizes that to be effective, information used to support law enforcement investigations and other counterterrorism activities must be lawfully obtained and have a reasonable nexus with terrorism-related criminal activity. To ensure that SAR reporting and designation of ISE-SARs are based on observable behaviors and incidents indicative of criminal activity, and to preclude reporting on individuals involved in innocent activities, the Report recommends that entities involved in implementing the ISE-SAR Functional Standard should:

- Train front line and supervisory personnel regarding: recognized behaviors and incidents associated with terrorism-related criminal activity as well as the privacy and civil liberties implications of suspicious activity reporting (e.g., constitutional and other legal protections),

Fact Sheet
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the application of the ISE Privacy Guidelines in the ISE-SAR context, and U.S. person-related collection limitations;

- Develop and implement robust privacy, civil rights, and civil liberties protection policies for all their information collection, use, storage, and sharing activities; and
- Establish multiple levels of vetting to ensure that only information that has been legally obtained is shared with other law enforcement and homeland security authorities.

Furthermore, the Report urges entities engaged in the gathering, documenting, analysis and sharing of SARs to:

- Promote a policy of openness and transparency when communicating to the public regarding their SAR process;
- Delay sharing privacy information until such time as adequate privacy and civil liberties protections are in place;
- Integrate terrorism-related suspicious information with processes and systems used to manage other crime-related information and criminal intelligence, thereby leveraging existing policies and protocols that protect the information privacy, civil liberties, and other legal rights;
- Clearly articulate when Federal regulations regarding the handling of criminal intelligence (e.g., 28 CFR Part 23) should be applied;
- Ensure privacy and civil liberties policies address core privacy principles, such as accuracy, redress, retention and disposition, and disclosure of personally identifying information, consistent with federal, state and local statutory and regulatory requirements;
- Evaluate and, as necessary, update privacy and civil liberties policies to ensure that they specifically address the gathering, documenting, processing, and sharing of terrorism-related information;
- Audit SARs for quality and substance to ensure that the integrity of the SAR program is maintained; and
- Use legal or privacy advisors in the development of the SAR process.

The release of this Report is a first step. During the evaluation process, the PM-ISE, in consultation with the ODNI's Civil Liberties and Privacy Office, DOJ's Office of Privacy and Civil Liberties, and the ISE PGC's Legal Issues Working Group, will:

- Advise individual sites regarding information privacy, civil rights, and civil liberties issues pertaining to the implementation of the ISE-SAR Functional Standard;
- Update the Initial Privacy and Civil Liberties Analysis at the conclusion of the ISE-SAR evaluation effort to document how "key privacy and civil liberties issues" were addressed and develop compliance mechanisms;
- Consult with privacy and civil liberties advocacy groups and other interested parties; and
- Compile and document practices and experiences from the ISE-SAR evaluation to inform revisions to the ISE-SAR Functional Standard.