



Fact Sheet

Privacy, Civil Rights, and Civil Liberties Analysis and Recommendations Report for The Nationwide Suspicious Activity Reporting Initiative (NSI)

- The Program Manager for the Information Sharing Environment (PM-ISE), in consultation with the Co-Chairs of the ISE Privacy Guidelines Committee (PGC) and in collaboration with the NSI Program Management Office (PMO) within the Department of Justice, has prepared and released a report entitled *Privacy, Civil Rights, and Civil Liberties Analysis and Recommendations for the Nationwide Suspicious Activity Reporting Initiative* based upon the findings of the NSI Evaluation Environment.
- This Report provides an update to the *Initial Privacy and Civil Liberties Analysis* released in September 2008, and builds upon the commitment to safeguard privacy, civil rights, and civil liberties in Evaluation Environment sites.

THE NSI PRIVACY, CIVIL RIGHTS, AND CIVIL LIBERTIES FRAMEWORK

- The recommendations of the *Initial Privacy and Civil Liberties Analysis* resulted in the development of a comprehensive privacy, civil rights, and civil liberties protection framework for the Evaluation Environment, known as the NSI Privacy, Civil Rights, and Civil Liberties Framework (“NSI Privacy Framework”).
- The Evaluation Environment sites were required to develop and adopt privacy, civil rights, and civil liberties policies that were “at least as comprehensive as the Information Sharing Environment (ISE) Privacy Guidelines,” and to implement the following NSI Privacy Framework:
 - Designation of a privacy and civil liberties officer;
 - Establishment of business processes for identifying, documenting, and sharing ISE-SAR information;
 - Adopting and integrating the SAR vetting process established by the ISE-SAR Functional Standard (Version 1.0) into existing business processes – this process required each SAR to be reviewed by a front-line supervisor prior to submission and subsequently by an experienced investigator or analyst trained in counterterrorism issues before designation as an ISE-SAR;
 - Provision of standardized training to front-line officers, investigators, analysts, and supervisory personnel to: 1) educate such personnel on the vetting process required by the ISE-SAR Functional Standard and 2) strengthen the ability of personnel, front line officers in particular, to recognize behaviors potentially indicative of preoperational planning related to terrorism, and to avoid racial and religious profiling; and

- Outreach to the community and privacy, civil rights, and civil liberties groups to foster transparency and trust and to obtain their feedback and perspective on information sharing initiatives.

HIGHLIGHTS AND OBSERVATIONS

- The Evaluation Environment validated the critical role of the NSI Privacy Framework in establishing a common protective structure within which to conduct information sharing operations, enabling sites to fulfill the dual mandates of maximizing information sharing while protecting privacy, civil rights, and civil liberties.
- Evaluation Environment sites neither experienced reported breaches of personal information associated with ISE-SAR information nor received complaints for redress.
- The Evaluation Environment resulted in significant implementation progress, while revealing areas requiring attention during the nationwide implementation of the NSI in 2010.

RECOMMENDATIONS FOR NSI IMPLEMENTATION

- To ensure that the elements of the NSI Privacy Framework is adopted, properly implemented, and continuously assessed as the nationwide implementation of the NSI continues, the Report includes the following recommendations:
 - The NSI Privacy Framework, including the enhanced protections established in the May 21, 2009 revision of the ISE-SAR Functional Standard (Version 1.5), must be adopted and implemented as a condition of participation in the NSI, with careful consideration of the resources necessary for full implementation;
 - NSI participants must adhere to the standardized vetting process and consistently use the current ISE-SAR Functional Standard criteria in the identification, documentation, and sharing of ISE-SAR information to mitigate the risk of profiling based solely on race, ethnicity, national origin, or religion, and to improve mission effectiveness;
 - Participating organizations must designate and train a privacy and civil liberties officer who has access to the services of legal counsel, if the officer is not an attorney;
 - Each participating organization must exercise due diligence in implementing appropriate physical, technical, and administrative measures to safeguard information; and
 - Each participating organization must emphasize and establish procedures to ensure personal responsibility and accountability for protecting privacy, civil rights, and civil liberties.
- Federal, State, local, tribal, and private sector partners, as appropriate, must continue to work together – in consultation with the privacy, civil rights, and civil liberties advocacy

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community – to ensure that the elements of the NSI Privacy Framework are adopted, properly implemented, and continuously assessed.

BACKGROUND

- The Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI) is an outgrowth of a number of separate but related activities over the last several years that respond directly to the mandate to establish a unified process for reporting, tracking, and accessing SAR information in a manner that rigorously protects the privacy, civil rights, and civil liberties of Americans.
- Federal partners, including the Program Manager for the Information Sharing Environment (PM-ISE) and the Department of Justice’s Bureau of Justice Assistance, conducted an eighteen month Evaluation Environment Initiative to assess the implementation of the SAR process by twelve initial sites.