

Civil Rights and Civil Liberties Training for the State and Local Fusion Centers

Overview and Purpose

In accordance with the 9/11 Commission Act¹, the DHS Office of Civil Rights and Civil Liberties (CRCL), in coordination with the Intelligence and Analysis (I&A)'s State and Local Fusion Center (SLFC) Program Management Office (PMO), will create and manage a training program to teach basic civil rights and civil liberties at the federal level applicable to most fusion centers and suitable for both federal and/or non-federal partners handling federal information. The training will cover only relevant federal legal authorities, systems, approaches, policies and missions applicable for fusion centers.² Such training will ensure SLFCs have a keen awareness of civil rights and civil liberties and help to ensure lawful information sharing between federal and state partners that protect individual rights. The training offered through this program should help fusion center personnel conduct their work while understanding basic rights and using these rights as a compliment to their work, not an afterthought or a hindrance.

Current Efforts

CRCL is currently providing training to DHS's personnel through its Civil Liberties Institute (CLI). CRCL has begun to offer existing CLU materials to fusion centers and is in the beginning stages of determining what training may be useful for the fusion center and ISE environment. Fusion center directors and DHS personnel assigned to fusion centers have now received CRCL's list of training materials including:

- A DVD providing an overview of Arab and Muslim cultures, traditions, and values
- A tutorial on the Department's policy on racial profiling
- A DVD on the National Detention Standards
- Posters that describe screening procedures for Sikh individuals carrying the "kirpan"
- A scenario-based training video for law enforcement officers to improve their communication skills
- Posters that describe screening procedures for people who wear religious head-coverings

Additionally, CRCL has toured a variety of fusion centers and conducted in-classroom training on cultural competence and civil liberties at individual fusion centers and regional fusion center conferences. Most recently, CRCL conducted a classroom-style civil liberties training at a regional fusion center meeting held in Chicago on December 11; to SLFC personnel on January 23 at Connecticut State University; and to SLFC personnel on January 28 in Raleigh, North Carolina. CRCL has supplemented Intelligence & Analysis (I&A) orientation training for DHS participants with civil rights and civil liberties instruction.

CRCL has been collaboratively working with the Department of Justice GLOBAL initiatives on training and civil liberties standards. CRCL serves on the Information Sharing Environment (ISE) Privacy Guidelines Committee (PGC) and chairs the Civil Rights and Civil Liberties Working Group. Through the PGC, CRCL helped draft the ISE Privacy and Civil Liberties Implementation Guide, available at http://www.ise.gov/docs/privacy/PrivacyImpGuide_V1.0_20070912.pdf.

¹ Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53.

² While the training module will not cover state law, it will encourage SLFCs to understand and comply with state civil rights, civil liberties, and privacy laws by working with relevant state officials.

CRCL will attend the SFLC National Conference in March 2008 and will speak on civil liberties issues. CRCL will also co-host a booth with the DHS Privacy Office, where current training materials will be available and personnel will be available for questions.

Rights Training for Fusion Centers Program

This training for SLFC will build upon current training efforts, including using active contract vehicles for developing and creating storyboards, production of DVDs, and procuring subject matter experts, as needed.

This training program will be phased in over FY 2008 and FY 2009 beginning with a standardized training module to save resources and ensure widespread access and dissemination through conferences and existing networks. Ultimately, by second quarter of FY 09, the program will provide customized classroom training with a deployable training coordinator and trainers providing ongoing instruction in civil rights and civil liberties. A civil rights and civil liberties rights certification program for information sharing personnel will also be explored in FY 08 with plans for implementation in FY 09.

Phase I- Standardized Training Module

Initially, a core curriculum for the civil rights and civil liberties education program for fusion centers will include some of the following subjects:

- Constitutional, civil rights and civil liberties statutes, policies, procedures and protocols;
- responsibility for validation of information;
- civil rights and civil liberties considerations in the use of actionable information and analysis obtained from fusion centers;
- compliance with Executive Order 12333 - United States Intelligence Activities;
- handling of personally identifiable information in a responsible and appropriate manner;
- appropriate procedures for the destruction of information that is no longer needed;
- performing a gap analysis to ensure civil liberties protections are extended through the lifecycle of information and analysis usage.
- consequences for failing to provide adequate civil rights and civil liberties protections;
- affording redress for correcting information;
- compliance with Federal regulations setting standards for multi-jurisdictional criminal intelligence systems, at 28 C.F.R. 23;
- the use of immutable auditing mechanisms designed to track access to information at a SLFC;
- engagement with racial, ethnic and religious minority communities;
- the use of race or ethnicity in law enforcement activities and policies against racial profiling; and,
- cultural competence for law enforcement officials;
- the Guidelines for the Information Sharing Environment and Fair Information Practices outlined in the Global Justice Information Sharing Initiative (GLOBAL) Fusion Center Guidelines
- an overview of the responsibilities of the Office for Civil Rights and Civil Liberties, including their investigative functions.

CRCL will implement task orders on existing contact vehicles to: procure subject matter experts, as needed; develop and create storyboards; produce two modules on DVD; and distribute to SLFCs by the third quarter of FY08. Once the initial training module on civil rights and civil liberties are distributed to SLFCs, CRCL will work with its SLFC partners to receive feedback on areas of improvement or areas where additional instruction is needed.

Phase 2- Customization Assessments

Throughout FY 08, CRCL will continue to conduct assessments of fusion centers requiring a customized approach to training (see appendix A, listing plans to visit fusion centers). To prioritize and further assess training needs, CRCL personnel have already begun to tour existing fusion centers to discuss training needs with them and with I&A leadership. CRCL has visited with representatives from the Georgia Information Sharing and Analysis Center, the Los Angeles Joint Regional Intelligence Center, the Massachusetts Commonwealth Fusion Center, and the Maryland Coordination and Analysis Center.

In addition, CRCL is creating a data call for SLFCs where I & A personnel are currently deployed. This data call will include inquires concerning:

1. Current training and other types of training needs;
2. Policies on civil rights and civil liberties (including whether the SLFC has adopted the U.S. Department of Justice (DOJ) Global SLFC guidelines);
3. Methods for ensuring awareness and compliance of civil rights and civil liberties (e.g. whether a person is dedicated to these issues, meeting with outside advocacy groups, whether the SLFC has consulted with state authorities on these issues, whether the SLFC has self-assessed under the DOJ Global SLFC guidelines);
4. Systems used to share information (e.g. HSIN, LEO, HDSN, etc.)

Phase 3- Classroom Training at Fusion Centers and Conventions

In order to be highly effective, CRCL recognizes that customized training will be necessary after the initial DVD training module is distributed. The Rights training will work to accommodate different levels of current expertise and partnership and different types of information sharing, i.e. just terrorism information or all crimes and/or all hazards. CRCL has already fulfilled some requests for from SLFCs for customized training, but will continue to do so in the future and be proactive in reaching out to SLFCs where specific requests for customized training have not been made. Customized training will depend on many factors including the type of information shared, the variety of systems and architecture used to control and share information, the level of cooperation, the volume of work to be conducted and the track record of individual fusion centers. Assessments and the data call, as articulated above, will also help to shape customized training based on each SLFC.

Phase 4- Creation of a Rights Certification Program for Information Sharing Personnel

Creation of a Rights Certification Program for Information Sharing Personnel will begin as CRCL gain understanding of the level of rights awareness sufficient for qualifying personnel. Discussions with existing criminal justice programs and negotiations with state and local authorities on their participation in such a certification for their personnel will occur throughout FY08 in preparation for rollout of the program in FY09.

Cost

Creation and implementation of this fully functional program is likely to require three to five FTEs and approximately \$545,000 in FY08 and \$125,000 cost in maintenance fees over the next three years. In the immediate term, CRCL is working with I&A to receive some funding provided to the SLFC PMO in the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, SECTION 1, Chapter 5 – House Report 110-107 (“the privacy protection policies of each center, including the number of facility personnel trained in Federal privacy, civil rights, and civil liberties laws and standards;”). Based on previous costs to produce training, this spending plan will allow CRCL to launch the program in order to fulfill Congress’s implicit intent to have fusion center personnel trained on civil rights and civil liberties standards.

**Proposed Spending Plan for
SLFC Rights Training**

Item	Cost
Creation and Completion of Storyboard for two DVD Training Modules (Create task order to existing training contract that CRCL maintains)	\$300,000
Production and Distribution of Training DVDs to SLFCs	\$30,000
Subject Matter Experts (SME) (Create task order to existing Contract that CRCL maintains for SME contract support)	
- CRCL SME	\$75,000
Development of Certification Program	\$10,000
Assessment and Evaluation of Training	\$25,000
Classroom Training (includes training materials, travel for instructors)	\$25,000
Management and Staffing salaries	\$80,000
Total	\$545,000