

## Privacy, Civil Rights &amp; Civil Liberties Training Modules Series

## What Is The Information Sharing Environment (ISE)?

### Level 2 Trainer Notes

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##### Talking Points

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##### Talking Points

#### *What is the Information Sharing Environment?*

The Information Sharing Environment (ISE) is a conceptual framework that is made up of policies, procedures, and technologies linking the resources of state, local, and tribal (SLT), federal agencies, and the private sector for counterterrorism purposes. (See Level 3 Source 1)

What resources does it link? The ISE brings together people, systems, databases, and information.

The ISE is a decentralized, distributed, and coordinated environment that:

- connects existing systems;
- builds upon existing systems capabilities currently in use across the government;
- facilitates the sharing of information at and across all levels of security; and
- incorporates protections for individuals' privacy and civil liberties.

#### *How and why was the ISE created?*

Section 1016 of Intelligence Reform and Terrorism Prevention Act (IRTPA) created the Information Sharing Environment. (See Level 3 Source 2)

The statutory intent behind IRTPA was to facilitate terrorism-related information sharing, access, and collaboration.

The ISE was established to provide analysts, operators, and investigators with integrated and synthesized terrorism, weapons of mass destruction, and homeland security information needed to enhance national security and help keep our people safe. (See Level 3 Source 2)

#### Slide 3

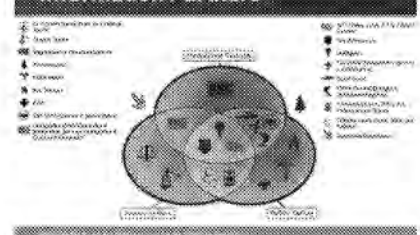
##### Talking Points

#### What is the ISE?

- The ISE is an approach
  - "It is the policies, processes/protocols and technology that enable the sharing of this information among federal, state, local, tribal, and private sector entities, as well as foreign partners"
- Information is shared for counterterrorism purposes



#### Justice & Security Information Partners



## Notes

***Who is the ISE?***

These analysts, operators, and investigators come from a variety of communities – law enforcement, public safety, homeland security, intelligence, defense, and foreign affairs – and may work for federal, state, local, tribal, or territorial governments. They also have mission needs to collaborate and share information with each other and with private sector partners and our foreign allies. While they work in different disciplines and have varying roles and responsibilities, they all rely on timely and accurate information to achieve their mission responsibilities.

**Slide 4****Talking Points*****What are the goals of the ISE?***

Improved intelligence collection and better sharing of information are central to success. Information sharing will be effective only if we achieve these three goals:

1. First, the ISE must be a trusted environment that fosters sharing and collaboration among those with information useful to understand potential terrorist threats, and where policies and technologies are developed in tandem. This is the only way we can ensure that the right people have the right information at the right time.
2. Second, the ISE also aims to promote an information-sharing culture, where agencies' goal is to send information to partners rather than only disclosing on a need-to-know basis. The ISE facilitates the sharing of information that is timely, validated, protected, and actionable.

But let's focus on the third goal –

3. The importance of protecting privacy and civil liberties, our focus here today. Personal freedoms are at the very foundation of our counterterrorism efforts. IRTPA called for an enhanced system of checks and balances to protect the liberties that are vital to our way of life. (See Level 3 Source 2)

The privacy and civil liberties of U.S. citizens and lawful permanent residents must therefore be assured through the implementation of enhanced privacy, civil rights and civil liberties protections in sharing policies and procedures.

**Slide 5****Talking Points*****Whose information is protected in the ISE?***

The ISE protects information regarding United States citizens and Lawful Permanent Residents (LPRs).

State, local, and tribal entities may choose to extend protection to other classes of persons. They may also extend protections to *all persons*, which would include organizations.

**Primary Goals of the ISE**

- Facilitate a trusted partnership among all levels of government, the private sector, and foreign partners
- Promote an information sharing culture by facilitating improved sharing of timely, validated, protected, and actionable terrorism information
- Ensure that sharing policies and procedures protect information privacy and civil liberties as well as other legal rights of U.S. citizens and lawful permanent residents (LPRs)

**Whose Information Is Protected in the ISE?**

- "Protected information" is PII about:
  - United States citizens
  - LPRs
- State, local, and tribal entities can extend definition of "protected information"
  - Other classes of persons
  - All persons (including organizations)

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### Talking Points

#### *What role does trust play in the ISE?*

We basically have two commodities in the ISE: 1.) information and 2.) trust.

The public's trust is fostered by the effective implementation of privacy, civil rights and civil liberties protections. The public will be more willing to support you in your information sharing activities if it knows you will protect privacy.

Conversely, exceeding your authorities or engaging in activities that violate privacy or other legal rights of U.S. citizens will erode the public's trust.

There are many examples of valuable programs that have been scrutinized, suspended, or terminated because the program failed to secure or maintain the public's trust.

#### *How does the ISE protect our way of life?*

The IRTPA protects our way of life by requiring enhanced privacy, civil rights and civil liberties protections in the ISE. (See Level 3 Source 2) The freedoms that we enjoy as Americans are unique and require just as much protection as the tangible things, like critical infrastructure.

#### *Do privacy, civil rights and civil liberties protections do anything to further the mission?*

Yes. The privacy, civil rights and civil liberties protections in place in the ISE actually enhance mission effectiveness. Our nation's security is strengthened when we focus our time and attention on the violent groups, rather than the peaceful activists.

Privacy, civil rights and civil liberties protections sharpen our ability to identify and address in a more efficient manner potential criminal and terrorism threats. Instead of looking for ideologies, generalizations, race, religion, etc., we look at behavior, and ask, "what did the individual or group do?"

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### Talking Points

#### *Why was the ISE established?*

Until 9/11, federal, state, local and tribal partners had a limited capacity to share information and there were perceived legal barriers to sharing. Moreover, bureaucratic rivalries hindered information sharing.

After 9/11, it was widely agreed that we needed to do a better job sharing information with one another. The free flow of data, it was argued, would help them "connect the dots" and prevent future attacks.

#### *What does the phrase "connecting the dots" mean?*

#### Why Is the ISE Important?

- Builds trust
- Protects our way of life
- Enhances mission-critical successes



#### How Did We Get Here?

- the attack on 9/11 was attributed to lack of information sharing between agencies and levels of government
- Debate over the USA PATRIOT Act and the Intelligence Reform and Terrorism Prevention Act (IRTPA)
  - Public concern that increased information sharing would invade PIVACY
- IRTPA established dual mandate
  - Share to protect information
  - Incorporate enhanced PIVC protections in the ISE to the greatest extent possible



A phrase we hear all the time, “connecting the dots” means connecting information about behaviors.

So the central question became, what information should be collected and whose information? With that, the public and advocacy groups expressed significant concerns that increased information sharing would lead to a surveillance society, stripping citizens of their privacy, civil rights, and civil liberties.

As a result, IRTPA was enacted with the dual mandates of sharing terrorism information while protecting privacy, civil rights and civil liberties to the greatest extent possible. (See Level 3 Source 2)

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### Talking Points

*What is a recent example of the terrorist threat?*

Terrorism continues to pose an imminent and grave threat to our nation.

On May 4, 2010, Faisal Shahzad (Fay-sal Shah-zaad) was arrested on board an Emirates Air flight to Dubai as the plane sat on the tarmac of JFK Airport in New York. Three days prior to his arrest, Shahzad attempted to detonate a homemade explosive device planted in the rear of his sport utility vehicle parked near Times Square.

Shahzad—who received explosives training in Pakistan from Tehrik-e-Taliban (TTP), a Pakistan-based terror group—built the explosive device which “consisted of three 20-gallon propane tanks, 152 M-88 (consumer-grade) fireworks, one 4-foot by 2-foot metal gun locker filled with 250 pounds of urea-based fertilizer, and two alarm clocks connected by wires.” (See Level 3 Source 3)

At the time Shahzad attempted to detonate the explosives, his sport utility vehicle was parked on West 45th Street in New York City—not far from New York’s Times Square intersection. Law enforcement personnel were called to the scene by an observant T-shirt vender who saw smoke emanating from the unattended vehicle.

The device malfunctioned because the fertilizer was “inert and not usable as an explosive,” thus allowing the New York City Police bomb squad to safely remove the device and the vehicle from Times Square. (See Level 3 Source 3)

After clearing the vehicle from the scene, law enforcement personnel used its VIN number to track down the individual who sold Shahzad the car. Police were then able to connect Shahzad to the crime using the information he provided the seller in that transaction.

According to a FBI press release: “After his arrest, Shahzad... admitted that if he had not been arrested he would have attempted to detonate another bomb in New York City two weeks later.” (See Level 3 Source 4)

On June 17, 2010, Shahzad was indicted in the Southern District of New York for ten offenses relating to the May 1, 2010, attempted bombing. On June 21, 2010, Shahzad pleaded guilty to all ten offenses. On October 5, 2010, Faisal Shahzad was sentenced to life in prison.

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### Talking Points

Threats Remain a Significant Problem

**PRESS**

Faisal Shahzad was arrested and charged for trying to set off a car bomb in Times Square.

Threats Remain a Significant Problem

**PRESS**

Najibullah Zazi pleaded guilty of conspiring to detonate bombs on New York City commuter trains.

*What is another recent example of the terrorist threat?*

Najibullah Zazi is a Colorado resident who pleaded guilty to terrorism charges related to a planned attack on the New York subway system. (See Level 3 Source 5)

In 2008, Zazi travelled to Pakistan with friends to undergo training on weapons and bomb making from Al-Qaeda operatives. Upon returning to the United States, Zazi moved to Colorado and began working as an airport shuttle driver. The FBI caught Zazi at some point talking on his cell phone about chemicals and put him under surveillance. Zazi started to put together materials for a bomb (including beauty products), and FBI agents found a hotel room with traces of acetone under his name.

Keeping him under surveillance, the FBI let Zazi get as far as New York City to develop a case on him. When he arrived there, Zazi aborted his plot when he began to suspect that he was under surveillance (an imam that the FBI was using as an informant tipped off Zazi and his father). He returned to Colorado where he was arrested. (See Level 3 Source 6)

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**Talking Points**

*What is another recent example of the terrorist threat?*

A Nigerian citizen, Umar Farouk Abdulmutallab (Ou-mar Fa-rouk Ab-doul-moo-taleb), tried to blow-up a Detroit bound airliner on Christmas Day in 2009.

Abdulmutallab traveled from Yemen to Africa, and then from Africa to Amsterdam, where he boarded Northwest Airlines Flight 253 with the bomb concealed in his underwear.

Abdulmutallab planned to detonate the bomb as Flight 253 approached Detroit Metropolitan Airport, “causing the plane to crash and killing the 290 passengers and crew members on board.” (See Level 3 Source 7)

Fortunately, the bomb was defective and did not fully explode, but rather burst into flames, igniting Abdulmutallab’s pants.

Several passengers and crew members tackled Abdulmutallab, extinguished the fire, and detained him until the plane had safely landed in Detroit.

According to court records, Abdulmutallab pleaded guilty to terrorism-related charges and was sentenced in Feb. 2012 to life in prison. (See Level 3 Source 7)

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**Talking Points**

*What has the ISE done to counter recent terror threats?*

We achieve success through improved information sharing capabilities, processes and practices. But in order to continue uncovering and deterring terrorist activities, ISE partners must continue to foster the public’s trust by implementing appropriate safeguards.

**Threats Remain a Significant Problem**

**PRESS**

Umar Farouk Abdulmutallab was charged with attempting to murder passengers and crew members aboard a Northwest Airlines flight as it landed in Detroit.

**Threats Remain a Significant Problem**

**PRESS**

**To continue uncovering and deterring terrorist activities, ISE partners must foster public trust.**



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### Talking Points

#### *Is there a difference between “rights” and “liberties”?*

A distinction can be made in that rights are seen as affirmative requirements of the government to treat people equally and liberties are seen as restrictions keeping the government out of certain activities of the people.

Put simply:

The government makes laws to regulate people and their activities.

- When regulating people and their activities, the government may not treat people differently solely because of their race, ethnicity, national origin, religion, sex, disability, age, or other characteristic unrelated to the worth of the individual.
- Some activities cannot be regulated—or can only be regulated in certain specific ways—because they are fundamental individual freedoms, such as free speech or the exercise of religion.

#### *Why are we concerned about privacy, rights, and liberties?*

We are focused on successfully connecting information about behaviors related to terrorism. In this process, we are gathering, maintaining, and sharing information that may distinguish or identify a particular individual. This process raises privacy, civil rights, and civil liberties concerns that must be addressed.

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### Talking Points

#### *What privacy, civil rights and civil liberties concerns has the public expressed with regard to fusion centers and the ISE?*

The major concerns from the public about the ISE are, in fact, concerns that privacy, civil rights and civil liberties will be infringed. With the increase in information sharing and use of new technology, the public is concerned that their rights will give way in the fight against the terrorist threat.

Additionally, fusion center are perceived to have a lack of rules and oversight that is problematic. The perceived secrecy with which many law enforcement agencies conduct their operations is also a source of unease.



#### **Handout “Questions to Ask About Fusion Centers”**

To assist you in understanding the public’s concerns, we are providing you with a copy of a list of questions that advocacy groups for civil liberties have drafted. The aim is to guide the public in asking probing and difficult questions about fusion centers.

#### *Are you prepared to answer these questions?*

#### **“General Questions**

#### **Protect and Ensure Civil Rights and Civil Liberties**

##### Civil Rights

Obligation to treat people equally

and: Regardless of race, ethnicity, national origin, religion, sex, disability, age, or other characteristics unrelated to the worth of the individual

##### Civil Liberties

Limits on government powers

and: Powers that restrict fundamental individual freedoms, such as those and civil in the Bill of Rights

#### **P/CRCL Concerns**

- Expressed by public
  - P/CRCL concerns about information sharing and technology
  - Perceived lack of rules and oversight
  - Secrecy about law enforcement operations



**Notes**

1. Is there a state, local or regional Fusion Center in my area?
2. Is the Fusion Center located within law enforcement facilities, in other government facilities or private space?
3. Who are the participants in the Fusion Center?
4. Under what authority does the Fusion Center operate (state law, local law, or federal law)?
5. Who is responsible for ensuring all federal, state and local laws protecting privacy and civil liberties are enforced?
6. What state or local sunshine laws or open meeting laws apply to activities taking place at Fusion Centers?"

**"Data Mining and Data Security Questions**

7. What information, intelligence and/or data are collected at the Fusion Center and how is it stored?
8. Who has access to this data at the Fusion Center? How is it protected from misuse?
9. What does the Fusion Center do to ensure the accuracy of the data it receives and disseminates?
10. Do all data bases associated with the Fusion Center comply with 28 C.F.R. Part 23?
11. How is private, personally identifiable information received by the Fusion Center protected?
12. Does the Fusion Center engage in data mining?
13. What databases/data sets does the Fusion Center have access to, and how does it access them?

**Participation of Non-Law Enforcement Entities in Fusion Center Activity**

14. Do any non-law enforcement entities participate in Fusion Center activities? If so, who?
15. Do any private sector entities participate in the Fusion Center activities? If so, who?
16. How are private sector entities selected to participate in the Fusion Center? May private sector entities not selected to participate in Fusion Centers receive the same information that is made available to those private entities that are selected? How would they get access to this information?
17. Do these non-law enforcement entities have access to law enforcement information or databases through their participation in the Fusion Centers? If they are co-located with law enforcement personnel what safeguards are in place to prevent unauthorized access?
18. Who is responsible for overseeing the non-law enforcement and private sector personnel, and who are these individuals accountable to?
19. Who trains Fusion Center personnel?
20. Who receives data, intelligence reports or other products from the Fusion Centers?
21. Do any private companies handle, store or analyze data received from or processed through the Fusion Center? How is that data protected once it is out of government control?"

**"Classification Issues**

22. Are there facilities at the Fusion Center to store classified information?
23. Have local officials been given security clearances?
24. Have any private sector entities been given security clearances or access to sensitive information at the Fusion Center?
25. Does the use of classified information at the Fusion Center limit intelligence sharing with state and local law enforcement agencies in our cities, towns and communities? How is this problem being addressed?"

**"Participation of Military Personnel in Fusion Centers**

26. Does the National Guard participate in the Fusion Center, and if so, under what authority?
27. Are the National Guardsmen limited in what data they may collect, analyze, or review at the Fusion Centers?
28. Do any active-duty military personnel participate, and if so under what authority?

## Notes

29. How is activity of the National Guardsmen and military personnel monitored to ensure compliance with applicable laws regarding the use of the military in domestic law enforcement?"

**"Costs and Cost-Effectiveness of Fusion Centers"**

30. What are the annual costs of the Fusion Center?  
31. How do you evaluate the cost-effectiveness of the Fusion Center?"

**Slide 14****Talking Points**

*What has the government done to respond to the public's concerns about potential privacy, civil rights and civil liberties violations?*

Law enforcement and homeland security agencies have recognized the seriousness of privacy, civil rights and civil liberties and taken action:

- voluntarily adhering to common standards;
- ensuring training, providing oversight and supervision;
- being more open with public about their process, like sharing their privacy policies and meeting with advocacy groups;
- learning from others' mistakes;
- setting new standards; and
- policing themselves.

**Example:** An example of one of the standards that federal agencies have implemented in the information sharing context is 28 C.F.R. Part 23. (See Level 3 Source 8) Many fusion centers have adopted 28 C.F.R. Part 23 as their own standard for collection of criminal intelligence in their privacy policies.



**Handout:** "28 C.F.R. Part 23"

**Q to the Group:** Has your center adopted 28 C.F.R. Part 23 for criminal intelligence or implemented similar provisions through your privacy policy?

*What can you do to alleviate the public's concerns?*

- Implement the fusion center privacy policy
- Ensure transparency
- Engage in outreach
- Adopt uniform processes

**Slide 15****Talking Points**

*What is the role of privacy, civil rights and civil liberties protections in the ISE?*

The bottom line is that protection of P/CRCL is a national priority to maintain the trust and support of the American public.

### Government's Response to Public's Concerns

- Law enforcement/homeland security response
- Understand and implement P/CRCL protections, and provide appropriate oversight
  - Adopt and implement P/CRCL policy and procedures
- Share appropriately with public
- Standardize operations



### Critical Role of P/CRCL

- Protection of P/CRCL is a national priority
  - Fosters trust
    - Essential to implement effective policies and processes to assure public that Americans' legal rights are fully protected
  - Enhances national security by improving mission effectiveness

Notes

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Additionally, ensuring rights are protected will help us do our jobs better; we need to ensure that we are gathering information on the violent actors of the world, rather than wasting our resources on nonviolent activists.

**Slide 16****Talking Points**

*Is protecting privacy, civil rights and civil liberties an essential mission of the ISE?*

Yes. In order to protect our way of life, we need to ensure that we are both improving information sharing and protecting privacy, civil rights and civil liberties. The bottom line is that our mission is twofold and we must do both parts.

**Bottom Line: We Must Do Both****To protect our way of life****Slide 17****Talking Points****Slide 18****Talking Points**

This module was designed by the DHS Office for Civil Rights and Civil Liberties to support privacy, civil rights, and civil liberties training at state and major urban area fusion centers.

For additional information, modules, or technical assistance please contact [fusioncentertraining@dhs.gov](mailto:fusioncentertraining@dhs.gov).

Visit [www.it.ojp.gov/PrivacyLiberty](http://www.it.ojp.gov/PrivacyLiberty) for single point access to the variety of federal resources that provide guidance on privacy, civil rights, and civil liberties issues encountered by fusion centers in the Information Sharing Environment (ISE).