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2017 DEC 26 PM 4: 11

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: Third Supplemental Report on
Immigration Policy, Partnerships, and
Data Sharing

DATE: December 18, 2017

City Administrator
Approval

Date

12/26/17

RECOMMENDATION

Staff Recommends That The City Council Receive This Third Supplemental Report From the Oakland Police Department (OPD) On To What Extent The City of Oakland's Existing Law Enforcement Policies And Rules Align With The American Civil Liberties Union's (ACLU's) Freedom Cities Nine Model State And Local Law Enforcement Policies And Rules.

REASON FOR THE SUPPLEMENTAL REPORT

On July 11, 2017, staff presented the original report to the Public Safety Committee. In response, the committee requested additional information including a focus on what law enforcement partners have access to which databases. The Committee expressed a concern about what law enforcement partners who have access to OPD data are using the data and if they are using the data to determine immigration status.

On October 10, 2017, staff presented the first supplemental report to the Public Safety Committee. In response, the committee requested another supplemental report with more information about what kind of access Immigration and Customs Enforcement (ICE) has to data provided by OPD.

On November 14, 2017, staff presented the second supplemental report to the Public Safety Committee. In response, the committee requested another supplemental report to address the following:

- The legal (or other) basis for the California Department of Justice (CalDOJ) requiring local law enforcement agencies, such as OPD, to provide the place of birth for arrested individuals to a local custodial facility (and ultimately CalDOJ) at the at time of booking into a custodial facility.

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- The legal (or other) basis for the California Department of Justice requiring local booking agencies, such as the Alameda County Sheriff's Office, to provide CalDOJ with citizenship status for individuals booked by local law enforcement agencies.
- A written document that outlines the limitations on data access/requests from members of the Northern California Regional Intelligence Center (NCRIC).
- Written agreements, such as Memoranda of Understanding (MOUs) that govern limitations to access NCRIC data.

Legal Basis for Providing Place of Birth and Citizenship Status to CalDOJ

In response to this request, OPD staff sent several email message requests and made several phone calls to CalDOJ requesting the statutory or other authority requiring that place of birth and citizenship status be provided for individuals booked into custodial facilities. CalDOJ provided California Penal Code section 13125 as the basis for the requirement by OPD to provide the place of birth at the time of booking an arrestee into jail. This Penal Code section states:

"All basic information stored in state or local criminal offender record information systems shall be recorded, when applicable and available, in the form of the following standard data elements:

- *The following personal identification data:*
 - *Name--(full name)*
 - *Aliases*
 - *Monikers*
 - *Race*
 - *Sex*
 - *Date of birth*
 - *Place of birth (state or country)*
 - *Height*
 - *Weight*
 - *Hair color*
 - *Eye color*
 - *CII number*

- *FBI number*
- *Social security number*
- *California operators license number*
- *Fingerprint classification number*
- *Henry*
- *NCIC*
- *Address*
- *The following arrest data:*
 - *Arresting agency*
 - *Booking number*
 - *Date of arrest*
 - *Offenses charged*
 - *Statute citations*
 - *Literal descriptions*
 - *Police disposition*
 - *Released*
 - *Cited and released*
 - *Turned over to*
 - *Complaint filed"*

CalDOJ has not provided a basis for the requirement that the Alameda County Sheriff's Office provide citizenship status to CalDOJ for arrested individuals.

Data Access/Requests for and Limitations to Access NCRIC Data

Additional communication with NCRIC Director Mike Sena has provided the following key points:

- Member agencies* have no obligation to share, and they select exactly what information to share.
- All recipients of shared information are law enforcement vetted and approved personnel with both a need and right to know the information in compliance with the CJIS or 28 CFR Part 23 standards detailed in the links below.
- The originating agency remains owner and custodian of their records.
- There are no financial obligations or expectations on either side.

Director Sena provided the NCRIC/Agency MOU (**Attachment A**) along with links to the State Threat Assessment System (STAS) Privacy Policy (**Attachment B**) and the NCRIC Non-Disclosure Agreement (**Attachment C**).

*The member agencies of NCRIC are:

Federal

- Department of Homeland Security (Office of Intelligence and Analysis)
- Drug Enforcement Administration
- Federal Bureau of Investigation

State

- California Department of Justice
- California Highway Patrol
- California National Guard

Local

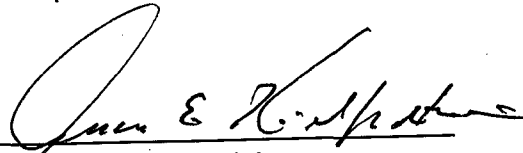
- Alameda County Sheriff's Office
- Contra Costa County Sheriff's Office
- Marin County Sheriff's Office
- San Francisco Fire Department
- San Francisco Police Department
- San Francisco Sheriff's Department
- San Jose Police Department
- San Mateo County Sheriff's Office
- Santa Clara County Sheriff's Office

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Receive This Third Supplemental Report From the Oakland Police Department (OPD) On To What Extent The City of Oakland's Existing Law Enforcement Policies And Rules Align With The American Civil Liberties Union's (ACLU's) Freedom Cities Nine Model State And Local Law Enforcement Policies And Rules.

For questions regarding this report, please contact Police Services Manager I Timothy Birch, Research and Planning, at (510) 238-6443.

Respectfully submitted,



Anne E. Kirkpatrick
Chief of Police
Oakland Police Department

Prepared by:
Timothy Birch, Police Services Manager I
OPD, Research and Planning, OCOP

Attachments (3)

A: NCRIC/Agency MOU

B: STAS Privacy Policy

C: NCRIC Non-Disclosure Agreement

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January 9, 2018



Memorandum of Understanding

Northern California Regional Intelligence Center

Carlos G. Bolanos
Sheriff, San Mateo County Sheriff's Office
Chairman, Northern California High Intensity Drug Trafficking Area Executive Board

Michael Sena
Director, Northern California Regional Intelligence Center &
High Intensity Drug Trafficking Area



MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter "MOU" or "Agreement") is entered into by and between the parties represented, known collectively as "Member Agencies" or individually as a "Member Agency."

WHEREAS, the Member Agencies provide public safety services within their jurisdictions; and

WHEREAS, the Member Agencies are dedicated to the most efficient utilization of their resources and services in public safety endeavors within their jurisdictions; and

WHEREAS, the Member Agencies are committed to complete cooperation and coordination in providing the highest level of safety services to the public, guided by the principle that cooperative efforts are in the public's best interest; and

WHEREAS, the Member Agencies are in support of sharing the information contained within their electronic data systems - including but not limited to: Records Management Systems, Computer Aided Dispatch Systems, Automated License Plate Readers, Intelligence Management Systems, Jail Management Systems, and Law Enforcement Data Sharing Systems - into software platforms designed to unify that information and optimize its usefulness in support of public safety; and

WHEREAS, the Member Agencies desire to share data owned, aggregated, or collected by the Member Agency under the conditions set forth in this MOU; and

NOW, THEREFORE, the Member Agencies hereby agree:

Mission

The Northern California Regional Intelligence Center (NCRIC) is a multi-jurisdictional public safety information fusion center comprised of the Northern California High Intensity Drug Trafficking Area (NCHIDTA) Investigative Support Center and the NCRIC Homeland Security Programs. The NCRIC is managed under the NCHIDTA Executive Board. The NCRIC was created to assist local, state, federal and tribal public safety agencies and critical infrastructure locations with the collection, analysis and dissemination of all crimes threat information.

It is the mission of the NCRIC to protect the citizens of the counties within its area of responsibility from the threat of narcotics trafficking; organized crime; international, domestic and street terrorism related activities through information sharing and technical operation support to public safety agencies.

The NCRIC Data Sharing Partnership (NCRIC-DSP) is formed in support of this mission, under the leadership of the NCRIC, its Executive Board, and regional stakeholders, to develop, establish, and maintain an integrated system of information technology that maximizes the sharing of data and communication between Member Agencies in support of law enforcement and public safety, while maintaining the confidentiality of privileged or otherwise protected information shared through the system, and protecting privacy and civil liberties in accordance with applicable law.

Purpose

This agreement outlines the duties and responsibilities of each Member Agency, defines the working relationships and lines of authority for Member Agencies within the NCRIC-DSP, and provides for the addition of other eligible entities in the data sharing program created by this Memorandum of Understanding (hereinafter "MOU").

1) Definitions and other Terminology

NCRIC Data Sharing Partnership (NCRIC-DSP): the collective group of Member Agencies sharing data, or utilizing shared data through, the NCRIC, as governed by this MOU or similar agreements

NCRIC-DSP Systems: the collective group of information technology systems via which shared data from multiple sources is aggregated, federated, replicated, standardized, or otherwise consolidated for access to Authorized Users from Member Agencies.

Authorized Users: personnel from the Member Agencies that have the appropriate clearance and authority to utilize and access shared data as a function of their employment.

Data: electronic records, analyses, images, and other information associated with incidents, persons, or objects, existing in a Member Agency system or database, and potentially shared with other Member Agencies via the NCRIC-DSP Systems.

Host: the entity providing the facilities, labor, and expertise used to maintain, operate, manage, and expand one or more NCRIC-DSP Systems, under the direction of the Host's governance and in compliance with the policies set forth in this agreement.

Member Agency: a law enforcement or public safety organization, whose leadership has signed this agreement, and actively participates in information sharing with other Member Agencies.

2) Member Agency Rights, Powers and Authority

This Agreement does not limit the rights, powers, and authority of Member Agencies. Each Member Agency expressly retains all of its rights, powers, and authority including, but not limited to, financing, planning, developing, constructing, maintaining, repairing, managing, operating, and controlling equipment, facilities, properties, projects, and information that it deems, in its sole discretion, to be necessary for its own information system needs.

Nothing in this Agreement shall be construed to require a Member Agency:

- a) to disclose any information that the Member Agency determines, in its sole discretion, it does not have the ability or authority to disclose; OR
- b) to do any act that the Member Agency determines, in its sole discretion, is contrary to law or public policy; OR
- c) to provide personnel, equipment, or services to the NCRIC; OR
- d) to modify, restrict, or inhibit utilization of information systems independent of the NCRIC-DSP system.

Member Agencies may modify, upgrade, or otherwise alter any internal systems or processes without approval or notification of the NCRIC.

In gathering and sharing information, and in all other respects in performing acts related to this Agreement, the parties will comply with all applicable laws, rules, and regulations.

3) Effective Date and Term of MOU

This agreement shall remain in effect until terminated and shall be reviewed by the NCRIC every twelve months to consider any recommended modifications to the Member Agencies. The agreement may be terminated by either party given written notice.

4) Data Sharing

All Member Agencies agree to promote comprehensive, timely, and accurate data sharing with via NCRIC-DSP Systems. Data shall only be shared with other entities that have executed similar agreements, and only then to authorized users who possess a need to know and right to know the shared data towards fulfillment of assigned law enforcement or public safety duties.

Member Agencies are not required to contribute data to the NCRIC-DSP Systems.

Any data shared by a Member Agency to NCRIC-DSP Systems that the Member Agency later declares should not be shared, shall be withdrawn from all NCRIC-DSP Systems within three business days from the moment notification was made to exempt the information.

Each Member Agency shall determine, at its sole discretion, which data records are to be shared with the NCRIC-DSP and shall maintain the databases or other sources that contain the applicable information.

5) Data Access

Data exchange and user access shall be achieved using encryption, private networks, or other configurations that follow current best practices for information technology, and must adhere to current standards set forth by the Federal Bureau of Investigation Criminal Justice Information Services (CJIS) and California Department of Justice.

6) Information Ownership and Release

Member Agencies remain the official custodian of all information contributed to the NCRIC-DSP. To the fullest extent permissible by law, all requests for information, including but not limited to inquiries under the California Public Records Act or Freedom of Information Act, will be referred to the Member Agency that is the owner of the requested data. The Member Agency that is the owner of the requested data will be responsible for responding to the request.

7) Authorized User Access and User Responsibilities

Each Member Agency is responsible for management of its Authorized User accounts and the activities of its Authorized Users.

Each Member Agency agrees that all Authorized Users shall be current employees in good standing that are sanctioned to view law enforcement sensitive content as part of their assigned duties in support of public safety.

If for any reason a user is no longer eligible for such access, including ending his/her employment with the agency, the agency will follow appropriate procedure and/or make necessary contacts to ensure access is removed accordingly.

Each user agrees that NCRIC-DSP Systems and the information contained therein are to be used solely for authorized purposes consistent with the law. Authorized users shall not use or share the information for any unauthorized purposes, and Member Agencies agree that such actions may result in the offending Member Agency or its offending Authorized User being revoked access to the NCRIC-DSP system.

Users may not access any NCRIC-DSP Systems by using a name, password, or any authentication mechanism that is assigned to another person. Users may not share passwords with another individual, nor allow another user to utilize the system under their credentials.

Audit logs will be maintained for a period of no less than three years to record user access to shared data, including the name and organization of the user accessing via the NCRIC-DSP and the date and time when the data was accessed.

8) No Guarantee of Accuracy

Member Agencies acknowledge that data maintained in NCRIC-DSP Systems consists of information that may or may not be accurate. Member Agencies do not warrant nor may rely upon the accuracy of such information. Member Agencies understand and agree to convey this caution to their employees who are Authorized Users. It shall be the responsibility of the Member Agency or Authorized User requesting or using the data to confirm the accuracy of the information before taking any enforcement-related action.

The various Member Agencies agree to use information in NCRIC-DSP Systems as a pointer system for investigative leads or guidance, and not as the source of probable cause for law enforcement actions.

9) Security Requirements

Member Agencies agree to maintain and enforce security requirements for the system. Each Member Agency is responsible for the internal security of their records and any technical support necessary to ensure proper security. All Member Agencies and Hosts

agree to enforce and maintain security, retention, and purge requirements for the information shared as specified in the Information Practices Act, the Public Records Act, California Attorney General's Model Standards and Procedures for Maintaining Criminal Intelligence Files and Criminal Intelligence Operational Activities, 28 Code of Federal Regulations (CFR) Part 23, FBI Criminal Justice Information Services (CJIS) policy, California Department of Justice policies, and any other laws or regulations governing applicable data types.

10) Connecting with other data sources and analysis platforms

The NCRIC will work to expand the connectivity and membership of the NCRIC-DSP. It will also seek to acquire new analysis systems, and enhance the capabilities of existing platforms, as to provide optimal value for data shared by Member Agencies.

Member Agencies grant authority to the NCRIC to execute information sharing agreements with new Member Agencies and to incorporate new information sharing systems into the NCRIC-DSP. Such agreements will not require further review or approval by member agencies. Such agreements will have no material changes or provisions that would adversely affect or contradict the policies of this MOU.

11) Admission and Withdrawal of Member Agencies

Additional public agencies, or similar regional or statewide sharing systems, may become Member Agencies by execution of a written amendment to this agreement by the proper authority of the new Member Agency.

Existing and future Member Agencies have the right to withdraw from the NCRIC-DSP provided the give written notice to the NCRIC, or may be involuntarily removed upon any breach of this agreement.

12) Mutual Indemnification

Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under workers' compensation acts, disability benefit acts, or other employee benefit acts.

13) No Authority to Act on Behalf of Other Member Agencies

Member Agencies shall have no authority, either express or implied, to act on behalf of any other signatory in any capacity whatsoever.

14) Costs

Member Agencies shall be responsible for their own costs associated with establishing, maintaining, or terminating their access to, or participation with NCRIC-DSP Systems. Nothing in this agreement shall be construed to mean that Member Agencies are subject to incurring new costs as a result of participating in the NCRIC-DSP.

15) Amendments

This Agreement may be amended with the unanimous written approval of all Member Agencies. Provided, however, that no amendment may be made that would adversely affect the interests of the owners of bonds, letters of credit, or other financial obligations of the NCRIC or any Member Agencies.

16) Conflicts of Interest

No official, officer, or employee of Member Agencies shall have any financial interest, direct or indirect, in the NCRIC-DSP or any NCRIC-DSP Systems.

17) Partial Invalidity

If any terms or conditions of this Agreement shall to any extent be judged invalid, unenforceable, or void for any reason whatsoever by a court of competent jurisdiction, the remaining terms and conditions of this agreement shall continue in full force and effect.

The Member Agencies hereby execute this MOU as of the individual Member Agency's date of execution:

<PARTNER AGENCY NAME>

<NAME AND TITLE/RANK>

Date

Sheriff of San Mateo County on behalf of Northern California Regional Intelligence Center:

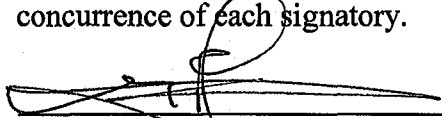
Carlos G. Bolanos
Sheriff
San Mateo County

Date



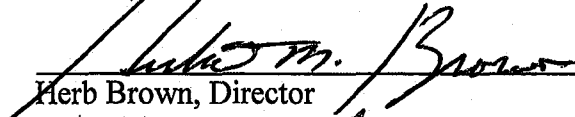
INFORMATION PRIVACY POLICY

Each of the fusion centers which comprise California's State Threat Assessment System (STAS) have individually and, collectively, committed their center to comply with Title 28, Code of Federal Regulations Part 23, the National Strategy For Information Sharing, applicable national guidelines developed by the United States Department of Justice through the DOJ-sponsored Global Justice Information Sharing Initiative and the Department of Homeland Security Advisory Council, and the California Attorney General's Model Standards and Procedures for Maintaining Criminal Intelligence Files and Criminal Intelligence Operational Activities. The signatures below reflect this ongoing commitment and approval of the STAS Information Privacy Policy as a baseline set of standards and principles that apply throughout the STAS. While each of the STAS components retains the discretion to implement a privacy policy for each center or agency, those policies will adhere to the principles and standards articulated within this Policy. This Policy shall be reviewed annually and updated as appropriate with the concurrence of each signatory.


CAPT.


Greg Ferrero, Commander
California State Threat Assessment Center

5/14/14
Date




Herb Brown, Director
Central California Intelligence Center

5/19/14
Date



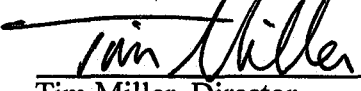
Mark Billings, Executive Director
Los Angeles Joint Regional Intelligence Center

07-03-14
Date




Mike Sena, Director
Northern California Intelligence Center

5/28/14
Date



Tim Miller, Director
Orange County Intelligence Assessment Center

6-26-14
Date



Leslie Gardner, Director
San Diego Law Enforcement Coordination Center

6/25/14
Date

California
State Threat Assessment System
Information Privacy Policy

Mission:

The California State Threat Assessment System (STAS) is a collaborative effort to lawfully and appropriately gather and analyze information, employ analytical tools and methodologies to produce and share timely and actionable homeland security information between agencies and across the full range of public safety disciplines. The STAS consists of four Regional Threat Assessment Centers (RTACs), one Major Urban Area Intelligence Center and one state center: the Northern California Regional Intelligence Center; the Los Angeles Joint Regional Intelligence Center; the San Diego Law Enforcement Coordination Center; the Central California Intelligence Center; the Orange County Intelligence Assessment Center, and, the California State Threat Assessment Center (STAC) hereinafter collectively referred to as "STAS Components".

Policy Applicability and Legal Compliance

The STAS Information Privacy Policy ("Privacy Policy") provides authoritative guidance and direction, and establishes the policies and procedures regarding the manner in which information is collected, received, maintained, archived, accessed, or disclosed within the STAS, and disclosed to other governmental entities, private contractors, and the general public.

The Privacy Policy applies to information about individuals and organizations obtained by the STAS in furtherance of its analytical mission. Information which furthers an administrative or other non-analytical purpose (such as personnel files, or information regarding fiscal, regulatory or other matters associated with the operation of the STAS as governmental entities) or which does not identify an individual or organization will be handled in a manner which complies with all applicable privacy laws and regulations but will not be subject to the provisions of this policy.

The STAS, and all assigned or detailed personnel, shall comply with all laws and regulations that govern the handling of national security classified information. This policy does not apply to national security classified information.

The STAS, and all assigned or detailed personnel, including personnel providing information technology services, private contractors, and other authorized participants in any STAS Component, shall comply with all applicable laws protecting privacy, civil rights, and civil liberties in the collection, use, analysis, retention, destruction, sharing, and disclosure of information. The internal operating policies of each STAS Component will be consistent with this Privacy Policy and will incorporate applicable laws protecting privacy, civil rights, and civil liberties. The desired outcome of this policy is to protect the privacy rights of US persons.

Retaining Information

What Information May Be Retained?

STAS Components will not retain information that was not collected in a lawful manner. STAS Components will comply with 28 C.F.R. Part 23, the California Attorney General's Model Standards and Procedures for Maintaining Criminal Intelligence Files (CA AG's Guidelines) and the California Constitution and, with regard to the State Threat Assessment Center (STAC), the California Information Practices Act (Civ.Code § 1798 et seq.).

All STAS Components may only place information in criminal intelligence files and/or retain information:

1. Where there is reasonable suspicion that a specific individual or organization has committed or is supporting or facilitating a criminal offense or is involved in or is planning criminal (including terrorist) conduct or activity that presents a threat to any individual, the community, California, or the nation and the information is relevant to the criminal (including terrorist) conduct or activity; or,
2. Where there is a reasonable likelihood that within one year there will develop a reasonable suspicion that a specific individual or organization has committed a criminal offense or is involved in or is planning criminal (including terrorist) conduct or activity that presents a threat to any individual, the community, California, or the nation and the information is relevant to the criminal (including terrorist) conduct or activity. This information may be entered into temporary files specifically designated as such and kept distinctly separate from criminal intelligence files.
3. That is useful in a crime or threat analysis or otherwise in furtherance of the public safety, anti-terrorism, counter-terrorism, or homeland security responsibilities of the STAS and its components; provided that the source of the information is reliable or limitations on the quality of the information have been identified.
4. Such as tips, leads, or suspicious activity reports, this is based on suspicion of criminal (including terrorist) activity that falls within the public safety, anti-terrorism, counter-terrorism or homeland security responsibilities of the STAS and each component fusion center.

Information that shall be specifically excluded from criminal intelligence files includes:

- a. Information on an individual or group solely on the basis that such individual or group supports unpopular causes.
- b. Information on an individual or group solely on the basis of race, gender, age, or ethnic background.
- c. Information on an individual or group solely on the basis of religious or political affiliations or beliefs.
- d. Information on an individual or group solely on the basis of personal habits and/or predilections that do not violate any criminal laws or threaten the safety of others.
- e. Information on an individual or group solely on the basis of involvement in expressive

activity that takes the form of non-violent civil disobedience that amounts, at most, to a misdemeanor offense.

Methods of Seeking or Receiving Information

- (a) The primary sources of information to each STAS Component are other governmental entities, including the member organizations that comprise each Component (through various information systems operated by governmental entities, and through searches of publicly available records, particularly those accessible through the Internet). Information gathering techniques used by this agency will comply with all applicable laws.
- (b) STAS Components will not directly or indirectly receive, seek, accept, or retain information from an individual or nongovernment information provider if the agency knows or has reason to believe that the individual or information provider is legally prohibited from obtaining the specific information sought or disclosing it to the agency.
- (c) STAS Components will maintain a record of information sought and received.
- (d) While the member organizations of each STAS Component may have criminal investigative authorities and responsibilities, the STAS Components, when acting as a fusion center, do not conduct investigations.

Classification of Information Regarding Validity and Reliability

- (a) At the time of retention, the information will be categorized regarding it's:
 - 1. Content validity;
 - 2. Nature of the source;
 - 3. Source reliability;
 - 4. Accuracy;
 - 5. Completeness; and,
 - 6. Currency
- (b) At the time a decision is made to retain information, it will be classified pursuant to the applicable limitations on access and sensitivity of disclosure in order to:
 - 1. Protect confidential sources and police undercover techniques and methods;
 - 2. Not interfere with or compromise pending criminal investigations;
 - 3. Protect an individual's right of privacy and civil rights;
 - 4. Provide legally required protection based on the status of an individual as a victim or witness.
- (c) STAS Component personnel will assess the information to determine its nature and purpose. Personnel will assign information to categories to indicate the result of the assessment, such as:
 - 1. Whether the information is general data, tips and leads data, suspicious activity reports, or criminal intelligence information;
 - 2. The nature of the source (for example, anonymous tip, interview, public records, private sector);

3. The reliability of the source (i.e., reliable, usually reliable, unreliable, unknown); and
4. The validity of the content (i.e., confirmed, probable, doubtful, cannot be judged).

(d) The categorization of retained information may be reevaluated when new information is gathered that has an impact on the validity and reliability of retained information.

(e) STAS Components shall keep a record of the source of information retained by that Component. In this context, "source" refers to the individual or entity which provided the information to the Component. If the source is an agency, governmental entity, or other organization, such as a corporation or association, this requirement can be met by maintaining the name of the agency, governmental entity, or organization, as long as the specific unit of that agency, governmental entity, or organization which provided the information is identified.

(f) These requirements do not apply to analytical products and other information obtained from or originated by a federal, state or local entity that has itself evaluated the validity and reliability of information in accordance with these principles or the conventions of the intelligence and law enforcement communities.

(g) STAS Components will make reasonable efforts, including the use of appropriate contractual requirements, to ensure that information obtained from commercial databases was collected using lawful techniques.

(h) Information which pertains to U.S. Persons or is subject to specific restrictions on access, use or disclosure will be marked appropriately.

Temporary Files

Information may be entered into temporary files when a determination has been made that, although the reasonable suspicion standard for an individual and/or organization has not been met, there is a reasonable likelihood that within one year the standard for entry into the criminal intelligence file system may be available. Temporary files shall not be retained for longer than one year. At the end of one year, temporary files must either be purged or converted into criminal intelligence files, if the information satisfies the criteria for submission into criminal intelligence files. A temporary file is considered purged for this purpose if all of the personally identifiable information (or privacy field data) is removed, deleted, and destroyed. All temporary files shall be specifically designated as such, and they will be kept distinctly separate from the criminal intelligence files. The most common categories of temporary files are Suspicious Activity Reports (SARs) and Tips and Leads.

Tips, Leads, and Suspicious Activity Reports

STAS Components routinely receive tips, leads, or other reports of suspicious activities. Component personnel evaluate the information and, where appropriate, forward it to the Regional Threat Assessment Center (RTAC) or Major Urban Area Intelligence Center with geographic responsibility for further evaluation or investigation of the tip, lead or report in accordance with applicable procedures and direction provided by the Component leadership. Depending on the nature of the information, and particularly when credible information indicates

a potential danger to life and property, the Component may report the information to CHP, Cal OES and other governmental entities with law enforcement, counterterrorism, or national security responsibilities. The STAC does not conduct investigative activity based on tips, leads or suspicious activity reports.

With regard to tips, leads, or suspicious activity reports, STAS Component personnel will:

1. Store the information using the same storage method used for data that rises to the level of reasonable suspicion and includes an audit and inspection process, supporting documentation, and labeling of the data to distinguish it from other information;
2. Allow access to or disseminate the information using the same (or a more restrictive) access or dissemination method that is used for data that rises to the level of reasonable suspicion;
3. Adhere to and follow the Component's physical, administrative, and technical security measures that are in place for the protection and security of tips and leads information. Tips, leads, and SARs will be secured in a system that is the same or similar to the system that secures data that rises to the level of reasonable suspicion.

This Privacy Policy is applicable regardless of the mechanism used for the storage or dissemination of the SAR information. Each STAS Component has the discretion to select the mechanism (such as ISE-SAR shared space or e-Guardian) which best suits its needs.

STAS Components will seek or retain information that a source agency has determined constitutes "suspicious activity" and which:

1. Is based on (a) a criminal predicate or (b) a possible threat to public safety; including potential terrorism-related conduct; and
2. Is relevant to the investigation and prosecution of suspected criminal (including terrorist) incidents; the resulting justice system response; or the prevention of crime; and
3. The source agency assures was acquired in accordance with agency policy and in a lawful manner.

STAS Components will not retain suspicious activity report information about any individual that was gathered solely on the basis of that individual's religious, political, or social views or activities; participation in a particular noncriminal organization or lawful event; or race, ethnicity, citizenship, place of origin, age, disability, gender, or sexual orientation.

Upon receipt of SAR information from a source agency, STAS Component personnel will:

Personally review and vet the SAR information and make the appropriate assessment in accordance with guidelines governing the system within which the information is stored (such as ISE-SAR shared space, e-Guardian, COPLINK, etc.); ensure that any information posted to a SAR repository includes appropriate labels; and notify the source agency of the disposition of the SAR information.

The STAS Component will ensure that certain basic and special descriptive information is entered and electronically associated with SAR information including:

1. The name of the source agency;
2. The date the information was submitted;
3. The point of contact information for SAR-related data; and
4. Information that reflects any special laws, rules or policies regarding access, use and disclosure.

Information provided in a SAR repository shall indicate, to the maximum extent feasible:

1. The nature of the source: anonymous tip, confidential source; trained interviewer or investigator; written statement (victim, witness, other), private sector, or other source; and
 - o Confidence, including:
 - o The reliability of the source (reliable, unreliable or unknown); and
2. The validity of the content (confirmed, doubtful, or cannot be judged).
3. Due diligence will be exercised in determining source reliability and content validity. Information determined to be unfounded will be purged from the shared space.
4. Unless otherwise indicated by the source or submitting agency, source reliability is deemed to be "unknown" and content validity "cannot be judged." In such case, users must independently confirm source reliability and content validity with the source or submitting agency or validate it through their own investigation.

At the time a decision is made to post SAR information to an external SAR repository such as ISE-SAR shared space, e-Guardian, or COPLINK, STAS Component personnel will ensure that the information is labeled to the maximum extent feasible and consistent with applicable standards, to reflect any limitations on disclosure based on sensitivity of disclosure, in order to:

1. Protect an individual's right of privacy, civil rights, and civil liberties;
2. Protect confidential sources and police undercover techniques and methods;
3. Not interfere with or compromise pending criminal investigations; and
4. Provide any legally required protection based on an individual's status as a child, sexual abuse victim, resident of a substance abuse treatment program, resident of a mental health treatment program, or resident of a domestic abuse shelter.

STAS Components will ensure that SAR information posted in an external repository that is not verified (confirmed) will be subject to continuing assessment for confidence by subjecting it to an evaluation or screening process to confirm its credibility and value or categorize the information as unfounded or uncorroborated. If subsequent attempts to validate the information confirm its validity or are unsuccessful, the information in the shared space will be updated (replaced) to so indicate. Information determined to be unfounded will be purged from the shared space.

STAS Components will incorporate the gathering, processing, reporting, analyzing, and sharing of SAR information into existing processes and systems used to manage other crime-related information and criminal intelligence, thus leveraging existing policies and protocols utilized to protect the information, as well as the privacy, civil rights, and civil liberties of individuals.

Notice will be provided through data field labels or narrative information to enable authorized

users to determine the nature of the protected information in the shared space and how to handle the information in accordance with applicable legal requirements, including any restrictions based on information security or classification.

Law enforcement officers and other personnel at source agencies who acquire SAR information that may be shared with the STAS or a STAS Component will be trained to recognize behavior that is indicative of criminal activity related to terrorism.

When a choice of investigative techniques is available, information documented as a SAR should be acquired or investigated using the least intrusive feasible means, taking into account such factors as the effect on individuals' privacy and potential damage to reputation.

Information Quality

A substantial portion of the information received by STAS Components is in the form of completed analytical product. The STAC does not use these products to conduct investigations or to support prosecutions but rather in furtherance of its mission to analyze and assess strategic threats to the state. The rigorous examination of information quality is a critical component of effective analysis. The member organizations of each RTAC or major urban area intelligence center may use the information in furtherance of investigative or other activities within their jurisdiction and authority. However, STAS Components are not responsible for providing feedback to other agencies regarding the analytical efforts or products of those agencies simply because the Component may not concur with the analysis. While some feedback may occur, it need not be formal or routine.

(a) STAS Components will make every reasonable effort to ensure that information sought or retained is:

1. Derived from dependable and trustworthy sources of information;
2. Accurate;
3. Current;
4. Complete, including the relevant context in which it was sought or received and other related information; and
5. Merged with other information about the same individual or organization only when the applicable standard has been met.

(b) STAS Components will make every reasonable effort to ensure that only authorized users are allowed to add, change, or delete information in the system.

(c) STAS Components will actively research suspected errors and deficiencies and will make every reasonable effort to ensure that information will be deleted from the system when the agency learns that:

1. The information is erroneous, misleading, obsolete, or otherwise unreliable;
2. The source of the information did not have authority to gather the information or to provide the information to the agency; or
3. The source of the information used prohibited means to gather the information.

(d) Originating agencies providing data remain the owners of the data contributed. STAS Components will take reasonable steps to advise the appropriate data owner if its data is found to be inaccurate or incomplete where the Component is the primary or initial recipient of such information.

(e) STAS Components shall maintain all records, to the maximum extent possible, with accuracy, relevance, timeliness, and completeness. Such standard need not be met except when such records are used to make any determination about the individual. When Component personnel transfer a record outside of the STAS, the Component shall correct, update, withhold, or delete any portion of the record that it knows or has reason to believe is inaccurate or untimely. Each Component shall notify any recipient agency if information provided by the Component is determined to be inaccurate, incomplete, includes incorrectly merged information, is out of date, cannot be verified, or lacks adequate context such that the rights of the subject individual may be affected.

Collation and Analysis of Information

Collation and Analysis

- (a) Information sought or received by the agency or from other sources will only be analyzed:
1. By qualified individuals who are authorized to access the information;
 2. To provide tactical and/or strategic intelligence on the existence, identification, and capability of individuals and organizations suspected of having engaged in or engaging in criminal (including terrorist), activities generally; and
 3. To further crime (including terrorism) prevention, enforcement, force deployment, or prosecution objectives and priorities established by the agency.
 4. To create strategic, geographic region, or critical infrastructure sector, specific analysis products providing state, local and agency leadership with threat and risk assessment information upon which to base resource prioritization, information analysis and awareness decisions.
- (b) Information sought or received by the agency or from other sources will not be analyzed or combined in a manner or for a purpose that violates this policy. Only information which has been properly collected and retained may be analyzed.

SAR Information, including ISE-SAR information posted to the agency's shared space or accessed from other shared spaces, will be analyzed for intelligence purposes only by qualified personnel who have successfully completed a background check and any applicable security clearance and have been selected, approved and trained accordingly (including training on the implementation of this policy). These personnel shall share SAR information only through authorized analytical products.

Merging of Information from Different Sources

- (a) The set of identifying information sufficient to allow merging will utilize reasonable steps to identify the subject and may include the name (full or partial) and, in most cases, one or more of the following: date of birth; law enforcement or corrections system identification number;

individual identifiers, such as fingerprints, photographs, physical description, height, weight, eye and hair color, race, ethnicity, tattoos, or scars; social security number; driver's license number; or other biometrics, such as DNA, retinal scan, or facial recognition. The identifiers or characteristics that, when combined, could clearly establish that the information from multiple records is about the same organization may include the name, federal or state tax ID number, office address, and telephone number.

(b) If the matching requirements are not fully met but there is a strong partial match, the information may be associated if accompanied by a clear statement that it has not been adequately established that the information relates to the same individual or organization.

Dissemination of Information

(a) STAS Components will identify and review protected information that originated in the center prior to sharing that information in the ISE. Further, the center will provide notice mechanisms, including but not limited to metadata or data fields that will enable ISE authorized users to determine the nature of the protected information and how to handle the information in accordance with applicable legal requirements.

(b) In accordance with the Information Practices Act of 1977, the STAC shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to subdivision (i), (k), (l), (o), or (p) of Civil Code Section 1798.24. This accounting shall also be required for disclosures made pursuant to subdivision (e) or (f) of Civil Code Section 1798.24 unless notice of the type of disclosure has been provided pursuant to Civil Code Sections 1798.9 and 1798.10. The accounting shall also include the name, title, and business address of the person or agency to which the disclosure was made. For the purpose of an accounting of a disclosure made under subdivision (o) of Civil Code Section 1798.24, it shall be sufficient for the STAC to record the date of disclosure, the law enforcement or regulatory agency requesting the disclosure, and whether the purpose of the disclosure is for an investigation of unlawful activity under the jurisdiction of the requesting agency, or for licensing, certification, or regulatory purposes by that agency. Routine disclosures of information pertaining to crimes, offenders, and suspected offenders to law enforcement or regulatory agencies of federal, state, and local government shall be deemed to be disclosures pursuant to subdivision (e) of Civil Code Section 1798.24 for the purpose of meeting this requirement. STAS Components other than the STAC are not subject to the requirements of the Information Practices Act of 1977. The STAC will assert all appropriate exemptions, including but not limited to Civil Code Section 1798-40. The employees and users of the participating agencies and of the agency's information service providers will comply with all applicable laws protecting privacy, civil rights, and civil liberties in the collection, use, analysis, retention, destruction, sharing, and disclosure of information. STAS Components will include a statement substantially similar to the following in the transmittal documents when information is disseminated: "Receipt of this information constitutes acceptance of all terms and conditions regarding its use, handling, storage, further dissemination or destruction. At a minimum, receipt acknowledges a commitment to comply with all applicable laws protecting privacy, civil rights, and civil liberties in the collection, use, analysis, retention, destruction, sharing and disclosure of information." SAR information submitted into an external SAR repository such as ISE-SAR or e-Guardian and retained by a STAS Component will be

accessed by or disseminated only to persons within the STAS or, as expressly approved by the appropriate authority for the applicable SAR repository, to include users of the system who are authorized to have access and need the information for specific purposes authorized by law. Access and disclosure of personal information "will only be allowed to agencies and individual users for legitimate law enforcement and public protection purposes and only for the performance of official duties in accordance with law.

Sharing Information with Those Responsible for Public Protection, Safety, or Public Health

(a) Information retained by Components may be disseminated to individuals in public or private entities only for public protection, safety, or public health purposes and only in the performance of official duties in accordance with applicable laws and procedures.

(b) Criminal intelligence information may be disseminated to law enforcement, homeland security, or counterterrorism agencies for any type of detective, investigative, preventive, or intelligence activity when the information falls within the law enforcement, counterterrorism, or national security responsibility of the receiving agency; or, may assist in preventing a crime or the use of violence or any conduct dangerous to human life or property; or, to officials within the U.S. Department of Justice Office of Justice Programs when they are monitoring or auditing the Component's compliance with 28 CFR Part 23. Participating agencies that access information from a STAS Component must comply with any applicable dissemination limitations or practices imposed by the STAS Component or the originator of the information. This may, or may not, include obtaining approval of the originator prior to further dissemination.

(c) Nothing in this policy shall limit the dissemination, including unsolicited, of an assessment of criminal intelligence information to a government official or to any other individual, when necessary to avoid danger to life or property.

(d) An audit trail will be kept of the access by or dissemination of information to such persons.

Sharing Information for Specific Purposes

(a) Information gathered and retained by this agency may be disseminated for specific purposes upon request by persons authorized by law to have such access and only for those uses or purposes specified in the law.

(b) An audit trail will be kept of the requests for access and of what information is disseminated to such persons.

Disclosing Information to the Public

(a) Information gathered and retained by STAS Components may be disclosed to a member of the public in accordance with the California Public Records Act, the Information Practices Act, or otherwise in a manner consistent with applicable law and the public interest.

(b) Information gathered and records retained by STAS Components *will not* be:

1. Sold, published, exchanged, or disclosed for commercial purposes;
2. Disclosed or published without prior notice to the contributing agency that such information is subject to disclosure or publication; or
3. Disseminated to unauthorized persons.

(c) Information will be disclosed to a member of the public who requests such information unless the disclosure of such information is exempt from disclosure by the California Public Records Act or applicable provisions of federal laws, regulations, and executive orders, which govern the disclosure of classified or sensitive but unclassified information.

(d) The agency shall not confirm the existence or nonexistence of information to any person or agency that would not be eligible to receive the information itself.

(e) An audit trail will be kept of all requests and of what information is disclosed to a member of the public.

(f) There are several categories of records that will ordinarily *not be provided* to the public:

1. Public records required to be kept confidential by law are exempted from disclosure requirements under the Freedom of Information Act (FOIA), California Public Records Act (CPRA), Critical Infrastructure Information Act of 2002, among other provisions of law.
2. For instance, law enforcement records described in Gov Code §6254(f) will not be released to the public in accordance with the provisions of the CPRA.

(g) SAR information posted to the ISE-SAR shared space or submitted to an external SAR repository may be disclosed to a member of the public only if the information is defined by law to be a public record or otherwise appropriate for release to further the STAS or STAS Component mission and is not exempt from disclosure by law. Such information may be disclosed only in accordance with the law and procedures applicable to the STAS Component for this type of information.

(h) A record or part of a record the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack is exempted from disclosure requirements under various sections of the CPRA, including but not limited to Gov. Code sections 6254(f), (aa), (ab) and 6255. This includes a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism or an act of agricultural terrorism, vulnerability assessments, risk planning documents, needs assessments, and threat assessments.

Disclosing Information to the Individual about Whom Information Has Been Gathered

(a) To the extent information is maintained in information systems controlled by the State of California, STAS Components will comply with the Information Practices Act of 1977 and other applicable laws and regulations governing the disclosure of information to the individual about whom information has been gathered. To the extent consistent with these laws and regulations, the existence, content, and source of the information will not be made available to an individual

when:

1. Disclosure would interfere with, compromise, or delay an ongoing investigation or prosecution;
2. Disclosure would endanger the health or safety of an individual, organization, or community; or,
3. The STAS Component did not originate, or does not otherwise have a right to disclose, the information.

Complaints and Corrections

(a) If an individual has complaints or objections to the accuracy or completeness of information retained about him or her *within a system under the Component's control*, the Component will advise the individual of the process to submit a request for correction by mail or e-mail. The request will document the individual's understanding of the record, the basis for his/her belief that the record is inaccurate, and the nature of the relief requested. The request should include all appropriate documentation. A record will be kept of all complaints and requests for corrections, the responsive action taken, if any, and a brief explanation of the rationale. An initial response to a complaint or request for correction must be made within 10 working days of receipt of the complaint or request. Unless the requested relief is granted, a final response must provide a brief discussion of the basis for a decision to deny the requested relief as well as information about the process of obtaining further review, reconsideration or appeal from the initial determination. This process will be specific to each STAS Component. The STAS Component Commander or his or her designee will determine whether the complaint or request involves ISE or FBI information and will review and approve the response.

(b) If an individual has complaints or objections to the accuracy or completeness of information about him or her that *originates with another agency*, the Component will notify the originating agency of the complaint or correction request and coordinate with them to ensure that the individual is provided with complaint submission or correction procedures. When the complaint pertains to the correction of a record that has been disclosed to the complainant, the originating agency must either, consent to the correction, remove the record, or assert a basis for denial in accordance with the California Public Records Act (CPRA) or Information Practices Act (IPA). This must be done in sufficient time to permit compliance "with deadlines found within CPRA and/or IPA. A record will be kept of all complaints and correction requests.

Security Safeguards

(a) STAS Components will operate in a secure facility protecting the facility from external intrusion. Each component will utilize secure internal and external safeguards against network intrusions. Access to databases from outside the facility will only be allowed over secure networks.

(b) STAS Components will store information in a manner such that it cannot be added to, modified, accessed, destroyed, or purged except by personnel authorized to take such actions.

(c) Access to center information will only be granted to center personnel whose position and job duties require such access and the individual has successfully completed a background check and

appropriate security clearance, if applicable, and has been selected, approved, and trained accordingly.

(d) Queries made to the component data applications will be logged into the data system identifying the user initiating the query.

(e) STAS Components will maintain appropriate documentation to preserve audit trails of requested and disseminated information.

(f) Information will be marked appropriately if subject to specific handling caveats or other restrictions on storage, dissemination, use or destruction.

(g) To prevent public records disclosure, risk and vulnerability assessments will not be stored with publicly available data.

(h) Violations of this policy or internal operating policies at each STAS Component will be reported to the STAS Component Commander or his or her designee.

Information Retention and Destruction

1. All applicable information will be reviewed for record retention (validation or purge) at least every five (5) years, as provided by 28 CFR Part 23. Information may be reviewed through automated or other means consistent with resource constraints and availability. Records need not be individually examined to comply with this requirement. The date and means of review will be documented.
2. When information has no further value or meets the criteria for removal according to applicable law, it will be purged, destroyed, and deleted or returned to the submitting source.
3. STAS Components will delete information or return it to the source, unless it is validated, every five (5) years, in accordance with 28 CFR Part 23.
4. Permission to destroy or return information or records will be presumed if the applicable information is not validated within the specified time period, as per item (2) above.
5. Notification of proposed destruction or return of records may or may not be provided to the contributor, depending on the relevance of the information and any agreement with the providing agency.
6. A record of information to be reviewed for retention will be maintained by the component, and for appropriate system(s), notice will be given to the submitter at least 30 days prior to the required review and validation/purge date.

Temporary Files and SAR Information Retention and Destruction

1. All temporary files, including SAR information will be reviewed for retention annually. At the end of one year, this information must be either purged or converted into criminal

intelligence files, if the information satisfies the requirements for submission into criminal intelligence files. This information may be retained if, at a minimum, all personally identifiable information (or privacy field information) is removed and purged.

Accountability and Enforcement

Information System Transparency

(a) The policy establishing protections of privacy, civil rights, and civil liberties will be made available to the public on request and through any public web sites providing information about the system.

(b) Each component will designate an individual who is responsible for receiving and responding to inquiries and complaints about privacy, civil rights, and civil liberties protections in the information system. Cal OES will post contact information on its website. In most instances, this should be the same individual designated as the Privacy Officer.

Accountability for Activities

(a) Primary responsibility for the operation of the STAS information systems including operations; coordination of personnel; the receiving, seeking, retention, evaluation, information quality, analysis, destruction, sharing, and disclosure of information; and the enforcement of this policy- will be assigned in writing to a specific individual. Each Component will make its own determination about the specific individual or position within its center that is most appropriate to fulfill this responsibility.

(b) STAS Components will protect information from unauthorized access, modification, theft, or sabotage, whether internal or external and whether due to natural or human-caused disasters or intrusions.

(c) STAS Components will store information in a manner such that it cannot be added to, modified, accessed, destroyed, or purged except by personnel authorized to take such actions.

(d) STAS Components will adopt and follow procedures and practices by which it can ensure and evaluate the compliance of users and the system itself with the provisions of this policy and applicable law.

(e) STAS Components will require any individuals authorized to use the system to agree in writing to comply with the provisions of this policy. Each center will provide a printed copy of this policy to all agency and non-agency personnel who provide services and will require of both a written acknowledgement of receipt of this policy and a written agreement to comply with this policy and the provisions it contains.

(f) STAS Components will periodically conduct audits and inspections of the information contained in its information systems. The audits will be conducted randomly by a designated representative of the agency or by a designated independent party. The audit will be conducted in such a manner so as to protect the confidentiality, sensitivity, and privacy of the agency's

information.

(g) STAS Components will periodically review and update the provisions protecting privacy, civil rights, and civil liberties in its policies and make appropriate changes in response to changes in applicable law and public expectations.

Inadvertent Disclosure

(a) The STAS shall disclose any breach of the security of a State of California system involving personal data following discovery or notification of the breach in the security of the data to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) With regard to computerized data that includes personal information that the STAS does not own, component personnel shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if the STAS or other law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(e) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with anyone or more of the following data elements, when either the name or the data elements are not encrypted:

1. Social security number.
2. Driver's license number or California Identification Card number.
3. Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.
4. Medical information.
5. Health insurance information.

(f) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local

government records. (2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional. (3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(g) For purposes of this section, "notice" may be provided by one of the following methods:

1. Written notice.
2. Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.
3. Substitute notice, if the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the STAS Component does not have sufficient contact information.

Substitute notice shall consist of all of the following:

- a) E-mail notice when the agency has an e-mail address for the subject persons.
- b) Conspicuous posting of the notice on the agency's Web site page, if the agency maintains one.
- c) Notification to major statewide media.

Enforcement

If a user is suspected of or found to be not complying with the provisions of this policy regarding the collection, use, retention, destruction, sharing, classification, or disclosure of information, the STAS Component will take appropriate action based on the facts and circumstances of the specific incident. These include the following:

- a) Suspend or discontinue access to information by the user;
- b) Suspend, demote, transfer, or terminate the person as permitted by applicable personnel policies;
- c) Apply other sanctions or administrative actions as provided in agency personnel policies;
- d) Request the agency, organization, contractor, or service provider employing the user to initiate proceedings to discipline the user or enforce the policy's provisions; or
- e) Refer the matter to appropriate authorities for criminal prosecution, as necessary and appropriate, to effectuate the purposes of the policy.

Training

(a) STAS Components will require the following individuals to participate in training programs regarding the implementation of and adherence to the privacy, civil rights, and civil liberties policy:

1. Component employees, contractors, and consultants;
2. Personnel providing information technology services to the agency;
3. Staff in other public agencies or private contractors providing services to the agency; and
4. Users who are not employed by the agency or a contractor.

(b) The training program will cover:

1. Purposes of the privacy, civil rights, and civil liberties protection policy;
2. Substance and intent of the provisions of the policy relating to collection, use, analysis, retention, destruction, sharing, and disclosure of information retained by the agency;
3. The impact of improper activities associated with information accessible within or through the agency; and
4. The nature and possible penalties for policy violations, including possible transfer, dismissal, civil and criminal liability, and immunity, if any.

(c) STAS Components will provide training to personnel authorized to share protected information in the ISE or e-Guardian. All reasonable efforts will be made to coordinate training efforts among the STAS Components, where appropriate, to maximize the opportunity for training.

GOVERNANCE AND OVERSIGHT

The California State Threat Assessment System (STAS) Strategic Business Plan Concept of Operations (STAS CONOPS) provides an overview of the six fusion centers that comprise the STAS. The governance structure and oversight mechanisms applicable to each STAS Component are distinct and specific to a particular center.

Each STAS Component will designate a trained privacy official who is responsible for handling reported errors and violations and, in accordance with specific direction and authorization, will be the focal point for ensuring that the center adheres to this policy and the provisions of the Information Sharing Environment Privacy Guidelines. The Commander of each STAS Component has been involved in the development of this policy and will retain responsibility for ensuring that they are rigorously implemented and refined as necessary. Each Commander, or his or her designee, is responsible for establishing and implementing appropriate procedures for resolving complaints involving SAR information. Each Commander, or his or her designee, will be responsible for information systems operations, as well as the receiving, seeking, retention, evaluation, information quality, analysis, destruction, sharing or disclosure of SAR information. STAS Components will collaborate to ensure that best practices and training opportunities are made available to each Component to incorporate into its specific program as appropriate.

Definitions

Glossary of Terms and Definitions

Access

In respect to privacy, an individual's ability to view, modify, and contest the accuracy and completeness of personally identifiable information collected about him or her. Access is an element of the Organization for Economic Co-operation and Development's (OECD) Fair Information Principles (FIPs). See *Fair Information Principles (FIPs)*.

Access Control

The mechanisms for limiting access to certain information based on a user's identity and membership in various predefined groups. Access control can be mandatory, discretionary, or role-based.

Accountability Principle

One of the eight Fair Information Principles (FIPs) developed by the Organization for Economic Cooperation and Development (OECD). According to this principle, a data controller should be accountable for complying, with measures that give effect to the principles stated above.

Audit Trail

Audit trail is a generic term for recording (logging) a sequence of activities. In computer and network contexts, an audit trail tracks the sequence of activities on a system, such as user log-ins and log-outs. More expansive audit trail mechanisms would record each user's activity in detail—what commands were issued to the system, what records and files were accessed or modified, etc. Audit trails are a fundamental part of computer security, used to trace (albeit usually retrospectively) unauthorized users and uses. They can also be used to assist with information recovery in the event of a system failure.

Confidentiality

Confidentiality is closely related to privacy but is not identical. It refers to the obligations of individuals and institutions to use information under their control appropriately once it has been disclosed to them. One observes rules of confidentiality out of respect for, and to protect and preserve the privacy of, others. See *Privacy*.

Data Quality Principle

One of the eight Fair Information Principles (FIPs) developed by the Organization for Economic Cooperation and Development (OECD). According to this principle, personal data should be relevant to the purposes for which they are to be used and, to the extent necessary for those purposes, should be accurate, complete, and up to date.

Data Transfer

As a key principle of privacy, it is the movement of personally identifiable information between entities, such as a customer list being shared between two different companies.

Disclosure

The release, transfer, provision of access to, or divulging of personally identifiable information in any other manner-electronic, verbal, or in writing-to an individual, agency, or organization outside of the agency who collected it.

Electronically Maintained

Information stored by a computer or on any electronic medium from which the information may be retrieved by a computer, such as electronic memory chips, magnetic tape, magnetic disk, or compact disk optical media.

Electronically Transmitted

Information exchanged with a computer using electronic media, such as the movement of information from one location to another by magnetic or optical media, transmission over the Internet, intranet, extranet, leased lines, dial-up lines, private networks, telephone voice response, and faxback systems. It does not include faxes, telephone calls, video teleconferencing, or messages left on voice mail. See *Extranet*.

Enforcement

A privacy principle that provides mechanisms for ensuring compliance with the Organization for Economic Co-operation and Development's (OECD) Fair Information Principles (FIPs), recourse for individuals affected by noncompliance, and consequences for noncompliant organizations. Methods for enforcement include a review by independent third parties.

Fair Information Principles (FIPs)

The Fair Information Principles (FIPs) are contained within the Organization for Economic Co-operation and Development's (OECD) *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*. These were developed around commercial transactions and the transborder exchange of information; however, they do provide a straightforward description of underlying privacy and information exchange principles and provide a simple framework for the legal analysis that needs to be done with regard to privacy in integrated justice systems. Some of the individual principles may not apply in all instances of an integrated justice system.

The eight FIPs are:

1. Collection Limitation Principle
2. Data Quality Principle
3. Purpose Specification Principle
4. Use Limitation Principle
5. Security Safeguards Principle
6. Openness Principle
7. Individual Participation Principle
8. Accountability Principle

Homeland Security Information

As defined in Section 482(f)(1) of the Homeland Security Act, homeland security information means any information possessed by a federal, state, local, or tribal agency that relates to (A) a

threat of terrorist activity; (B) the ability to prevent, interdict, or disrupt terrorist activity; (C) the identification or investigation of a suspected terrorist or terrorist organization or any person, group, or entity associated with or assisting a suspected terrorist or terrorist organization; or (D) a planned or actual response to a terrorist act.

Individual Participation Principle

One of the eight Fair Information Principles (FIPs) developed by the Organization for Economic Co-operation and Development (OECD). As stated in the FIPs, according to this principle, an individual should have the right:

- a) To obtain from the data controller, or otherwise, confirmation of whether or not the data controller has data relating to him;
- b) To have communicated to him, data relating to him:
 - Within a reasonable time;
 - At a charge, if any, that is not excessive;
 - In a reasonable manner; and
 - In a form that is readily intelligible to him;
- c) To be given reasons if a request made under subparagraphs a) and b) is denied, and to be able to challenge such denial; and
- d) To challenge data relating to him and, if the challenge is successful, to have the data erased, rectified, completed, or amended.

Information

The use of data to extract meaning. Information includes any data about people, organizations, events, incidents, or objects, regardless of the medium in which it exists. Information received by law enforcement agencies can be categorized into three general areas: general data tips and leads data, and criminal intelligence data.

Information Disclosure

The exposure of information to individuals who normally would not have access to it.

Information Privacy

Information privacy is the interest individuals have in controlling or at least significantly influencing the handling of data about themselves.

Information Quality

The accuracy and validity of the actual values of the data, data structure, and database/ data repository design. The elements of information quality are accuracy, completeness, currency, reliability, and context/meaning.

Invasion of Privacy

Invasion of privacy can be defined as intrusion on one's solitude or into one's private affairs,

public disclosure of embarrassing private information, publicity that puts one in a false light to the public, or appropriation of one's name or picture for personal or commercial advantage. See also *Right to Privacy*.

Logs

Logs are a necessary part of an adequate security system, as they are needed to ensure that data is properly tracked and only authorized individuals are getting access to the data.

Metadata

In its simplest form, metadata is information (data) about information, more specifically information about a particular content. An item of metadata may describe an individual content item or a collection of content items. Metadata is used to facilitate the understanding, use, and management of information. The metadata required for this will vary based upon the type of information and context of use.

Openness Principle

One of the eight Fair Information Principles (FIPs) developed by the Organization for Economic Co-operation and Development (OECD). According to this principle, there should be a general policy of openness about developments, practices, and policies with respect to personal data. Means should be readily available for establishing the existence and nature of personal data and the main purposes of their use, as well as the identity and usual residence of the data controller.

Personal data

Personal data refers to any personally identifiable information that relates to an identifiable individual (or data subject). See also *Personally Identifiable Information*.

Personal Information

See *Personally Identifiable Information*.

Personally Identifiable Information

Personally identifiable information is one or more pieces of information that when considered together or when considered in the context of how it is presented or how it is gathered is sufficient to specify a unique individual.

The pieces of information can be:

- Personal characteristics (such as height, weight, gender, sexual orientation, date of birth, age, hair color, eye color, race, ethnicity, scars, tattoos, gang affiliation, religious affiliation, place of birth, mother's maiden name, distinguishing features, and biometrics information, such as fingerprints, DNA, and retinal scans).
- A unique set of numbers or characters assigned to a specific individual (including name, address, phone number, social security number, e-mail address, driver's license number, financial account or credit card number and associated PIN number, Automated Integrated Fingerprint Identification System [AIFIS] identifier, or booking or detention system number).
- Descriptions of event(s) or points in time (for example, information in documents such as police reports, arrest reports, and medical records).

- Descriptions of location(s) or place(s) (including geographic information systems [GIS] locations, electronic bracelet monitoring information, etc.).

Privacy

The term "privacy" refers to individuals' interests in preventing the inappropriate collection, use, and release of personally identifiable information. Privacy interests include privacy of personal behavior, privacy of personal communications, and privacy of personal data. Other definitions of privacy include the capacity to be physically alone (solitude); to be free from physical interference, threat, or unwanted touching (assault, battery); or to avoid being seen or overheard in particular contexts.

Privacy Policy

A privacy policy is a written, published statement that articulates the policy position of an organization on how it handles the personally identifiable information that it gathers and uses in the normal course of business. The policy should include information relating to the processes of information collection, analysis, maintenance, dissemination, and access. The purpose of the privacy policy is to articulate that the agency will adhere to those legal requirements and agency policy determinations that enable gathering and sharing of information to occur in a manner that protects personal privacy interests. A well-developed and -implemented privacy policy uses justice entity resources wisely and effectively; protects the agency, the individual, and the public; and promotes public trust.

Protected Information

Protected information is information about United States citizens and lawful permanent residents that is subject to information privacy or other legal protections under the Constitution and laws of the United States. For local, state, and tribal governments, it would include applicable state and tribal constitutions and local, state, and tribal laws, ordinances, and codes. For the (federal) intelligence community, protected information includes information about "United States persons" as defined in Executive Order 12333. Protected information may also include other information that the U.S. government expressly determines by Executive Order, international agreement, or other similar instrument should be covered.

Public

Public includes:

- Any person and any for-profit or nonprofit entity, organization, or association;
- Any governmental entity for which there is no existing specific law authorizing access to the agency's information;
- Media organizations; and
- Entities that seek, receive, or disseminate information for whatever reason, regardless of whether it is done with the intent of making a profit, and without distinction as to the nature or intent of those requesting information from the agency.

Public does not include:

- Employees of the agency;
- People or entities, private or governmental, who assist the agency in the operation of the

- justice information system, and agency in the operation of the justice information system;
and
- Public agencies whose authority to access information gathered and retained by the agency is specified in law.

Public Access

Public access relates to what information can be seen by the public, that is, information whose availability is not subject to privacy interests or rights.

Purpose Specification Principle

One of the eight Fair Information Principles (FIPs) developed by the Organization for Economic Co-operation and Development (OECD). According to this principle, the purposes for which personal data are collected should be specified no later than at the time of collection and the subsequent use limited to the fulfillment of those purposes or such others as are not incompatible with those purposes and as are specified on each occasion of change of purpose.

Record

Any item, collection, or grouping of information that includes personally identifiable information and is maintained, collected, used, or disseminated by or for the collecting agency or organization.

Retrievable Information

Information is retrievable in the ordinary course of business if it can be retrieved by taking steps that are taken on a regular basis in the conduct of business with respect to that information or that an organization is capable of taking within the procedures it uses on a regular basis in the conduct of its business. Information is not considered retrievable in the ordinary course of business if retrieval would impose an unreasonable burden or violate the legitimate rights of a person that is not the subject of the information. The unreasonableness of burden is balanced against the significance of the information's use.

Secondary Data Uses

Uses of personally identifiable information for purposes other than those for which the information was originally collected. The Organization for Economic Co-operation and Development's (OECD) Fair Information Principles (FIPs) state that a person can provide personally identifiable information for a specific purpose without the fear that it may later be used for an unrelated purpose that person's knowledge or consent.

Security Policy

A security policy is different from a privacy policy. A security policy alone may not adequately address the protection of personally identifiable information or the requirements of a privacy policy in their entirety. A security policy addresses information classification, protection, and periodic review to ensure that information is being stewarded in accordance with an organization's privacy policy. See *Privacy Policy*.

Security Safeguards Principle

One of the eight Fair Information Principles (FIPs) developed by the Organization for

Economic Co-operation and Development (OECD). According to this principle, personal data should be protected by reasonable security safeguards against such risks as loss or unauthorized access, destruction, use, modification, or disclosure of data.

Transborder Flows of Personal Data

Movements of personal data across national borders. See *Fair Information Principles (FIPs)*.

Use

With respect to personally identifiable information, the sharing, employment, application, utilization, examination, or analysis of such information within the agency or organization that maintains the designated record set.

Use Limitation Principle

One of the eight Fair Information Principles (FIPs) developed by the Organization for Economic Co-operation and Development (OECD). According to this principle, personal data should not be disclosed, made available, or otherwise be used for purposes other than those specified in accordance with the Purpose Specification Principle, except with the consent of the data subject or by the authority of law. See *Purpose Specification Principle*.

NONDISCLOSURE TERMS & CONDITIONS AGREEMENT BETWEEN THE NORTHERN CALIFORNIA REGIONAL INTELLIGENCE CENTER (NCRIC) AND THE APPLICANT PERTAINING TO THE PROPER HANDLING OF "FOR OFFICIAL USE ONLY" (FOUO)" INFORMATION.

1. I hereby accept the obligations contained in this Agreement in consideration of my being granted access to FOUO information. As used in this agreement, FOUO information is marked or unmarked FOUO information, including oral communication, which is FOUO information under the standards of the NCRIC. I understand and accept that being granted access to FOUO information, special confidence and trust shall be placed in me by the NCRIC.

2. I hereby acknowledge that I have read the attached document, titled "Safeguarding Sensitive but Unclassified Information" and a copy has been provided to me, and that I have received a security indoctrination concerning the nature and protection of FOUO information, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand these procedures. I also acknowledge that I have been advised that the NCRIC adheres to 28 CFR (Code of Federal Regulations) Part 23 guidelines, with respect to criminal intelligence files, and will only share criminal intelligence information with other law enforcement agencies that adhere to (same).

3. I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of FOUO information by me could cause damage or irreparable injury to the NCRIC. I hereby agree that I will never divulge FOUO information to anyone unless: (a) I have officially verified that the recipient has been properly authorized by the NCRIC to receive it; or (b) I have been given prior authorization from the agency responsible for the information that such disclosure is permitted; or (c) the recipient has the "need to know" in order to perform their official, public safety duties. I understand that if I am uncertain about the classification status or handling control authority of information received from the NCRIC, I am required to confirm from an authorized NCRIC official that the information is FOUO before I may disclose it, except to a person as provided in (a) or (b) above.

4. I have been advised that any breach of this Agreement may result in the termination of my affiliation with the NCRIC.

5. I have read this agreement carefully and my questions, if any, have been answered.