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illegal entry into the United States. Securing our borders is essential to securing the homeland. I urge the Senate to take action on immigration reform so that I can sign a good bill into law.

NOTE: This item was not received in time for publication in the appropriate issue.

Memorandum on Guidelines and Requirements in Support of the Information Sharing Environment

December 16, 2005

Memorandum for the Heads of Executive Departments and Agencies

Subject: Guidelines and Requirements in Support of the Information Sharing Environment

Ensuring the appropriate access to, and the sharing, integration, and use of, information by Federal, State, local, and tribal agencies with counterterrorism responsibilities, and, as appropriate, private sector entities, while protecting the information privacy and other legal rights of Americans, remains a high priority for the United States and a necessity for winning the war on terror. Consistent with section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) (IRTPA), my Administration is working to create an Information Sharing Environment (ISE) to facilitate the sharing of terrorism information (as defined in Executive Order 13388 of October 25, 2005).

Section 1016 of IRTPA supplements section 892 of the Homeland Security Act of 2002 (Public Law 107–296), Executive Order 13311 of July 29, 2003, and other Presidential guidance, which address various aspects of information access. On April 15, 2005, consistent with section 1016(f) of IRTPA, I designated the program manager (PM) responsible for information sharing across the Federal Government. On June 2, 2005, my memorandum entitled "Strengthening Information Sharing, Access, and Integration—Organizational, Management, and Policy Development Structures for Creating the Terrorism Information Sharing Environment" directed that the PM and his office be part of the Office of the Director of National Intelligence (DNI), and that the DNI exercise authority, direction, and control over the PM and ensure that the PM carries out his responsibilities under IRTPA. On October 25, 2005, I issued Executive Order 13388 to facilitate the work of the PM and the expeditious establishment of the ISE and restructure the Information Sharing Council (ISC), which provides advice concerning and assists in the establishment, implementation, and maintenance of the ISE.

On June 2, 2005, I also established the Information Sharing Policy Coordination Committee (ISPCC), which is chaired jointly by the Homeland Security Council (HSC) and the National Security Council (NSC), and which has the responsibilities set forth in section D of Homeland Security Presidential Directive–1 and other relevant presidential guidance with respect to information sharing. The ISPCC is the main day-to-day forum for interagency coordination of information sharing policy, including the resolution of issues raised by the PM, and provides policy analysis and recommendations for consideration by the more senior committees of the HSC and NSC systems and ensures timely responses.

Section 1016(d) of IRTPA calls for leveraging all ongoing efforts consistent with establishing the ISE, the issuance of guidelines for acquiring, accessing, sharing, and using information in support of the ISE and for protecting privacy and civil liberties in the development of the ISE, and the promotion of a culture of information sharing. Consistent with the Constitution and the laws of the United States, including section 103 of the National Security Act of 1947, as amended, and sections 1016 and 1018 of IRTPA, I hereby direct as follows:

1. *Leveraging Ongoing Information Sharing Efforts in the Development of the ISE.* The ISE shall build upon existing Federal Government policies, standards, procedures, programs, systems, and architectures (collectively "resources") used for the sharing and integration of and access to terrorism information, and shall leverage those resources to the maximum extent practicable, with the objective of establishing a decentralized, comprehensive, and coordinated environment for

the sharing and integration of such information.

a. The DNI shall direct the PM to conduct and complete, within 90 days after the date of this memorandum, in consultation with the ISC, a comprehensive evaluation of existing resources pertaining to terrorism information sharing employed by individual or multiple executive departments and agencies. Such evaluation shall assess such resources for their utility and integrative potential in furtherance of the establishment of the ISE and shall identify any unnecessary redundancies.

b. To ensure that the ISE supports the needs of executive departments and agencies with counterterrorism responsibilities, and consistent with section 1021 of IRTPA, the DNI shall direct the PM, jointly with the Director of the National Counterterrorism Center (NCTC), and in coordination with the heads of relevant executive departments and agencies, to review and identify the respective missions, roles, and responsibilities of such executive departments and agencies, both as producers and users of terrorism information, relating to the acquisition, access, retention, production, use, management, and sharing of terrorism information. The findings shall be reviewed through the interagency policy coordination process, and any recommendations for the further definition, reconciliation, or alteration of such missions, roles, and responsibilities shall be submitted, within 180 days after the date of this memorandum, by the DNI to the President for approval through the Assistant to the President for Homeland Security and Counterterrorism (APHS–CT) and the Assistant to the President for National Security Affairs (APNSA). This effort shall be coordinated as appropriate with the tasks assigned under the Guidelines set forth in section 2 of this memorandum.

c. Upon the submission of findings as directed in the preceding paragraph (1(b)), the DNI shall direct the PM, in consultation with the ISC, to develop, in a manner consistent with applicable law, the policies, procedures, and architectures needed to create the ISE, which shall support the counterterrorism missions, roles, and responsibilities of executive departments and agencies. These policies, procedures, and architectures shall be reviewed through the interagency policy coordination process, and shall be submitted, within 180 days after the submission of findings as directed in the preceding paragraph (1(b)), by the DNI to the President for approval through the APHS–CT and the APNSA.

2. *Information Sharing Guidelines*. Consistent with section 1016(d) of IRTPA, I hereby issue the following guidelines and related requirements, the implementation of which shall be conducted in consultation with, and with support from, the PM as directed by the DNI:

a. *Guideline 1—Define Common Standards for How Information is Acquired, Accessed, Shared, and Used Within the ISE*

The ISE must, to the extent possible, be supported by common standards that maximize the acquisition, access, retention, production, use, management, and sharing of terrorism information within the ISE consistent with the protection of intelligence, law enforcement, protective, and military sources, methods, and activities.

Consistent with Executive Order 13388 and IRTPA, the DNI, in coordination with the Secretaries of State, Defense, and Homeland Security, and the Attorney General, shall develop and issue, within 90 days after the date of this memorandum, common standards (i) for preparing terrorism information for maximum distribution and access, (ii) to enable the acquisition, access, retention, production, use, management, and sharing of terrorism information within the ISE while safeguarding such information and protecting sources and methods from unauthorized use or disclosure, (iii) for implementing legal requirements relating to the handling of specific types of information, and (iv)

that include the appropriate method for the Government-wide adoption and implementation of such standards. Such standards shall accommodate and reflect the sharing of terrorism information, as appropriate, with State, local, and tribal governments, law enforcement agencies, and the private sector. Within 90 days after the issuance of such standards, the Secretary of Homeland Security and the Attorney General shall jointly disseminate such standards for use by State, local, and tribal governments, law enforcement agencies, and the private sector, on a mandatory basis where possible and a voluntary basis where not. The DNI may amend the common standards from time to time as appropriate through the same process by which the DNI issued them.

b. *Guideline 2—Develop a Common Framework for the Sharing of Information Between and Among Executive Departments and Agencies and State, Local, and Tribal Governments, Law Enforcement Agencies, and the Private Sector*

Recognizing that the war on terror must be a national effort, State, local, and tribal governments, law enforcement agencies, and the private sector must have the opportunity to participate as full partners in the ISE, to the extent consistent with applicable laws and executive orders and directives, the protection of national security, and the protection of the information privacy rights and other legal rights of Americans.

Within 180 days after the date of this memorandum, the Secretary of Homeland Security and the Attorney General, in consultation with the Secretaries of State, Defense, and Health and Human Services, and the DNI, and consistent with the findings of the counterterrorism missions, roles, and responsibilities review under section 1 of this memorandum, shall:

(i) perform a comprehensive review of the authorities and responsibilities of executive departments and agencies regarding information sharing with State, local, and tribal governments, law enforcement agencies, and the private sector; and

(ii) submit to the President for approval, through the APHS–CT and the APNSA, a recommended framework to govern the roles and responsibilities of executive departments and agencies pertaining to the acquisition, access, retention, production, use, management, and sharing of homeland security information, law enforcement information, and terrorism information between and among such departments and agencies and State, local, and tribal governments, law enforcement agencies, and private sector entities.

c. *Guideline 3—Standardize Procedures for Sensitive But Unclassified Information*

To promote and enhance the effective and efficient acquisition, access, retention, production, use, management, and sharing of Sensitive But Unclassified (SBU) information, including homeland security information, law enforcement information, and terrorism information, procedures and standards for designating, marking, and handling SBU information (collectively "SBU procedures") must be standardized across the Federal Government. SBU procedures must promote appropriate and consistent safeguarding of the information and must be appropriately shared with, and accommodate and reflect the imperative for timely and accurate dissemination of terrorism information to, State, local, and tribal governments, law enforcement agencies, and private sector entities. This effort must be consistent with Executive Orders 13311 and 13388, section 892 of the Homeland Security Act of 2002, section 1016 of IRTPA, section 102A of the National Security Act of 1947, the Freedom of Information Act, the Privacy Act of 1974, and other applicable laws and executive orders and directives.

(i) Within 90 days after the date of this memorandum, each executive department and agency will conduct an inventory of its SBU procedures, determine the underlying authority for each entry

in the inventory, and provide an assessment of the effectiveness of its existing SBU procedures. The results of each inventory shall be reported to the DNI, who shall provide the compiled results to the Secretary of Homeland Security and the Attorney General.

(ii) Within 90 days after receiving the compiled results of the inventories required under the preceding paragraph (i), the Secretary of Homeland Security and the Attorney General, in coordination with the Secretaries of State, Defense, and Energy, and the DNI, shall submit to the President for approval recommendations for the standardization of SBU procedures for homeland security information, law enforcement information, and terrorism information in the manner described in paragraph (iv) below.

(iii) Within 1 year after the date of this memorandum, the DNI, in coordination with the Secretaries of State, the Treasury, Defense, Commerce, Energy, Homeland Security, Health and Human Services, and the Attorney General, and in consultation with all other heads of relevant executive departments and agencies, shall submit to the President for approval recommendations for the standardization of SBU procedures for all types of information not addressed by the preceding paragraph (ii) in the manner described in paragraph (iv) below.

(iv) All recommendations required to be submitted to the President under this Guideline shall be submitted through the Director of the Office of Management and Budget (OMB), the APHS–CT, and the APNSA, as a report that contains the following:

(A) recommendations for government-wide policies and procedures to standardize SBU procedures;

(B) recommendations, as appropriate, for legislative, policy, regulatory, and administrative changes; and

(C) an assessment by each department and agency participating in the SBU procedures review process of the costs and budgetary considerations for all proposed changes to marking conventions, handling caveats, and other procedures pertaining to SBU information.

(v) Upon the approval by the President of the recommendations submitted under this Guideline, heads of executive departments and agencies shall ensure on an ongoing basis that such recommendations are fully implemented in such department or agency, as applicable. The DNI shall direct the PM to support executive departments and agencies in such implementation, as well as in the development of relevant guidance and training programs for the standardized SBU procedures.

d. *Guideline 4—Facilitate Information Sharing Between Executive Departments and Agencies and Foreign Partners*

The ISE must support and facilitate appropriate terrorism information sharing between executive departments and agencies and foreign partners and allies. To that end, policies and procedures to facilitate such informational access and exchange, including those relating to the handling of information received from foreign governments, must be established consistent with applicable laws and executive orders and directives.

Within 180 days after the date of this memorandum, the Secretary of State, in coordination with the Secretaries of Defense, the Treasury, Commerce, and Homeland Security, the Attorney General, and the DNI, shall review existing authorities and submit to the President for approval, through the APHS–CT and the APNSA, recommendations for appropriate legislative, administrative, and policy changes to facilitate the sharing of terrorism information with foreign partners and allies, except for those activities conducted pursuant to sections 102A(k), 104A(f), and 119(f)(1)(E) of the National Security Act of 1947.

e. *Guideline 5—Protect the Information Privacy Rights and Other Legal Rights of Americans*

As recognized in Executive Order 13353 of August 27, 2004, the Federal Government has a solemn obligation, and must continue fully, to protect the legal rights of all Americans in the effective performance of national security and homeland security functions. Accordingly, in the development and use of the ISE, the information privacy rights and other legal rights of Americans must be protected.

(i) Within 180 days after the date of this memorandum, the Attorney General and the DNI, in coordination with the heads of executive departments and agencies that possess or use intelligence or terrorism information, shall (A) conduct a review of current executive department and agency information sharing policies and procedures regarding the protection of information privacy and other legal rights of Americans, (B) develop guidelines designed to be implemented by executive departments and agencies to ensure that the information privacy and other legal rights of Americans are protected in the development and use of the ISE, including in the acquisition, access, use, and storage of personally identifiable information, and (C) submit such guidelines to the President for approval through the Director of OMB, the APHS–CT, and the APNSA. Such guidelines shall not be inconsistent with Executive Order 12333 and guidance issued pursuant to that order.

(ii) Each head of an executive department or agency that possesses or uses intelligence or terrorism information shall ensure on an ongoing basis that (A) appropriate personnel, structures, training, and technologies are in place to ensure that terrorism information is shared in a manner that protects the information privacy and other legal rights of Americans, and (B) upon approval by the President of the guidelines developed under the preceding subsection (i), such guidelines are fully implemented in such department or agency.

3. *Promoting a Culture of Information Sharing.* Heads of executive departments and agencies must actively work to create a culture of information sharing within their respective departments or agencies by assigning personnel and dedicating resources to terrorism information sharing, by reducing disincentives to such sharing, and by holding their senior managers and officials accountable for improved and increased sharing of such information.

Accordingly, each head of an executive department or agency that possesses or uses intelligence or terrorism information shall:

a. within 90 days after the date of this memorandum, designate a senior official who possesses knowledge of the operational and policy aspects of information sharing to (i) provide accountability and oversight for terrorism information sharing within such department and agency, (ii) work with the PM, in consultation with the ISC, to develop high-level information sharing performance measures for the department or agency to be assessed no less than semiannually, and (iii) provide, through the department or agency head, an annual report to the DNI on best practices of and remaining barriers to optimal terrorism information sharing;

b. within 180 days after the date of this memorandum, develop and issue guidelines, provide training and incentives, and hold relevant personnel accountable for the improved and increased sharing of terrorism information. Such guidelines and training shall seek to reduce obstructions to sharing, consistent with applicable laws and regulations. Accountability efforts shall include the requirement to add a performance evaluation element on information sharing to employees' annual Performance Appraisal Review, as appropriate, and shall focus on the sharing of information that supports the mission of the recipient of the information; and

c. bring to the attention of the Attorney General and the DNI, on an ongoing basis, any restriction contained in a rule, regulation, executive order or directive that significantly impedes the sharing of terrorism information and that such department or agency head believes is not

required by applicable laws or to protect the information privacy rights and other legal rights of Americans. The Attorney General and the DNI shall review such restriction and jointly submit any recommendations for changes to such restriction to the APHS–CT and the APNSA for further review.

4. Heads of executive departments and agencies shall, to the extent permitted by law and subject to the availability of appropriations, provide assistance and information to the DNI and the PM in the implementation of this memorandum.

5. This memorandum:

a. shall be implemented in a manner consistent with applicable laws, including Federal laws protecting the information privacy rights and other legal rights of Americans, and subject to the availability of appropriations;

b. shall be implemented in a manner consistent with the statutory authority of the principal officers of executive departments and agencies as heads of their respective departments or agencies;

c. shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals; and

d. is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, or entities, its officers, employees, or agencies, or any other person.

George W. Bush

NOTE: An original was not available for verification of the content of this memorandum. This item was not received in time for publication in the appropriate issue.

Message to the Congress on Guidelines and Requirements in Support of the Information Sharing Environment

December 16, 2005

To the Congress of the United States:

The robust and effective sharing of terrorism information is vital to protecting Americans and the Homeland from terrorist attacks. To ensure that we succeed in this mission, my Administration is working to implement the Information Sharing Environment (ISE) called for by section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA). The ISE is intended to enable the Federal Government and our State, local, tribal, and private sector partners to share appropriate information relating to terrorists, their threats, plans, networks, supporters, and capabilities while, at the same time, respecting the information privacy and other legal rights of all Americans.

Today, I issued a set of guidelines and requirements that represent a significant step in the establishment of the ISE. These guidelines and requirements, which are consistent with the provisions of section 1016(d) of IRTPA, are set forth in a memorandum to the heads of executive departments and agencies. The guidelines and requirements also address collateral issues that are essential to any meaningful progress on information sharing. In sum, these guidelines will:

- clarify roles and authorities across executive departments and agencies;
- implement common standards and architectures to further facilitate timely and effective information sharing;
- improve the Federal Government's terrorism information sharing relationships with State, local, and tribal governments, the private sector, and foreign allies;
- revamp antiquated classification and marking systems, as they relate to sensitive but unclassified information;
- ensure that information privacy and other legal rights of Americans are protected in the development and implementation of the ISE; and