

**STATE, LOCAL, TRIBAL, AND PRIVATE SECTOR
POLICY ADVISORY COMMITTEE (SLTPS-PAC)**

SUMMARY MINUTES OF THE MEETING

The SLTPS-PAC held its first meeting on Tuesday, January 11, 2011, at 1:00 p.m., at the National Archives Building, 700 Pennsylvania Avenue, NW, Washington, DC. William J. Bosanko, Director, Information Security Oversight Office (ISOO), chaired the meeting, which was open to the public. The following minutes were finalized and certified on March 11, 2011.

The following members/observers were present:

- William J. Bosanko (Chair, Information Security Oversight Office)
- John J. Young (Vice Chair, Department of Homeland Security)
- Assistant Sheriff Michael McClary (Vice Chair, SLTPS Member)
- Greg Pannoni (Designated Federal Officer, Information Security Oversight Office)
- Joseph W. Lambert (Central Intelligence Agency, Member)
- Richard L. Hohman (Office of the Director of National Intelligence, Member)
- Rebecca Allen (Department of Defense, Member)
- Stephen F. Lewis (Department of Defense, Alternate-Member)
- Mark Pekrul (Department of Energy, Alternate-Member)
- Richard B. Thompson (Department of Transportation, Member)
- Lawrence Hopkins (Department of Transportation, Alternate-Member)
- Dr. C. Elaine Cummins (Federal Bureau of Investigation, Member)
- Dr. Patricia Holahan (Nuclear Regulatory Commission, Member)
- Leo Masciana (Department of State, Member)
- Daniel Alexander (SLTPS, Member)
- Gary R. Ledford (SLTPS, Member)
- Clyde Miller (SLTPS, Member)
- Francis X. Taylor (SLTPS, Member)
- Homero Saul Navarro (Information Security Oversight Office)
- Jim Plehal (Department of Homeland Security, Observer)
- Stephanie Tennyson (Department of Homeland Security, Observer)
- Alaina Duggan (Department of Homeland Security, Observer)
- Valerie Heil (Department of Defense, Observer)
- Margaret Rose (Department of Transportation, Observer)
- Bart Johnson (Department of Homeland Security, Observer)
- Kenneth Polk (Department of Homeland Security, Observer)
- Jerry Williams (Department of Homeland Security, Observer)
- Bernard Stapleton (Nuclear Regulatory Commission, Observer)
- Greg Marshall (Department of Homeland Security, Observer)
- Judy Boyd (Department of Homeland Security, Observer)
- Charles Rogers (Department of Homeland Security, Observer)
- Janice Cornwell (Department of Homeland Security, Observer)
- John Rogers (Department of Homeland Security, Observer)
- Lori Horton (Department of Justice, Observer)

- Kathleen Branch (Defense Security Service, Observer)
- Christine Riccardi (Department of Homeland Security, Observer)
- Moriah O'Brien (Hobbs, Straus, Dean, and Walker, Public-Observer)
- Kenneth S. Tucker (SLTPS, Member on Telecon)
- Robert Skwirot (Information Security Oversight Office, Staff)
- Robert Tringali (Information Security Oversight Office, Staff)
- Robert Maher (Office of the Director of National Intelligence, Observer)
- Elizabeth Hanley (Department of State, Observer)

I. Welcome, Introductions, and Administrative Matters

The Chair called the meeting to order at 1:00 p.m. and welcomed the membership to the inaugural SLTPS-PAC meeting. He stated that the meeting is subject to the Federal Advisory Committee Act (FACA) and is open to the public. He then requested that all members introduce themselves, and he introduced Kenneth S. Tucker, SLTPS, who participated in the meeting via teleconference. After the introductions, the Chair recognized William H. Leary, Senior Director, Records and Access Management, National Security Staff (NSS), who led the effort to get Executive Order 13549, "Classified National Security Information Program for State, Local, Tribal, and Private Sector Entities," drafted, coordinated, and issued by the President; Mr. Leary had been scheduled to attend the meeting but could not due to unforeseen circumstances. Then, the Chair directed attention to Bart Johnson, Principal Deputy Undersecretary for Intelligence and Analysis, Department of Homeland Security (DHS).

II. Business

Mr. Johnson thanked everyone for their participation in this effort. Mr. Johnson emphasized the importance of the SLTPS Program in the current environment, as it recognizes the state, local, tribal, and private sector as part of the infrastructure for our national security. He noted that there is a need to disseminate information securely and to do that requires facilities, training, and personnel with appropriate clearances to enable information sharing. Mr. Johnson closed by acknowledging SLTPS Vice Chair Michael McClary and members Kenneth Tucker, Ronald Brooks, Terrie Suit, and Joseph Fuentes for their work with the Criminal Intelligence Coordinating Council in support of the Program and expressed his confidence that their input to the Committee would be taken very seriously. Following Mr. Johnson's remarks, Stephanie Tennyson, Deputy Assistant Secretary, Intergovernmental Affairs, DHS, affirmed the importance of the SLTPS Program. Ms. Tennyson mentioned that she has already heard a lot from stakeholders in the homeland security sector and stated that she believes that the implementation of E.O. 13549 will have a positive effect on information sharing. Jerry Williams, Chief Security Officer, DHS, noted that the SLTPS Program establishes a baseline for the safeguarding of classified information shared with state, local, tribal, and private sector entities. He indicated that he is excited that DHS chose his office to execute DHS's responsibilities as executive agent for the SLTPS program. He credited DHS Vice Chair John Young for his efforts in bringing the SLTPS executive order to fruition and recognized him for his hard work.

The Chair then explained why the SLTPS-PAC meeting was being held at the National Archives Building and described his role in the Program. He stated that in his capacity as the Director of ISOO, he exercises day-to-day responsibility for overseeing the President's policy with respect

to classified national security information throughout the executive branch. Further, he provided that ISOO has responsibilities under E.O. 12829, “National Industrial Security Program” (NISP), for the contractor community and in this area works closely with the Department of Defense (DoD), which serves as executive agent for the NISP. He explained that the SLTPS Program is modeled after the NISP, which also has a policy advisory committee, the National Industrial Security Program Policy Advisory Committee (NISPPAC), which operates similarly to the SLTPS-PAC. In both committees, ISOO’s role is to serve as a facilitator, bringing the right people to the table, providing staff support, and working closely with the members to set the agenda and assure that the committees consistently move forward.

The Chair requested that the members representing the Office of the Director of National Intelligence (ODNI), Federal Bureau of Investigation (FBI), Department of Justice (DOJ), and DHS name their respective alternates to the Committee to ensure their agencies’ views are represented if the primary members could not attend future meetings. Then, he described the contents of the packet that was distributed at the meeting: E.O. 13549, the SLTPS-PAC Charter, a draft of the SLTPS-PAC Bylaws, a contact sheet for all the SLTPS-PAC members and alternates, and a paper on security clearance and system reform from Vice Chair McClary. The Chair explained that, to meet FACA requirements, the Charter had to be approved by the General Services Administration and issued by the Archivist before the Committee could meet and that the contents of the Charter were dictated by E.O. 13549 and FACA requirements. Also, he indicated that the draft Bylaws would be distributed to the members electronically and asked the members to review the document and submit comments, concerns, and/or suggested edits via e-mail, so that the Bylaws can be adopted at the next SLTPS-PAC meeting.

The Chair noted that all SLTPS-PAC meetings will be announced in the Federal Register and that committee members will be notified in advance by an ISOO staff member. He stressed that, while non-Federal members are drawing on their personal experience and on the experience of their organizations, they are representing the community at-large, not their individual organizations. Finally, he asked if there were questions on administrative matters of the Committee. No questions were posed by the attendees.

The Chair then turned to Vice Chair McClary, who provided a general description of the paper enclosed in the packet, “Recommendations from the Criminal Intelligence Coordinating Council Concerning Matters Relating to Security Clearances and Access to Classified Information by State, Local, and Tribal Law Enforcement Officials,”¹ noting the frustration of his constituency, since September 11, 2001, with the security clearance process and access to appropriate technology. He stressed that because homeland security is now a primary day-to-day responsibility for almost every law enforcement agency in the country, it is critical that these officials be equipped with the appropriate information, tools, and authority to help protect the nation’s security. Vice Chair McClary closed by expressing his gratitude for being able to participate as an SLTPS-PAC member, emphasizing that he intends to participate fully in working to resolve issues.

The Chair remarked that it has taken much time and effort to bring the SLTPS Program to fruition, noting that Mr. Leary, Vice Chair Young, and individuals from the information sharing

¹ Vice Chair McClary’s paper is attached as Appendix 1 to this report.

environment dedicated an enormous amount of work to make this happen. He again expressed thanks to Mr. Leary and Vice Chair Young and stated that ISOO will support DHS in the immense work ahead.

The Chair then turned to Vice Chair Young, who provided a short history of the drafting of the implementing directive for E.O. 13549, tracing its roots back to 2002, when DHS was first established and J. William Leonard, then Director of ISOO, and Mr. Leary drafted a directive to address information sharing with the state, local, tribal, and private sectors. Following a number of attempts to move this effort forward, Mr. Leary took the lead during 2009 and 2010, collaborating with government agencies and SLTPS partners. After a number of iterations of an SLTPS order over several months, it was decided to truncate the document to expedite the process of submitting it to the President for approval and signature. This deferred a myriad of issues to the implementing directive. Vice Chair Young reminded the SLTPS-PAC members that they had received a draft of this implementing directive on December 3, 2010, and were asked to submit comments by December 30, 2010. He stated that DHS had received over 200 individual comments from various agencies and indicated that DHS will adjudicate each comment, including meeting with individual agencies to resolve points of disagreement, wherever needed. He reported that DHS intends to have all the comments addressed by January 21, 2011. He anticipates that DHS will meet, no later than January 28, 2011, with the four government entities (DoD, ODNI, ISOO, and DOJ) that must concur with the implementing directive before it can be issued. He stated that a revised implementing directive, which addresses the comments, will be forwarded to the SLTPS-PAC members by February 4, 2011. The objective is to submit the completed directive to the Secretary of DHS for signature by February 14, 2011.²

Vice Chair Young emphasized that the draft implementing directive incorporates and formalizes processes that have been used by DHS and other Executive branch agencies on an ad hoc basis for years, as it establishes a standardized program that is consistent with existing policy. He remarked that it might appear to some that there is too much information in the directive, but the intent is to be sufficiently descriptive for a non-Federal community that may be unfamiliar with working in a classified environment. At this point, the Chair voiced his support for this comprehensive approach. Vice Chair Young added that the implementing directive addresses the processes through which state, local, and tribal entities may contract for classified support, a key component of the Program that is not addressed by the NISP. The implementing directive will provide a much-needed bridge between the state and local community and classified contract support. Contracts will fall under the NISP in accordance with the requirements of the NISP Operating Manual.

Vice Chair Young then turned to the development of an SLTPS community of interest that will soon be established on the Homeland Security Information Network. He reported that the site has been constructed but DHS needs to populate it with information of interest to the SLTPS community. He expressed hope that members can be registered within the next week via an invitation generated by the system. The network will be used to post products and information for the SLTPS community.

² Subsequent to the SLTPS-PAC meeting, the NSS approved a one-time extension, to April 15, 2011, of the deadline to promulgate the implementing directive.

SLTPS member Clyde Miller noted that the draft implementing directive does not give the private sector the authority to have sensitive compartmented information facilities and asked if there will be a process whereby the state, local, and tribal entities that have secure facilities can be designated as regional or local sites that the private sector can use to receive classified briefings. He added that the private sector needs an organized process to have secure access to classified information. Vice Chair Young responded that DHS is working to establish a centralized database to identify facilities at the state, local, and tribal level that are authorized to store and access classified information. With this data available, an inquiry can be made as to the nearest location where a cleared individual could access classified information. Mr. Johnson added that fusion centers are a resource in this area and indicated that there has been close work with the FBI to employ this resource, including recent efforts to utilize the centers for classified briefings. He emphasized that, while this effort is not yet formalized, it is currently under development and needs to be enhanced.

The Chair then called upon Rebecca Allen, DoD. Ms. Allen expressed her appreciation for DoD's inclusion in the SLTPS-PAC and declared DoD's commitment to the mission of E.O. 13549. Ms. Allen indicated DoD supports sharing classified information with entities that have a clear need to know it and wants to ensure that the appropriate tools, venues, and management processes are put in place. Following Ms. Allen's comments, the Chair noted that a number of individuals at the meeting serve as members on both the NISPPAC and the SLTPS-PAC, indicating that he looks forward to collaboration and sharing of lessons learned between the two committees.

The Chair yielded the floor to Richard L. Hohman, ODNI, who stated that ODNI appreciates the opportunity to be involved in the early stages of this initiative as the Federal and SLTPS sectors work together to establish an effective Program. He, too, voiced his support for the mission of secure information sharing.

Mr. Hohman was followed by Dr. C. Elaine Cummins, FBI, who talked about Joint Terrorism Task Forces (JTTF) and their role in information sharing. Dr. Cummins stated that the first JTTF was established in 1980 and at present there are about 107 JTTFs. The JTTFs have been a mechanism through which the FBI has been able to share classified information. As task force members have been brought into the JTTFs and granted clearances, classified information could then be shared. Dr. Cummins further stated that E.O. 13549 and its draft implementing directive represent enhancements of what FBI has been doing for a long time and concluded by stating that she looks forward to the input and guidance that will come from the SLTPS-PAC.

III. General Open Forum/Discussion

The Chair opened the floor for questions and general discussion. The SLTPS-PAC attendees did not pose any questions or raise any points for discussion.

IV. Closing Remarks and Adjournment

The Chair stated that he anticipates that the SLTPS-PAC will meet twice a year, but added that if there is a need, additional meetings would be held. He announced that the next meeting would be convened on Wednesday, July 27, 2011, in the National Archives Building, from 10:00 a.m. to 12:00 noon, followed by a meeting, in the same venue, on Wednesday, January 18, 2012, from 10:00 a.m. to 12:00 noon. The Chair indicated that, to the extent possible, every attempt would be made to align future SLTPS-PAC meeting dates with other meetings for which members will be in the area. He thanked everyone for their participation and adjourned the meeting at 2:00 p.m.

Action Item

The SLTPS-PAC staff will distribute the draft Bylaws to the members electronically. The members will review the document and submit comments, concerns, and/or suggested edits via e-mail, so that the Bylaws can be in force prior to the next SLTPS-PAC meeting.

Appendix 1



Appendix 1

RECOMMENDATIONS FROM THE CRIMINAL INTELLIGENCE COORDINATING COUNCIL CONCERNING MATTERS RELATING TO SECURITY CLEARANCES AND ACCESS TO CLASSIFIED INFORMATION BY STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT OFFICIALS

Security clearances and related information sharing efforts continue to be a top priority among state, local, and tribal law enforcement agencies and fusion center partners. The Criminal Intelligence Coordinating Council (CICC)—made up of members representing law enforcement and homeland security agencies and organizations—is charged with developing recommendations and providing advice to federal agencies concerning criminal intelligence issues that affect state, local, and tribal law enforcement agencies. One of the ongoing concerns by many members of the CICC is the issue of security clearance reform and information sharing implications. This issue was discussed at the 2010 National Fusion Center Conference, and the ability to receive classified and unclassified information from federal partners was identified as one of the priorities of fusion center directors.

Accordingly, in March 2010, the CICC created a Security Task Team to review state, local, and tribal concerns about federal security clearances and access to federally classified information. During the Security Task Team's initial March 2010 meeting and subsequent meetings, a number of recommendations were made that we believe to be worthy of follow-up by the key federal agencies that most affect the operations of state, local, and tribal law enforcement intelligence operations. These recommendations include:

- Support a single point of contact for state, local, and tribal agencies and fusion centers to contact at the federal level regarding security clearance reciprocity.
- Enhance current security-related technical assistance and training to include the clearance process, applicable terms, and information on federal classified systems.
- Develop technology solutions to track clearances and provide a single point of access to security clearance systems.
- The Federal Bureau of Investigation (FBI) and the U.S. Department of Homeland Security (DHS) should develop Secret-level information to provide to state and local agencies from Top Secret documents.
- Develop a common approval process regarding the approval of DHS and FBI secure rooms (such as Sensitive Compartmented Information Facilities [SCIFs]), including who is responsible for clearing and reciprocating approval between agencies.
- Leverage state, local, and tribal law enforcement agencies in conducting Secret-level background investigations on state, local, and tribal personnel.

The CICC has been tracking many of these security-related issues for several years and is pleased with the recent progress that has been made to resolve many of our concerns. All federal agencies involved in these efforts have been cooperative and supportive of the goal of improving the sharing of criminal intelligence information with those who have a right to know and need to

know. One of the highlights of this progress is that the number of security clearances issued to state, local, and tribal law enforcement and fusion center personnel has greatly increased, enhancing information sharing among all levels of government. In addition, access to FBI, U.S. Department of Defense (DoD), and DHS information sharing systems and applications has been made increasingly available to many fusion centers. Most recently, the CICC and its Security Task Team have supported the tenets identified in the Executive Order (EO) regarding Classified National Security Information Programs for State, Local, Tribal, and Private Sector Entities. These improvements have increased information sharing between state and major urban area fusion centers and their federal partners. The CICC encourages and supports this effort and is prepared to assist with implementation efforts, as requested.

As representatives of state, local, and tribal law enforcement agencies, we offer the following recommendations to assist our federal partners in their security-related efforts:

Support a single point of contact for state, local, and tribal agencies and fusion centers to contact at the federal level regarding security clearance reciprocity.

A continuing sense of frustration among state, local, and tribal law enforcement officials is the lack of a central point of contact at the federal level to contact regarding security clearances, including applying for a clearance, tracking a clearance, and determining who has a clearance. The EO establishes DHS as the Executive Agent for the Classified National Security Information Program to govern access to classified national security information shared by federal agencies with state, local, and tribal entities and to ensure the proper safeguarding of such information. As the EO is implemented, we advocate DHS to appoint an ombudsman at the federal level to answer security-related questions and direct law enforcement personnel to the correct agency/entity.

Enhance current security-related technical assistance and training, to include the clearance process, applicable terms, and information on federal classified systems.

The EO identifies DHS as the Executive Agent to develop training regarding access to classified information. As a long-standing partner with DHS, the CICC offers its subject-matter expertise to assist DHS in vetting training curricula to ensure applicability to state, local, and tribal law enforcement and homeland security agencies.

Additionally, various federal agencies currently provide training and technical assistance to state, local, and tribal law enforcement agencies concerning terrorism, criminal intelligence sharing, and other law enforcement matters. The CICC recommends that these training and technical assistance programs be enhanced to include information about security clearances and access to classified systems. These enhancements would help agencies determine whether they have a right and a need for a security clearance, the correct level of clearance, and access to classified systems. Informational items and distance-learning scenarios would also greatly help educate nonfederal officers about national security issues, creating a uniform sense of understanding about federal security efforts. DHS and the DHS/U.S. Department of Justice Fusion Process Technical Assistance Program and Services have begun implementing these enhancements, and the CICC is confident in these efforts and supports ongoing improvements to training and technical assistance deliveries.

Develop technology solutions to track clearances and provide a single point of access to security clearance systems.

During the deliberations of the Security Task Team, members heard from several federal agencies that described how they keep track of persons who have been issued security clearances. Since the March meeting, through updates from federal partners, it is the understanding of the CICC that federal agencies are starting to use a single federal database to contain identification information on all persons who have active security clearances via the Consolidated Verification System. The CICC is encouraged by this and further recommends that the database be made accessible to designated state and major urban area fusion centers—including federal, state, local, and tribal representatives—so they can verify persons who claim to have security clearances.

The FBI and DHS should develop Secret-level information to provide to state and local agencies from Top Secret documents.

For several years, the CICC has heard from numerous federal officials who have requested that federal agencies extract Secret or unclassified information from Top Secret documents so that these documents may be shared with state, local, and tribal authorities. This is often called “tear-line” information. Although we believe that there have been honest attempts to create such information, we believe that more needs to be done. Additionally, the new EO regarding classified information states that the level of access granted to state, local, and tribal personnel should generally not exceed the Secret level. In support of the EO and this provision, we urge federal agencies to refocus their efforts to create information that can be shared from classified information sources and further institutionalize this process among all field offices.

Develop a common approval process regarding the approval of DHS and FBI secure rooms (such as Sensitive Compartmented Information Facilities [SCIFs]), including who is responsible for clearing and reciprocating approval between agencies.

The CICC has worked with federal agencies for a number of years to develop common standards for secured rooms (including SCIFs) in state and major urban area fusion centers. It is our understanding, through updates from DHS leadership, that in November 2008, DHS and FBI Headquarters entered into a reciprocal agreement that specifies the requirements for DHS-/FBI-sponsored state and local secure areas containing Secret-level classified systems. This standard has enabled the DHS Office of Security and the FBI Security Division to reciprocally certify state and local secure areas. This standard has been institutionalized with the release of the EO of Classified National Security Information Programs for State, Local, Tribal, and Private Sector Entities, designating DHS—or an agency that has entered into an agreement with DHS—to perform the inspection, accreditation, and monitoring of facilities where classified information is used or stored.

However, members of the CICC continue to hear from fusion centers that they have to build multiple SCIFs to accommodate the differing requirements of DHS, the FBI, and their own agency policies. It appears that there may be a breakdown in communications from DHS and FBI Headquarters to field security personnel. We would urge federal partners to review the previous guidance and new EO and determine whether the process to create and certify a SCIF in

state and major urban area fusion centers continues to be problematic and provide additional guidance to the field, if deemed applicable.

Leverage state, local, and tribal law enforcement agencies in conducting Secret-level background investigations on state, local, and tribal personnel.

The Security Task Team reviewed the background processes utilized by federal agencies to issue Secret-level clearances and determined that most state, local, and tribal law enforcement agencies have background processes that are at least as stringent and as comprehensive as those used by federal agencies to issue Secret-level clearances. Historically, state and local agencies have performed background checks on behalf of the federal government for various reasons, including for the U.S. Department of Transportation, Medicaid fraud investigations, and civil rights investigations. Furthermore, as gubernatorial applicants are identified, state and local law enforcement agencies conduct a background investigation on the applicant, oftentimes as comprehensive as the government's full field investigation.

The CICC recommends that federal agencies consider accepting current background investigations conducted on state, local, and tribal officers as sufficient for the issuance of a Secret clearance. The CICC also recommends that federal agencies consider contracting with select state, local, and tribal law enforcement agencies to conduct background checks on their behalf. To accomplish this, a standard for the background process should be developed that state and local agencies would adhere to, with regular audits by federal designees. State and local agencies could also be a solution for background checks as fusion centers begin to involve the private sector into the fusion process. As a part of this, the CICC recommends that a select number of agencies be utilized as a test case to determine the feasibility of implementing this type of a process.

In closing, the CICC remains committed to working with you and all of our federal partners in resolving these issues. We appreciate the work that has already been done resulting from the Security Task Team meeting in March—including the release of the EO—and are confident in continued partnerships to improve security clearance reform and improved information sharing efforts. The members of the CICC agree that the ongoing partnerships among local, state, tribal, and federal agencies have led to increased information sharing.

