Privacy Requirements for Operational Use of Social Media

November 2013

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Training Goals & Objectives

- To ensure ICE personnel understand and comply with the DHS Privacy Policy for Operational Use of Social Media (June 8, 2012)
  - § DHS Directive 110-01
  - § DHS Instruction 110-01-001
- This course covers:
  - § Key definitions
  - § Rules of Behavior for Law Enforcement and Non-Law Enforcement Activities

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What Does This Policy Do?

- Regulates how DHS collects personally identifiable information (PII) from "Social Media" Internet sites for an "Operational Use"
- Requires DHS components and offices to establish Rules of Behavior that personnel must follow
- Requires annual training of all personnel who engage in this type of activity

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Why Was This Policy Created?

- To address public and congressional concerns about how DHS collects PII from Social Media sites
- To ensure DHS is not engaging in an unlawful or inappropriate collection of PII from Social Media
- To ensure that there are clear "dos and don'ts" for personnel to follow – these are called the "Rules of Behavior"
- To ensure all DHS personnel are aware of the rules through annual training

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What is the "Operational Use" of "Social Media"?

When DHS is collecting PII about individuals from a Social Media site for the purpose of:

- Investigating them (criminal, civil, or administrative)
- Making a benefit decision about them
- Making a personnel or suitability decision about them
- Enhancing situational awareness (to support incident management decision making)
- Any other official purpose that potentially may affect their rights, privileges, or benefits

DHS Instruction 110-01-001, Section IV.D.

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This Policy Does Not Apply To:

- Agency use of Social Media for communications and outreach to the public
- Personnel use of Social Media for professional development, such as training and continuing education
- Use of Social Media to facilitate internal meetings
- Use of internal DHS intranets or applications
- Use of search engines for general Internet research

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What is Personally Identifiable Information (PII)?

"Any information that permits the identity of an individual to be directly or indirectly inferred, including other information that is linked or linkable to an individual.

"For example, when linked or linkable to an individual, such information includes a name, Social Security Number, date and place of birth, mother's maiden name, Alien Registration Number, account number, license number, vehicle identifier number, license plate number, … IP address, biometric identifier, educational information, financial information, medical information, criminal or employment information," etc.

DHS Instruction 110-01-001, Section IV.E.

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What is "Social Media"?

"The sphere of websites, applications, and web-based tools that connect users to engage in dialogue, share information and media, collaborate, and interact.

"Social media take many different forms, including but not limited to web-based communities and hosted services, social networking sites, video and photo sharing sites, blogs, virtual worlds, social bookmarking, and other emerging technologies.

"This definition does not apply to internal Department intranets or applications."

DHS Instruction 110-01-001, Section IV.K.

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How Do I Know When I Am on a "Social Media" Site Online?

- Some sites are clearly Social Media, like Facebook and Twitter
- Because of the trend toward including interactive, Social Media-type features on "regular" Internet sites, it is often hard to know if you are on a "regular" Internet site or a "Social Media" site
- Because of this, ICE has created local policies (Rules of Behavior) that govern the collection of PII online at all Internet sites, not just Social Media

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How Do I Know When I Am on a "Social Media" Site Online?

- Because ICE's Rules of Behavior apply to all online activity where you collect PII, you do not have to be concerned about whether you are on a Social Media site, or a regular Internet site
- Simply follow the appropriate Rules of Behavior *anytime* you collect PII online:
  - § Collection for a law enforcement purpose – follow the ICE Law Enforcement Rules of Behavior
  - § Collection for a non-law enforcement purpose – follow the ICE Non-Law Enforcement Rules of Behavior

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ICE Rules of Behavior (ROB) for Non-Law Enforcement Activities

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ICE ROB for Online Non-Law Enforcement Activities

- Established in a Memorandum from John Morton to ICE Personnel, *Use of Public Online Information for Non-Law Enforcement Work-Related Activities* (May 17, 2013)

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ICE ROB for Online Non-Law Enforcement Activities

- Applies to <u>any</u> ICE personnel conducting non-law enforcement activities:
  - § Where PII is collected
  - § For a non-law enforcement purpose
  - § From the Internet
- Law enforcement personnel will follow these Rules when engaging in non-law enforcement activities (e.g., mission support, personnel, etc.) online.

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ICE ROB for Non-LE Activities

- Use of equipment
  - § You may use only government-issued equipment, government accounts, and government e-mail addresses.
- Use of email and accounts
  - § You may use only online screen names or identities that indicate an official DHS affiliation and have been created using DHS e-mail addresses.

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ICE ROB for Non-LE Activities

- Public interaction
  - § You may access publicly available information only by reviewing posted information without interacting (e.g., “friending,” “fanning,” “liking”) with any individual who posted the information.

- Privacy settings
  - § You must respect individual privacy settings and access only information that is publicly available unless the individual whose information you seek to access has given you consent to access it.

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ICE ROB for Non-LE Activities

- PII collection
  - § Collect the minimum PII necessary for your authorized duties.
- PII safeguards
  - § Protect PII as required by the Privacy Act and DHS privacy policy.

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ICE ROB for Non-LE Activities

- Documentation
  - § Retain the contents of your use of the Internet, including social media, if you would have retained that information had it been written on paper.
  - § Preserve in appropriate ICE recordkeeping systems in accordance with office procedures and in a manner authorized by the relevant records schedule.

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ICE ROB for Non-LE Activities

- Online communications generally
  - § You may use online services to communicate in the same way that you are authorized to use other types of communication tools, such as the telephone and the mail.
- Activity during personal time
  - § While not on duty, you are generally free to engage in personal online pursuits.
  - § If, however, the off-duty online activity on government issued or personal equipment directly and substantially relates to a work-related matter, you are bound by the same restrictions regarding the use of online information as would apply when on duty.

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Non-LE Activities and LE Activities

- Non-LE Activities
  - § If you only engage in Non-Law Enforcement Activities the training ends here.
  - § Last slide of presentation contains contact information for additional questions.
  - § Memorandum from John Morton to ICE Personnel, Use of Public Online Information for Non-Law Enforcement Work-Related Activities (May 17, 2013)

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- LE Activities
  - § If you engage in law enforcement activities, the training for Online Law Enforcement Activities continues on the next slide.

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ICE Rules of Behavior (ROB) for Online Law Enforcement Activities

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ICE ROB for Online Law Enforcement Activities

- Established in a Memorandum from John Morton to Law Enforcement Personnel, *Use of Public and Non-Public Online Information* (June 28, 2012)

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- Based on and consistent with the DOJ Online Investigative Principles for Federal Law Enforcement Agents (1999)

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ICE ROB for Online Law Enforcement Activities

- Apply to any ICE personnel conducting law enforcement activities:
  - § Where PII is collected
  - § For a law enforcement purpose
  - § From the Internet
- Apply to ICE law enforcement and other support personnel engaging in a criminal, civil, or administrative law enforcement investigation, operation, or activity
  - § Includes attorneys prosecuting criminal, civil or administrative matters

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ICE ROB for Online LE Activities: Requirements

- Obtaining information from unrestricted sources
  - § You may obtain information from publicly accessible online sources under the same conditions you may obtain information from other sources generally open to the public.
- Obtaining identifying information about users or networks
  - § You may use software tools to obtain PII about a user or host computer network under same circumstances in which ICE guidelines and procedures allow you to look up similar information such as a phone number.
  - § You may not use software tools to circumvent restrictions placed on system users.

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ICE ROB for Online LE Activities: Requirements

- Real time communications
  - § You may passively observe and log real-time electronic communications open to the public under the same circumstances in which you may attend a public meeting.
- Accessing restricted sources
  - § You may not access restricted online sources absent legal authority permitting entry into private space.

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ICE ROB for Online LE Activities: Requirements

- Online communications
  - § You may use online services to communicate as you may use other types of communication tools, such as the telephone and the mail.
- Record Retention
  - § You shall retain contents of a stored electronic message if you would have retained that message had it been written on paper.

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ICE ROB for Online LE Activities: Requirements

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ICE ROB for Online LE Activities: Requirements

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ICE ROB for Online LE Activities: Requirements

- International Issues
  - § Unless gathering information from online facilities configured for public access, e.g., Facebook and other social networking sites, law enforcement personnel conducting investigations should use reasonable efforts to ascertain whether any pertinent computer system, data, witness, or subject is located in a foreign jurisdiction.
  - § Whenever an item or person is located abroad, law enforcement personnel should follow ICE's policies and procedures for international investigations.

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ICE ROB for Online LE Activities: Requirements

- Activity by Law Enforcement Personnel during Personal Time
  - § While not on duty, law enforcement personnel are generally free to engage in personal online pursuits.
  - § If, however, the off-duty online activity directly and substantially relates to a law enforcement investigation, operation, or prosecution, law enforcement personnel are bound by the same restrictions regarding the use of online information as would apply when on duty.

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Contact & Resource Information

Questions? Contact the ICE Privacy & Records Office, Privacy Branch

(202) 732-3300

ICEPrivacy@ice.dhs.gov

Website: (b)(7)(E)

Links:

ICE Law Enforcement Rules of Behavior

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ICE Non-Law Enforcement Rules of Behavior

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