

Authorized Use: Quick Reference

Markle Task Force Brief

MARKLE Task Force on National Security in the Information Age

A coherent and consistently applied mission-based authorized use standard will improve information sharing to strengthen national security while protecting the privacy and civil liberties of the American people.

MEETING THE THREAT OF TERRORISM:

An Authorized Use Standard for Information Sharing Strengthens National Security and Respects Civil Liberties

A key lesson of 9/11 is that those who need it must have access to the best information in a timely manner and under the appropriate conditions to enable the most informed decisions, especially to prevent terrorist attacks.

- The authorized use standard will base decisions to share information on how the information will be used, rather than on where the information was collected or to whom it pertains. Authorized uses are mission- or threat-based permissions to access or share information for a particular, clearly identified purpose that the government—with public scrutiny—has determined beforehand to be appropriate and lawful.
- A mission-based authorized use standard provides a model for building the trusted information sharing system needed to ease access to information. Access to the information will be based upon agency mission, the role of individual officials, and a predicated purpose, and will be audited to improve accountability and enhance information security.
- Pre-9/11 information sharing standards are no longer workable. Sharing of intelligence information collected by US government agencies has been controlled in the past by a number of factors including: (1) whether the information was collected within US territory or overseas; and (2) whether the information pertained to US citizens or permanent resident aliens (US Persons). Over time, these standards have been over-interpreted and misinterpreted well beyond their original scope and purpose. They are no longer workable to control access to intelligence information in the face of the borderless nature of post 9/11 threats.

Results

A new authorized use standard will:

- Encourage appropriate information sharing to improve national security by creating a consistent and clear standard that meets the challenges of the global communications revolution and emerging threats.

- Safeguard civil liberties and privacy more directly, efficiently, and effectively by permitting access only for authorized uses while utilizing technological and other means to monitor usage and identify abuses.
- Enhance information security with regular, automated compliance and behavior audits that will identify all data users and, with appropriate protections, flag attempts to move beyond authorized access and use or damage systems or information.
- Better define and enforce roles and authorities with the flexibility to be more or less specific, by program or activity, depending on the sensitivity of the information.

Action

To establish an authorized use standard, the US must:

- Develop and issue new guidelines and rules for information access and sharing based on how the party seeking access intends to use the information.
 - Consider the legal authorities and specific mission of each agency, the sensitivity of the information and how the receiving official will use it.
 - Authorize mission- or threat-based justifications to demonstrate that information was accessed or shared for a reason that the government determined beforehand to be appropriate and allowable for the receiving agency.
- Build an efficient oversight and technology system that enables users to select, articulate, and electronically certify an “authorized use” as the basis for their access to information.
- Establish a government-wide dispute resolution mechanism for information sharing conflicts.
- Implement audit-logs to monitor use and compliance with procedures and rules.
- Encourage open debate and action involving the Executive Branch, Congress and the general public to achieve the widest consensus for development and implementation of clear guidelines that improve information sharing and protect civil liberties. ■

About the Markle Task Force

The Markle Task Force on National Security in the Information Age has been a diverse and bipartisan group of former policy makers from the past six presidential administrations, senior information technology executives, and privacy advocates from both the public and private sectors. The Markle Task Force has recommended ways of improving national security decisions by transforming business processes and how information is shared. Its recommendations informed the 9/11 Commission Report and were subsequently included in two federal laws.

Learn more about the Markle Task Force at www.markle.org/national-security.