

AMERICAN CIVIL LIBERTIES UNION of OREGON

## Oregon Law

181.575 Specific information not to be collected or maintained. No law enforcement agency, as defined in ORS 181.010, may collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct. [1981 c.905 §8]

- "The FBI is an intelligence agency as well as a law enforcement agency. Its basic functions accordingly extend beyond limited investigations of discrete matters, and include broader analytic and planning functions."
  - 2008 AG Guidelines p. 9

- "Assessments, authorized by Subpart A of this Part, require an authorized purpose but not any particular factual predication."
  - 2008 AG Guidelines, p. 17

- A "preliminary investigation" may be initiated on the basis of information or an allegation indicating...[that] a federal crime or a threat to the national security has or may have occurred, is or may be occurring, or will or may occur and the investigation may obtain information relating to the activity or the involvement or role of an individual, group, or organization in such activity.
  - 2008 AG Guidelines, p. 21

- "These Guidelines do not authorize investigating or collecting or maintaining information on United States persons solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or laws of the United States."
  - 2008 AG Guidelines p. 13

# FBI Domestic Investigations and Operations Guide (DIOG)

- "The DOJ guidance and FBI policy permit the FBI to identify locations of concentrated ethnic communities in the Field Office's domain, if these locations will reasonably aid the analysis of potential threats and vulnerabilities, and, overall, assist domain awareness for the purpose of performing intelligence analysis."
  - DIOG, p. 32

# FBI Domestic Investigations and Operations Guide (DIOG)

- "A related category of information that can be collected is behavioral and cultural information about ethnic or racial communities that is reasonably likely to be exploited by criminals or terrorist groups who hide within those communities in order to engage in illicit activities undetected."
  - DIOG, p. 34

- "[T]he "purpose" test for attending public events under Part VI of the 2002 Attorney General Guidelines did not require any demonstration of an articulable suspicion to attend the event. It simply required that the agent ordering the activity have an anti-terrorism purpose in mind."
  - A Review of the FBI's Investigations of Certain Domestic Advocacy Groups, U.S. DOJ Office of Inspector General, September 2010, p. 61 (OIG)

- Preliminary Investigation "...the FBI may open a preliminary inquiry in response to an allegation or information 'indicating the possibility of criminal activity."
  - OIG, p. 86.
- "The FBI had information that could be interpreted to indicate the <u>possibility</u> that [individuals monitored] <u>might</u> be planning with others to engage in activities that could include federal crimes."
  - OIG, p. 87

 "...these cases illustrate the broad scope of the FBI's authority under the Guidelines to open preliminary inquiries based on extremely limited information, including information about the First Amendment expressions of subjects. Moreover, because of the easily attainable and speculative "possibility" standard, these cases also demonstrate the importance of the FBI adhering to the Guidelines . . . to minimize the risk of opening unpredicated investigations that could improperly intrude upon and potentially have a chilling effect on constitutionally protected activities and expression."

• OIG, p. 87

- "As described in this report, these current (2008) policies and guidelines, like prior policies and guidelines, allow the FBI to open preliminary and full investigations through standards that are easily met. We therefore believe that the findings in this report, concerns about the FBI's activities in cases we reviewed, and the recommendations we make in this report are important for current FBI practices."
  - OIG, p. 3

- [The] 2008 guidelines loosened the limitations on the FBI retention of information collected in connection with attendance at public events. It no longer needs to relate to potential criminal or terrorist activity to be retained.
  - OIG p. 14



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