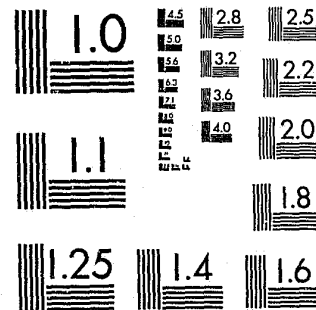


National Criminal Justice Reference Service

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National Institute of Justice  
United States Department of Justice  
Washington, D. C. 20531

9/29/83



Office of the Attorney General

Washington, D. C. 20530

March 7, 1983

MEMORANDUM FOR WILLIAM H. WEBSTER  
Director, Federal Bureau of Investigation

Re: Attorney General's Guidelines on Domestic Security/Terrorism Investigations

I am transmitting formally herewith an approved copy of the Attorney General's Guidelines on Domestic Security/Terrorism Investigations, which have been integrated with the Attorney General's Guidelines for General Crimes and Organized Crime Investigations. These guidelines, dated today, will become effective in 14 days.

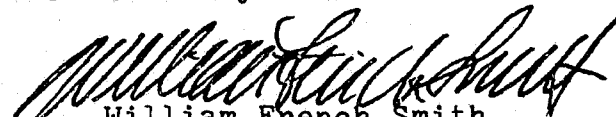
As you have recognized, enterprises prone to terrorism or criminal violence for political or racist purposes are clearly no less dangerous to our citizens than those who operate lawlessly for financial gain. I am confident that these new guidelines will permit our agents to detect and prevent violent crime by such enterprises with greater certainty and effectiveness, while ensuring the public that they are acting properly under the law.

It is important that the FBI devote its criminal intelligence expertise to domestic security/terrorism cases as it has, with increasing success, in organized crime cases. In the past, operating under distinct guidelines setting different standards and procedures has hampered this effort. The new approach, combining both organized crime and domestic security investigations in a single set of guidelines, should make it easier for your agents to focus their intelligence efforts on those criminal enterprises which threaten our people to attain ideological goals.

These Guidelines are the product of more than eight months of careful review involving numerous components of the Department of Justice. This review process has been extremely worthwhile in demonstrating both the merits of guidelines generally and the need for certain specific revisions here. I greatly appreciate the efforts of you and your staff in helping to identify the precise concerns of field agents and in the critical drafting process itself. I think that the Guidelines will help the agents proceed with more confidence in this high priority area of law enforcement, while ensuring the public that these agents will continue to act within the law as first-class professionals.

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I look forward to receiving your views with respect to other guidelines or related matters which may also warrant review.

  
William French Smith  
Attorney General

U.S. Department of Justice  
National Institute of Justice

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Office of the Attorney General  
Washington, D. C. 20530

THE ATTORNEY GENERAL'S GUIDELINES ON GENERAL CRIMES,  
RACKETEERING ENTERPRISE AND  
DOMESTIC SECURITY/TERRORISM INVESTIGATIONS

As the primary criminal investigative agency in the federal government, the FBI has the authority and responsibility to investigate all criminal violations of federal law not exclusively assigned to another federal agency. The FBI thus plays a central role in national law enforcement and in the proper administration of justice in the United States.

Investigations by the FBI are premised upon the important duty of government to protect the public against general crimes, against organized criminal activity, and against those who would engage in political or racial terrorism or would destroy our constitutional system through criminal violence. At the same time, that duty must be performed with care to protect individual rights and to insure that investigations are confined to matters of legitimate law enforcement interest. The purpose of these Guidelines, therefore, is to establish a consistent policy in such matters. The Guidelines should encourage Agents of the FBI to perform their duties with greater certainty, confidence and effectiveness. They should also give the public a firm assurance that the FBI is acting properly under the law.

These Guidelines provide guidance for all investigations by the FBI of crimes and crime-related activities. Investigations involving foreign intelligence, foreign counterintelligence and international terrorism matters are the subject of separate guidelines. The standards and requirements set forth herein govern the circumstances under which an investigation may be begun, and the permissible scope, duration, subject-matters, and objectives of an investigation.

All investigations of crime or crime-related activities shall be undertaken in accordance with one or more of these Guidelines. Part I sets forth general principles that apply to all investigations conducted under these Guidelines. Part II governs investigations undertaken to detect, prevent and prosecute specific violations of federal law. Part III A governs criminal intelligence investigations undertaken to obtain information concerning enterprises which are engaged in racketeering activities involving violence, extortion or public corruption. Part III B governs criminal intelligence investigations undertaken to obtain information concerning enterprises which seek to achieve political or social change through violence.

These Guidelines are issued under the authority of the Attorney General as provided in 28 U.S.C. 509, 510, and 533.

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#### I. General Principles

Preliminary inquiries and investigations governed by these Guidelines are conducted for the purpose of preventing, detecting, or prosecuting violations of federal law. They shall be conducted with as little intrusion into the privacy of individuals as the needs of the situation permit.

All preliminary inquiries shall be conducted pursuant to the General Crimes Guidelines. There is no separate provision for a preliminary inquiry under the Criminal Intelligence Guidelines. A preliminary inquiry shall be promptly terminated when it becomes apparent that a full investigation is not warranted. If, on the basis of information discovered in the course of a preliminary inquiry, an investigation is warranted, it may be conducted as a general crimes investigation, or a criminal intelligence investigation, or both. All such investigations, however, shall be based on a reasonable factual predicate and shall have a valid law enforcement purpose.

In its efforts to anticipate or prevent crime, the FBI must at times initiate investigations in advance of criminal conduct. It is important that such investigations not be based solely on activities protected by the First Amendment or on the lawful exercise of any other rights secured by the Constitution or laws of the United States. When, however, statements advocate criminal activity or indicate an apparent intent to engage in crime, particularly crimes of violence, an investigation under these Guidelines may be warranted unless it is apparent, from the circumstances or the context in which the statements are made, that there is no prospect of harm.

General crimes investigations and criminal intelligence investigations shall be terminated when all logical leads have been exhausted and no legitimate law enforcement interest justifies their continuance.

Nothing in these Guidelines is intended to prohibit the FBI from collecting and maintaining publicly available information consistent with the Privacy Act.

Nothing in these Guidelines prohibits the FBI from ascertaining the general scope and nature of criminal activity in a particular location or sector of the economy.

## II. General Crimes Investigations

### A. Definitions

(1) "Exigent circumstances" are circumstances requiring action before authorization otherwise necessary under these guidelines can reasonably be obtained, in order to protect life or substantial property interests; to apprehend or identify a fleeing offender; to prevent the hiding, destruction or alteration of evidence; or to avoid other serious impairment or hindrance of an investigation.

(2) "Sensitive criminal matter" is any alleged criminal conduct involving corrupt action by a public official or political candidate, the activities of a foreign government, the activities of a religious organization or a primarily political organization or the related activities of any individual prominent in such an organization, or the activities of the news media; and any other matter which in the judgment of a Special Agent in Charge (SAC) should be brought to the attention of the United States Attorney or other appropriate official in the Department of Justice, as well as FBI Headquarters (FBIHQ).

### B. Preliminary Inquiries

(1) On some occasions the FBI may receive information or an allegation not warranting a full investigation -- because there is not yet a "reasonable indication" of criminal activities -- but whose responsible handling requires some further scrutiny beyond the prompt and extremely limited checking out of initial leads. In such circumstances, though the factual predicate for an investigation has not been met, the FBI may initiate an "inquiry" involving some measured review, contact, or observation activities in response to the allegation or information indicating the possibility of criminal activity.

This authority to conduct inquiries short of a full investigation allows the government to respond in a measured way to ambiguous or incomplete information and to do so with as little intrusion as the needs of the situation permit. This is especially important in such areas as white-collar crime where no complainant is involved or when an allegation or information is received from a

source of unknown reliability. It is contemplated that such inquiries would be of short duration and be confined solely to obtaining the information necessary to make an informed judgment as to whether a full investigation is warranted.

A preliminary inquiry is not a required step when facts or circumstances reasonably indicating criminal activity are already available; in such cases, a full investigation can be immediately opened.

(2) The FBI supervisor authorizing an inquiry shall assure that the allegation or other information which warranted the inquiry has been recorded in writing. In sensitive criminal matters, the United States Attorney or an appropriate Department of Justice official shall be notified of the basis for an inquiry as soon as practicable after the opening of the inquiry, and the fact of notification shall be recorded in writing.

(3) Inquiries shall be completed within 90 days after initiation of the first investigative step. The date of the first investigative step is not necessarily the same date on which the first incoming information or allegation was received. An extension of time in an inquiry for succeeding 30-day periods may be granted by FBI Headquarters upon receipt of a written request and statement of reasons why further investigative steps are warranted when there is no "reasonable indication" of criminal activity.

(4) Before employing an investigative technique in an inquiry, the FBI should consider whether the information could be obtained in a timely and effective way by less intrusive means. Some of the factors to be considered in judging intrusiveness are adverse consequences to an individual's privacy interests and avoidable damage to his reputation. Whether an intrusive technique should be used in an inquiry depends on the seriousness of the possible crime and the strength of the information indicating the possible existence of the crime. However, the techniques used in an inquiry should generally be less intrusive than those employed in a full investigation. It is recognized that choice of technique is a matter of judgment.



(5) The following investigative techniques shall not be used during an inquiry:

- (a) Mail covers;
- (b) Mail openings;
- (c) Nonconsensual electronic surveillance or any other investigative technique covered by Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. 2510-2520.

(6) The following investigative techniques may be used in an inquiry without any prior authorization from a supervisory agent:

- (a) Examination of FBI indices and files;
- (b) Examination of records available to the public and other public sources of information;
- (c) Examination of available federal, state and local government records;
- (d) Interview of the complainant, previously established informants, and confidential sources;
- (e) Interview of the potential subject;
- (f) Interview of persons who should readily be able to corroborate or deny the truth of the allegation, except this does not include pretext interviews or interviews of a potential subject's employer or co-workers unless the interviewee was the complainant;
- (g) Physical or photographic surveillance of any person.

The use of any other lawful investigative technique in an inquiry shall require prior approval by a supervisory agent, except in exigent circumstances. Where a technique is highly intrusive, a supervisory agent shall approve its use in the inquiry stage only in compelling circumstances and when other investigative means are not likely to be successful.

(7) Where a preliminary inquiry fails to disclose sufficient information to justify an investigation, the FBI shall terminate the inquiry and make a record of the closing. In a sensitive criminal matter, the FBI shall notify the United States Attorney of the closing and record the fact of notification in writing. Information on an inquiry which has been closed shall be available on request to a United States Attorney or his designee or an appropriate Department of Justice official.

(8) All requirements regarding inquiries shall apply to reopened inquiries. In sensitive criminal matters, the United States Attorney or the appropriate Department of Justice official shall be notified as soon as practicable after the reopening of an inquiry.

#### C. Investigations

(1) A general crimes investigation may be initiated by the FBI when facts or circumstances reasonably indicate that a federal crime has been, is being, or will be committed. The investigation may be conducted to prevent, solve, and prosecute such criminal activity.

The standard of "reasonable indication" is substantially lower than probable cause. In determining whether there is reasonable indication of a federal criminal violation, a Special Agent may take into account any facts or circumstances that a prudent investigator would consider. However, the standard does require specific facts or circumstances indicating a past, current, or impending violation. There must be an objective, factual basis for initiating the investigation; a mere hunch is insufficient.

(2) Where a criminal act may be committed in the future, preparation for that act can, of course, amount to a current criminal violation under the conspiracy or attempt provisions of federal criminal law, if there are present the requisite agreement and overt act, or substantial step toward completion of the criminal act and intention to complete the act. With respect to criminal activity that may occur in the future but does not yet involve a current criminal conspiracy or attempt, particular care is necessary to assure that there exist facts and circumstances amounting to a reasonable indication that a crime will occur.

(3) The FBI supervisor authorizing an investigation shall assure that the facts or circumstances meeting the standard of reasonable indication have been recorded in writing.

In sensitive criminal matters, as defined in paragraph A(2), the United States Attorney or an appropriate Department of Justice official and FBIHQ shall be notified in writing of the basis for an investigation as soon as practicable after commencement of the investigation.

(4) The Special Agent conducting an investigation shall maintain periodic written or oral contact with the appropriate federal prosecutor, as circumstances require and as requested by the prosecutor.

When, during an investigation, a matter appears to arguably warrant prosecution, the Special Agent shall present the relevant facts to the appropriate federal prosecutor. In every sensitive criminal matter, the FBI shall notify the appropriate federal prosecutor of the termination of an investigation within 30 days of such termination. Information on investigations which have been closed shall be available on request to a United States Attorney or his designee or an appropriate Department of Justice official.

(5) When a serious matter investigated by the FBI is referred to state or local authorities for prosecution, the FBI, insofar as resources permit, shall promptly advise the federal prosecutor in writing if the state or local authorities decline prosecution or fail to commence prosecutive action within 120 days. Where an FBI field office cannot provide this follow-up, the SAC shall so advise the federal prosecutor.

(6) When credible information is received concerning serious criminal activity not within the FBI investigative jurisdiction, the FBI field office shall promptly transmit the information or refer the complainant to the law enforcement agencies having jurisdiction, except where disclosure would jeopardize an ongoing investigation, endanger the safety of an individual, disclose the identity of an informant, interfere with an informant's cooperation, or reveal legally privileged information. If full disclosure is not made for the reasons indicated, then whenever feasible the FBI field office shall make at

least limited disclosure to the law enforcement agency having jurisdiction, and full disclosure shall be made as soon as the need for restricting dissemination is no longer present. Where full disclosure is not made to the appropriate law enforcement agencies within 180 days, the FBI field office shall promptly notify FBI Headquarters in writing of the facts and circumstances concerning the criminal activity. The FBI shall make a periodic report to the Deputy Attorney General on such nondisclosure and incomplete disclosures, in a form suitable to protect the identity of informants and confidential sources.

Whenever information is received concerning unauthorized criminal activity by an informant or confidential source, it shall be handled in accord with paragraph G of the Attorney General's Guidelines on Use of Informants and Confidential Sources.

(7) All requirements regarding investigations shall apply to reopened investigations. In sensitive criminal matters, the United States Attorney or the appropriate Department of Justice official shall be notified in writing as soon as practicable after the reopening of an investigation.

### III. Criminal Intelligence Investigations

This section authorizes the FBI to conduct criminal intelligence investigations of certain enterprises who seek either to obtain monetary or commercial gains or profits through racketeering activities or to further political or social goals through activities that involve criminal violence. These investigations differ from general crimes investigations, authorized by Section II, in several important respects. As a general rule, an investigation of a completed criminal act is normally confined to determining who committed that act and with securing evidence to establish the elements of the particular offense. It is, in this respect, self-defining. An intelligence investigation of an ongoing criminal enterprise must determine the size and composition of the group involved, its geographic dimensions, its past acts and intended criminal goals, and its capacity for harm. While a standard criminal investigation terminates with the decision to prosecute or not to prosecute, the investigation of a criminal enterprise does not necessarily end, even though one or more of the participants may have been prosecuted.

In addition, the organization provides a life and continuity of operation that are not normally found in a regular criminal activity. As a consequence, these investigations may

continue for several years. Furthermore, as Justice Powell noted, the focus of such investigations "May be less precise than that directed against more conventional types of crime." United States v. United States District Court, 407 U.S. 297, 322 (1972). Unlike the usual criminal case, there may be no completed offense to provide a framework for the investigation. It often requires the fitting together of bits and pieces of information many meaningless by themselves to determine whether a pattern of criminal activity exists. For this reason, the investigation is broader and less discriminate than usual, involving "the interrelation of various sources and types of information." Id.

Members of groups or organizations acting in concert to violate the law present a grave threat to society. An investigation of organizational activity, however, may present special problems particularly where it deals with politically motivated acts. "There is often a convergence of First and Fourth Amendment values," in such matters that is "not found in cases of 'ordinary' crime." Id. Thus special care must be exercised in sorting out protected activities from those which may lead to violence or serious disruption of society. As a consequence, the guidelines establish safeguards for group investigations of special sensitivity, including tighter management controls and higher levels of review.

#### A. Racketeering Enterprise Investigations

This section focuses on investigations of organized crime. It is concerned with investigation of entire enterprises, rather than individual participants in specific criminal acts, and authorizes investigations to determine the structure and scope of the enterprise as well as the relationship of the members. Except as specified below, this authority may be exercised only when the activity engaged in by the racketeering enterprise involves violence, extortion, narcotics, or systematic public corruption.

##### 1. Definitions

Racketeering activity is any offense, including the violation of state law, encompassed by the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1961(1).

## 2. General Authority

- a. The FBI has authority to conduct investigations of racketeering enterprises whose activities involve violence, extortion, narcotics, or systematic public corruption. A racketeering enterprise not engaged in such activities may be investigated under this authority only upon a written determination by the Director, concurred in by the Attorney General, that such investigation is justified by exceptional circumstances.
- b. A racketeering enterprise investigation may be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in a continuing course of conduct for the purpose of obtaining monetary or commercial gains or profits wholly or in part through racketeering activity. The standard of "reasonable indication" is identical to that governing the initiation of a general crimes investigation under Part II.
- c. Authority to conduct racketeering enterprise investigations is separate from and in addition to general crimes investigative authority under Part II and domestic security/terrorism investigations under Part III. Information warranting initiation of a racketeering enterprise investigation may be obtained during the course of a general crimes inquiry or investigation. Conversely, a racketeering enterprise investigation may yield information warranting a general crimes inquiry or investigation or a domestic security/terrorism investigation.

## 3. Purpose

The immediate purpose of a racketeering enterprise investigation is to obtain information concerning the nature and structure of the enterprise, as specifically delineated in paragraph II D below, with a view to the longer range objective of detection, prevention, and prosecution of the criminal activities of the enterprise.

4. Scope

- a. A racketeering enterprise investigation properly initiated under these guidelines may collect such information as:
- (i) The members of the enterprise and other persons likely to be knowingly acting in the furtherance of racketeering activity, provided that the information concerns such persons' activities on behalf of or in furtherance of the enterprise;
  - (ii) the finances of the enterprise;
  - (iii) the geographical dimensions of the enterprise; and
  - (iv) the past and future activities and goals of the enterprise.
- b. In obtaining the foregoing information, any lawful investigative technique may be used, in accordance with the requirements of paragraphs C 4 and 5 of Part I.

5. Authorization and Renewal

- a. A racketeering enterprise investigation may be authorized by the Director or designated Assistant Director upon a written recommendation setting forth the facts and circumstances reasonably indicating the existence of a racketeering enterprise whose activities involve violence, extortion, narcotics, or systematic public corruption. In such cases the FBI shall notify the Attorney General or his designee of the opening of the investigation. An investigation of a racketeering enterprise not involved in these activities may be authorized only by the Director upon his written determination, concurred in by the Attorney General, that such investigation is warranted by exceptional circumstances. In all investigations, the Attorney General may, as he deems necessary, request the FBI to provide a report on the status of the investigation.

- b. A racketeering enterprise investigation may be initially authorized for a period of up to 180 days. An investigation may be continued upon renewed authorization for additional periods each not to exceed 180 days. Renewal authorization shall be obtained from the Director or designated Assistant Director. The concurrence of the Attorney General must also be obtained if his concurrence was initially required to authorize the investigation.
- c. Investigations shall be reviewed by the Director or designated senior Headquarters official on or before the expiration of the period for which the investigation and each renewal thereof is authorized.
- d. An investigation which has been terminated may be reopened upon a showing of the same standard and pursuant to the same procedures as required for initiation of an investigation.

B. Domestic Security/Terrorism Investigations

This section focuses on investigations of enterprises, other than those involved in international terrorism, whose goals are to achieve political or social change through activities that involve force or violence. Like racketeering enterprise investigations, it is concerned with the investigation of entire enterprises, rather than individual participants and specific criminal acts, and authorizes investigations to determine the structure and scope of the enterprise as well as the relationship of the members.

1. General Authority

- a. A domestic security/terrorism investigation may be initiated when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of furthering political or social goals wholly or in part through activities that involve force or violence and a violation of the criminal laws of the United States. The standard of "reasonable indication" is identical to that governing the initiation of a general crimes investigation under Part II. In determining whether an investigation should be conducted, the FBI shall consider all of



the circumstances including: (1) the magnitude of the threatened harm; (2) the likelihood it will occur; (3) the immediacy of the threat; and (4) the danger to privacy and free expression posed by an investigation.

b. Authority to conduct domestic security/terrorism investigations is separate from and in addition to general crimes investigative authority under Part II, racketeering enterprise investigations under Part III A and international terrorism investigations under the Attorney General's Guidelines for Foreign Intelligence Collection and Foreign Counterintelligence Investigations. Information warranting initiation of an investigation under this section may be obtained through the course of a general crimes inquiry or investigation, a racketeering enterprise investigation, or an investigation of international terrorism. Conversely, a domestic security/terrorism investigation may yield information warranting a general crimes inquiry or investigation, a racketeering enterprise investigation, or an investigation of international terrorism.

c. In the absence of any information indicating planned violence by a group or enterprise, mere speculation that force or violence might occur during the course of an otherwise peaceable demonstration is not sufficient grounds for initiation of an investigation under this section. For alternative authorities see Part II relating to General Crimes Investigations and the Attorney General's Guidelines on "Reporting on Civil Disorders and Demonstrations Involving a Federal Interest." This does not preclude the collection of information about public demonstrations by enterprises that are under active investigation pursuant to paragraph B 1(a) above.

## 2. Purpose

The immediate purpose of a domestic security/terrorism investigation is to obtain information concerning the nature and structure of the enterprise as specifically delineated in paragraph (3) below, with a view to the longer range objectives of detection, prevention, and prosecution of the criminal activities of the enterprise.

## 3. Scope

a. A domestic security/terrorism investigation initiated under these guidelines may collect such information as:

(i) the members of the enterprise and other persons likely to be knowingly acting in furtherance of its criminal objectives, provided that the information concerns such persons' activities on behalf or in furtherance of the enterprise;

(ii) the finances of the enterprise;

(iii) the geographical dimensions of the enterprise; and

(iv) past and future activities and goals of the enterprise.

b. In obtaining the foregoing information, any lawful investigative technique may be used in accordance with requirements of Part IV.

## 4. Authorization and Renewal

a. A domestic security/terrorism investigation may be authorized by the Director or designated Assistant Director upon a written recommendation setting forth the facts or circumstances reasonably indicating the existence of an enterprise as described in this subsection. In such cases, the FBI shall notify the Office of Intelligence Policy and Review of the opening of the investigation. In all investigations the Attorney General may, as he deems necessary, request the FBI to provide a report on the status of the investigation.

b. A domestic security/terrorism investigation may be initially authorized for a period of up to 180 days. An investigation may be continued upon renewed authorization for additional periods each not to exceed 180 days. Renewal authorization shall be obtained from the Director or designated Assistant Director.

- c. Investigations shall be reviewed by the Director or designated Senior Headquarters official on or before the expiration period for which the investigation and each renewal thereof is authorized.
- d. Each investigation should be reviewed at least annually to insure that the threshold standard is satisfied and that continued allocation of investigative resources is warranted. In some cases, the enterprise may meet the threshold standard but be temporarily inactive in the sense that it has not engaged in recent acts of violence, nor is there any immediate threat of harm -- yet the composition, goals and prior history of the group suggests the need for continuing federal interest. Under those circumstances, the investigation may be continued but reasonable efforts should be made to limit the coverage to information which might indicate a change in the status or criminal objectives of the enterprise.
- e. An investigation which has been terminated may be reopened upon a showing of the same standard and pursuant to the same procedures as required for initiation of an investigation.
- f. The FBI shall report the progress of a domestic security/terrorism investigation to the Office of Intelligence Policy and Review not later than 180 days after the initiation thereof, and the results at the end of each year the investigation continues. The Office of Intelligence Policy and Review shall review the results of each investigation at least annually.

#### IV. Investigative Techniques

- A. When conducting investigations under these guidelines the FBI may use any lawful investigative technique. Before employing a technique, the FBI should consider whether the information could be obtained in a timely and effective way by less intrusive means. Some of the factors to be considered in judging intrusiveness are adverse consequences to an individual's privacy interests and avoidable damage to his reputation. Whether a highly intrusive technique should be used depends on the seriousness of the crime and the strength of the information indicating the existence of the crime. It is recognized that choice of technique is a matter of judgment.

- B. All requirements for use of a technique set by statute, Department regulations and policies, and Attorney General Guidelines must be complied with. The investigative techniques listed below are subject to the noted restrictions:
  - 1. Informants and confidential sources must be used in compliance with the Attorney General's Guidelines on the Use of Informants and Confidential Sources;
  - 2. Undercover operations must be conducted in compliance with the Attorney General's Guidelines on FBI Undercover Operations;
  - 3. Undisclosed participation in the activities of an organization by an undercover employee or cooperating private individual in a manner that may influence the exercise of rights protected by the First Amendment must be approved by FBIHQ, with notification to Department of Justice;
  - 4. Nonconsensual electronic surveillance must be conducted pursuant to the warrant procedures and requirements of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. 2510-2520;
  - 5. Pen registers must be authorized pursuant to Department policy. This requires an order from a federal district court and an extension every 30 days, under the December 18, 1979, memorandum from the Assistant Attorney General in charge of the Criminal Division to all United States Attorneys;
  - 6. Consensual electronic monitoring must be authorized pursuant to Department policy. For consensual monitoring of conversations other than telephone conversations, advance authorization must be obtained in accordance with established guidelines. This applies both to devices carried by the cooperating participant and to devices installed on premises under the control of the participant. See USAM 9-7.013. For consensual monitoring of telephone conversations, advance authorization must be obtained from the SAC and the appropriate U. S. Attorney, except in exigent circumstances;

7. Searches and seizures must be conducted under the authority of a valid warrant unless the search or seizure comes within a judicially recognized exception to the warrant requirement. See also, Attorney General's Guidelines on Methods of Obtaining Documentary Materials Held by Third Parties;
8. Whenever an individual is known to be represented by counsel in a particular matter, the FBI shall follow applicable law and Department procedure concerning contact with represented individuals in the absence of prior notice to their counsel. The SAC or his designee and the United States Attorney shall consult periodically on applicable law and Department procedure.

V. Dissemination of Information

The FBI may disseminate information during investigations conducted pursuant to these guidelines to another Federal agency or to a State or local criminal justice agency when such information:

- A. falls within the investigative or protective jurisdiction or litigative responsibility of the agency;
- B. may assist in preventing a crime or the use of violence or any other conduct dangerous to human life;
- C. is required to be furnished to another Federal agency by Executive Order 10450, as amended, dated April 27, 1953, or a successor Order;
- D. is required to be disseminated by statute, inter-agency agreement approved by the Attorney General, or Presidential Directive;

and to other persons and agencies as permitted by Sections 552 and 552a of Title V, U.S.C.

VI. Cooperation with Secret Service

The FBI is authorized to provide investigative assistance in support of the protective responsibilities of the Secret Service, provided that all preliminary inquiries or investigations are conducted in accordance with the provisions of these guidelines

VII. Reservation

- A. Nothing in these guidelines shall limit the general reviews or audits of papers, files, contracts, or other records in the government's possession, or the performance of similar services at the specific request of a Department or agency of the United States. Such reviews, audits or similar services must be for the purpose of detecting or preventing violations of federal law which are within the investigative responsibility of the FBI.
- B. Nothing in these guidelines is intended to limit the FBI's responsibilities to investigate certain applicants and employees under the federal personnel security program.
- C. These guidelines are set forth solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor do they place any limitation on otherwise lawful investigative and litigative prerogatives of the Department of Justice.

  
William French Smith  
Attorney General

Date: March 7, 1983

**END**