

FBI secret manuals allow for warrantless stalking of journalists

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More than 1,000 pages of FBI policy manuals recently leaked by *The Intercept* detail the agency's secret powers, which were massively expanded under the Obama administration. These include the power to send armed surveillance teams to stalk journalists without a warrant, to coerce potential informants (including minors) with deportation, and to extensively infiltrate campus, ethnic and political organizations. The leaked manuals are the subject of an 11-part report by the online journal.

The biggest document obtained by *The Intercept* is the 2011 edition of the agency's Domestic Investigations and Operations Guide (DIOG), a 656-page policy manual, in unredacted form for the first time. The rulebook governs all of the agency's activities, including infiltration, surveillance, and electronic information collection.

Infiltration and surveillance

One category of investigation outlined by the DIOG is the "Assessment," created in December 2008, which codifies warrantless stalking. Assessments do not need the authorization of a court, nor do they need to be based on any evidence—"particular factual predication" in the manual's bureaucratic jargon—let alone the suspicion of any wrongdoing. Certain types of assessments may be "proactively" initiated by individual agents on their own. Most other assessments need only the rubber stamp of a supervisor, the Special Agent in Charge (SAC) of the field office, in order to proceed.

An FBI agent may request from an Assistant Special Agent in Charge (ASAC) the deployment of a mobile surveillance team—including armed teams—to physically stalk the subject of an assessment, including (but not limited to) journalists, religious figures, elected officials, potential informants, and individuals who are not the subject of any investigation. The manual's 2011 revision removed the restriction of only one surveillance team per assessment.

Agents may also request authorization to aerially surveil the land around a target's home, including with thermal imaging cameras. The manual asserts that people's yards "do not enjoy Fourth Amendment protection from aircraft-mounted surveillance" and thus do not require search warrants authorized by a judge. In

assessments related to counterterrorism, the "best practices" outlined in the FBI's Counterterrorism Policy Guide directs agents to cross-reference the agency's databases and other systems with information such as the subject's phone numbers.

Assessments can be used to map and collect information on populations with potential informants and on other communities of interest, including demographic data, religious affiliations, community dynamics, and businesses. FBI memoranda obtained by the American Civil Liberties Union (ACLU) revealed that the FBI mapped Chinese neighborhoods in San Francisco because "[w]ithin this community there has been organized crime for generations."

Data collected by an assessment can be retained for decades and queried by various law enforcement agencies for years, even when the assessment never leads to an investigation.

FBI infiltration of any group, both "sensitive" (e.g., religious, political, ethnic) and "non-sensitive" (e.g., business, recreational) also does not need the approval of a court. The unredacted form of the DIOG reveals loopholes exploited by the agency to jump over the already threadbare safeguards against infiltration. By labeling groups with majority non-citizen memberships as acting on the behalf of a foreign power, and labeling any group "illegitimate," agents can avoid the apparently onerous burdens of fetching the rubber-stamp of an SAC, and the go-ahead from their division's head legal adviser if the group is sensitive.

If a group is not related to "sensitive investigative matters," then, with the approval of the division's head legal adviser, FBI infiltrators may "substantially affect" the group's agenda on social, religious, or political issues.

A report issued by the Department of Justice (DOJ) in 2010 revealed that the FBI had illegally infiltrated left-wing groups, spying on an antiwar rally for the concocted purpose of investigating "international terrorism subjects" (and lying about it at a congressional hearing), and labeling nonviolent acts of civil disobedience as "acts of terrorism" so as to place activists on federal watch lists.

FBI use of informants

The 2015 edition of the FBI's Confidential Human Source

Policy Guide expands the powers afforded by the manual's 2007 edition on how the FBI handles informants. The new policies, with an entire chapter devoted to "Immigration Matters," allow the agency to threaten potential informants—including minors—with deportation if they don't cooperate with the agency.

The FBI works closely with the Customs and Border Protection (CBP) agency to identify potential informants whose immigration status they can use as leverage, then petitions Immigration and Customs Enforcement (ICE) to allow the informants and/or their dependents temporary relief from deportation—but only as long as they remain useful to the FBI. As soon as an informant loses value, the FBI is obligated to report them to ICE and to have their relief terminated. A presentation obtained by *The Intercept* and drawn up by the FBI and Joint Terrorism Task Force refers to these coercive methods as "immigration relief dangle."

In the case of Moroccan citizen Yassine Ouassif, border agents seized his permanent residency card as he was crossing from New York to Canada, forced him onto a bus back to San Francisco, and instructed him to contact an FBI agent. The agent offered him a choice: become an informant so that he and his wife can stay in the United States, or be deported to Morocco.

With permission from an SAC, FBI agents may recruit minors, emancipated or not, as informants, with or without their caretakers' consent. With the permission of the DOJ, the FBI may also recruit clergy, lawyers and journalists. Informants can operate in other countries and the FBI is not required to notify the host countries.

One of the FBI documents obtained by *The Intercept* is an educational pamphlet on cultivating informants and how to build effective dossiers. These "source identification packages" identify, among other things, informants' motivations, vulnerabilities, family relations, financial goals and psychological characteristics. Today, the FBI has more than 15,000 informants—over ten times the number the agency had in the 1970s—and has built software dedicated to tracking and managing said informants.

The FBI's online activities are now coordinated under the Net Talon National Initiative, first established in 2008. The agency's online operations are so ubiquitous that internal documents complain of resources accidentally wasted on investigations of personas created by its own agents.

FBI agents may converse with someone who has nothing to do with any investigation, and then decide that person should be the subject of an investigation. Agents can target any web site, forum or online network that the FBI believes terrorists are using "to encourage and recruit members" or to spread propaganda.

The FBI has a long and sordid history [1] [2] [3] of entrapping socially isolated, often mentally ill individuals in terror plots that they would otherwise have no capacity to enact. In the case of 29-year-old Basit Javid Sheikh, the FBI created a fake Facebook profile of a female Syrian nurse whom Sheikh became infatuated with. After Sheikh confessed to the "nurse" that he wanted to travel to join an Islamist militia, the nurse suggested he join the US-backed al-Nusra Front and another undercover FBI agent promised Sheikh a way in. Sheikh agreed, purchased a plane ticket to Beirut, and was arrested at Raleigh-Durham International Airport in North Carolina. A federal judge later ruled that Sheikh was mentally ill

and not competent to participate in his hearing.

Phone surveillance and warrantless search requests

The DIOG also details the use of "pen register" and "trap and trace" devices, which disrupt a phone line's service as it tracks the numbers dialed into it. Judges can grant the FBI and other law enforcement agencies pen register orders without the need for officers to establish probable cause. These orders not only authorize the use of these recording devices, but also can be used to demand that the subjects' telecom provider immediately hand over any and all telephone numbers, email addresses, and other dialing, routing, addressing or signaling information that the agent deems "relevant" to the investigation.

National Security Letters (NSLs) function as another type of warrantless search request that may be issued to telecom providers and other financial institutions. NSLs can be issued by a variety of FBI leadership personnel. Over 300,000 NSLs have been issued in the past 10 years, with an average of over 35 a day in 2015.

The scope of NSLs issued to Internet companies is limited to basic subscriber information: name, address, length of service. But FBI internal guidelines reveal that the agency has standard templates for requesting email transaction information, such as email headers and activity logs, which are beyond the scope of what an NSL can be used to obtain. The DIOG also reveals that the agency uses NSLs to obtain "second generation" call records of multiple individuals en masse. The FBI may label journalists as foreign spies to sidestep the required DOJ approval of NSLs targeting journalists.

The ACLU chief technologist Chris Soghoian, speaking to *The Intercept*, explained that the FBI routinely asks for information it is not legally entitled to "because it is banking that some companies won't know the law and will disclose more than they have to ... The FBI is preying on small companies who don't have the resources to hire national security law experts."

With the monstrous expansion of the FBI's spying powers under Obama, the Trump administration, the most right-wing government in American history, now holds the reins of a domestic intelligence agency with the freedom to spy on masses of people without so much as a rubber stamp.



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