

Annual Review of the SNCTC P/CRCL Policy



Part 7

Part 7:

Reminders about Constitutional Rights and Criminal Behavior

Criminality exhibited by an individual does not extinguish all of that individual's constitutional rights.

Criminality exhibited by certain members of an extremist group does not negate the constitutional rights of the group itself or its members to exercise their 1st Amendment or other rights.

When determining whether to initiate investigative activity, evaluations of the legitimacy or severity of a threat should be based on reasonability and good faith.

Key Reminders About Constitutional Rights

First Amendment Concerns for Fusion Centers

1. **WHO:** *Distinguish who is involved in protected activities.*
2. **WHY:** *Articulate a lawful predicate.*
3. **WHAT:** *Develop a proportional and accurate product in response*

Who?
Why?
What?

Handle With Care

1st AMENDMENT PROTECTED ACTIVITIES

Religion, Speech, Press, Assembly and Petition

- The government may *never collect or disseminate information based solely on 1st Amendment protected activities* or conduct investigations solely on that basis.
- Reporting on activities *without a nexus to violence, criminality, or another lawful predicate* often raises 1st Amendment concerns.

✓ Checklist:

Handling First Amendment Information

4-Step Framework

- ☐ Is the activity protected activity?
- ☐ If yes, is there a lawful predicate for using the information?
- ☐ If there is a lawful predicate, is the report congruent and proportional to the threat posed and justified by police action or reporting?
- ☐ Is the report an evenhanded response and free of bias?

Data collection should

**NOT
be based on
individual ATTRIBUTES**

such as

**religious, political or social views or
activities;**

**participation in a non-criminal
organization or lawful event;**

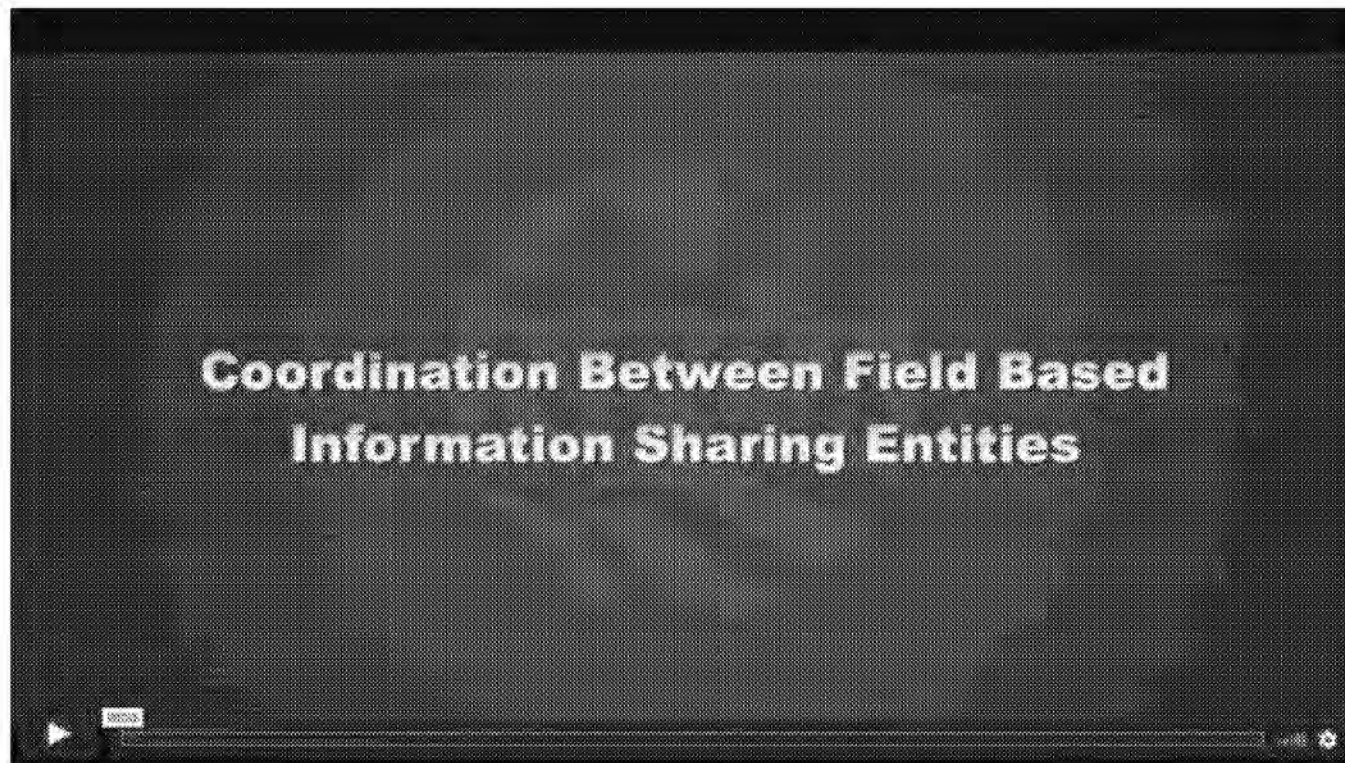
**race, ethnicity, citizenship, place of
origin, age, disability, gender, or
sexual orientation**

but rather focused and based on an individual or group's

**BEHAVIOR
that is deemed to be
SUSPICIOUS ACTIVITY**

Information Sharing Process

**Information is shared for
*COUNTERTERRORISM
PURPOSES***



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DHS-001-05722-000810

✓ Checklist:

Collecting, Sharing & Disseminating PII

COLLECTING

- ☐ Do you have legal authority to collect the information?
- ☐ Do you have a valid law enforcement purpose for collecting the information?
- ☐ Is collection consistent with your Fusion Center's privacy policy?

SHARING

- ☐ Do you have the legal authority to share?
- ☐ Why, specifically, is the information needed?
- ☐ Does the intended recipient have a need to know?
- ☐ Is the sharing consistent with your Fusion Center's privacy policy?

DISSEMINATING

- ☐ Was it lawfully obtained?
- ☐ Does it still meet the original purpose?
- ☐ Assessment of right and need to know before sharing protected information?
- ☐ Is more information being shared than is necessary to complete the task?
- ☐ Does it pass the 6 o'clock news and social media test?
- ☐ Do you have an audit trail?
- ☐ What happens if it is not released?

Ensure that PII is used only for approved purposes

If you are not sure of the answers to these questions, contact your supervisor.



Spying on the Home Front

Click image to start video

**THREAT
ALERT:**

*Las Vegas NYE
is a terrorist
target*

Protecting Freedoms in
Times of Crisis

Protecting Freedoms in Times of Crisis

REMINDER

4th Amendment

**Safeguards us against unreasonable searches and
forbids a total surveillance of society**

Terrorism Information and Prevention System (Operation TIP)

Authorized eavesdropping by private citizens in other citizens homes

Total Information Awareness Program (TIA)

Data mining project; A virtual dragnet; "The Supersnoop's Dream"

Section 702 of the Foreign Intelligence Surveillance Act (FISA)

Authorized government to collect telecommunications

- Facial Recognition Technology (FRT)
- Small Unarmed Aircraft Systems (sUAS / Drones)
- Automated License Plate Readers (ALPR)
- ShotSpotter Response Technology
- Public Safety Cameras
- Body Worn Cameras

**P/CRCL
concerns
with
Emerging
Technologies**

For More Information or Questions

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