



Commonwealth Fusion Center

Standard Operating Procedure

Effective Date	Number
July 1, 2006	CFC - 04
Subject	
Guidelines For Investigations Involving First Amendment Activity	

Policy

This policy applies only to the Massachusetts State Police Anti-Terrorism Unit (MSP-ATU). The MSP-ATU will not initiate or participate in investigations into groups or individuals based solely upon their lawful exercise of First Amendment rights. Where the Department must initiate or participate in investigations involving First Amendment activity, Department policy requires that those investigations conform to the guarantees of the Massachusetts Constitution, the United States Constitution, state law, and federal law. Fusion Center policy requires that those investigations be supported by a legitimate law enforcement or public safety purpose.

Purpose

In its effort to anticipate or prevent unlawful activity, including terrorist acts, the MSP-ATU must initiate, at times, investigations in advance of unlawful conduct. An investigation under these guidelines is warranted when oral or written statements advocate unlawful activity, or facts and circumstances establish a potential for, or indicate an apparent intent to engage in unlawful conduct, particularly acts of violence or other conduct that may threaten public safety. An investigation is not warranted when it is apparent from the circumstance or the context in which the statements are made, that there is no prospect of unlawful activity.

The MSP-ATU understands and affirms that investigations under these guidelines will always proceed in a good faith effort to anticipate and prevent unlawful activity and will never be based solely on activities protected by the First Amendment. Further, investigations under these guidelines will not be directed towards disrupting the lawful conduct of persons or groups involved in First Amendment activity and will not interfere with any individual's participation in lawful activities.

Investigations shall be terminated when all logical leads have been exhausted and no legitimate law enforcement purpose justifies their continuance.

Applicability

These guidelines apply only to investigations of speech or conduct subject to protection under the First Amendment. They do not apply to, or limit, other activities of the MSP-ATU in the investigation or detection of unlawful conduct, the preservation of the peace and public safety, or other legitimate law enforcement activities that do not involve First Amendment activity. These guidelines specifically do not apply to investigations focused on solving crimes that already have been committed.

These guidelines do not apply to investigations that have been designated to be handled by the Joint Terrorism Task Force or other federal, state, or local task forces that members of the MSP-ATU may be detailed to.

MSP-ATU Role

The MSP-ATU monitors the activities of groups involved in or planning demonstrations, counter-demonstrations or other speech or conduct subject to protection under the First Amendment which may affect public safety; violate state, local, or federal laws; or which may result in a volatile situation. Investigative activities may be either self-initiated or initiated at the request of another entity.

The CFC Director shall inform and advise the Division Commander of Investigative Services every 180 days concerning the status of any work conducted pursuant to these guidelines.

General
Intelligence
Gathering
Activities

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Levels of
Investigations

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

**Investigative
Techniques**

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

**Undercover
and
Confidential
Informant
Operations**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Maintenance
and
Dissemination
of Information**

The law enforcement activities authorized by this policy do not include maintaining files on individuals solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of any other rights secured by the Constitution or laws of Massachusetts or the United States. Rather, the maintenance of all such information must be based upon a valid law enforcement or public safety purpose and must be carried out in conformity with all applicable statutes and MSP regulations and policies.

All information gathered under these guidelines shall only be maintained by the MSP-ATU for so long as there is a legitimate law enforcement purpose for having the information. The MSP-ATU will establish a method of tracking all the intelligence gathered under this policy. At a minimum, that system will allow data to

be retrieved through searches by individual names, group names, and related events. The MSP-ATU will review all information gathered by the Department under this policy at least once every five years to determine whether a legitimate law enforcement purpose still exists to hold the information. Once the legitimate law enforcement purpose to have the information has ended, the information shall be destroyed in conformance with state records retention laws and fusion center standards.

Unless required by law or court order, no information gathered under this policy will be released to the media or to any private party. The MSP-ATU may only disseminate information obtained during the checking of leads; preliminary inquiries and full investigations conducted pursuant to these guidelines to federal, state, or local law enforcement agencies, or criminal justice agencies when such information:

- Falls within the investigative or protective jurisdiction or litigative responsibility of the agency;
- May assist in preventing an unlawful act or the use of violence or any other conduct dangerous to human life; or
- Is required to be disseminated by interagency agreement, statute, or other law.

The CFC will establish a system to track and control who has access to the information gathered under this policy. The CFC will maintain information identifying any person not assigned to the CFC who obtains access to information gathered under this policy, the date that the information was received, whether copies of information were removed from the CFC, and the reasons the information was accessed. Other than the destruction of information no longer related to a legitimate law enforcement purpose, the CFC will not allow original materials gathered under this policy to be removed from the CFC unless necessary to be used as evidence in a criminal matter.

Reservations

Nothing in these guidelines shall limit the general reviews or audits of papers, files, contracts, or other records in the possession of the CFC or the Commonwealth, or the performance of similar services at the specific request of another government agency.

Nothing in these guidelines is intended to limit the MSP-ATU's responsibility to investigate certain applicants and employees, or to pursue efforts to satisfy any other of its legal rights, privileges, or obligations.

These guidelines are set forth solely for the purpose of internal MSP-ATU 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 matter, civil or criminal, nor do they place any limitation on otherwise lawful investigative and litigative prerogatives of the MSP-ATU, MSP or the Commonwealth of Massachusetts.
