



# Department of Justice

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## FACT SHEET ATTORNEY GENERAL'S GUIDELINES FOR FBI NATIONAL SECURITY INVESTIGATIONS AND FOREIGN INTELLIGENCE COLLECTION ("NSI GUIDELINES")

Following the terrorist attacks of September 11, 2001, the Attorney General ordered a broader review of Justice Department guidelines concerning national security and criminal matters. The purposes of that review were to:

- bring investigative practice into line with current counterterrorism priorities,
- change from a reactive orientation to an orientation emphasizing early intervention and prevention of terrorist acts before they occur,
- promote initiative at the FBI field office level in investigative activities,
- strengthen centralized access to and use of investigative information and intelligence, and
- improve interagency and intercomponent coordination.

The NSI Guidelines reflect these purposes. The NSI Guidelines replace the previous version of the guidelines for national-security related activities by the FBI, which was called the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations ("FCI Guidelines"). The changes from the FCI Guidelines to the NSI Guidelines are similar to revisions to the general guidelines for FBI criminal investigations, which the Attorney General reissued on May 30, 2002, as part of the broader review of Department guidelines.

### UNDERSTANDING THE NSI GUIDELINES:

#### **What is the purpose of the NSI guidelines, and what activities do they authorize?**

The general objective of the NSI Guidelines "is the full utilization of all authorities and investigative techniques, consistent with the Constitution and laws of the United States, so as to protect the United States and its people from terrorism and other threats to the national security." That is, the guidelines are intended to allow the FBI to use all lawful investigative techniques to

protect the American people from international terrorism and espionage. The activities in which the FBI may engage under the Guidelines include:

- investigating threats to the national security of the United States,
- providing investigative assistance to state, local, and foreign governments in matters affecting national security,
- collecting foreign intelligence and providing assistance to other federal intelligence agencies,
- producing strategic analysis relating to national security matters, and
- sharing or disseminating, as appropriate, information resulting from the foregoing activities.

### **What is information obtained through investigations under the NSI guidelines used for?**

When the FBI obtains information through activities authorized by the NSI Guidelines, the information may be used to support all lawful measures to combat international terrorism and other national security threats. These measures include, for example:

- keeping terrorists or spies from entering the United States, or removing them from the United States, as authorized by law,
- arresting and prosecuting those individuals,
- freezing the assets of organizations engaging in or supporting terrorism,
- taking security measures to protect targets of terrorism or espionage,
- providing threat information and warnings to other government agencies and private entities, and
- diplomatic and military actions to combat international terrorism or espionage.

### **What levels of investigative activity do the NSI Guidelines authorize?**

- The NSI Guidelines authorize three levels for the FBI's investigation of threats to the national security: threat assessments, preliminary investigations, and full investigations.
- Threat assessments. This level of investigative activity was not listed by the previous version of the Guidelines. The purpose of adding this level is early intervention and prevention of terrorist attacks. It allows the FBI proactively to use available information to identify terrorist threats and activities, with an eye towards preventing terrorism before it happens rather than waiting for leads to

come in through the actions of others. Threat assessments also can be used when the FBI receives information or an allegation about possible terrorist activity, and the matter can be checked out promptly through relatively non-intrusive techniques without opening a formal preliminary or full investigation.

- With the addition of the threat assessment level of investigative activity, the NSI Guidelines are similar to the revised general guidelines for FBI criminal investigations. The two levels of more formal investigative activity ("preliminary" and "full") also exist in both the NSI guidelines and the general guidelines for FBI criminal investigations.

### **Do the NSI guidelines improve cooperation among federal agencies in the war on terrorism?**

The NSI Guidelines will increase interagency information sharing and coordination in national security investigations to better combat terrorism. More specifically, the guidelines require information sharing and consultation by the FBI with other Department of Justice components – including the Criminal Division, the Office of Intelligence Policy and Review, and the United States Attorneys’ offices – in national security investigations and require information sharing with other federal intelligence agencies and with the Department of Homeland Security.

The NSI Guidelines also will strengthen cooperation with state and local agencies. The revised guidelines now expressly authorize the FBI to assist state and local governments in investigating threats to the national security. The revised guidelines also allow the FBI to disseminate information to state and local authorities for the purpose of "preventing or responding to a threat to the national security, or to public safety, including a threat to the life, health, or safety of any individual or community."

### **Do the NSI Guidelines protect citizens’ constitutional rights and privacy interests?**

The NSI Guidelines include provisions to ensure that investigative activities under the guidelines respect legal rights and minimize intrusions on privacy and protected expression:

- The Guidelines specifically provide that all activities by the FBI must be carried out in conformity with the Constitution and all applicable statutes, executive orders, regulations and guidelines, and must have a valid purpose consistent with the Guidelines.
- The Guidelines prohibit investigating 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 constitutional rights.
- Where a choice of investigative methods is available, the Guidelines require the FBI to use the least intrusive feasible means, taking into account factors such as the effect on individuals’ privacy and potential damage to reputation.

## **Why are the NSI Guidelines classified?**

Parts of the NSI Guidelines are classified because they relate to "intelligence activities" or "intelligence sources or methods." Classification protects these activities and methods from being compromised. The unclassified portions of the NSI Guidelines generally provide information about the guidelines' purposes and the range of activities they authorize. The classification of the Guidelines does not mean that the classified portions are exempt from external scrutiny; the Guidelines are provided in full to the Intelligence Committees in Congress.