

Killing Democracy One File at a Time: Justice Department Loosens FBI Domestic Spy Guidelines

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Global Research, June 21, 2011

[Antifascist Calling...](#) 19 June 2011

Region: [USA](#)

Theme: [Police State & Civil Rights](#)

While the Justice Department is criminally inept, or worse, when it comes to prosecuting [corporate thieves](#) who looted, *and continue to loot*, trillions of dollars as capitalism's economic crisis accelerates, they are extremely adept at waging war on dissent.

Last week, [The New York Times](#) disclosed that the FBI "is giving significant new powers to its roughly 14,000 agents, allowing them more leeway to search databases, go through household trash or use surveillance teams to scrutinize the lives of people who have attracted their attention."

Under "constitutional scholar" Barack Obama's regime, the Bureau will revise its "Domestic Investigations and Operations Guide." The "new rules," Charlie Savage writes, will give agents "more latitude" to investigate citizens even when there is no evidence they have exhibited "signs of criminal or terrorist activity."

As the Bill of Rights Defense Committee ([BORDC](#)) recently pointed out, "When presented with opportunities to protect constitutional rights, our federal government has consistently failed us, with Congress repeatedly rubber-stamping the executive authority to violate civil liberties long protected by the Constitution."

While true as far it goes, it should be apparent by this late date that *no* branch of the federal government, certainly not Congress or the Judiciary, has any interest in limiting Executive Branch power to operate lawlessly, in secret, and without any oversight or accountability whatsoever.

Just last week, [The New York Times](#) revealed that the Bush White House used the CIA "to get" academic critic Juan Cole, whose [Informed Comment](#) blog was highly critical of U.S. imperial adventures in Iraq and Afghanistan.

The former CIA officer and counterterrorism official who blew the whistle and exposed the existence of a Bush White House "enemies list," Glenn L. Carle, told the *Times*, "I couldn't believe this was happening. People were accepting it, like you had to be part of the team."

Ironically enough, the journalist who broke that story, James Risen, is himself a target of an Obama administration witchhunt against whistleblowers. Last month, Risen was issued a grand jury subpoena that would force him to reveal the sources of his 2006 book, *State of War*.

These latest "revisions" will expand the already formidable investigative powers granted the Bureau by former Attorney General Michael B. Mukasey.

Three years ago, [The Washington Post](#) informed us that the FBI's new "road map" permits agents "to recruit informants, employ physical surveillance and conduct interviews in which agents disguise their identities" and can pursue "each of those steps without any single fact indicating a person has ties to a terrorist organization."

Accordingly, FBI "assessments" (the precursor to a full-blown investigation) already lowered by the previous administration will, under Obama, be lowered still further in a bid to "keep us safe"—from our constitutional rights.

The Mukasey guidelines, which created the "assessment" fishing license handed agents the power to probe people and organizations "proactively" without a shred of evidence that an individual or group engaged in unlawful activity.

In fact, rather than relying on a reasonable suspicion or allegations that a person is engaged in criminal activity, racial, religious or political profiling based on who one is or on one's views, are the basis for secretive "assessments."

Needless to say, the presumption of innocence, the bedrock of a republican system of governance based on the rule of law, like the right to privacy, becomes one more "quaint" notion in a National Security State. In its infinite wisdom, the Executive Branch has cobbled together an investigative regime that transforms anyone, and everyone, into a suspect; a Kafkaesque system from which there is no hope of escape.

Under Bushist rules, snoops were required to open an inquiry "before they can search for information about a person in a commercial or law enforcement database," the *Times* reported. In other words, somewhere in the dank, dark bowels of the surveillance bureaucracy a paper trail exists that just might allow you to find out your rights had been trampled.

But our "transparency" regime intends to set the bar even lower. Securocrats will now be allowed to rummage through commercial databases "without making a record about their decision."

The ACLU's Michael German, a former FBI whistleblower, told the *Times* that "claiming additional authorities to investigate people only further raises the potential for abuse."

Such abuses are already widespread. In 2009 for example, the [ACLU](#) pointed out that "Anti-terrorism training materials currently being used by the Department of Defense (DoD) teach its personnel that free expression in the form of public protests should be regarded as 'low level terrorism'."

As I [reported](#) in 2009, citing a [report](#) by the Electronic Frontier Foundation ([EFF](#)), the Bureau's massive Investigative Data Warehouse (IDW), is a data-mining Frankenstein that contains more "searchable records" than the Library of Congress.

EFF researchers discovered that "In addition to storing vast quantities of data, the IDW provides a content management and data mining system that is designed to permit a wide range of FBI personnel (investigative, analytical, administrative, and intelligence) to access and analyze aggregated data from over fifty previously separate datasets included in the warehouse."

Accordingly, “the FBI intends to increase its use of the IDW for ‘link analysis’ (looking for links between suspects and other people—i.e. the Kevin Bacon game) and to start ‘pattern analysis’ (defining a ‘predictive pattern of behavior’ and searching for that pattern in the IDW’s datasets before any criminal offence is committed—i.e. pre-crime).”

Once new FBI guidelines are in place, and congressional grifters have little stomach to challenge government snoops as last month’s disgraceful “debate” over renewing three repressive provisions of the USA Patriot Act attest, “low-level” inquiries will be all but impossible to track, let alone contest.

Despite a dearth of evidence that dissident groups or religious minorities, e.g., Muslim-Americans have organized violent attacks in the *heimat*, the new guidelines will permit the unlimited deployment of “surveillance squads” that “surreptitiously follow targets.”

In keeping with the Bureau’s long-standing history of employing paid informants and agents provocateurs such as [Brandon Darby](#) and a host of others, to infiltrate and disrupt organizations and foment violence, rules governing “‘undisclosed participation’ in an organization by an F.B.I. agent or informant” will also be loosened.

The *Times* reports that the revised manual “clarifies a description of what qualifies as a “sensitive investigative matter”—investigations, at any level, that require greater oversight from supervisors because they involve public officials, members of the news media or academic scholars.”

According to the *Times*, the manual “clarifies the definition of who qualifies for extra protection as a legitimate member of the news media in the Internet era: prominent bloggers would count, but not people who have low-profile blogs.”

In other words, if you don’t have the deep pockets of a corporate media organization to defend you from a government attack, you’re low-hanging fruit and fair game, which of course, makes a mockery of guarantees provided by the First Amendment.

As I [reported](#) last month, with requests for “National Security Letters” and other opaque administrative tools on the rise, the Obama administration has greatly expanded already-repressive spy programs put in place by the previous government.

Will data extracted by the Bureau’s Investigative Data Warehouse or its new Data Integration and Visualization System retain a wealth of private information gleaned from commercial and government databases on politically “suspect” individuals for future reference? Without a paper trail linking a person to a specific inquiry you’d have no way of knowing.

Even should an individual file a Freedom of Information Act request demanding the government turn over information and records pertaining to suspected wrongdoing by federal agents, as Austin anarchist [Scott Crow](#) did, since the FBI will not retain a record of preliminary inquiries, FOIA will be hollowed-out and become, yet another, futile and meaningless exercise.

And with the FBI relying on [secret legal memos](#) issued by the White House Office of Legal Counsel justifying everything from unchecked access to internet and telephone records to the deployment of government-sanctioned [malware](#) on private computers during “national security” investigations, political and privacy rights are slowly being strangled.

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