

Civil Rights and Privacy in the Law Enforcement Intelligence Process

In the process of providing public safety, an inherent responsibility of all law enforcement agencies is the protection of citizens' civil rights—intelligence activities are no exception. One of the most important and fundamental aspects of American life is the freedoms afforded to every citizen through civil rights protections. Despite the perceptions of some, law enforcement officials accept this responsibility. They understand that the protection of civil liberties is just as important as protecting the community from crime and terrorism. While this is a fundamental truth, there is debate on where the line should be drawn with respect to the degree of intrusion allowed to the government on privacy and personal liberty in order to protect America's citizens and the country's sovereignty from external threats, such as terrorism.

One question that has been debated is whether some civil liberties should be reduced to protect America from terrorism. This issue is embodied in the philosophical question of which is more important—protecting Americans from a terrorist attack that may kill thousands of people or protecting individual civil liberties which are the lifeblood of America's most sacred principles? In truth, when examined objectively, there is no unequivocal right or wrong answer to this question because it is philosophical in nature and depends on each individual's personal philosophy and life's experiences.

Fortunately, the working law enforcement officer does not have to deal with this philosophical debate. Rather, the officer must focus on fairly explicit rules that ensure that constitutional protections for citizens remain intact. These include the following:

- Law enforcement cannot collect information on individuals for intelligence activities unless there is a criminal predicate. The law enforcement officer must have reliable, fact-based information that reasonably infers that a particularly described intelligence subject has committed, is committing, or is about to commit a crime.
- All information collected about an individual for intelligence purposes must be done in a manner that is consistent with the law of criminal procedure.
- Collected information cannot be retained indefinitely. Instead, it may be retained only if there is reliable information that provides sustained evidence of a criminal predicate.
- The law enforcement agency has the responsibility of protecting the privacy of information they collect about individuals in the course of intelligence operations. This protection of privacy extends to the dissemination of information only to officials who have the right to know and a need to know the information to further a criminal inquiry.
- When there is no evidence of a sustained criminal predicate, all intelligence records about an individual must be purged (destroyed).