

Attorney General's Guidelines for Domestic FBI Operations V2.0

Module 1: Introduction

Overview

This training provides an overview of the Attorney General's Guidelines for Domestic FBI Operations (AGG-Dom or Guidelines) effective December 1, 2008.

The AGG-Dom applies to domestic investigative activity concerning:

- Federal crimes
- Threats to national security
- Foreign intelligence collection

The AGG-Dom only applies to operational activities conducted by the FBI within the United States or outside the territories of all countries. Operational activities of the FBI in foreign countries are governed by the Attorney General's Guidelines for Extraterritorial FBI Operations.

Departures from these guidelines require special circumstances and only the FBI Director, Deputy Director, or designated Executive Assistant Director (EAD) may approve departures from the AGG-Dom.

[Please note: This training is not a substitute for reading the Attorney General's Guidelines themselves.]

Instructional Goals and Objectives

Upon completion of this course, you will be able to:

- Explain the general authorities and responsibilities of the FBI.
- Identify the main concepts and principles under the AGG-Dom.
- Describe the methods authorized under the AGG-Dom.
- Identify the different levels of information gathering activity permitted.
- Determine if investigative activities are conducted in a manner consistent with the AGG-Dom.

There are review questions at the end. You must receive to successfully complete this course.

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Click on "Glossary" at the bottom of any screen page for a list of definitions and helpful information.

The Policy Environment

The AGG-Dom forms the foundation for the FBI's policy environment for domestic operations today. Click on a section of the pyramid for more information. [Click here for a screen reader compatible word document of the chart](#)

FBI Responsibilities: Federal Crimes, Threats to the National Security, Foreign Intelligence

The objective of the AGG-Dom is the full utilization of all authorities and investigative methods, consistent with the Constitution and laws of the United States to:

- Protect the United States and its people from terrorism and other threats to the national security,
- Further the foreign intelligence objectives of the United States,
- Protect the United States and its people from victimization by all crimes in violation of federal law,
- Provide investigative assistance to other federal agencies, state, local, or tribal agencies, and foreign agencies,

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and

- Ensure that all investigations and other activities are carried out in a lawful and reasonable manner that respects liberty and privacy and avoids unnecessary intrusions into the lives of law-abiding people.

FBI Responsibilities: Federal Crimes, Threats to the National Security, Foreign Intelligence

The AGG-Dom authorizes the FBI to carry out investigations to detect, obtain information about, prevent or protect against federal crimes or threats to the national security or to collect foreign intelligence. Click on the specific areas in the chart for more information. [Click here for a screen reader compatible word document of the chart](#)

One FBI

The AGG-Dom stresses that the major subject areas of information gathering and investigative activities are not distinct, but rather overlap extensively.

The AGG-Dom takes a uniform approach wherever possible, thereby promoting certainty and consistency regarding the applicable standards and facilitating compliance with those standards.

The AGG-Dom does not require:

- The FBI's information gathering activities to be differentially labeled as "criminal investigations," "national security investigations," or "foreign intelligence collections."
- FBI personnel who carry out investigations to be segregated from each other based on the subject areas in which they operate.

Rather, all of the FBI's legal authorities are available to protect the public from crimes and threats to the national security and to further the United States' foreign intelligence objectives. In many cases, a single investigation will be supportable as an exercise of a number of these authorities.

Single investigation

For example, an investigation relating to international terrorism will invariably crosscut these areas because international terrorism is included under these Guidelines' definition of "threat to the national security," because international terrorism subject to investigation within the United States usually involves criminal acts that violate federal law. Also, information relating to international terrorism falls within the definition of "foreign intelligence."

Likewise, counterintelligence activities relating to espionage are likely to concern matters that constitute threats to the national security, that implicate violations or potential violations of federal espionage laws, and that involve information falling under the definition of "foreign intelligence."

The FBI as an Intelligence Agency

The AGG-Dom authorizes the FBI to function as an intelligence agency as well as a law enforcement agency. As a result, its functions extend to intelligence analysis and planning, drawing on all lawful sources of information.

Functions

The functions authorized include:

- Development of overviews and analyses concerning threats to and vulnerabilities of the United States and its interests,
- Research and analysis to produce reports and assessments concerning matters relevant to investigative activities or other authorized FBI activities, and
- Operation of intelligence systems that facilitate and support investigations through the compilation and analysis of data and information on an ongoing basis.

FBI Responsibilities: Federal Crimes, Threats to the National Security, Foreign Intelligence

[Click here for a screen reader compatible word document of the chart](#)

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5/11/2011

Attorney General's Guidelines for Domestic FBI Operations V2.0

Module 2: Investigations and Intelligence Gathering

Assessments and Predicated Investigations

The AGG-Dom authorizes different levels of information gathering or investigative activities to conduct investigations to detect, obtain information about, and prevent and protect against federal crimes and threats to the national security and to collect foreign intelligence.

At a broad level, these activities can be divided into assessments and predicated investigations:

1. Assessments - which require an authorized purpose but not any particular predication
2. Predicated Investigations - which require a particular predication

Assessments and Predicated Investigations Cont'd

Assessments and predicated investigations have some purposes in common:

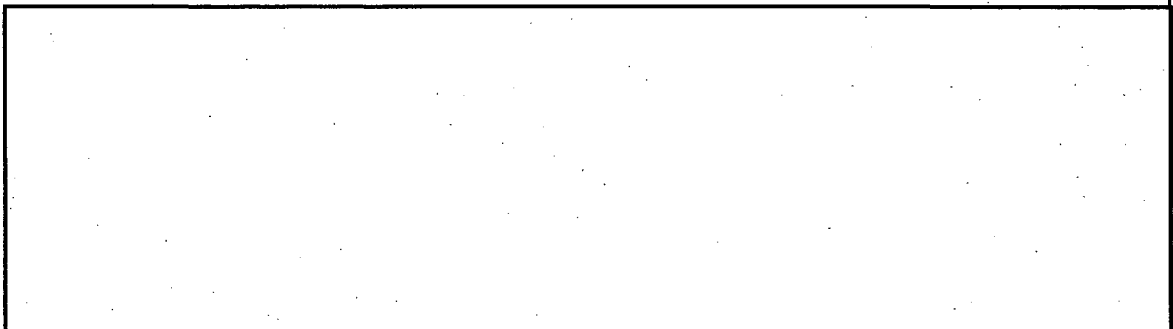
They may both be carried out to detect, obtain information about, or prevent or protect against threats to the national security, to collect foreign intelligence, or to prevent or protect against federal crimes.

However, unlike more formal investigations, conducting an assessment does not require predication. Instead, an assessment may be conducted for an authorized purpose if the assessment addresses one of four authorized activities.

[Click here for examples of assessments.](#)

Activities
When an authorized purpose exists, the focus of activities authorized by the AGG-Dom may be whatever the circumstances warrant. The subject of such an activity may be, for example, a particular crime or threatened crime; conduct constituting a threat to the national security; an individual, group, or organization that may be involved in violations of federal criminal law or threats to the national security; or matters of foreign intelligence interest responsive to foreign intelligence requirements.

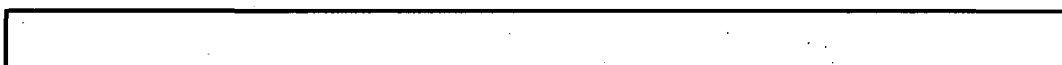
Examples of assessments
Some examples include:



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Assessments: Overview

The FBI must proactively draw on available sources of information to identify national security threats and criminal activities. The proactive investigative authority conveyed in assessments is designed for, and may be utilized by the FBI in the discharge of these responsibilities.



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5/11/2011

Assessments can be used to substantiate allegations and other leads, or to gather intelligence concerning potential criminal activities or threats to the national security. In other cases, assessments can be used to determine that no further investigative effort is warranted. This use of assessments can save time, resources and can preclude the need for a formal predicated investigation.

Assessments: Authorization

FBI policy prescribes supervisory approval requirements for certain assessments, considering such matters as the purpose of the assessment and the methods being utilized.

Assessments: Authorized Activities

Once again, assessments require an authorized purpose but not any particular predication.

[Click here for examples of assessment activities.](#)

Not any particular predication
Examples of assessment activities
Assessment activities

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Assessments: Authorized Activities Cont'd

This chart outlines activities authorized for assessments. [Click here for a screen reader compatible word document of the chart](#)

Assessments: Authorized Investigative Methods

This chart outlines methods that may be used in assessments. [Click here for a screen reader compatible word document of the chart](#)

Publicly Available Information

Publicly Available Information is information that has been published or broadcast for public consumption, is available on request to the public, is accessible online or otherwise to the public, is available to the public by subscription or purchase, could be seen or heard by any casual observer, is made available at a meeting open to the public, or is obtained by visiting any place or attending any event that is open to the public.

Predicated Investigations

Predicated investigations may be carried out to detect, obtain information about, or prevent or protect against federal crimes or threats to the national security or to collect foreign intelligence.

[Click here to see three circumstances warranting a predicated investigation.](#)

A predicated investigation that is based solely on the authority to collect foreign intelligence may be conducted only as a full investigation. Likewise, an enterprise investigation may be conducted only as a full investigation.

Foreign Intelligence

A predicated investigation initiated to respond to a foreign intelligence requirement must be approved by a Special Agent in Charge (SAC) or by an FBI Headquarters official.

Predicated investigations

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[Click here for a screen reader compatible word document of the chart](#)

Preliminary Investigation vs. Full/Enterprise Investigation

Here is a comparison chart for preliminary and full/enterprise investigations with respect to:

- Predication to open,
- Circumstances warranting investigation, and
- Duration.

[Click here to show the comparison chart for preliminary and full/enterprise investigations.](#)

[Click here for a screen reader compatible word document of the chart](#)

Foreign Intelligence

A predicated investigation initiated to respond to a foreign intelligence requirement must be approved by a Special Agent in Charge (SAC) or by an FBI Headquarters official.

Predicated investigations

Predicated Investigations: Full Only – Enterprise Investigations

Enterprise investigations are a type of full investigation. Enterprise investigations (EI) permit a general examination of the structure, scope, and nature of certain groups and organizations. As a result, they are subject to the purpose, approval, and predication requirements that apply to full investigations, and all lawful methods may be used in carrying them out.

Predicated Investigations: Notice Requirements – Sensitive Investigative Matter

The AGG defines a **Sensitive Investigative Matter** as an investigative matter involving the activities of a domestic public official or political candidate (involving corruption or a threat to the national security), religious or political organization or individual prominent in such an organization, or news media, or any other matter which, in the judgment of the official authorizing an investigation, should be brought to the attention of FBIHQ and DOJ officials.

The AGG-Dom requires **special notifications** for sensitive investigative matters:

Sensitive Investigative Matter

- The field office notifies FBIHQ and US Attorney (or other appropriate DOJ official) of a field-initiated preliminary or full investigation involving a sensitive investigative matter (FBIHQ gives same notice for HQ-initiated cases).
- DOJ National Security Division (NSD) must be notified if the investigation concerns a threat to the national security.
- All notices shall identify all sensitive matters involved in the investigation.

Predicated Investigations: Notice Requirements to DOJ NSD

The FBI shall notify DOJ NSD of the initiation of any:

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- Full investigation of a U.S. person relating to a threat to the national security
- Full investigation initiated to collect foreign intelligence

Predicated Investigations: Notice Requirements Regarding Enterprise Investigations

- The FBI shall notify DOJ NSD of the initiation of any enterprise investigation involving crimes of terrorism.
- The FBI shall notify the Organized Crime and Racketeering Section of the DOJ Criminal Division of all other enterprise investigations.
- An FBI field office shall notify FBIHQ of a field office-initiated enterprise investigation.
- The FBI shall also notify any relevant U.S. Attorney's Office, except for enterprise investigations involving counterintelligence.

Counterintelligence

A counterintelligence investigation is an investigation relating to espionage and other intelligence activities, sabotage, and assassination, conducted by, for, or on behalf of foreign powers, organizations, or persons.

Predicated Investigations: Notice Requirements

All notices of initiation shall be as soon as possible but not more than 30 days after initiation of the investigation.

Predicated Investigations: Notice Requirements -- Disapproval

The FBI shall notify the Deputy Attorney General if FBIHQ disapproves a field office's initiation of a predicated investigation relating to a threat to the national security on the ground that the predication for the investigation is insufficient.

Incidentally-Obtained Information

In the course of activities under these Guidelines, the FBI may incidentally obtain information relating to matters outside of its areas of primary investigative responsibility.

Incidentally Obtain

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These Guidelines do not bar the acquisition of such information in the course of authorized investigative activities, the retention of such information, or its dissemination as appropriate to the responsible authorities in other agencies or jurisdictions. The AGG-Dom includes specific authorizations and requirements for sharing such information with relevant agencies and officials.

[Redacted]

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Attorney General's Guidelines for Domestic FBI Operations V2.0

Module 3: Authorized Methods

General Principles: Choice of Methods

The conduct of investigations and other activities authorized by the AGG-Dom may present choices between the use of different investigative methods that are each operationally sound and effective, but may be intrusive, considering such factors as the effect on the privacy and civil liberties of individuals and potential damage to their reputation.

The least intrusive method feasible is to be used in such situations. It is recognized that the choice of methods is a matter of judgment.

However, the FBI shall not hesitate to use any lawful method consistent with these Guidelines, even if intrusive, where the degree of intrusiveness is warranted in light of the seriousness of a criminal or national security threat or the strength of the information indicating its existence, or in light of the importance of foreign intelligence sought to the United States' interests.

General Principles: Respect for Legal Rights

All activities under the AGG-Dom must:

- Have a valid purpose consistent with these Guidelines.
- Be carried out in conformity with the Constitution and all applicable statutes, executive orders, Department of Justice regulations and policies, and Attorney General guidelines.

General Principles: Respect for Legal Rights Cont'd

These Guidelines do not authorize:

- 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 rights secured by the Constitution or laws of the United States.
- Any conduct prohibited by the Guidance Regarding the Use of Race by Federal Law Enforcement Agencies.

All lawful investigative methods may be used in activities under the AGG-Dom as authorized by these Guidelines.

Authorized Methods: Assessments and Predicated Investigations

Authorized methods include, but are not limited to, those identified in the chart. The methods identified in the chart are in some instances subject to special restrictions or review or approval requirements. Refer to the AGG-Dom and DIOG for more details.

[Click here to see the Authorized Methods: Assessments and Predicated Investigations chart.](#)

Otherwise Illegal Activity

- Except during a national security or foreign intelligence collection investigation, otherwise illegal activity by an FBI agent or employee in an undercover operation must be approved in conformity with the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations. Approval of otherwise illegal activity in conformity with those guidelines is sufficient and satisfies any approval requirement that would otherwise apply under these Guidelines.
- During a national security or foreign intelligence collection investigation, otherwise illegal activity by an FBI agent or employee must be approved by a U.S. Attorney's Office or a DOJ Division, except that a Special Agent

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5/11/2011

in Charge may authorize some specific activities.

- Otherwise illegal activity by a confidential human source must be approved in conformity with the Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources.
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5/11/2011

Attorney General's Guidelines for Domestic FBI Operations V2.0

Module 4: Assistance to Other Agencies

Investigative Assistance

The FBI is authorized to provide investigative assistance to the United States Intelligence Community (USIC), and other federal, state, local, tribal, and foreign agencies. There does not need to be a pending assessment or predicated investigation for investigative assistance.

Investigative assistance to other agencies is legally authorized for purposes such as assistance in certain contexts to state or local agencies in the investigation of crimes under state or local law, and assistance to foreign agencies in the investigation of foreign law violations pursuant to international agreements.

Information Sought

The information sought should be the type that pertains to:

- Time
- Place
- Number of persons expected
- Routes of participants and/or plans of lodging or housing of the participants in connection with the demonstration
- Potential for violence
- Potential for expansion of the disorder
- Relationship of the disorder to enforcement of federal law or court orders and the likelihood that state and local authorities will assist in enforcing those laws or orders
- Extent of state or local resources available to handle the disorder

Investigations of this type are limited to a 30 day renewable period. This assistance can only be authorized by the Attorney General (AG), Deputy AG, or Assistant AG for Criminal Division, and the methods are limited in scope.

Standards and Procedures

The AGG-Dom provides standards and procedures for assistance to other agencies:

1. Authorized investigative assistance by the FBI to other agencies includes joint operations and activities with such agencies.
2. All lawful methods may be used in investigative assistance activities.
3. Where the methods used in investigative assistance activities go beyond the methods authorized in assessments under these Guidelines, the following apply:
 - a. Supervisory approval must be obtained for the activity at a level or levels specified in FBI policy.
 - b. Notice must be provided concerning sensitive investigative matters.
 - c. A record of the activity that can be promptly retrieved must be maintained.

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Attorney General's Guidelines for Domestic FBI Operations V2.0

Module 5: Intelligence Analysis and Planning

Intelligence Analysis and Planning

The FBI is authorized to engage in intelligence analysis and strategic planning which can enable the FBI to identify and understand trends, causes, and potential indicators of criminal activity and other threats to the United States that would not be apparent from the investigation of discrete matters alone.

By means of intelligence analysis and planning the FBI can more effectively provide critical support needed to effectively address:

- Potential criminal activity
- Threats to national security
- Matters of national intelligence interest
- Special Events Management

Intelligence Analysis and Planning Cont'd

For example, the analysis of threats in the context of special events management, concerning public events or activities that may be targeted for terrorist attack, is an authorized activity under this section.

The FBI is authorized to draw on all lawful sources of information, data, or intelligence, including but not limited to the results of investigative activities under the AGG-Dom.

The FBI may conduct assessments to obtain information to inform or facilitate analysis and planning. [REDACTED]

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Attorney General's Guidelines for Domestic FBI Operations V2.0

Module 6: Retention and Sharing of Information

General Principles: Maintenance of Records Under the Privacy Act

The Privacy Act restricts the maintenance of records relating to certain activities of individuals who are United States persons, with exceptions for circumstances in which the collection of such information is pertinent to and within the scope of an authorized law enforcement activity or is otherwise authorized by statute.

Activities authorized by the AGG-Dom are authorized law enforcement activities or activities for which there is otherwise statutory authority for purposes of the Privacy Act.

Privacy Act

Questions about the application of the Privacy Act to authorized activities of the FBI should be addressed to the FBI Office of the General Counsel, the FBI Privacy and Civil Liberties Unit, or the Department of Justice Office of Privacy and Civil Liberties.

Retention of Information

- The FBI shall retain records relating to activities under AGG-Dom in accordance with a records retention plan approved by National Archives and Records Administration.
- The FBI shall maintain a database/records system that permits, with respect to each predicated investigation, the prompt retrieval of:
 - Status of investigation (open or closed)
 - Dates of opening and closing
 - Basis for the investigation
 - U.S. person status not required to be maintained

Permissive Information Sharing

In accordance with law, and subject to agreements and understandings with other agencies concerning dissemination of information they provided, information obtained or produced under the AGG-Dom may be disseminated by the FBI in seven general circumstances:

1. Within the FBI and to other DOJ components.
2. To other federal, state, local, or tribal agencies if related to their responsibilities.
 - Other Intelligence Community (IC) elements; the IC elements may decide whether information is related to their responsibilities.
3. To congressional committees if authorized by DOJ Office of Legislative Affairs.

Continued on next page...

Permissive Information Sharing Cont'd

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4. To foreign agencies if three conditions are met:

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5/11/2011

- (1) Information is related to their responsibilities.
- (2) Dissemination is consistent with U.S. interests.
- (3) FBI has considered the effect dissemination may reasonably be expected to have on any identifiable U.S. person.

5. If the information is publicly available, does not identify U.S. persons, or is disseminated with the consent of the person to whom it concerns.

6. If the dissemination is necessary to protect the safety or security of persons or property, to protect against or prevent a crime or threat to the national security, or to obtain information for the conduct of an authorized FBI investigation.

7. If dissemination of the information is otherwise permitted by the Privacy Act (5 U.S.C. § 552a).

Required Information Sharing

The FBI shall share and disseminate information as required by all:

- Statutes
- Treaties
- Executive orders
- Presidential directives
- National Security Council and Homeland Security Council directives
- AG-approved policies and MOUs/MOAs

Information Related to Criminal Matters: Coordination with Prosecutors

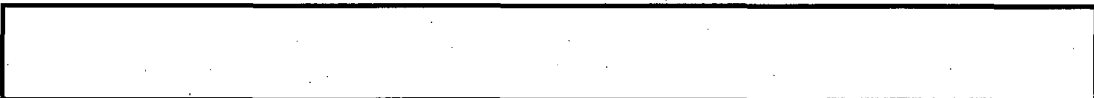
In an investigation relating to possible criminal activity in violation of federal law, the case agent shall maintain periodic written or oral contact with the appropriate federal prosecutor, as circumstances warrant and as requested by the prosecutor.

Information Related to Criminal Matters: Outside FBI Jurisdiction

- The Field office shall promptly transmit information or refer a complaint with information concerning serious criminal activity to a law enforcement agency having jurisdiction, unless disclosure would jeopardize an ongoing investigation, endanger the safety of an individual, disclose the identity of a human source, interfere with a human source's cooperation, or reveal legally privileged information.
- If there is no full disclosure for the reasons indicated above within 180 days, the field office must notify FBIHQ in writing of the facts and circumstances concerning the criminal activity; FBIHQ notifies the Deputy Attorney General (DAG).

Information Related to Criminal Matters: Reporting FBI Personnel for Criminal Activity

- When it appears that an FBI agent or employee has engaged in criminal activity during an investigation, the FBI shall notify the U.S. Attorney's Office or an appropriate DOJ Division. (If a human source engaged in a criminal activity, proceed under the AG Guidelines Regarding the Use of FBI Confidential Human Sources.)
- Approved otherwise illegal activities or minor traffic offenses are excepted from the reporting requirement.



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5/11/2011

Information Related to National Security and Foreign Intelligence Matters: General Rules

- There is a responsibility to provide information as consistently and fully as possible to agencies with relevant responsibilities to protect the U.S. from terrorism, and other threats to the national security, except as limited by specific constraints on such sharing.
- Dissemination of information acquired under the Foreign Intelligence Surveillance Act is subject to minimization procedures and other requirements specified in that Act.
- National Security Letters (NSL) statutes – disseminate such information consistent with the specific statute under which the information was requested.



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National Security and Foreign Intelligence Information Sharing: DOJ and DOJ National Security Division (NSD)

- NSD shall have access to all FBI information relating to threats to the national security or foreign intelligence.
- The FBI shall provide such reports and information concerning these activities as the Assistant Attorney General for National Security may request.
- The FBI shall also provide annual reports (semi annual during the first year) on its foreign intelligence collection program (including the scope and nature of foreign intelligence collection activities in each field office).

National Security and Foreign Intelligence Information Sharing: DOJ and U.S. Attorneys' Offices

- Only designated personnel (with clearances and appropriate training) in relevant U.S. Attorneys' Offices shall have access to and receive information from the FBI concerning national security and foreign intelligence.
- The NSD must authorize access for the U.S. Attorneys' Offices. NSD will authorize information sharing within 30 days unless there are substantial national security considerations. If authorized, access is limited to designated personnel.
- The FBI may consult freely in an emergency with notification to the NSD as soon as possible.

Summary

In conclusion, the FBI will utilize all authorities and investigative methods, consistent with the Constitution and laws of the United States:

- To protect the United States and its people from terrorism and other threats to the national security,
- To protect the United States and its people from victimization by all crimes in violation of federal law, and
- To further the foreign intelligence objectives of the United States.

Review Questions



5/11/2011

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Click on the appropriate answer. Some questions may have more than one response; select all that apply. There are 10 questions; you must receive correct to successfully complete this course. b7E

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5/11/2011