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## New Guidelines Would Give F.B.I. Broader Powers

By [ERIC LICHTBLAU](#)

WASHINGTON — A Justice Department plan would loosen restrictions on the [Federal Bureau of Investigation](#) to allow agents to open a national security or criminal investigation against someone without any clear basis for suspicion, Democratic lawmakers briefed on the details said Wednesday.

The plan, which could be made public next month, has already generated intense interest and speculation. Little is known about its precise language, but civil liberties advocates say they fear it could give the government even broader license to open terrorism investigations.

Congressional staff members got a glimpse of some of the details in closed briefings this month, and four Democratic senators told Attorney General [Michael B. Mukasey](#) in a letter on Wednesday that they were troubled by what they heard.

The senators said the new guidelines would allow the F.B.I. to open an investigation of an American, conduct surveillance, pry into private records and take other investigative steps “without any basis for suspicion.” The plan “might permit an innocent American to be subjected to such intrusive surveillance based in part on race, ethnicity, national origin, religion, or on protected First Amendment activities,” the letter said. It was signed by [Russ Feingold](#) of Wisconsin, [Richard J. Durbin](#) of Illinois, [Edward M. Kennedy](#) of Massachusetts and Sheldon Whitehouse of Rhode Island.

As the end of the Bush administration nears, the White House has been seeking to formalize in law and regulation some of the aggressive counterterrorism steps it has already taken in practice since the Sept. 11 attacks.

Congress overhauled the federal wiretapping law in July, for instance, and President Bush issued an executive order this month ratifying new roles for intelligence agencies. Other pending changes would also authorize greater sharing of intelligence information with the local police, a major push in the last seven years.

The Justice Department is already expecting criticism over the F.B.I. guidelines. In an effort to pre-empt critics, Mr. Mukasey gave a speech last week in Portland, Ore., describing the unfinished plan as an effort to “integrate more completely and harmonize the standards that apply to the F.B.I.’s activities.” Differing standards, he said, have caused confusion for field agents.

Mr. Mukasey emphasized that the F.B.I. would still need a “valid purpose” for an investigation, and that it could not be “simply based on somebody’s race, religion, or exercise of First Amendment rights.”

Rather than expanding government power, he said, “this document clarifies the rules by which the F.B.I. conducts its intelligence mission.”

In 2002, [John Ashcroft](#), then the attorney general, allowed F.B.I. agents to visit public sites like mosques or monitor Web sites in the course of national security investigations. The next year, Mr. Bush issued guidelines allowing officials to use ethnicity or race in “narrow” circumstances to detect a terrorist threat.

The Democratic senators said the draft plan appeared to allow the F.B.I. to go even further in collecting information on Americans connected to “foreign intelligence” without any factual predicate. They also said there appeared to be few constraints on how the information would be shared with other agencies.

Michael German, a lawyer with the [American Civil Liberties Union](#) and a former F.B.I. agent, said the plan appeared to open the door still further to the use of data-mining profiles in tracking terrorism.

“This seems to be based on the idea that the government can take a bunch of data and create a profile that can be used to identify future bad guys,” he said. “But that has not been demonstrated to be true anywhere else.”

The Justice Department said Wednesday that in light of requests from members of Congress for more information, Mr. Mukasey would agree not to sign the new guidelines before a Sept. 17 Congressional hearing.

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