

2. (U) General

2.1. (U) Protecting Civil Liberties

(U) The protections embodied in the DIOG are designed to ensure that the FBI adheres to the Constitution and laws of the United States and respects privacy, civil liberties, and First Amendment rights. These protections are particularly important when applied to online investigative methods because much of the content and many of the activities available or conducted on the Internet fall within some category of constitutionally protected information (e.g., freedom of individuals to associate, freedom to express an unpopular belief or opinion, or freedom to assemble). Accordingly, FBI employees must always carefully assess and analyze all investigative methods and communications conducted online.

(U) All principles stated previously in the DIOG that have been put in place to protect civil liberties also apply to investigative methods conducted online by FBI employees, such as the need to have a legitimate law enforcement purpose for all investigative activities, engaging in the least intrusive methods, sensitive investigative matters (SIM), and undisclosed participation (UDP). **Online information, even if publicly available, may still be protected by the First Amendment.**

(U) The FBI may only collect, as defined in subsection 3.1. of this appendix, information relating to the exercise of a First Amendment right if (1) the collection is logically related to an authorized investigative purpose, (2) the collection does not materially interfere with the ability of an individual or a group to engage in the exercise of constitutionally protected rights, and (3) the method of collection is the least intrusive alternative that is reasonable, based upon the circumstances of the investigation. The FBI cannot ever base its conduct solely on an individual's legal exercise of his or her First Amendment rights. Further, every FBI employee has the responsibility to ensure that the activities of the FBI are "lawful, appropriate and ethical as well as effective in protecting the civil liberties and privacy of individuals in the United States." (See DIOG 4.1.3.)

(U) Consistent with the DIOG, FBI employees must always ensure that all online investigative activities are "focused in scope, time, and manner to achieve the underlying purpose." (See DIOG 4.1.2.) FBI employees must document this relationship, as necessary, in the case file.