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Ohio: Mostly sunny. Highs will be in the 70s and 80s. Mainly clear skies tonight. Sunshine and patchy clouds tomorrow. Highs in the 70s and 80s. Weather map, Page A14.

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F.B.I. AGENTS GET LEEWAY TO PUSH PRIVACY BOUNDS

NEW RULES AND POWERS

Searches of Databases and Household Trash Will Be Allowed

By CHARLIE SAVAGE

WASHINGTON — The Federal Bureau of Investigation 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.

The F.B.I. soon plans to issue a new edition of its manual, called the Domestic Investigations and Operations Guide, according to an official who has worked on the draft document and several others who have been briefed on its contents. The new rules add to several measures taken over the past decade to give agents more latitude as they search for signs of criminal or terrorist activity.

The F.B.I. recently briefed several privacy advocates about the coming changes. Among them, Michael German, a former F.B.I. agent who is now a lawyer for the American Civil Liberties Union, argued that it was unwise to further ease restrictions on agents' power to use potentially intrusive techniques, especially if they lacked a firm reason to suspect someone of wrongdoing.

"Claiming additional authorities to investigate people only further raises the potential for abuse," Mr. German said, pointing to complaints about the bureau's surveillance of domestic political advocacy groups and mosques and to an inspector general's findings in 2007 that the F.B.I. had frequently misused "national security letters," which allow agents to obtain information like phone records without a court order.

Valerie E. Caproni, the F.B.I.

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F.B.I. Agents Get Leeway to Push Privacy Bounds

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general counsel, said the bureau had fixed the problems with the national security letters and had taken steps to make sure they would not recur. She also said the bureau, which does not need permission to alter its manual so long as the rules fit within broad guidelines issued by the attorney general, had carefully weighed the risks and the benefits of each change.

"Every one of these has been carefully looked at and considered against the backdrop of why do the employees need to be able to do it, what are the possible risks and what are the controls," she said, portraying the modifications to the rules as "more like fine-tuning than major changes."

Some of the most notable changes apply to the lowest category of investigations, called an "assessment." The category, created in December 2008, allows agents to look into people and organizations "proactively" and without firm evidence for suspecting criminal or terrorist activity.

Under current rules, agents must open such an inquiry before they can search for information about a person in a commercial or law enforcement database. Under the new rules, agents will be allowed to search such databases without making a record about their decision.

Mr. German said the change would make it harder to detect and deter inappropriate use of databases for personal purposes. But Ms. Caproni said it was too cumbersome to require agents to open formal inquiries before running quick checks. She also said agents could not put information uncovered from such searches into F.B.I. files unless they later opened an assessment.

The new rules will also relax a restriction on administering lie-detector tests and searching people's trash. Under current rules, agents cannot use such techniques until they open a "preliminary investigation," which — unlike an assessment — requires a factual basis for suspecting someone of wrongdoing. But soon agents will be allowed to use those techniques for one kind of assessment, too: when they are evaluating a target as a potential informant.

Agents have asked for that power in part because they want the ability to use information found in a subject's trash to put pressure on that person to assist the government in the investigation of others. But Ms. Caproni said information gathered that way could also be useful for other reasons, like determining whether the subject might pose a threat



BRENDAN SMIALOWSKI FOR THE NEW YORK TIMES

Valerie E. Caproni, the F.B.I. general counsel, said the bureau had carefully considered each change to its operations manual.

to agents.

The new manual will also remove a limitation on the use of surveillance squads, which are trained to surreptitiously follow targets. Under current rules, the squads can be used only once during an assessment, but the new rules will allow agents to use them repeatedly. Ms. Caproni said restrictions on the duration of physical surveillance would still apply, and argued that because of limited resources, supervisors would use the squads only rarely during such a low-level investigation.

The revisions also clarify what constitutes "undisclosed participation" in an organization by an F.B.I. agent or informant, which is subject to special rules — most of which have not been made public. The new manual says an agent or an informant may surreptitiously attend up to five meetings of a group before those rules would apply — unless the goal is to join the group, in which case the rules apply immediately.

At least one change would

tighten, rather than relax, the rules. Currently, a special agent in charge of a field office can delegate the authority to approve sending an informant to a religious service. The new manual will require such officials to handle those decisions personally.

In addition, the 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.

The new rules make clear, for example, that if the person with such a role is a victim or a witness rather than a target of an investigation, extra supervision is not necessary. Also excluded from extra supervision will be investigations of low- and midlevel officials for activities unrelated to their position — like drug cases as opposed to corruption, for example.

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. And it will limit academic protections only to scholars who work for institutions based in the United States.

Since the release of the 2008 manual, the assessment category has drawn scrutiny because it sets a low bar to examine a person or a group. The F.B.I. has opened thousands of such low-level investigations each month, and a vast majority has not generated information that justified opening more intensive investigations.

Ms. Caproni said the new manual would adjust the definition of assessments to make clear that they must be based on leads. But she rejected arguments that the F.B.I. should focus only on investigations that begin with a firm reason for suspecting wrongdoing.