

# Freedom of Association and Assembly

## 1102.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a firm understanding of the nature and appropriateness of covert investigations for University of Maryland, Baltimore Police Force (UMBPD) personnel.

### 1102.1.1 DEFINITIONS

- (a) **Covert Investigation** - Covert Investigation refers to the infiltration or attempt to infiltrate a group or organization in a manner that conceals the identity of the law enforcement agency and/or the identity of its officer or agent or interferes with the protections guaranteed under the First Amendment of the Constitution of the United States. Covert Investigation does not include the use of plainclothes officers or agents for crowd control and public safety purposes at public events and undercover investigations that do not involve First Amendment activities.
- (b) **First Amendment Activities** - First Amendment Rights refers to activities involving constitutionally protected speech or association, or the free exercise of religion, freedom of the press, or the right to petition the government.
- (c) **Legitimate Law Enforcement Objective** - Legitimate Law Enforcement Objective means the detection, investigation, deterrence, or prevention of a crime, or the apprehension and prosecution of a suspected criminal.

## 1102.2 POLICY

It is the policy of the UMBPD that all personnel shall conduct covert investigations and/or collect intelligence information consistent with First Amendment guarantees and the Freedom of Association and Assembly Protection Act of 2009.

## 1102.3 BACKGROUND

The surveillance of anti-death penalty and anti-war groups in Maryland in 2005 and 2006 culminated in the passage of the Freedom of Association and Assembly Protection Act of 2009. The law requires Maryland law enforcement agencies to adopt Agency policies that reflect the expansion of First Amendment Rights as granted in this legislation.

## 1102.4 REQUIREMENTS OF THE FREEDOM OF ASSOCIATION AND ASSEMBLY PROTECTION ACT OF 2009

- (a) Written Policy
  - 1. All law enforcement agencies in the State of Maryland must adopt a written policy addressing covert investigations beginning on January 1, 2010.
- (b) Policy Requirements
  - 1. The policy must include guidelines on agency conduct as it relates to the covert investigations of persons, groups, or organizations engaged in First Amendment activities.

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#### (c) Databases

1. The collection, dissemination, retention, database inclusion, purging, and auditing of intelligence information relating to persons, groups, or organizations engaged in First Amendment activities must be included.

### **1102.5 PROCEDURES**

The following procedures establish responsibility for investigations affecting First Amendment activities and the rights of persons, groups, or organizations engaged in First Amendment activities.

#### 1102.5.1 COVERT INVESTIGATIONS

- (a) UMBPD personnel will not conduct covert investigations without authorization from the Chief of Police. The Chief of Police will make a written finding in advance or as soon as practicable after the investigation to include:
  1. A finding that the investigation is based on reasonable suspicion that the person, group or organization is planning or engaged in criminal activity, and
  2. A less intrusive method of investigation is not likely to yield satisfactory results.
- (b) Membership or participation in a group or organization engaged in First Amendment activities does not alone establish reasonable suspicion of criminal activity.
- (c) UMBPD personnel shall conduct all investigations involving First Amendment activities for a legitimate law enforcement objective and during the course of an investigation shall safeguard the Constitutional Rights and liberties of all persons.
- (d) UMBPD personnel may not investigate, prosecute, disrupt, interfere with, harass or discriminate against a person engaged in a First Amendment activity for the purpose of punishing, retaliating, preventing, or hindering a person from exercising their Constitutional Rights.
- (e) An investigation involving First Amendment activities shall be terminated when logical leads have been exhausted or when no legitimate law enforcement objective justifies continuance of the investigation.

#### 1102.5.2 COLLECTION AND MAINTENANCE OF INTELLIGENCE INFORMATION

- (a) The UMBPD will not collect or maintain information solely about the political beliefs, ideologies and associations of a person, group or organization when the information is not relevant to a criminal investigation, or when the UMBPD does not have reasonable suspicion that the person, group or organization advocates, supports, or encourages the violation of any federal, state or local law.
- (b) Information maintained in a criminal intelligence file shall be evaluated for the reliability of the source of the information and the validity and accuracy of the information.
- (c) UMBPD personnel shall classify accurately all intelligence information in databases to reflect properly the purpose for which the information was collected.

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- (d) When UMBPD personnel list in a database a specific crime for which a person, group, or organization is under suspicion, they shall ensure that the classification is accurate based on the information available to the Agency at the time.

1102.5.3 DISSEMINATION OF INTELLIGENCE

- (a) Information gathered and maintained by the UMBPD for intelligence purposes may be disseminated only to appropriate persons for legitimate law enforcement purposes in accordance with laws governing the release of police records and with established Agency procedures.
- (b) These procedures shall not diminish the rights of a person requesting information under the Maryland Public Information Act (Maryland Code Annotated, State Government Article 10-601) from obtaining such information.
- (c) The UMBPD will not knowingly include in any criminal intelligence file, information that has been obtained in violation of this policy.