

# The Washington Times

## FBI keeps rulebook for agents hidden from public view

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The FBI has a rulebook restricting its agents' actions, but it does not want the American people to know what it says.

The several-hundred-page Domestic Investigations and Operations Guide (DIOG) used by agents is a hidden handbook intended to standardize policy for criminal, national security and foreign intelligence investigations.

After an internal audit first reported by The Washington Times showed agents' rule-breaking at a rate sparking senators to ask for a federal investigation, The Times asked for a copy of the rulebook. The request was denied. The bureau instead pointed to an outdated version of the rulebook that is available online.

"The DIOG is updated as needed to reflect changes in policy and the 2016 version currently posted on the FBI Vault is not the most recent version, but reflects the latest version that is publicly available," the FBI said in a statement. "We are not able to share an updated version with you at this time."

The rulebook has undergone multiple revisions since then. According to a 2019 FBI audit, a version of the rulebook was released in July 2018 and updated in June 2019.

The 2019 audit found a ratio of slightly more than two "compliance errors" per sensitive investigative matter reviewed, which are investigations involving people engaged in politics, government, the media or religious expression. Agents violated rules for those investigations at least 747 times in the 18 months ending June 30, 2019, according to the audit.

Mike German, a Brennan Center for Justice fellow who formerly worked as an undercover agent, says the bureau's rules should be made public. Based on his experience before leaving the bureau in 2004, Mr. German said a lack of transparency from the FBI sometimes does more to prevent Americans' complaints than to protect sources and methods used in investigations.

"Americans have the right to know how the FBI interprets the rules given to it by the attorney general, by the Congress, and by the president," Mr. German said. "We have a right to know what this very powerful government agency thinks the rules are."

People who are skeptical of the FBI's conduct say avoiding congressional scrutiny factored into the birth of the rules that have evolved since the Church Committee's investigations in the 1970s that dug into problems at the FBI.

The first version of investigative guidelines for the FBI from the attorney general came in 1976, and Cato Institute senior fellow Patrick Eddington said the Justice Department's action took the wind out of the sails for Congress to establish boundaries for the FBI.

Mr. Eddington uncovered the FBI's internal auditing in litigation against the bureau for access to government records, and he believes it is time for Congress to mount a "Church Committee 2.0."

"People that work in government bureaucracies, at the end of the day, are always looking to expand their empire," Mr. Eddington said. "They're always looking to expand their budgets, they're always looking to expand their authorities, and the bureau is no different in that respect; [it] may be the most infamous of federal agencies in that respect."

The terrorist attacks on Sept. 11, 2001, yielded another expansion of federal investigative authorities. Mr. German said he witnessed it.

His undercover work led him to function as a resource for colleagues unfamiliar with related matters and he recalled another agent explaining how his boss instructed him to do something that leapfrogged necessary steps.

Additional expansions of investigatory authority occurred near the end of President George W. Bush's administration and during the first term of President Obama, according to Mr. German, who authored the 2019 book "Disrupt, Discredit, and Divide: How the New FBI Damages Democracy."

These expansions developed the bureau's practice of using assessments, which are examinations that do not require a warrant. Under assessments, FBI personnel may conduct surveillance without a court order and may use human sources or access other information without an accusation of criminal wrongdoing.

Mr. German expressed concern about the prevalence of federal agents creating plots for themselves to foil, which he said would have drawn greater scrutiny during his tenure.

A recent example led to the acquittal of charges against two men accused of involvement in a plot to kidnap Michigan Gov. Gretchen Whitmer in 2020. Prosecutors used evidence from undercover agents and an informant, but defense lawyers portrayed FBI agents as tricking the accused men into a sinister plan.

Mr. German said the FBI has sometimes focused too much on the ideology of groups attracting accused criminals rather than searching for the violent criminals themselves. He said his undercover work taught him violent criminals "weren't really very attentive in the sessions where ideology was discussed."

Reading the FBI's rules may help people understand the factors contributing to the bureau's use of investigatory power against Americans accused of no crime and may help explain federal agents' creating plots for themselves to solve.

"I think we should know the rules to the broadest extent possible and doing so would empower our democracy by giving people some control in having a voice about where they thought these were broader than necessary," Mr. German said. "And [it] would give our elected representatives the opportunity to challenge particular determinations and particular claims of authority."