

MAJOR CRIMES DIVISION

DIVISIONAL ORDER NO. 4
15.1

June 11, 2012

TO: Concerned Personnel

FROM: Commanding Officer, Major Crimes Division

SUBJECT: UNDERCOVER CONDUCT STANDARDS FOR ANTI-TERROISM
INTELLIGENCE SECTION

This directive will assist personnel in properly conducting undercover activities when assigned to the Anti-Terrorism Intelligence Section (ATIS).

Undercover Officer Conduct

Restrictions:

Undercover officers in connection with ATIS investigations **shall not:**

- Engage in sexual relations with targets, members of target organizations, or members of non-target organizations being infiltrated for the purpose of infiltrating a target organization.
- Reside with non-target members of a target organization or members of non-target organizations being infiltrated for the purpose of infiltrating a target organization.
- Assume a position as one who leads, directs, manages, or officiates over the direction or goals of the target or non-target organization.
- Cause dissension within the target or non-target organization or incite unlawful activity by an individual or organization.
- Attend a meeting for the purpose of obtaining privileged information, i.e., lawyer-client privilege, clergyman-penitent, psychotherapist-patient privilege, physician-patient privilege, marital communication privilege and sexual assault counselor-victim privilege.
- Attend a meeting for the purpose of obtaining information concerning the confidential sources of reporters.

Exceptions:

The restrictions above shall not apply when refusal to participate in the prescribed activity would:

- Immediately endanger the safety of the undercover officer; OR
- Jeopardize the fictitious identity of the undercover officer.

Presence at religious events

Undercover officers shall take all reasonable steps to minimize any intrusion of religious ceremonies, meetings or discussions. Undercover officers **shall** not report on those events unless they relate to his/her undercover assignment.

Participation in Privileged Information Event

Undercover officers shall avoid the attendance of a meeting which would involve information covered in Evidence Code Sections 954, 980, 992, 1012, 1033 and 1035.4 (privileged-information). If an undercover officer attends a meeting where privileged information is shared, the undercover officer shall not report or divulge the content of said meeting.

NOTE: Undercover officers are exempt from this restriction if the holder of the privilege waives same as defined under Evidence Code Section 912, or a crime of fraud is involved as defined under Evidence Code Sections 956, 981, 997 and 1018.

Presence at Educational Institution

If attendance by an undercover officer in an educational institution is required as part of the investigation, the officer shall not report on any activity associated with the institution which is not directly related to the investigation. The undercover officer shall take all reasonable steps to minimize any intrusion which his/her conduct might have in connection with the academic freedoms associated with the institution.

Reporting To Supervisors

Undercover officers shall not make written reports of their operations and activities except as necessary for the exclusive purpose of personnel administration. Their supervisors shall document only information that can be maintained by Major Crimes Division, Anti-Terrorism Intelligence Section.

Information Collected At Government Body

Undercover officers, as part of their investigative duties, shall not collect or record information within the immediate vicinity of a public meeting involving a government body when that body is in session, unless it is part of the investigation and or officer's safety is involved.

Officer-In-Charge, Anti-Terrorism Intelligence Section -- Responsibility

The Officer-in-Charge, Anti-Terrorism Intelligence Section, shall ensure each undercover officer is familiar with these sections and trained regarding acceptable standards of conduct.

Undercover Officer Conduct -- Supervisor's Responsibility

Restricted Activity:

An undercover officer who engages in any of the restricted activities described above shall report the circumstances of such activity to his/her investigative supervisor(s) or, if not available, the Officer-in-Charge, Anti-Terrorist Intelligence Section within two (2) working days.

An Anti-Terrorism Intelligence Section supervisor who becomes aware that an undercover officer has engaged in restricted activity shall document the circumstances of that activity in an Employee's Report, Form 15.7, to the Commanding Officer, MCD, no later than the next working day. The Employee's Report shall be maintained by the Commanding Officer, MCD.

When notified that an undercover officer has engaged in restricted activity, the Commanding Officer, MCD, shall within two (2) working days, report those activities to the Chief of Police and the Undercover Investigation Committee, Board of Police Commissioners.

NOTE: The Undercover Investigation Committee, Board of Police Commissioners will order the immediate discontinuance of the undercover investigation in cases where they determine that the undercover officer's engagement in the restricted activities was not absolutely necessary to preserve his/her safety or not jeopardize his/her fictitious identity.

Religious Ceremonies/Privileged Meetings

An undercover officer who attends a prohibited meeting, as described in the restricted conduct noted above, shall report attendance to his/her investigative supervisor or if not available, the Officer-in-Charge, Anti-Terrorist Intelligence Section within five (5) working days.

An Anti-Terrorism Intelligence Section supervisor who becomes aware that an undercover officer has attended a prohibited meeting as described above shall prepare an Employee's Report, Form 15.7, to the Commanding Officer, MCD, reporting the activities. The Employee's Report shall be maintained by the Commanding Officer, MCD. If an undercover officer attends a meeting where privileged information is shared, the undercover officer shall not report or divulge the content of said meeting.

The Commanding Officer, when notified that an undercover officer has attended two meetings, functions, demonstrations or other activities of any organizations not approved for infiltration, shall report such activity in writing to the Chief of Police and the Undercover Investigation Committee, Board of Police Commissioners.

NOTE: In connection with religious ceremonies, no reporting to the Chief of Police and the Undercover Investigation Committee, Board of Police Commissioners is required if the religious nature of the group was considered by the Undercover Investigation Committee, Board of Police Commissioners, at the time the undercover operation was approved.

The undercover officer shall be directed not to attend any further such meetings, functions, demonstrations or activities of any organization not approved for infiltration unless:

The failure of the undercover officer to attend such activities will expose him/her to immediate danger to his/her physical safety or jeopardize the fictitious identity of the undercover officer. In this event, the undercover officer's attendance at these additional activities shall be reported, in writing, to the Commanding Officer, MCD, Chief of Police and the Undercover Investigation Committee, Board of Police Commissioners.

The Undercover Investigation Committee, Board of Police Commissioners gives written authorization for the undercover officer to attend further activities for the purpose of maintaining a cover.



STEVEN S. SAMBAR, Captain
Commanding Officer
Major Crimes Division