



THE GOVERNMENT IS SPYING ON YOU

The government is spying on you. The federal government encourages local police and even private citizens to report *anything* (even non-criminal behavior) that seems “suspicious.” Police across the country submit reports on perfectly lawful activities, like taking photographs of subways and bridges. The information is shared widely with the FBI and other law enforcement and stored for decades. You might end up in a database for everyday conduct like photographing the post office, being Middle Eastern and “unfriendly,” or organizing a political protest—with no ability to see or correct mistaken information.

WHY IS THIS HAPPENING? The federal government’s “National Suspicious Activity Reporting Initiative” encourages state and local law enforcement to submit “Suspicious Activity Reports” about “[potentially terrorism-related information](#).”¹ But federal guidelines fail to require reasonable suspicion of criminal activity and instead define suspicious activity so broadly as to include innocent—and even constitutionally protected—conduct, like photography. These overly broad guidelines have resulted in [police stopping and harassing people](#) who are exercising constitutional rights, sometimes based on race, religion or political opinions.

I saw Middle Eastern males buy several large pallets of water.



WHAT IS “REASONABLE SUSPICION”? “Reasonable suspicion” is a time-tested standard that limits police from taking action against someone without good reason to believe there is criminal activity afoot. The U.S. Supreme Court established “reasonable suspicion” as the standard for when police can “stop and frisk” someone [in 1968](#).² Federal [regulations](#) prohibit law enforcement agencies that receive federal funds from collecting or maintaining “criminal intelligence information concerning an individual” unless “there is reasonable suspicion that the individual is involved in criminal conduct or activity.”³

WHY IS THE “REASONABLE SUSPICION” STANDARD IMPORTANT? Requiring reasonable suspicion of criminal activity protects our civil rights and ensures that the government doesn’t waste resources collecting and sifting through information about people who don’t pose a threat. The ACLU, Asian Americans Advancing Justice - Asian Law Caucus, the National Press Photographers Association, and the American Society of Media Photographers have long [criticized](#) the Suspicious Activity Reporting program because it encourages racial and religious profiling and interference with the exercise of constitutional rights, while failing to be effective in fighting terrorism. *These concerns have recently been validated:*

- **Ineffective:** The U.S. Government Accountability Office released a [report](#) earlier this year that faulted the program for failing to demonstrate any results-oriented outcomes such as arrests, convictions, or thwarted threats.⁴ Another [report](#), co-authored by LAPD Deputy Chief Michael Downing, found that SARs have “flooded fusion centers, law enforcement, and other security entities with white noise.”⁵
- **Constitutional rights and minorities:** Records obtained by the ACLU from “fusion centers” in California (the entities that collect Suspicious Activity Reports) contain many entries describing constitutionally protected activity. The records also reveal a pattern of reporting innocent behavior of racial and religious minorities. A [Senate subcommittee](#) reviewing a sample of similar reports identified “dozens of problematic or useless” reports “potentially violating civil liberties protections.”⁶

WHAT HAPPENS IF YOUR NAME ENDS UP IN A FEDERAL SUSPICIOUS ACTIVITIES DATABASE?

The FBI “reviews all SARs to determine if additional actions should be taken, such as a threat assessment or investigation,” and “to identify trends or provide context to other reported incidents.”⁷ This means that being identified in a Suspicious Activity Report could subject you to an intrusive FBI investigation. Even if the FBI concludes there is no nexus to terrorism, your information can remain in a federal database for many years; the next time your name is flagged, it may be seen in the context of that earlier report, making you all the more suspicious.

WHAT CAN YOU DO? The Information Sharing Environment (the federal agency responsible for the Suspicious Activity Reporting standards) is currently working with the FBI and Justice Department to revise Suspicious Activity reporting guidelines. ***Demand that the federal government adopt a “reasonable suspicion” standard that complies with federal regulations governing the sharing of criminal intelligence information.*** Visit this [website](#) to sign our petition.⁸

HAS SOMEONE REPORTED YOUR INNOCENT ACTIVITIES?

The ACLU and the Asian Law Caucus want to hear your story.

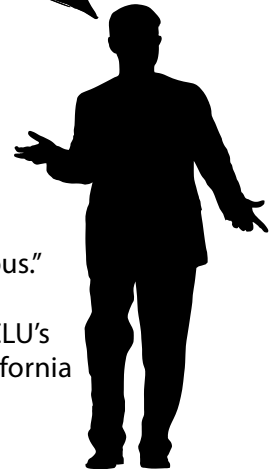
Contact us if you have been stopped and questioned by law enforcement for doing any of the following, or were subsequently questioned at your home or workplace after doing any of the following:

- ✓ Asking questions about a building, facility, or other infrastructure;
- ✓ Taking pictures or video of a building, facility, or other infrastructure;
- ✓ Using binoculars to look at a building, facility, or other infrastructure;
- ✓ Taking notes about a building, facility, or other infrastructure.
- ✓ For no apparent reason other than the police officer said your activities were “suspicious.”

More background on the Suspicious Activity Reporting program is available on the ACLU’s website.⁹ The text of Suspicious Activity Report summaries obtained by the ACLU of California are also available on the web.¹⁰

If you have been affected by this program, call us at (415) 621-2488.

I saw a woman taking photos
of Folsom Post Office.



ENDNOTES

1 U.S. Government Accountability Office, “Information Sharing: Additional Actions Could Help Ensure That Efforts to Share Terrorism-Related Suspicious Activity Reports are Effective,” March 2013 at 1 (available at <http://www.gao.gov/products/GAO-13-233>).

2 Terry v. Ohio, 392 U.S. 1 (1967).

3 28 C.F.R. § 23.20.

4 GAO Report at 36-38.

5 The George Washington University Homeland Security Policy Institute, “Counterterrorism Intelligence: Fusion Center Perspectives,” June 26, 2012 at 31 (available at http://www.gwumc.edu/hspi/policy/researchbrief902_ctisrfusioncenters612.cfm).

6 U.S. Senate Permanent Subcommittee on Investigations, “Federal Support for and Involvement in State and Local Fusion Centers,” Oct. 3, 2013 at 27 (available at <http://www.hsgac.senate.gov/download/?id=49139e81-1dd7-4788-a3bb-d6e7d97dde04>).

7 GAO Report at 34 n.43.

8 <https://www.aclunc.org/ag-petition>

9 <https://www.aclu.org/spy-files/more-about-suspicious-activity-reporting>

10 <https://www.aclunc.org/fusion-centers>