

Oregon TITAN/ Fusion Center Policy Regarding First Amendment Protected Events

I. Purpose of policy

As articulated in the United States Constitution, one of the freedoms guaranteed by the First Amendment is the right of persons and groups to peaceably assemble. Persons and groups engaging in First Amendment related activities have the right to:

1. Organize and participate in peaceful assemblies, including demonstrations, rallies, parades, marches, picket lines, or other similar gatherings.
2. Conduct assemblies/gatherings in public places.
3. Express their political, social, or religious views in a peaceful assembly.
4. Freely associate with other persons and collectively express, pursue, promote, and defend common interests.

Furthermore, Oregon law provides that no law enforcement agency may collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.

Law enforcement officers, in turn, must ensure the safety of the general public while protecting the privacy and rights of persons practicing their First Amendment right to assemble peacefully. To support officers as they fulfill these responsibilities, the Oregon TITAN/Fusion Center and the Oregon Department of Justice Criminal Intelligence Unit (the Center) provide assessment and situational awareness review of First Amendment protected events.

The purpose of this policy is to provide guidelines for the Center so that situational assessment and review of First Amendment protected events are in accordance with federal and Oregon law.

II. Information Screening and Review

- A. The Center may review event information in order to assess the potential impact of the event on public safety. Such information will not be collected or maintained unless in compliance with ORS 181.575.

The Center shall only review event information from the following sources:

1. Event permit requests filed with a government body.
2. The media.

3. Information published in any publicly accessible forum by event organizers or participants.
 4. Direct statements made by event organizers or participants to any law enforcement officers or the CIU.
 5. Investigations **if** the subject of the investigation satisfies ORS 181.575.
- B. A review of information from the above listed sources does not constitute information “collection” under ORS 181.575. No criminal intelligence file shall be created with such information and no storage or maintenance of the information reviewed shall occur unless in compliance with ORS 181.575, the Center’s Privacy Policy, and all other applicable Oregon and federal law.
- C. Information reviewed for this purpose must first satisfy the Information Input requirements of OAR 137-090-0090 and the Oregon TITAN/Fusion Center Privacy Policy 4.1 (1) which requires the CIU to first determine if the information to be reviewed is relevant, reliable and valid and relates to a possible threat to public safety or the enforcement of the criminal law.
- D. Information reviewed shall be purged from all Center systems within 30 days unless the information warrants being maintained pursuant to ORS 181.575.

III. **Obtaining Information**

Permissible Means of obtaining information

1. The Center may communicate openly and directly with any person involved in a public gathering regarding the number of persons expected to participate and similar information regarding the time, place, route, and manner of a public gathering and review documents submitted for such purpose, such as parade permit applications.
2. The Center may review publicly accessible information posted or published by the event organizers, sponsor organizations, or self-admitted participants.
3. The Center may review publically accessible media articles about the event, event organizers or participants.
4. The Center may collect any information, including from investigations, about a person or group who have indicated an intention to attend **and** who are known to be or reasonably suspected of engaging in violence or other unlawful acts in order to determine whether they are inciting or planning violence or other unlawful activities at this event. Information collected for this purpose must be accompanied by a statement which specifically articulates the unlawful activity related to the person or group and the specific basis of suspicion of violence or criminal activity.

IV. Prohibited Conduct Relating to First Amendment Protected Events

1. Investigating and collecting, maintaining, using, or sharing information regarding persons or groups **solely because they are involved in constitutionally protected activity.**
2. Investigating and collecting, maintaining, using, or sharing information regarding persons or groups **solely because of the content of their speech.**
3. Investigating and collecting, maintaining, using, or sharing information regarding persons or groups' exercise of their First Amendment rights **for a purpose unrelated to the event.**
4. Instructing the debriefing of or questioning witnesses, event participants, or arrestees regarding their social, political, or religious views unless specifically related to criminal conduct and then only as necessary to achieve the clearly stated objective of protecting the public or law enforcement personnel.

V. Sharing Information

- A. Information reviewed under this section may be shared as situational awareness for law enforcement to aid them in their public safety duties as set forth in this policy. No criminal intelligence information may be shared unless such information otherwise meets the requirements of The Center's Privacy Policy for information sharing (Section 7), as well as all applicable Oregon and Federal law.
- B. All Center Bulletins and Situational Awareness publications shall not be disseminated until reviewed and approved by one of the following: the Center's legal advisor; DOJ CJD Chief Counsel; or DOJ CJD Deputy Chief Counsel.
- C. Once a review of the relevant information is complete, The Center shall determine whether it should provide its findings to agencies outside The Center. This determination should be based on a criminal predicate (pursuant to ORS 181.575) or other law enforcement purpose to justify sharing of information, including:
 1. The size of the event (is it multijurisdictional).
 2. Reasonable law enforcement purpose related to persons or groups associated with the event planning to engage in criminal activity in connection with the event or who have engaged in criminal activity during past events.
 3. Whether the event will also take place in another jurisdiction.
 4. Public safety impact on roads, hospitals or law enforcement resources.
 5. A reasonable likelihood of violence between event participants and law enforcement, other citizens or other groups likely to be present near the event.

VI. Required Warnings and Reminders – Bulletin Contents

Situational Awareness bulletins shall also contain the following reminders to law enforcement:

1. That the purpose of the Situational Awareness bulletin is the aid law enforcement in the protecting of life and property.

2. That Officers responding to First Amendment Protected events should ensure that all privacy, civil rights, and civil liberties protections are upheld in the performance of their duties.
3. That officers responding to First Amendment Protected events should practice fair and impartial enforcement of laws, statutes, and ordinances.

VII. Information Collection and Maintenance

Information shall not be collected, maintained, stored or entered into a criminal intelligence file unless it meets all the requirements of ORS 181.575, the Center's Privacy Policy and all applicable Oregon and federal law.