

ORDINANCE 108333

1
2 AN ORDINANCE establishing policies governing the Seattle Police Department in
3 collecting, receiving, and transmitting information; establishing procedures,
4 controls, and prohibitions on the collection and use of particular types of
5 information; regulating and forbidding certain police operations; establishing
6 the powers of a criminal intelligence section and its personnel; and providing
7 enforcement procedures, administrative penalties, and civil remedies.

8 WHEREAS, freedom of speech, press, thought, association, and assembly, as well as
9 the right to petition the government for redress of grievances, are among our
10 most cherished civil liberties, and the right of privacy is indispensable to
11 individual liberty; and

12 WHEREAS, the duty of the Seattle Police Department is to protect the public
13 safety and individual rights; and

14 WHEREAS, the substantive prohibitions in this ordinance which preclude: (1) the
15 collection of private sexual or restricted information in the absence of
16 requisite facts (Sections 11 and 13); (2) the use of infiltrators absent certain
17 circumstances (Section 23); (3) the incitement of unlawful violent activity
18 (Section 26(a)); and (4) the use of false or derogatory information to disrupt
19 lawful religious or political activity (Section 26(b)) are for the benefit of
20 individual citizens in relation to their rights of personal privacy, as well as
21 their constitutional rights and liberties; if an injury proximately results from
22 a violation of any of these substantive prohibitions, expending public funds to
23 make the injured party whole fulfills a public purpose; and

24 WHEREAS, as distinct from the substantive prohibitions, all authorization pro-
25 cedures and internal controls are for the administration of municipal govern-
26 ment and the Seattle Police Department; none of the procedures and controls
27 establishes any protections or rights owing to or for the benefit of anyone
28 individually; no private rights are created in or may be based upon the
absence of an authorization alone or a procedural irregularity; and the civil
liability established in Section 33 against The City of Seattle is, and is
intended to be, exclusive of all causes of action arising under this ordinance;
and

WHEREAS, The City of Seattle's annual operating budgets have provided for a
Criminal Intelligence Section in the Seattle Police Department; and stating
the powers, functions, and responsibilities of the Section's personnel will
provide guidance for the performance of their duties and a standard by which
to measure their conduct; Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

I. PURPOSE, POLICIES, AND DEFINITIONS

Section 1. Statement of Purpose. This ordinance shall be interpreted and
implemented in a manner to permit the collection and recording of information for
law enforcement purposes, so long as these police activities do not unreasonably:
(a) infringe upon individual rights, liberties, and freedoms guaranteed by the
Constitution of the United States or of the State of Washington -- including, among
others, the freedom of speech, press, association, and assembly; liberty of
conscience; the exercise of religion; and the right to petition government for

1 redress of grievances; or (b) violate an individual's right to privacy.

2 Section 2. Policies. The following policies shall govern the collection and
3 recording of information by departmental personnel:

- 4 (a) No person shall become the subject of the collection of information on the
5 account of a lawful exercise of a constitutional right or civil liberty; no
6 information shall be collected upon a person who is active in politics or
7 community affairs, unless under the same or similar circumstances the in-
8 formation would be collected upon another person who did not participate
9 actively in politics or community affairs;
- 10 (b) All information collected shall reasonably appear relevant to the performance
11 of an authorized police function; no information shall be collected or used for
12 political purposes;
- 13 (c) When a police officer knows of two or more techniques to collect restricted
14 information and each would be equally practical and effective, the officer
15 should use the technique which he reasonably believes will have the least
16 adverse impact upon lawful political and/or religious activity;
- 17 (d) Information indexed for ready retrieval, other than correspondence files, shall
18 be reviewed periodically and only that deemed relevant to present and future
19 law enforcement activities or required by law shall be retained;
- 20 (e) To protect rights of privacy of the citizenry and to preserve the confiden-
21 tiality of communications, disclosure of information shall be limited to re-
22 cords open for public inspection; to arrest notices and information disclosed
23 to the public for law enforcement purposes, and/or to information needed by:
24 (1) criminal justice agencies in the performance of their official functions; (2)
25 persons with a legitimate interest in the information and persons making
26 inquiry with their consent; (3) persons with a right to disclosure under a
27 statute, implementing regulation, ordinance, or court order; (4) persons
28 conducting research for scientific or law enforcement purposes under
assurance of confidentiality; and (5) agencies with regulatory responsibilities
for which the information is pertinent; and
- (f) Disclosure of information from records closed to public inspection shall be
limited to those facts and materials reasonably deemed relevant to the

1 purposes for the disclosure, unless the disclosure occurs pursuant to a sub-
2 poena or court order, the Public Disclosure Act (RCW Chapter 42.17), the
3 Criminal Records Privacy Act (RCW 10.97.070), or other statute mandating
4 disclosure, or the subject of the information consents to its disclosure.

5 Section 3. Definitions. When the following words or their derivations are
6 emphasized, the definitions below apply:

- 7 (a) Auditor means the person described in Section 29.
- 8 (b) Collect means to write down or preserve information in a tangible form as a
9 record or file of the Department.
- 10 (c) Department means the Police Department of The City of Seattle.
- 11 (d) Departmental personnel means an officer or employee of The City of Seattle
12 assigned to the Department, and any individual paid by the City pursuant to
13 vouchers drawn by the Chief of the Department or a fiscal officer assigned to
14 the Department and acting under the direction and control of an officer or
15 employee in the Department.
- 16 (e) Infiltrator means a person acting under the direction of the Department, who
17 is a member or associate -- or poses or acts as a member or associate -- of a
18 political or religious organization, an organization formed for the protection
19 or advancement of civil rights or civil liberties, or an organization formed for
20 community purposes, and who agrees to provide or provides information about
21 the organization to the Department on a continuing basis without disclosing
22 his or her relationship to the Department.
- 23 (f) Informant means a person other than an officer or employee of The City of
24 Seattle assigned to the Department:
- 25 (i) who provides information to departmental personnel about a person in
26 consideration of a personal benefit; or
- 27 (ii) who is engaged, directed, or controlled by the Department.
- 28 (g) Person means any individual, group of individuals, unincorporated association,
and/or corporation.
- (h) Private sexual information -- when not emphasized in Sections 4, 5, 6, and
7(d) -- means any information about an individual's sexual practices or

1 orientation. When emphasized, it excludes any such information within the
2 scope of Sections 5 through 10 dealing with administrative records, incidental
3 references, confidential communications, materials open to public inspection,
4 special investigations, and exclusions, respectively.

5 (i) Purge means to return, destroy, or deny use of information by means such as
6 removal to a secure depository with access restricted solely to specific
7 individuals for purposes of defending a lawsuit, complying with a court order,
8 preserving evidence possibly valuable to a defendant in a criminal case or
9 pending commitment proceeding, and auditing compliance with this ordi-
10 nance. Purge shall include deletion of information from affected materials
11 and from Department indexes.

12 (j) Reasonable suspicion means a rational inference that is based on articulable
13 facts.

14 (k) Restricted information -- when not emphasized in Sections 4, 5, 6, 7(d), 23,
15 33(c), and 35 -- means any information within paragraphs (i) through (iii)
16 below. When emphasized, it excludes any such information within the scope
17 of Sections 5 through 10 dealing with administrative records, incidental
18 references, confidential communications, materials open to public inspection,
19 special investigations, and exclusions, respectively. Restricted information
20 means information about:

21 (i) an individual's political or religious associations, activities, beliefs, or
22 opinions;

23 (ii) the political or religious activities, beliefs, or opinions and the mem-
24 bership, mailing, subscription, or contributor lists of a political or
25 religious organization, an organization formed for the protection or
26 advancement of civil rights or civil liberties, or an organization formed
27 for community purposes; or

28 (iii) an individual's membership or participation in such an organization, in a
political or religious demonstration, or in a demonstration for com-
munity purposes.

1 II. SCOPE, EXEMPTIONS, AND EXCLUSIONS

2 Section 4. Scope. Those sections of this ordinance controlling the collection,
3 receipt, and/or transmission of information (Sections 11 through 22) do not apply to
4 administrative records (Section 5), incidental references (Section 6), confidential
5 communications (Section 7), materials open to public inspection (Section 8), special
6 investigations (Section 9), and the exclusions (Section 10), as long as Department
7 indexing does not cite any private sexual or restricted information other than
8 information in a proper name, unless specifically authorized by this ordinance.

9 Except for the exclusion of Section 10(a), the policies in Section 2 apply to
10 the provisions of this ordinance. All Department records are subject to audit,
11 unless excluded by Section 30(a) through (e).

12 Section 5. Administrative Records. Administrative records pertain to De-
13 partment operations and/or public relations, are comparable in character to files
14 and records maintained by other City departments, and exclude investigatory files
15 of the Department. Examples of administrative records include routine correspon-
16 dence files; employment and personnel records; jail records on prisoners' religious
17 preferences and customs; information for providing chaplain, escort, and ancillary
18 community services; records of evidence, lost or stolen property, and custodial
19 property inventoried without regard to informational content; and itinerary
20 information used for providing security and protection for an official, dignitary, or
21 consenting individual. Indexing may cite private sexual or restricted information
22 only for a valid administrative purpose.

23 Section 6. Incidental References. Private sexual or restricted information
24 within one of the following classifications may be collected as an incidental refer-
25 ence:

- 26 (a) The information appears as an incidental reference in a standard report form,
27 in response to a general questionnaire completed by an applicant or witness
28 using his or her own words, or in a more general description or statement;
- (b) The information forms an incidental part of the statement, verification, or
rebuttal of a legal defense that has been raised by a suspect or may rea-
sonably be anticipated; or an incidental part of the activities or associations