EXHIBIT 1

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-03-2018 BY [redacted] NSICG

b6 -1
b7C -1

Legal/Policy Issues: Domestic Terrorism Investigations

CTIOPS Training- 2018

[redacted]

b6 -1
b7C -1

Investigative Law Unit

The First Amendment

- What do we mean by "maintain?"
  - Collect, disseminate, retain
- Make sure your collection of this information is pertinent to and within the scope of an authorized law enforcement activity

The First Amendment

- "The exercise of First Amendment rights":
  - How to distinguish between
    - Protected Speech (and Expression) and
    - Unprotected Speech (and Expression)

Protected Speech

- Sometimes hateful or unpopular speech is protected – just because you don't like it doesn't make it illegal

- Advocating the use of force or a violation of the law ***by itself*** is protected speech

The Line (An Example)

- Brandenburg v. Ohio: Speech that

(1) intends to incite imminent lawless action and

(2) is likely to do so.

The Line (Another Example)

- Robert Watts, an African-American, stated the following at an anti-war protest:
  - "They always holler at us to get an education. And now I have already received my draft classification as 1-A and I have got to report to my physical this Monday morning. I am not going. If they ever make me carry a rifle the first man I want to get in my sights is L.B.J. They are not going to make me kill my black brothers."
- Can Watts be charged w/ federal crime of threatening the president?

The Line

- "The Line" isn't always clear
- Look at –
  - Context
  - Conditional nature
  - Reaction of the listener

The Line

- Involves a pair of Virginia cross-burning cases (2003)
  - CASE I: KKK leader burns cross in a field w/ permission of property owner
  - CASE II: Two individuals burned crosses in the yard of a neighboring African-American family

The Line

- Virginia v. Black: no First Amendment protection for speech meant to communicate

  (1) A "serious expression of an intent" to commit violence and

  (2) to intimidate others.

Guideposts

- Watts: (1) Context
  (2) Conditional nature of threat
  (3) Reaction of the listener

- Brandenburg v. Ohio: Speech that
  (1) intends to incite imminent lawless action
  and
  (2) is likely to do so.

- Virginia v. Black: no First Amendment protection for speech meant to communicate
  (1) A "serious expression of an intent" to commit violence and
  (2) to intimidate others.