

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

DECLARATION OF MICHAEL G. SEIDEL

I, Michael G. Seidel, declare as follows:

1. I am the Section Chief of the Record/Information Dissemination Section (RIDS), Information Management Division (IMD), Federal Bureau of Investigation (FBI), Winchester, Virginia. I joined the FBI in September 2011, and prior to my current position, I was the Assistant Section Chief of RIDS from June 2016 to July 2020; Unit Chief, RIDS Litigation Support Unit, from November 2012 to June 2016; and an Assistant General Counsel, FBI Office of the General Counsel, Freedom of Information Act (FOIA) Litigation Unit, from September 2011 to November 2012. In those capacities, I had management oversight or agency counsel responsibility for FBI FOIA and Privacy Act (FOIPA) litigation cases nationwide. Prior to joining the FBI, I served as a Senior Attorney, U.S. Drug Enforcement Administration (DEA), from September 2006 to September 2011, where among myriad legal responsibilities, I advised on FOIPA matters and served as agency counsel representing the DEA in FOIPA suits

nationwide. I also served as a U.S. Army Judge Advocate General's Corps Officer in various assignments from 1994 to September 2006 culminating in my assignment as Chief, General Litigation Branch, U.S. Army Litigation Division, where I oversaw FOIPA litigation for the U.S. Army. I am an attorney licensed in the State of Ohio and the District of Columbia.

2. In my official capacity as Section Chief of RIDS, I supervise approximately 211 FBI employees, supported by approximately 97 contractors, who staff a total of eight (8) Federal Bureau of Investigation Headquarters (FBIHQ) units and two (2) field operational service center units whose collective mission is to effectively plan, develop, direct, and manage responses to requests for access to FBI records and information pursuant to the FOIA as amended by the OPEN Government Act of 2007, the OPEN FOIA Act of 2009, and the FOIA Improvement Act of 2016; the Privacy Act of 1974; Executive Order 13526; Presidential, Attorney General, and FBI policies and procedures; judicial decisions; and Presidential and Congressional directives. The statements contained in this declaration are based upon my personal knowledge, upon information provided to me in my official capacity, and upon conclusions and determinations reached and made in accordance therewith.

3. Because of the nature of my official duties, I am familiar with the procedures followed by the FBI in responding to requests for information from its files pursuant to the provisions of the FOIA, 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a. Specifically, I am aware of the FBI's handling of Plaintiffs' FOIA request that is the subject of this litigation.

4. In response to Plaintiffs' requests, the FBI processed a total of 396 pages of responsive records subject to the FOIA. Of these pages, the FBI released 50 pages in full, released 155 pages in part, and withheld 191 pages in full for the following reasons: the pages

were exempt in full pursuant to one or more applicable FOIA exemption(s) or the pages were found to be duplicative of other pages accounted for elsewhere in the FBI's production.

5. The FBI submits this declaration in support of Defendant's Motion for Summary Judgment. Part I of this declaration provides the Court with a summary of the administrative history of Plaintiffs' request; part II describes the procedures used to search for responsive records; and part III, in accordance with *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), provides the FBI's justification for withholding information in part or in full pursuant to FOIA Exemptions 3, 6, 7(C), and 7(E). 5 U.S.C. § 552 (b)(3), (b)(6), (b)(7)(C), and (b)(7)(E).

PART I: ADMINISTRATIVE HISTORY OF PLAINTIFFS' REQUESTS

6. By eFOIA dated May 21, 2024, Plaintiffs submitted a four-part FOIA request to the FBI seeking the following groups of records:

1. All final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, and/or legal opinions created from January 20, 2017, to the present, pertaining to:
 - a. The use of JTTFs and/or fusion centers to collect information about, monitor, surveil, observe, question, interrogate, and/or investigate individuals or organizations engaged in protest;
 - b. The activities and/or predicate criteria that trigger JTTF and/or fusion center involvement, including the legal justification and/or factual showing required;
 - c. Intra-agency correspondence and correspondence among federal, state, and local law enforcement agencies pertaining to monitoring, surveilling, observing, questioning, interrogating, and/or otherwise investigating individuals or groups engaged in protest through or by JTTFs and/or fusion centers;
 - d. The collection, storage, use, and/or dissemination of data (including photographs, videos, and electronic surveillance records) obtained during and/or in connection with monitoring of individuals or groups engaged in protest through or by JTTFs and/or fusion centers; and
 - e. JTTFs and fusion centers' protection of privacy, civil rights, and civil liberties.

2. Records created from January 20, 2017, to the present, indicating:
 - a. The number of individuals whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests; and
 - b. The number and names of groups whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests
3. Records created from January 20, 2017, to the present concerning the definition of the following terms as used and applied by JTTFs and/or fusion centers:
 - a. "Racially or Ethnically Motivated Violent Extremism"
 - b. "Anti-Government or Anti-Authority Violent Extremism"
 - c. "Animal Rights or Environmental Violent Extremism"
 - d. "All Other Domestic Terrorism Threats"
 - e. "Abortion-Related Violent Extremism"
 - f. "Domestic Violent Extremism"
 - g. "Domestic Terrorism"
 - h. "Anarchist violent extremism"
 - i. "Radical agitators"
 - j. "Criminal organizers and instigators"
 - k. "Violent instigators"
 - l. "Antifa"; and
 - m. "Far-left extremists."
4. Records describing the process and/or procedures individuals may use to find out whether and what information about themselves has been collected and maintained by JTTFs and fusion centers, and the process by which any inaccurate information may be challenged and expunged.

(Ex. A.)

7. Upon receipt of Plaintiffs' request, the FBI determined that the information requested fell into four distinct subject categories. As such, Plaintiffs' request was split into four separate FOIAs to be handled individually as indicated below.

Request Item	FOIA Number Assigned
1 (a-e)	NFP-161243
2 (a-b)	NFP-161245
3 (a-m)	NFP-161247
4	1637191-000

FOIA REQUEST NUMBER NFP-161243

8. By letter dated June 5, 2024, the FBI acknowledged receipt of item one of Plaintiffs' FOIA request and notified Plaintiffs it had been assigned FBI FOIPA Request Number NFP-161243. The FBI informed Plaintiffs that the FOIA provides for access to Government records where the records sought are "reasonably described." 5 U.S.C. § 552(a)(3)(A). The FBI advised Plaintiffs that it was closing the request because the request was overly broad. The FBI explained that the request did not provide sufficient detail to enable FBI personnel to locate potentially responsive records within the FBI's Central Records System (CRS) with a "reasonable amount of effort" and therefore, the request did not comply with the requirements of 28 C.F.R. § 16.3(b). The FBI provided several examples of information that could assist Plaintiffs in correcting the deficiency. Additionally, the FBI informed Plaintiffs that they could contact the FBI to ascertain how to reasonably describe their request by contacting foipaquestions@fbi.gov. Finally, the FBI informed Plaintiffs that they could appeal the FBI's response to the DOJ, Office of Information Policy (OIP) within 90 days of the date of the letter, contact the FBI's public liaison, and/or seek dispute resolution services by contacting the Office of Government Information Services (OGIS). **(Ex. B.)**

FOIA REQUEST NUMBER NFP-161245

9. By letter dated June 5, 2024, the FBI acknowledged receipt of item two of Plaintiffs' FOIA request and notified Plaintiffs it had been assigned FBI FOIPA Request Number NFP-161245. The FBI informed Plaintiffs that the information requested is not considered a FOIA request because it was not in compliance with the FOIA and its regulations. Specifically, the FBI advised Plaintiffs that the FOIA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried data. Rather, the FOIA requires agencies to provide access to reasonably described, nonexempt records. The FBI

explained that the questions posed in the Plaintiffs' letter (part two) were not FOIA requests because they did not comply with the FOIA and its regulations. The FBI informed Plaintiffs that they could contact the FBI to ascertain how to reasonably describe their request by contacting foipaquestions@fbi.gov. Finally, the FBI informed Plaintiffs that they could appeal the FBI's response to OIP within 90 days of the date of the letter, contact the FBI's public liaison, and or seek dispute resolution services by contacting OGIS. **(Ex. C.)**

FOIA REQUEST NUMBER NFP-161247

10. By letter dated June 5, 2024, the FBI acknowledged receipt of item three of Plaintiffs' FOIA request, and notified Plaintiffs it had been assigned FBI FOIPA Request Number NFP-161247. The FBI informed Plaintiffs that the subject requested is not searchable in the FBI's indices because the FBI's CRS is indexed according to investigatory interests, and is not arranged in a manner that allows for the retrieval of information in the form requested. The FBI advised Plaintiffs that the FOIA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried data. The FBI explained that the FOIA requires agencies to provide access to reasonably described, nonexempt records; therefore, the request was being closed. The FBI also informed Plaintiffs that they could contact the FBI to ascertain how to reasonably describe their request by contacting foipaquestions@fbi.gov. Finally, the FBI informed Plaintiffs that if they were dissatisfied with the FBI's determination, they could appeal the FBI's response to OIP within 90 days of the date of the letter, contact the FBI's public liaison, and or seek dispute resolution services by contacting OGIS. **(Ex. D.)**

FOIA REQUEST NUMBER 1637191-000

11. By letter dated June 5, 2024, the FBI acknowledged receipt of item four of Plaintiffs' FOIA request, and notified Plaintiffs it had been assigned FBI FOIPA Request Number 1637191-000. The FBI informed Plaintiffs that records responsive to their request were available for review at www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/freedom-of-information-privacy-act. The FBI also informed Plaintiffs that additional information regarding the FBI's determinations was located at www.fbi.gov/foia. Further, the FBI advised Plaintiffs that if they were dissatisfied with the FBI's response, they could file an administrative appeal with OIP within ninety (90) days of the date of the letter, seek dispute resolution services by contacting OGIS, or contact the FBI's FOIA public liaison. **(Ex. E.)**

12. By email dated June 18, 2024, Plaintiffs contacted the FBI's public liaison requesting clarification on whether the FBI's response to Request Number 1637191-000 was a refusal to conduct a search. The FBI responded on June 26, 2024, advising that the FBI's June 5, 2024 letter explains that the information sought by Plaintiffs was already made publicly available for review on the FBI's website. **(Ex. F.)**

PLAINTIFFS' ADMINISTRATIVE APPEALS TO THE OFFICE OF INFORMATION POLICY

13. By electronic submission dated June 26, 2024, Plaintiffs submitted an administrative appeal to OIP challenging the FBI's determinations in response to all four FOIA request numbers: NFP-161243, NFP-161245, NFP-161247, and 1637191-000. Plaintiff also requested expedited processing of the appeal. **(Ex. G.)**

14. By letters dated June 26, 2024, OIP acknowledged receipt of Plaintiffs' appeal of the FBI's determinations in all four requests and assigned each a separate appeal number. **(Ex. H.)**

Request Item	FBI FOIA Number	OIP Appeal Number
1	NFP-161243	A-2024-01981
2	NFP-161245	A-2024-01982
3	NFP-161247	A-2024-01983
4	1637191-000	A-2024-01984

15. By letter dated July 3, 2024, OIP responded to Plaintiffs' request for expedited treatment stating that Plaintiffs had not met the burden of proof under 28 C.F.R § 16.5(e)(1)(ii)(2023) for expedited treatment. OIP explained that Plaintiffs' appeals would be placed into chronological order with other pending appeals and addressed in turn. **(Ex. I.)**

FOIA LITIGATION 24-CV-5722

16. On July 29, 2024, Plaintiffs filed a complaint in the U.S. District Court for the Southern District of New York. (ECF No. 1)

17. By letter dated September 10, 2024, OIP responded to Plaintiffs' appeal stating that they had been made aware that Plaintiffs had filed a lawsuit, and per 28 C.F.R § 16.8(b)(2)(2023), OIP would be closing Plaintiffs' appeals. **(Ex. J.)**

FURTHER NARROWING OF THE ISSUES IN LITIGATION

18. In approximately September 2024, Plaintiffs agreed to withdraw item four of their FOIA request, so long as the FBI clarified the process for individuals to make requests for information collected and maintained by JTTFs and fusion centers. As explained to Plaintiffs and memorialized herein, the FBI does not have a specific procedure for requesting individual information and/or amending records that applies solely to records pertaining to JTTFs and/or Fusion Centers. Any individual seeking such records should utilize the FOIPA procedures located at the web address listed in the FBI's June 5, 2024 response in 1637191. *See supra* ¶ 11.

ADDITIONAL PRODUCTIONS

19. After the filing of this litigation, FBI reviewed Plaintiffs' request and determined that certain portions of the information requested could be searched if Plaintiffs were willing to narrow the focus of the records requested. Following discussions with Plaintiffs concerning terms, offices, and portions of the request at issue, the parties agreed to the following search terms and parameters:

Request Item	FBI FOIA Number	Search Terms
1	NFP-161243	The FBI will run searches of the Internal Policy Office and the Counter Terrorism Division for any records related to JTTFs and/or FCs created from January 20, 2017 to the present pertaining to the subjects listed in 1 a-e of the request. This search will include records that the FBI categorizes as final versions of policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, and formal legal opinions.
2	NFP-161245	The FBI will run searches of the Counter Terrorism Division for any records created from January 20, 2017 to the present that include a) the number of individuals whose activities have been investigated through or by JTTFs and/or FCs and b) the number and names of groups whose activities have been investigated through or by JTTFs and/or FCs. The terms used for this search will be made by the Counter Terrorism Division's subject matter experts because they are best suited to identify terms to locate the requested information.
3	NFP-161247	The FBI will run searches of the Internal Policy Office and the Counter Terrorism Division for any records created from January 20, 2017 to the present, and will search using each individual term listed by Plaintiffs plus the following terms to narrow the results: + "definition" or "defined" or "define" or "defines" + "JTTF(s)" and/or "Joint Terrorism Task Force(s)" and/or "Fusion Center(s)." The FBI will then manually review the pages located to ensure that they are within the scope above, and actually include

		definitions of the terms as they related to Joint Terrorism Task Force(s) and/or Fusion Center(s).
4	1637191-000	The Plaintiff agrees to drop this portion of the request, as the FBI attests that it does not have a specific procedure for requesting/amending records that applies solely to Joint Terrorism Task Forces or Fusion Centers. Requests for copies or amendments of these records should be submitted in accordance with the conventional FOIA / Privacy Act procedures.

20. The FBI then conducted a search using the terms and parameters outlined above in accordance with the parties' agreement. Responsive records were located as a result of this search and are further described in ¶¶ 29-33 *infra*.

21. By letter dated February 28, 2025, the FBI made its first interim release of records to Plaintiffs, advising that 263 pages of records were reviewed, and 84 pages of records were being released in full or part, with certain information exempted pursuant to FOIA Exemptions 3, 5, 6, 7(C), 7(D), and 7(E). 5 U.S.C. § 552 (b)(3), (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), and (b)(7)(E). Additionally, the FBI advised Plaintiffs that information was referred to other government agencies (OGAs) and the FBI would communicate with the Plaintiffs once the OGA responses were received. Lastly, the FBI advised Plaintiffs that although their request was in litigation, they could appeal the FBI's response to the DOJ, OIP, within 90 days of the date of its letter, contact the FBI's public liaison, or seek dispute resolution services by contacting OGIS.

(Ex. K.)

22. By letter dated March 31, 2025, the FBI made its second interim release of records to Plaintiffs, advising that 140 pages of records were reviewed, and 72 pages of records were being released in full or part, with certain information exempted pursuant to FOIA Exemptions 3, 5, 6, 7(C), and 7(E). 5 U.S.C. § 552 (b)(3), (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E). Additionally, the FBI advised Plaintiffs that information was referred to one or more OGAs and

the FBI would communicate with Plaintiffs once the OGA responses were received. Lastly, the FBI advised Plaintiffs that they could appeal the FBI's response to the DOJ, OIP, within 90 days of the date of its letter, contact the FBI's public liaison, or seek dispute resolution services by contacting OGIS. (Ex. L.)

23. By letter dated April 8, 2025, the FBI made its final release of records to Plaintiffs, advising that 57 pages of records were reviewed, and 49 pages of records were being released in full or part, with certain information exempted pursuant to FOIA Exemptions 3, 6, 7(C), and 7(E). 5 U.S.C. § 552 (b)(3), (b)(6), (b)(7)(C), and (b)(7)(E). Lastly, the FBI advised Plaintiffs that they could appeal the FBI's response to the DOJ, OIP, within 90 days of the date of its letter, contact the FBI's public liaison, or seek dispute resolution services by contacting OGIS.¹ (Ex. M.)

PART II: THE FBI'S CENTRAL RECORDS SYSTEM AND SEARCH METHODOLOGY

THE FBI'S CENTRAL RECORDS SYSTEM

24. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled and maintained by the FBI while fulfilling its mission and integrated functions as a law enforcement and intelligence agency, and in the fulfillment of its administrative and personnel functions. The CRS spans the entire FBI organization and encompasses the records of FBIHQ, FBI field offices, and FBI legal attaché offices worldwide.

¹ This release consisted entirely of documents about which the FBI had consulted with OGAs and that had been previously reviewed for release as "Referral/Consult" in connection with the February and March productions.

25. The CRS consists of a numerical sequence of files, called FBI “classifications,” which are organized according to designated subjects. The broad array of CRS file classification categories includes types of criminal conduct and investigations conducted by the FBI, as well as categorical subjects pertaining to counterterrorism, intelligence, counterintelligence, personnel, and administrative matters. For identification and retrieval purposes across the FBI, when a case file is opened, it is assigned a Universal Case File Number consisting of three sequential components: (a) the CRS file classification number; (b) the abbreviation of the FBI office of origin (OO) opening the file; and (c) the assigned individual case file number for the particular subject matter.² Within each case file, pertinent documents of interest are “serialized,” or assigned a number in the order which the document is added to the file, typically in chronological order.

The Central Records System’s General Indices and Indexing

26. The general indices to the CRS, comparable to a digital version of a library card catalog, function as the key to locating records within the enormous amount of information contained in the CRS. FBI personnel index information in the CRS by individual (person), organization (entity, place, or thing), or activity or event (e.g., terrorist attack or bank robbery) when information is deemed of sufficient significance to warrant indexing for future retrieval.³

The entries in the general indices fall into two categories;

² For example, in fictitious file number “11Z-HQ-56789,” “11Z” indicates the file classification, “HQ” indicates that FBI Headquarters is the FBI OO, and “56789” indicates the assigned case specific file number.

³ The FBI’s Records Management Policy mandates that FBI personnel enter all federal records into an authorized FBI recordkeeping system. FBI personnel are responsible for managing records they create and receive, determining the record status for each potential record, and importing records into an electronic recordkeeping system. See FBI Records and Information Management Policy Guide, 1223PG (September 22, 2022) at pp. 11-12 and 25-28 (Sections 2.9 and 4.2.3) available at <https://vault.fbi.gov/records-and-information-management-policy-guide->

- a. Main index entry: A main index entry is created for each individual or non-individual (e.g., organization, event, or activity) that is the subject or focus of an investigation. Main subjects are identified in the case title of a file.
- b. Reference index entry: A reference index entry is created for an individual or non-individual (e.g., organization, event, or activity) associated with an investigation, but who or which is not the main subject or focus of the investigation. Reference subjects are typically not identified in the case title of a file.

Sentinel

27. FBI personnel access the general indices through Sentinel, the FBI's case management system (since July 1, 2012).

28. FBI personnel rely on Sentinel to locate records and other types of documents to fulfill essential functions, such as: conducting criminal, counterterrorism, and national security investigations; conducting background investigations; performing citizenship and employment queries; and administering security screenings, to include presidential protection. Sentinel's index search methodology and function allow FBI personnel to query the CRS for indexed subjects in case files.

29. However, the identification of records indexed to the subject of a FOIPA request does not automatically mean the indexed records are responsive. Index searches using the search functions available in Sentinel are the means by which potentially responsive records are located, but ultimately, a FOIPA analyst must review potentially responsive records against the specific parameters of individual requests. Responsiveness determinations are made once indexed records

1223pg/records-and-information-management-policy-guide-1223pg/view (last accessed on March 22, 2025).

are gathered, analyzed, and sorted by FOIPA analysts who then make informed scoping decisions to determine the total pool of records responsive to an individual request.

ADEQUACY OF SEARCH

Targeted Searches and Results

30. In response to most FOIA requests received by the FBI, the FBI conducts a search of the CRS to determine if the FBI has records about a particular subject. The CRS is where the FBI indexes information about individuals, organizations, events, or other subjects of investigative interest for future retrieval. Such information would reasonably be expected to be located in the CRS by the index search methodology. However, after reviewing Plaintiffs' FOIA request, the FBI determined that a standard search of the CRS would be unlikely to locate records potentially responsive to Plaintiffs' request because there is no specific indexable term associated with the records sought and the records are not directly connected with a specific investigation, subject, event, or initiative that would be indexed in the CRS.

31. Therefore, the FBI took the extraordinary step of conducting a targeted search outside the CRS. Specifically, the FBI, via RIDS, conducted a targeted search of the Internal Policy Office (IPO) and the Counter Terrorism Division (CTD) because the FBI determined that these were the most likely locations to house responsive records since any policy documents would be located via a search of the IPO policy portal; any JTTF specific training, data, and guidance would likely reside with CTD as they are responsible for the program; and any definitions of the terms requested would either reside in policy documents located in the policy portal or within documents maintained by CTD.

32. In accordance with the parties' agreement as to the revised terms and parameters of the request, as outlined above, *see supra* ¶ 20, the FBI, via RIDS, requested that CTD search for records pertaining to parts 1-3 of Plaintiffs' requests. CTD conducted a search of their

systems for responsive records created from January 20, 2017, through the date of search. This included a review of communications preserved in electronic or physical format; a review of internal systems containing memoranda, agreements, manuals, and training materials; and a review of electronic records maintained on computers. CTD performed tailored searches utilizing each individual term listed in NFP-161247 as well as relying on the subject matter expertise of individuals assigned to the division to identify any potentially responsive records. CTD located records potentially responsive to parts 1 and 3 of Plaintiffs' requests.

33. The FBI, via RIDS, also conducted a search of the Internal Policy Office for records pertaining to parts 1-3 of Plaintiffs' request created from January 20, 2017, through the date of the search. RIDS conducted a search utilizing the terms "JTTF"; "Joint Terrorism Task Force"; and "Fusion Center." RIDS also conducted searches utilizing each individual term listed in NFP-161247. RIDS located records potentially responsive to Plaintiff's requests.

34. Plaintiffs have provided no information for the FBI to reasonably conclude that records responsive under the FOIA would reside in any other location and there is no indication from the FBI's targeted search efforts that responsive records would reside in any other FBI location. Thus, the FBI has searched all locations and files reasonably likely to contain potentially responsive records, and there is no basis for the FBI to conclude that a search elsewhere would reasonably be likely to locate responsive records under the FOIA.

PART III: JUSTIFICATION FOR NON-DISCLOSURE UNDER THE FOIA

35. The FBI processed all records responsive to Plaintiffs' requests to achieve maximum disclosure consistent with the access provisions of the FOIA. Every effort was made to provide Plaintiffs with all reasonably segregable, non-exempt information. The FBI did not withhold any reasonably segregable, nonexempt portions from Plaintiffs. Further description of the information withheld, beyond what is provided in this declaration, could reveal the actual

exempt information or would employ finite resources only to produce disjointed words, phrases, or sentences, that would have minimal or no informational content.

BATES NUMBERING, JUSTIFICATION CODES, AND INDEX

36. *Bates Numbering & Index:* The FBI numbered all pages of its production consecutively as Bates pages FBI (24-cv-5722)-1 through FBI (24-cv-5722)-397. On the pages released in full and in part to Plaintiffs, these numbers are typically located at the bottom of each page. Additionally, an index that describes each document, the Bates number assigned to each page of the document, and the specific FOIA exemption(s) and justification code(s) asserted on each page withheld in full or part is included as an exhibit to this declaration. **(Ex. N.)**

37. *Justification Codes:* On the Bates-numbered pages provided to Plaintiffs and on pages withheld in full or part and accounted for in the FBI's index, the FBI further categorized its application of exemptions to better explain the nature of the information withheld pursuant to the provisions of the FOIA. Particularly, the FBI applied numerical codes that coincide with specific categories of exempt information. This declaration and index demonstrate that all information withheld by the FBI is exempt from disclosure pursuant to the cited FOIA exemptions or is so intertwined with non-exempt information that segregation is not possible without revealing the underlying exempt information.

38. Each instance of information withheld pursuant to a FOIA exemption is accompanied by a coded designation that corresponds to one of the categories listed in the chart below.⁴ For example, if “(b)(7)(C)-1” appears on a page, the “(b)(7)(C)” designation refers to FOIA Exemption 7(C) protecting against unwarranted invasions of personal privacy. The

⁴ The FBI has implemented standard codes for justification categories. Not all codes are applicable in each FOIA litigation; therefore, the codes in the below “Summary of Exemption Categories” chart may not be sequential if certain codes are not relevant to the records at issue.

numerical designation “1” following “(b)(7)(C)” narrows the main category into a more specific subcategory, such as “Names and Other Identifying Information of FBI Special Agents and Professional Staff.”⁵

SUMMARY OF FOIA EXEMPTION JUSTIFICATION CATEGORIES	
CODED CATEGORIES	INFORMATION WITHHELD
EXEMPTION (b)(3)	INFORMATION PROTECTED BY STATUTE
(b)(3)-5	50 U.S.C. §3024(i)(1) – Sources & Methods, Intelligence (The National Security Act of 1947)
EXEMPTION (b)(6) and EXEMPTION (b)(7)(C)	CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY AND UNWARRANTED INVASION OF PERSONAL PRIVACY
(b)(6)-1 and (b)(7)(C)-1	Names and Identifying Information of FBI Special Agents and Professional Staff
(b)(6)-3 and (b)(7)(C)-3	Names and Identifying Information of Third Parties Merely Mentioned
(b)(6)-4 and (b)(7)(C)-4	Names and Identifying Information of Third Parties of Investigative Interest
(b)(6)-5 and (b)(7)(C)-5	Names and Identifying Information of Personnel from Non-FBI Federal Agencies
(b)(6)-7 and (b)(7)(C)-7	Names of Third Parties with Criminal Records
(b)(6)-8 and (b)(7)(C)-8	Names and Identifying Information of Third-Party Victims
EXEMPTION (b)(7)(E)	INVESTIGATIVE TECHNIQUES AND PROCEDURES
(b)(7)(E)-1	Sensitive Investigative File Numbers
(b)(7)(E)-2	Identities and Locations of FBI Joint Units, Squads, and Divisions
(b)(7)(E)-3	FBI Internal E-mail addresses, Non-public Web Addresses and Telephone Numbers, and Internal E-mail Tools
(b)(7)(E)-4	Collection and Analysis of Information
(b)(7)(E)-5	Focus of Specific Investigations
(b)(7)(E)-6	Types and Timing of Investigations
(b)(7)(E)-7	Database Information and Search Results
(b)(7)(E)-14	Coordination with Other Government Agencies and State/Local Law Enforcement Agencies
(b)(7)(E)-26	Training Resources
(b)(7)(E)-27	Operational Directives Concerning Sensitive Investigative Techniques and Strategies
(b)(7)(E)-30	Resource Allocation

EXEMPTION 3 – INFORMATION PROTECTED BY STATUTE

39. FOIA Exemption 3 exempts from disclosure information “specifically exempted from disclosure by statute . . . if that statute (A)(i) requires that the matters be withheld from the

⁵ Exemption (b)(3)-1 was inadvertently cited on Bates page 359. This code was applied in error and should be (b)(3)-5. This error is corrected in the Vaughn Index at Exhibit N. In addition, (b)(7)(D) was applied to Bates 218 and (b)(7)(E)-8 was initially cited on 15 pages of information; however, upon further review it was determined that the material did not rise to the level of being withheld under these codes and the FBI is no longer asserting these exemption codes on these records. Following this determination, the FBI did a thorough review of all redactions where these codes were used and determined that the information was correctly withheld per other exemptions and/or coded categories covering that same information.

public in such a manner as to leave no discretion on the issue; or (A)(ii) establishes particular criteria from withholding or refers to particular types of matters to be withheld.” 5 U.S.C. § 552 (b)(3). The OPEN FOIA Act of 2009 established an additional requirement that any statute "enacted after the date of enactment of the OPEN FOIA Act of 2009, [must] specifically cite[] to this paragraph" in order to qualify under Exemption 3.

*(b)(3)-5: 50 U.S.C. § 3024(i)(1) - Sources & Methods, Intelligence
(The National Security Act of 1947)*

40. The FBI asserted Exemption 3 to withhold information pursuant to Section 102A(i)(1) of the National Security Act of 1947, as amended, National Security Act of 1947. This statute provides that the Director of National Intelligence (DNI) “shall protect, and shall establish and enforce policies to protect, intelligence sources and methods from unauthorized disclosure.”⁶ As relevant to 5 U.S.C. § 552(b)(3)(B), the National Security Act of 1947 was enacted before the date of enactment of the OPEN FOIA Act of 2009. On its face, this federal statute leaves no discretion to agencies about withholding from the public information about intelligence sources and methods. Thus, the protection afforded to intelligence sources and methods by 50 U.S.C. § 3024(i)(1) is absolute. See *CIA v. Sims*, 471 U.S. 159 (1985).

41. To fulfill its obligation of protecting intelligence sources and methods, the DNI is authorized to establish and implement guidelines for the Intelligence Community (IC) for the classification of information under applicable laws, Executive Orders, and other Presidential Directives, and for access to and dissemination of intelligence. 50 U.S.C. § 3024(i)(1). In implementing this authority, the DNI promulgated Intelligence Community Directive 700, which

⁶ Section 102A(i)(1) of the National Security Act was previously codified at 50 U.S.C. § 403(i)(1). As a result of the reorganization of Title 50 of the U.S. Code, Section 102A(i)(1) is now codified at 50 U.S.C. § 3024(i)(1).

provides that IC elements shall protect “national intelligence and intelligence sources and methods and activities from unauthorized disclosure.”⁷ The FBI is one of 18 member agencies comprising the IC, and as such must protect intelligence sources and methods. 50 U.S.C. § 3003(4).

42. Given the plain Congressional mandate to protect the IC’s sources and methods of gathering intelligence, the FBI has determined that intelligence sources and methods would be revealed if any of the withheld information is disclosed to Plaintiffs. Therefore, the FBI is prohibited from disclosing such information under 50 U.S.C. § 3024 (i)(1).⁸

43. The FBI is asserting Exemption 3 in this case, at times in conjunction with 7(E), to protect information that would reveal intelligence sources and methods. In some instances, information was also withheld under Exemption 7(E) because these unclassified intelligence sources and methods were employed as law enforcement techniques, procedures, or guidelines, and thus would qualify as both an intelligence source and method under Exemption 3 and a law enforcement technique under Exemption 7(E). Notably, § 3024 (i)(1) protects sources and methods regardless of whether they are classified. See *Sims*, 471 U.S. at 176.

EXEMPTION 7 THRESHOLD

44. Before an agency can invoke any of the harms enumerated in Exemption 7, it must first demonstrate that the records or information at issue were compiled for law enforcement purposes. Pursuant to 28 USC §§ 533, 534, and Executive Order 12,333 as implemented by the Attorney General’s Guidelines for Domestic FBI Operations (AGG-DOM)

⁷ Intelligence Community Directive (ICD) 700, dated June 7, 2012, at ¶ E.2.a

⁸ Although 50 U.S.C. § 3024 (i)(1) does not impose a requirement to articulate harm, disclosure of this information presents a bona fide opportunity for individuals to develop and implement countermeasures, resulting in the loss of significant intelligence information, sources, and methods relied upon by national policymakers and the IC to safeguard national security

and 28 CFR § 0.85, the FBI is the primary investigative agency of the federal government with authority and responsibility to investigate all violations of federal law not exclusively assigned to another agency, to conduct investigations and activities to protect the United States and its people from terrorism and threats to national security, and further the foreign intelligence objectives of the United States. Under this investigative authority, the responsive records herein were compiled for the following specific law enforcement purposes.

45. The records at issue concern policies and trainings developed to facilitate partnership with other law enforcement entities through participation in JTTFs; therefore, the FBI compiled the records at issue pursuant to its assistance to law enforcement function. As prescribed by AGG-DOM, paragraph III.C., the FBI may provide investigative assistance to state, local, and tribal enforcement agencies “in the investigation of matters that may involve federal crimes or threats to the national security, or for such other purposes as may be legally authorized.”

46. Additionally, the pertinent records were also compiled and/or created in furtherance of the FBI’s law enforcement, national security, and intelligence missions. In order to accomplish these missions, the FBI must develop policy and training to ensure the efficient, effective, and lawful use of specific law enforcement and intelligence gathering techniques, procedures, and/or investigative methods in its investigations and in its assistance to law enforcement roles.

EXEMPTIONS 6 AND 7(C): UNWARRANTED INVASION OF PERSONAL PRIVACY

47. Exemption 6 exempts from disclosure “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal

privacy.” 5 U.S.C. § 552(b)(6). All information that applies to a particular person falls within the scope of Exemption 6.

48. Exemption 7(C) similarly exempts from disclosure “records or information compiled for law enforcement purposes [when disclosure] could reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C).⁹

49. When withholding information pursuant to these two exemptions, the FBI is required to balance the privacy interests of the individuals mentioned in these records against any public interest in disclosure. In asserting these exemptions, each piece of information was scrutinized to determine the nature and strength of the privacy interest of every individual whose name and/or identifying information appears in the documents at issue. When withholding the information, the individual’s privacy interest was balanced against the public’s interest in disclosure. For purposes of these exemptions, a public interest exists only when information about an individual, their name, or their identifying information¹⁰ would shed light on the FBI’s performance of its mission to protect the American people and uphold the Constitution of the United States, and its function to: protect the United States from terrorist attack; protect the United States against foreign intelligence, espionage, and nefarious cyber operations; combat significant criminal cyber activity, public corruption, transnational criminal enterprises, white-collar crime, and violent crime; and protect civil rights. In each instance wherein information

⁹ The practice of the FBI is to assert Exemption 6 in conjunction with Exemption 7(C). Although the balancing test for Exemption 6 uses a “would constitute a clearly unwarranted invasion of personal privacy” standard and the test for Exemption 7(C) uses the lower standard of “could reasonably be expected to constitute an unwarranted invasion of personal privacy,” the analysis and balancing required by both exemptions is sufficiently similar to warrant a consolidated discussion. The privacy interests are balanced against the public’s interest in disclosure under both exemptions.

¹⁰ Hereafter, identifying information includes the following: residences, telephone numbers, employee ID numbers, and singular professional titles.

was withheld pursuant to Exemptions 6 and 7(C), the FBI determined that the individuals' privacy interests outweighed any public interest in disclosure.

50. Furthermore, considering privacy concerns are typically obviated once an individual is deceased,¹¹ when processing FOIPA requests, the FBI takes several steps to ascertain the current life/death status of the individuals whose names are withheld. The FBI uses the birth date and/or the date of the investigation to determine whether an individual is living or deceased, to the extent either or both of these pieces of information are discernable from the file. The date of birth is used to apply the judicially recognized "100-year rule," i.e., if the individual was born more than 100 years ago, the FBI presumes that he or she is dead and the name is released. The FBI also uses institutional knowledge gained from prior FOIA requests or internal records. By using institutional knowledge, the FBI can identify with sufficient certainty the life/death status of certain individuals. If the FBI is unable to determine the life/death status of an individual through the use of these methods, the name of the individual is withheld pursuant to Exemptions 6 and 7(C), when it finds disclosure would constitute an unwarranted invasion of those individuals' privacy should they still be living, and no public interest would be served in releasing the names. It is also the FBI's policy to release names of high-ranking FBI officials as well as individuals in public positions, as they have diminished privacy rights while acting in their official capacity. This policy is applied to the individual's position at the time of the document, and not the present.

¹¹ In some circumstances, surviving relatives of a deceased individual retain privacy interests in their information, even after the individual's death. See generally *National Archives v. Favish*, 124 S. Ct. 1570 (2004).

*(b)(6)-1 and (b)(7)(C)-1: Names and Identifying Information of
FBI Special Agents and Professional Staff*

51. Within Exemption category (b)(6)-1 and (b)(7)(C)-1, the FBI withheld the names and identifying information of FBI Special Agents (SAs) and professional staff. These FBI SAs and professional staff were responsible for conducting, supervising, and/or maintaining the investigative activities and administrative activities related to JTTF operations, reflected in the documents responsive to Plaintiffs' requests. These responsibilities included, but are not limited to, the following: coordinating/completing tasks in support of the FBI's investigative and administrative functions, compiling information, and/or reporting on the status of the investigations.

52. FBI Special Agents. Assignments of SAs to any particular investigation are not by choice. Publicity, adverse or otherwise, arising from a particular investigation or the use of specific FBI investigative techniques, may seriously prejudice their effectiveness in conducting other investigations or performing their day-to-day work. The privacy consideration is also applied to protect FBI SAs, as individuals, from unnecessary, unofficial questioning as to the conduct of investigations and investigative activities, whether or not they are currently employed by the FBI. FBI SAs conduct official inquiries into various criminal and national security violation cases. The publicity associated with the release of an SA's identity in connection with a particular investigation and/or investigative activities could trigger hostility toward a particular SA. During an investigation, an SA may engage with all strata of society, conducting searches and making arrests, both of which result in reasonable but nonetheless serious disturbances to people and their lives. Individuals targeted by such investigative activities, and/or those sympathetic to those targeted, could seek to inflict violence on an SA based on their participation in an investigation or in the deployment of certain investigative techniques. This is because an

individual targeted by such law enforcement actions may carry a grudge against those involved with the investigation, which may last for years. These individuals may seek revenge on SAs and other federal employees involved in particular investigative activities. There is no public interest served by disclosing the SAs' identities because their identities would not, themselves, significantly increase the public's understanding of the FBI's operations and activities. Thus, disclosure of this information would constitute a clearly unwarranted invasion of their personal privacy; and the FBI properly withheld the names and identifying information of FBI SAs pursuant to Exemptions 6 and 7(C).

53. FBI Professional Staff. The FBI also withheld the names and identifying information of FBI professional staff pursuant to Exemptions 6 and 7(C). These FBI professional staff were assigned to handle tasks related to the operations of JTTFs and/or the collection and maintenance of records. Similar to FBI SAs, these FBI employees could be targeted for reprisal based on their involvement in specific investigations/investigative activities. Furthermore, these FBI professional staff were, and possibly are, in positions of access to information regarding official law enforcement investigations, and therefore could become targets of harassing inquiries for unauthorized access to investigations if their identities were released. Thus, these individuals maintain substantial privacy interests in not having their identities disclosed. In contrast, the FBI concluded that no public interest would be served by disclosing the identities of these FBI professional staff to the general public because their identities would not, themselves, significantly increase the public's understanding of the FBI's operations and activities. Accordingly, after balancing these professional staff employees' substantial privacy interests against the non-existent public interest, the FBI determined disclosure of their identities would constitute a clearly unwarranted invasion of their personal privacy. Therefore, the FBI properly

withheld the names and identifying information of FBI professional staff pursuant to Exemptions 6 and 7(C).

54. FBI Unique Employee Identification Number. The FBI withheld the Unique Employee Identification Number (“UEID”) of an FBI Professional Staff member involved in the classification review of the records, pursuant to FOIA Exemptions 6 and 7(C). UEIDs are singular numbers assigned to employees and serve as a means of identification within the government. This unique identifier could be used to identify the employee who reviewed this document. This, in turn, could subject the employee to targeted attempts to obtain sensitive information from this guide or for other sensitive and/or classified FBI information to which they may have access due to their FBI employment.

55. Furthermore, adversaries could co-opt the information to impersonate the employee’s identity in relation to agency business. As such, the FBI determined this employee maintains substantial privacy interests in not having the UEID disclosed. In contrast, there is no public interest in this singular piece of information because its disclosure would not significantly increase the public’s understanding of FBI operations and activities. Accordingly, on balance, this employee’s privacy interests prevail and thus, the FBI properly withheld the UEID pursuant to FOIA Exemptions 6 and 7(C).

*(b)(6)-3 and (b)(7)(C)-3: Names and Identifying Information of
Third Parties Merely Mentioned*

56. In Exemption category (b)(6)-3 and (b)(7)(C)-3, the FBI withheld the names and identifying information of third parties who were merely mentioned in the investigative records responsive to Plaintiffs’ requests. The FBI has information about these third parties in its files because these individuals were tangentially mentioned in conjunction with FBI investigative efforts. These individuals were not of investigative interest to the FBI. These third parties

maintain substantial and legitimate privacy interests in not having this information disclosed and thus, being connected with FBI law enforcement matters. Considering the FBI is an investigative and intelligence agency, disclosure of these third parties' names and/or identifying information in connection with FBI records carries an extremely negative connotation. Disclosure of their identities would subject these individuals to possible harassment or criticism and focus derogatory inferences and suspicion on them. The FBI then considered whether there was any public interest that would override these privacy interests, and concluded that disclosing information about individuals who were merely mentioned in an FBI investigative file would not significantly increase the public's understanding of the operations and activities of the FBI. Accordingly, the FBI properly protected these individuals' privacy interests pursuant to FOIA Exemptions 6 and 7(C).

*(b)(6)-4 and (b)(7)(C)-4: Names and Identifying Information of
Third Parties of Investigative Interest*

57. In Exemption category (b)(6)-4 and (b)(7)(C)-4, the FBI withheld the names and identifying information of third parties who were of investigative interest to the FBI. Being identified as a subject of FBI investigative interest carries a strong negative connotation and a stigma, whether or not these individuals ever committed criminal acts. Release of the identities of these individuals to the public could subject them to harassment or embarrassment, as well as undue public attention. Furthermore, it could result in professional and social repercussions, due to resulting negative stigmas. Accordingly, the FBI determined these individuals maintain substantial privacy interests in not having their identities disclosed. In contrast, disclosing personal information about these individuals would not significantly increase the public's understanding of the FBI's performance of its mission and so the FBI concluded that there was

no public interest here sufficient to override these individuals' substantial privacy interests. For these reasons, the FBI properly withheld this information pursuant to Exemptions 6 and 7(C).

*(b)(6)-5 and (b)(7)(C)-5: Names and Identifying Information of
Personnel from Non-FBI Federal Agencies*

58. In Exemption category (b)(6)-5 and (b)(7)(C)-5, the FBI withheld the names and identifying information of personnel from non-FBI federal government agencies who provided information to or otherwise assisted the FBI in JTTF investigations, training, and/or policy development and implementation. The rationale for protecting the identities of other government employees is the same as the rationale for protecting the identities of FBI employees. See ¶¶ 50-54, *supra*. Publicity, adverse or otherwise, concerning the assistance of these other agency employees in FBI investigations and investigative activities would seriously impair their effectiveness in assisting or participating in future FBI investigations and/or investigative activities. The privacy consideration also protects these individuals from unnecessary, unofficial questioning as to FBI investigations. It is possible for a person targeted by law enforcement action to carry a grudge which may last for years, and to seek revenge on the personnel involved in the investigations and investigative activities at issue in these FBI records. The publicity associated with the release of their names and/or identifying information in connection with these investigations and investigative activities could trigger hostility towards them by such persons. Therefore, these employees maintain substantial privacy interests in not having their identities disclosed in this context. In contrast, there is no public interest to be served by the disclosure of these employees' names and/or identifying information because their identities, by themselves, would not demonstrate how the FBI performed its statutory mission and thus, would not significantly increase the public's understanding of the FBI's operations and activities.

Accordingly, the FBI properly protected these employees' privacy interests pursuant to FOIA Exemptions 6 and 7(C).

(b)(6)-7 and (b)(7)(C)-7: Names of Third Parties with Criminal Records

59. Exemptions (b)(6)-6 and (b)(7)(C)-6 have been asserted to protect the names of third-party individuals who have a criminal record with the FBI and/or other law enforcement agencies. Being linked with any law enforcement investigation carries a strong negative connotation and a stigma. To release the identities of these individuals to the public could subject them to harassment or embarrassment, as well as undue public attention. Accordingly, the FBI has determined that these individuals maintain a substantial privacy interest in not having their identities disclosed. In deciding whether to release the names and personal information concerning these third parties with criminal records, the public's interest in disclosure was balanced against the individual's right to privacy. It was determined that this information would not enlighten the public on how the FBI conducts its internal operations and investigations. Accordingly, the FBI concluded that the disclosure of this information would constitute a clearly unwarranted and unwarranted invasion of their personal privacy. The FBI properly withheld this information pursuant to Exemptions 6 and 7(C).

(b)(6)-8 and (b)(7)(C)-8: Names and Identifying Information of Third-Party Victims

60. In Exemption category (b)(6)-8 and (b)(7)(C)-8, the FBI withheld the names and identifying information of third-party victims. Releasing these individuals' identities in the context of these investigative records would cause embarrassment, as well as unsolicited and unnecessary attention to be focused on these individuals. Such a release could force them to relive emotionally trying events, causing further invasion of their privacy, in excess of the harms they've already been forced to endure. Thus, these victims maintain strong privacy interests in

the protection of such personal information. Furthermore, there is no legitimate public interest to be served by releasing the identities of these victims because their identities, themselves, would not shed light on the operations and activities of the FBI. The FBI determined disclosure of this information would constitute a clearly unwarranted invasion of these individuals' personal privacy, and consequently withheld this information pursuant to FOIA Exemptions 6 and 7(C).

EXEMPTION (B)(7)(E) INVESTIGATIVE TECHNIQUES AND PROCEDURES

61. FOIA Exemption (b)(7)(E) provides protection for:

law enforcement records [which]...would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

5 U.S.C. § 552(b)(7)(E).

62. The FBI asserted Exemption 7(E) to withhold information from these records, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

63. Within the responsive documents, the FBI applied Exemption 7(E) to non-public investigative techniques and procedures utilized by the FBI to pursue its law enforcement mission, and also to non-public details about techniques and procedures that are otherwise known to the public. Specifically, the FBI asserted Exemption 7(E) to protect the following categories of information.

(b)(7)(E)-1: Sensitive Investigative File Numbers

64. In Exemption category 7(E)-1, the FBI protected sensitive investigative file numbers. The FBI determined this exemption is appropriate for protecting these file numbers as the release of file numbering convention identifies the investigative interest or priority given to

such matters. The file numbers the FBI protected are not known to the general public. These file numbers contain three separate portions. The first portions of these file numbers consist of FBI file classification numbers which indicate the types of investigative/intelligence gathering programs to which these files pertain. Many of the FBI's classification numbers are public, which makes disclosure of this information even more telling. Release of known file classification numbers in the context of investigative records would immediately reveal the types of investigations being pursued, and thus the types of investigative techniques and procedures available to FBI investigators, and/or non-public facets of the FBI's investigative strategies. For example, revealing the FBI has a money laundering investigative file on a subject who was only known to be investigated for crimes related to public corruption, would reveal key non-public information about the FBI's investigative strategies and gathered evidence. Additionally, releasing non-public FBI file classification numbers would reveal critical information about non-public investigative techniques and procedures, and provide criminals and foreign adversaries the ability to discern the types of highly sensitive investigative strategies the FBI is pursuing whenever such file classification numbers are present within these and other sensitive FBI investigative records.

65. The protected investigative file numbers also contain two letter office of origin codes, indicating which FBI field office or overseas FBI legal attaché originated the investigations at issue. Providing this information, in many instances, would provide critical information about where and how the FBI detected particular criminal behaviors or national security threats, and reveal key pieces about the FBI's non-public FBI investigations or intelligence/evidence gathering sources and methods. Revealing this information could also risk disclosing unknown FBI investigations or intelligence gathering initiatives, by revealing interests

in varying areas of FBI investigative responsibility. Releasing this information could also possibly provide significant information about the FBI's failure to detect certain types of criminal behavior. For example, a criminal operating out of San Francisco, California with ties to a criminal organization under investigation in the FBI's Seattle Field Office, could request the FBI's Seattle Field Office's investigative file. If the FBI were to reveal all of the originating office codes in the investigative files present in Seattle's file, and there was no indication the FBI ever pursued an investigation in San Francisco, the criminal could reasonably assume the FBI failed to locate any evidence of their wrongdoing, emboldening them to continue their activities, undeterred.

66. The third portion of these investigative files consists of the numbers given to the unique investigative initiatives these files were created to memorialize. Releasing these singular file numbers would provide criminals and foreign adversaries with a tracking mechanism by which they can place particular files/investigations within the context of larger FBI investigative efforts. Continued release of sensitive investigative file numbers would provide criminal with an idea of how FBI investigations may be interrelated and when, why, and how the FBI pursued different investigative strategies. This would provide criminals with a means of judging where the FBI allocates its limited investigative resources, how the FBI responds to different investigative circumstances, what the FBI knows and when/how they obtained the knowledge, and if there are knowledge gaps in the FBI's gathered intelligence.

67. In summary, repeatedly releasing sensitive FBI investigative file numbers would allow determined criminals and foreign adversaries to obtain an exceptional understanding of the body of investigative intelligence available to the FBI; and where, who, what and how it is investigating certain detected activities. Release of this information would enable these criminals

and foreign adversaries to predict FBI investigations and structure their behavior to avoid detection and disruption by FBI investigators, enabling them to circumvent the law. Accordingly, the FBI properly asserted FOIA Exemption 7(E) to protect this type of information.

(b)(7)(E)-2: Identities and Locations of FBI Joint Units, Squads, and Divisions

68. In Exemption category 7(E)-2, the FBI protected methods and techniques involving the location and identity of FBI units, squads and divisions involved in JTTF investigations and investigatory activity. Such office locations and their corresponding joint units, squads, and divisions are usually found in the administrative headings of internal FBI documents. These headings identify the locations of the office and the units, squads, and divisions that originated or received the documents. Disclosure of the location of these units, squads, and divisions conducting these kinds of investigations and investigative activity would reveal the targets, the physical areas of interest, and when taken together with the other locations if identified, could establish a pattern or “mosaic” that identification of a single location would not. If the locations are clustered in a particular area, it would allow criminals to avoid those locations, especially if one or more locations appeared with frequency or in a pattern. This would disrupt the method of the investigative process and deprive the FBI of valuable information.

69. The withholding of the specific units, squads, and divisions involved is justifiable as well under a similar rationale. Once identified, the units’, squads’, and divisions’ areas of expertise would become known and the targets of the investigations would be able to discern the investigative strategies deployed by the FBI. For example, knowing that a unit whose focus is on financial crimes is involved in an investigation is quite different information than knowing that the unit involved has a focus on crimes of violence. This knowledge could allow a subject to employ countermeasures targeted toward concealing particular types of behavior and/or allow

them to make informed decisions to avoid altogether certain activities in a particular location. Furthermore, certain FBI units/squads are highly specialized, and are involved in deploying particular investigative techniques and procedures. Revealing their involvement in an investigation would reveal non-public details concerning which techniques and procedures were deployed in certain investigative circumstances, and subsequently allow for criminals to predict the FBI's use of these techniques and procedures in similar investigative circumstances. This would allow for them to discover and circumvent the deployment of these techniques and procedures, greatly reducing their effectiveness.

70. In summary, the FBI withheld the involvement of particular units, squads, and divisions to prevent criminals from adjusting their behavior and activities to circumvent FBI law enforcement efforts. Accordingly, the FBI properly asserted Exemption 7(E) to withhold this information.

(b)(7)(E)-3: FBI Internal E-mail Addresses, Non-Public Web Addresses and Telephone Numbers, and Internal E-mail Tools

71. In Exemption category 7(E)-3, the FBI withheld internal e-mail addresses, non-public intranet web addresses and telephone numbers, and secure internal e-mail tools. More specifically, this type of information could provide criminals with specific targets for possible cyber-attacks and other types of attacks on FBI secure communications. Considering the current cyber-security environment where government data breaches and other hacking attempts on government systems are prevalent, it is likely that the release of this type of information could provide hackers with avenues to exploit the FBI's Information Technology system. It is possible they could use this information to gain unauthorized access to FBI systems, view and/or manipulate sensitive investigative data, interfere with the FBI's non-public intranet protocol, and/or hinder the FBI's ability to enforce the law by disrupting the FBI's internal

communications. Releasing this information poses substantial risks to FBI information systems, could potentially decrease the FBI's effectiveness, and could enable criminals to circumvent the law. Accordingly, the FBI asserted Exemption 7(E) to withhold this information.

(b)(7)(E)-4: Collection and Analysis of Information

72. In Exemption category 7(E)-4, the FBI protected the methods the FBI uses to collect and analyze information it obtains for investigative purposes. The release of this information would disclose the identity of methods used in the collection and analysis of information, including how and from where the FBI collects information and the methodologies employed to analyze it once collected. Such disclosures would enable subjects of FBI investigations to circumvent similar currently used techniques. The relative utility of these techniques could be diminished if the actual techniques were released in this matter. This in turn would facilitate the accumulation of information by investigative subjects regarding the circumstances under which the specific techniques were used or requested and the usefulness of the information obtained. Release of this type of information would enable criminals to educate themselves about the techniques employed for the collection and analysis of information and therefore allow these individuals to take countermeasures to circumvent the effectiveness of these techniques and to continue to violate the law and engage in intelligence, terrorist, and criminal activities. Accordingly, the FBI has properly withheld this information pursuant to FOIA Exemption 7(E).

(b)(7)(E)-5: Focus of Specific Investigations

73. In Exemption category 7(E)-5, the FBI protected the focuses of specific FBI JTTF investigations. These focuses have not been publicly disclosed. Revealing this information to investigative targets would alert them to the FBI's interest in their activities, allowing them to

take active measures to conceal/destroy evidence or modify their behavior to avoid future investigative scrutiny. Additionally, revealing the broader investigative focuses of interconnected JTTF investigations would reveal the scope of the FBI's gathered evidence/intelligence resulting from such joint law enforcement efforts, connections it has discovered between different terrorist elements, and the strategies it plans to pursue to prevent or disrupt further criminal activities and/or national security threats. This would allow these terrorists elements to predict the FBI's investigative strategies, and modify their activities or operation security measures to thwart FBI investigative efforts. Additionally, release of this information in the context of the investigative records at issue would provide terrorist elements a preview of how the FBI will respond to similar investigative situations, allowing them to preemptively deploy countermeasures to disrupt FBI investigative efforts of their own, unrelated activities.

74. Release of this type of information would also reveal key information about FBI intelligence gathering capabilities. Revealing when and why the FBI pursues or shifts investigative focuses would reveal key information about the types of investigative intelligence the FBI possessed at particular points in time, and possibly when and how such information was obtained. This could enable terrorist elements to discover non-public details about FBI intelligence/evidence gathering methods, and help them determine how they might modify their operational security to deprive the FBI of such critical intelligence/evidence.

75. In summary, releasing the focus of specific FBI JTTF investigations would allow targets of these investigations to thwart FBI efforts to investigate/disrupt their activities; stunt the FBI's broader strategies for pursuing interrelated investigations; provide key information about FBI investigative strategies for pursuing JTTF investigations; and reveal key information about the FBI's intelligence/evidence gathering capabilities. Therefore, as release of this information

would enable criminals to circumvent the law, the FBI withheld this information pursuant to Exemption 7(E).

(b)(7)(E)-6: Types and Timing of Investigations

76. In Exemption category 7(E)-6, the FBI protected information pertaining to the types and dates of investigations referenced in the records at issue in this case. Specifically, some of the information withheld, when referenced in connection with actual investigation and not in general discussion, pertains to the type of investigation, whether it is a “preliminary” or “full” investigation and the dates the FBI initiated the investigations. Disclosure of this information would inform criminals the types of activities that would trigger a full investigation as opposed to a preliminary investigation, and the particular dates the investigations cover. Additionally, this information would also give criminals valuable insight into how the FBI develops its investigations. Release of this information would allow investigative subjects to predict FBI investigative strategies and adjust their behavior accordingly. Moreover, revealing a specific activity in general warrants investigation could likewise cause individuals to adjust their conduct to avoid investigative scrutiny by the FBI.

77. Within this category, the FBI also protected the categorization of sensitive FBI investigations. The specific type of investigation pursued to investigate certain matters is often highly sensitive. This is because internal FBI policies establish which types of investigative techniques are authorized for use in certain types of investigations. Thus, revealing how investigations are categorized by FBI personnel would reveal the investigative “toolbox” available to the FBI in certain situations. Releasing these investigation types would allow criminals to predict the FBI’s responses and investigative strategies when pursuing certain types of criminal behavior/national security threats. Such a release would enable criminals to stay one

step ahead of FBI investigators and enable them to circumvent the law. Furthermore, revealing this information would also show the types of criminal behavior and/or intelligence discovered by the FBI that predicated the initiation of the particular investigation types. This could potentially reveal to criminals and national security threats key information about the FBI's intelligence sources and methods, and/or the FBI's capabilities to gather evidence of potential criminal activities through various investigative techniques. Disclosure could thus reveal key information about the FBI's investigative capabilities, allowing criminals to educate themselves on how they might avoid detection and/or disruption of their activities by FBI investigators.

78. In summary, disclosure of information related to the types and timing of investigations could enable criminals to time and structure their illegal activities accordingly to circumvent the FBI's attempts to enforce federal laws; therefore, the FBI has properly withheld this information pursuant to Exemption 7(E).

(b)(7)(E)-7: Database Information and Search Results

79. In Exemption category 7(E)-7, the FBI protected the identities of sensitive investigative databases and database search results located through queries of these non-public databases used for official law enforcement purposes by the FBI. Releasing the identities of these databases and any information located through queries of these databases would give criminals insight into the available tools and resources the FBI uses to conduct criminal and national security investigations (i.e., the scope of information stored within the databases, how the FBI uses the databases to support its investigations, the types of information most valued by the FBI for particular investigations, and vulnerabilities of the databases).

80. Revealing the use of these databases in the context of FBI investigative records, and the information generated through queries of these databases, would reveal the nature of

their utility to FBI investigators and the scope of information stored within the databases.

Disclosing when and why the FBI queries these databases would reveal key information about FBI investigative strategies. This is because different investigative databases contain varying datasets, and revealing the types of data sought by investigators in particular investigative circumstances would reveal the FBI strategies employed in response to different investigative circumstances. Additionally, disclosing the search results for particular subjects would provide criminals with an understanding of the scope of FBI collected intelligence on particular subjects. It would expose possible intelligence gaps and/or intelligence gathering strengths. This would allow criminals to make informed decisions on how they might structure their behavior to exploit these strengths and weaknesses and avoid detection and/or disruption by the FBI.

81. Revealing the types of information stored in these databases would also reveal the types of information most useful to FBI investigators. This would provide criminals with an understanding of how they might structure their behavior and/or deploy countermeasures to deprive the FBI of useful intelligence/evidence, thus jeopardizing the FBI's investigative mission.

82. Finally, revealing the identities of these databases could jeopardize the FBI's investigative mission by revealing exactly where the FBI is storing and obtaining valuable investigative data. Knowing the database names makes the original source data an attractive target for compromise. It would allow criminals who gain access to FBI systems an idea of where they can go to discover what the FBI knows, how it gathered the information, and possible information regarding the FBI's investigative strategies. It would also offer these criminals the opportunity to corrupt or destroy information stored within these databases.

83. In summary, release of the identities of sensitive investigative databases and database search results would impede the FBI's effectiveness and potentially aid in circumvention of valuable investigative techniques. Therefore, the FBI withheld this information pursuant to Exemption 7(E).

(b)(7)(E)-14: Coordination with Other Government Agencies and State/Local Law Enforcement Agencies

84. Pursuant to Exemption category 7(E)-14, the FBI withheld specific details surrounding the FBI's coordination with other government agencies (OGAs) and state/local law enforcement agencies on investigative or intelligence information referenced in the records at issue. For example, the FBI is frequently contacted to provide expertise and/or advanced law enforcement techniques in support of investigations initiated by other agencies and law enforcement partners – such as DNA, crime scene, and behavioral analysis capabilities. Conversely, the FBI regularly relies on the expertise of local law enforcement to provide detailed local assessments and on the ground support in pursuit of the FBI's investigatory activities. Release of this information in the context of these records would reveal which types of investigative data the FBI deems relevant enough to refer to or collaborate with certain OGAs and/or state/local law enforcement agencies for further investigation. This would allow criminals to structure their behavior to avoid investigative triggers that would initiate an investigative referral from the FBI to its partners, and investigative scrutiny by additional government agencies or state/local law enforcement agencies. Additionally, release of this information could reveal which agencies cover specific types of investigative or intelligence matters. Repeated release of this type of information would enable criminals to predict and circumvent FBI investigative coordination with its government partners, state/local partners, and circumvent the

law enforcement purpose of these partnerships and information sharing techniques. Accordingly, the FBI properly asserted Exemption 7(E) to withhold this type of information.

(b)(7)(E)-26: Training Resources

85. Within Exemption category 7(E)-26, the FBI protected sensitive training resources that not only describe non-public FBI investigative procedures, techniques, and strategies, but also instruct FBI employees on the proper use of these procedures, techniques, and strategies. If revealed in their entirety, these documents would provide individuals and entities with insight into the standards and practices the FBI follows when conducting investigations, and the suite of investigative tools it is likely bring to bear in particular circumstances. With such documents, criminal elements can connect and/or cross correlate the information within these trainings alongside with other details concerning location, times, and offices involved to map out the JTTF investigatory landscape. This would give criminals the ability to preemptively modify their behavior in a manner which avoids detection and disruption by the very investigative procedures, techniques, and strategies which these trainings instruct. Moreover, the fact that these trainings consolidate diverse sources of information and are often location, subject, and/or threat specific, makes their complete revelation even more problematic. While different entities and individuals may lack the capacity to gather discrete pieces of information to form a picture of the FBI's strategies, these trainings do that work for them when broad in nature and, conversely, provides specific insight into the geographic importance of certain trainings which would reveal where the FBI and its JTTF partners are concentrated and on what types of investigative activities they are focused. Consequently, the release of these trainings would increase the risk that targets of investigations could avoid detection or develop countermeasures to circumvent the ability of the FBI to effectively use these important national security and law

enforcement techniques. As release of such information would greatly increase the risk that potential lawbreakers would be able to evade detection and/or be emboldened to engage in criminal activities, this information has been redacted pursuant to FOIA Exemption 7(E).

*(b)(7)(E)-27: Operational Directives Concerning
Sensitive Investigative Techniques and Strategies*

86. Within Exemption category 7(E)-27, the FBI protected operational directives that not only describe non-public FBI investigative procedures, techniques, and strategies, but also instruct FBI employees on the proper use of these procedures, techniques, and strategies. If revealed in their entirety, these descriptions would provide individuals and entities with insight into the standards the FBI follows when conducting investigations, and the suite of investigative tools its likely bring to bear in particular circumstances. This would give criminals the ability to preemptively modify their behavior in a manner which avoids detection and disruption by the very investigative procedures, techniques, and strategies which these operational directives are intended to regulate. Moreover, the fact that these operational directives consolidate diverse sources of information makes their complete revelation even more problematic. While different entities and individuals may lack the capacity to gather discrete pieces of information to form a picture of the FBI's strategies, these operational directives do that work for them. Consequently, the release of these operational directives would increase the risk that targets of investigations could avoid detection or develop countermeasures to circumvent the ability of the FBI to effectively use these important national security and law enforcement techniques. Essentially, release of such operational directives would reveal the FBI's overarching investigative strategies in pursuing different types of criminal and national security investigations. For example, releasing operational directives concerning the creation and termination of Joint Task Forces and when and under what circumstances such task forces may be established or discontinued would provide

potential lawbreakers with a virtual playbook allowing them to modify their behaviors to limit when and how the FBI and its law enforcement partners engage in cooperation under such a program. Such a release would inform entities and individuals seeking to commit crimes or threaten the United States' national security, the investigative steps FBI will take and when and how they should modify their behaviors to avert the FBI's attempts to detect and/or disrupt their activities. As release of such information would greatly increase the risk that potential lawbreakers would be able to evade detection and/or be emboldened to engage in criminal activities, this information has been redacted pursuant to FOIA Exemption 7(E).

(b)(7)(E)-30: Resource Allocation

87. In Exemption category 7(E)-30, the FBI withheld the allocation of resources for joint units, squads, and investigative activities across the JTTF program. This includes when and under what circumstances the FBI and/or another JTTF member are responsible for providing financial, personal, or material resources in support of specific JTTF activities. For example, task force personnel may serve on more than one task force at any point in time with each task force having a separate division or office responsible for providing the financial and personnel support under their funded staffing level. By providing the details about when and under what circumstances various divisions, offices, or agencies are responsible for providing such resources, a potential criminal actor could tailor their activities or coordinate with other actors to target components with lower funding levels and/or fewer resources. Releasing this information would provide criminals attempting to circumvent the law insight into the amount of resources allocated by the FBI and its law enforcement partners to certain JTTF units, squads, and investigative activities. This information would, in turn, show how the FBI prioritizes its allocation of resources to different events over time. With that knowledge, an informed criminal

would choose to move his or her operations to a different location where they would be less likely to be detected, and thus would be able to circumvent the law.

88. In summary, the FBI withheld the allocation of resources for joint units, squads, and investigative activities across the JTTF program to prevent criminals from adjusting their behavior and activities to circumvent law enforcement efforts. Accordingly, the FBI properly withheld this information pursuant to Exemption 7(E).

CONSULTATIONS WITH OTHER GOVERNMENT AGENCIES¹²

89. The FBI consulted with the United States Marshals Service (USMS) concerning Bates pages: 24-cv-5722-264 – 24-cv-5722-310. USMS requested that information be withheld pursuant to FOIA Exemption 7(E). The Declaration of Kathleene Molen, attached hereto as **Exhibit O**, will address these withholdings.

90. The FBI consulted with the Office of the Director of National Intelligence (ODNI) concerning Bates pages: 249-258; 324-326; 343-349; and 358-373. ODNI requested that the FBI assert Exemption 3, citing 50 U.S.C §3024(i)(1), on their behalf. The FBI withheld this information on ODNI's behalf for the reasons discussed in paragraphs 38-42, *supra*.

91. The FBI consulted with the Department of Homeland Security (DHS) concerning Bates pages: 249-258; 324-340; 342-349; 358-360; and 370-378. DHS will be addressing their agency's withholdings in a separate declaration filed concurrently.

92. The FBI consulted with the United States Immigration and Customs Enforcement (ICE) concerning Bates pages: 350-351; 380; 383; 385; 387-390; and 392-393. ICE requested

¹² In addition to the Exemptions cited by the OGAs on the Bates pages listed, many pages include withholdings by multiple agencies and the FBI in tandem. For a full list of exemptions and agencies asserting those exemptions on a page-by-page level, please see the coded Vaughn Index at Exhibit N.

that information be withheld pursuant to FOIA Exemptions 5, 6, 7(C) and 7(E). ICE will be addressing their agency's withholdings in a separate declaration filed concurrently.

93. The FBI consulted with the Transportation Security Administration (TSA) concerning Bates pages: 236-237. TSA requested that information be withheld pursuant to FOIA Exemption 3. The Declaration of Christian Esteves, attached hereto as **Exhibit P**, will address these withholdings.¹³

FORESEEABLE HARM STANDARD

94. The FOIA Improvement Act of 2016 generally adopted the foreseeable harm standard and made it statutory, advising that agencies shall withhold information under the FOIA only if the agency reasonably foresees that disclosure would harm an interest protected by an exemption or disclosure is prohibited by law. Accordingly, the FBI's analysis of records responsive under the FOIA is a two-part process. First, the FBI determines whether a record (or a portion of a record) is exempt pursuant to one or more FOIA exemptions. Second, if the record (or portion thereof) is exempt pursuant to one or more FOIA exemptions, the FBI then considers whether foreseeable harm would result from disclosure of the record (or portion thereof). For the withheld records at issue here (or portions of withheld records), the FBI conducted this two-part analysis and only withheld records (or portions of records) where it determined the withheld record (or portion) met both of these criteria. The FBI's foreseeable harm is more fully described within each of the above coded exemption justification categories.¹⁴

¹³ Exemption (b)(5) was erroneously cited on Bates page 237. This code was applied in error and should be (b)(3). This has been corrected in the Vaughn Index in Exhibit N.

¹⁴ 5 U.S.C. § 552(a)(8)(A)(i)(II) does not impose a requirement to articulate harm for Exemption (b)(3).

SEGREGABILITY

95. As discussed in ¶ 4 *supra*, the FBI identified a total of 396 responsive pages: 50 Released in Full (RIF), 155 Released in Part (RIP), and 191 Withheld in Full (WIF). Each of these categories is discussed below to further address segregability.

- a. Pages RIF. Following a line-by-line segregability review, RIDS determined 50 pages could be released in full without redaction as there was no foreseeable harm to an interest protected by a FOIA exemption.
- b. Pages RIP. Following a line-by-line segregability review, RIDS determined 155 pages could be released in part with redactions per the identified FOIA exemptions herein. These pages comprise a mixture of material that could be segregated for release and material that was withheld as release would trigger foreseeable harm to one or more interests protected by the cited FOIA exemptions on these pages.
- c. Pages WIF. Following a line-by-line segregability review, RIDS determined 191 pages required withholding in their entirety. The FBI determined that all information on 29 of these pages was either fully covered by one or more of the cited FOIA exemptions or determined that any non-exempt information on these pages was so intertwined with exempt material, no information could be reasonably segregated for release. Any further segregation of this intertwined material would employ finite resources only to produce disjointed words, phrases, or sentences, that taken separately or together, would have minimal or no informational content. The FBI also withheld 162 pages because they were duplicates of pages accounted for elsewhere in the FBI's production. It is the

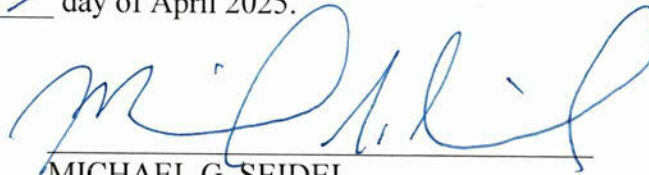
FBI's standard practice not to process duplicate pages, as doing so expends finite processing resources with a net result of no additional information being released to requesters.

CONCLUSION

96. The FBI performed adequate and reasonable searches for responsive records, processed all such records, and released all reasonably segregable non-exempt information from documents responsive to Plaintiffs' FOIA requests that are subject to FOIA. The FBI processed the records under the access provisions of the FOIA to achieve maximum disclosure. Information was properly withheld pursuant to FOIA Exemptions 3, 6, 7(C), and 7(E). The FBI carefully examined the documents and determined the information withheld from Plaintiffs in this case, if disclosed would reveal statutorily protected information; would cause a clearly unwarranted invasion of personal privacy, or could reasonably be expected to constitute an unwarranted invasion of personal privacy; and/or would disclose techniques and procedures for law enforcement investigations. After extensive review of the documents at issue, the FBI determined that there is no further non-exempt information that can be reasonably segregated and released without revealing exempt information.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct, and that Exhibits A through P attached hereto are true and correct copies.

Executed this 14th day of April 2025.



MICHAEL G. SEIDEL

Section Chief

Record/Information Dissemination Section

Information Management Division

Federal Bureau of Investigation

Winchester, Virginia

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit A

-----START MESSAGE----- Subject: eFOIA Request Received Sent: 2024-05-21T16:26:21.569367+00:00 Status: sent Message:

Organization Representative Information

Organization Name

Prefix

First Name

Middle Name

Last Name

Suffix

Email

Phone

Location

Domestic Address

Address Line 1

Address Line 2

City

State

Postal

Agreement to Pay

How you will pay

I am requesting a fee waiver for my request and have reviewed the FOIA reference guide. If my fee waiver is denied, I am willing to pay additional fees and will enter that maximum amount in the box below.

Allow up to \$

100

Proof Of Affiliation for Fee Waiver

Waiver Explanation

The ACLU requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative[] of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). Please see the attached FOIA request for further details.

Documentation Files

Non-Individual FOIA Request

Request Information

The ACLU requests all final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, legal opinions, and/or records created January 20, 2017 to the present, pertaining to (1) the extent to which JTTFs and fusion centers (a) monitor and collect information on people engaged in protest activity and/or (b) associate protest with “terrorism,” and (2) whether their privacy, civil rights, and civil liberties policies are adequate to guard against abuses and discrimination. Please see the attached FOIA request for further details of requested records.

Expedite

Expedite Reason

The ACLU requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E). There is a “compelling need” for these records, as defined in the statute, because the information requested is “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II). Please see the attached FOIA request for further details.

**

Please be advised that efoia@subscriptions.fbi.gov is a no-reply email address. Questions regarding your FOIA request may be directed to foipaquestions@fbi.gov. If you have received a FOIPA request number, please include this in all correspondence concerning your request. Please note eFOIPA requests are processed in the order that they are received. If you have not received a FOIPA request number, your request is in the process of being opened at which time it will be assigned a FOIPA request number and correspondence will be forthcoming.

**

Upon receipt of your FOIPA request number, you may check the status of your FOIPA request on the FBI's electronic FOIA Library (The Vault) on the FBI's public website, <http://vault.fbi.gov> by clicking on the 'Check Status of Your FOI/PA Request tool' link. Status updates are performed on a weekly basis. If you receive a comment that your FOIPA request number was not located in the database, please check back at a later date.

-----END MESSAGE-----



Aamra Ahmad
Senior Staff Attorney
National Security Project
ACLU National Legal Department

May 21, 2024

Federal Bureau of Investigation
Attn: FOIA/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

Arnetta Mallory
FOIA Initiatives Coordinator
National Security Division
Department of Justice
Room 6150
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Privacy Office, Mail Stop 0655
Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, D.C. 20528-065

**Re: Request Under Freedom of Information Act Concerning Joint
Terrorism Task Forces and Fusion Centers (Expedited Processing
and Fee Waiver Requested)**

To Whom It May Concern:

This letter constitutes a request ("Request") pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., and its implementing regulations.¹ The Request is submitted by the American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the "ACLU").² The Request seeks

¹ See 28 C.F.R. § 16 et seq. (Federal Bureau of Investigation, National Security Division); 6 C.F.R. § 5.1 et seq. (Department of Homeland Security).

² The American Civil Liberties Union Foundation is a 26 U.S.C. § 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil liberties cases and educates the public about civil rights and civil liberties issues across the country. The American



information from the Department of Justice (“DOJ”), the Federal Bureau of Investigation (“FBI”), and the Department of Homeland Security (“DHS”) pertaining to the use of Joint Terrorism Task Forces (“JTTFs”) and fusion centers to investigate, collect, and disseminate information on people engaged in protest and communities of color, and the adequacy of the privacy, civil rights, and civil liberties safeguards that apply to them.

JTTFs are FBI-operated task forces that establish formal partnerships between the FBI, state and local law enforcement agencies, and other federal law enforcement and intelligence agencies to conduct terrorism investigations. There are about 200 JTTFs throughout the country, including “at least one in each of the FBI’s 56 field offices.”³ Fusion centers are a network of 80 state-run entities developed and supported by DHS as intelligence hubs to collect and disseminate counterterrorism and other alleged criminal information.⁴ They receive funding, training, personnel, and other support from DHS.⁵

The public has little information about how either of these initiatives work and what privacy, civil rights, and civil liberties safeguards apply to them. This lack of information is also concerning because of credible media reports that JTTFs and fusion centers have been used to wrongly target protestors, communities of color, and those engaged in dissent.⁶

Civil Liberties Union is a separate non-profit, 26 U.S.C. § 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.

³ FBI, *Joint Terrorism Task Forces*, <https://perma.cc/6G6B-CGEG> (last visited May 15, 2024).

⁴ See Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110–53, § 511, 121 Stat. 317, 318–24 (2007), <https://perma.cc/VM7U-B6A8>; Staff of S. Perm. Subcomm. on Investigations, 112th Cong., Federal Support for and Involvement in State and Local Fusion Centers 12 (2012) (“Senate Fusion Centers Report”), <https://perma.cc/K6VB-7RDH>.

⁵ See, e.g., DHS, *National Network of Fusion Centers Assessment* (2021), <https://perma.cc/VX55-Q6A2>; John Rollins, Cong. Research Serv., RL34070, Fusion Centers: Issues and Options for Congress 41–42, 47 (updated Jan. 18, 2008), <https://perma.cc/JRJ8-NXWB>; Senate Fusion Centers Report at 20.

⁶ See, e.g., Mara Hvistendahl, *Austin Fusion Center Spied on Nonpolitical Cultural Events*, Intercept (Nov. 30, 2020), <https://theintercept.com/2020/11/30/austin-fusion-center-surveillance-black-lives-matter-cultural-events/>; Alex Kane, *The FBI is Using Unvetted, Right-Wing Blacklists to Question Activists About Their Support for Palestine*, Intercept (June 24, 2018), <https://theintercept.com/2018/06/24/students-for-justice-in-palestine-fbi-sjp/>; Jana Winter & Sharon Weinberger, *The FBI’s New U.S. Terrorist Threat: ‘Black Identity Extremists’*, Foreign Pol’y (Oct. 6,



This Request seeks information to educate the public about (1) the extent to which JTTFs and fusion centers (a) monitor and collect information on people engaged in protest activity and/or (b) associate protest with “terrorism,” and (2) whether their privacy, civil rights, and civil liberties policies are adequate to guard against abuses and discrimination.

I. Background

JTTFs and fusion centers have a long track record of surveilling and disseminating information on First Amendment-protected activity without a nexus to criminal conduct. Both the FBI and DHS should have appropriate policies to protect the public’s privacy, civil rights, and civil liberties when JTTFs and fusion centers conduct their activities.

JTTFs have a history of targeting social justice protesters without establishing a connection to wrongdoing. For example, in 2014, JTTFs targeted racial justice protesters in Minnesota and New York for surveillance after the police killings of Michael Brown and Eric Garner.⁷ During widespread protests for racial justice in 2020, precipitated by the police killings of George Floyd and other Black people, DOJ directed JTTFs to shift their focus to identifying “instigators” associated with the protests.⁸ In one such investigation, a Colorado Springs JTTF participant posed undercover as a racial justice protester for over a year to spy on local protesters and attempt to entice them to commit firearm offenses.⁹

Fusion centers around the country have collected and disseminated information on protest activity and protesters, even absent any allegation of

2017), <https://perma.cc/Q2E9-6ZGF>; Sam Levin, *Revealed: FBI Terrorism Taskforce Investigating Standing Rock Activists*, Guardian (Feb. 10, 2017), <https://perma.cc/Y8FC-J287>; Lee Fang, *Why Was an FBI Joint Terrorism Task Force Tracking a Black Lives Matter Protest?*, Intercept (Mar. 12, 2015), <https://theintercept.com/2015/03/12/fbi-appeared-use-informant-track-black-lives-matter-protest/>.

⁷ Fang, *supra* note 6; Alex Kane, *How the NYPD’s Counterterrorism Apparatus Is Being Turned on Protestors*, Vice (Jan. 19, 2015), <https://perma.cc/4MYG-745C>.

⁸ Att’y Gen. William Barr, *Statement to Federal and Local Law Enforcement Roundtable* (Jul. 9, 2020), YouTube, <https://perma.cc/RVH3-3Q4B>; Greg Walters, *Trump’s Feds Are Reviewing ‘All’ the Footage of 2020 Unrest for Possible Crimes*, Vice (Sept. 2, 2020), <https://perma.cc/RR2R-RKU7>; Press Release, Off. of Pub. Aff., DOJ, Attorney General William P. Barr’s Statement on Riots and Domestic Terrorism (May 31, 2020), <https://perma.cc/9WR4-6YVV>.

⁹ Trevor Aaronson, *The Honey Trap: The FBI Used an Undercover Cop with Pink Hair to Spy on Activists and Manufacture Crimes*, Intercept (May 30, 2020), <https://theintercept.com/2023/03/21/fbi-colorado-springs-surveillance/>.



wrongdoing. For example, in 2019, a fusion center in Iowa partnered with the FBI to run a drill to prepare for a purported wind farm attack by environmental activists, but both the fusion center and the FBI later issued reports admitting there was no evidence to substantiate that environmental advocates intended to commit such an attack.¹⁰ In another instance, in 2023, a fusion center in Missouri issued a bulletin to law enforcement partners that sought to connect environmentalists with violence by claiming that a new movie based on a fictional plot to bomb a pipeline could “inspire” environmentalists to engage in violence against critical infrastructure—even as the bulletin conceded that there was “no information on specific threats” to infrastructure.¹¹ Similarly, in Colorado in 2023, a fusion center issued a bulletin warning of a student walkout to protest gun violence without any evidence that the walkout raised any legitimate safety concern meriting law enforcement scrutiny.¹² And in Virginia, a fusion center sensationalized the activity of environmental activists opposed to the construction of a pipeline by issuing an intelligence assessment equating the activists’ tactics, which included ignoring law enforcement’s commands and threatening to boycott a local business patronized by pipeline workers, with bombings and other acts of physical violence committed by designated foreign terrorist organizations against the U.S. military.¹³

JTTFs and fusion centers also have a history of wrongfully targeting and infiltrating communities of color. For example, after 9/11, the FBI used JTTFs to conduct widespread “voluntary” interviews in Muslim communities during which

¹⁰ Alleen Brown, *Tilting at Windmills: The FBI Chased Imagined Eco-Activist Enemies, Documents Reveal*, Intercept (Aug. 24, 2020), <https://theintercept.com/2020/08/24/fbi-fusion-center-environmental-wind/>.

¹¹ Ken Klippenstein, *“How to Blow Up a Pipeline” Movie Poses Terror Threat, Kansas City Intel Agency Claims*, Intercept (Apr. 11, 2023), <https://theintercept.com/2023/04/11/how-to-blow-up-a-pipeline-movie/>.

¹² Ken Klippenstein, *Tasked with Stopping Terror, Colorado’s Intel Agency Monitors Students Protesting Gun Violence*, Intercept (Apr. 5, 2023), <https://theintercept.com/2023/04/05/colorado-student-gun-violence-protest/>.

¹³ Brown, *supra* note 10; Virginia Fusion Center, *VFC Intelligence Assessment 19-04: Criminal Environmental Groups Study and Adopt Militant Insurgent Strategies to Advance Goals in Virginia* (Sept. 3, 2019), <https://www.documentcloud.org/documents/7040982-Virginia-Fusion-Center-Criminal-Environmental.html> [<https://bit.ly/44Rn7CY>].



agents asked people about their political beliefs.¹⁴ In Chicago, a fusion center disseminated numerous Suspicious Activity Reports describing males who “appeared Middle Eastern” or “Arabic” and were engaged in the First Amendment-protected activity of taking photographs or saying the word “jihad,” which in Islam can refer to spiritual or personal struggle.¹⁵ More recently, some states have asserted an increased reliance on information-sharing through fusion centers and resource allocation to JTTFs to monitor local communities and protesters in response to the Israel-Gaza conflict.¹⁶

Despite the ongoing risks posed to privacy, civil rights, and civil liberties, JTTFs and fusion centers remain secretive and subject to scant oversight and accountability. JTTFs, for example, have been in operation since at least 1980,¹⁷ but their impact on privacy and civil rights and liberties has not been meaningfully evaluated by Inspector Generals, Congress, or other federal entities.¹⁸ The absence of meaningful public and congressional oversight is especially troubling since FBI task forces, including JTTFs, are structured to deputize state and local law enforcement participants as federal agents, and can thereby shield them from local

¹⁴ E.g., Jodi Wilogren, *A Nation Challenged: The Interviews; Michigan ‘Invites’ Men from Mideast to Be Interviewed*, N.Y. Times (Nov. 27, 2001), <https://www.nytimes.com/2001/11/27/us/nation-challenged-interviews-michigan-invites-men-mideast-be-interviewed.html>; Mary Beth Sheridan, *Interviews of Muslims to Broaden*, Wash. Post (Jul. 16, 2004), <https://perma.cc/4HYV-M28E>.

¹⁵ Open the Gov’t, *The Cost of Fear: Long-Cited Abuses Persist at U.S. Government-Funded Post-9/11 Fusion Centers* (Apr. 10, 2020), <https://www.openthegovernment.org/dhs-fusion-centers-full-report/> [<https://bit.ly/3QWmpOZ>].

¹⁶ Press Release, Kathy Hochul, Governor, N.Y. State, *Following Increase in Hate and Bias Incidents, Governor Hochul Deploys Additional Staff to Joint Terrorism Task Force* (Nov. 13, 2023), <https://perma.cc/7N58-VJM3>; *Massachusetts Authorities Prepared for Any Possible Israel, Hamas War Protests*, WCVB/ABC News (Oct. 13, 2023), <https://perma.cc/6HUC-GMLK>; Press Release, Greg Abbott, Governor, State of Tex., *Governor Abbott Vows Unwavering Support for Israel Amid Act of War* (Oct. 9, 2023), <https://perma.cc/34JF-YZRG>.

¹⁷ Off. of Inspector Gen., DHS, *Coordination Between FBI and ICE on Investigations of Terrorist Financing*, at 3 (July 2007), <https://perma.cc/5JD3-WLMM>.

¹⁸ Publicly available reports and investigations related to the work of JTTFs have so far not set out to consider the privacy, civil rights, and civil liberties impacts. See generally Off. of Inspector Gen., DHS, *HSI Effectively Contributes to the FBI’s Joint Terrorism Task Force, but Partnering Agreements Could be Improved* (Aug. 13, 2020), <https://perma.cc/K2TT-67GM>; Off. of Inspector Gen., Intelligence Community, DHS & DOJ, *Review of Domestic Sharing of Counterterrorism Information* (Mar. 2017), <https://perma.cc/FJ8G-M7R3>; Off. of Inspector Gen., DOJ, *The FBI’s Compliance with the Attorney General’s Investigative Guidelines* (Sept. 2005), <https://perma.cc/E3CC-BMRW>.



and state laws protecting civil rights and civil liberties.¹⁹ Indeed, police forces in a few of the nation's largest cities have chosen to leave FBI task forces because of disputes with federal officials over transparency and accountability for abuses.²⁰

Fusion centers similarly operate absent sufficient transparency and oversight. The only meaningful effort to conduct oversight of fusion centers was conducted by the U.S. Senate Permanent Subcommittee on Investigations over a decade ago. That 2012 investigation revealed that DHS's Office of Civil Rights and Civil Liberties had already made findings that DHS intelligence officials working at fusion centers had "overstepped legal boundaries" by "[r]eporting on First Amendment-protected activities lacking a nexus to violence or criminality; improperly characterizing political, religious or ideological speech that is not explicitly violent or criminal; and attributing to an entire group the violent or criminal acts of one or a limited number of the group's members."²¹ The Subcommittee's independent two-year investigation similarly concluded that fusion centers' reports were "oftentimes shoddy," "sometimes endangering citizens' civil liberties and Privacy Act protections," and "more often than not unrelated to terrorism."²²

In 2023, DOJ updated its nondiscrimination guidance,²³ and DHS adopted that same guidance pending a new department policy.²⁴ The DOJ nondiscrimination guidance applies to federal personnel, joint operations, and all federal task force participants, including state and local officers,²⁵ which would include JTTFs. It is

¹⁹ See Simone Weichselbaum, *Why Some Police Departments Are Leaving Federal Task Forces*, Marshall Project (Oct. 31, 2019), <https://perma.cc/C8FQ-UJJ8>.

²⁰ *Id.* (describing "clashes" between local law enforcement agencies and federal authorities after state and local officers working on federal task forces were shielded from accountability and transparency for shootings in Atlanta, Austin, and Albuquerque, including two that resulted in death).

²¹ Senate Fusion Centers Report at 36.

²² *Id.* at 1.

²³ See DOJ, *Guidance for Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, Gender Identity, and Disability* (May 2023) ("DOJ Nondiscrimination Guidance"), <https://perma.cc/7AYH-P3F9>.

²⁴ Mem. from DHS Sec'y Alejandro Mayorkas to DHS Agency and Off. Leaders, *Reaffirming the Commitment to Nondiscrimination in Department of Homeland Security Activities* (May 25, 2023), <https://perma.cc/WV4G-95H6>.

²⁵ DOJ Nondiscrimination Guidance at 2, 14.



unclear if and how this guidance applies to DHS-funded and supported fusion centers.

Although an improvement over previous guidance, the 2023 DOJ nondiscrimination guidance contains loopholes that permit national and homeland security and law enforcement agencies to rely on protected characteristics in their investigative and intelligence gathering activity.²⁶ The public needs to know if and how the 2023 guidance has been applied to and by JTTFs and fusion centers, and whether it is effective at protecting safeguarding rights and preventing discrimination.

It is critical that the public understand the nature of federal, state, and local collaboration in monitoring people engaged in dissent and its impact on privacy and civil rights and liberties.

II. Records Requested

1. All final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, and/or legal opinions created from January 20, 2017 to the present, pertaining to:
 - a. The use of JTTFs and/or fusion centers to collect information about, monitor, surveil, observe, question, interrogate, and/or investigate individuals or organizations engaged in protest;
 - b. The activities and/or predicate criteria that trigger JTTF and/or fusion center involvement, including the legal justification and/or factual showing required;
 - c. Intra-agency correspondence and correspondence among federal, state, and local law enforcement agencies pertaining to monitoring, surveilling, observing, questioning, interrogating, and/or otherwise investigating individuals or groups engaged in protest through or by JTTFs and/or fusion centers;
 - d. The collection, storage, use, and/or dissemination of data (including photographs, videos, and electronic surveillance records) obtained during and/or in connection with monitoring of individuals or groups engaged in protest through or by JTTFs and/or fusion centers; and

²⁶ See, e.g., Letter from ACLU, Brennan Ctr. for Just., NAACP Legal Def. and Educ. Fund, and Leadership Conf. on Civ. & Hum. Rts. to Lisa O. Monaco, Deputy Att'y Gen., DOJ, *Concerns About DOJ's 2023 Racial Profiling Guidance*, 2 (Oct. 21, 2023), <https://perma.cc/H63H-6S4C>.



- e. JTTFs and fusion centers' protection of privacy, civil rights, and civil liberties.
2. Records created from January 20, 2017 to the present, indicating:
 - a. The number of individuals whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests; and
 - b. The number and names of groups whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests; and
3. Records created from January 20, 2017, to the present concerning the definition of the following terms as used and applied by JTTFs and/or fusion centers:
 - a. "Racially or Ethnically Motivated Violent Extremism";²⁷
 - b. "Anti-Government or Anti-Authority Violent Extremism";²⁸
 - c. "Animal Rights or Environmental Violent Extremism";²⁹
 - d. "All Other Domestic Terrorism Threats";³⁰
 - e. "Abortion-Related Violent Extremism";³¹
 - f. "Domestic violent extremism";³²
 - g. "Domestic terrorism";³³
 - h. "Anarchist violent extremism";³⁴
 - i. "Radical agitators";³⁵

²⁷ FBI & DHS, *Strategic Intelligence Assessment and Data on Domestic Terrorism*, 4–5 (June 2023), <https://perma.cc/6M9P-3H55>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ Alleen Brown, *Federal Agencies Pushed Extreme View of Cop City Protesters, Records Show*, *Guardian* (Dec. 6, 2023), <https://perma.cc/SB2R-6MDD>; Adam Federman, *How the FBI Used Cop City Protests to Snoop on Activists in Chicago*, *Grist* (Mar. 23, 2023), <https://perma.cc/8HAY-ZWHH>.

³⁵ Press Release, Off. of Pub. Aff., DOJ, Attorney General William P. Barr's Statement on Riots and Domestic Terrorism (May 31, 2020), <https://perma.cc/9WR4-6YVV>.



- j. "Criminal organizers and instigators";³⁶
 - k. "Violent instigators";³⁷
 - l. "Antifa";³⁸ and
 - m. "Far-left extremists."³⁹
4. Records describing the process and/or procedures individuals may use to find out whether and what information about themselves has been collected and maintained by JTTFs and fusion centers, and the process by which any inaccurate information may be challenged and expunged.

* * *

Where a document contains information that falls into one or more of the categories described above, the ACLU seeks the entirety of that document. If processing the entirety of a given document would be unusually burdensome, we ask that you give us an opportunity to narrow our request. Please disclose all segregable portions of otherwise exempt records. *See* 5 U.S.C. § 552(b).

With respect to the form of production, the ACLU requests that responsive electronic records be provided electronically in their native file format. *See* 5 U.S.C. § 552(a)(3)(B). Alternatively, the ACLU requests that the records be provided electronically in a text- searchable, static-image format (PDF), in the best image quality in the agency's possession, and in separate, Bates-stamped files.

III. Request for Expedited Processing

The ACLU requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).⁴⁰ There is a "compelling need" for these records, as defined in the statute, because the information requested is "urgen[tly]" needed by an organization primarily engaged in disseminating information "to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II).

³⁶ *Id.*

³⁷ Press Release, Off. of Pub. Aff., DOJ, Attorney General William P. Barr's Remarks on Mr. George Floyd and Civil Unrest (June 4, 2020), <https://perma.cc/UA9Y-NWZ9>.

³⁸ *Id.*

³⁹ Phil McCausland, *Attorney General Barr Blames 'Far-Left Extremist Groups' for Violent Protests* (May 30, 2020), <https://perma.cc/W8K6-83CW>.

⁴⁰ *See also* 28 C.F.R. § 16.5(e) (DOJ, FBI); 6 C.F.R. § 5.5(e) (DHS).



- A. The ACLU is an organization primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.

The ACLU is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II).⁴¹ Obtaining information about government activity, analyzing that information, and widely publishing and disseminating it to the press and public are critical and substantial components of the ACLU’s work and are among its primary activities. *See ACLU v. DOJ*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information”).⁴²

The ACLU regularly publishes ACLU magazine, which reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 900,000 people. The ACLU also publishes regular updates and alerts via email to over 4.8 million subscribers (both ACLU members and non-members). These updates are additionally broadcast to over 6.6 million social media followers. The magazine as well as the email and social-media alerts often include descriptions and analysis of information obtained through FOIA requests.

The ACLU also regularly issues press releases to call attention to documents obtained through FOIA requests, as well as other breaking news,⁴³ and ACLU

⁴¹ *See also* 28 C.F.R. § 16.5(e)(1)(ii) (DOJ, FBI); 6 C.F.R. § 5.5(e)(1)(ii) (DHS).

⁴² Courts have found that the ACLU as well as other organizations with similar missions that engage in information-dissemination activities similar to the ACLU are “primarily engaged in disseminating information.” *See, e.g., Leadership Conference on Civil Rts. v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *ACLU*, 321 F. Supp. 2d at 29 n.5; *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).

⁴³ *See, e.g.,* Press Release, ACLU, Federal Court Permanently Blocks Billions of Dollars in Border Wall Construction (June 28, 2019), <https://perma.cc/TA87-2TQ8>; Press Release, ACLU, New Documents Reveal NSA Improperly Collected Americans’ Call Records Yet Again (June 26, 2019), <https://perma.cc/V2H6-4GHH>; Press Release, ACLU, ACLU and Center for Media Justice Sue FBI for Records on Surveillance of Black Activists (Mar. 21, 2019), <https://perma.cc/LY5L-BYF6>; Press Release, ACLU, Privacy International Demand Government Disclose Nature and Extent of Hacking Activities (Dec. 21, 2018), <https://perma.cc/WJ4J-KRD8>; Press Release, ACLU, New Documents Reveal Government Plans to Spy on Keystone XL Protesters (Sept. 4, 2018), <https://perma.cc/TD8G-9QYV>; Press Release, ACLU, ACLU Obtains Documents Showing Widespread Abuse of Child Immigrants in U.S. Custody (May 22, 2018), <https://perma.cc/K5TJ-8CLN>; Press Release, ACLU, ACLU Demands CIA Records on Campaign Supporting Haspel Nomination (May 4, 2018), <https://perma.cc/8LXC-G2LL>; Press Release, ACLU, Advocates File FOIA Request For ICE



attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests.⁴⁴

Similarly, the ACLU publishes reports about government conduct and civil liberties issues based on its analysis of information derived from various sources, including information obtained from the government through FOIA requests. This material is broadly circulated to the public and widely available to everyone for no cost or, sometimes, for a small fee. ACLU national projects regularly publish and disseminate reports that include a description and analysis of government documents obtained through FOIA requests.⁴⁵ The ACLU also regularly publishes

Documents on Detention of Pregnant Women (May 3, 2018), <https://perma.cc/ZR44-CDND>; Press Release, ACLU, Civil Rights Organizations Demand Police Reform Documents from Justice Department (Jan. 4, 2018), <https://perma.cc/D7AY-ZVY5>; Press Release, ACLU, ACLU Files Lawsuits Demanding Local Documents on Implementation of Muslim Ban (Apr. 12, 2017), <https://perma.cc/2DDL-6T92>; Press Release, ACLU, U.S. Releases Drone Strike 'Playbook' in Response to ACLU Lawsuit (Aug. 6, 2016), <https://perma.cc/VA4D-SRF6>; Press Release, ACLU, Secret Documents Describe Graphic Abuse and Admit Mistakes (June 14, 2016), <https://perma.cc/MGA4-H72E>; Press Release, ACLU, ACLU Sues for Bureau of Prisons Documents on Approval of CIA Torture Site (Apr. 14 2016), <https://perma.cc/Y3GA-9X69>; Press Release, ACLU, U.S. Releases Targeted Killing Memo in Response to Long-Running ACLU Lawsuit (June 23, 2014), <https://perma.cc/Z96W-3V6S>.

⁴⁴ See, e.g., Charlie Savage, *N.S.A. Gathered Domestic Calling Records It Had No Authority to Collect*, N.Y. Times (June 26, 2019), <https://www.nytimes.com/2019/06/26/us/telecom-nsa-domestic-calling-records.html> (quoting ACLU deputy project director Patrick Toomey); Rachel Frazin, *ACLU Sues FBI Over Black Activist Surveillance Records*, Hill (Mar. 21, 2019), <https://perma.cc/ZZ69-BFCE> (quoting former ACLU attorney Nusrat Choudhury); Cora Currier, *TSA's Own Files Show Doubtful Science Behind Its Behavioral Screen Program*, Intercept, Feb. 8, 2017, <https://perma.cc/XC6A-NR8T> (quoting former ACLU attorney Hugh Handeyside); Karen DeYoung, *Newly Declassified Document Sheds Light on How President Approves Drone Strikes*, Wash. Post, Aug. 6, 2016, <https://perma.cc/9EY3-Y827> (quoting former ACLU deputy legal director Jameel Jaffer); Catherine Thorbecke, *What Newly Released CIA Documents Reveal About 'Torture' in Its Former Detention Program*, ABC, June 15, 2016, <https://perma.cc/TK4G-MFMC> (quoting former ACLU staff attorney Dror Ladin); Nicky Woolf, *US Marshals Spent \$10M on Equipment for Warrantless Stingray Device*, Guardian, Mar. 17, 2016, <https://perma.cc/76B8-4ZUT> (quoting ACLU deputy project director Nate Wessler); David Welna, *Government Suspected of Wanting CIA Torture Report to Remain Secret*, NPR, Dec. 9, 2015, <https://perma.cc/P9Z6-HA4Z> (quoting ACLU project director Hina Shamsi).

⁴⁵ See, e.g., ACLU, *Bad Trip: Debunking the TSA's 'Behavior Detection' Program* (2017), <https://perma.cc/7HK6-8BPD>; Carl Takei, *ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA's Torture Site*, ACLU (Nov. 22, 2016), <https://perma.cc/B8YM-9YUD>; Brett Max Kaufman, *Details Abound in Drone 'Playbook' – Except for the Ones That Really Matter Most*, ACLU (Aug. 8, 2016), <https://perma.cc/6G59-L2AE>; ACLU, *Leaving Girls Behind: An Analysis of Washington D.C.'s "Empowering Males of Color" Initiative* (2016), <https://perma.cc/JCR6-578D>; Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, ACLU (Feb. 22, 2015), <https://perma.cc/Z9F9-RAW3>; Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights*, ACLU (Oct. 30, 2015),



books, “know your rights” materials, fact sheets, and educational brochures and pamphlets designed to educate the public about civil liberties issues and government policies that implicate civil rights and liberties.

The ACLU publishes a widely read blog where original editorial content reporting on and analyzing civil rights and civil liberties news is posted daily. See <https://www.aclu.org/blog>. The ACLU creates and disseminates original editorial and educational content on civil rights and civil liberties news through multi-media projects, including videos, podcasts, and interactive features. See <https://www.aclu.org/multimedia>. The ACLU also publishes, analyzes, and disseminates information through its heavily visited website, www.aclu.org. The website addresses civil rights and civil liberties issues in depth, provides features on civil rights and civil liberties issues in the news, and contains many thousands of documents relating to the issues on which the ACLU is focused. The ACLU’s website also serves as a clearinghouse for news about ACLU cases, as well as analysis about case developments and an archive of case-related documents. Through these pages, and with respect to each specific civil liberties issue, the ACLU provides the public with educational material, recent news, analyses of relevant Congressional or executive branch action, government documents obtained through FOIA requests, and further in-depth analytic and educational multi-media features.⁴⁶

The ACLU website includes many features on information obtained through the FOIA. The ACLU maintains an online “Torture Database,” a compilation of over 100,000 pages of FOIA documents that allows researchers and the public to conduct

<https://perma.cc/6579-K84Z>; Ashley Gorski, *New NSA Documents Shine More Light into Black Box of Executive Order 12333*, ACLU (Oct. 30, 2014), <https://perma.cc/E6J5-XVMN>.

⁴⁶ See, e.g., *ACLU v. ODNI – FOIA Lawsuit Seeking Records About Government Surveillance Under the USA Freedom Act*, ACLU (Apr. 2, 2019), <https://perma.cc/88CJ-CDHS>; *ACLU v. DOJ – FOIA Lawsuit Seeking Information on Federal Agencies’ Surveillance of Social Media*, ACLU (Mar. 26, 2019), <https://perma.cc/Y6S4-R2LB>; *ACLU v. DOJ – FOIA Case for Records Relating to Targeted Killing Law, Policy, and Casualties*, ACLU (Apr. 23, 2019), <https://perma.cc/ZXR8-XN2N>; *Executive Order 12,333 – FOIA Lawsuit*, ACLU (Dec. 3, 2018), <https://perma.cc/XA5U-3EA4>; *ACLU v. United States*, ACLU (Nov. 1, 2021), <https://perma.cc/AKJ4-VK8G> (ACLU motions requesting public access to FISA court rulings on government surveillance); *ACLU v. DOJ – FOIA Lawsuit Demanding OLC Opinion “Common Commercial Service Agreements,”* ACLU (Apr. 6, 2016), <https://perma.cc/8MM7-BM4L>; *FOIA Request for Justice Department Policy Memos on GPS Location Tracking*, ACLU (Mar. 12, 2014), <https://perma.cc/4YLP-DHE6>; *Florida Stingray FOIA*, ACLU (Feb. 22, 2015), <https://perma.cc/3C9Q-F9CG>; Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, ACLU (Feb. 22, 2015), <https://perma.cc/3WDP-T43Z>.



sophisticated searches of its contents relating to government policies on rendition, detention, and interrogation.⁴⁷ The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained through the FOIA.⁴⁸

The ACLU plans to analyze, publish, and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use and the requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

B. The records sought are urgently needed to inform the public about actual or alleged government activity.

These records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, the use of JTTFs and fusion centers to investigate protesters and communities of color raises significant privacy, civil rights, and civil liberties concerns. *See supra* Section I. Yet, there is little publicly-available information about how JTTFs and fusion centers gather, use, and disseminate information and data and the existence or effectiveness of any safeguards that are in place.

Specifically, the public does not know what activities JTTFs and fusion centers are engaging in; who they are targeting and how these targets are selected; what role state and local law enforcement entities are playing; and whether adequate safeguards are in place to ensure that protestors' liberties and rights are protected. Thus, timely access to information regarding JTTF and fusion center practices and policies to protect privacy, rights, and liberties is urgently needed to inform the public about this government activity, which has potentially far-reaching implications.

⁴⁷ *The Torture Database*, ACLU, <https://perma.cc/KVQ8-PWN4> (last visited Dec. 7, 2022); *see also* *Countering Violent Extremism FOIA Database*, ACLU, <https://perma.cc/2LJ8-Y6CR> (last visited Dec. 7, 2022); *TSA Behavior Detection FOIA Database*, ACLU, <https://perma.cc/G4YR-SM9Z> (last visited Dec. 7, 2022); *Targeted Killing FOIA Database*, ACLU, <https://perma.cc/C5C5-QD7U> (last visited Dec. 7, 2022).

⁴⁸ *Index of Bush-Era OLC Memoranda Relating to Interrogation, Detention, Rendition and/or Surveillance*, ACLU (Mar. 5, 2009), <https://perma.cc/885E-XY3K>; *Summary of FISA Amendments Act FOIA Documents Released on November 29, 2010*, ACLU (Nov. 29, 2010), <https://perma.cc/XP5V-8QRF>; *Statistics on NSLs Produced by Department of Defense*, ACLU, <https://perma.cc/G6BN-QQSR> (last visited Dec. 7, 2022).



IV. Application for Waiver or Limitation of Fees

The ACLU requests a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).⁴⁹ The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative[] of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

- A. The Request is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the ACLU.

As discussed above, credible media and other investigative accounts underscore the substantial public interest in the records sought through this Request. Given the ongoing and widespread media attention to this issue, the records sought will significantly contribute to public understanding of an issue of profound public importance. Because limited information about the JTTFs is publicly available, the records sought are certain to contribute significantly to the public’s understanding of the scope of involvement of these counter-terrorism tools in policing domestic protests.

The ACLU is not filing this Request to further its commercial interest. As described above, any information disclosed by the ACLU as a result of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (quotation marks omitted)).

- B. The ACLU is a representative of the news media and the records are not sought for commercial use.

The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative[] of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). The ACLU meets the statutory and regulatory definitions of a “representative of the news media” because

⁴⁹ See also 28 C.F.R. § 16.10(k)(2) (FBI, NSD); 6 C.F.R. § 5.11(b) (DHS).



it is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(III)⁵⁰; see also *Nat’l Sec. Archive v. DOD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA); *Serv. Women’s Action Network v. DOD*, 888 F. Supp. 2d 282 (D. Conn. 2012) (requesters, including ACLU, were representatives of the news media and thus qualified for fee waivers for FOIA requests to the Department of Defense and Department of Veterans Affairs); *ACLU of Wash. v. DOJ*, No. C09–0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding that the ACLU of Washington is an entity that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience”); *ACLU*, 321 F. Supp. 2d at 30 n.5 (finding non-profit public interest group to be “primarily engaged in disseminating information”). The ACLU is therefore a “representative of the news media” for the same reasons it is “primarily engaged in the dissemination of information.”

Furthermore, courts have found other organizations whose mission, function, publishing, and public education activities are similar in kind to the ACLU’s to be “representatives of the news media” as well. See, e.g., *Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat’l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. DOJ*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).⁵¹

On account of these factors, fees associated with responding to FOIA requests are regularly waived for the ACLU as a “representative of the news media.”⁵² As

⁵⁰ See also 28 C.F.R. § 16.10(b) (FBI, NSD); 6 C.F.R. § 5.11(b)(6) (DHS).

⁵¹ Courts have found these organizations to be “representatives of the news media” even though they engage in litigation and lobbying activities beyond their dissemination of information/public education activities. See, e.g., *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d; *Nat’l Sec. Archive*, 880 F.2d at 1387; see also *Leadership Conference on Civil Rts.*, 404 F. Supp. 2d at 260; *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53–54.

⁵² The ACLU regularly receives FOIA fee waivers from federal agencies. For example, in June 2018, the U.S. Citizenship and Immigration Services granted a fee-waiver request regarding a FOIA



was true in those instances, the ACLU meets the requirements for a fee waiver here.

* * *

Pursuant to applicable statute and regulations, we expect a determination regarding expedited processing within ten (10) calendar days. See 5 U.S.C. § 552(a)(6)(E)(ii)(I); 28 C.F.R. § 16.5(e)(4) (FBI, NSD); 6 C.F.R. § 5.5(e)(4) (DHS).

If the request is denied in whole or in part, the ACLU asks that you justify all withholdings by reference to specific exemptions to FOIA. The ACLU also asks that you release all segregable portions of otherwise exempt material in accordance with 5 U.S.C. § 552(b). Furthermore, if any documents responsive to this request are classified, please identify those documents, including a date and document number where possible, so we may begin the process of requesting a Mandatory Declassification Review under the terms of Executive Order 13,526. The ACLU reserves the right to appeal a decision to withhold any information or deny a waiver of fees.

Please send all correspondence and records relating to this request to Aamra Ahmad at aahmad@aclu.org

I certify that the foregoing information provided in support of the request for expedited processing is true and correct to the best of my knowledge and belief.

request for documents relating to the use of social media surveillance. In August 2017, CBP granted a fee-waiver request regarding a FOIA request for records relating to a muster sent by CBP in April 2017. In June 2017, the Department of Defense granted a fee-waiver request regarding a FOIA request for records pertaining to the authorities approved by President Trump in March 2017 which allowed U.S. involvement in Somalia. In June 2017, the Department of Defense, the CIA, and the Office of Inspector General granted fee-waiver requests regarding a FOIA request for records pertaining to U.S. involvement in the torture of detainees in prisons in Yemen, Eritrea, and aboard Yemeni or Emirati naval vessels. In May 2017, CBP granted a fee-waiver request regarding a FOIA request for documents related to electronic device searches at the border. In April 2017, the CIA and the Department of State granted fee-waiver requests in relation to a FOIA request for records related to the legal authority for the use of military force in Syria. In March 2017, the Department of Defense Office of Inspector General, the CIA, and the Department of State granted fee-waiver requests regarding a FOIA request for documents related to the January 29, 2017 raid in al Ghayil, Yemen. In June 2016, the Office of the Director of National Intelligence granted a fee-waiver request regarding a FOIA request related to policies and communications with social media companies' removal of "extremist" content. In May 2016, the FBI granted a fee-waiver request regarding a FOIA request issued to the Department of Justice for documents related to Countering Violent Extremism Programs.



Executed on the 21st day of May, 2024.

Sincerely,

A handwritten signature in black ink that reads "Aamra Ahmad". The signature is written in a cursive style with a horizontal line underneath it.

Aamra Ahmad
Senior Staff Attorney
National Security Project
American Civil Liberties Union
Foundation
915 15th Street NW
Washington, D.C. 20005
Tel: (202) 457-0800
aahmad@aclu.org

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit B



Federal Bureau of Investigation
Washington, D.C. 20535

June 5, 2024

AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15TH STREET NORTHWEST
WASHINGTON, DC 20005

FOIPA Request No.: NFP-161243
Subject: Various Records Pertaining to the Use of JTTFs
and Fusion Centers
(On or After January 20, 2017)

Dear Aamra Ahmad:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request. Below you will find informational paragraphs relevant to your request. Please read each item carefully.

The FOIPA requires agencies to provide access to reasonably described, nonexempt records [Title 5, United States Code, Section 552(a)(3)(A)]. The information requested in the referenced letter is not considered a FOIPA request because it does not comply with the FOIPA and its regulations. Therefore, your request is being administratively closed for one or more of the following reasons:

- ☐ The FOIPA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried data.
- ☐ Your request is too vague as it does not comply with the requirements of 28 CFR § 16.3(b). Your request lacks specificity; and therefore, the FBI cannot reasonably locate records with a "reasonable amount of effort."
- ☒ Your request is overly broad as it contains an overly long, indefinite, no date range or specific identifiers, and/or uses unexplained or unidentified terms and acronyms. Your request does not provide sufficient details to enable FBI personnel to locate potentially responsive records with a "reasonable amount of effort;" and therefore, we were unable to conduct a search of the Central Records System as your request does not comply with the requirements of 28 CFR § 16.3(b).
- ☐ Your request seeks information that does not fall under the purview of the FOIPA. The information requested in the referenced letter is not considered a FOIPA request because it does not comply with the requirements of 28 CFR § 16.3(b).

Examples of specific information which could assist in locating potentially responsive records within a reasonable amount of effort are as follows:

- Individuals
 - Complete name
 - Birth date
 - Place of birth
 - Place of death
 - Date of death
 - Date and location of incident
- Organizations or Events
 - Date of event
 - Time frame
 - Location

For questions on how to reasonably describe your request, please email us at foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request. Additional information about the FOIPA can be found at www.fbi.gov/foia.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", with a stylized flourish at the end.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit C

**Federal Bureau of Investigation**

Washington, D.C. 20535

June 5, 2024

AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15TH STREET NORTHWEST
WASHINGTON, DC 20005

FOIPA Request No.: NFP-161245
Subject: Number of Individuals or Groups whose activities
have been investigated by JTTFs and Fusion Centers in
connection with protests
(On or After January 20, 2017)

Dear Aamra Ahmad:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request. Below you will find informational paragraphs relevant to your request. Please read each item carefully.

The FOIPA requires agencies to provide access to reasonably described, nonexempt records [Title 5, United States Code, Section 552(a)(3)(A)]. The information requested in the referenced letter is not considered a FOIPA request because it does not comply with the FOIPA and its regulations. Therefore, your request is being administratively closed for one or more of the following reasons:

- ☒ The FOIPA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried data.
- ☐ Your request is too vague as it does not comply with the requirements of 28 CFR § 16.3(b). Your request lacks specificity; and therefore, the FBI cannot reasonably locate records with a "reasonable amount of effort."
- ☐ Your request is overly broad as it contains an overly long, indefinite, no date range or specific identifiers, and/or uses unexplained or unidentified terms and acronyms. Your request does not provide sufficient details to enable FBI personnel to locate potentially responsive records with a "reasonable amount of effort;" and therefore, we were unable to conduct a search of the Central Records System as your request does not comply with the requirements of 28 CFR § 16.3(b).
- ☐ Your request seeks information that does not fall under the purview of the FOIPA. The information requested in the referenced letter is not considered a FOIPA request because it does not comply with the requirements of 28 CFR § 16.3(b).

Examples of specific information which could assist in locating potentially responsive records within a reasonable amount of effort are as follows:

- Individuals
 - Complete name
 - Birth date
 - Place of birth
 - Place of death
 - Date of death
 - Date and location of incident
- Organizations or Events
 - Date of event
 - Time frame
 - Location

For questions on how to reasonably describe your request, please email us at foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request. Additional information about the FOIPA can be found at www.fbi.gov/foia.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", with a stylized flourish at the end.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit D



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

June 5, 2024

AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15TH STREET NORTHWEST
WASHINGTON, DC 20005

Request No.: NFP-161247
Subject: Definition of Terms Used and
Applied by JTTFs and Fusion Centers
(On or After January 20, 2017)

Dear Aamra Ahmad:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request. Please see the paragraphs below for relevant information about your request.

Your request for the above referenced subject is not searchable in our indices. The FBI Central Records System (CRS) is indexed according to investigatory interests, and it is not arranged in a manner that allows for the retrieval of information in the form you have requested. The FOIA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried data. Rather the FOIA requires agencies to provide access to reasonably described, nonexempt records. Therefore, your request is being administratively closed.

For questions on how to reasonably describe your request, please email us at foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request. Additional information about the FOIPA can be found at www.fbi.gov/foia.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of this response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", is positioned above the typed name.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit E



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

June 5, 2024

MS. AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15TH STREET NORTHWEST
WASHINGTON, DC 20005

FOIPA Request No.: 1637191-000
Subject: Process and Procedures Individuals May
Use to Find Information Collected and Maintained by
JTTFs and Fusion Centers

Dear Ms. Ahmad:

This is in response to your Freedom of Information Act (FOIA) request. Please see the paragraphs below for relevant information specific to your request as well as the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

Records responsive to your request are available for review on the following public website,
www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/freedom-of-information-privacy-act.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. **"Part 1"** of the Addendum includes standard responses that apply to all requests. **"Part 2"** includes additional standard responses that apply to all requests for records about yourself or any third party individuals. **"Part 3"** includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

Additional information about the FOIPA can be found at www.fbi.gov/foia. Should you have questions regarding your request, please feel free to contact foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of this response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", with a stylized flourish at the end.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Enclosures

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) **Requests for Confidential Informant Records.** The FBI can neither confirm nor deny the existence of confidential informant records pursuant to FOIA exemptions (b)(7)(D), (b)(7)(E), and (b)(7)(F) [5 U.S.C. § 552 (b)(7)(D), (b)(7)(E), and (b)(7)(F)] and Privacy Act exemption (j)(2) [5 U.S.C. § 552a (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records would reveal confidential informant identities and information, expose law enforcement techniques, and endanger the life or physical safety of individuals. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches and Standard Search Policy.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems, such as the Central Records System (CRS), or locations where responsive records would reasonably be found. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. The standard search policy is a search for main entity records in the CRS. Unless specifically requested, a standard search does not include a search for reference entity records, administrative records of previous FOIPA requests, or civil litigation files.
 - a. *Main Entity Records* – created for individuals or non-individuals who are the subjects or the focus of an investigation
 - b. *Reference Entity Records*- created for individuals or non-individuals who are associated with a case but are not known subjects or the focus of an investigation
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Foreseeable Harm Standard.** As amended in 2016, the Freedom of Information Act provides that a federal agency may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates, or (2) disclosure is prohibited by law (5 United States Code, Section 552(a)(8)(A)(i)). The FBI considers this foreseeable harm standard in the processing of its requests.
- (iv) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit F

From: FOIPAQUESTIONS
Sent: Wednesday, June 26, 2024 2:25 PM
To: Aamra Ahmad <aahmad@aclu.org>
Subject: RE: FOIA Request No. 1637191-000

Good afternoon,

Thank you for contacting foipaquestions@fbi.gov. This letter explains that the information you are seeking is already available for review on the website provided in the letter dated June 5, 2024.

Respectfully,

Public Information Officer
FBI - Information Management Division
200 Constitution Drive
Winchester, VA 22602
O: (540) 868-4593
E: foipaquestions@fbi.gov

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps> Status updates are performed on a weekly basis.

Note: This is a non-emergency email address. If this is an emergency, please call 911 directly. If you need to report a tip for immediate action, please contact FBI Tips at <http://tips.fbi.gov/> or reach out to your local field office.

From: Aamra Ahmad <aahmad@aclu.org>
Sent: Tuesday, June 18, 2024 10:36 AM
To: FOIPAQUESTIONS <FOIPAQUESTIONS@FBI.GOV>
Subject: [EXTERNAL EMAIL] - FOIA Request No. 1637191-000

I am writing about Request No. 1637191-000 to better understand the response that was sent on June 5, 2024. The response directs me to the FBI FOIA website. Is that a refusal to search for records?

Thanks,
Aamra Ahmad

Aamra S. Ahmad
Pronouns: she, her, hers
Senior Staff Attorney | National Security Project
American Civil Liberties Union

915 15th St. NW, Washington, DC 20005

aahmad@aclu.org

aclu.org  



This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply email that this message has been inadvertently transmitted to you and delete this email from your system.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit G

My Account Change Role Sign Out Help

HOME TRACKING INBOX SEARCH

Tracking Inbox » Appeal



A-2024-01981

Requester: Ahmad, Aamra

Status: Submitted Last Event: Appeal Submitted Last Event Date: 06/26/2024 Attorney:

Appeal Document Event Note

Appeal Information

Received Date	06/26/2024 (mm/dd/yyyy)	Agency	OIP
Due Date	07/25/2024	Document Delivery Method	Email
Receipt Method	Electronic	Topic	
Appeal Is In Litigation	No	Assigned Attorney	
Unusual Circumstances			
Track			
Significant Coordination	☐ Yes ☒ No		
	☐ Yes ☒ No		

Request Information

Request Number	NFP-161243, NFP-161245, NFP-161246
Component	FBI
Component Email	fbi.foipa.appeal@fbi.gov
Subject of Request	This Request seeks information to educate the public about the extent to which JTTFs and fusion centers monitor and collect information on people engaged in protest activity and/or associate protest with "terrorism," and whether their privacy, civil rights, and civil liberties policies are adequate to guard against abuses and discrimination.

Basis for Appeal

Description of Appeal

This request pertains to Request Numbers NFP-161243, NFP-161245, NFP-161247, and 1637191-000. The FBI fails to justify its response that the ACLU's request is over broad, especially when the request reasonably describes the records sought. The FBI has provided no explanation as to why Category 2 of the Request requires it to respond to inquiries, create records, conduct research or draw conclusions, especially when the Request only asks the FBI to search for responsive records. The FBI does not explain why it cannot search its databases for records responsive to Category 3 of the Request, or why the Request requires it to respond to inquiries, create records, conduct research or draw conclusions. The FBI is required to conduct an adequate search and process records responsive to Category 4 of the Request. Please see attached.

Based on Denial of Fee Waiver

☐ Yes ☒ No

Based on Denial of Expedited Processing

☐ Yes ☒ No

Requester Item Type 1

Supplemental Information ▼

Requester Items 1

 2024.06.26 FBI Admin Appeal.pdf [Replace | Remove]

Requester Item Type 2

▼

Requester Items 2

Requester Item Type 3

▼

Requester Items 3

Requester Contact Information

Search Requester

Salutation

▼

Address Type

Work

First Name

Aamra 

Country

United States

Middle Name

Address Line 1

915 15 h Street NW

Last Name

Ahmad 

Address Line 2

Email Address

nspintake@aclu.org 

City

Washington

Organization

American Civil Liberties Union Fou

State

District of Columbia

Register Number

Zip/Postal Code

20005

Phone Number

202-457-0800

Fax Number

Other Information

Expedited Processing Information

Expedited Processing Requested?

Yes ▼

Expedited Justification

See attached Request.

Expedited Processing Request Date

 (mm/dd/yyyy)

Expedited Processing Determination

▼

Standards for Expedition

- ☐ 1. Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.
- ☒ 2. An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information.
- ☐ 3. The loss of substantial due process rights.
- ☐ 4. A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence.

Form Record Audit

Save

Delete



Aamra Ahmad
Senior Staff Attorney
National Security Project
ACLU National Legal Department

June 26, 2024

Federal Bureau of Investigation
Director
Office of Information Policy (OIP)
United States Department of Justice
441 G Street, NW, 6th Floor
Washington, D.C. 20530
FOIA Public Liaison
Email: foipaquestions@fbi.gov

Re: Freedom of Information Act Appeal/Privacy Act Request Nos. NFP-161243, NFP-161245, NFP-161247, and 1637191-000

To Whom It May Concern:

The American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the “ACLU”) write to appeal the Federal Bureau of Investigation’s (“FBI”) responses, numbered NFP-161243, NFP-161245, NFP-161247, and 1637191-000, to the ACLU’s Freedom of Information Act (“FOIA”) Request dated May 21, 2024 (“Request,” attached as Exhibit A).

The FBI has made four separate responses to the Request, each dated June 5, 2024, and each applying to one or more of the four categories of records requested. *See* Exhibit B (FBI Request No. NFP-161243, responding to one or more categories of the Request), Exhibit C (FBI Request No. NFP-161245, responding to category 2 of the Request), Exhibit D (FBI Request No. NFP-161247, responding to category 3 of the Request), Exhibit E (FBI Request No. 1637191-000, responding to category 4 of the Request) (collectively, the “Responses”).

The FBI is refusing to search for records responsive to the Request (categories 1, 2, and 3 of the Request) and refusing to perform an adequate search for records sought in the fourth category (category 4 of the Request). With respect to categories 1, 2, and 3 of the Request, the FBI has refused to search for responsive records, asserting that the Request is “overly broad,” is “overly long, indefinite, [contains] no date range or specific identifiers, and/or uses unexplained or unidentified terms or acronyms,” and “does not provide sufficient details to enable FBI personnel to locate potentially responsive records with a ‘reasonable amount of effort.’” Ex. B at 1. Regarding category 2 of the Request, the FBI also asserts that



the Request does not “reasonably describe[]” the records sought because the Request would require the FBI to “answer inquiries, create records, conduct research, or draw conclusions concerning queried data.” Ex. C at 1. In response to category 3 of the Request, the FBI further asserts that this category is “not searchable” in the FBI Central Records System (“CRS”), and, as it did with category 2, that the FBI is not required to “answer inquiries, create records, conduct research, or draw conclusions concerning queried data.” *Id.* In response to category 4 of the Request, the FBI asserts that “[r]ecords responsive to [the] request are available for review” at the web address for the FBI’s Freedom of Information Act/Privacy Act webpage (<https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/freedom-of-information-privacy-act>), and attaching a form addendum with “standard responses applicable to all [FOIPA] requests.” Ex. E, at 1. The ACLU contacted the FBI to request clarification of its Response to category 4 of the Request, but the FBI’s response provides no further clarification and merely repeats the original response. *See* Ex. F.

The Responses are inadequate and violate FOIA for the reasons stated below.

1. The FBI does not explain why the Request is overly broad in scope, especially given the specific categories of records sought.

(a) The FBI fails to justify its Response that the ACLU’s Request is overbroad.

The FOIA and relevant case law require agencies responding to FOIA requests to provide reasons for their determinations. *See* 5 U.S.C. § 552(a)(6)(A)(i)–(I) (responding agency “shall immediately notify the person making such request of such determination and the reasons therefor”) (emphasis added); *Pollack v. Dep’t of Justice*, 49 F.3d 115, 118 (4th Cir. 1995) (agency must notify the requester of its decisions and provide reasons for those decisions). The regulation to which the FBI refers in its Responses, *see* Ex. B at 1; Ex. C at 1 (citing 28 C.F.R. § 16.3(b)), bears this out: “If after receiving a request a component determines that it does not reasonably describe the records sought, the component shall inform the requester what additional information is needed or why the request is otherwise insufficient.” Nonetheless, the FBI’s Response in Exhibit B that claims the Request is overly broad fails to explain why the Request is insufficient and what additional information is needed. *See* Ex. B at 1.

The Response fails to explain the FBI’s determination that the Request is



“overly broad” and “does not provide sufficient details to enable FBI personnel to locate potentially responsive records with a ‘reasonable amount of effort.’” Ex. B at 1. The FBI’s only explanation as to how the Request could be considered ambiguous is to say that it is “overly long, indefinite, [contains] no date range or specific identifiers, and/or uses unexplained or unidentified terms or acronyms.” *Id.* However, categories 1, 2, and 3 of the Request include a date range (“from January 20, 2017, to the present,” Ex. A at 7–9). Category 1 of the Request further specifies the types of records sought (e.g., “final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, and/or legal opinions,” *id.* 7) and the subject of the records sought (e.g., records on the “use of JTTFs and/or fusion centers to collect information about ... individuals and organizations engaged in protest” and the “criteria that trigger JTTF and/or fusion center involvement,” *id.*). Category 2 of the Request also specifies the subject of the records sought (e.g., records “indicating [t]he number of individuals whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests,” *id.* at 8). Category 3 of the Request specifies that the records sought concern the “definition[s]” of terms used by the FBI, *id.*, and lists those terms (such as “Abortion-Related Violent Extremism” and “[d]omestic terrorism,” *id.*). The single acronym used in the Request is explained (e.g., the Request defines “JTTFs” as Joint Terrorism Task Forces, *id.*, at 2), and for each term listed in category 3, the Request cites an example of the FBI using the term (*id.* 8–9, n. 27-39). Category 4 of the Request is also drafted with specificity as to the content of the records sought (e.g., records “describing the process and/or procedures” for individuals seeking to challenge information “about themselves” that has been “collected and maintained by JTTFs and fusion centers,” *id.* at 9).

In short and tellingly, the Response makes no attempt to address the individual categories of records sought in the Request or explain why the identified subjects and terms are lacking in specificity—it simply labels all of them overly broad.

Boilerplate language in the Response regarding the FBI’s preference for more specific information about the records sought does not render the Response adequate. The FBI’s Response provides “[e]xamples of specific information which could assist in locating potentially responsive records within a reasonable amount of effort,” including identifying information such as an individual’s name and birth date or an organization or event’s date or location.” Ex. B at 1. But the Request seeks information about records indicating whether and, if so, why and how, JTTFs and fusion centers have targeted individuals or organizations, which is information



only agencies possess. Thus, category 1 of the Request mentions individuals and organizations in reference to “the use of JTTFs and/or fusion centers to collect information about . . . individuals or organizations engaged in protest,” *id.* at 7; category 2 of the Request asks for the “number of individuals” investigated by JTTFs and fusion centers to learn the extent to which individuals are targeted, *id.* at 8; and category 3 of the Request asks for records “concerning the definition of [] terms” used by JTTFs and fusion centers, *id.* The boilerplate information referenced in the FBI’s Response is not in fact responsive.

Absent any further detail regarding which specific portions of paragraph 1, 2, and 3 of the Request purportedly do not reasonably describe the records sought, or what additional information is needed, the ACLU cannot clarify the Request or cure any alleged defects. For this reason, the Response is inadequate and the FBI must conduct an adequate search and process responsive records.

(b) The Request reasonably describes the records sought.

Each category of the ACLU’s Request reasonably describes the records sought and for this separate reason also, the Response in Exhibit B is both inadequate and erroneous.

To fulfill FOIA’s “strong presumption in favor of disclosure,” *U.S. Dep’t of State v. Ray*, 502 U.S. 164, 173 (1991), agencies must “‘make . . . records promptly available to any person,’ who submits a request that ‘(i) reasonably describes such records and (ii) is made in accordance with [the agency’s] published rules.’” *Republican Nat’l Comm. v. Dep’t of State*, 235 F. Supp. 3d 235, 239 (D.D.C. 2016) (alteration in original) (quoting 5 U.S.C. § 552(a)(3)(A)); *see also* 28 C.F.R. § 16.3(b). Records are reasonably described if the description “enable[s] a professional employee of the agency who [i]s familiar with the subject area of the request to locate the record with a reasonable amount of effort.” *Truitt v. Dep’t of State*, 897 F.2d 540, 545 n.36 (D.C. Cir. 1990) (internal quotations omitted); *accord, e.g., Marks v. U.S. Dep’t. of Justice*, 578 F.2d 261, 263 (9th Cir. 1978). “When the request demands all agency records on a given subject then the agency is obliged to pursue any ‘clear and certain’ lead it cannot in good faith ignore.” *Halpern v. FBI*, 181 F.3d 279, 288 (2d Cir. 1999) (quoting *Kowalczyk v. Dep’t of Justice*, 73 F.3d 386, 389 (D.C. Cir. 1996)). Moreover, “[i]n evaluating the description of the records sought and defining the scope of the concomitant search, an agency ‘ha[s] a duty to construe a FOIA request liberally.’” *Republican Nat’l Comm.*, 235 F. Supp. 3d at 239 (alteration in original) (quoting *People for the Ethical Treatment of Animals v. Nat’l*



Inst. Of Health, 745 F.3d 535, 540 (D.C. Cir. 2014)). Thus, “the government must use ‘some semblance of common sense’ in interpreting FOIA requests, and any ambiguous FOIA requests must be interpreted ‘liberally.’” *Pinson v. U.S. Dep’t of Justice*, 70 F. Supp. 3d 111, 121 (D.D.C. 2014) (quoting *Dale v. IRS*, 238 F. Supp. 2d 99, 105 (D.D.C. 2002); *LaCedra v. Exec. Off. for U.S. Attorneys*, 317 F.3d 345, 348 (D.C. Cir. 2003)).

Each category of the Request easily meets this standard and describes the records it seeks with more than adequate precision. As described above, Category 1 of the Request specifies the types of records sought, to include “final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, and/or legal opinions.” *Id.* 7. It also describes the subject of the records sought, including records on the “use of JTTFs and/or fusion centers to collect information about ... individuals and organizations engaged in protest” and the “criteria that trigger JTTF and/or fusion center involvement.” *Id.* Category 2 of the Request also details the subject of the records sought, namely records “indicating [t]he number of individuals” and “the number and names of groups” whose “activities have been investigated through or by JTTFs and/or fusion centers in connection with protests.” *Id.* at 8. Category 3 of the Request sets out that the records sought provide the “definition[s]” of terms used by the FBI, such as “Anarchist Violent Extremism” and “[r]adical agitators.” *Id.* Category 3 of the Request also provides the FBI with cites to specific documents and statements in which the FBI has used each of the listed terms. *Id.* 8–9, n. 27–39. Category 4 of the Request is equally specific as the others. It lays out that the records sought describe the “process and/or procedures” for individuals to find out what “information about themselves has been collected and maintained by JTTFs and fusion centers,” and the “process” for “challeng[ing] or expunge[ing]” inaccurate information. *Id.* at 9. Three of the categories also include a date limitation to help narrow the search for responsive records. *See* Request, Ex. A at 7–9 (requesting records “created from January 20, 2017 to present”).

Given the specificity of each category in the Request, FBI employees who are familiar with the FBI’s use of JTTFs and fusion centers to investigate, collect, and disseminate information on people engaged in protest and communities of color, and the privacy, civil rights, and civil liberties policies that apply to those entities, must pursue any clear leads in identifying potentially responsive records and use “some semblance of common sense” in interpreting the Request liberally. *See Truitt*, 897 F.2d at 545 n.36; *Halpern*, 181 F.3d at 288; *Pinson*, 70 F. Supp. 3d at 121. Notably, neither the Department of Homeland Security (“DHS”) Privacy Office nor DHS



Headquarters Office of Intelligence and Analysis (“I&A”) has determined that the Request does not reasonably describe the records sought. *See, e.g.*, DHS Privacy Office Response Letter (attached as Exhibit G); DHS I&A Response Letter (attached as Exhibit H).

The Request’s language, moreover, contrasts starkly with cases in which courts have found that FOIA requests failed to reasonably describe the requested records. For example, in *Yagman v. Pompeo*, 868 F.3d 1075 (9th Cir. 2017), the court concluded that a request for “[r]ecords/information” on “the names and company/organization affiliations of any CIA employees, agents, operatives, contractors, mercenaries, and/or companies who are alleged to have engaged in torture of persons” did not reasonably describe the records sought, because “Defendants would need to engage in quite a bit of guesswork to execute Yagman’s request.” *Id.* at 1078, 1081. *See also Freedom Watch, Inc. v. C.I.A.*, 895 F. Supp. 2d 221, 228–29 (D.D.C. 2012) (finding a request to be “vague” where it sought “any and all information ‘leaked’ or otherwise provided about a draft version of” a document because the requester did not define the term “leaks” and processing would require “federal employees to make complicated determinations about whether crimes have been committed”) (internal citation omitted)). Unlike these cases, the Request seeks specific types of records related to a specific subject matter—JTTFs and fusion centers’ investigation, collection, and dissemination of information on protesters and communities of color, and the privacy and civil rights and liberties policies that apply to them.

2. The FBI has provided no explanation as to why category 2 of the Request requires it to respond to inquiries, create records, conduct research, or draw conclusions, and the Request only asks the FBI to search for responsive records.

The Response to category 2 of the Request is both inadequate and erroneous. *See* Ex. C.

The Response to category 2 of the Request fails to explain the determination that the Request does not “reasonably describe[]” the records sought because it requires the FBI to “answer inquiries, create records, conduct research, or draw conclusions concerning queried data.” Ex. C at 1. As explained above, *see supra* at 2, the FBI must explain “what additional information is needed or why the request is otherwise insufficient.” 28 C.F.R. § 16.3(b); *see* 5 U.S.C. § 552(a)(6)(A)(i)–(I). Here,



the FBI made no attempt to explain how the Request could be considered an inquiry or require the FBI to create, rather than find, records, conduct research, or produce conclusions, nor did the FBI inform the ACLU what additional information might be needed to process the Request.

Moreover, the Response’s boilerplate language regarding the FBI’s preference for more identifying information for individuals, organizations, and events, *see* Ex. B at 1, does not render the Response adequate. Category 2(a) of the Request seeks records “indicating the *number* of individuals” investigated by JTTFs and fusion centers in connection with protests, Ex. A at 8 (emphasis added). The FBI can and must conduct a search for and process existing records that contain this information. It can and should in addition conduct a search for and process records of investigations or other records (with legitimate and appropriate withholdings invoked and explained) sufficient to allow the ACLU and the public to ascertain the number of individuals investigated by JTTFs and Fusion Centers as the Request seeks.

Similarly, Category 2(b) of the Request also seeks the “*number and names* of groups” investigated by JTTFs and fusion centers in connection with protests, *id.* at 8 (emphasis added). Again, the FBI can and must conduct a search for and process existing records that contain this information. It can and must in addition conduct a search for and process records of investigations or other records sufficient to allow the ACLU and the public to ascertain the number and names of groups investigated by JTTFs and Fusion Centers as the Request seeks.

The FBI’s Response in Exhibit B is inadequate because it has failed to justify it with the required explanation and it is also in any event erroneous.

3. The FBI does not explain why it cannot search its databases for records responsive to category 3 of the Request, or why the Request requires it to respond to inquiries, create records, conduct research, or draw conclusions.

The FBI’s Response to category 3 of the Request is also both inadequate and erroneous. *See* Ex. D.

First, the Response to category 3 of the Request fails to explain the determination that the “referenced subject” is “not searchable” in CRS and that a search for responsive records would require the FBI to “answer inquiries, create



records, conduct research, or draw conclusions concerning queried data.” Ex. D. As explained above, *see supra* at 2, the FBI is required to explain “what additional information is needed or why the request is otherwise insufficient.” 28 C.F.R. § 16.3(b); *see* 5 U.S.C. § 552(a)(6)(A)(i)–(I). Here, the FBI made no attempt to explain why the Request cannot be searched in CRS or why a search would require the FBI to answer inquiries, create, rather than find, records, conduct research, or produce conclusions. The FBI has also failed to inform the ACLU what additional information might be needed to process the Request. Because the FBI has failed to explain why a search for responsive records would require it to answer questions and create new records, the ACLU cannot clarify the Request or address any alleged defects.

Second and separately, the FBI is incorrect in asserting that a search for responsive records would require the FBI to “answer inquiries, create records, conduct research, or draw conclusions.” *See* Ex. D. This category of the Request, as with all other categories of the Request, does not ask the FBI to create records, do research, or make conclusions. *See* Ex. A at 8–9. Instead, the Request seeks records that “defin[e]” enumerated terms that are used to describe people and groups engaged in protest activity. *Id.* The Request seeks records that have already been created and that define, use, and apply definitions of the specific terms, *see, e.g.*, Ex. A at 8–9, n. 27–39, and an FBI search for and processing of responsive records does not require the creation of new records or formulation of answers to questions.

The Response is also incorrect in asserting that the records referenced in category 3 of the Request cannot be searched in the CRS. There can be no serious question that the CRS contains records responsive to this category of the Request, given the FBI’s extensive, publicly acknowledged use of the enumerated terms. In fact, the Request cites examples of the FBI using each of the 13 terms listed in the Request. As noted in the Request, as recently as 2023, the FBI and DHS published a report entitled “Strategic Intelligence Assessment and Data on Domestic Terrorism,” which discusses the first seven terms listed in category 3 of the Request. Ex. A at 8, n. 27–33. The FBI used another one of the terms, “Anarchist Violent Extremists,” to refer to protesters opposed to the construction of Cop City in Atlanta. *Id.* at 8, n. 34. The remaining five terms included in the Request were used by then-Attorney General William Barr in public statements. *Id.* at 8–9, n. 35–39. The FBI has a statutory obligation to identify these records “manually or by automated means.” 5 U.S.C. § 552(a)(3)(D). This is true regardless of how the CRS is indexed. *See Rosenfeld v. U.S. Dep’t of Just.*, No. C 07-3240 MHP, 2010 WL 3448517, at *4 (N.D. Cal. Sept. 1, 2010) (“The FBI agent’s decision to index or not to



index . . . does not inform the FOIA analysis.”); *Colgan v. Dep’t of Just.*, No. 14-CV-740 (TSC), 2020 WL 2043828, at *5 (D.D.C. Apr. 28, 2020) (“[A]n agency’s FOIA duties are not limited to the ‘traditional’ or ‘routine’ procedures it uses to respond to FOIA requests. The FBI must conduct a search reasonably calculated to discover and release responsive records.”).

In addition to searching the CRS, the FBI must also search for responsive records in its other databases or repositories that are reasonably likely to contain responsive records, including but not limited to the Electronic Surveillance (“ELSUR”) records system and the Electronic Case File (“ECF”) records system. Where technologically possible, the FBI must electronically search the text of the documents in the relevant records systems, rather than simply searching for agency-assigned index terms, “keywords,” or other metadata.¹ The FBI “cannot limit its search to only one record system if there are others that are likely to turn up the information requested.” *Int’l Couns. Bureau v. United States Dep’t of Def.*, 101 F. Supp. 3d 48, 50–51 (D.D.C. 2015) (quoting *Oglesby v. U.S. Dep’t of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)). Therefore, the FBI must not restrict its search to CRS.

Additionally, manual searches with qualified personnel should also be conducted. Category 3 of the Request seeks records concerning the definitions of terms that may not be captured by electronic searches. For example, we understand that keyword searches of the CRS do not always search for specified terms in the text of CRS documents, but for tags or other metadata that the agency has chosen to associate with documents in the CRS. The Response suggests that, because of the way the CRS is indexed, such keyword searches will not, on their own, be an adequate method of identifying responsive records. Ex. D. Accordingly, in order to comply with FOIA, the FBI must confer with personnel whose work relates to the matters described in the Request in order to manually identify responsive records. See 5 U.S.C. § 552(a)(3)(D).

For these reasons, it is not plausible that the FBI cannot conduct searches in CRS, other databases, and manually for records sought in category 3 of the Request.

4. The FBI is required to conduct an adequate search and process records

¹ See *FOIA Trial Offers Rare Look into How FBI Searches Records, Responds to Requests*, Reporters Committee for Freedom of the Press (June 18, 2015), <https://www.rcfp.org/foia-trial-offers-rare-look-how-fbi-searches-records-responds-reques/>.



responsive to Category 4 of the Request.

The FBI's response to paragraph 4 of the Request merely directs the ACLU to the FBI's Freedom of Information Act/Privacy Act webpage and the FBI FOIPA Addendum form, *see* Ex. E, and this generic response is inadequate to meet its obligations under the FOIA.

"An inadequate search for records constitutes an improper withholding under the FOIA." *Dean v. U.S. Dep't of Justice*, 141 F. Supp. 3d 46, 48 (D.D.C. 2015). "An agency's search is adequate if its methods are reasonably calculated to locate records responsive to a FOIA request." *Hodge v. FBI*, 764 F. Supp. 2d 134, 141 (D.D.C. 2011); *see also* 28 C.F.R. § 16.3(b) (explaining that FOIA requires agencies to "locate [records requested] with a reasonable amount of effort."). By providing a generic response that fails to identify responsive documents, the FBI has violated 5 U.S.C. § 552(a)(6)(A). To the extent that this failure is attributable to the adequacy of the FBI's search for responsive records, the FBI violated 5 U.S.C. § 552(a)(3)(C) and (D), which requires the agency to make "reasonable efforts" to "review agency records for the purpose of locating" records "responsive to the request." Here, FBI has failed to fulfil its obligations under the FOIA.

First, the FBI has failed to explain why it has not searched for records responsive to category 4 of the Request. The FBI asserts that it had "relevant information specific to [the] request," and "responsive" records are available on its public FOIA website, but it does not specify what agency components or records repositories and databases were searched, nor the search terms or methods used to seek responsive records. Because an agency "cannot limit its search to only one record system if there are others that are likely to turn up the information requested," *Oglesby v. U.S. Dep't of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990), the agency "at a minimum ha[s] to aver that it has searched all files likely to contain relevant documents." *AIC v. DHS*, 950 F. Supp. 2d 221, 230 (D.D.C. 2013). Here, the FBI has not made any such assertion, and its response to the ACLU's request for clarification merely repeats the original response. *See* Ex. F.

Second, it is not plausible that a search by the FBI would fail to produce responsive records other than those provided in the letter responding to paragraph 4 of the Request—the FBI's Freedom of Information Act/Privacy Act webpage and its FOIA Addendum. *See* Ex. E. Given that the FBI has used JTTFs to target racial justice protesters and conduct widespread interviews in Muslim communities, *see* Ex. A at 4–5, it is not credible that the FBI does not have the records sought in



category 4 of the Request, which should describe the process and procedures in place for individuals to find out whether and what information about themselves has been collected and maintained by JTTFs and fusion centers, and the process by which any inaccurate information may be challenged and expunged, Ex. A at 9.

Boilerplate language in the Response listing the FBI's "standard responses" and exemptions do not render the Response adequate. Category 4 of the Request seeks records describing the "process and/or procedures" for individuals to "find out whether and what information about themselves has been collected and maintained by JTTFs and fusion centers" and "the process by which any inaccurate information may be challenged or expunged." Ex. A at 9. To the extent the FBI asserts that any such records are exempt, it can and should in addition conduct a search for and process records of investigations or other records (with legitimate and appropriate withholdings invoked and explained).

The FBI's decision to not search for records responsive to category 4 of the Request was in error, and it should promptly process responsive records.

For all these reasons, the FBI should process the Request, do so on an expedited basis, conduct an adequate search for responsive documents, and produce documents consistent with its obligations under the FOIA and FBI regulations.

Sincerely,

/s/ Aamra Ahmad
Aamra Ahmad
Senior Staff Attorney
National Security Project
American Civil Liberties
Union Foundation
915 15th Street NW
Washington, D.C. 20005
Tel: (202) 457-0800
aahmad@aclu.org

Exhibit A



Aamra Ahmad
Senior Staff Attorney
National Security Project
ACLU National Legal Department

May 21, 2024

Federal Bureau of Investigation
Attn: FOIA/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

Arnetta Mallory
FOIA Initiatives Coordinator
National Security Division
Department of Justice
Room 6150
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Privacy Office, Mail Stop 0655
Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, D.C. 20528-065

**Re: Request Under Freedom of Information Act Concerning Joint
Terrorism Task Forces and Fusion Centers (Expedited Processing
and Fee Waiver Requested)**

To Whom It May Concern:

This letter constitutes a request (“Request”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., and its implementing regulations.¹ The Request is submitted by the American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the “ACLU”).² The Request seeks

¹ See 28 C.F.R. § 16 et seq. (Federal Bureau of Investigation, National Security Division); 6 C.F.R. § 5.1 et seq. (Department of Homeland Security).

² The American Civil Liberties Union Foundation is a 26 U.S.C. § 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil liberties cases and educates the public about civil rights and civil liberties issues across the country. The American



information from the Department of Justice (“DOJ”), the Federal Bureau of Investigation (“FBI”), and the Department of Homeland Security (“DHS”) pertaining to the use of Joint Terrorism Task Forces (“JTTFs”) and fusion centers to investigate, collect, and disseminate information on people engaged in protest and communities of color, and the adequacy of the privacy, civil rights, and civil liberties safeguards that apply to them.

JTTFs are FBI-operated task forces that establish formal partnerships between the FBI, state and local law enforcement agencies, and other federal law enforcement and intelligence agencies to conduct terrorism investigations. There are about 200 JTTFs throughout the country, including “at least one in each of the FBI’s 56 field offices.”³ Fusion centers are a network of 80 state-run entities developed and supported by DHS as intelligence hubs to collect and disseminate counterterrorism and other alleged criminal information.⁴ They receive funding, training, personnel, and other support from DHS.⁵

The public has little information about how either of these initiatives work and what privacy, civil rights, and civil liberties safeguards apply to them. This lack of information is also concerning because of credible media reports that JTTFs and fusion centers have been used to wrongly target protestors, communities of color, and those engaged in dissent.⁶

Civil Liberties Union is a separate non-profit, 26 U.S.C. § 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.

³ FBI, *Joint Terrorism Task Forces*, <https://perma.cc/6G6B-CGEG> (last visited May 15, 2024).

⁴ See Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110–53, § 511, 121 Stat. 317, 318–24 (2007), <https://perma.cc/VM7U-B6A8>; Staff of S. Perm. Subcomm. on Investigations, 112th Cong., Federal Support for and Involvement in State and Local Fusion Centers 12 (2012) (“Senate Fusion Centers Report”), <https://perma.cc/K6VB-7RDH>.

⁵ See, e.g., DHS, *National Network of Fusion Centers Assessment* (2021), <https://perma.cc/VX55-Q6A2>; John Rollins, Cong. Research Serv., RL34070, *Fusion Centers: Issues and Options for Congress 41–42*, 47 (updated Jan. 18, 2008), <https://perma.cc/JRJ8-NXWB>; Senate Fusion Centers Report at 20.

⁶ See, e.g., Mara Hvistendahl, *Austin Fusion Center Spied on Nonpolitical Cultural Events*, Intercept (Nov. 30, 2020), <https://theintercept.com/2020/11/30/austin-fusion-center-surveillance-black-lives-matter-cultural-events/>; Alex Kane, *The FBI is Using Unvetted, Right-Wing Blacklists to Question Activists About Their Support for Palestine*, Intercept (June 24, 2018), <https://theintercept.com/2018/06/24/students-for-justice-in-palestine-fbi-sjp/>; Jana Winter & Sharon Weinberger, *The FBI’s New U.S. Terrorist Threat: ‘Black Identity Extremists’*, Foreign Pol’y (Oct. 6,



This Request seeks information to educate the public about (1) the extent to which JTTFs and fusion centers (a) monitor and collect information on people engaged in protest activity and/or (b) associate protest with “terrorism,” and (2) whether their privacy, civil rights, and civil liberties policies are adequate to guard against abuses and discrimination.

I. Background

JTTFs and fusion centers have a long track record of surveilling and disseminating information on First Amendment-protected activity without a nexus to criminal conduct. Both the FBI and DHS should have appropriate policies to protect the public’s privacy, civil rights, and civil liberties when JTTFs and fusion centers conduct their activities.

JTTFs have a history of targeting social justice protesters without establishing a connection to wrongdoing. For example, in 2014, JTTFs targeted racial justice protesters in Minnesota and New York for surveillance after the police killings of Michael Brown and Eric Garner.⁷ During widespread protests for racial justice in 2020, precipitated by the police killings of George Floyd and other Black people, DOJ directed JTTFs to shift their focus to identifying “instigators” associated with the protests.⁸ In one such investigation, a Colorado Springs JTTF participant posed undercover as a racial justice protester for over a year to spy on local protesters and attempt to entice them to commit firearm offenses.⁹

Fusion centers around the country have collected and disseminated information on protest activity and protesters, even absent any allegation of

2017), <https://perma.cc/Q2E9-6ZGF>; Sam Levin, *Revealed: FBI Terrorism Taskforce Investigating Standing Rock Activists*, Guardian (Feb. 10, 2017), <https://perma.cc/Y8FC-J287>; Lee Fang, *Why Was an FBI Joint Terrorism Task Force Tracking a Black Lives Matter Protest?*, Intercept (Mar. 12, 2015), <https://theintercept.com/2015/03/12/fbi-appeared-use-informant-track-black-lives-matter-protest/>.

⁷ Fang, *supra* note 6; Alex Kane, *How the NYPD’s Counterterrorism Apparatus Is Being Turned on Protestors*, Vice (Jan. 19, 2015), <https://perma.cc/4MYG-745C>.

⁸ Att’y Gen. William Barr, *Statement to Federal and Local Law Enforcement Roundtable* (Jul. 9, 2020), YouTube, <https://perma.cc/RVH3-3Q4B>; Greg Walters, *Trump’s Feds Are Reviewing ‘All’ the Footage of 2020 Unrest for Possible Crimes*, Vice (Sept. 2, 2020), <https://perma.cc/RR2R-RKU7>; Press Release, Off. of Pub. Aff., DOJ, Attorney General William P. Barr’s Statement on Riots and Domestic Terrorism (May 31, 2020), <https://perma.cc/9WR4-6YVV>.

⁹ Trevor Aaronson, *The Honey Trap: The FBI Used an Undercover Cop with Pink Hair to Spy on Activists and Manufacture Crimes*, Intercept (May 30, 2020), <https://theintercept.com/2023/03/21/fbi-colorado-springs-surveillance/>.



wrongdoing. For example, in 2019, a fusion center in Iowa partnered with the FBI to run a drill to prepare for a purported wind farm attack by environmental activists, but both the fusion center and the FBI later issued reports admitting there was no evidence to substantiate that environmental advocates intended to commit such an attack.¹⁰ In another instance, in 2023, a fusion center in Missouri issued a bulletin to law enforcement partners that sought to connect environmentalists with violence by claiming that a new movie based on a fictional plot to bomb a pipeline could “inspire” environmentalists to engage in violence against critical infrastructure—even as the bulletin conceded that there was “no information on specific threats” to infrastructure.¹¹ Similarly, in Colorado in 2023, a fusion center issued a bulletin warning of a student walkout to protest gun violence without any evidence that the walkout raised any legitimate safety concern meriting law enforcement scrutiny.¹² And in Virginia, a fusion center sensationalized the activity of environmental activists opposed to the construction of a pipeline by issuing an intelligence assessment equating the activists’ tactics, which included ignoring law enforcement’s commands and threatening to boycott a local business patronized by pipeline workers, with bombings and other acts of physical violence committed by designated foreign terrorist organizations against the U.S. military.¹³

JTTFs and fusion centers also have a history of wrongfully targeting and infiltrating communities of color. For example, after 9/11, the FBI used JTTFs to conduct widespread “voluntary” interviews in Muslim communities during which

¹⁰ Alleen Brown, *Tilting at Windmills: The FBI Chased Imagined Eco-Activist Enemies, Documents Reveal*, Intercept (Aug. 24, 2020), <https://theintercept.com/2020/08/24/fbi-fusion-center-environmental-wind/>.

¹¹ Ken Klippenstein, *“How to Blow Up a Pipeline” Movie Poses Terror Threat, Kansas City Intel Agency Claims*, Intercept (Apr. 11, 2023), <https://theintercept.com/2023/04/11/how-to-blow-up-a-pipeline-movie/>.

¹² Ken Klippenstein, *Tasked with Stopping Terror, Colorado’s Intel Agency Monitors Students Protesting Gun Violence*, Intercept (Apr. 5, 2023), <https://theintercept.com/2023/04/05/colorado-student-gun-violence-protest/>.

¹³ Brown, *supra* note 10; Virginia Fusion Center, *VFC Intelligence Assessment 19-04: Criminal Environmental Groups Study and Adopt Militant Insurgent Strategies to Advance Goals in Virginia* (Sept. 3, 2019), <https://www.documentcloud.org/documents/7040982-Virginia-Fusion-Center-Criminal-Environmental.html> [<https://bit.ly/44Rn7CY>].



agents asked people about their political beliefs.¹⁴ In Chicago, a fusion center disseminated numerous Suspicious Activity Reports describing males who “appeared Middle Eastern” or “Arabic” and were engaged in the First Amendment-protected activity of taking photographs or saying the word “jihad,” which in Islam can refer to spiritual or personal struggle.¹⁵ More recently, some states have asserted an increased reliance on information-sharing through fusion centers and resource allocation to JTTFs to monitor local communities and protesters in response to the Israel-Gaza conflict.¹⁶

Despite the ongoing risks posed to privacy, civil rights, and civil liberties, JTTFs and fusion centers remain secretive and subject to scant oversight and accountability. JTTFs, for example, have been in operation since at least 1980,¹⁷ but their impact on privacy and civil rights and liberties has not been meaningfully evaluated by Inspector Generals, Congress, or other federal entities.¹⁸ The absence of meaningful public and congressional oversight is especially troubling since FBI task forces, including JTTFs, are structured to deputize state and local law enforcement participants as federal agents, and can thereby shield them from local

¹⁴ E.g., Jodi Wilogren, *A Nation Challenged: The Interviews; Michigan ‘Invites’ Men from Mideast to Be Interviewed*, N.Y. Times (Nov. 27, 2001), <https://www.nytimes.com/2001/11/27/us/nation-challenged-interviews-michigan-invites-men-mideast-be-interviewed.html>; Mary Beth Sheridan, *Interviews of Muslims to Broaden*, Wash. Post (Jul. 16, 2004), <https://perma.cc/4HYV-M28E>.

¹⁵ Open the Gov’t, *The Cost of Fear: Long-Cited Abuses Persist at U.S. Government-Funded Post-9/11 Fusion Centers* (Apr. 10, 2020), <https://www.openthegovernment.org/dhs-fusion-centers-full-report/> [<https://bit.ly/3QWmpOZ>].

¹⁶ Press Release, Kathy Hochul, Governor, N.Y. State, Following Increase in Hate and Bias Incidents, Governor Hochul Deploys Additional Staff to Joint Terrorism Task Force (Nov. 13, 2023), <https://perma.cc/7N58-VJM3>; *Massachusetts Authorities Prepared for Any Possible Israel, Hamas War Protests*, WCVB/ABC News (Oct. 13, 2023), <https://perma.cc/6HUC-GMLK>; Press Release, Greg Abbott, Governor, State of Tex., Governor Abbott Vows Unwavering Support for Israel Amid Act of War (Oct. 9, 2023), <https://perma.cc/34JF-YZRG>.

¹⁷ Off. of Inspector Gen., DHS, *Coordination Between FBI and ICE on Investigations of Terrorist Financing*, at 3 (July 2007), <https://perma.cc/5JD3-WLMM>.

¹⁸ Publicly available reports and investigations related to the work of JTTFs have so far not set out to consider the privacy, civil rights, and civil liberties impacts. See generally Off. of Inspector Gen., DHS, *HSI Effectively Contributes to the FBI’s Joint Terrorism Task Force, but Partnering Agreements Could be Improved* (Aug. 13, 2020), <https://perma.cc/K2TT-67GM>; Off’s. of Inspector Gen., Intelligence Community, DHS & DOJ, *Review of Domestic Sharing of Counterterrorism Information* (Mar. 2017), <https://perma.cc/FJ8G-M7R3>; Off. of Inspector Gen., DOJ, *The FBI’s Compliance with the Attorney General’s Investigative Guidelines* (Sept. 2005), <https://perma.cc/E3CC-BMRW>.



and state laws protecting civil rights and civil liberties.¹⁹ Indeed, police forces in a few of the nation's largest cities have chosen to leave FBI task forces because of disputes with federal officials over transparency and accountability for abuses.²⁰

Fusion centers similarly operate absent sufficient transparency and oversight. The only meaningful effort to conduct oversight of fusion centers was conducted by the U.S. Senate Permanent Subcommittee on Investigations over a decade ago. That 2012 investigation revealed that DHS's Office of Civil Rights and Civil Liberties had already made findings that DHS intelligence officials working at fusion centers had "overstepped legal boundaries" by "[r]eporting on First Amendment-protected activities lacking a nexus to violence or criminality; improperly characterizing political, religious or ideological speech that is not explicitly violent or criminal; and attributing to an entire group the violent or criminal acts of one or a limited number of the group's members."²¹ The Subcommittee's independent two-year investigation similarly concluded that fusion centers' reports were "oftentimes shoddy," "sometimes endangering citizens' civil liberties and Privacy Act protections," and "more often than not unrelated to terrorism."²²

In 2023, DOJ updated its nondiscrimination guidance,²³ and DHS adopted that same guidance pending a new department policy.²⁴ The DOJ nondiscrimination guidance applies to federal personnel, joint operations, and all federal task force participants, including state and local officers,²⁵ which would include JTTFs. It is

¹⁹ See Simone Weichselbaum, *Why Some Police Departments Are Leaving Federal Task Forces*, Marshall Project (Oct. 31, 2019), <https://perma.cc/C8FQ-UJJ8>.

²⁰ *Id.* (describing "clashes" between local law enforcement agencies and federal authorities after state and local officers working on federal task forces were shielded from accountability and transparency for shootings in Atlanta, Austin, and Albuquerque, including two that resulted in death).

²¹ Senate Fusion Centers Report at 36.

²² *Id.* at 1.

²³ See DOJ, *Guidance for Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, Gender Identity, and Disability* (May 2023) ("DOJ Nondiscrimination Guidance"), <https://perma.cc/7AYH-P3F9>.

²⁴ Mem. from DHS Sec'y Alejandro Mayorkas to DHS Agency and Off. Leaders, *Reaffirming the Commitment to Nondiscrimination in Department of Homeland Security Activities* (May 25, 2023), <https://perma.cc/WV4G-95H6>.

²⁵ DOJ Nondiscrimination Guidance at 2, 14.



unclear if and how this guidance applies to DHS-funded and supported fusion centers.

Although an improvement over previous guidance, the 2023 DOJ nondiscrimination guidance contains loopholes that permit national and homeland security and law enforcement agencies to rely on protected characteristics in their investigative and intelligence gathering activity.²⁶ The public needs to know if and how the 2023 guidance has been applied to and by JTTFs and fusion centers, and whether it is effective at protecting safeguarding rights and preventing discrimination.

It is critical that the public understand the nature of federal, state, and local collaboration in monitoring people engaged in dissent and its impact on privacy and civil rights and liberties.

II. Records Requested

1. All final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, and/or legal opinions created from January 20, 2017 to the present, pertaining to:
 - a. The use of JTTFs and/or fusion centers to collect information about, monitor, surveil, observe, question, interrogate, and/or investigate individuals or organizations engaged in protest;
 - b. The activities and/or predicate criteria that trigger JTTF and/or fusion center involvement, including the legal justification and/or factual showing required;
 - c. Intra-agency correspondence and correspondence among federal, state, and local law enforcement agencies pertaining to monitoring, surveilling, observing, questioning, interrogating, and/or otherwise investigating individuals or groups engaged in protest through or by JTTFs and/or fusion centers;
 - d. The collection, storage, use, and/or dissemination of data (including photographs, videos, and electronic surveillance records) obtained during and/or in connection with monitoring of individuals or groups engaged in protest through or by JTTFs and/or fusion centers; and

²⁶ See, e.g., Letter from ACLU, Brennan Ctr. for Just., NAACP Legal Def. and Educ. Fund, and Leadership Conf. on Civ. & Hum. Rts. to Lisa O. Monaco, Deputy Att'y Gen., DOJ, *Concerns About DOJ's 2023 Racial Profiling Guidance*, 2 (Oct. 21, 2023), <https://perma.cc/H63H-6S4C>.



- e. JTTFs and fusion centers' protection of privacy, civil rights, and civil liberties.
2. Records created from January 20, 2017 to the present, indicating:
 - a. The number of individuals whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests; and
 - b. The number and names of groups whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests; and
3. Records created from January 20, 2017, to the present concerning the definition of the following terms as used and applied by JTTFs and/or fusion centers:
 - a. "Racially or Ethnically Motivated Violent Extremism";²⁷
 - b. "Anti-Government or Anti-Authority Violent Extremism";²⁸
 - c. "Animal Rights or Environmental Violent Extremism";²⁹
 - d. "All Other Domestic Terrorism Threats";³⁰
 - e. "Abortion-Related Violent Extremism";³¹
 - f. "Domestic violent extremism";³²
 - g. "Domestic terrorism";³³
 - h. "Anarchist violent extremism";³⁴
 - i. "Radical agitators";³⁵

²⁷ FBI & DHS, *Strategic Intelligence Assessment and Data on Domestic Terrorism*, 4–5 (June 2023), <https://perma.cc/6M9P-3H55>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ Alleen Brown, *Federal Agencies Pushed Extreme View of Cop City Protesters, Records Show*, *Guardian* (Dec. 6, 2023), <https://perma.cc/SB2R-6MDD>; Adam Federman, *How the FBI Used Cop City Protests to Snoop on Activists in Chicago*, *Grist* (Mar. 23, 2023), <https://perma.cc/8HAY-ZWHH>.

³⁵ Press Release, Off. of Pub. Aff., DOJ, Attorney General William P. Barr's Statement on Riots and Domestic Terrorism (May 31, 2020), <https://perma.cc/9WR4-6YVV>.



- j. “Criminal organizers and instigators”;³⁶
 - k. “Violent instigators”;³⁷
 - l. “Antifa”;³⁸ and
 - m. “Far-left extremists.”³⁹
4. Records describing the process and/or procedures individuals may use to find out whether and what information about themselves has been collected and maintained by JTTFs and fusion centers, and the process by which any inaccurate information may be challenged and expunged.

* * *

Where a document contains information that falls into one or more of the categories described above, the ACLU seeks the entirety of that document. If processing the entirety of a given document would be unusually burdensome, we ask that you give us an opportunity to narrow our request. Please disclose all segregable portions of otherwise exempt records. *See* 5 U.S.C. § 552(b).

With respect to the form of production, the ACLU requests that responsive electronic records be provided electronically in their native file format. *See* 5 U.S.C. § 552(a)(3)(B). Alternatively, the ACLU requests that the records be provided electronically in a text- searchable, static-image format (PDF), in the best image quality in the agency’s possession, and in separate, Bates-stamped files.

III. Request for Expedited Processing

The ACLU requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).⁴⁰ There is a “compelling need” for these records, as defined in the statute, because the information requested is “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

³⁶ *Id.*

³⁷ Press Release, Off. of Pub. Aff., DOJ, Attorney General William P. Barr’s Remarks on Mr. George Floyd and Civil Unrest (June 4, 2020), <https://perma.cc/UA9Y-NWZ9>.

³⁸ *Id.*

³⁹ Phil McCausland, *Attorney General Barr Blames ‘Far-Left Extremist Groups’ for Violent Protests* (May 30, 2020), <https://perma.cc/W8K6-83CW>.

⁴⁰ *See also* 28 C.F.R. § 16.5(e) (DOJ, FBI); 6 C.F.R. § 5.5(e) (DHS).



- A. The ACLU is an organization primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.

The ACLU is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II).⁴¹ Obtaining information about government activity, analyzing that information, and widely publishing and disseminating it to the press and public are critical and substantial components of the ACLU’s work and are among its primary activities. *See ACLU v. DOJ*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information”).⁴²

The ACLU regularly publishes ACLU magazine, which reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 900,000 people. The ACLU also publishes regular updates and alerts via email to over 4.8 million subscribers (both ACLU members and non-members). These updates are additionally broadcast to over 6.6 million social media followers. The magazine as well as the email and social-media alerts often include descriptions and analysis of information obtained through FOIA requests.

The ACLU also regularly issues press releases to call attention to documents obtained through FOIA requests, as well as other breaking news,⁴³ and ACLU

⁴¹ *See also* 28 C.F.R. § 16.5(e)(1)(ii) (DOJ, FBI); 6 C.F.R. § 5.5(e)(1)(ii) (DHS).

⁴² Courts have found that the ACLU as well as other organizations with similar missions that engage in information-dissemination activities similar to the ACLU are “primarily engaged in disseminating information.” *See, e.g., Leadership Conference on Civil Rts. v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *ACLU*, 321 F. Supp. 2d at 29 n.5; *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).

⁴³ *See, e.g.*, Press Release, ACLU, Federal Court Permanently Blocks Billions of Dollars in Border Wall Construction (June 28, 2019), <https://perma.cc/TA87-2TQ8>; Press Release, ACLU, New Documents Reveal NSA Improperly Collected Americans’ Call Records Yet Again (June 26, 2019), <https://perma.cc/V2H6-4GHH>; Press Release, ACLU, ACLU and Center for Media Justice Sue FBI for Records on Surveillance of Black Activists (Mar. 21, 2019), <https://perma.cc/LY5L-BYF6>; Press Release, ACLU, Privacy International Demand Government Disclose Nature and Extent of Hacking Activities (Dec. 21, 2018), <https://perma.cc/WJ4J-KRD8>; Press Release, ACLU, New Documents Reveal Government Plans to Spy on Keystone XL Protesters (Sept. 4, 2018), <https://perma.cc/TD8G-9QYV>; Press Release, ACLU, ACLU Obtains Documents Showing Widespread Abuse of Child Immigrants in U.S. Custody (May 22, 2018), <https://perma.cc/K5TJ-8CLN>; Press Release, ACLU, ACLU Demands CIA Records on Campaign Supporting Haspel Nomination (May 4, 2018), <https://perma.cc/8LXC-G2LL>; Press Release, ACLU, Advocates File FOIA Request For ICE



attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests.⁴⁴

Similarly, the ACLU publishes reports about government conduct and civil liberties issues based on its analysis of information derived from various sources, including information obtained from the government through FOIA requests. This material is broadly circulated to the public and widely available to everyone for no cost or, sometimes, for a small fee. ACLU national projects regularly publish and disseminate reports that include a description and analysis of government documents obtained through FOIA requests.⁴⁵ The ACLU also regularly publishes

Documents on Detention of Pregnant Women (May 3, 2018), <https://perma.cc/ZR44-CDND>; Press Release, ACLU, Civil Rights Organizations Demand Police Reform Documents from Justice Department (Jan. 4, 2018), <https://perma.cc/D7AY-ZVY5>; Press Release, ACLU, ACLU Files Lawsuits Demanding Local Documents on Implementation of Muslim Ban (Apr. 12, 2017), <https://perma.cc/2DDL-6T92>; Press Release, ACLU, U.S. Releases Drone Strike ‘Playbook’ in Response to ACLU Lawsuit (Aug. 6, 2016), <https://perma.cc/VA4D-SRF6>; Press Release, ACLU, Secret Documents Describe Graphic Abuse and Admit Mistakes (June 14, 2016), <https://perma.cc/MGA4-H72E>; Press Release, ACLU, ACLU Sues for Bureau of Prisons Documents on Approval of CIA Torture Site (Apr. 14 2016), <https://perma.cc/Y3GA-9X69>; Press Release, ACLU, U.S. Releases Targeted Killing Memo in Response to Long-Running ACLU Lawsuit (June 23, 2014), <https://perma.cc/Z96W-3V6S>.

⁴⁴ See, e.g., Charlie Savage, *N.S.A. Gathered Domestic Calling Records It Had No Authority to Collect*, N.Y. Times (June 26, 2019), <https://www.nytimes.com/2019/06/26/us/telecom-nsa-domestic-calling-records.html> (quoting ACLU deputy project director Patrick Toomey); Rachel Frazin, *ACLU Sues FBI Over Black Activist Surveillance Records*, Hill (Mar. 21, 2019), <https://perma.cc/ZZ69-BFCE> (quoting former ACLU attorney Nusrat Choudhury); Cora Currier, *TSA’s Own Files Show Doubtful Science Behind Its Behavioral Screen Program*, Intercept, Feb. 8, 2017, <https://perma.cc/XC6A-NR8T> (quoting former ACLU attorney Hugh Handeyside); Karen DeYoung, *Newly Declassified Document Sheds Light on How President Approves Drone Strikes*, Wash. Post, Aug. 6, 2016, <https://perma.cc/9EY3-Y827> (quoting former ACLU deputy legal director Jameel Jaffer); Catherine Thorbecke, *What Newly Released CIA Documents Reveal About ‘Torture’ in Its Former Detention Program*, ABC, June 15, 2016, <https://perma.cc/TK4G-MPMC> (quoting former ACLU staff attorney Dror Ladin); Nicky Woolf, *US Marshals Spent \$10M on Equipment for Warrantless Stingray Device*, Guardian, Mar. 17, 2016, <https://perma.cc/76B8-4ZUT> (quoting ACLU deputy project director Nate Wessler); David Welna, *Government Suspected of Wanting CIA Torture Report to Remain Secret*, NPR, Dec. 9, 2015, <https://perma.cc/P9Z6-HA4Z> (quoting ACLU project director Hina Shamsi).

⁴⁵ See, e.g., ACLU, *Bad Trip: Debunking the TSA’s ‘Behavior Detection’ Program* (2017), <https://perma.cc/7HK6-8BPD>; Carl Takei, *ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA’s Torture Site*, ACLU (Nov. 22, 2016), <https://perma.cc/B8YM-9YUD>; Brett Max Kaufman, *Details Abound in Drone ‘Playbook’ – Except for the Ones That Really Matter Most*, ACLU (Aug. 8, 2016), <https://perma.cc/6G59-L2AE>; ACLU, *Leaving Girls Behind: An Analysis of Washington D.C.’s “Empowering Males of Color” Initiative* (2016), <https://perma.cc/JCR6-578D>; Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, ACLU (Feb. 22, 2015), <https://perma.cc/Z9F9-RAW3>; Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights*, ACLU (Oct. 30, 2015),



books, “know your rights” materials, fact sheets, and educational brochures and pamphlets designed to educate the public about civil liberties issues and government policies that implicate civil rights and liberties.

The ACLU publishes a widely read blog where original editorial content reporting on and analyzing civil rights and civil liberties news is posted daily. See <https://www.aclu.org/blog>. The ACLU creates and disseminates original editorial and educational content on civil rights and civil liberties news through multi-media projects, including videos, podcasts, and interactive features. See <https://www.aclu.org/multimedia>. The ACLU also publishes, analyzes, and disseminates information through its heavily visited website, www.aclu.org. The website addresses civil rights and civil liberties issues in depth, provides features on civil rights and civil liberties issues in the news, and contains many thousands of documents relating to the issues on which the ACLU is focused. The ACLU’s website also serves as a clearinghouse for news about ACLU cases, as well as analysis about case developments and an archive of case-related documents. Through these pages, and with respect to each specific civil liberties issue, the ACLU provides the public with educational material, recent news, analyses of relevant Congressional or executive branch action, government documents obtained through FOIA requests, and further in-depth analytic and educational multi-media features.⁴⁶

The ACLU website includes many features on information obtained through the FOIA. The ACLU maintains an online “Torture Database,” a compilation of over 100,000 pages of FOIA documents that allows researchers and the public to conduct

<https://perma.cc/6579-K84Z>; Ashley Gorski, *New NSA Documents Shine More Light into Black Box of Executive Order 12333*, ACLU (Oct. 30, 2014), <https://perma.cc/E6J5-XVMN>.

⁴⁶ See, e.g., *ACLU v. ODNI – FOIA Lawsuit Seeking Records About Government Surveillance Under the USA Freedom Act*, ACLU (Apr. 2, 2019), <https://perma.cc/88CJ-CDHS>; *ACLU v. DOJ – FOIA Lawsuit Seeking Information on Federal Agencies’ Surveillance of Social Media*, ACLU (Mar. 26, 2019), <https://perma.cc/Y6S4-R2LB>; *ACLU v. DOJ – FOIA Case for Records Relating to Targeted Killing Law, Policy, and Casualties*, ACLU (Apr. 23, 2019), <https://perma.cc/ZXR8-XN2N>; *Executive Order 12,333 – FOIA Lawsuit*, ACLU (Dec. 3, 2018), <https://perma.cc/XA5U-3EA4>; *ACLU v. United States*, ACLU (Nov. 1, 2021), <https://perma.cc/AKJ4-VK8G> (ACLU motions requesting public access to FISA court rulings on government surveillance); *ACLU v. DOJ – FOIA Lawsuit Demanding OLC Opinion “Common Commercial Service Agreements,”* ACLU (Apr. 6, 2016), <https://perma.cc/8MM7-BM4L>; *FOIA Request for Justice Department Policy Memos on GPS Location Tracking*, ACLU (Mar. 12, 2014), <https://perma.cc/4YLP-DHE6>; *Florida Stingray FOIA*, ACLU (Feb. 22, 2015), <https://perma.cc/3C9Q-F9CG>; Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, ACLU (Feb. 22, 2015), <https://perma.cc/3WDP-T43Z>.



sophisticated searches of its contents relating to government policies on rendition, detention, and interrogation.⁴⁷ The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained through the FOIA.⁴⁸

The ACLU plans to analyze, publish, and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use and the requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

B. The records sought are urgently needed to inform the public about actual or alleged government activity.

These records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, the use of JTTFs and fusion centers to investigate protesters and communities of color raises significant privacy, civil rights, and civil liberties concerns. *See supra* Section I. Yet, there is little publicly-available information about how JTTFs and fusion centers gather, use, and disseminate information and data and the existence or effectiveness of any safeguards that are in place.

Specifically, the public does not know what activities JTTFs and fusion centers are engaging in; who they are targeting and how these targets are selected; what role state and local law enforcement entities are playing; and whether adequate safeguards are in place to ensure that protestors' liberties and rights are protected. Thus, timely access to information regarding JTTF and fusion center practices and policies to protect privacy, rights, and liberties is urgently needed to inform the public about this government activity, which has potentially far-reaching implications.

⁴⁷ *The Torture Database*, ACLU, <https://perma.cc/KVQ8-PWN4> (last visited Dec. 7, 2022); *see also* *Countering Violent Extremism FOIA Database*, ACLU, <https://perma.cc/2LJ8-Y6CR> (last visited Dec. 7, 2022); *TSA Behavior Detection FOIA Database*, ACLU, <https://perma.cc/G4YR-SM9Z> (last visited Dec. 7, 2022); *Targeted Killing FOIA Database*, ACLU, <https://perma.cc/C5C5-QD7U> (last visited Dec. 7, 2022).

⁴⁸ *Index of Bush-Era OLC Memoranda Relating to Interrogation, Detention, Rendition and/or Surveillance*, ACLU (Mar. 5, 2009), <https://perma.cc/885E-XY3K>; *Summary of FISA Amendments Act FOIA Documents Released on November 29, 2010*, ACLU (Nov. 29, 2010), <https://perma.cc/XP5V-8QRF>; *Statistics on NSLs Produced by Department of Defense*, ACLU, <https://perma.cc/G6BN-QQSR> (last visited Dec. 7, 2022).



IV. Application for Waiver or Limitation of Fees

The ACLU requests a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).⁴⁹ The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative[] of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

A. The Request is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the ACLU.

As discussed above, credible media and other investigative accounts underscore the substantial public interest in the records sought through this Request. Given the ongoing and widespread media attention to this issue, the records sought will significantly contribute to public understanding of an issue of profound public importance. Because limited information about the JTTFs is publicly available, the records sought are certain to contribute significantly to the public’s understanding of the scope of involvement of these counter-terrorism tools in policing domestic protests.

The ACLU is not filing this Request to further its commercial interest. As described above, any information disclosed by the ACLU as a result of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (quotation marks omitted)).

B. The ACLU is a representative of the news media and the records are not sought for commercial use.

The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative[] of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). The ACLU meets the statutory and regulatory definitions of a “representative of the news media” because

⁴⁹ See also 28 C.F.R. § 16.10(k)(2) (FBI, NSD); 6 C.F.R. § 5.11(b) (DHS).



it is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(III)⁵⁰; see also *Nat’l Sec. Archive v. DOD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA); *Serv. Women’s Action Network v. DOD*, 888 F. Supp. 2d 282 (D. Conn. 2012) (requesters, including ACLU, were representatives of the news media and thus qualified for fee waivers for FOIA requests to the Department of Defense and Department of Veterans Affairs); *ACLU of Wash. v. DOJ*, No. C09–0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding that the ACLU of Washington is an entity that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience”); *ACLU*, 321 F. Supp. 2d at 30 n.5 (finding non-profit public interest group to be “primarily engaged in disseminating information”). The ACLU is therefore a “representative of the news media” for the same reasons it is “primarily engaged in the dissemination of information.”

Furthermore, courts have found other organizations whose mission, function, publishing, and public education activities are similar in kind to the ACLU’s to be “representatives of the news media” as well. See, e.g., *Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat’l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. DOJ*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).⁵¹

On account of these factors, fees associated with responding to FOIA requests are regularly waived for the ACLU as a “representative of the news media.”⁵² As

⁵⁰ See also 28 C.F.R. § 16.10(b) (FBI, NSD); 6 C.F.R. § 5.11(b)(6) (DHS).

⁵¹ Courts have found these organizations to be “representatives of the news media” even though they engage in litigation and lobbying activities beyond their dissemination of information/public education activities. See, e.g., *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d; *Nat’l Sec. Archive*, 880 F.2d at 1387; see also *Leadership Conference on Civil Rts.*, 404 F. Supp. 2d at 260; *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53–54.

⁵² The ACLU regularly receives FOIA fee waivers from federal agencies. For example, in June 2018, the U.S. Citizenship and Immigration Services granted a fee-waiver request regarding a FOIA



was true in those instances, the ACLU meets the requirements for a fee waiver here.

* * *

Pursuant to applicable statute and regulations, we expect a determination regarding expedited processing within ten (10) calendar days. See 5 U.S.C. § 552(a)(6)(E)(ii)(I); 28 C.F.R. § 16.5(e)(4) (FBI, NSD); 6 C.F.R. § 5.5(e)(4) (DHS).

If the request is denied in whole or in part, the ACLU asks that you justify all withholdings by reference to specific exemptions to FOIA. The ACLU also asks that you release all segregable portions of otherwise exempt material in accordance with 5 U.S.C. § 552(b). Furthermore, if any documents responsive to this request are classified, please identify those documents, including a date and document number where possible, so we may begin the process of requesting a Mandatory Declassification Review under the terms of Executive Order 13,526. The ACLU reserves the right to appeal a decision to withhold any information or deny a waiver of fees.

Please send all correspondence and records relating to this request to Aamra Ahmad at [REDACTED]

I certify that the foregoing information provided in support of the request for expedited processing is true and correct to the best of my knowledge and belief.

request for documents relating to the use of social media surveillance. In August 2017, CBP granted a fee-waiver request regarding a FOIA request for records relating to a muster sent by CBP in April 2017. In June 2017, the Department of Defense granted a fee-waiver request regarding a FOIA request for records pertaining to the authorities approved by President Trump in March 2017 which allowed U.S. involvement in Somalia. In June 2017, the Department of Defense, the CIA, and the Office of Inspector General granted fee-waiver requests regarding a FOIA request for records pertaining to U.S. involvement in the torture of detainees in prisons in Yemen, Eritrea, and aboard Yemeni or Emirati naval vessels. In May 2017, CBP granted a fee-waiver request regarding a FOIA request for documents related to electronic device searches at the border. In April 2017, the CIA and the Department of State granted fee-waiver requests in relation to a FOIA request for records related to the legal authority for the use of military force in Syria. In March 2017, the Department of Defense Office of Inspector General, the CIA, and the Department of State granted fee-waiver requests regarding a FOIA request for documents related to the January 29, 2017 raid in al Ghayil, Yemen. In June 2016, the Office of the Director of National Intelligence granted a fee-waiver request regarding a FOIA request related to policies and communications with social media companies' removal of "extremist" content. In May 2016, the FBI granted a fee-waiver request regarding a FOIA request issued to the Department of Justice for documents related to Countering Violent Extremism Programs.



Executed on the 21st day of May, 2024.

Sincerely,

A handwritten signature in black ink that reads "Aamra Ahmad". The signature is written in a cursive, flowing style.

Aamra Ahmad
Senior Staff Attorney
National Security Project
American Civil Liberties Union
Foundation
915 15th Street NW
Washington, D.C. 20005
Tel: (202) 457-0800
[REDACTED]

Exhibit B

**Federal Bureau of Investigation**

Washington, D.C. 20535

June 5, 2024

AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15TH STREET NORTHWEST
WASHINGTON, DC 20005

FOIPA Request No.: NFP-161243
Subject: Various Records Pertaining to the Use of JTTFs
and Fusion Centers
(On or After January 20, 2017)

Dear Aamra Ahmad:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request. Below you will find informational paragraphs relevant to your request. Please read each item carefully.

The FOIPA requires agencies to provide access to reasonably described, nonexempt records [Title 5, United States Code, Section 552(a)(3)(A)]. The information requested in the referenced letter is not considered a FOIPA request because it does not comply with the FOIPA and its regulations. Therefore, your request is being administratively closed for one or more of the following reasons:

- ☐ The FOIPA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried data.
- ☐ Your request is too vague as it does not comply with the requirements of 28 CFR § 16.3(b). Your request lacks specificity; and therefore, the FBI cannot reasonably locate records with a "reasonable amount of effort."
- ☒ Your request is overly broad as it contains an overly long, indefinite, no date range or specific identifiers, and/or uses unexplained or unidentified terms and acronyms. Your request does not provide sufficient details to enable FBI personnel to locate potentially responsive records with a "reasonable amount of effort;" and therefore, we were unable to conduct a search of the Central Records System as your request does not comply with the requirements of 28 CFR § 16.3(b).
- ☐ Your request seeks information that does not fall under the purview of the FOIPA. The information requested in the referenced letter is not considered a FOIPA request because it does not comply with the requirements of 28 CFR § 16.3(b).

Examples of specific information which could assist in locating potentially responsive records within a reasonable amount of effort are as follows:

- Individuals
 - Complete name
 - Birth date
 - Place of birth
 - Place of death
 - Date of death
 - Date and location of incident
- Organizations or Events
 - Date of event
 - Time frame
 - Location

For questions on how to reasonably describe your request, please email us at foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request. Additional information about the FOIPA can be found at www.fbi.gov/foia.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", with a stylized flourish at the end.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Exhibit C

**Federal Bureau of Investigation**

Washington, D.C. 20535

June 5, 2024

AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15TH STREET NORTHWEST
WASHINGTON, DC 20005

FOIPA Request No.: NFP-161245
Subject: Number of Individuals or Groups whose activities
have been investigated by JTTFs and Fusion Centers in
connection with protests
(On or After January 20, 2017)

Dear Aamra Ahmad:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request. Below you will find informational paragraphs relevant to your request. Please read each item carefully.

The FOIPA requires agencies to provide access to reasonably described, nonexempt records [Title 5, United States Code, Section 552(a)(3)(A)]. The information requested in the referenced letter is not considered a FOIPA request because it does not comply with the FOIPA and its regulations. Therefore, your request is being administratively closed for one or more of the following reasons:

- ☒ The FOIPA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried data.
- ☐ Your request is too vague as it does not comply with the requirements of 28 CFR § 16.3(b). Your request lacks specificity; and therefore, the FBI cannot reasonably locate records with a "reasonable amount of effort."
- ☐ Your request is overly broad as it contains an overly long, indefinite, no date range or specific identifiers, and/or uses unexplained or unidentified terms and acronyms. Your request does not provide sufficient details to enable FBI personnel to locate potentially responsive records with a "reasonable amount of effort;" and therefore, we were unable to conduct a search of the Central Records System as your request does not comply with the requirements of 28 CFR § 16.3(b).
- ☐ Your request seeks information that does not fall under the purview of the FOIPA. The information requested in the referenced letter is not considered a FOIPA request because it does not comply with the requirements of 28 CFR § 16.3(b).

Examples of specific information which could assist in locating potentially responsive records within a reasonable amount of effort are as follows:

- Individuals
 - Complete name
 - Birth date
 - Place of birth
 - Place of death
 - Date of death
 - Date and location of incident
- Organizations or Events
 - Date of event
 - Time frame
 - Location

For questions on how to reasonably describe your request, please email us at foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request. Additional information about the FOIPA can be found at www.fbi.gov/foia.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", with a stylized flourish at the end.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Exhibit D



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

June 5, 2024

AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15TH STREET NORTHWEST
WASHINGTON, DC 20005

Request No.: NFP-161247
Subject: Definition of Terms Used and
Applied by JTTFs and Fusion Centers
(On or After January 20, 2017)

Dear Aamra Ahmad:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request. Please see the paragraphs below for relevant information about your request.

Your request for the above referenced subject is not searchable in our indices. The FBI Central Records System (CRS) is indexed according to investigatory interests, and it is not arranged in a manner that allows for the retrieval of information in the form you have requested. The FOIA does not require federal agencies to answer inquiries, create records, conduct research, or draw conclusions concerning queried data. Rather the FOIA requires agencies to provide access to reasonably described, nonexempt records. Therefore, your request is being administratively closed.

For questions on how to reasonably describe your request, please email us at foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request. Additional information about the FOIPA can be found at www.fbi.gov/foia.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of this response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", is positioned above the typed name.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Exhibit E



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

June 5, 2024

MS. AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15TH STREET NORTHWEST
WASHINGTON, DC 20005

FOIPA Request No.: 1637191-000
Subject: Process and Procedures Individuals May
Use to Find Information Collected and Maintained by
JTTFs and Fusion Centers

Dear Ms. Ahmad:

This is in response to your Freedom of Information Act (FOIA) request. Please see the paragraphs below for relevant information specific to your request as well as the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

Records responsive to your request are available for review on the following public website,
www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/freedom-of-information-privacy-act.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. **"Part 1"** of the Addendum includes standard responses that apply to all requests. **"Part 2"** includes additional standard responses that apply to all requests for records about yourself or any third party individuals. **"Part 3"** includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

Additional information about the FOIPA can be found at www.fbi.gov/foia. Should you have questions regarding your request, please feel free to contact foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of this response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", with a stylized flourish at the end.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Enclosures

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) **Requests for Confidential Informant Records.** The FBI can neither confirm nor deny the existence of confidential informant records pursuant to FOIA exemptions (b)(7)(D), (b)(7)(E), and (b)(7)(F) [5 U.S.C. § 552 (b)(7)(D), (b)(7)(E), and (b)(7)(F)] and Privacy Act exemption (j)(2) [5 U.S.C. § 552a (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records would reveal confidential informant identities and information, expose law enforcement techniques, and endanger the life or physical safety of individuals. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches and Standard Search Policy.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems, such as the Central Records System (CRS), or locations where responsive records would reasonably be found. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. The standard search policy is a search for main entity records in the CRS. Unless specifically requested, a standard search does not include a search for reference entity records, administrative records of previous FOIPA requests, or civil litigation files.
 - a. *Main Entity Records* – created for individuals or non-individuals who are the subjects or the focus of an investigation
 - b. *Reference Entity Records*- created for individuals or non-individuals who are associated with a case but are not known subjects or the focus of an investigation
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Foreseeable Harm Standard.** As amended in 2016, the Freedom of Information Act provides that a federal agency may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates, or (2) disclosure is prohibited by law (5 United States Code, Section 552(a)(8)(A)(i)). The FBI considers this foreseeable harm standard in the processing of its requests.
- (iv) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Exhibit F

From: FOIPAQUESTIONS@FBI.GOV
To: [REDACTED]
Subject: RE: FOIA Request No. 1637191-000
Date: Wednesday, June 26, 2024 2:25:31 PM
Attachments: [image003.png](#)

This Message Is From an External Sender

This message came from outside your organization.

Good afternoon,

Thank you for contacting foipaquestions@fbi.gov. This letter explains that the information you are seeking is already available for review on the website provided in the letter dated June 5, 2024.

Respectfully,

Public Information Officer
FBI - Information Management Division
200 Constitution Drive
Winchester, VA 22602
O: (540) 868-4593
E: foipaquestions@fbi.gov

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps> Status updates are performed on a weekly basis.

Note: This is a non-emergency email address. If this is an emergency, please call 911 directly. If you need to report a tip for immediate action, please contact FBI Tips at <http://tips.fbi.gov/> or reach out to your local field office.

From: [REDACTED]
Sent: Tuesday, June 18, 2024 10:36 AM
To: FOIPAQUESTIONS <FOIPAQUESTIONS@FBI.GOV>
Subject: [EXTERNAL EMAIL] - FOIA Request No. 1637191-000

I am writing about Request No. 1637191-000 to better understand the response that was sent on June 5, 2024. The response directs me to the FBI FOIA website. Is that a refusal to search for records?

Thanks,

[REDACTED]

Exhibit G



Homeland
Security

May 30, 2024

Aamra Ahmad
American Civil Liberties Union
915 15th Street NW
Washington, D.C. 20005

Re: 2024-HQFO-01500

Dear Requester:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Privacy Office, dated 5/21/2024, and received in this office on 5/21/2024. You requested documents regarding all final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, legal opinions, and/or records created January 20, 2017 to the present, pertaining to (1) the extent to which JTTFs and fusion centers (a) monitor and collect information on people engaged in protest activity and/or (b) associate protest with “terrorism,” and (2) whether their privacy, civil rights, and civil liberties policies are adequate to guard against abuses and discrimination. With additional details provided within the request.

Due to the subject matter of your request, I am transferring this request to the FOIA Officer for DHS Headquarters Office of Intelligence and Analysis (I&A), for processing under the FOIA and direct response to you. Please see below for their contact information.

DHS Headquarters Office of Intelligence and Analysis (I&A)
Privacy Office, Mail Stop 0655
Department of Homeland Security
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065
Phone: 202-447-4561 | Fax: 202-612-1936 | E-mail: IAFOIA@HQ.DHS.GOV

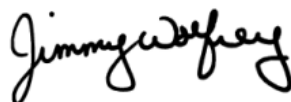
You have a right to appeal the above determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue, SE, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.5(e)(2). Your envelope and letter should be marked “FOIA Appeal.” Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

You may contact the DHS FOIA Public Liaison at 202-343-1743 for any further assistance and to discuss any aspect of your request. You may also contact OGIS at the National Archives and

Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you need to contact our office again about this matter, please refer to 2024-HQFO-01500. You may contact this office at 1-866-431-0486 or 202-343-1743.

Sincerely,

A handwritten signature in black ink, appearing to read "Jimmy Wolfrey". The signature is written in a cursive, flowing style.

Jimmy Wolfrey
Senior Director, FOIA Operations and Management

Exhibit H



Homeland
Security

June 3, 2024

SENT VIA E-MAIL TO: [REDACTED]

Aamra Ahmad
American Civil Liberties Union
915 15th Street NW
Washington, D.C. 20005

Re: Freedom of Information Act Request 2024-IAFO-00290

Dear Requester Ahmad:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request that was received by the Department of Homeland Security (DHS), Privacy Office on May 21, 2024. Your request was subsequently transferred to the DHS Office of Intelligence and Analysis (I&A) on May 30, 2024, and received on May 30, 2024. You are seeking:

“The ACLU requests all final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, legal opinions, and/or records created January 20, 2017 to the present, pertaining to (1) the extent to which JTTFs and fusion centers (a) monitor and collect information on people engaged in protest activity and/or (b) associate protest with “terrorism,” and (2) whether their privacy, civil rights, and civil liberties policies are adequate to guard against abuses and discrimination.”

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Consistent with 6 C.F.R. Part 5 § 5.5(a) of the DHS FOIA regulations, the Department processes FOIA requests according to their order of receipt. Although DHS’ goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances under 6 C.F.R. Part 5 § 5.5(c). As your request seeks documents that will require a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 § 5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

We are presently processing your request. If any responsive records are located, they will be reviewed for determination of whether any can be released. Please be assured that one of the analysts in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned request number **2024-IAFO-00290**. Please refer to this identifier in any future correspondence. The status of your FOIA request is now available online and can be accessed at: <https://www.dhs.gov/foia-status>, by using this FOIA request number. Status information is updated daily.

If you have any questions, or would like to discuss this matter, please feel free to contact this office at I&AFOIA@HQ.DHS.GOV.

Sincerely,

M. Adams

M. Adams
Assistant FOIA Officer

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit H



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

June 26, 2024

Aamra Ahmad

915 15th Street NW
Washington, DC 20005
nspintake@aclu.org

Dear Aamra Ahmad:

This is to advise you that the Office of Information Policy of the U.S. Department of Justice received your administrative appeal from the action of the Federal Bureau of Investigation regarding Request No. NFP-161243 on 06/26/2024.

In an attempt to afford each appellant equal and impartial treatment, OIP has adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number A-2024-01981. Please refer to this number in any future communication with OIP regarding this matter. Please note that if you provided an email address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at 202-514-3642. If you have submitted your appeal through Freedom of Information Act STAR, you may also check the status of your appeal by logging into your account.

Sincerely,

Priscilla Jones

Priscilla Jones
Supervisory Administrative Specialist



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

June 26, 2024

Aamra Ahmad

915 15th Street NW
Washington, DC 20005
nspintake@aclu.org

Dear Aamra Ahmad:

This is to advise you that the Office of Information Policy of the U.S. Department of Justice received your administrative appeal from the action of the Federal Bureau of Investigation regarding Request No. NFP-161245 on 06/26/2024.

In an attempt to afford each appellant equal and impartial treatment, OIP has adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number A-2024-01982. Please refer to this number in any future communication with OIP regarding this matter. Please note that if you provided an email address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at 202-514-3642. If you have submitted your appeal through Freedom of Information Act STAR, you may also check the status of your appeal by logging into your account.

Sincerely,

Priscilla Jones

Priscilla Jones
Supervisory Administrative Specialist



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

June 26, 2024

Aamra Ahmad

915 15th Street NW
Washington, DC 20005
nspintake@aclu.org

Dear Aamra Ahmad:

This is to advise you that the Office of Information Policy of the U.S. Department of Justice received your administrative appeal from the action of the Federal Bureau of Investigation regarding Request No. NFP-161247 on 06/26/2024.

In an attempt to afford each appellant equal and impartial treatment, OIP has adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number A-2024-01983. Please refer to this number in any future communication with OIP regarding this matter. Please note that if you provided an email address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at 202-514-3642. If you have submitted your appeal through Freedom of Information Act STAR, you may also check the status of your appeal by logging into your account.

Sincerely,

Priscilla Jones

Priscilla Jones
Supervisory Administrative Specialist



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

June 26, 2024

Aamra Ahmad

915 15th Street NW
Washington, DC 20005
nspintake@aclu.org

Dear Aamra Ahmad:

This is to advise you that the Office of Information Policy of the U.S. Department of Justice received your administrative appeal from the action of the Federal Bureau of Investigation regarding Request No. 1637191-000 on 06/26/2024.

In an attempt to afford each appellant equal and impartial treatment, OIP has adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number A-2024-01984. Please refer to this number in any future communication with OIP regarding this matter. Please note that if you provided an email address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at 202-514-3642. If you have submitted your appeal through Freedom of Information Act STAR, you may also check the status of your appeal by logging into your account.

Sincerely,

Priscilla Jones

Priscilla Jones
Supervisory Administrative Specialist

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit I



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Aamra Ahmad, Esq.
ACLU
915 15th Street, NW
Washington, DC 20005

Appeal Nos. A-2024-01981; A-
Re: 2024-01982; A-2024-01983 & A
-2024-01984
Request Nos. NFP-161243; NFP
-161245; NFP-161247 &
1637191-000

nspintake@aclu.org

VIA: Online Portal - 07/03/2024

Dear Aamra Ahmad:

This is to advise you that your administrative appeals from the actions of the Federal Bureau of Investigation (FBI) were received in this Office on June 26, 2024. Your requests for expedited treatment are addressed below.

You assert that your appeals are entitled to expedited treatment pursuant to the second standard enumerated in the Department of Justice's regulations. Expedited treatment pursuant to the second standard will be granted where the requester shows that there is "[a]n urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information." 28 C.F.R. § 16.5(e)(1)(ii) (2023).

I have determined that you have not met your burden under the second standard because you have not shown an "urgency to inform the public" about an actual or alleged federal government activity and because you have failed to demonstrate that you are "primarily engaged in disseminating information." *Id.* at § 16.5(e)(1)(ii). In deciding whether you have demonstrated that there is an "urgency to inform the public" under 28 C.F.R. § 16.5(e)(1)(ii), I considered three factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." *Al-Fayed v. CIA*, 254 F.3d 300, 310 (D.C. Cir. 2001). Although your requests concerns a federal government activity, you have not established that the requested records are

a matter of current exigency to the American public, nor that delaying a response would compromise a significant recognized interest. Instead, you only state that your appeals should be expedited because there is a compelling need to inform the public about government activity. Further, you have not provided any evidence that you are "primarily engaged in disseminating information." See Landmark Legal Found. v. EPA, 910 F. Supp. 2d 270 (D.D.C. 2012) (noting that plaintiff must be "primarily, and not just incidentally, engaged in information dissemination"); ACLU of N. Cal. v. DOJ, No. 04-4447, 2005 WL 588354, at *14 (N.D. Cal. Mar. 11, 2005) (holding that information dissemination must be "*the* main activity" rather than merely "*a* main activity" of plaintiff to satisfy expedition standard).

As a result of the denial, your appeals will be placed into chronological order with the other pending appeals and will be addressed in turn.

Please be advised that this Office's decision was made only after a full review of these matters. Your appeals were assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeals, your underlying requests, and the actions of FBI in response to your requests.

If you are dissatisfied with my action on your appeals, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll-free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office and speak with the undersigned agency official by calling 202-514-3642.

Sincerely,



X

Christina Troiani

Chief, Administrative Appeals Staff

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit J



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Aamra Ahmad

Appeal Nos. A-2024-01981; A-
Re: 2024-01982; A-2024-01983 & A
-2024-01984
Request Nos. NFP-161243; NFP
-161245; 1637191-000 & NFP-
161247

nspintake@aclu.org

VIA: Online Portal - 09/10/2024

Dear Aamra Ahmad:

You appealed from the actions of the Federal Bureau of Investigation (FBI) on your Freedom of Information Act (FOIA) requests for access to certain records concerning Joint Terrorism Task Forces and Fusion Centers.

I have been informed that you filed a lawsuit concerning the FBI's actions in the United States District Court for the Southern District of New York. As indicated in the Department of Justice's regulations located at 28 C.F.R. § 16.8(b)(2) (2023), an appeal ordinarily will not be acted upon by this Office if the FOIA request becomes the subject of litigation. For this reason, I am closing your appeal files in this Office.

If you have any questions regarding the action this Office has taken on your appeals, you may contact this Office and speak with the undersigned agency official by calling 202-514-3642.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christina Troiani", is written over a horizontal line.

X

Christina Troiani
Chief, Administrative Appeals Staff

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit K



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

February 28, 2025

MS. AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15th STREET NORTHWEST
WASHINGTON, DC 20005

American Civil Liberties Union Foundation v. DOJ, et al.

Civil Action No.: 24-cv-5722

FOIPA Request Nos.: NFP-161243;NFP-161245;

NFP-161247;1637191-0

Subject: JTTF RECORDS CREATED FROM
1/20/2017 - PRESENT

Dear Ms. Ahmad:

The FBI has completed its interim review of records subject to the Freedom of Information/Privacy Acts (FOIPA) that are responsive to your request. The enclosed documents were reviewed under the FOIPA, Title 5, United States Code, Section 552/552a. Below you will find checked boxes under applicable statutes for the exemptions asserted to protect information exempt from disclosure. The appropriate exemptions are noted on the processed pages next to redacted information. In addition, a deleted page information sheet was inserted to indicate where pages were withheld entirely pursuant to applicable exemptions. An Explanation of Exemptions is enclosed to further explain justification for withheld information.

Section 552

☐ (b)(1)

☐ (b)(2)

☒ (b)(3)

50 U.S.C. § 3024(i)(1)

☐ (b)(4)

☒ (b)(5)

☒ (b)(6)

☐ (b)(7)(A)

☐ (b)(7)(B)

☒ (b)(7)(C)

☒ (b)(7)(D)

☒ (b)(7)(E)

☐ (b)(7)(F)

☐ (b)(8)

☐ (b)(9)

Section 552a

☐ (d)(5)

☐ (j)(2)

☐ (k)(1)

☐ (k)(2)

☐ (k)(3)

☐ (k)(4)

☐ (k)(5)

☐ (k)(6)

☐ (k)(7)

263 pages were reviewed and 84 pages are being released.

Please see the paragraphs below for relevant information specific to your request and the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

In response to your Freedom of Information/Privacy Acts (FOIPA) request, enclosed is a processed copy of Bates-stamped pages, 24-cv-5722-1 through 24-cv-5722-263. The enclosed records represent the first interim release of information responsive to your request. This material is being provided to you at no charge. The FBI will continue to provide monthly interim releases until processing is completed.

Based on the information you provided, we conducted a search of the places reasonably expected to have records. For more information about records searches and the standard search policy, see the enclosed FBI FOIPA Addendum General Information Section.

Duplicate copies of the same document were not processed.

Document(s) were located which originated with, or contained information concerning, Other Government Agency(ies) [OGA(s)]. We are consulting with the other agency (ies) and are awaiting their response. The FBI will correspond with you regarding the document(s) when the consultation is completed.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. **"Part 1"** of the Addendum includes standard responses that apply to all requests. **"Part 2"** includes additional standard responses that apply to all requests for records about yourself or any third party individuals. **"Part 3"** includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

Although your request is in litigation, we are required by law to provide you the following information:

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of this response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." If possible, please provide a copy of your original request and this response letter with your appeal.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Please direct any further inquiries about this case to the attorney representing the Government in this matter. Please use the FOIPA Request Number and/or Civil Action Number in all correspondence or inquiries concerning your request.

Sincerely,



Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Enclosures

FBI FOIPA Addendum

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) **Requests for Confidential Informant Records.** The FBI can neither confirm nor deny the existence of confidential informant records pursuant to FOIA exemptions (b)(7)(D), (b)(7)(E), and (b)(7)(F) [5 U.S.C. §§ 552 (b)(7)(D), (b)(7)(E), and (b)(7)(F)] and Privacy Act exemption (j)(2) [5 U.S.C. § 552a (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records would reveal confidential informant identities and information, expose law enforcement techniques, and endanger the life or physical safety of individuals. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches and Standard Search Policy.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems, such as the Central Records System (CRS), or locations where responsive records would reasonably be found. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. The standard search policy is a search for main entity records in the CRS. Unless specifically requested, a standard search does not include a search for reference entity records or administrative records of previous FOIPA requests.
 - a. *Main Entity Records* – created for individuals or non-individuals who are the subjects or the focus of an investigation
 - b. *Reference Entity Records* – created for individuals or non-individuals who are associated with a case but are not known subjects or the focus of an investigation
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Foreseeable Harm Standard.** As amended in 2016, the Freedom of Information Act provides that a federal agency may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates, or (2) disclosure is prohibited by law (5 United States Code, Section 552(a)(8)(A)(i)). The FBI considers this foreseeable harm standard in the processing of its requests.
- (iv) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit L



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

March 31, 2025

MS. AAMRA AHMAD
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15th STREET NORTHWEST
WASHINGTON, DC 20005

American Civil Liberties Union Foundation v.
DOJ, et al.
Civil Action No.: 24-cv-5722
FOIPA Request Nos.: NFP-161243; NFP-161245;
NFP-161247; 1637191
Subject: JTTF RECORDS CREATED FROM
1/20/2017 - PRESENT

Dear Ms. Ahmad:

The FBI has completed its second interim review of records subject to the Freedom of Information/Privacy Acts (FOIPA) that are responsive to your request. The enclosed documents were reviewed under the FOIPA, Title 5, United States Code, Section 552/552a. Below you will find checked boxes under applicable statutes for the exemptions asserted to protect information exempt from disclosure. The appropriate exemptions are noted on the processed pages next to redacted information. In addition, a deleted page information sheet was inserted to indicate where pages were withheld entirely pursuant to applicable exemptions. An Explanation of Exemptions is enclosed to further explain justification for withheld information.

Section 552☐ (b)(1)☐ (b)(2)☒ (b)(3)

50 U.S.C. § 3024(i)(1)

☐ (b)(4)☒ (b)(5)☒ (b)(6)☐ (b)(7)(A)☐ (b)(7)(B)☒ (b)(7)(C)☐ (b)(7)(D)☒ (b)(7)(E)☐ (b)(7)(F)☐ (b)(8)☐ (b)(9)**Section 552a**☐ (d)(5)☐ (j)(2)☐ (k)(1)☐ (k)(2)☐ (k)(3)☐ (k)(4)☐ (k)(5)☐ (k)(6)☐ (k)(7)

140 pages were reviewed and 72 pages are being released.

Please see the paragraphs below for relevant information specific to your request and the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

In response to your Freedom of Information/Privacy Acts (FOIPA) request, enclosed is a processed copy of Bates-stamped pages, 24-cv-5722-264 through 24-cv-5722-396, 24-cv-5722-244 through 24-cv-5722-248, and 24-cv-5722-236 through 24-cv-5722-237. The enclosed records represent the second interim release of information responsive to your request. This material is being provided to you at no charge. The FBI will continue to provide monthly interim releases until processing is completed. Duplicate copies of the same document were not processed.

Based on the information you provided, we conducted a search of the places reasonably expected to have records. For more information about records searches and the standard search policy, see the enclosed FBI FOIPA Addendum General Information Section.

The appropriate redactions were made by the Office of the Director of National Intelligence, Immigration and Customs Enforcement, and Transportation Security Administration.

Document(s) were located which originated with, or contained information concerning, Other Government Agency(ies) [OGA(s)]. We are consulting with the other agency (ies) and are awaiting their response. The FBI will correspond with you regarding the document(s) when the consultation is completed.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. **"Part 1"** of the Addendum includes standard responses that apply to all requests. **"Part 2"** includes additional standard responses that apply to all requests for records about yourself or any third-party individuals. **"Part 3"** includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

Although your request is in litigation, we are required by law to provide you the following information:

If you are not satisfied with the FBI's determination in response to this request, you may proceed under any or all of the following options:

- You may seek dispute resolution services through the FBI directly by emailing our FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.
- You may contact the Office of Government Information Services (OGIS), who serves as the federal FOIA Ombudsman. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.
- You may file an administrative appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. **Pursuant to 28 C.F.R. § 16.8(a), your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of this response to your request.** If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please reference the FOIPA Request Number listed above in your correspondence so it may be easily identified. If possible, please provide a copy of your original request and this response letter with your appeal.

Note: Utilizing the FBI's dispute resolution services or requesting mediation through OGIS does not toll the ninety (90) day limit to file a timely appeal with OIP.

Please direct any further inquiries about this case to the attorney representing the Government in this matter. Please use the FOIPA Request Number and/or Civil Action Number in all correspondence or inquiries concerning your request.

Sincerely,



Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Enclosures

FBI FOIPA Addendum

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) **Requests for Confidential Informant Records.** The FBI can neither confirm nor deny the existence of confidential informant records pursuant to FOIA exemptions (b)(7)(D), (b)(7)(E), and (b)(7)(F) [5 U.S.C. §§ 552 (b)(7)(D), (b)(7)(E), and (b)(7)(F)] and Privacy Act exemption (j)(2) [5 U.S.C. § 552a (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records would reveal confidential informant identities and information, expose law enforcement techniques, and endanger the life or physical safety of individuals. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches and Standard Search Policy.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems, such as the Central Records System (CRS), or locations where responsive records would reasonably be found. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. The standard search policy is a search for main entity records in the CRS. Unless specifically requested, a standard search does not include a search for reference entity records or administrative records of previous FOIPA requests.
 - a. *Main Entity Records* – created for individuals or non-individuals who are the subjects or the focus of an investigation
 - b. *Reference Entity Records* – created for individuals or non-individuals who are associated with a case but are not known subjects or the focus of an investigation
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Foreseeable Harm Standard.** As amended in 2016, the Freedom of Information Act provides that a federal agency may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates, or (2) disclosure is prohibited by law (5 United States Code, Section 552(a)(8)(A)(i)). The FBI considers this foreseeable harm standard in the processing of its requests.
- (iv) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit M



U.S. Department of Justice

Federal Bureau of Investigation
 Washington, D.C. 20535

April 8, 2025

MS. AAMRA AHMAD
 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
 915 15th STREET NORTHWEST
 WASHINGTON, DC 20005

American Civil Liberties Union Foundation v.
DOJ, et al.
 Civil Action No.: 24-cv-5722
 FOIPA Request Nos.: NFP-161243; NFP-161245;
 NFP-161247; 1637191
 Subject: JTTF RECORDS CREATED FROM
 1/20/2017 - PRESENT

Dear Ms. Ahmad:

The FBI has completed its final review of records subject to the Freedom of Information/Privacy Acts (FOIPA) that are responsive to your request. The enclosed documents were reviewed under the FOIPA, Title 5, United States Code, Section 552/552a. Below you will find checked boxes under applicable statutes for the exemptions asserted to protect information exempt from disclosure. The appropriate exemptions are noted on the processed pages next to redacted information. In addition, a deleted page information sheet was inserted to indicate where pages were withheld entirely pursuant to applicable exemptions. An Explanation of Exemptions is enclosed to further explain justification for withheld information.

Section 552☐ (b)(1)☐ (b)(2)☒ (b)(3)

50 U.S.C. § 3024(i)(1)

☐ (b)(4)☐ (b)(5)☒ (b)(6)☐ (b)(7)(A)☐ (b)(7)(B)☒ (b)(7)(C)☐ (b)(7)(D)☒ (b)(7)(E)☐ (b)(7)(F)☐ (b)(8)☐ (b)(9)**Section 552a**☐ (d)(5)☐ (j)(2)☐ (k)(1)☐ (k)(2)☐ (k)(3)☐ (k)(4)☐ (k)(5)☐ (k)(6)☐ (k)(7)

57 pages were reviewed and 49 pages are being released.

Please see the paragraphs below for relevant information specific to your request and the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

In response to your Freedom of Information/Privacy Acts (FOIPA) request, enclosed is a processed copy of Bates-stamped pages, 24-cv-5772-249 through 24-cv-5722-258 and 24-cv-5722-264 through 24-cv-5722-310. The enclosed records represent the final interim release of information responsive to your request. This material is being provided to you at no charge.

Based on the information you provided, we conducted a search of the places reasonably expected to have records. For more information about records searches and the standard search policy, see the enclosed FBI FOIPA Addendum General Information Section.

The appropriate redactions were made by the United States Marshals Service and the Department of Homeland Security.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. **"Part 1"** of the Addendum includes standard responses that apply to all requests. **"Part 2"** includes additional standard responses that apply to all requests for records about yourself or any third-party individuals. **"Part 3"** includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

Although your request is in litigation, we are required by law to provide you the following information:

If you are not satisfied with the FBI's determination in response to this request, you may proceed under any or all of the following options:

- You may seek dispute resolution services through the FBI directly by emailing our FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.
- You may contact the Office of Government Information Services (OGIS), who serves as the federal FOIA Ombudsman. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.
- You may file an administrative appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. **Pursuant to 28 C.F.R. § 16.8(a), your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of this response to your request.** If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please reference the FOIPA Request Number listed above in your correspondence so it may be easily identified. If possible, please provide a copy of your original request and this response letter with your appeal.

Note: Utilizing the FBI's dispute resolution services or requesting mediation through OGIS does not toll the ninety (90) day limit to file a timely appeal with OIP.

Please direct any further inquiries about this case to the attorney representing the Government in this matter. Please use the FOIPA Request Number and/or Civil Action Number in all correspondence or inquiries concerning your request.

Sincerely,



Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Enclosures

FBI FOIPA Addendum

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) **Requests for Confidential Informant Records.** The FBI can neither confirm nor deny the existence of confidential informant records pursuant to FOIA exemptions (b)(7)(D), (b)(7)(E), and (b)(7)(F) [5 U.S.C. § 552 (b)(7)(D), (b)(7)(E), and (b)(7)(F)] and Privacy Act exemption (j)(2) [5 U.S.C. § 552a (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records would reveal confidential informant identities and information, expose law enforcement techniques, and endanger the life or physical safety of individuals. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches and Standard Search Policy.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems, such as the Central Records System (CRS), or locations where responsive records would reasonably be found. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. The standard search policy is a search for main entity records in the CRS. Unless specifically requested, a standard search does not include a search for reference entity records or administrative records of previous FOIPA requests.
 - a. *Main Entity Records* – created for individuals or non-individuals who are the subjects or the focus of an investigation
 - b. *Reference Entity Records*- created for individuals or non-individuals who are associated with a case but are not known subjects or the focus of an investigation
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Foreseeable Harm Standard.** As amended in 2016, the Freedom of Information Act provides that a federal agency may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates, or (2) disclosure is prohibited by law (5 United States Code, Section 552(a)(8)(A)(i)). The FBI considers this foreseeable harm standard in the processing of its requests.
- (iv) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit N

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK
AMERICAN CIVIL LIBERTIES UNION v. DOJ et al.
24-cv-5722-JSR

Page Disposition Totals	
Total: 396	
RIF: 49	
RIP: 156	
WIF: 191	
• FOIA Exemption(s):	29
• Duplicate:	162

Exemption Application Index

SUMMARY OF FOIA EXEMPTION JUSTIFICATION CATEGORIES	
CODED CATEGORIES	INFORMATION WITHHELD
EXEMPTION (b)(3)	INFORMATION PROTECTED BY STATUTE
(b)(3)-5	50 U.S.C. §3024(i)(1) – Sources & Methods, Intelligence (The National Security Act of 1947)
EXEMPTION (b)(6) and EXEMPTION (b)(7)(C)	CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY AND UNWARRANTED INVASION OF PERSONAL PRIVACY
(b)(6)-1 and (b)(7)(C)-1	Names and Identifying Information of FBI Special Agents and Professional Staff
(b)(6)-3 and (b)(7)(C)-3	Names and Identifying Information of Third Parties Merely Mentioned
(b)(6)-4 and (b)(7)(C)-4	Names and Identifying Information of Third Parties of Investigative Interest
(b)(6)-5 and (b)(7)(C)-5	Names and Identifying Information of Personnel from Non-FBI Federal Agencies
(b)(6)-7 and (b)(7)(C)-7	Names of Third Parties with Criminal Records
(b)(6)-8 and (b)(7)(C)-8	Names and Identifying Information of Third-Party Victims
EXEMPTION (b)(7)(E)	INVESTIGATIVE TECHNIQUES AND PROCEDURES
(b)(7)(E)-1	Sensitive Investigative File Numbers
(b)(7)(E)-2	Identities and Locations of FBI Joint Units, Squads, and Divisions
(b)(7)(E)-3	FBI Internal E-mail addresses, Non-public Web Addresses and Telephone Numbers, and Internal E-mail Tools
(b)(7)(E)-4	Collection and Analysis of Information
(b)(7)(E)-5	Focus of Specific Investigations
(b)(7)(E)-6	Types and Timing of Investigations
(b)(7)(E)-7	Database Information and Search Results
(b)(7)(E)-14	Coordination with Other Government Agencies and State/Local Law Enforcement Agencies
(b)(7)(E)-26	Training Resources
(b)(7)(E)-27	Operational Directives Concerning Sensitive Investigative Techniques and Strategies
(b)(7)(E)-30	Resource Allocation

INDEX KEY	
RIF:	Released in Full
RIP:	Released in Part
WIF:	Withheld in Full
FOIA WIF:	Withheld in full pursuant to FOIA Exemptions
Dup:	Duplicate page that was withheld in full
Dup of:	Location of original copy
Per ODNI:	Information was withheld by the Office of the Director of National Intelligence (ODNI)
Per USMS:	Information was withheld by the United States Marshals Service (USMS)
Per TSA:	Information was withheld by the Transportation Security Administration (TSA)
Per ICE:	Information was withheld by Immigration and Customs Enforcement (ICE)

FBI DOCUMENT TYPES
• Electronic Communications (ECs)/ FD-1057s: ECs replaced the traditional FBI correspondence (i.e., Memoranda and Letters) as the primary vehicle of correspondence within the FBI. The purpose of an EC is to communicate within the FBI in a consistent format that can be uploaded by the originating Division or office, transmitted, and downloaded by recipient Divisions or offices within the FBI's internal computer network. These forms are often utilized to record and disseminate intelligence/investigative information and for general investigation administration purposes. • Memorandum: These are ordinarily communications to DOJ officials, from one person to another at FBIHQ, or from one person to another within an FBI field office. They serve to assist in the overall supervision of a case by summarizing pertinent details of an investigation. • Miscellaneous Administrative Documents: These documents are informal, internal documents utilized to administer FBI coordination and investigation administration. • Internal Electronic Mail Messages (E-mails): These documents consist of E-mails between FBI personnel discussing investigative matters. • Joint Intelligence Bulletin (JIB): These documents contain multi-agency threat summaries and coordination efforts. • FD-999 and 1036 – Sentinel Import Forms: These are administrative forms attached to documents that are imported into the FBI's case administrative system, Sentinel.

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
Slide presentation dated 6/25/2024 providing an overview of the Campus Security Program.	1																											X					
	2																			X									X				
	3											X								X									X				
	4																											X					
	5																											X					
	6										X			X														X					
	7																											X					
	8																											X					
FD-999 dated 11/18/2019 documenting a Domestic Terrorism-Hate Crimes Fusion Cell (DTHCFC) presentation to the National Joint Terrorism Task Force (NJTTF).	9			X							X	X	X									X							X				
	10										X	X										X								X			
FD-1057 dated 9/05/2019 documenting a DTHCFC presentation at a Civil Rights conference.	11			X							X	X	X																	X			
	12			X							X			X																X			
FD-999 dated 12/16/2019 documenting a meeting between DTHCFC personnel and representatives from the Anti-Defamation League.	13			X							X																			X			
	14			X	X						X																			X			
	15			X							X			X																X			
	16										X											X								X			
	17																															X	Bates 13
	18																															X	Bates 14
	19																															X	Bates 15
	20																															X	Bates 16
Slide presentation dated Fall 2019 providing an overview of the Domestic Terrorism Hate Crimes Fusion Cell.	21																											X					
	22											X																	X				
	23										X																		X				
	24																											X					
	25			X							X																		X				
	26													X															X				
	27													X															X				
	28										X			X		X													X				
	29																															X	Bates 115
	30																											X					
	31																											X					
	32																															X	Bates 44
	33													X															X				
	34													X	X														X				
	35																															X	Bates 66
	36													X																	X		
	37																											X					
	38																											X					
	39			X																									X				

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of	
	40													X														X						
	41																											X						
	42				X																							X						
	43																												X			X	Bates 134	
	44																											X						
	45																											X						
	46																											X				X	Bates 72	
	47				X	X																						X						
	48													X															X					
	49													X															X					
	50				X									X				X											X					
	51			X								X		X															X					
52																												X						
Slide presentation dated Fall 2019 providing an overview of the Domestic Terrorism Hate Crimes Fusion Cell.	53																														X	Bates 21		
	54																															X	Bates 22	
	55																															X	Bates 23	
	56																															X	Bates 25	
	57																															X	Bates 26	
	58													X			X												X					
	59										X			X		X													X					
	60																															X	Bates 115	
	61																															X	Bates 30	
	62																															X	Bates 31	
	63																															X	Bates 34	
	64																											X						
	65														X														X					
	66																												X					
	67																												X					
	68																															X	Bates 33	
	69																															X	Bates 36	
	70																												X					
	71					X																								X				
	72														X															X				
	73					X																								X				
	74																															X	Bates 37	
	75																															X	Bates 38	
	76																															X	Bates 39	
	77																															X	Bates 40	
	78																															X	Bates 41	
	79																															X	Bates 42	
	80																															X	Bates 134	
	81																															X	Bates 44	
	82																															X	Bates 45	
	83																															X	Bates 48	
	84																															X	Bates 49	
	85																															X	Bates 50	
	86			X								X		X																	X			
	87																															X	Bates 52	
		88																														X	Bates 21	
89																															X	Bates 22		

[illegible]

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
	140																														X	Bates 11	
	141																														X	Bates 12	
	142																														X	Bates 13	
	143																														X	Bates 14	
	144																														X	Bates 15	
	145																														X	Bates 16	
	146																														X	Bates 17	
	147																														X	Bates 18	
	148																														X	Bates 19	
	149																														X	Bates 20	
Email chain dated 9/17/2019 pertaining to Hate Crimes Domestic Terrorism Fusion Cell.	150			X							X	X		X															X				
	151			X									X																X				
Domestic Terrorism - Hate Crimes document dated 9/16/2019 providing an overview of the threat landscape and DTHCFC mission.	152													X	X															X			
	153													X																X			
	154																															X	Bates 152
	155																															X	Bates 153
Email chain dated 11/12/2019 discussing the report format and reporting schedule for a DTHCFC document.	156			X							X	X		X		X													X				
	157			X								X	X	X															X				
	158																															X	Bates 21
	159																															X	Bates 111
	160																															X	Bates 112
	161																															X	Bates 113
	162																															X	Bates 26
	163																															X	Bates 115
	164																															X	Bates 30
	165																															X	Bates 31
	166																															X	Bates 43
	167																															X	Bates 64
	168																															X	Bates 65
	169																															X	Bates 66
	170																															X	Bates 67
	171																															X	Bates 33
	172																															X	Bates 36
	173																															X	Bates 70
	174																															X	Bates 126
	175																															X	Bates 71
	176																															X	Bates 72
	177																															X	Bates 73
	178																															X	Bates 74
179																															X	Bates 38	

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
	180																														X	Bates 39	
	181																														X	Bates 41	
	182																														X	Bates 134	
	183																														X	Bates 135	
	184																														X	Bates 136	
	185																														X	Bates 52	
	186																														X	Bates 21	
	187																														X	Bates 111	
	188																														X	Bates 112	
	189																														X	Bates 113	
	190																														X	Bates 26	
	191																														X	Bates 60	
	192																														X	Bates 30	
	193																														X	Bates 31	
	194																														X	Bates 34	
	195																														X	Bates 64	
	196																														X	Bates 65	
	197																														X	Bates 66	
	198																														X	Bates 67	
	199																														X	Bates 33	
	200																														X	Bates 36	
	201																														X	Bates 70	
	202																														X	Bates 126	
	203																														X	Bates 71	
	204																														X	Bates 46	
	205																														X	Bates 73	
	206																														X	Bates 37	
	207																														X	Bates 38	
	208																														X	Bates 39	
	209																														X	Bates 41	
	210																														X	Bates 134	
	211																														X	Bates 135	
	212																														X	Bates 136	
	213																														X	Bates 52	
Email chain dated 12/3/2019 discussing the report format and reporting schedule for a DTHCFC document.	214			X							X	X		X		X													X				
	215			X								X	X	X															X				
FD-1057 dated 9/20/2019 documenting Pittsburgh Division DT Response and Confidential Human Source review.	216			X							X	X	X	X															X				
	217										X			X															X				
	218									X	X	X		X									X						X				
	219										X	X		X									X						X				
Undated document detailing Federal Campus Safety resources.	220																											X					
	221																											X					
	222																											X					
	223																											X					

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
FD-1057 dated 2/25/2021 documenting Campus Safety Program coordination.	224		X	X							X	X	X	X															X				
	225										X			X															X				
	226			X							X		X	X															X				
FD-1057 dated 6/26/2024 documenting Campus Safety Program / Campus Liaison Agent Teams Call.	227			X							X	X	X	X					X										X				
	228										X			X					X			X							X				
FD-1057 dated 7/10/2024 documenting National Joint Terrorism Task Force (NJTTF) Campus Security Program participation.	229			X							X	X	X	X					X										X				
	230										X								X										X				
Email chain dated 4/18/2024 documenting a NJTTF document disseminated to Campus Security Program participants.	231			X							X	X	X	X															X				
NJTTF document attached to 4/18/2024 NJTTF email to Campus Security Program participants.	232			X										X				X												X			
	233													X				X												X			
	234													X				X												X			
	235													X				X												X			
Email chain dated 10/21/2020 discussing planned protest activity.	236			X									X	X	X												b6		X				
	237																										b3, b6		X				
	238																															X	Bates 320
	239																															X	Bates 321
	240																															X	Bates 322
Email chain dated 4/29/2024 pertaining to unrest at educational institutions.	241			X									X																X				
	242			X									X	X															X				
FBI Hate Crime Threat Response Guide attached to 4/29/2024 email.	243																											X					
Domestic Investigations and Operations Guide subsection 3.3: Special Agent, Task Force Officer, Task Force Member, Task Force Participant, FBI Contractor, and Others - Roles and Responsibilities.	244																											X					
	245																											X					
	246																											X					
	247																											X					
	248																											X					

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
Intelligence Bulletin dated October 2, 2024 concerning terrorist activities.	249													X	X								b7e							X			
	250													X	X								b7e							X			
	251													X	X								b7e							X			
	252													X	X								b7e							X			
	253													X	X								b7e							X			
Email chain dated October 2, 2024 concerning dissemination of Intelligence Bulletin	254			X								X	X	X														X					
Intelligence Bulletin attachment dated October 2, 2024 concerning terrorist activities.	255			X										X	X															X			
	256			X										X	X															X			
	257			X										X	X															X			
	258			X								X	X	X									b6, b7c, b7e					X					
Fusion Center document attached to 9/27/2024 email.	259													X				X												X			
	260													X				X												X			
	261													X				X												X			
Email chain dated 9/27/2024 documenting dissemination of a Fusion Center Document to Law Enforcement partners.	262			X									X	X				X										X					
	263			X										X														X					
May 30, 2022 Joint Task Force Policy Guide - 1178PG	264																											X					
	265																											X					
	266																											X					
	267		X								X	X		X															X				
	268																											X					
	269											X																	X				
	270											X					X												X				
	271											X					X												X				
	272											X		X							X								X				
	273											X					X												X				
	274											X					X												X				
	275																											X					
	276										X	X					X				X	X							X				
	277		X								X						X												X				
	278																											X					
	279																											X					
	280																											X					
	281										X						X												X				
	282																X				X								X				
	283																			X									X				
	284																	X											X				
	285											X		X			X				X								X				
	286										X	X		X			X												X				
	287											X							X										X				
	288		X									X		X			X	X								b7e				X			
	289										X	X					X									b7e				X			

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
	290		X								X	X				X	X												X				
	291											X				X					X								X				
	292										X	X										X							X				
	293										X	X				X													X				
	294											X				X						X							X				
	295										X					X						X							X				
	296										X	X		X		X						X							X				
	297													X		X													X				
	298													X		X													X				
	299											X		X		X													X				
	300																		X		X								X				
	301															X													X				
	302											X				X		X											X				
	303																											X					
	304											X				X													X				
	305																											X					
	306																											X					
	307																											X					
	308																											X					
	309											X				X													X				
	310																											X					
Email chain documenting information sharing through Stafford County Sheriff's Office.	311			X									X	X	X				X										X				
	312			X									X	X	X														X				
FD-1036 dated 5/02/2018 documenting an email to Campus Liaison Agents.	313			X							X			X	X														X				
Email chain dated 5/01/2018 documenting information sharing with Campus Security Partners.	314			X									X	X															X				
	315			X									X																X				
FBI Memo dated 4/30/2018 documenting homeland attacks by Sunni Violent Extremists, 2002-2017.	316													X	X														X				
Email chain dated 8/27/2024 pertaining to the drafting of a campus liaison presentation.	317			X									X	X															X				
	318			X								X	X	X															X				
Email chain dated 11/15/2024 pertaining to college and university engagement.	319			X								X	X	X															X				
	320		X	X							X		X	X					X										X				
	321			X									X	X															X				
	322			X									X																X				

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
Email dated 3/18/2024 pertaining to the the drafting of a NJTTF document in coordination with FBI Office of Private Sector.	323			X								X	X	X	X			X											X				
Joint Intelligence Bulletin dated 7/26/2019 concerning extremist threats.	324													X	X														X				
	325					X							X	X	X														X				
	326											X	X	X															X				
Department of Homeland Security (DHS) Office of Intelligence and Analysis - Customer Feedback Form.	327													X															X				
DHS Office of Intelligence and Analysis report.	328													X	X																X		
	329													X	X																X		
	330													X	X																X		
	331				X	X		X						X	X																X		
	332				X	X								X	X																X		
	333				X	X								X	X																X		
	334				X	X								X	X																X		
	335																											X					
336																											X						
Department of Homeland Security (DHS) Office of Intelligence and Analysis - Customer Feedback Form.	337													X															X				
Joint Intelligence Bulletin dated 11/2018 concerning extremist threats.	338					X		X						X	X														X				
	339					X		X	X					X	X														X				
	340					X		X				X	X	X	X														X				
FBI Intelligence Products Customer Service Satisfaction Survey	341													X															X				
Joint Intelligence Buletin dated 2/22/2019 concerning the targeting of Faith-Based Communities.	342																											X					
	343													X															X				
	344					X								X															X				
	345													X															X				
	346											X	X																X				
Joint Intelligence Bulletin dated 4/17/2019 concerning religious holidays and extremist threats.	347													X	X														X				
	348		X			X								X	X			X											X				
	349		X									X	X	X	X			X											X				
Email chain dated 6/20/2018 concerning immediate threats to offices.	350																							b5, b6, b7c, b7e					X				
	351			X								X	X												b6, b7c				X				
	352			X			X					X	X	X	X													X					
	353											X	X																X				

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
Email chain dated 4/28/2019 concerning JTTF coordination with San Diego Law Enforcement.	354			X			X					X	X	X															X				
	355					X	X		X			X	X	X	X														X				
	356					X								X	X			X											X				
	357																	X										X					
Joint Intelligence Bulletin dated 3/15/2019 pertaining to US-based violent extremism.	358					X								X	X														X				
	359	X	X			X			X					X	X														X				
	360											X	X	X	X														X				
	361																															X	Bates 342
	362																															X	Bates 343
	363																															X	Bates 344
	364																															X	Bates 345
	365																															X	Bates 346
Email dated 4/26/2019 disseminating Joint Intelligence Bulletin.	366			X			X					X	X	X															X				
	367																															X	Bates 370
	368																															X	Bates 371
	369																															X	Bates 372
Joint Intelligence Bulletin Dated 6/26/2019 pertaining to US-based violent extremism.	370													X	X														X				
	371		X			X			X					X	X			X											X				
	372		X			X								X															X				
	373											X	X	X															X				
Joint Intelligence Bulletin dated 10/4/2018 pertaining to violent extremism and terrorist activity.	374					X		X						X	X														X				
	375					X		X	X					X	X														X				
	376					X		X	X					X	X														X				
	377													X															X				
	378											X	X																X				
FBI Intelligence Products Customer Service Satisfaction Survey	379													X															X				
Email chain dated 10/4/2018 pertaining to the drafting and dissemination of a Joint Intelligence Bulletin.	380					X		X						X	X									b5, b6, b7c, b7e					X				
	381																															X	Bates 375
	382																															X	Bates 376
	383											X	X	X										b6, b7c, b7e					X				
	384													X															X				
Email dated 11/1/2018 pertaining to the drafting and dissemination of a Joint Intelligence Bulletin.	385					X		X						X	X									b5, b6, b7c, b7e					X				
	386																															X	Bates 339
	387											X	X	X	X									b6, b7c, b7e					X				
	388													X										b6, b7c, b7e					X				

Document Description	Bates	b3 1	b3 5	6/7C 1	6/7C 3	6/7C 4	6/7C 5	6/7C 7	6/7C 8	7D 5	7E 1	7E 2	7E 3	7E 4	7E 5	7E 6	7E 7	7E 8	7E 14	7E 26	7E 27	7E 30	Per DHS	Per ICE	Per USMS	Per ODNI	Per TSA	RIF	RIP	FOIA WIF	Seal WIF	Dup	Dup of
Email chain dated 7/27/2019 pertaining to an arson committed against an ICE building.	389																							b5, b6, b7c, b7e					X				
	390																							b5, b6, b7c, b7e					X				
Instructions to ICE duty agents regarding fraudulent documents message.	391																											X					
Undated ICE email.	392																							b6, b7c, b7e					X				
	393																							b6, b7c, b7e					X				
	394																															X	Bates 347
	395																															X	Bates 348
	396																															X	Bates 349

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit O

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION,
et al.,

Plaintiffs,

V.

DEPARTMENT OF JUSTICE, *et al.*,

Defendants.

Civil Action No. 24-5722 (JSR)

DECLARATION OF KATHLEENE MOLEN

I, Kathleene Molen, declare as follows:

1. I am an Associate General Counsel in the Office of General Counsel, U.S. Marshals Service (“USMS”), U.S. Department of Justice, assigned to USMS’s Headquarters in Arlington, VA. I am a Freedom of Information Act (“FOIA”) information disclosure attorney and work directly with the USMS’s FOIA/Privacy Act Officer. I have been working with the USMS in this capacity since November 2021. Prior to joining the USMS, I was an Assistant United States Attorney in the United States Attorney’s Office for the District of Columbia where I handled FOIA and immigration cases. I am familiar with the procedures for responding to requests submitted to the USMS pursuant to the FOIA, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a, for information maintained by the USMS.

2. I submit this declaration in support of the Federal Bureau of Investigation’s (“FBI”) Motion for Summary Judgment.

3. To prepare this declaration I reviewed the documents that the FBI sent to the USMS as a consultation.

4. By letter dated March 27, 2025, the FBI, while reviewing records responsive to a FOIA request which is the subject of this litigation, found a document containing USMS equities and sent a consult of 47 pages to the USMS. The USMS assigned tracking number 2025-USMSCON-000039 to this consult.

5. On March 28, 2025, the USMS returned the 47-page consult to the FBI. The USMS applied redactions on two (2) pages pursuant to FOIA Exemption 7(E) – FBI Bates stamped “24-cv-5722-288” and “24-cv-5722-289”.

FOIA EXEMPTIONS ASSERTED BY THE USMS

6. As stated above, the USMS reviewed a consultation from the FBI and redacted certain information pursuant to FOIA Exemption 7(E) on two (2) pages. The application of this FOIA Exemption on the pages at issue is discussed in detail below.

FOIA Exemption 7 Threshold

7. The USMS is a law enforcement agency within the Department of Justice. The mission of the USMS is to provide federal judicial security; apprehend fugitives and non-compliant sex offenders; secure and transport federal prisoners from arrest to incarceration; execute federal court orders; seize and manage assets acquired through illegal means; assure the safety of endangered government witnesses and their families. *See* 28 U.S.C. § 566 (Powers and Duties); 18 U.S.C. § 4086 (Temporary safe-keeping of federal offenders by marshals); 34 U.S.C. § 41503 (Fugitive Apprehension Task Forces); 28 C.F.R. § 0.111 (General Functions); Fed. R. Crim. P. 4

(Arrest Warrant or Summons on a Complaint). The record at issue contains USMS equities and information pertaining to the “Deputation Program” of law enforcement officers. These records therefore meet the threshold requirements of FOIA Exemption (b)(7), namely that the records be compiled for law enforcement purposes.

FOIA Exemption 7(E)

8. FOIA Exemption (b)(7)(E) exempts from release information that would disclose law enforcement techniques or procedures, the disclosure of which could reasonably be expected to risk circumvention of the law. Out of the 47 pages reviewed, the USMS withheld information on two (2) pages pursuant to FOIA Exemption 7(E) - FBI Bates stamped “24-cv-5722-288” and “24-cv-5722-289.” The USMS withheld internal procedures and requirements pertaining to the submission of forms related to the application for deputation of task force officers (“TFO”). More specifically, on page “24-cv-5722-288” the USMS withheld the type of information that must be included on Form USM-3A, and on page “24-cv-5722-289” the USMS withheld information pertaining to who and how the Form USM-3A can be signed and what a TFO must carry after deputation. Although these pieces of information might not compromise the deputation program, pieces of information can be assembled to provide a framework to determine how the applications for deputation are administered, which in turn could undermine this process. Accordingly, the USMS correctly applied FOIA Exemption 7(E) to withhold these discrete pieces of information.

SEGREGABILITY

9. FOIA requires that “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt.” 5

U.S.C. § 552(b). A line-by-line review was conducted to identify information exempt from disclosure or for which a discretionary waiver of exemption could be applied. USMS released all reasonably segregable, non-exempt information contained within the records at issue.

FORESEEABLE HARM STANDARD

In making its determinations, the USMS considered the foreseeable harm standard when reviewing responsive records and applying the FOIA exemptions and maintains, for the reasons set forth above, that disclosure would reasonably harm an interest protected by an exemption.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the statements made in the foregoing declaration are true and correct to the best of my knowledge and information.

Kathleene Molen
Associate General Counsel
Office of General Counsel – USMS

Executed on April 2, 2025.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION AND
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, AND
DEPARTMENT OF HOMELAND SECURITY,

Defendants.

Civil Action No. 24-cv-5722 (JSR)

Exhibit P

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN CIVIL LIBERTIES UNION &
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE, *et al.*,

Defendants.

Civil Action No. 25-cv-5722 (TJK)

DECLARATION OF CHRISTIAN ESTEVES

Pursuant to 28 U.S.C. § 1746, I, Christian Esteves, hereby declare as follows:

1. I am the Chief of the Sensitive Security Information (SSI) Program within the Security and Administrative Services office of the Transportation Security Administration (TSA). My duty station is the TSA headquarters in Springfield, Virginia.

2. Pursuant to 49 U.S.C. § 114(r), the Administrator of TSA is vested with the authority to determine what information constitutes SSI and to prohibit its disclosure. That authority has been delegated from the Administrator to the Chief of the SSI Program pursuant to a TSA Management Directive signed by the Administrator on November 4, 2015. The SSI Program serves as the primary point of contact for issues involving SSI for all TSA program offices, the Department of Homeland Security (DHS) Office of Security, all other DHS component agencies, as well as transportation security stakeholders and other Federal agencies such as the Federal Bureau of Investigation (FBI).

3. The SSI Program conducts assessments and reviews of documents and other records referred to it to determine whether information contained therein is SSI in accordance with 49 C.F.R. part 1520. SSI Program procedures contemplate the public release of as much information

as possible without compromising transportation security and require redaction of the smallest possible portion of the record necessary to protect SSI. Upon a determination that any record contains SSI, the SSI Program works to ensure that all such records are appropriately marked and stored at all times and are properly redacted prior to release to non-covered parties. The prohibition on public release of SSI is not discretionary; it is mandatory under 49 C.F.R. § 1520.15(a) and this prohibition applies to any individual authorized to possess SSI, 49 C.F.R. § 1520.9(a). The SSI Program also determines whether specific information should no longer be protected as SSI in accordance with 49 C.F.R. § 1520.5(c).

4. In the course of performing my official duties as Chief, I supervise and approve the SSI Program's review of records that have been identified as responsive to FOIA requests received by TSA and other DHS component agencies, as well as requests of TSA's FOIA Branch by non-DHS agencies that seek TSA's input on TSA information contained in the other agency's records. The SSI Program is responsible for reviewing such records to identify SSI.

5. This Declaration is based on personal knowledge and information gained in my official capacity as Chief of the SSI Program.¹ This Declaration is limited to addressing redactions under Exemption (b)(3) on one (1) of two (2) pages that the Federal Bureau of Investigation (FBI) submitted to TSA's FOIA Branch for a consultation regarding TSA information contained in those two pages that were otherwise subject to a FOIA request submitted to FBI. TSA's FOIA Office designated FBI's request with the reference number 2025-TSLC-00005.

6. Pursuant to a request from CBP, I reviewed two (2) pages that reflect an email exchange within FBI that originated from TSA. The TSA email that originated this email string was sent by

¹ This Declaration does not include SSI and rather only includes information appropriate for public release.

John Valdes from a TSA email address and reflected advice from within TSA regarding possible protest activity at airports. That TSA email concluded with two recommended mitigation measures to take should protests occur at certain locations.

7. Exemption 3 of FOIA allows the withholding of information, “specifically exempted from disclosure by statute . . . , if that statute – (A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld[.]”

8. Pursuant to 49 U.S.C. § 114(r) and implementing regulations found at 49 C.F.R. part 1520, information designated as SSI is exempt from disclosure under FOIA Exemption 3 if TSA determines that disclosure would “(A) be an unwarranted invasion of personal privacy; (B) reveal a trade secret or privileged or confidential commercial or financial information; or (C) be detrimental to the security of transportation.” 49 U.S.C. § 114(r)(1). TSA’s determinations as to what constitutes SSI are exclusively reviewable by the United States Courts of Appeals under 49 U.S.C. § 46110.

9. I personally reviewed the two-page record provided by FBI to determine whether it contains SSI. I have concluded that the information regarding recommended mitigation measures towards the end of the second page – and redacted on that page with the annotation “(b)(3)” - constitutes SSI that is properly withheld from the responsive record pursuant to Exemption 3 under 49 U.S.C. § 114(r) and 49 C.F.R. § 1520.5(b)(8)(i). The latter provision expressly designates as SSI “[s]ecurity measures or protocols recommended by the Federal government.”

10. I have also determined that the SSI Program procedures that call for the public release of as much information as possible without compromising transportation security and require

redaction of the smallest possible portion of the record necessary to protect SSI were followed and that the “(b)(3)” redactions in that page were necessary to protect SSI.

11. Because the redacted information is SSI, it may not be publicly disclosed under 49 U.S.C. § 114(r) and 49 C.F.R. § 1520.15(a). I have also determined that release of this information would be detrimental to the security of transportation.

12. Specifically, the redactions on the page in question addresses certain measures to take should violent protests occur at certain airport locations. Disclosing these measures in a FOIA would compromise the utility and effectiveness of these mitigation measures, as those bent of malfeasance could incorporate those measures into their planning.

13. Accordingly, I notified TSA’s FOIA Branch that the information in discussed above in the record that was the subject of FBI’s consultation request, which TSA’s FOIA Branch designated as 2025-TSLC-00005, cannot be publicly disclosed and was appropriately redacted as SSI from the document in question.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: April 14, 2025
Springfield, Virginia

CHRISTIAN P ESTEVES  Digitally signed by
CHRISTIAN P ESTEVES
Date: 2025.04.14 11:00:50
-04'00'

CHRISTIAN ESTEVES
Chief, SSI Program
Security and Administrative Services Office
Transportation Security Administration
U.S. Department of Homeland Security