

From: Jacob Hutt
To: [FOIA](#)
Cc: [Jenna Bitar](#)
Subject: ACLU FOIA Request
Date: Thursday, March 8, 2018 1:09:13 PM
Attachments: [image001.gif](#)
[image003.jpg](#)
[image005.png](#)
[ACLU FOIA re Keystone XL March 8 2018 TSA.docx](#)

To Whom it May Concern,

The American Civil Liberties Union requests records pertaining to cooperation between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparations for anticipated protests against the Keystone XL pipeline. The ACLU is also requesting expedited processing and a fee waiver. Please see the full request, attached to this email.

The address for the ACLU is:
125 Broad Street, 18th Floor
New York, NY 10004
212-549-2500

You can reach me at jhutt@aclu.org, or at my phone number 212-519-7809, with any questions. Thank you for your prompt attention to this request.

Sincerely,
Jacob Hutt

Jacob Hutt
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LEGAL DEPARTMENT



March 8, 2018

Transportation Security Administration
TSA-20, East Tower
FOIA Branch
601 South 12th Street
Arlington, VA 20598-6020
Email: FOIA@tsa.dhs.gov

**Re: Request Under Freedom of Information Act
(Expedited Processing & Fee Waiver Requested)**

To Whom It May Concern:

The American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the “ACLU”)¹ submit this Freedom of Information Act (“FOIA”) request (the “Request”) for records pertaining to cooperation between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparations for anticipated protests against the Keystone XL pipeline.

I. Background

On January 24, 2017, the White House released its Presidential Memorandum Regarding Construction of the Keystone XL Pipeline, which expedited the approval process for the Canada-to-Texas oil pipeline that President Barack Obama had previously rejected.² Two months later, President

¹ 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 rights and civil liberties cases, educates the public about civil rights and civil liberties issues across the country, directly lobbies legislators, and mobilizes the American Civil Liberties Union’s members to lobby their legislators. The American 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.

² See Presidential Memorandum Regarding Construction of the Keystone XL Pipeline (Jan. 24, 2017), <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-regarding-construction-keystone-xl-pipeline/>; Elise Labott & Dan Berman, *Obama Rejects Keystone XL Pipeline*, CNN (Nov. 6, 2015), <http://www.cnn.com/2015/11/06/politics/keystone-xl-pipeline-decision-rejection-kerry/index.html>.

Donald Trump announced that his administration had formally approved the pipeline.³

These decisions generated intense public controversy and debate. The president's approval of the Keystone XL Pipeline set the stage for renewed protest against oil pipelines, which activist groups say accelerate climate change, threaten clean water reserves, and invade cultural sites of American Indian tribes.⁴ In response to the president's announcement, then-chairman of the Standing Rock Sioux tribe, David Archambault II, stated, "We opposed Keystone before, and we'll oppose it again."⁵ Environmental groups, too, have made clear their intention to protest Keystone XL's construction; one prominent group has invited advocates to sign a "Pledge of Resistance," which includes a commitment to "participate in peaceful direct action that may result in my arrest, should construction begin on the Keystone XL pipeline."⁶

Government officials have consequently made clear their intention to prevent a repeat of the prolonged protests against the Dakota Access Pipeline, which drew thousands of activists to the North Dakota site, sparked physical confrontation with law enforcement authorities, and captured worldwide attention.⁷ Officials have pursued numerous strategies for impeding these protests, such as asking the federal government for guidance on the possibility of prosecuting protestors under domestic terrorism laws,⁸ enacting legislation that allows a governor or sheriff to prohibit groups numbering more than 20 from gathering on public land,⁹ and fostering cooperation between federal, state,

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³ Elise Labott & Jeremy Diamond, *Trump Administration Approves Keystone XL Pipeline*, CNN (Mar. 24, 2017), <http://www.cnn.com/2017/03/23/politics/keystone-xl-pipeline-trump-approve/index.html>.

⁴ Heather Brady, *4 Key Impacts of the Keystone XL and Dakota Access Pipelines*, National Geographic (Jan. 25, 2017), <https://news.nationalgeographic.com/2017/01/impact-keystone-dakota-access-pipeline-environment-global-warming-oil-health/>.

⁵ Stand with Standing Rock, *Standing Rock Sioux Chairman Responds to Keystone Pipeline Permit Approval* (Mar. 24, 2017), <http://standwithstandingrock.net/standing-rock-sioux-chairman-responds-keystone-pipeline-permit-approval/>.

⁶ Bold Alliance, *Sign the Keystone XL Pledge of Resistance* (last visited Dec. 27, 2017), https://boldalliance.webaction.org/p/dia/action3/common/public/?action_KEY=20257; see also Michael McLaughlin, *Keystone XL Protesters Won't Back Down After Trump Approval*, Huffington Post (Mar. 24, 2017), https://www.huffingtonpost.com/entry/keystone-xl-protesters-trump-approval_us_58d55333e4b02a2caab3819e.

⁷ See, e.g., Paul Hammel, *Nebraska Law Enforcement, Keystone XL Pipeline Foes Prepare for Possible Protests*, Omaha World-Herald (Apr. 11, 2017), http://www.omaha.com/news/nebraska/nebraska-law-enforcement-keystone-xl-pipeline-foes-prepare-for-possible/article_d85522c1-73cd-541c-98f2-f9b3375e8a3c.html.

⁸ Timothy Gardner, *U.S. Lawmakers Ask DOJ If Terrorism Law Covers Pipeline Activists*, Reuters (Oct. 23, 2017), <https://www.reuters.com/article/us-usa-pipelines-activism/u-s-lawmakers-ask-doj-if-terrorism-law-covers-pipeline-activists-idUSKBN1CS2XY>.

⁹ South Dakota Senate Bill 176 (Mar. 27, 2017), <https://www.courthousenews.com/wp-content/uploads/2017/03/SB-176.pdf>.

and local law enforcement entities and private security contractors.¹⁰ As a further threat to activists who may wish to repeat their actions at the Dakota Access Pipeline, the *Guardian* reports that Joint Terrorism Task Force agents have attempted to contact multiple individuals involved with the North Dakota anti-pipeline movement.¹¹

Evidence of cooperation among law enforcement officials and private corporations in the area of oil pipeline protests has been widely documented. On May 27, 2017, *The Intercept* published internal documents of the security firm TigerSwan that revealed close cooperation between TigerSwan, state police forces, and federal law enforcement in at least five states around the Dakota Access Pipeline.¹² For example, a TigerSwan situation report on March 29, 2016 explicitly named the state and federal actors in attendance at a joint meeting the day before: “Met with the Des Moines Field Office of the FBI, with the Omaha and Sioux Fall offices joining by conference call. Also in attendance were representatives of the Joint Terrorism Task Force, Department of Homeland Security . . . Topics covered included the current threat assessment of the pipeline, the layout of current security assets and persons of interests. The FBI seemed were [sic] very receptive . . . follow-up meetings with individuals will be scheduled soon[.]”¹³ *The Intercept* also published communications detailing coordination “between a wide range of local, state, and federal agencies,” including the revelation that the FBI participated in law enforcement operations related to the Dakota Access Pipeline protests.¹⁴ Finally, a review of federal lobbying disclosure forms by *DeSmog*, a blog focused on topics related to climate change, has revealed that the National Sheriffs’ Association was

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¹⁰ Alleen Brown, *Nebraska Approves Keystone XL Pipeline as Opponents Face Criminalization of Protests*, *The Intercept* (Nov. 20, 2017), <https://theintercept.com/2017/11/20/nebraska-approves-keystone-xl-pipeline-as-opponents-face-criminalization-of-protests/>; *Lincoln Police Prepare for All Scenarios as Pipeline Protests Near*, 1011 Now (Aug. 1, 2017), <http://www.1011now.com/content/news/Lincoln-Police-prepare-for-all-scenarios-as-pipeline-protests--437938853.html>.

¹¹ Sam Levin, *Revealed: FBI Terrorism Taskforce Investigating Standing Rock Activists*, *The Guardian* (Feb. 10, 2017), <https://www.theguardian.com/us-news/2017/feb/10/standing-rock-fbi-investigation-dakota-access>.

¹² Alleen Brown, Will Parrish, and Alice Speri, *Leaked Documents Reveal Counterterrorism Tactics Used at Standing Rock to “Defeat Pipeline Insurgencies”*, *The Intercept* (May 27, 2017), <https://theintercept.com/2017/05/27/leaked-documents-reveal-security-firms-counterterrorism-tactics-at-standing-rock-to-defeat-pipeline-insurgencies/>.

¹³ Alleen Brown, Will Parrish, and Alice Speri, *TigerSwan Responded to Pipeline Vandalism by Launching Multistate Dragnet*, *The Intercept* (Aug. 26, 2017), <https://theintercept.com/2017/08/26/dapl-security-firm-tigerswan-responded-to-pipeline-vandalism-by-launching-multistate-dragnet/>.

¹⁴ Brown, Parrish & Speri, *Leaked Documents Reveal Counterterrorism Tactics*; see also *Intel Group Email Thread*, *The Intercept* (May 27, 2017), <https://theintercept.com/document/2017/05/27/intel-group-email-thread/> (documenting FBI participation in law enforcement operations around the Dakota Access Pipeline protests).

lobbying Congress for surplus military gear and on issues related to the Dakota Access Pipeline.¹⁵

Law enforcement officials have signaled that such cooperation will assist them in responding to future protests against Keystone XL and other oil pipelines. For example, on April 11, 2017, the *Omaha Herald* reported that Morton County, North Dakota Sheriff Kyle Kirchmeier, whose department was involved in responding to the Dakota Access Pipeline protests, has been in communication with other states over how to respond to oil pipeline protestors.¹⁶

Such indications and the recent existence of cooperation on this exact issue raise important questions about federal agencies' level of collaboration with state and local governments and with private security contractors in connection with oil pipeline protest actions. These questions are especially important given the uncertainty around whether and to what extent the government was engaged in surveillance of Dakota Access Pipeline protestors.¹⁷ The First Amendment protects political speech from the threat of undue government scrutiny, and the extent of such scrutiny is currently unknown.¹⁸

To provide the American public with information about federal cooperation with state and local governments and with private security contractors over possible oil pipeline protests, the ACLU seeks such information through this FOIA request.

II. Requested Records

¹⁵ Steven Horn & Curtis Waltman, *In Heat of Dakota Access Protests, National Sheriffs' Association Lobbied for More Military Gear*, DeSmog (Apr. 27, 2017), <https://www.desmogblog.com/2017/04/27/dakota-access-sheriffs-lobbying-military-gear>.

¹⁶ Paul Hammel, *Nebraska Law Enforcement, Keystone XL Pipeline Foes Prepare for Possible Protests*, Omaha World Herald (Apr. 11, 2017), http://www.omaha.com/news/nebraska/nebraska-law-enforcement-keystone-xl-pipeline-foes-prepare-for-possible/article_d85522c1-73cd-541c-98f2-f9b3375e8a3c.html.

¹⁷ Alyssa Newcomb, Daniel A. Medina, Emmanuelle Saliba, and Chiara A. Sottile, *At Dakota Pipeline, Protestors Questions of Surveillance and 'Jamming' Linger*, NBC (Oct. 31, 2016), <https://www.nbcnews.com/storyline/dakota-pipeline-protests/dakota-pipeline-protesters-questions-surveillance-jamming-linger-n675866>; Morgan Chalfant, *ACLU Challenges Warrant to Search Facebook Page of Dakota Access Opponents*, The Hill (Mar. 9, 2017), <http://thehill.com/policy/cybersecurity/323131-aclu-challenges-police-effort-to-search-facebook-page-of-dakota-access>.

¹⁸ See Motion to Quash Search Warrant, American Civil Liberties Union, *In Re Search Warrant No. 17A03639 Served On Facebook* at 5 (filed Mar. 8, 2017), https://www.aclu.org/sites/default/files/field_document/motion_to_quash_-_filed.pdf.

With respect to the agency listed above, the ACLU seeks the release of all records¹⁹ created since January 24, 2017, concerning:

(1) Legal and policy analyses and recommendations related to law enforcement funding for and staffing around oil pipeline protests. Such recommendations may include, but are not limited to, declarations of a state of emergency by state and local entities in order to marshal additional funds, and requests by state or local entities for federal agencies to provide funding or personnel for counter-protest operations; and

(2) Travel of federal employees to speaking engagements, private and public meetings, panels, and conferences on the subject of preparation for oil pipeline protests and/or cooperation with private corporations in furtherance thereof; and

(3) Meeting agendas, pamphlets, and other distributed matter at speaking engagements, private and public meetings, panels, and conferences where federal employees are present to discuss preparation for oil pipeline protests and/or cooperation with private corporations in furtherance thereof; and

(4) Communications between federal employees and state or local law enforcement entities or employees thereof, and between federal employees and private security companies or employees thereof, discussing cooperation in preparation for oil pipeline protests.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), the ACLU requests that responsive electronic records be provided electronically in their native file format, if possible. 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 that the records be provided in separate, Bates-stamped files.

III. Application for Expedited Processing

The ACLU requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).²⁰ 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).

¹⁹ For the purposes of this Request, “records” are collectively defined to include, but are not limited to, final drafts of legal and policy memoranda; guidance documents; instructions; training documents; formal and informal presentations; directives; contracts or agreements; and memoranda of understanding.

²⁰ *See also* 28 C.F.R. § 16.5(e); 32 C.F.R. § 286.8(e); 6 C.F.R. § 5.5(e).

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).²¹ Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information 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”).²²

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The ACLU regularly publishes *STAND*, a print magazine that reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 980,000 people. The ACLU also publishes regular updates and alerts via email to over 3.1 million subscribers (both ACLU members and non-members). These updates are additionally broadcast to over 3.8 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,²³

²¹ *See also* 28 C.F.R. 16.5(e)(1)(ii); 32 C.F.R. § 286.8(e)(1)(i)(B); 6 C.F.R. § 5.5(e)(1)(ii).

²² 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 Rights 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).

²³ *See, e.g.,* Press Release, American Civil Liberties Union, U.S. Releases Drone Strike ‘Playbook’ in Response to ACLU Lawsuit (Aug. 6, 2016), <https://www.aclu.org/news/us-releases-drone-strike-playbook-response-aclu-lawsuit>; Press Release, American Civil Liberties Union, Secret Documents Describe Graphic Abuse and Admit Mistakes (June 14, 2016), <https://www.aclu.org/news/cia-releases-dozens-torture-documents-response-aclu-lawsuit>; Press Release, American Civil Liberties Union, U.S. Releases Targeted Killing Memo in Response to Long-Running ACLU Lawsuit (June 23, 2014), <https://www.aclu.org/national-security/us-releases-targeted-killing-memo-response-long-running-aclu-lawsuit>; Press Release, American Civil Liberties Union, Justice Department White Paper Details Rationale for Targeted Killing of Americans (Feb. 4, 2013), <https://www.aclu.org/national-security/justice-department-white-paper-details-rationale-targeted-killing-americans>; Press Release, American Civil Liberties Union, Documents Show FBI Monitored Bay Area Occupy Movement (Sept. 14, 2012), <https://www.aclu.org/news/documents-show-fbi-monitored-bay-area-occupy-movement-insidebayareacom>.

and ACLU attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests.²⁴

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.²⁵ The ACLU also regularly publishes 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

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²⁴ See, e.g., Cora Currier, *TSA's Own Files Show Doubtful Science Behind Its Behavioral Screen Program*, The Intercept, Feb. 8, 2017, <https://theintercept.com/2017/02/08/tsas-own-files-show-doubtful-science-behind-its-behavior-screening-program/> (quoting ACLU attorney Hugh Handeyside); Karen DeYoung, *Newly Declassified Document Sheds Light on How President Approves Drone Strikes*, Wash. Post, Aug. 6, 2016, <http://wapo.st/2jy62cW> (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, <http://abcn.ws/2jy40d3> (quoting ACLU staff attorney Dror Ladin); Nicky Woolf, *US Marshals Spent \$10M on Equipment for Warrantless Stingray Device*, Guardian, Mar. 17, 2016, <https://www.theguardian.com/world/2016/mar/17/us-marshals-stingray-surveillance-airborne> (quoting ACLU attorney Nate Wessler); David Welna, *Government Suspected of Wanting CIA Torture Report to Remain Secret*, NPR, Dec. 9, 2015, <http://n.pr/2jy2p71> (quoting ACLU project director Hina Shamsi).

²⁵ See, e.g., Hugh Handeyside, *New Documents Show This TSA Program Blamed for Profiling Is Unscientific and Unreliable — But Still It Continues* (Feb. 8, 2017, 11:45 AM), <https://www.aclu.org/blog/speak-freely/new-documents-show-tsa-program-blamed-profiling-unscientific-and-unreliable-still>; Carl Takei, *ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA's Torture Site* (Nov. 22, 2016, 3:15 PM), <https://www.aclu.org/blog/speak-freely/aclu-obtained-emails-prove-federal-bureau-prisons-covered-its-visit-cias-torture>; Brett Max Kaufman, *Details Abound in Drone 'Playbook' — Except for the Ones That Really Matter Most* (Aug. 8, 2016, 5:30 PM), <https://www.aclu.org/blog/speak-freely/details-abound-drone-playbook-except-ones-really-matter-most>; Nathan Freed Wessler, *ACLU- Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida* (Feb. 22, 2015, 5:30 PM), <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida>; Ashley Gorski, *New NSA Documents Shine More Light into Black Box of Executive Order 12333* (Oct. 30, 2014, 3:29 PM), <https://www.aclu.org/blog/new-nsa-documents-shine-more-light-black-box-executive-order-12333>; ACLU, *ACLU Eye on the FBI: Documents Reveal Lack of Privacy Safeguards and Guidance in Government's "Suspicious Activity Report" Systems* (Oct. 29, 2013), https://www.aclu.org/sites/default/files/assets/eye_on_fbi_-_sars.pdf.

<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.

The ACLU website includes many features on information obtained through the FOIA.²⁶ For example, the ACLU's "Predator Drones FOIA" webpage, <https://www.aclu.org/national-security/predator-drones-foia>, contains commentary about the ACLU's FOIA request, press releases, analysis of the FOIA documents, numerous blog posts on the issue, documents related to litigation over the FOIA request, frequently asked questions about targeted killing, and links to the documents themselves. Similarly, 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 sophisticated searches of FOIA documents relating to government policies on rendition, detention, and interrogation.²⁷

The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained

²⁶ See, e.g., Nathan Freed Wessler & Dyan Cortez, *FBI Releases Details of 'Zero-Day' Exploit Decisionmaking Process* (June 26, 2015, 11:00 AM), <https://www.aclu.org/blog/free-future/fbi-releases-details-zero-day-exploit-decisionmaking-process>; Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights* (Oct. 30, 2015, 8:00 AM), <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>; *ACLU v. DOJ – FOIA Case for Records Relating to the Killing of Three U.S. Citizens*, ACLU Case Page, <https://www.aclu.org/national-security/anwar-al-awlaki-foia-request>; *ACLU v. Department of Defense*, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-department-defense>; *Mapping the FBI: Uncovering Abusive Surveillance and Racial Profiling*, ACLU Case Page, <https://www.aclu.org/mappingthefbi>; *Bagram FOIA*, ACLU Case Page, <https://www.aclu.org/cases/bagram-foia>; *CSRT FOIA*, ACLU Case Page, <https://www.aclu.org/national-security/csrt-foia>; *ACLU v. DOJ – Lawsuit to Enforce NSA Warrantless Surveillance FOIA Request*, ACLU Case Page, <https://www.aclu.org/aclu-v-doj-lawsuit-enforce-nsa-warrantless-surveillance-foia-request>; *Patriot FOIA*, ACLU Case Page, <https://www.aclu.org/patriot-foia>; *NSL Documents Released by DOD*, ACLU Case Page, <https://www.aclu.org/nsl-documents-released-dod?redirect=cpreirect/32088>.

²⁷ *The Torture Database*, ACLU, <https://www.thetorturedatabase.org>; see also *Countering Violent Extremism FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/cve-foia-documents>; *TSA Behavior Detection FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/tsa-behavior-detection-foia-database>; *Targeted Killing FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/targeted-killing-foia-database>.

through the FOIA. For example, through compilation and analysis of information gathered from various sources—including information obtained from the government through FOIA requests—the ACLU created an original chart that provides the public and news media with a comprehensive summary index of Bush-era Office of Legal Counsel memos relating to interrogation, detention, rendition, and surveillance.²⁸ Similarly, the ACLU produced an analysis of documents released in response to a FOIA request about the TSA’s behavior detection program²⁹; a summary of documents released in response to a FOIA request related to the FISA Amendments Act³⁰; a chart of original statistics about the Defense Department’s use of National Security Letters based on its own analysis of records obtained through FOIA requests³¹; and an analysis of documents obtained through FOIA requests about FBI surveillance flights over Baltimore.³²

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).³³ Specifically, the requested records relate to forthcoming cooperation between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparations for protests against the Keystone XL pipeline. As discussed in Part I, *supra*, oil pipelines, protests against them, and law enforcements responses to these protests are the subject of widespread public controversy and media attention.³⁴ The records sought relate

²⁸ *Index of Bush-Era OLC Memoranda Relating to Interrogation, Detention, Rendition and/or Surveillance*, ACLU (Mar. 5, 2009), https://www.aclu.org/sites/default/files/pdfs/safefree/olcmemos_2009_0305.pdf.

²⁹ *Bad Trip: Debunking the TSA’s ‘Behavior Detection’ Program*, ACLU (2017), https://www.aclu.org/sites/default/files/field_document/dem17-tsa_detection_report-v02.pdf.

³⁰ *Summary of FISA Amendments Act FOIA Documents Released on November 29, 2010*, ACLU, <https://www.aclu.org/files/pdfs/natsec/faafoia20101129/20101129Summary.pdf>.

³¹ *Statistics on NSL’s Produced by Department of Defense*, ACLU, <https://www.aclu.org/other/statistics-nsls-produced-dod>.

³² Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights* (Oct. 30, 2015, 8:00 AM), <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>.

³³ *See also* 28 C.F.R. 16.5(e)(1)(ii); 32 C.F.R. § 286.8(e)(1)(i)(B); 6 C.F.R. § 5.5(e)(1)(ii).

³⁴ *See supra* notes 4–7 and accompanying text.

to a matter of widespread and exceptional media interest in planned oil pipelines, protests against them, and law enforcement responses to these protests.

Given the foregoing, the ACLU has satisfied the requirements for expedited processing of this Request.

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).³⁵ 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).

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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 little specific information about cooperation between federal, state, and local law enforcement entities and between federal entities and private security companies around anticipated pipeline protests is publicly available, the records sought are certain to contribute significantly to the public’s understanding of what type of efforts the federal government is undertaking in preparation for protests against the Keystone XL pipeline.

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.

³⁵ See also 28 C.F.R. § 16.10(k)(2); 32 C.F.R. § 286.12(l)(1); 6 C.F.R. § 5.11(k)(1).

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).³⁶ The ACLU meets the statutory and regulatory definitions of a “representative of the news media” because 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)³⁷; *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).³⁸

³⁶ *See also* 28 C.F.R. 16.10(k)(2)(ii)(B); 32 C.F.R. § 286.12 (l)(2)(ii)(b); 6 C.F.R. § 5.11(k)(2)(iii).

³⁷ *See also* 28 C.F.R. 16.10(b)(6); 32 C.F.R. § 286.12(b)(6); 6 C.F.R. § 5.11(b)(6).

³⁸ 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 5; *Nat’l Sec. Archive*, 880 F.2d at 1387; *see also Leadership Conference on Civil Rights*, 404 F. Supp. 2d at 260; *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53–54.

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.”³⁹ As was true in those instances, the ACLU meets the requirements for a fee waiver here.

* * *

Pursuant to applicable statutes and regulations, the ACLU expects a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii); 28 C.F.R. 16.5(e)(4); 32 C.F.R. § 286.8(e)(1); 6 C.F.R. § 5.5(e)(4).

If the Request is denied in whole or in part, the ACLU asks that you justify all deletions by reference to specific exemptions to FOIA. The ACLU expects the release of all segregable portions of otherwise exempt material. The ACLU reserves the right to appeal a decision to withhold any information or deny a waiver of fees.

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

Thank you for your prompt attention to this matter. Please furnish the applicable records to:

Jacob Hutt
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, New York 10004
T: 212.519.7809
jhutt@aclu.org

³⁹ 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 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 May 2016, the FBI granted a fee-waiver request regarding a FOIA request issued to the DOJ for documents related to Countering Violent Extremism Programs. In April 2013, the National Security Division of the DOJ granted a fee-waiver request with respect to a request for documents relating to the FISA Amendments Act. Also in April 2013, the DOJ granted a fee-waiver request regarding a FOIA request for documents related to “national security letters” issued under the Electronic Communications Privacy Act. In August 2013, the FBI granted the fee-waiver request related to the same FOIA request issued to the DOJ. In June 2011, the DOJ National Security Division granted a fee waiver to the ACLU with respect to a request for documents relating to the interpretation and implementation of a section of the PATRIOT Act. In March 2009, the State Department granted a fee waiver to the ACLU with regard to a FOIA request for documents relating to the detention, interrogation, treatment, or prosecution of suspected terrorists.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. See 5 U.S.C. § 552(a)(6)(E)(vi).

Respectfully,

/s/ Jacob J. Hutt

Jacob J. Hutt
American Civil Liberties Union
Foundation
125 Broad Street, 18th Floor
New York, NY 10004
T: 212.519.7809
jhutt@aclu.org

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AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

U.S. Department of Homeland Security
Freedom of Information Act Branch

601 South 12th Street
Arlington, VA 20598



Transportation
Security
Administration

Freedom of Information Act/Privacy Act Request Acknowledgement

Requester Name and Address:

Jacob J. Hutt
jhutt@aclu.org

Request Date: March 08, 2018
Date Received: March 12, 2018
Perfected Case Number: 2018-TSFO-00198
Fee Waiver Requested: No Expedite Request: No
Category: Simple

Dear Jacob Hutt:

Your request has been received in this office for processing. Please see below to learn if we need additional clarification and/or documentation in order to continue processing your request. If the first box is checked, nothing more is required from you. If other boxes are checked and we do require supplemental information, you have 30 working days to respond. If you do not respond within this time frame, we will administratively close your case; however, you may resubmit your request at any time. If you have any questions, please contact this office at (571) 227-2300 or foia@tsa.dhs.gov. You may also check the status of your request at <https://www.dhs.gov/foia-status>.

If you are requesting video recordings from airports, please be aware that the Transportation Security Administration does not control video recordings at airports and, therefore, we are generally unable to provide those records. We recommend that you request video recordings from the local airport authority. Also be aware that the airport authorities generally delete recordings after thirty days.

- No additional information is needed at this time. However, if any additional information is needed in order to complete our search for documents we will contact you.
- Because you have asked for copies of records about yourself, we must verify your identity to ensure that your personal information is released only to you. Enclosed is the appropriate form that can be used to satisfy this requirement.
- Because you have submitted a third party request, we must receive a statement from the subject of the request verifying his/her identity and certifying his/her agreement that records concerning him/her may be released to you. Enclosed is the appropriate form that can be used to satisfy this requirement.

USA_TSA_000015

- Request did not reasonably describe the records sought or is too broad in scope. Requests are reasonably described when an agency employee is able to locate the records with a reasonable amount of effort. Please modify your request ensuring you specifically describe the records you seek. For example, what was the nature of your contact with TSA – did you apply for a job with TSA, did you encounter problems at an airport checkpoint (specify airport, date), current employee, etc.
- Your request for expedited processing is denied because you do not qualify under one of the two required categories: 1) Circumstances in which the lack of expedited treatment could pose an imminent threat to life or physical safety, or 2) You are person primarily engaged in disseminating information and there exists an urgency to inform the public concerning actual or alleged Federal Government activity.
- Provisions of the FOIA allow us to recover part of the cost of complying with your request. We will construe the submission of your request as an agreement to pay up to \$25.00. (6 CFR section 5.11) If the cost will exceed this amount, we will contact you to advise of the new cost and your agreement to pay or modify the scope of your request to lessen the cost.
- You have requested a fee waiver. We are reviewing your request and will advise you of our determination shortly.
- We have determined that your request meets the “Unusual Circumstances” criteria of the FOIA due to one or more of the following: There is a need to search for and collect records from separate offices; there is a need to search for, collect, and examine a voluminous amount of records; or there is a need for consultation with another agency or among two or more components within the same agency. Therefore, we will not be able to complete the processing of your request within 30 working days (20 working days plus 10 additional business days allowed for “unusual circumstances.”
-

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, please contact the FOIA Branch and the analyst who is assigned to process your request will assist you. To do so, you may send an e-mail to foia@tsa.dhs.gov, call 571-227-2300 or toll free 1-866-364-2872, or you may contact our FOIA Public Liaison in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS 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.

U.S. Department of Homeland Security
Freedom of Information Act Branch
601 South 12th Street
Arlington, VA 20598-6020



Transportation
Security
Administration

May 24, 2018

3600.1

Case Number: 2018-TSFO-00198

Jacob Hutt
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, NY 10004

Dear Mr. Hutt:

This letter is in response to your Freedom of Information Act (FOIA) request to the Transportation Security Administration (TSA) dated March 08, 2018, seeking access to “records pertaining to cooperation between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparations for anticipated protests against the Keystone XL pipeline.” Your request has been processed under the FOIA, 5 U.S.C. § 552. A search was conducted within the TSA and no records responsive to your request were located.

Fees

There are no fees associated with processing this request because the fees incurred do not exceed the minimum threshold necessary for charge.

Administrative Appeal

In the event that you may wish to appeal this determination, an administrative appeal may be made in writing to Kimberly Walton, Assistant Administrator, Office of Civil Rights & Liberties, Ombudsman and Traveler Engagement, Transportation Security Administration, 701 South 12th Street, West Building, W3-110S, Arlington, VA 20598-6033. Your appeal **must be submitted within 90 days** from the date of this determination. It should contain your FOIA request number and, to the extent possible, the reasons why you believe the initial determination should be reversed. In addition, the envelope in which the appeal is mailed should be prominently marked “FOIA Appeal.” Please note that the Assistant Administrator’s determination of the appeal will be administratively final.

Additionally, you have the right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS 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 202-741-5796.

USA_TSA_000017

If you have any questions pertaining to your request, please feel free to contact the FOIA Branch at 1-866-364-2872 or locally at 571-227-2300.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Deplitch / for".

Deborah O. Moore
Acting FOIA Officer

**VICTORIA L. FRANCIS
MARK STEGER SMITH**
Assistant U.S. Attorney
U.S. Attorney's Office
2601 2nd Ave. North, Suite 3200
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(406) 247-4667 – Mark
Fax: (406) 657-6058
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mark.smith3@usdoj.gov

ATTORNEYS FOR FEDERAL DEFENDANTS

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

**AMERICAN CIVIL LIBERTIES
UNION, AMERICAN CIVIL
LIBERTIES UNION FOUNDATION,
and AMERICAN CIVIL LIBERTIES
UNION OF MONTANA
FOUNDATION, INC.,**

Plaintiffs,

vs.

**DEPARTMENT OF DEFENSE,
DEPARTMENT OF HOMELAND
SECURITY, DEPARTMENT OF
THE INTERIOR, and
DEPARTMENT OF JUSTICE,**

Defendants.

CV 18-154-M-DWM

**DECLARATION OF TERI
MILLER**

I, Teri Miller, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am the Freedom of Information Act (FOIA) Officer for the Transportation Security Administration (TSA), a component of the U.S. Department of Homeland Security (DHS). I am responsible for overseeing the processing of all requests made to TSA under FOIA, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a; for initiating searches for records relevant to such requests; and for supervising the determination of what records or portions thereof should be disclosed and which should be withheld in part or in full.

2. In my capacity as TSA's FOIA Officer, I am familiar with TSA's obligations under FOIA and the Privacy Act, including application of the various exemptions thereunder. The statements made in this Declaration are based on my personal knowledge, information made available to me in the performance of my official duties, and conclusions and determinations reached and made in accordance therewith.

3. I am aware that Plaintiffs filed a Complaint, dated September 4, 2018, which seeks an order compelling the defendants to produce records in response to their FOIA request concerning cooperation between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparations for anticipated protests against the Keystone XL Pipeline. As TSA's FOIA Officer, I am familiar with the processing of Plaintiffs' FOIA request, including the search for responsive documents in accordance with the FOIA.

4. By letter dated March 8, 2018, Mr. Jacob J. Hutt submitted a Freedom of Information Act (FOIA) request on behalf of the American Civil Liberties Union Foundation ("ACLU") to the TSA. Mr. Hutt requested all records created since January 24, 2017 concerning cooperation

between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparation for anticipated protests against the Keystone XL pipeline.

5. TSA received the ACLU's FOIA request on March 12, 2018. TSA sent a request acknowledgement on March 12, 2018, and assigned the ACLU's request Case Number 2018-TSFO-00198. Given the terms of the ACLU's request, TSA's FOIA Branch tasked TSA's Law Enforcement/Federal Air Marshal Service (LE/FAMS) with conducting a search on March 12, 2018, with a due date of March 19, 2018. The requested records were described as follows:

The American Civil Liberties Union requests records pertaining to cooperation between federal, state, and local law enforcement entities and between federal law enforcement entities and private security companies around preparations for anticipated protests against the Keystone XL pipeline.

Search terms: cooperation between federal, state, and local law enforcement entities

A Federal Air Marshal (FAM) with the Information Coordination Section (ICS) of LE/FAMS was tasked with searching databases maintained by TSA that are the principal repositories of investigative or other information regarding travelers, including information about additional TSA or DHS scrutiny. The FAM searched the ICS Case Management System, which includes FAMS' activity reports, lookouts and documents from other agencies, advisories, and after-action reports, both electronically and manually. Within the ICS Case Management System, no responsive records were located. LE/FAMS informed TSA's FOIA Branch that it had conducted the search requested and did not discover any records in its possession that were responsive to

the request. On May 24, 2018, TSA sent a letter to the ACLU informing them that their FOIA request was processed, a search for records was conducted and no responsive records were located. Although the ACLU alleges that it filed an appeal of TSA's determination that it has no responsive records, TSA has no record of receiving the ACLU's appeal.

6. Following Plaintiff's filing of the instant action, TSA's FOIA Branch requested, on January 31, 2019, that TSA's LE/FAMS conduct an additional search utilizing the following search string: "'Keystone' and ('pipeline' or 'oil pipeline') and 'protest'" in a Boolean relationship (e.g., within the same paragraph or within 100 words). On February 12, TSA's LE/FAMS confirmed that they conducted the search requested and the search resulted in no records found. Specifically, TSA's LE/FAMS searched the following databases using the search terms requested: Information Coordination Section; Special Mission Coverage; and Special Event Assessment Rating System. These databases were searched because that is where LE/FAMS would store records of this type, if they existed. If LE/FAMS were to have responsibility for coordinating and/or preparing for a protest at a pipeline, the LE/FAMS Director's Office, Field Operations Division and Flight Operations Division would be involved. Searches were conducted up to four times by groups in each division, specifically, by the Division Director of Flight Operations, the Information Coordination Section and Visible Intermodal Prevention and Response Sections in Field Operations, and the LE/FAMS Executive Advisor on behalf of the LE/FAMS Executive Assistant Administrator/Director in the Director's Office.

7. In the aftermath of September 11, 2001, Congress passed, on November 19, 2001, the Aviation and Transportation Security Act (ATSA). Pub. L. 107-71, 115 Stat 597. ATSA created TSA with the goal of preventing further terrorist attacks against the aviation industry, as well as all other modes of transportation. Among the many tasks ATSA gave to TSA were

responsibilities for: protect[ing] passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy, 49 U.S.C. § 44903(b) (emphasis added); develop[ing] policies, strategies, and plans for dealing with threats to transportation security, see 49 USC § 114 (f)(3); in consultation with the airport operator and law enforcement authorities, order[ing] the deployment of such personnel at any secure area of the airport as necessary to counter the risk of criminal violence, the risk of aircraft piracy at the airport, the risk to air carrier aircraft operations at the airport, or to meet national security concerns; being responsible for day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation under sections 44901 and 44935, see 49 USC § 114(e)(1); provid[ing] for the screening of all passengers and property,” see 49 CFR §44901(a); and establish[ing] a program for the hiring and training of security screening personnel,” see 49 CFR §44935(e)(1). The mission of LE/FAMS is to promote public confidence in the security of our Nation’s transportation domain. To achieve this mission, LE/FAMS deploys Federal Air Marshals (FAMs) on U.S. aircraft world-wide; conducts protection, response, detection, and assessment activities in airports and other transportation systems; maintains TSA’s state of preparedness and coordinates incident management; trains and manages all armed pilots; and coordinates all TSA canine assets. LE/FAMS is TSA’s primary law enforcement office. Given TSA’s and LE/FAMS’s statutory mandate, which does not extend to protecting the security of oil pipelines, it should be expected and understood that neither TSA nor LE/FAMS possess any documents responsive to Plaintiffs’ FOIA request.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this 15 day of March, 2019, in Arlington, Virginia.

A handwritten signature in blue ink, appearing to read "Teri Miller", written in a cursive style.

Teri Miller
FOIA Officer
Transportation Security Administration