

Williams Exhibit A – May 13, 2013 –  
Mr. Adbo's FOIA request to DIA

LFGAL DEPARTMENT



MAY 24 2013

May 13, 2013

BY USPS MAIL

Margaret A. Bestrain, Chief, FOIA and Declassification Services Branch  
Defense Intelligence Agency  
U.S. Department of Defense  
ATTN: DAN-IA (FOIA)  
200 MacDill Blvd.  
Washington, DC 20340-5100

RE: FREEDOM OF INFORMATION ACT REQUEST

Dear Ms. Bestrain,

The American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the "ACLU") submit this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for access to documents relating to Executive Order 12,333, 3 C.F.R. 200 (1981 Comp.) C'EO 12,333"). Specifically, we request the following records<sup>1</sup> :

1. Any records construing or interpreting the authority of the Defense Intelligence Agency ("Agency") under Executive Order 12,333 or any regulations issued thereunder;
2. Any records describing the minimization procedures<sup>2</sup> used by the Agency with regard to both intelligence collection and intelligence interception conducted pursuant to the Agency's authority under EO 12,333 or any regulations issued thereunder; and
3. Any records describing the standards that must be satisfied for the "collection," "acquisition," or "interception" of communications, as the Agency defines these terms, pursuant to the Agency's authority under EO 12,333 or any regulations issued thereunder.

<sup>1</sup> Records include but are not limited to electronic records, letters, correspondence, tape recordings, notes, data, memoranda, reports, email, computer source and object code, technical manuals, technical specifications, legal opinions, policy statements, and any other materials.

<sup>2</sup> Minimization procedures include but are not limited to rules, policies, or procedures addressing the collection, interception, handling, use, retention, and destruction of information relating to U.S. persons that is acquired in the course of intelligence activities.

AMERICAN CIVIL LIBERTIES UNION  
NATIONAL OFFICE  
1199 N. STREET, N.W.  
WASHINGTON, D.C. 20037  
TEL: 202.638.2400  
WWW.ACLU.ORG

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR

Request for a Fee Limitation and Public Interest Fee Waiver

The ACLU requests a waiver of search and review fees because the requested records are not sought for commercial use and because the ACLU is a "representative of the news media." 5 U.S.C. § 552(a)(4)(A)(ii)(II). Dissemination of information about actual or alleged government activity is a critical and substantial component of the ACLU's mission and work. The ACLU disseminates this information to educate the public and promote the protection of civil liberties. Its regular means of disseminating and editorializing information obtained through FOIA requests include: a paper newsletter distributed to approximately 450,000 people; a bi-weekly electronic newsletter distributed to approximately 300,000 subscribers; published reports, books, pamphlets, and fact sheets; a widely read blog; heavily visited websites, including an accountability microsite, <http://www.aclu.org/accountability>; and a video series.

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.Mr +. I- [+ Pe.Mf>1)  
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The ACLU therefore meets the statutory definition of a "representative of the news media" as 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); *see also Nat'l Sec. Archive v. Dep't of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989); *cf Am. Civil Liberties Union v. Dep't of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group to be "'primarily engaged in disseminating information'"). Indeed, the ACLU recently was held to be a "representative of the news media." *Serv. Women's Action Network v. Dep't of Defense*, 888 F. Supp. 2d 282, 287-88 (D. Conn. 2012); *see also Am. Civil Liberties Union of Wash. v. Dep't of Justice*, No. C09-0642RSL, 2011 WL 887731, at \*10 (W.D. Wash. Mar. 10, 2011) (finding ACLU of Washington to be a "representative of the news media"), *reconsidered in part on other grounds*, 2011 WL 1900140 (W.D. Wash. May 19, 2011).

The ACLU also requests a waiver of all search, review, or duplication fees on the ground that disclosure of the requested information is in the public interest because: (1) it "is likely to contribute significantly to public understanding of the operations or activities of the government," and (2) it "is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). This request clearly satisfies these criteria.

First, the requested material concerns "the operations or activities" of the Agency. E.O. 12,333 is "intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers." EO 12,333 § 2.2. It authorizes the intelligence community, including the Agency, to collect intelligence, and it sets forth certain limitations on intelligence-gathering activities relevant to civil liberties. In its brief in a

recent case before the Supreme Court of the United States, the Government emphasized its authority to conduct surveillance of Americans' foreign contacts abroad under Executive Order No. 12,333, without conforming to various statutory restrictions. Brief for Petitioners, *Clapper v. Amnesty Int'l USA*, No. 11-1025, 2012 WL 3090949, at \*45 (U.S. 2012). How the Government actually does this, and whether it appropriately accommodates the constitutional rights of American citizens and residents whose communications are intercepted in the course of that surveillance, are matters of great significance.

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 EXECUTIVE DIRECTOR

Moreover, the requested materials will contribute significantly to the public understanding of the Agency's operations or activities. 5 U.S.C. § 552(a)(4)(A)(iii). Though the subject of foreign-intelligence collection is a matter of great public interest and concern, little information on how the American intelligence community construes the authority conferred by EO 12,333 and its implementing regulations is currently publicly available.

for example, in the *Clapper* brief described above, the government makes no argument beyond a handful of one-sentence assertions of its authority under EO 12,333. *See* Brief for Petitioners, *Clapper v. Amnesty Int'l USA*, No. 11-1025, 2012 WL 3090949 at \*4, \*33, \*41, \*45. Likewise, the publicly available administrative agency materials typically do little more than restate EO 12,333's limits on the intelligence community in slightly different ways or provide predictable definitions for terms left undefined in the executive order. *See, e.g.,* Dep't of Def., DOD 5240 1-R, *Procedures Governing the Activities of DOD Intelligence Components that Affect United States Persons* § C2.3.12 (Dec. 1982); Nat'l Sec. Agency, *United States Signals Intelligence Directive* 18 (July 1993); Army Regulation 381-10, *US Army Intelligence Procedures* §2-2(1) (2007). Judicial treatments of EO 12,333 contribute equally little to the public understanding of the limits of intelligence-gathering powers under EO 12,333. *See, e.g., United States v. Marzook*, 435 F. Supp. 2d 778 (N.D. 111, 2006); *United States v. Poindexter*, 727 F. Supp. 1470 (D.D.C. 1989); *United Presbyterian Church in the U.S.A. v. Reagan*, 738 F.2d 1375 (D.C. Cir. 1984).

For these reasons, we respectfully request that all fees related to the search, review, and duplication of the requested records be waived. If the search and review fees will not be waived, we ask that you contact us at the email address listed below should the estimated fees resulting from this request exceed \$100.

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We request that responsive electronic records be provided electronically in their native file format, if possible. *See* 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best

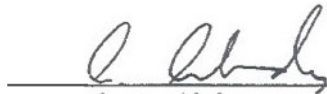
image quality in the agency's possession, and in separate, Bates-stamped files.

We also request that you provide an estimated date on which you will finish processing this request. *See* 5 U.S.C. § 552(a)(7)(B).

If this FOIA request is denied in whole or in part, please provide the reasons for the denial, pursuant to 5 U.S.C. § 552(a)(6)(A)(i). In addition, please 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 (2010).

Thank you for your consideration of this request. If you have any questions or concerns, please do not hesitate to contact us at the email address listed below. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), we expect a response regarding this request within the twenty working-day statutory time limit.

Sincerely,



Alexander Abdo  
Staff Attorney  
National Security Project  
American Civil Liberties Union

Phone: (212) 549-2517  
Email: aabdo@aclu.org

AMERICAN CIVIL LIBERTIES UNION  
NATIONAL SECURITY PROJECT  
SUSAN H. ROSENTHAL  
EXECUTIVE DIRECTOR

**Williams Exhibit B – Jun 06, 2013 –  
DIA Acknowledgement Letter to Mr. Abdo**



DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340-5100



JUN 06 2013

U-13-4500/FAC2A1 (FOIA)

Mr. Alexander Abdo  
American Civil Liberties Union  
125 Broad Street 18 Floor  
New York, NY 10004

Dear Mr. Abdo:

This is an interim response to your May 13, 2013 Freedom of Information Act (FOIA) request for *any records constructing or interpreting the authority of the Defense Intelligence Agency ("Agency") under Executive Order 12,333 or any regulations issued there under, and describing the minimization procedures used by the Agency with regard to both intelligence collection and intelligence interception conducted pursuant to the Agency's authority under EO 12,333 or any regulations issued there under and describing the standards that must be satisfied for the "collection," "acquisition," or "interception" of communications, as the Agency defines these terms, pursuant to the Agency's authority under EO 12,333 or any there under.* We received your request on May 24, 2013 and assigned it case number 0266-2013. Please use this number in all future correspondence with us about this matter.

We will be unable to respond to your request within the FOIA's 20 day statutory time period due to unusual circumstances. These unusual circumstances could be: (a) the need to search for and collect records from a facility geographically separated from this office; (b) the potential volume of records responsive to your request; and (c) the need for consultation with one or more other agencies which have substantial interest in either the determination or the subject matter of the records. For these reasons, your request has been placed in our queue and will be worked in the order the request was received. Our current administrative workload is in excess of 1,139 requests.

We regret that there is currently a substantial delay in processing requests and solicit your patience and understanding. We assure you that we will process your request as soon as possible. If you have any questions, please contact the DIA FOIA Requester Service Center at 301-394-5587.

Sincerely,

A handwritten signature in cursive script that reads "Alesia Y. Williams".

Alesia Y. Williams  
Chief, Freedom of Information Act Staff

**Williams Exhibit C – Nov 06, 2013 –  
DIA FOIA Statue Update to Mr. Abdo**





DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340-5100



U-13-4500/FAC2A1 (FOIA)

NOV 06 2013

Mr. Alexander Abdo  
125 Broad Street 18 Floor  
New York, NY 10004

Dear Mr. Abdo:

This is a status update on your Freedom of Information Act (FOIA) request, case number FOIA-00266-2013, received in this office on May 24, 2013. Your request was determined to fall within our Complex Track for FOIA processing. This simply means that your request involved a large amount of records, or that the records requested require significant review within this agency or consultations with other government agencies. Please be assured that our office is committed to processing your request as soon as possible as DIA continues its efforts to eliminate the large backlog of pending FOIA requests.

Because your request falls within the Complex Track and has been pending for a period of time greater than the statutory allowance, this office has determined that it may be helpful for us to provide greater explanation concerning the status of your request. This office sorts backlogged requests into three functional queues for management purposes. These three queues are explained further below:

Awaiting Tasking Queue: includes requests that must be tasked within the agency for subject matter experts (SME) search and/or review of the responsive records.

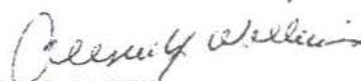
Awaiting Response Queue: includes requests that have been tasked and are awaiting response or requests which have been referred to other government agencies for review of their equities.

Ready to Work Queue: includes requests, which all responses have been received and awaiting processing of final response to the requester.

Your request is currently in the Awaiting Response Queue; #214 of 265. Our current administrative workload is 755 open FOIA requests.

We solicit your patience and understanding and assure you, we will process your request as soon as possible. If you have any questions, please contact the FOIA Requester Service Center, at (301) 394-5587 and reference your case number.

Sincerely,

  
Alesia Y. Williams  
Chief, Freedom of Information Act Staff

Williams Exhibit D – Nov 8 2013 –  
Mr. Adbo's Appeal Letter to DIA

NATIONAL SECURITY  
PROJECT



November 8, 2013

**BY UPS**

NSA/CSS FOIA Appeal Authority (DJ4)  
National Security Agency  
9800 Savage Road, Suite 6248  
Ft. George G. Meade, MD 20755-6248

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
NATIONAL OFFICE  
125 BROAD STREET, 18TH FL.  
NEW YORK, NY 10004-2400  
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WWW.ACLU.ORG

**RE: FREEDOM OF INFORMATION ACT APPEAL**

Dear Sir or Madam,

The American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the "ACLU") write to appeal from the constructive denial of their Freedom of Information Act request, submitted on May 13, 2013, for documents relating to Executive Order 12,333, 3 C.F.R. 200 (1981 Comp.) ("EO 12,333"). A copy of the request is attached here for reference. The ACLU received an acknowledgement of receipt dated July 1, 2013 in a letter signed by Pamela N. Philips. The request was assigned the following identification number: 70809.

Under the Freedom of Information Act, determinations about whether an agency will produce documents must be made within 20 business days. *See* 5 U.S.C. § 552(a)(6)(A)(i); 28 C.F.R. § 16.6(b). Where an agency cannot meet the statutory time limit due to unusual circumstances, the agency may extend the time limit by ten working days with written notice to the requester. 5 U.S.C. § 552(a)(6)(B). An agency denying a request in any respect must send the requester a signed letter including, among other things, a brief statement of the reasons for denial. 5 U.S.C. § 552(a)(6)(A)(i).

Because the twenty-day statutory time has elapsed without a substantive response, the National Security Agency has constructively failed to meet its legal obligation to disclose the information requested. By this appeal, we ask you to direct the timely disclosure of all records responsive to our request.

OFFICERS AND DIRECTORS  
SUSAN N. HERMAN  
PRESIDENT

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR

We thank you for your consideration of this appeal. Pursuant to 5 U.S.C. § 552(a)(6)(A)(ii), we expect a response regarding this appeal within twenty days. If you have any questions or concerns, please do not hesitate to contact me at the email address or telephone number indicated below.

Sincerely,



---

Alexander Abdo  
Staff Attorney  
National Security Project  
American Civil Liberties Union  
Phone: (212) 549-2517  
Email: [aabdo@aclu.org](mailto:aabdo@aclu.org)

LEGAL DEPARTMENT



May 13, 2013

**BY USPS MAIL**

Attn: Cindy Blacker  
NSA FOIA Requester Service Center/DJ4  
9800 Savage Road, Suite 6248  
Ft. George G. Meade, MD 20744-6248

**RE: FREEDOM OF INFORMATION ACT REQUEST**

Dear Ms. Blacker,

The American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the "ACLU") submit this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for access to documents relating to Executive Order 12,333, 3 C.F.R. 200 (1981 Comp.) ("EO 12,333"). Specifically, we request the following records<sup>1</sup>:

1. Any records construing or interpreting the authority of the National Security Agency ("Agency") under Executive Order 12,333 or any regulations issued thereunder;
2. Any records describing the minimization procedures<sup>2</sup> used by the Agency with regard to both intelligence collection and intelligence interception conducted pursuant to the Agency's authority under EO 12,333 or any regulations issued thereunder; and
3. Any records describing the standards that must be satisfied for the "collection," "acquisition," or "interception" of communications, as the Agency defines these terms, pursuant to the Agency's authority under EO 12,333 or any regulations issued thereunder.

<sup>1</sup> Records include but are not limited to electronic records, letters, correspondence, tape recordings, notes, data, memoranda, reports, email, computer source and object code, technical manuals, technical specifications, legal opinions, policy statements, and any other materials.

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OFFICERS AND DIRECTORS  
SUSAN N. HERMAN PRESIDENT

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR

### Request for a Fee Limitation and Public Interest Fee Waiver

The ACLU requests a waiver of search and review fees because the requested records are not sought for commercial use and because the ACLU is a “representative of the news media.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). Dissemination of information about actual or alleged government activity is a critical and substantial component of the ACLU’s mission and work. The ACLU disseminates this information to educate the public and promote the protection of civil liberties. Its regular means of disseminating and editorializing information obtained through FOIA requests include: a paper newsletter distributed to approximately 450,000 people; a bi-weekly electronic newsletter distributed to approximately 300,000 subscribers; published reports, books, pamphlets, and fact sheets; a widely read blog; heavily visited websites, including an accountability microsite, <http://www.aclu.org/accountability>; and a video series.

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The ACLU therefore meets the statutory definition of a “representative of the news media” as 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); *see also Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989); *cf. Am. Civil Liberties Union v. Dep’t of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group to be “primarily engaged in disseminating information”). Indeed, the ACLU recently was held to be a “representative of the news media.” *Serv. Women’s Action Network v. Dep’t of Defense*, 888 F. Supp. 2d 282, 287-88 (D. Conn. 2012); *see also Am. Civil Liberties Union of Wash. v. Dep’t of Justice*, No. C09-0642RSL, 2011 WL 887731, at \*10 (W.D. Wash. Mar. 10, 2011) (finding ACLU of Washington to be a “representative of the news media”), *reconsidered in part on other grounds*, 2011 WL 1900140 (W.D. Wash. May 19, 2011).

The ACLU also requests a waiver of all search, review, or duplication fees on the ground that disclosure of the requested information is in the public interest because: (1) it “is likely to contribute significantly to public understanding of the operations or activities of the government,” and (2) it “is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). This request clearly satisfies these criteria.

First, the requested material concerns “the operations or activities” of the Agency. E.O. 12,333 is “intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers.” EO 12,333 § 2.2. It authorizes the intelligence community, including the Agency, to collect intelligence, and it sets forth certain limitations on intelligence-gathering activities relevant to civil liberties. In its brief in a

recent case before the Supreme Court of the United States, the Government emphasized its authority to conduct surveillance of Americans' foreign contacts abroad under Executive Order No. 12,333, without conforming to various statutory restrictions. Brief for Petitioners, *Clapper v. Amnesty Int'l USA*, No. 11-1025, 2012 WL 3090949, at \*45 (U.S. 2012). How the Government actually does this, and whether it appropriately accommodates the constitutional rights of American citizens and residents whose communications are intercepted in the course of that surveillance, are matters of great significance.

Moreover, the requested materials will “contribute significantly to the public understanding” of the Agency’s operations or activities. 5 U.S.C. § 552(a)(4)(A)(iii). Though the subject of foreign-intelligence collection is a matter of great public interest and concern, little information on how the American intelligence community construes the authority conferred by EO 12,333 and its implementing regulations is currently publicly available.

For example, in the *Clapper* brief described above, the government makes no argument beyond a handful of one-sentence assertions of its authority under EO 12,333. *See* Brief for Petitioners, *Clapper v. Amnesty Int'l USA*, No. 11-1025, 2012 WL 3090949 at \*4, \*33, \*41, \*45. Likewise, the publicly available administrative agency materials typically do little more than restate EO 12,333’s limits on the intelligence community in slightly different ways or provide predictable definitions for terms left undefined in the executive order. *See, e.g.*, Dep’t of Def., DOD 5240 1-R, *Procedures Governing the Activities of DOD Intelligence Components that Affect United States Persons* § C2.3.12 (Dec. 1982); Nat’l Sec. Agency, *United States Signals Intelligence Directive* 18 (July 1993); Army Regulation 381-10, *U.S. Army Intelligence Procedures* § 2-2(1) (2007). Judicial treatments of EO 12,333 contribute equally little to the public understanding of the limits of intelligence-gathering powers under EO 12,333. *See, e.g.*, *United States v. Marzook*, 435 F. Supp. 2d 778 (N.D. Ill. 2006); *United States v. Poindexter*, 727 F. Supp. 1470 (D.D.C. 1989); *United Presbyterian Church in the U.S.A. v. Reagan*, 738 F.2d 1375 (D.C. Cir. 1984).

For these reasons, we respectfully request that all fees related to the search, review, and duplication of the requested records be waived. If the search and review fees will not be waived, we ask that you contact us at the email address listed below should the estimated fees resulting from this request exceed \$100.

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We request that responsive electronic records be provided electronically in their native file format, if possible. *See* 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided

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ANTHONY D. ROMERO  
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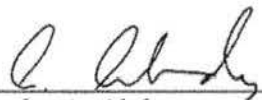
electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and in separate, Bates-stamped files.

We also request that you provide an estimated date on which you will finish processing this request. *See* 5 U.S.C. § 552(a)(7)(B).

If this FOIA request is denied in whole or in part, please provide the reasons for the denial, pursuant to 5 U.S.C. § 552(a)(6)(A)(i). In addition, please 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 (2010).

Thank you for your consideration of this request. If you have any questions or concerns, please do not hesitate to contact us at the email address listed below. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), we expect a response regarding this request within the twenty working-day statutory time limit.

Sincerely,

  
\_\_\_\_\_

Alexander Abdo  
Staff Attorney  
National Security Project  
American Civil Liberties Union

Phone: (212) 549-2517  
Email: aabdo@aclu.org

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OFFICERS AND DIRECTORS  
SUSAN N. HERMAN PRESIDENT

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR



Williams Exhibit E – September 22, 2014 –  
DIA Response to Mr. Adbo



DEFENSE INTELLIGENCE AGENCY

\\:\SHINGTON. D.C. 20340-5100



U-14-4,004/FAC2A1 (FOIA)

September 22, 2014

Alex Abdo, Esq.  
American Civil Liberties Union  
125 Broad Street, 18<sup>th</sup> Floor  
New York, N.Y. 10005

RE: Release of Documents Under the Freedom of Information Act Related to  
American Civil Liberties Union v. CIA, et al., No. 13-9198

(S.D.N.Y.) Dear Mr. Abdo:

Please find enclosed 10 responsive documents that have are being released to you in response to your Freedom of Information Act (FOIA) request submitted to the Defense Intelligence Agency (DIA) on May 13, 2013. Your request was received by this Agency on May 24, 2013 and was assigned tracking number 0266-2013. This request was assigned to the appropriate tracking queue for processing at the time of your administrative appeal dated November 8, 2013. This administrative appeal was assigned tracking number APP-0007-2014. Your organization filed suit in the United States District Court for the Southern District of New York on December 30, 2013 in civil action number 13-9198, as referenced above.

In response to your request, DIA conducted a search of its operational elements to locate any records construing the authority of Executive Order 12333, minimization procedures, or standards of collection, acquisition or interception. In responding to the search instructions, these operational elements provided information either authored by or provided by the DIA Office of the General Counsel. The DIA FOIA Office tasked the DIA Office of the General Counsel with the responsibility for reviewing these documents for FOIA release. With this letter, you will find a release package containing the following nine documents:

1. DIA Office of the General Counsel *Intelligence Law Handbook*, dated August 2004 (161 Pages) -Released in Part.
2. DIA Office of the General Counsel Intelligence Activities Legal Summary Card titled, "*DoD 5240.IR Intelligence Activities*" (1 Page) -Released in Full.
3. DIA Office of the General Counsel *Intelligence Activities Legal Flow Chart* of DoD 5240.IR (1 Page) -Released in Full.

4. DIA Office of the General Counsel Legal Guidance Presentation titled "*DoD IIUMINT Legal Workshop Fundamentals of IIUMINT Targeting*" (25 Pages) – Released in Part.
5. DIA Office of the General Counsel Legal Guidance Presentation titled "*Legal Requirements for HUMJNT Operations*" (29 Pages) – Released in Part.
6. DIA Office of the General Counsel Legal Guidance Presentation titled "*Intelligence Oversight*" (20 Pages) -Released in Part.
7. Department of Defense (DoD) Regulation 5240.1-R, *Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons*, dated December 1982 (64 Pages) -Released in Full.
8. Department of Defense Directive Number 5240.01 dated August 27, 2007 Incorporating Change 1 (7 pages) -Released in Full
9. Deputy Secretary of Defense Memorandum on Intelligence Oversight Policy Guidance, dated March 26, 2008 (2 Pages) -Released in Full.
10. DoD Directive-Type Memorandum 08-052, *DoD Guidance for Reporting Questionable Intelligence Activities and Significant or Highly Sensitive Matters*, dated 17 June 2009 (7 Pages) -Released in Full.

As noted above, four of the responsive documents have been provided to you with portions redacted pursuant to Exemptions 1, 3, and 5 of the POIA. These individual redactions are indicated on the documents, as provided. Exemption 1 of the FOIA, 5 U.S.C. § 552(b)(1), protects information that is currently and properly classified under the procedures outlined in Executive Order 13526. Exemption 3 of the FOIA, 5 U.S.C. § 552(b)(3), protects information protected by the specific withholding provisions of another statute. In this instance, DIA has asserted the withholding provisions of 10 U.S.C. § 424 and 50 U.S.C. § 3024(i). Statute 10 U.S.C. § 424 protects the identity of DIA employees, the organizational structure of the agency, and any function of DIA. Statute 50 U.S.C. § 3024(i) protect intelligence sources and methods. Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), has been asserted following consultations with the DIA Office of the General Counsel to protect information that is protected by the attorney-client privilege.

As the DIA initial denial authority, I have ensured that each of these documents has been reviewed to ensure that all reasonably segregable information has been provided to you. If you

have any questions concerning this release of information under the FOIA, please do not hesitate to contact the DIA FOIA Office through our Department of Justice counsel assigned to this case.

Sincerely,

Alesia Y. Williams *Rf\*  
Chief, Freedom of Information Act Staff

10 Enclosures

Williams Exhibit F – DIA Redacted  
Document V-4



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# **DoD HUMINT LEGAL WORKSHOP**

V-4

## **FUNDAMENTALS OF HUMINT TARGETING**



(b)(3); 10 USC 424



**Assistant General Counsel -**



(b)(3); 10 USC 424

**This briefing is classified**

~~**SECRET//NOFORN//50X1-HUM**~~



## Class Objective

- To provide an overview of legal restrictions on targeting US persons (USPs):
  - Executive Order 12333, as amended
  - DoD Regulation 5240.1-R
  
- Rules for Targeting Members of Sensitive Source Categories (USPs or Foreign Nationals (FNs)) inside and outside the US
  - DoD Instruction 5200.42, dated 8 Dec 2009 “Operational Use Restrictions”



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# Authorities

- EO 12333
  - Authority and Direction from the President for DIA to conduct intelligence activities
  - Also includes restrictions on what type of intelligence we can collect and how we can go about doing it
- DoD 5240.1-R Activities of DoD Intelligence Components that Affect USPs
  - Implements procedures for executing EO 12333
  - Approved by DOJ

(b)(1),(b)(3):10  
USC 424,1.4(c)







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# DoD 5240.1-R Activities of DoD Intelligence Components that Affect US Persons

### Collection Framework:

- Procedure 2 Collection of Information About USPs
  - General Rule = No collection on USPs
  - Defines USP
  - 16 Exceptions to the general rule
- Procedure 3 Retention of Information About USPs
- Procedure 4 Disseminating Information about USPs

### Special Procedures (5-12):

- Procedure 10 Undisclosed Participation
- Procedure 11 Contracting for Goods and Services

### Dealing with Violations (14,15)

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## Procedure 2 US Person Definition

- A United States Citizen
- A Permanent Resident Alien
- An unincorporated association substantially composed of U.S. citizens or Permanent Resident Aliens
- A corporation incorporated in the U.S. that is not controlled or directed by a foreign government
- Presumption: A person or organization outside of the U.S. is presumed not to be a U.S. Person unless information to the contrary becomes known.

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## You may collect on USPs if the information falls into one of 16 categories:

- 1. Information obtained with consent
- 2. Publicly available information
- 3. Persons acting for a foreign power
- 4. Organizations owned or controlled by a foreign power
- 5. Person believed to be involved with terrorist organization or activities
- 6. MIAs, POWs, KIAs, or targets, victims or hostages of international terrorists
- 7. Commercial organizations believed to have some relationship with foreign organizations or persons
- 8. Persons involved in collecting CI for a foreign power or terrorist group
- 9. Potential sources of assistance to intelligence activities



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Pages 8-12 are withheld in full and not provided.

## Info That May Be Collected

- **10. Protection of intelligence sources and methods**
- **11. Persons believed to threaten the security of DoD personnel or facilities**
- **12. Information collected as part of a lawful personnel or communications security investigation**
- **13. International narcotics activities**
- **14. Information supporting protection and safety of persons thought to be target, victim, or hostage of international terrorists**
- **15. Overhead reconnaissance not directed at a specific US Person**
- **16. DIA administrative determination**

(b)(3); 10 USC 424,  
(b)(5)





Pages 14-17 are withheld in full and not provided.

# ReCap: Rules for Foreign Nationals Vs. US Persons

(b)(1),(b)(3): 10 USC  
424,(b)(5), 1.4 (c)

■ [Redacted]

- Basic Rule for US Persons under Procedure 2 5240.1-R:
  - Thou shall not collect on US Persons
  - Unless the collection falls under one of 16 exemptions
  - Normally rely on Exemption for Potential Source of Information or Assistance to US Intelligence Community

(b)(1),(b)(3): 10  
USC 424,(b)  
(5),1.4 (c)

■ [Redacted]



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Pages 19-24 are withheld in full and not provided.

# Application of Knowledge





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# Questions

(b)(3): 10 USC 424

