

DNI-FOIA

JUN 16 2014

From: Nick Turse [redacted] (b)(6)
Sent: Sunday, June 15, 2014 12:20 PM
To: DNI-FOIA
Subject: Re: FOIA request

Nick Turse
The Nation magazine

[redacted] (b)(6)

June 15, 2014

FOIA REQUEST

Dear FOI Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request copies of all emails referring to Mali from January 1, 2014 to June 15, 2014.

As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Please notify me by email prior to your incurring any expenses in excess of \$1.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. To permit an intelligent, informed decision as to whether or not to file an administrative appeal of any denial decision, I also request that you describe in detail the withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See Mead Data v. Department of the Air Force 566 F.2d 242, 251 (D.C. Circuit, 1977). I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as a member of the news media and this information is of timely value, I would appreciate your communicating with me by email, rather than by mail or phone, if you have questions regarding this request.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Sincerely,

Nick Turse, PhD, MPH

—
Nick Turse, PhD, MPH
Managing Editor
TomDispatch.com

On 6/15/2014 11:54 AM, Nick Turse wrote:

> Nick Turse

> The Nation magazine

>  (b)(6)

> June 15, 2014

> FOIA REQUEST

> Dear FOI Officer:

> Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I
> request copies of all emails referring to South Sudan from January 1,
> 2014 to June 15, 2014.

> As a representative of the news media I am only required to pay for
> the direct cost of duplication after the first 100 pages. Please
> notify me by email prior to your incurring any expenses in excess of \$1.

> If my request is denied in whole or part, I ask that you justify all
> deletions by reference to specific exemptions of the act. To permit an
> intelligent, informed decision as to whether or not to file an
> administrative appeal of any denial decision, I also request that you
> describe in detail the withheld records (or portions thereof) and
> explain the logical and factual basis for exemption claims. See Mead
> Data v. Department of the Air Force 566 F.2d 242, 251 (D.C. Circuit,
> 1977). I will also expect you to release all segregable portions of
> otherwise exempt material. I, of course, reserve the right to appeal
> your decision to withhold any information or to deny a waiver of fees.

> As I am making this request as a member of the news media and this
> information is of timely value, I would appreciate your communicating
> with me by email, rather than by mail or phone, if you have questions
> regarding this request.

> I look forward to your reply within 20 business days, as the statute
> requires.

> Thank you for your assistance.

> Sincerely,

> Nick Turse, PhD, MPH

From: JANET ESCOBEDO [redacted] (b)(6)
Sent: Thursday, February 3, 2022 12:39 PM
To: DNI-FOIA
Subject: FREEDOM OF INFORMATION RECORDS REQUEST

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

On 12 July 2011, more than 10 years ago, I submitted an FOIA request to the Defense Intelligence Agency. Today, 3 Feb 2022, the DIA states that ODNI is now responsible for all thesis requests, and they have now closed my request.

This email constitutes a re-request of my previous FOIA: to obtain a copy of my MSSJ Thesis written in 1985 as part of the Defense Intelligence College Post Graduate Intelligence Program entitled "The Soviet Intelligence Presence Abroad: A Foreign Policy Instrument and Active Measures Capability." I would like to hope that I have lost my place "in line" after more than 10 years. Email is the best method of correspondence as I will be moving this summer. After this summer, the Florida address will be my permanent address.

Respectfully,

Janet

Janet J. Escobedo

Phone: [redacted] (b)(6)

[redacted] (b)(6)

JUL 28 2014

DF-2014-00283

DNI-FOIA

From: Jason Leopold [redacted] (b)(6)
Sent: Friday, July 25, 2014 6:27 PM
To: DNI-FOIA
Subject: Request for records under the Freedom of Information Act

Freedom of Information and Privacy Acts request:

To: Office of Director of National Intelligence

This is a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a. This request should be considered under both statutes to maximize the release of records.

REQUESTER INFORMATION

Name: Jason Leopold
Address: [redacted]
Email: [redacted] (b)(6)

RECORDS SOUGHT

I request disclosure of any and all records referring to the White House mandated review of the intelligence community's tolerance policies and/or policies on racial bias or religious bias. I request disclosure of any and all reports that were prepared, drafted, written in response to this review and any policy guidance that was prepared, written, drafted in response to this review. I request any and all current training guidance and/or guidelines on racial bias, religious bias, tolerance for the intelligence community. I request any and all new training guidance and/or guidelines on racial bias, religious bias, tolerance for the intelligence community. I request any and all records referring to new training guidance on racial bias, religious bias, tolerance

INSTRUCTIONS REGARDING SEARCH

1. *Instructions Regarding "Leads":*

As required by the relevant case law, the ODNI should follow any leads it discovers during the conduct of its searches and perform additional searches when said leads indicate that records may be located in another system. Failure to follow clear leads is a violation of FOIA.

2. *Request for Public Records:*

Please search for any records even if they are already publicly available.

3. *Request for Electronic and Paper/Manual Searches:*

I request that searches of all electronic and paper/manual indices, filing systems, and locations for any and all records relating or referring to the subject of my request be conducted.

4. *Request for Search of Filing Systems, Indices, and Locations:*

I request that the ODNI search all of its offices and components which are likely to contain responsive records.

5. *Request regarding Photographs and other Visual Materials:*

I request that any photographs or other visual materials responsive to my request be released to me in their original or comparable forms, quality, and resolution. For example, if a photograph was taken digitally, or if the ODNI maintains a photograph digitally, I request disclosure of the original digital image file, not a reduced resolution version of that image file nor a printout and scan of that image file. Likewise, if a photograph was originally taken as a color photograph, I request disclosure of that photograph as a color image, not a black and white image. Please contact me for any clarification on this point.

6. *Request for Duplicate Pages:*

I request disclosure of any and all supposedly "duplicate" pages. Scholars analyze records not only for the information available on any given page, but also for the relationships between that information and information on pages surrounding it. As such, though certain pages may have been previously released to me, the existence of those pages within new context renders them functionally new pages. As such, the only way to properly analyze released information is to analyze that information within its proper context. Therefore, I request disclosure of all "duplicate" pages.

7. *Request to Search Emails:*

Please search for emails relating to the subject matter of my request.

8. *Request for Search of Records Transferred to Other Agencies:*

I request that in conducting its search, the ODNI disclose releasable records even if they are available publicly through other sources outside the ODNI, such as NARA.

9. *Regarding Destroyed Records*

If any records responsive or potentially responsive to my request have been destroyed, my request includes, but is not limited to, any and all records relating or referring to the destruction of those records. This includes, but is not limited to, any and all records relating or referring to the events leading to the destruction of those records.

INSTRUCTIONS REGARDING SCOPE AND BREADTH OF REQUESTS

Please interpret the scope of this request broadly. The ODNI is instructed to interpret the scope of this request in the most liberal manner possible short of an interpretation that would lead to a conclusion that the request does not reasonably describe the records sought.

EXEMPTIONS AND SEGREGABILITY

I call your attention to President Obama's 21 January 2009 Memorandum concerning the Freedom of Information Act, in which he states:

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA [...] The presumption of disclosure should be applied to all decisions involving FOIA.[1]

In the same Memorandum, President Obama added that government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."

Finally, President Obama ordered that "The Freedom of Information Act should be administered with a clear presumption: In the case of doubt, openness prevails."

Nonetheless, if any responsive record or portion thereof is claimed to be exempt from production, FOIA/PA statutes provide that even if some of the requested material is properly exempt from mandatory disclosure, all segregable portions must be released. If documents are denied in part or in whole, please specify which exemption(s) is (are) claimed for each passage or whole document denied. Please provide a complete itemized inventory and a detailed factual justification of total or partial denial of documents. Specify the number of pages in each document and the total number of pages pertaining to this request. For "classified" material denied, please include the following information: the classification (confidential, secret or top secret); identity of the classifier; date or event for automatic declassification or classification review or downgrading; if applicable, identity of official authorizing extension of automatic declassification or review past six years; and, if applicable, the reason for extended classification beyond six years.

In excising material, please "black out" the material rather than "white out" or "cut out." I expect, as provided by FOIA, that the remaining non-exempt portions of documents will be released.

Please release all pages regardless of the extent of excising, even if all that remains are the stationery headings or administrative markings.

In addition, I ask that your agency exercise its discretion to release records which may be technically exempt, but where withholding serves no important public interest.

ADDITIONAL INSTRUCTIONS REGARDING REQUEST

Please produce all records with administrative markings and pagination included.

Please send a memo (copy to me) to the appropriate units in your office to assure that no records related to this request are destroyed. Please advise of any destruction of records and include the date of and authority for such destruction.

FORMAT

I request that any releases stemming from this request be provided to me in digital format (soft-copy) on a compact disk or other like media.

FEE CATEGORY AND REQUEST FOR A FEE WAIVER

I am an investigative reporter covering a wide-range of issues, including Guantanamo, national security, counterterrorism, civil liberties, human rights, and open government. My reporting has been published in the The Guardian, VICE News, The Wall Street Journal, The Financial Times, Salon, CBS Marketwatch, The Los Angeles Times, The Nation, Truthout, Al Jazeera English and numerous other domestic and international publications. Currently, I am a contributor to Al Jazeera America and the editor-at-large for The Public Record.

I am willing to pay any reasonable expenses associated with this request, however, as the purpose of the requested disclosure is in full conformity with the statutory requirements for a waiver of fees, I formally request such a waiver. I request a waiver of all costs pursuant to 5 U.S.C. §552(a)(4)(A)(iii) ("Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it 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."). Disclosure in this case meets the statutory criteria, and 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.'"). I incorporate by reference the explanation and attached materials in the above sections which demonstrates why the requested information is in the public interest.

DoD 5400.7-R C6.1.4.1 provides that “documents shall be furnished without charge, or at a charge reduced below fees assessed to the categories of requesters in subsection C6.1.5., below, when the Component determines that waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the Department of Defense and is not primarily in the commercial interest of the requester.”

Should my request for a fee waiver be denied, I request that I be categorized as a member of the news media for fee purposes pursuant to DoD 5400.7-R C6.1.5.7. According to 5 U.S.C. § 552(a)(4)(A)(ii), which codified the ruling of *Nat'l Security Archive v. Dep't of Defense*, 880 F.2d 1381 (D.C. Cir. 1989), the term “a representative of the news media” means any person or 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. This is consistent with the definition provided in DoD 5400.7-R C6.1.5.7.1.

As the legislative history of FOIA reveals, “It is critical that the phrase ‘representative of the news media’ be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a ‘representative of the news media.’” 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); and 2) “A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision.” 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media.

I have the intent and ability to disseminate this significant expansion of public understanding of government operations. The public interest in this significant expansion of public understanding of government operations far outweighs any commercial interest of my own in the requested release. Accordingly, my fee waiver request amply satisfies the rules of DoD 5400.7-R C6.1.4.1. Legislative history and judicial authority emphatically support this determination. For these reasons, and based upon their extensive elaboration above, I request a full waiver of fees be granted. I will appeal any denial of my request for a waiver administratively and to the courts if necessary.

Please do not hesitate to contact me if you have any questions concerning this request.

Thank you. I appreciate your time and attention to this matter.

Jason Leopold

[1] President Barack Obama, "Memorandum for the Heads of Executive Departments and Agencies, Subject: Freedom of Information Act," 21 January 2009;
<http://www.whitehouse.gov/the_press_office/FreedomofInformationAct/>

DF-2014-00227

JUN 16 2014

DNI-FOIA

From: Nick Turse [redacted] (b)(6)
Sent: Sunday, June 15, 2014 12:21 PM
To: DNI-FOIA
Subject: Re: FOIA request

Nick Turse
The Nation magazine

[redacted] (b)(6)

June 15, 2014

FOIA REQUEST

Dear FOI Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request copies of all emails referring to Libya from January 1, 2014 to June 15, 2014.

As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Please notify me by email prior to your incurring any expenses in excess of \$1.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. To permit an intelligent, informed decision as to whether or not to file an administrative appeal of any denial decision, I also request that you describe in detail the withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See *Mead Data v. Department of the Air Force* 566 F.2d 242, 251 (D.C. Circuit, 1977). I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as a member of the news media and this information is of timely value, I would appreciate your communicating with me by email, rather than by mail or phone, if you have questions regarding this request.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Sincerely,

Nick Turse, PhD, MPH

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Nick Turse, PhD, MPH
Managing Editor
TomDispatch.com

On 6/15/2014 12:19 PM, Nick Turse wrote:

> Nick Turse

> The Nation magazine

>  (b)(6)

> June 15, 2014

> FOIA REQUEST

> Dear FOI Officer:

> Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I
> request copies of all emails referring to Mali from January 1, 2014 to
> June 15, 2014.

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> the direct cost of duplication after the first 100 pages. Please
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> intelligent, informed decision as to whether or not to file an
> administrative appeal of any denial decision, I also request that you
> describe in detail the withheld records (or portions thereof) and
> explain the logical and factual basis for exemption claims. See Mead
> Data v. Department of the Air Force 566 F.2d 242, 251 (D.C. Circuit,
> 1977). I will also expect you to release all segregable portions of
> otherwise exempt material. I, of course, reserve the right to appeal
> your decision to withhold any information or to deny a waiver of fees.

> As I am making this request as a member of the news media and this
> information is of timely value, I would appreciate your communicating
> with me by email, rather than by mail or phone, if you have questions
> regarding this request.

> I look forward to your reply within 20 business days, as the statute
> requires.

> Thank you for your assistance.

> Sincerely,

> Nick Turse, PhD, MPH

JUN 27 2014

DNI-FOIA

From: Jason Leopold [REDACTED] (b)(6)
Sent: Wednesday, June 25, 2014 4:31 PM
To: DNI-FOIA
Subject: Request for Records Under the Freedom of Information Act

Dear FOIA Officer

This is a request for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, et seq. I am seeking any and all records referring and/or relating to internal discussions at ODNI to have a provision removed from a congressional intelligence bill that would require President Barack Obama to publicly disclose information about drone strikes and their victims. Moreover, I seek any and all records that refer to said intelligence bill provision.

On April 18, 2014, DNI James Clapper sent a letter to Senators Dianne Feinstein and Saxby Chambliss discussing this provision and his concerns about its inclusion in an intelligence authorization bill: <http://www.theguardian.com/world/interactive/2014/apr/29/cia-us-national-security>

I seek any and all emails sent by James Clapper and received by James Clapper referring to this provision and his letter he sent to Senators Feinstein and Chambliss.

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify us of your appeal procedures available under the law. In excising material, please "black out" rather than "white out" or "cut out." In addition, I draw your attention to President Obama's 21 January 2009 Memorandum for the Heads of Executive Departments and Agencies, directing federal agencies to adopt a presumption in favor of disclosure and stating that government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."

I am a widely published independent investigative reporter and a current contributor to Al Jazeera America (<http://america.aljazeera.com/profiles/l/jason-leopold.html>). I have also had my journalism published in dozens of domestic and international publications.

According to 5 U.S.C. 552(a)(4)(A)(ii), codifying the ruling of Nat'l Security Archive v. Dept of Defense, 880 F.2d 1381 (D.C. Cir. 1989), the term "a representative of the news media" means any person or 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.

I have a clear intent to "publish[] or otherwise disseminate[] information to the public." Id. at 1386 (quoting the following legislative history: 1) It is critical that the phrase "representative of the news media" be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a "representative of the news media." 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media and as such I am also requesting a public interest fee waiver.

Please ensure that, in accordance with the DC Circuit's ruling in *Chambers v. Dept of the Interior*, 568 F.3d 998 (D.C. Cir. 2009), all records potentially responsive to this FOIA request are immediately preserved from destruction until the final resolution of this FOIA action. Destruction of potentially responsive records after the receipt of a FOIA request is considered "contumacious conduct" by the DC Circuit. See *id.* at 1004.

Your agency is required by law to respond to this request within 20 working days. Failure to timely comply may result in the filing of a civil action against your agency in a United States District Court.

Please provide any records produced in response to this request in electronic (soft-copy) form. Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact me.

Kind regards,
Jason Leopold
Investigative Reporter



(b)(6)

JUN 25 2014

DNI-FOIA

From: Nick Turse [redacted] (b)(6)
Sent: Wednesday, June 25, 2014 12:13 PM
To: DNI-FOIA
Subject: re: FOIA request

Nick Turse
The Nation magazine

[redacted] (b)(6)

June 25, 2014

FOIA REQUEST

Dear FOI Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request copies of any documents relating to the Trans-Sahara Counterterrorism Partnership (TSCTP) produced in 2014.

As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Please notify me by email prior to your incurring any expenses in excess of \$1.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. To permit an intelligent, informed decision as to whether or not to file an administrative appeal of any denial decision, I also request that you describe in detail the withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See *Mead Data v. Department of the Air Force* 566 F.2d 242, 251 (D.C. Circuit, 1977). I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as a member of the news media and this information is of timely value, I would appreciate your communicating with me by email, rather than by mail or phone, if you have questions regarding this request.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Sincerely,
Nick Turse, PhD, MPH

--
Nick Turse, PhD, MPH
Managing Editor
TomDispatch.com



425 Third Street SW Suite 800
Washington, D.C. 20024
Phone: (202) 646-5172
Fax: (202) 646-5199

Judicial Watch

DF. 2014-00220

Fax

JUN 10 2014

To: ODNI / FOIA OFFICE From: WM. MARSHALL

Fax: 703-874-8910 Date: 6/10/14

Phone: _____ Pages: 4

Re: FOIA REQUEST

Urgent For Review Please Comment Please Reply Please Recycle

If you do not receive all pages, please contact (202) 646-5172.

UNCLASSIFIED



**Judicial
Watch**
*Because no one
is above the law!*

DF 2014-00220

JUN 10 2014

June 10, 2014

VIA CERTIFIED MAIL & FACSIMILE (703-874-8910)

Jennifer L. Hudson
Chief, Information and Data Management Group
Office of the Director of National Intelligence
Washington, D.C. 20511

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Judicial Watch, Inc. hereby requests that the Office of the Director of National Intelligence (ODNI) produce the following within twenty (20) business days:

1. Any and all briefing materials, reports, analyses, and other records referenced in preparation for the closed June 4, 2014 briefing to the Senate on the exchange of five detainees held at the U.S. Naval Station at Guantanamo Bay, Cuba for Army Sgt. Bowe Bergdahl, and any records provided to any Senators in that briefing.
2. Any and all briefing materials, reports, analyses, and other records referenced in preparation for the closed June 9, 2014 briefing to Members of the House of Representatives on the exchange of five detainees held at the U.S. Naval Station at Guantanamo Bay, Cuba for Army Sgt. Bowe Bergdahl, and any records provided to any House Members in that briefing.

We call your attention to President Obama's January 21, 2009 Memorandum concerning the Freedom of Information Act, in which he states:

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA... The presumption of disclosure should be applied to all decisions involving FOIA.¹

The memo further provides that "The Freedom of Information Act should be administered with a clear presumption: In the case of doubt, openness prevails."

¹ Freedom of Information Act. Pres. Mem. of January 21, 2009, 74 Fed. Reg. 4683.

ODNI FOIA Request**June 10, 2014****Page 2 of 3**

Nevertheless, if any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

For purposes of this request, the term "record" shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail; (3) any audio, aural, visual, or video records, recordings, or representations of any kind; (4) any graphic materials and data compilations from which information can be obtained; and (5) any materials using other means of preserving thought or expression.

Judicial Watch also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). Judicial Watch is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because it is a member of the news media. Cf. *National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989)(defining news media within FOIA context). Judicial Watch has also been recognized as a member of the news media in other FOIA litigation. See, e.g., *Judicial Watch, Inc. v. U.S. Department of Justice*, 133 F. Supp.2d 52 (D.D.C. 2000); and, *Judicial Watch, Inc. v. Department of Defense*, 2006 U.S. Dist. LEXIS 44003, *1 (D.D.C. June 28, 2006). Judicial Watch regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial skills to turn this information into distinct works, and publishes and disseminates these works to the public. It intends to do likewise with the records it receives in response to this request.

Judicial Watch also is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

JDNI FOIA Request
June 10, 2014
Page 3 of 3

5 U.S.C. § 552(a)(4)(A)(iii).

In addition, if records are not produced within twenty (20) business days, Judicial Watch is entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § (a)(4)(A)(viii).

Judicial Watch is a 501(c)(3), not-for-profit, educational organization, and, by definition, it has no commercial purpose. Judicial Watch exists to educate the public about the operations and activities of government, as well as to increase public understanding about the importance of ethics and the rule of law in government. The particular records requested herein are sought as part of Judicial Watch's ongoing efforts to document the operations and activities of the federal government and to educate the public about these operations and activities. Once Judicial Watch obtains the requested records, it intends to analyze them and disseminate the results of its analysis, as well as the records themselves, as a special written report. Judicial Watch will also educate the public via radio programs, Judicial Watch's website, and/or newsletter, among other outlets. It also will make the records available to other members of the media or researchers upon request. Judicial Watch has a proven ability to disseminate information obtained through FOIA to the public, as demonstrated by its long-standing and continuing public outreach efforts.

Given these circumstances, Judicial Watch is entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event our request for a waiver of search and/or duplication costs is denied, Judicial Watch is willing to pay up to \$350.00 in search and/or duplication costs. Judicial Watch requests that it be contacted before any such costs are incurred, in order to prioritize search and duplication efforts.

In an effort to facilitate record production within the statutory time limit, Judicial Watch is willing to accept documents in electronic format (e.g. e-mail, .pdfs). When necessary, Judicial Watch will also accept the "rolling production" of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at (b)(6) We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,



William F. Marshall
Judicial Watch

JUN 27 2014

DNI-FOIA

From: Nick Turse [redacted] (b)(6)
Sent: Wednesday, June 25, 2014 12:11 PM
To: DNI-FOIA
Subject: FOIA request

Nick Turse
The Nation magazine

[redacted] (b)(6)

June 25, 2014

FOIA REQUEST

Dear FOI Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request copies of any documents relating to the Partnership for Regional East Africa Counterterrorism produced in 2013-2014.

As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Please notify me by email prior to your incurring any expenses in excess of \$1.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. To permit an intelligent, informed decision as to whether or not to file an administrative appeal of any denial decision, I also request that you describe in detail the withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See *Mead Data v. Department of the Air Force* 566 F.2d 242, 251 (D.C. Circuit, 1977). I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as a member of the news media and this information is of timely value, I would appreciate your communicating with me by email, rather than by mail or phone, if you have questions regarding this request.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Sincerely,
Nick Turse, PhD, MPH

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Nick Turse, PhD, MPH
Managing Editor
TomDispatch.com

DNI-FOIA

From: Steven Aftergood [redacted]
Sent: Monday, April 07, 2014 11:38 AM (b)(6)
To: DNI-FOIA
Subject: FOIA Request

RCD
APR 08 2014

Dear ODNI FOIA Officer:

This is a request under the Freedom of Information Act.

We request a copy of all written testimony presented by ODNI officials in closed hearings before the Senate Select Committee on Intelligence or the House Permanent Select Committee on Intelligence in calendar year 2013.

(Testimony presented in open hearings, including the ODNI testimony of March 12, 2013 before the SSCI and the testimony of April 11, June 18, and October 29, 2013 before the HPSCI are excluded from this request since these items have already been published by ODNI.)

If the requested material is classified, we ask that it be reviewed for declassification and that reasonably segregable unclassified portions be released.

* * *

We request a fee waiver of production costs, on the following grounds:

- 1) The requested material is expected to provide insight into current issues of IC law and policy.
- 2) The requested material is not readily available in the public domain.
- 3) The Federation of American Scientists (FAS) is well qualified to analyze and disseminate the requested material. FAS is a sixty-nine year old research organization concerned with national security policy and related issues and is often called upon for information and comment on intelligence policy.
- 4) No personal or commercial interests will benefit from the release of this material, which will be analyzed and disseminated at FAS' expense. We therefore request a waiver on production costs.

If fee waiver is denied, I hereby agree to pay assessable fees up to \$100.

Thank you for your assistance.

Steven Aftergood
Federation of American Scientists

[redacted] (b)(6)

email: [redacted]
voice: [redacted] (b)(6)
web: www.fas.org/sgp

DNI-FOIA

AUG - 8 2014

From: Jason Leopold [redacted] (b)(6)
Sent: Thursday, August 07, 2014 11:21 PM
To: DNI-FOIA
Subject: Request for records under the Freedom of Information Act
Attachments: NCTC DNI FOIA THE INTERCEPT AP.docx

This request is also attached to this email as a word file.

Freedom of Information and Privacy Acts request:

To: Jennifer L. Hudson
Director, Information Management Division
Office of the Director of National Intelligence
Washington, D.C. 20511

This is a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a. This request should be considered under both statutes to maximize the release of records.

REQUESTER INFORMATION

Name: Jason Leopold
Address: [redacted]
Email: [redacted] (b)(6)

RECORDS SOUGHT

I request disclosure of any and all records that were prepared, received, transmitted, collected and/or maintained by the National Counterterrorism Center (NCTC) and/or The Director of National Intelligence mentioning or referring to discussions between officials at both agencies and journalists for the online publication The Intercept and the Associated Press about The Terrorist Tracking System, Terrorism Watch List, Terrorist Screening Database, TIDES, and/or Watchlisting and/or how many terrorist suspects have been added to a database containing the number of people suspected of terrorism or having ties to terrorist groups.

I seek any and all emails, memos, phone call transcripts, notes, including from NCTC and DNI's public affairs office, between officials at NCTC/DNI and The Intercept editor in chief John Cook, The Intercept reporter Jeremy Scahill and Ryan Devereaux referring to discussions about the Terrorist Screening

Database, TIDES, the publication of classified documents on The Intercept about this database and the number of people who have been added to it.

I seek any and all emails, memos, phone call transcripts, notes, including from NCTC and DNI's public affairs office, between officials at NCTC/DNI and Associated Press reporter Eileen Sullivan referring to discussions about the Terrorist Screening Database, and the number of people who have been added to it, TIDES, The Intercept, journalists Jeremy Scahill and Ryan Devereaux and/or any other Intercept reporter and the Intercept's publication of a news report on the Terrorist Screening Database and/or other topics.

I seek any and all records mentioning or referring to the leak of classified documents to The Intercept, focusing exclusively on the Terrorist Screening Database and any and all records referring to actions NCTC/DNI should or was advised to take to address the leak.

I seek any and all records, including records from the Office of Public Affairs, referring to a conference call that took place between NCTC officials and The Intercept editor in Chief John Cook following the publication on August 5, 2014 of a report in The Intercept, headlined "Barack Obama's Secret Terrorist-Tracking System, by the Numbers." [1]

I seek any and all records referring to any actions NCTC/DNI took to declassify records about the Terrorist Screening Database, Watchlisting, Tides, Terrorist Tracking System, after NCTC was contacted by The Intercept about a story the publications was planning to print about those topics.

I seek any and all internal NCTC/DNI documents about those topics NCTC/DNI gave to Associated Press reporter Eileen Sullivan.

I seek any and all records from NCTC/DNI discussing two news reports published on August 5, 2014 by The Intercept and the Associated Press about the Terrorism Watch List, TIDES, Terrorist Screening Database, Watchlisting and/or, for simplicity purposes, the number of suspected terrorists who have been added to a government database that keeps track of them.

BACKGROUND

On August 5, 2014, The Intercept published a story based on classified documents the publication obtained from a person it characterized as a source in the intelligence community that claimed: [2]

Nearly half of the people on the U.S. government's widely shared database of terrorist suspects are not connected to any known terrorist group, according to classified government documents obtained by *The Intercept*.

Of the 680,000 people caught up in the government's Terrorist Screening Database—a watchlist of "known or suspected terrorists" that is shared with local law enforcement agencies, private contractors, and foreign governments—more than 40 percent are described by the government as having "no recognized terrorist group affiliation." That category—280,000 people—dwarfs the number of watchlisted people suspected of ties to al Qaeda, Hamas, and Hezbollah combined.

The documents, obtained from a source in the intelligence community, also reveal that the Obama Administration has presided over an unprecedented expansion of the terrorist screening system. Since taking office, Obama has boosted the number of people on the no fly list more than ten-fold,

to an all-time high of 47,000—surpassing the number of people barred from flying under George W. Bush.

Minutes earlier, the Associated Press reported, “A U.S. government database of known or suspected terrorists doubled in size in recent years, according to newly released government figures. The growth is the result of intelligence agencies submitting names more often after a near-miss attack in 2009.” [3]

Not long after the two stories were published, The Huffington Post reported: [4]

“After the AP story ran, The Intercept requested a conference call with the National Counterterrorism Center. A source with knowledge of the call said that the government agency admitted having fed the story to the AP, but didn't think the reporter would publish before The Intercept did. “That was our bad,” the official said.

Asked by The Intercept editor John Cook if it was the government's policy to feed one outlet's scoop to a friendlier outlet, a silence ensued, followed by the explanation: “We had invested some quality time with Eileen,” referring to AP reporter Eileen Sullivan, who the official added had been out to visit the NCTC.

“After seeing you had the docs, and the fact we had been working with Eileen, we did feel compelled to give her a heads up,” the official said, according to the source. “We thought she would publish after you.”

INSTRUCTIONS REGARDING SEARCH

1. *Instructions Regarding “Leads”:*

As required by the relevant case law, the NCTC/DNI should follow any leads it discovers during the conduct of its searches and perform additional searches when said leads indicate that records may be located in another system. Failure to follow clear leads is a violation of FOIA.

2. *Request for Public Records:*

Please search for any records even if they are already publicly available.

3. *Request for Electronic and Paper/Manual Searches:*

I request that searches of all electronic and paper/manual indices, filing systems, and locations for any and all records relating or referring to the subject of my request be conducted.

4. *Request for Search of Filing Systems, Indices, and Locations:*

I request that the NCTC/DNI search all of its offices and components which are likely to contain responsive records.

5. *Request regarding Photographs and other Visual Materials:*

I request that any photographs or other visual materials responsive to my request be released to me in their original or comparable forms, quality, and resolution. For example, if a photograph was taken digitally, or if the NCTC/DNI maintains a photograph digitally, I request disclosure of the original digital image file, not a reduced resolution version of that image file nor a printout and scan of that image file. Likewise, if a photograph was originally taken as a color photograph, I request disclosure of that photograph as a color image, not a black and white image. Please contact me for any clarification on this point.

6. *Request for Duplicate Pages:*

I request disclosure of any and all supposedly "duplicate" pages. Scholars analyze records not only for the information available on any given page, but also for the relationships between that information and information on pages surrounding it. As such, though certain pages may have been previously released to me, the existence of those pages within new context renders them functionally new pages. As such, the only way to properly analyze released information is to analyze that information within its proper context. Therefore, I request disclosure of all "duplicate" pages.

7. *Request to Search Emails:*

Please search for emails relating to the subject matter of my request.

8. *Request for Search of Records Transferred to Other Agencies:*

I request that in conducting its search, the NCTC/DNI disclose releasable records even if they are available publicly through other sources outside the NCTC, such as NARA.

9. *Regarding Destroyed Records*

If any records responsive or potentially responsive to my request have been destroyed, my request includes, but is not limited to, any and all records relating or referring to the destruction of those records. This includes, but is not limited to, any and all records relating or referring to the events leading to the destruction of those records.

INSTRUCTIONS REGARDING SCOPE AND BREADTH OF REQUESTS

Please interpret the scope of this request broadly. The NCTC/DNI is instructed to interpret the scope of this request in the most liberal manner possible short of an interpretation that would lead to a conclusion that the request does not reasonably describe the records sought.

EXEMPTIONS AND SEGREGABILITY

I call your attention to President Obama's 21 January 2009 Memorandum concerning the Freedom of Information Act, in which he states:

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA [...] The presumption of disclosure should be applied to all decisions involving FOIA.[5]

In the same Memorandum, President Obama added that government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."

Finally, President Obama ordered that "The Freedom of Information Act should be administered with a clear presumption: In the case of doubt, openness prevails."

Nonetheless, if any responsive record or portion thereof is claimed to be exempt from production, FOIA/PA statutes provide that even if some of the requested material is properly exempt from mandatory disclosure, all segregable portions must be released. If documents are denied in part or in whole, please specify which exemption(s) is (are) claimed for each passage or whole document denied. Please provide a complete itemized inventory and a detailed factual justification of total or partial denial of documents. Specify the number of pages in each document and the total number of pages pertaining to this request. For "classified" material denied, please include the following information: the classification (confidential, secret or top secret); identity of the classifier; date or event for automatic declassification or classification review or downgrading; if applicable, identity of official authorizing extension of automatic declassification or review past six years; and, if applicable, the reason for extended classification beyond six years.

In excising material, please "black out" the material rather than "white out" or "cut out." I expect, as provided by FOIA, that the remaining non-exempt portions of documents will be released.

Please release all pages regardless of the extent of excising, even if all that remains are the stationery headings or administrative markings.

In addition, I ask that your agency exercise its discretion to release records which may be technically exempt, but where withholding serves no important public interest.

ADDITIONAL INSTRUCTIONS REGARDING REQUEST

Please produce all records with administrative markings and pagination included.

Please send a memo (copy to me) to the appropriate units in your office to assure that no records related to this request are destroyed. Please advise of any destruction of records and include the date of and authority for such destruction.

FORMAT

I request that any releases stemming from this request be provided to me in digital format (soft-copy) on a compact disk or other like media.

FEE CATEGORY AND REQUEST FOR A FEE WAIVER

I am a widely published independent investigative reporter and a current contributor under contract to Al Jazeera America. ^[6] I am also a contributor to The Guardian, ^[7] VICE News ^[8] and numerous other domestic and international publications, which have published dozens of news reports ^[9] I have authored over the past two decades.

I am willing to pay any reasonable expenses associated with this request, however, as the purpose of the requested disclosure is in full conformity with the statutory requirements for a waiver of fees, I formally request such a waiver. I request a waiver of all costs pursuant to 5 U.S.C. §552(a)(4)(A)(iii) ("Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it 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."). Disclosure in this case meets the statutory criteria, and 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.'"). I incorporate by reference the explanation and attached materials in the above sections which demonstrates why the requested information is in the public interest.

DoD 5400.7-R C6.1.4.1 provides that "documents shall be furnished without charge, or at a charge reduced below fees assessed to the categories of requesters in subsection C6.1.5., below, when the Component determines that waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the Department of Defense and is not primarily in the commercial interest of the requester."

Should my request for a fee waiver be denied, I request that I be categorized as a member of the news media for fee purposes pursuant to DoD 5400.7-R C6.1.5.7. According to 5 U.S.C. § 552(a)(4)(A)(ii), which codified the ruling of *Nat'l Security Archive v. Dep't of Defense*, 880 F.2d 1381 (D.C. Cir. 1989), the term "a representative of the news media" means any person or 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. This is consistent with the definition provided in DoD 5400.7-R C6.1.5.7.1.

As the legislative history of FOIA reveals, "It is critical that the phrase 'representative of the news media' be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a 'representative of the news media.'" 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); and 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media.

I have the intent and ability to disseminate this significant expansion of public understanding of government operations. The public interest in this significant expansion of public understanding of government operations far outweighs any commercial interest of my own in the requested release. Accordingly, my fee waiver request amply satisfies the rules of DoD 5400.7-R C6.1.4.1. Legislative history and judicial authority emphatically support this determination. For these reasons, and based upon their extensive elaboration above, I request a full waiver of fees be granted. I will appeal any denial of my request for a waiver administratively and to the courts if necessary.

Please do not hesitate to contact me if you have any questions concerning this request.

Thank you. I appreciate your time and attention to this matter.

Jason Leopold

[1] <https://firstlook.org/theintercept/article/2014/08/05/watch-commander/>

[2] <https://firstlook.org/theintercept/article/2014/08/05/watch-commander/>

[3] <http://bigstory.ap.org/article/us-terrorism-database-doubles-recent-years>

[4] http://www.huffingtonpost.com/2014/08/05/terror-watch-hsi_n_502175.html

[5] President Barack Obama, "Memorandum for the Heads of Executive Departments and Agencies, Subject: Freedom of Information Act," 21 January 2009;
<http://www.whitehouse.gov/the_press_office/FreedomofInformationAct/>

[6] <http://america.aljazeera.com/profiles/l/jason-leopold.html>

[7] <http://www.theguardian.com/profile/jason-leopold>

[8] <https://news.vice.com/contributor/jason-leopold>

[9] <http://truth-out.org/author/itemlist/user/44686>

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Jason Leopold

Investigative Reporter

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PGP: <http://bit.ly/1hpZzsd>

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@JasonLeopold

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