

August 21, 2002

Melanie Ann Pustay, Deputy Director
Office of Information and Privacy
Suite 570, Flag Building
Department of Justice
Washington, DC 20530-0001
Attention: FOIA Request

Chief FOIA & Privacy Act Section
Federal Bureau of Investigation
Room 6296 JEH
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535
Attention: FOIA Request

RE: FREEDOM OF INFORMATION ACT

Intelligence, or any other individual or entity. For your information, the DOJ's Office of Legislative Affairs responded to the letter from Reps. Sensenbrenner and Conyers on July 26 and may have knowledge of records responsive to this request.

2. All policy directives or guidance issued since the effective date of the USA PATRIOT Act ("Act") to DOJ and/or FBI employees, or any subset of DOJ employees, regarding the use of authority granted by Section 214 of the Act.
3. All policy directives or guidance issued since the Act's effective date to DOJ and/or FBI employees, or any subset of DOJ and/or FBI employees, regarding the use of authority granted by Section 215 of the Act.
4. All policy directives or guidance issued since the Act's effective date to DOJ and/or FBI employees, or any subset of DOJ and/or FBI employees, regarding the use of National Security Letters to obtain records from libraries, bookstores, or newspapers.
5. All policy directives or guidance issued since the Act's effective date to DOJ and/or FBI employees, or any subset of DOJ and/or FBI employees, regarding the use of authority granted by the Foreign Intelligence Surveillance Act ("FISA"), 50 U.S.C. § 1801 et seq., as amended by the Act.
6. All policy directives or guidance issued since the Act's effective date to DOJ and/or FBI employees, or any subset of DOJ and/or FBI employees, regarding the use of authority granted by the Electronic Communications Privacy Act ("ECPA"), 18 U.S.C. § 2510 et seq., as amended by the Act.

We further request disclosure of any agency records containing the following information, if such information is not contained in the records disclosed pursuant to paragraphs 1 through 6 above:

7. The number of times since the Act's effective date that the DOJ and/or FBI has relied on authority provided by Section 206 of the Act to seek an order from the FISA court requiring that persons not specifically identified in the order provide assistance.
8. The number of times since the Act's effective date that the DOJ and/or FBI has sought orders under 50 U.S.C. § 1842 et seq., as amended by Section 214 of the Act, authorizing the use of pen registers and trap and trace devices. Of this number, (i) the number of times the order related to a United States citizen, (ii) the number of times the order related to a permanent resident, and (iii) the number of times the order was sought at least in part on the basis of activities protected by the First Amendment to the United States Constitution.

9. The number of tim

the number of times that the DOJ applied for a preclusion-of-notice order under 18 U.S.C. § 2705(b).

Waiver of Processing Fees

The requesters qualify as “representatives of the news media,” and fees associated with the processing of this request should therefore be “limited to reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II) As we explain below, each of the requesters is a news media organization, that is, each is an entity that “gathers information of potential interest to a segment of the public” and “uses its editorial skills to turn raw materials into a distinct work, and distributes them to an audience.” National Security Archive v. Depar.9 42dsw 12 0 0 12 90 4rchive v. Depar.9r9m(§ 552(a)(t 12 90 4rchive 1h5 Tm(a)T

on-line store. Some of the materials are offered for sale; others are available without charge.

The records requested are not sought for commercial use, and the requesters plan to disseminate the information disclosed as a result of this FOIA request through the channels described above.

Waiver of Duplication Costs

Additionally, we request a fee waiver for duplication costs because disclosure of this information is in the public interest. The information we seek is likely to contribute significantly to the public understanding of government activity. The ACLU, EPIC, and ABFFE are nonprofit 501(c)3 research and education organizations working to increase citizen participation in governance issues. The requesters are making this request specifically to further the public's understanding of the government's use of surveillance powers inside the United States. This matter is particularly pertinent in light of the many changes to the surveillance laws effected by the Act.

News articles reflect the strong public interest in the materials we seek in our request. See, e.g., Adam Clymer, "Justice Dept. Balks at Effort to Study Antiterror Powers," New York Times (August 14, 2002) (discussing Department of Justice's failure to fully answer questions of the House Judiciary Committee relating to surveillance

If our request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to with2 ga01 T Esion to