

U.S. Department of Justice



Federal Bureau of Investigation
935 Pennsylvania Ave., N.W.

Washington, D.C. 20535-0001

Ms. Ann Beeson
American Civil Liberties Union Foundation
125 Broad Street
New York, NY 10004-2400

January 16, 2003

Subject of Request: _____

FOIPA No. 966750 /190- _____

Dear Requester:

Enclosed are copies of documents from FBI records. Excisions have been made to protect information exempt from disclosure pursuant to Title 5, United States Code, Section 552 (Freedom of Information Act) and/or Section 552a (Privacy Act). In addition, where excisions were made, the appropriate exempting subsections have been cited opposite the deletions. Where pages have been withheld in their entirety, a deleted page information sheet has been substituted showing the reasons or basis for the deletion. The subsections cited for withholding information from the enclosed documents are marked below:

Section 552

Section 552a

- | | | |
|---------------------------------------|---|---------------------------------|
| <input type="checkbox"/> (b)(1) | <input type="checkbox"/> (b)(7)(A) | <input type="checkbox"/> (d)(5) |
| <input type="checkbox"/> (b)(2) | <input type="checkbox"/> (b)(7)(B) | <input type="checkbox"/> (j)(2) |
| <input type="checkbox"/> (b)(3) _____ | <input checked="" type="checkbox"/> (b)(7)(C) | <input type="checkbox"/> (k)(1) |
| _____ | <input type="checkbox"/> (b)(7)(D) | <input type="checkbox"/> (k)(2) |
| _____ | <input type="checkbox"/> (b)(7)(E) | <input type="checkbox"/> (k)(3) |
| _____ | <input type="checkbox"/> (b)(7)(F) | <input type="checkbox"/> (k)(4) |
| <input type="checkbox"/> (b)(4) | <input type="checkbox"/> (b)(8) | <input type="checkbox"/> (k)(5) |
| <input type="checkbox"/> (b)(5) | <input type="checkbox"/> (b)(9) | <input type="checkbox"/> (k)(6) |
| <input type="checkbox"/> (b)(6) | | <input type="checkbox"/> (k)(7) |

(See Form OPCA-16a, enclosed, for an explanation of these exemptions.)

Pursuant to your request, 14 pages(s) were reviewed and 14 page(s) are being released.

During the review of material pertinent to the subject of your request, documents were located which

- originated with another Government agency(ies).
These documents were referred to that agency(ies) for review and direct response to you.
- contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

- If you desire, you may appeal any denials contained herein. Appeals should be directed in writing to the Co-Director, Office of Information and Privacy, U.S. Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530-0001 within sixty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.
- The enclosed material is from the main investigative file(s) in which the subject of your request was the subject of the investigation. There are additional references to the subject(s) of your request in files relating to other individuals, organizations, events or activities. These additional mentions or references have not been reviewed to determine if, in fact, they are identifiable with the subject(s) of your request. Our experience has shown that such references are frequently similar to information contained in the processed main file(s). We will process these references if you now make a specific request for them. However, because of a significant increase in FOIPA requests and an expanding backlog, we have given priority to the processing of main investigative files and can only complete the processing of these additional references as time and resources permit.
- See additional information which follows.

Sincerely yours,

David M. Hardy / use

Chief
Freedom of Information-
Privacy Acts Section
Office of Public and Congressional Affairs

Enclosures (3)

This letter supplements our prior responses of November 4, 2002, November 14, 2002 and November 20, 2002.

Enclosed are 12 additional pages which were subsequently located and are responsive to request numbers 2-6 in your letter dated August 21, 2002.

The FBI previously asserted exemption (b) (1) to protect the records sought in request numbers 11 and 12 in that the mere fact of the existence or nonexistence of responsive records is, in and of itself, classified. Upon further review the FBI has determined that we are able to address request numbers 11 and 12. Material which appears to be responsive to request number 12 is maintained in our computer system and we are unable to access it at present. As soon as we are able to gain access to this material it will be processed. We are making every effort to retrieve this information as expeditiously as possible. However, please be advised that we anticipate that the information will be withheld in full pursuant to exemption (b) (1). No information responsive to request number 11 was located.

Also enclosed are two pages which were referred for consultation from the Department of Justice, Office of Information and Privacy, which are responsive to request number 1 of your request letter.

By letter dated December 12, 2002, Department of Justice, Office of Intelligence Policy and Review, referred for processing a 10-page document which originated with the FBI. This document, dated October 26, 2001, is a duplicate of a document that was released to plaintiff in our letter dated November 14, 2002.



U.S. Department of Justice

Office of Intelligence Policy and Review

Washington, D.C. 20530

JAN 15 2003

Ms. Ann Beeson, Litigation Director
Technology & Liberty Program
American Civil Liberties Union Foundation
125 Broad Street
New York, NY 10004-2400

Re: FOIA/PA #03-005

Dear Ms. Beeson:

This is our final response to your Freedom of Information Act (FOIA) request on behalf of the American Civil Liberties Union, (ACLU), the Electronic Privacy Information Center (EPIC), and the American Booksellers Foundation for Free Expression (ABFFE), dated August 21, 2002, which was received in this Office on October 22, 2002. In this letter you requested all records pertaining to the Department's response to certain questions posed in a June 13, 2002, letter to the Attorney General from Representatives Sensenbrenner and Conyers regarding the Department's implementation of the USA Patriot Act. You also requested certain policy directives or guidance issued by the Department related to the USA Patriot Act, as well as other records containing specifics as to the number of times various provisions of the Patriot Act have been applied.

We have completed our search for records responsive to your request and identified *thirty-four* documents (totaling 68 pages) responsive to items 1, 5, 7, 8, 9, and 10. No responsive records were located for items 2-4, 6, and 11-14. *Two* documents (#14, 16) responsive to item #5 of your request originated with the Office of the Attorney General and the Federal Bureau of Investigation (FBI), respectively. They have been referred to the Office of Information and Privacy and the FBI for review and direct response to you. *Two* documents (#13, 15) responsive to item #5 of your request are appropriate for release in their entirety and have been enclosed.



U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

JAN 15 2003

Ms. Ann Beeson
Litigation Director
Technology & Liberty Program
American Civil Liberties Union Foundation
125 Broad Street
New York, NY 10004-2400

Re: AG/02-R0848
DAG/02-R0849
OLA/02-R0851
MAP:TSW:LAD

Dear Ms. Beeson:

This is our final response to your Freedom of Information Act (FOIA) request on behalf of the American Civil Liberties Union (ACLU), the Electronic Privacy Information Center (EPIC), and the American Booksellers Foundation for Free Expression (ABFFE), dated August 21, 2002, which was received in this Office on August 29, 2002, in which you requested all records prepared and/or collected by the Department of Justice in connection with the Department's response to questions 8, 10, 11, 12, 15, and 27 posed in a letter to the Attorney General dated June 13, 2002, from Representatives Sensenbrenner and Conyers, in their capacities as Chairman and Ranking Member of the House Committee on the Judiciary. You also requested certain policy directives or guidance issued by the Department related to the USA Patriot Act, as well as other records containing the number of times various provisions of the Patriot Act have been applied. Regarding the first part of your request, we understand that you are seeking records relating to the classified responses to questions 8, 10, 11, 12, 15 and 27. This response is being made on behalf of the Offices of the Attorney General, Deputy Attorney General and Legislative Affairs.

Please be advised that a search was conducted in the Office of the Attorney General and in the Department Executive Secretariat, which is the official records repository for the Offices of the Attorney General, Deputy Attorney General and Associate Attorney General and no responsive records were located. Searches were also conducted in the Offices of the Deputy Attorney General and Legislative Affairs (OLA) and we located one hundred and sixty-six pages of responsive material. (Please note that one hundred and sixty-one pages are responsive to item number one of your request, and five pages are responsive to items numbered two through six. No responsive records were located for items numbered seven through fourteen.) I have determined that one hundred and eight pages are appropriate for release without excision and copies are enclosed. Also enclosed are fifty-two pages that are appropriate for release with excisions made pursuant to Exemptions 5, 6, and 7(C) of the FOIA, 5 U.S.C. § 552(b)(5), (6), (7)(C). In some instances, this information is withheld at the request of the Federal Bureau of Investigation or the Office of Intelligence and Policy Review (OIPR).

CC: [redacted]; Brown, Jamie E (OLA)
Subject: 09.03.02 PATRIOT Follow-up Questions.wpd

These are follow up questions from Sensenbrenner and the House Judiciary staff. I have drafted up answers to question #10 and #11 and need you and OIPR to sign off on them asap.

[Large redacted block]

(b)(5)
OIP

Thanks for your help.

Patrick Kelly
Office of Legislative Affairs
Department of Justice
(202) 514-0427

Tracking:

Recipient
Kelly, Patrick (OLA)

Read
Read: 9/11/02 2:04 PM
Read: 9/11/02 12:03 PM

-2-

One document (#31) responsive to items #1 and 9 of your request is appropriate for release with excisions made pursuant to Exemption 5 of the FOIA, 5 U.S.C. §552 (b)(5). *Four* documents (#1, 5, 20 and 33) responsive to item #1 of your request are appropriate for release with excisions made pursuant to Exemption 6 of the FOIA, 5 U.S.C. §552 (b)(6). *Sixteen* documents (#3, 4, 6, 7, 8, 9, 10, 11, 18, 19, 25, 26, 28, 29, 30, and 32) responsive to item #1 of your request are appropriate for release with excisions made pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. §552 (b)(5) and (b)(6). *One* document (#2) responsive to items 1, 7 and 8 of your request is appropriate for release with excisions made pursuant to Exemptions 5 and 6 of the FOIA.

Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative process privilege. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. For your information, the redacted material consists of deliberative portions of electronic mail messages (e-mail) and handwritten notes and drafts, and the names and/or telephone numbers of OIPR staff. In some instances, this information is redacted at the request of the Office of Information and Privacy. These *twenty-two* documents, as redacted, are also enclosed.

The remaining *eight* documents have been withheld in their entirety. *One* document (#12) responsive to items 7, 8, 9 and 10 of your request has been withheld pursuant to Exemption 1 of the FOIA, 5 U.S.C. 552 (b)(1).¹ *Five* documents (#17, 22, 23, 24, and 27) responsive to item #1 of your request have been withheld pursuant to Exemptions 5 and 6 of the FOIA. *One* document (#21) responsive to item #1 of your request has been withheld pursuant to Exemption 5, and *one* document (#34) responsive to items # 1, 8, 9, and 10 of your request has been withheld pursuant to Exemption 1.

Exemption 1 pertains to national security information which is properly classified. For your information the withheld material consists of deliberative portions of electronic mail messages (e-mail) and drafts regarding the dissemination of Foreign Intelligence Surveillance Act (FISA) information, certain pages from the Attorney General's Reports to Congress on FISA, and the names and/or telephone numbers of OIPR staff.

¹ This document was located in a search of OIPR records, however, it duplicates documents #1 and 2 referred by the Office of Information & Privacy and referenced in the second paragraph of our November 20, 2002 response to you.

Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative process privilege. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Exemption 7(C) pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. For your information, the withheld material consists of deliberative portions of electronic mail messages (e-mail) and handwritten notes, and personal information concerning third parties. None of the information being withheld is appropriate for discretionary disclosure. Please be advised that the numbers in the lower right corners are for administrative purposes only and were not on the original documents. Additionally, you will notice that nine pages include information marked as being "outside of scope." This information does not pertain to the questions specified in your request.

Finally, this Office previously advised you in our October 30, 2002 response that we had referred three classified pages located in OLA to OIPR. Please be advised that we have referred three additional pages to OIPR for processing and direct response to you. Accordingly, a total of six pages were referred to OIPR for processing and direct response to you. Finally, OIPR located one document, consisting of five pages, that it referred to this Office for processing and direct response. This document is duplicative of one already handled by this Office and thus it is not included separately in our page count.

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you that you have the right to file an administrative appeal.

Sincerely,



Melanie Ann Pustay
Deputy Director

Kris, David

From: [REDACTED]
Sent: Friday, July 19, 2002 8:48 AM
To: Kris, David
Subject: Re: Sensenbrenner Questions
Expires: Friday, August 02, 2002 12:00 AM

FOIA EXEMPTION (b)(6)

Mr. Kris,
I believe you sent the attached to the wrong address. My name is [REDACTED] and I work at [REDACTED]. I am returning the message to you. I did not open the attachment.

>>> Kris, David 07/18/02 03:03PM >>>
[REDACTED]

The classified answers to questions 8, 10, 11, 12, 15 and 27 look fine. Please transmit them to OLA for passage to the Hill under the usual security measures. The unclassified answers to questions 10, 11, and 12 that you sent me on July 17, 2002 at 2:28 pm are also fine and should be transmitted to OLA as well (copy attached). Thanks.

-- David

FOIA EXEMPTION (b)(6)
per OIPR

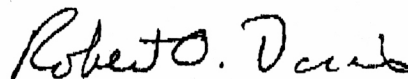
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-3-

Finally, the Office of Information & Privacy referred *one* additional document to this office for review and direct response to you. We have completed our review of this document and determined that it is not appropriate for release. This draft document which contains the name of an OIPR staff person and pertains to the dissemination of FISA information is exempt from disclosure pursuant to Exemptions 5 and 6 of the FOIA.

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you that you have the right to file an administrative appeal.

Sincerely,



Robert O. Davis
Deputy Counsel for Intelligence Policy

Enclosures (24)

cc: David L. Sobel
Electronic Privacy Information Center
1718 Connecticut Avenue, NW #209
Washington, DC 20009
w/enclosures

Kris, David

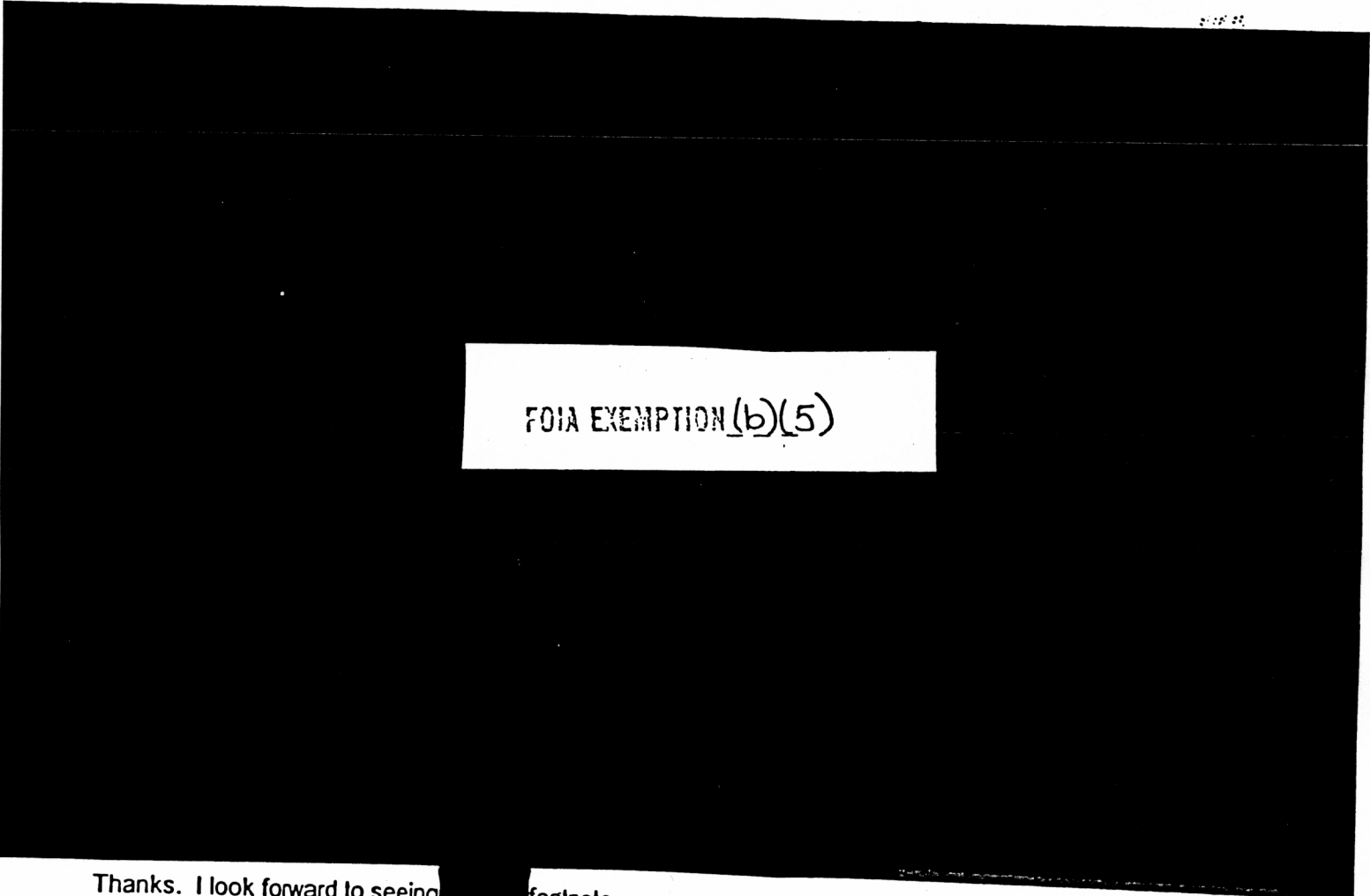
From:
Sent:
To:
Subject:

Kris, David
Wednesday, August 21, 2002 7:15 PM

██████████ FOIA EXEMPTION (b)(6)

per OIPR

Here are (I hope) my last changes:



FOIA EXEMPTION (b)(5)

Thanks. I look forward to seeing ██████████ footnote.

- David
Tracking:

Recipient
██████████

Read
Read: 8/21/02 7:20 PM

FOIA EXEMPTION (b)(6)
per OIPR

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