



December 20, 2005

Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

**Re: REQUEST UNDER FREEDOM OF INFORMATION ACT /
Expedited Processing Requested**

Attention:

This letter constitutes a request by the American Civil Liberties Union and the American Civil Liberties Union Foundation (“ACLU”) under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the CIA FOIA implementing regulations, 32 C.F.R. § 1900.¹

I. The Request for Information

The ACLU seeks disclosure of any presidential order(s) authorizing the NSA to engage in warrantless electronic surveillance² and/or warrantless physical searches in the United States, created from September 11, 2001 to the present.³

¹ The American Civil Liberties Union Foundation is a 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, and educates the public about civil rights and civil liberties issues. The American Civil Liberties Union is a separate non-profit, non-partisan, 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analyses of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.

² The term “electronic surveillance” includes but is not limited to warrantless acquisition of the contents of any wire or radio communication by an electronic, mechanical, or other surveillance device, and the warrantless installation or use of an electronic, mechanical, or other surveillance device for monitoring to acquire information, other than from a wire or radio communication.

³ This request does not include surveillance authorized by 50 U.S.C. §§ 1802 or 1822(a).



In addition, the ACLU seeks disclosure of any record(s),⁴ document(s), file(s), communications, memorandum(a), order(s), agreement(s) and/or instruction(s), created from September 11, 2001 to the present, about:

1. any presidential order(s) authorizing the NSA to engage in warrantless electronic surveillance and/or warrantless physical searches in the United States;
2. the policies, procedures and/or practices of the NSA:
 - a. for identifying individuals, organizations or entities to subject to warrantless electronic surveillance and/or warrantless physical searches in the United States, including but not limited to any “checklist to follow in deciding whether probable cause existed to start monitoring someone’s communications,”⁵ or a requirement that there be a “clear link” between terrorist organizations and individuals subject to such surveillance;⁶
 - b. for gathering information through warrantless electronic surveillance and/or warrantless physical searches in the United States;
 - c. governing the maintenance and/or storage of information described in paragraph 2(b) above;
 - d. for analyzing and using information described in paragraph 2(b) above;
 - e. for sharing information described in paragraph 2(b) above with other government agencies;

⁴ The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

⁵ James Risen and Eric Lichtblau, *Bush Lets U.S. Spy on Callers Without Courts*, New York Times, Dec. 16, 2005, at A1, A16.

⁶ Transcript, President Bush’s Address, Dec. 17, 2005, available at <http://www.nytimes.com/2005/12/17/politics/17text-bush.html>



- f. for sharing information described in paragraph 2(b) above to be “used as the basis for F.I.S.A. warrant requests from the Justice Department,”⁷ or any other form of warrant;
 - g. for cross referencing information described in paragraph 2(b) above with information about other individuals, organizations, or groups;
 - h. for cross-referencing information described in paragraph 2(b) above with information in any database;
 - i. to suspend and/or terminate warrantless electronic surveillance and/or physical searches in the United States by the NSA;
 - j. governing the destruction of information described in paragraph 2(b) above;
 - k. for protecting the privacy of individuals who are subject to warrantless electronic surveillance and/or warrantless physical searches in the United States;
 - l. for consulting with, or obtaining approval from, the Justice Department or other departments, agencies, and/or executive branch officials before engaging in warrantless electronic surveillance and/or warrantless physical searches in the United States;
 - m. any minimization procedure, as that term is defined in 50 U.S.C. § 1801(h), for information described in paragraph 2(b) above;
3. the name of other government agencies with whom the information described in part 2(b) above is shared;
4. the date on which:
- a. President Bush signed an order permitting the NSA to engage in warrantless electronic surveillance and/or warrantless physical searches in the United States;

⁷ Risen and Lichtblau, Dec. 16., at A16.