



January 31, 2006

Directorate for Freedom of Information
And Security Review, Room 2C757
1155 Defense Pentagon
Washington, DC 20301-1155

Department of Air Force
11CS/SCSR (FOIA)
1000 Air Force Pentagon
Washington, DC 20330-1000

Department of Army
Freedom of Information and Privacy Acts Office
TAPC-PDR-PF
7798 Cissna Road, Suite 205
Springfield, VA 22150-3166

Inspector General of Department of Defense
Chief FOIA/PA Office
400 Army Navy Drive, Room 405
Arlington, VA 22202-2884

Department of the Navy
Commandant of the Marine Corps (ARAD)
Headquarters U.S. Marine Corps,
2 Navy Annex
Washington DC 20380-1775

Defense Intelligence Agency (DIA)
DAN-1A (FOIA)
Washington, DC 20340-5100

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

Attention:

This letter constitutes a request under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") and Department of Defense implementing regulations, DOD 5400.7-R, September 1998, and the Privacy Act, 5 U.S.C. 552a by the communications department of the American Civil Liberties Union and the American Civil Liberties Union Foundation of Northern California ("ACLU-NC") and the San Francisco Bay Guardian, on behalf of Santa Cruz Students Against the War and its members, and the Berkeley Stop the War Coalition and its members, clients of the ACLU-NC (hereinafter referred to as "the Requesters").

QUINN DELANEY, CHAIRPERSON | LUZ BUITRAGO, BOB CAPISTRANO, SUSAN FREIWALD, JIM WESTON, VICE CHAIRPERSONS | NANCY PEMBERTON, TREASURER
DOROTHY M. EHRLICH, EXECUTIVE DIRECTOR | MAYA HARRIS, ASSOCIATE DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR
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NATASHA MINSKER, NICOLE A. OZER, MARK SCHLOSBERG, POLICY DIRECTORS
STEPHEN V. BOMSE, GENERAL COUNSEL

I. The Requesters¹

The ACLU-NC is a branch of the ACLU, a national organization that works to protect civil liberties of all people, including the safeguarding of the basic constitutional rights to privacy and free speech and expression. The ACLU-NC is responsible for serving the population in Northern California. The communications department of the ACLU-NC is a division of the ACLU-NC that is responsible for disseminating information to the public about issues of concern to the ACLU-NC.

The San Francisco Bay Guardian ("the Guardian") is the largest circulation newsweekly in Northern California, with an audited weekly distribution of 150,000. The paper is locally owned, independent, and has been continuously published since 1996.

University of California Santa Cruz Students Against War ("SAW") is a student run organization on the University of California at Santa Cruz ("UCSC") campus dedicated to stopping war in all its forms. The organization is working to stop the current war in Iraq and is committed to stopping military funding of university projects and recruitment on the UCSC campus. SAW believes that the occupation of Iraq is unjust and illegal and that the military's "Don't Ask, Don't Tell" program is in violation of University of California non-discrimination policies. SAW is a non-violent organization.

Berkeley Stop the War Coalition ("BSTW") is a diverse coalition of students on the University of California at Berkeley campus who oppose the various military activities undertaken by the United States Government. BSTW supports peace, justice, and equality, and opposes racism, militarism, and attacks on civil liberties. BSTW has organized numerous protests against military recruitment on the UC Berkeley campus.

II. Request

The Requesters seek disclosure of any record(s),² document(s), file(s), communications, memorandum(a), order(s), agreement(s) and/or instruction(s), created from January 1, 2001, to the present, that were prepared, received, transmitted, collected and/or maintained by the Department of Defense ("DOD") or any of its components, including but not limited to the Counterintelligence Field Activity Agency ("CIFA"), its Directorate of Field Activities ("DX"), and

¹ The term "Requesters" or references to individual requesters as used herein is defined as all of the organizations identified in Section I of this letter, as well as their employees, members, and board of directors. Individual requesters Konstanty (Kot) Hordynski, Joshua Sonnenfeld, Jennifer Ching-Hsia Low, Leigh Johnson, Snehal Shingavi, Ehud Moshe Appel, Matthew Alan Taylor, and Chelsea Collonge have all signed notarized statements authorizing the Department of Defense to release documents relating to them to Mark Schlosberg, pursuant to the Privacy Act. Original notarized statement is being sent to the Directorate for Freedom of Information

And Security Review with copies to other DOD components. Notarized forms are attached as Appendix B and identifying information about requesters is attached as Appendix C.

² 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.

their Threat and Local Observation Notice ("TALON") database, relating or referring to the following:

1. All records describing or referencing the UC Santa Cruz group SAW, Konstanty (Kot) Hordynski, Joshua Sonnenfeld, Jennifer Ching-Hsia Low, or any of its other members including but not limited to records regarding:
 - a. Orders or instructions to collect information about SAW, its members, or their activities;
 - b. The inclusion of SAW, its members, or their activities in the TALON database;
 - c. How, why, or when SAW, its members, or any of their activities were selected as a target for DOD information gathering or for inclusion in the TALON database³;
 - d. The means by which information about SAW, its members, or their activities was or will be collected, including but not limited to any instances in which DOD personnel gathered information via informants, by collecting information from websites, by infiltrating SAW in an undercover capacity, or by attending rallies, protests, demonstrations, organizational meetings or other gatherings organized by SAW or in which SAW participated;
 - e. How records about SAW, its members, or their activities have been, are being, will be, or might be used, shared with another agency, or disseminated;
 - f. The retention of records about SAW, its members, or their activities;
 - g. The destruction of records about SAW, its members, or their activities, including any policies, orders, or directives requiring permitting or prohibiting the destruction of such records;

2. All records describing or referencing the UC Berkeley group BSTW, Leigh Johnson, Snehal Shingavi, Ehud Moshe Appel, Matthew Alan Taylor, Chelsea Collonge, or any of its other members including but not limited to records regarding:
 - a. Orders or instructions to collect information about BSTW, its members, or their activities;
 - b. The inclusion of BSTW, its members, or their activities in the TALON database;

³ References to Talon database throughout this request includes the TALON cornerstone database and all other databases created or controlled by the Counterintelligence Field Activity agency ("CIFA"), and the Joint Protection Enterprise Network ("JPEN"). See Walter Pincus, "Unverified Reports of Terror Threats Linger," *Washington Post*, January 31, 2006. It also covers database projects outsourced to private firms, which include, according to an NBC News report, "Person Search" (Northrup contract), "The Insider Threat Initiative" (Computer Sciences Corp. contract), "Track and Monitor Activities of Suspect Individuals" small Virginia based contractor). See Lisa Myers et al. "Is the Pentagon Spying on Americans?," msnbc.com, December 14, 2005.

- c. How, why, or when BSTW, its members, or any of their activities were selected as a target for DOD information gathering or for inclusion in the TALON database;
 - d. The means by which information about BSTW, its members, or their activities was or will be collected, including but not limited to any instances in which DOD personnel gathered information via informants, by collecting information from websites, by infiltrating BSTW in an undercover capacity, or by attending rallies, protests, demonstrations, organizational meetings or other gatherings organized by BSTW or in which BSTW participated;
 - e. How records about BSTW, its members, or their activities have been, are being, will be, or might be used, shared with another agency, or disseminated;
 - f. The retention of records about BSTW, its members, or their activities;
 - g. The destruction of records about BSTW, its members, or their activities, including any policies, orders, or directives requiring permitting or prohibiting the destruction of such records;
3. All records describing or referencing an antiwar/counter-recruitment protest at UC Santa Cruz, listed in the database reported on NBC News⁴ and held on April 4 or 5, 2005 including but not limited to:
 - a. All records received by the DOD from outside agencies regarding this event;
 - b. All records generated by any member or division within the DOD regarding this event;
 - c. All records sent by the DOD to outside agencies regarding this event.;
 - d. All TALON reports or other reports regarding the event;
 4. All records describing or referencing an antiwar/counter-recruitment protest at UC Santa Cruz, held on October 17 or 18, 2005 including but not limited to:
 - a. All records received by the DOD from outside agencies regarding this event;
 - b. All records generated by any member or division within the DOD regarding this event;
 - c. All records sent by the DOD to outside agencies regarding this event.
 - d. All TALON reports or other reports regarding the event;
 5. All records describing or referencing an antiwar/counter-recruitment protest at UC Berkeley, listed in the database reported

⁴ Lisa Myers et al, "Is the Pentagon Spying on Americans?," msnbc.com, December 14, 2005

- on NBC News and held on April 20 or 21, 2005 including but not limited to:
- a. All records received by the DOD from outside agencies regarding this event;
 - b. All records generated by any member or division within the DOD regarding this event;
 - c. All records sent by the DOD to outside agencies regarding this event;
 - d. All TALON reports or other reports regarding the event;
6. All records regarding the procedures governing TALON reports or any other reports on individuals and organizations within the United States including:
- a. The circumstances under which individuals are required to, permitted to, or prohibited from filing a TALON report;
 - b. The types of activity on which individuals are required to, permitted to, or prohibited from filing a TALON report;
 - c. Regulations governing the maintenance, dissemination, and destruction of TALON reports;
 - d. Regulations referencing the protection of privacy and First Amendment rights;
 - e. Regulations governing the entry of TALON reports into databases;
 - f. Regulations governing all databases into which TALON reports may be entered including a list of all such databases;
 - g. Regulations governing the purging of all databases that may hold information derived from TALON reports;
7. All regulations for CIFA regarding:
- a. The protections afforded by the First Amendment of the constitution and the constitutional right to privacy;
 - b. The documentation or gathering of information on activities within the United States;
 - c. The inclusion of information, including TALON reports, in files and/or databases and the dissemination and purging of information from files and/or databases;
8. All records, including legal memoranda, containing analysis or opinion regarding the following:
- a. The DOD's practice of documenting domestic anti-war, counter-recruitment, or other political activities in the United States in reports and maintaining them in files or databases;
 - b. The failure to purge information from the TALON and associated databases within 90 days as required by DOD regulations.⁵

⁵ See Walter Pincus, "Pentagon Will Review Database on U.S. Citizens," *Washington Post*, December 15, 2005.

9. All records authorizing the creation of the TALON report system and database and related databases (see footnote 3 above), the entry of persons, organizations, or incidents into these databases, and any associated regulations including executive orders, orders, directives, or other policy statements from the President, Vice-President, Secretary of Defense, or any Undersecretary of Defense.

III. Request for Expedited Processing

Background

On December 14, 2005, NBC News issued a report on a secret Defense Department document it had obtained. The document was a printout generated from a database of over 1500 "suspicious incidents" across the country over a 10 month period. Contained in the list, was information on a number of anti-war and counter-recruitment meetings and demonstrations. A number of the events listed were in California, one of which was in Santa Cruz on April 4 or 5 2005 and another of which was in Berkeley on April 20 or 21 2005. See Lisa Myers et al, "Is the Pentagon Spying on Americans?," msnbc.com, December 14, 2005.⁶

The Santa Cruz incident is listed as a "protest against military recruiters at University of California at Santa Cruz (UCSC) on 5 April 05." In the database it is deemed a "threat" and "credible" and "closed/unresolved." The group that led the protest at UCSC on that date was SAW, a student organization at UCSC.

The Berkeley incident is listed as "direct action protest planned against recruiters at UC Berkeley." It is also listed a "threat" but is deemed "not credible" and is also listed as "closed/unresolved." A comments section also contains the language "protest took place without incident." The group that led the protest at UC Berkeley was BSTW, a student organization at UC Berkeley.

The NBC report generated widespread attention from the news media and public officials both nationally and locally. Subsequent to the initial NBC report, there have been numerous news reports on the database, its origins, and potential use, including the role of the Counterintelligence Field Activity Agency ("CIFA") in creating the database, the Threat and Local Observation Notice report ("TALON") reporting mechanism, and the problematic aspects of the Department of Defense gathering information on internal political activities. See e.g. Walter Pincus, "Unverified Reports of Terror Threats Linger," *Washington Post*, January 31, 2006; "Trust? We Don't Think So," *Philadelphia Inquirer*, January 30, 2006 (editorial); Michael Isakoff, "The Other Big Brother," *Newsweek*, January 30, 2006; Joel Bleifuss, "FBI, DOD, NSA: All Spying on You," *In These Times*, January 26, 2006; Walter Pincus, "Corralling Domestic Intelligence," *Washington Post*, January 13, 2006; "A Fog of False Choices," *New York Times*, December 20, 2005 (editorial mentioning Pentagon program); Walter Pincus "Pentagon's Intelligence Authority Widens," *Washington Post*, December 19, 2005; "What Can't the Pentagon Understand About American's Right Peaceably to Assemble," *Fayetteville Observer*,

⁶ All cited articles and additional articles related to the issues raised in this request are attached and indexed in Appendix D.

December 19, 2005 (editorial); "Big Brother Bush," *Pittsburgh Post-Gazette*, December 18, 2005 (editorial); David S. Cloud, "Pentagon is Said to Mishandle a Counterterrorism Database," *New York Times*, December 16, 2005; Arianna Huffington, "It's Dirty Tricks All Over Again," *Salt Lake City Tribune*, December 16, 2005 (syndicated column appearing in other papers as well); Chris Matthews, "Update: Pentagon Eyeing Activist Groups?," *Hardball*, December 16, 2005 (interview by Chris Matthews with Lisa Myers of NBC news); Walter Pincus, "Pentagon Will Review Database on U.S. Citizens," *Washington Post*, December 15, 2005; Associated Press, "Pentagon to Review Spy Files After NBC Report," *msnbc.com*, December 15, 2005 (also printed elsewhere including *foxnews.com*, ; Vicy O'Hara, "Pentagon to Probe Abuse of Security Database," *National Public Radio, All Things Considered*, December 15, 2005; Charles Aldinger, "Pentagon Admits Compiling Data on Antiwar Activists," *Capitol Hill Blue*, December 15, 2005 (Reuters article reprinted elsewhere as well including Yahoo! News); Kevin Deutsch, "Pentagon Calls Lake Worth Peace Meeting a 'threat,'" *Palm Beach Post*, December 15, 2005; Robert Burns, "Pentagon to Review Possible Database Misuse," *boston.com*, December 15, 2005 (Associated Press writer posted on cite that hosts the Boston Globe); Steven Elbow, "Local Anti-War Protest on Pentagon List," *Madison.com*, December 15, 2005; Walter Pincus, "Defense Facilities Pass Along Reports of Suspicious Activity," *Washington Post*, December 11, 2005.

Not only does the quantity of news reports indicate that there is widespread concern regarding this program, but the Department of Defense appears to concur as the DOD issued a news report on December 16, 2005 on the subject. See Gerry J. Gilmore, "DOD Orders Review of Anti-Threat Intel-Gathering System," *American Forces Press Service*, December 15, 2005.

Specifically, the Santa Cruz incident and the UCSC group Students Against War has been featured in numerous local and national news articles. See e.g. Michael Isakoff, "The Other Big Brother," *Newsweek*, January 30, 2006; "Bad Targeting," *Washington Post*, January 29, 2006 (editorial); Associated Press, "Santa Cruz Students Seek Information Related to Protest Investigation," *abc30.com*, January 29, 2006; Jim Puzanghera, "Privacy Moves to Front Burner," *San Jose Mercury News*, January 27, 2006; Joel Bleifuss, "FBI, DOD, NSA: All Spying on You," *In These Times*, January 26, 2006; Sarah Kershaw, "A Protest, a Spy Program and a Campus in an Uproar," *New York Times*, January 14, 2006; Walter Pincus, "Corralling Domestic Intelligence," *Washington Post*, January 13, 2006; Becky Bartindale, "Students React to Spy Charge," *San Jose Mercury News*, December 30, 2005; "Denton Asks Lawmakers to Look into Alleged Spying at UCSC," *Santa Cruz Sentinel*, December 30, 2005; "Evidence of Pentagon Surveillance," *insidehighered.com*, December 30, 2005; Becky Bartindale, "UCSC Chief Alleges Spying," *San Jose Mercury News*, December 29, 2005; William Scott, "UCSC Must Denounce Pentagon Spying," *Santa Cruz Sentinel*, December 25, 2005; Joe Garofoli, "California ACLU Asks State if it is Providing Data to FBI," *San Francisco Chronicle*, December 22, 2005 (discusses Pentagon list and Santa Cruz group); Matthew Rothchild, "Rumsfeld Spies on Quakers and Grannies," *The Progressive*, December 16, 2005; "Report: UCSC Protest Subject of Govt. Surveillance," *theKSBWChannel.com*, December 15, 2005; "UCSC Students Outraged at Reported Pentagon Surveillance," *CBS 5: Bay City News Wire*, December 14, 2005.

The Berkeley incident's inclusion in the database has also drawn significant media attention. See e.g. "Bad Targeting," *Washington Post*, January 29, 2006 (editorial); Sean Holstege, "Spying Pattern a Legacy of 9/11," *Oakland Tribune*, December 27, 2005 (mentions both Santa Cruz and Berkeley being included in Pentagon list – this article was also reprinted in several other papers including *The Fremont Argus*, *The Hayward Daily Review*, *The Tri-Valley*

Herald, The Alameda Times-Star, and The San Mateo County Times); "Evidence of Pentagon Surveillance," *insidehighered.com*, December 30, 2005.

A number of political leaders have questioned and/or spoken out against the inclusion of anti-war and counter recruitment protests in the database. These statements have also drawn significant media attention. See e.g. Erica Werner, "Senator Raises Question On Pentagon Program," *sfgate.com*, January 12, 2005 (associated press article reprinted in numerous locations – a google news search shows it cited 88 times, see attached); Becky Bartindale, "Lofgren Seeks Probe of Pentagon Activity," *San Jose Mercury News*, January 3, 2006; Jondi Gumz, "Congressman Denounces Pentagon Spying at UCSC," *Santa Cruz Sentinel*, December 17, 2005; Kathryn Casa, "Pentagon Spy Database Includes Vermont Protests," *Vermont Guardian*, December 20, 2005 (indicating concern of Senator Patrick Leahy, ranking member of the Senate Judiciary Committee); Lisa Myers, et al, "Senator Demands Investigation of Spy Database," *msnbc.com*, December 15, 2005 (citing letter by Senator Bill Nelson, FL, to Secretary of Defense Donald Rumsfeld).

Requesters are Entitled to Expedited Processing

It is DOD policy to quickly and fully respond to FOIA requests, disclosing the fullest information possible. According to DOD regulations, "DOD policy is to conduct its activities in an open manner and provide the public with a **maximum amount of accurate and timely information** concerning its activities, consistent always with the legitimate public and private interests of the American people." DOD 5400.7-R, September 1998, C1.3.1 (emphasis added). In fact, DOD regulations instruct that "DOD personnel are expected to comply with the FOIA, this Regulation, and DOD FOIA policy in both letter and spirit." C1.5.1.

Further, DOD regulations specify that the efforts should be made to process requests quickly, even when there are technical reasons why the agency may delay. According to the regulations, "DOD components shall ensure that procedural matters do not unnecessarily impede a requester from obtaining DOD records promptly." C1.5.3.

Against this backdrop and consistent with FOIA, the DOD regulations specify that a requester is entitled to expedited processing where the requester demonstrates a "compelling need for the information." C1.5.4.3. Under the FOIA and DOD regulations, "compelling need" is established when "information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity." Requesters meet this standard.

First, Requesters are primarily engaged in disseminating information. The Guardian is the largest circulation newsweekly in Northern California, with an audited weekly distribution of 150,000 copies. The paper is locally owned, independent, and has been continuously published since 1966. DOD regulations state "representatives of the news media would normally qualify as individuals primarily engaged in disseminating information." C1.5.4.3.2. The ACLU-NC's communications department is also primarily engaged in disseminating information (See Appendix A and sections IV and V below).

Second, there is an urgency to inform the public regarding the particular incidents referenced in the request as well as the databases and policy documents requested. DOD regulations state "urgently needed means that the information has a particular value that will be

lost if not disseminated quickly. Ordinarily this means a breaking news story of general public interest." C1.5.4.3.2.1. Here, there is extensive public and media interest in the use of the military to gather intelligence domestically on anti-war/counter-recruitment demonstrators and others engaging in protected activity (see articles referenced above, Appendix D, and additional attached articles). It is – in every sense – a breaking and unfolding news story and the requested information is needed to provide the public with a full picture of the extent of program.

The information is not being sought only for historical interest or litigation, rather, there is a very real risk that information will be lost if this Request is not expedited. News reports indicate that information from the database is supposed to be purged after 90 days. See Walter Pincus, "Pentagon Will Review Database on U.S. Citizens," *Washington Post*, December 15, 2005. Although reports indicate serious concern among DOD officials that these procedures have not been followed, see *id.*, the England directive requiring the identification of reports improperly retained in the database suggests that the DOD is taking steps toward complying with the 90-day rule. See Memorandum from Gordon England, Deputy Sec'y of Defense, to Secretaries of the Military Departments et al., January 13, 2006 (See Appendix E).

Additionally, Requesters are entitled to expedited processing because the issues raised in this request concern the "imminent loss of substantial due process rights." C1.5.4.3.4. Here, news reports indicate that the DOD is gathering information on certain anti-war and counter-recruitment activities on university campuses and elsewhere. This raises serious concerns about substantive due process rights including the constitutional right to privacy.

Preservation of Documents

To ensure that the information sought by this Request is not destroyed before it can be disclosed pursuant to this FOIA Request, the Requesters ask that you preserve all information responsive to this Request and that you do not erase it until you have provided the Requesters with copies. There is a very real risk that information will be lost if this Request is not expedited. Although news reports indicate serious concern among DOD officials that information about suspected threats has been improperly retained, see Walter Pincus, "Pentagon Will Review Database on U.S. Citizens," *Washington Post*, December 15, 2005, the England directive required the identification of reports improperly retained in the TALON database, see Memorandum from Gordon England, Deputy Sec'y of Defense, to Secretaries of the Military Departments et al., January 13, 2006, and the head of CIFA has recently indicated that the purging of the database is ongoing. See Walter Pincus, "Unverified Reports of Terror Threats Linger," *Washington Post*, January 31, 2006. Destruction of responsive documents after a FOIA Request is received constitutes an improper withholding of documents. See, e.g., *Judicial Watch v. U.S. Dep't of Commerce*, 34 F. Supp. 2d 28, 43-44 (D.D.C. 1998) (citing *Kissinger v. Reporters Comm.*, 444 U.S. 136, 148-152 (1980)).

Pursuant to applicable regulations and statute, the Requesters expects your determination of our request for expedited processing within 10 calendar days and your determination of our request for documents within 20 days. See generally C1.5.4 (Prompt Action on Requests).

IV. Waiver of Processing Fees Under The Freedom of Information Act

The ACLU-NC's communications department and the Guardian are "representative[s] 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). The ACLU-NC's communications department publishes newsletters, news briefings, right-to-know documents, and other materials that are disseminated to the public. Its material is widely available to everyone, including tax-exempt organizations, not-for-profit groups, law students and faculty, for no cost or for a nominal fee. The ACLU-NC's communications department also disseminates information through a Web site, <http://www.aclunc.org/>. The Web site addresses civil liberties issues in depth, provides features on civil liberties issues in the news, and contains numerous documents that relate to the issues on which the ACLU-NC is focused. Finally, the ACLU-NC's communications department disseminates information through a newsletter, which is distributed to subscribers by mail (for more information, see Appendix "A").

The Guardian is the largest circulation newsweekly in Northern California, with audited weekly distribution of 150,000 copies. The paper is local owned, independent and has been continuously published since 1966. The paper covers breaking news, does detailed investigative reporting, publishes editorials and covers arts, entertainment, and lifestyle issues. The Guardian has received more than 100 state, local and national awards for journalistic excellence. The Guardian is a member of the California Newspaper Publishers Association and the Association of Alternative Newsweeklies.

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

V. Waiver of Duplication Costs Under The Freedom of Information Act

The ACLU-NC's communications department and the Guardian requests a fee waiver for duplication costs pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) & (iii). Disclosure of the requested information is in the public interest. Disclosure of the requested information is in the public interest. This Request will further public understanding of government conduct: specifically, the DOD's domestic intelligence-gathering activities and its possible targeting of individuals, organizations and groups for surveillance based on their political viewpoints, affiliations, or activities. This type of government activity concretely affects many individuals and groups and implicates basic privacy, free speech, and associational rights protected by the Constitution.

Moreover, disclosure of the requested information will aid public understanding of policy decisions taken over the past two months in response to public revelations that CIFA, a DOD component whose size and budget remain secret, has been spying on domestic organizations and their peaceful political activities. *See above*. Understanding the current scope of the DOD's monitoring of law abiding individuals, organizations and groups is, therefore, crucial to the public's interest in determining the legality of the Pentagon's domestic intelligence program and in understanding the implications of DOD's recent policy shifts.

As a division of a nonprofit 501(c)(3) organization – the ACLU-NC's communications' department – and "representative[s] of the news media" – the ACLU-NC's communications

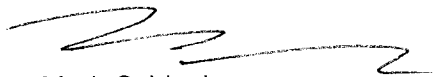
department and the Guardian – are well-situated to disseminate information it gains from this request to the public, immigrant communities, groups that protect immigrants rights, and political and religious organizations, via, the Guardian weekly newspaper and, as previously described, the ACLU-NC website, <http://www.aclunc.org/>, its pamphlets, and “Know Your Rights” documents (for more information, see Appendix “A”).

If our request is denied in whole or in 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 withhold any information or to deny a waiver of fees.

Thank you for your prompt attention to this matter. Please furnish all applicable records to Mark Schlosberg, Police Practices Policy Director, American Civil Liberties Union of Northern California, 1663 Mission Street, Suite 460, San Francisco, California 94103, telephone (415) 621-2493.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,



Mark Schlosberg
Police Practices Policy Director
ACLU of Northern California



Tim Redmond
Executive Editor
San Francisco Bay Guardian