



# Homeland Security

*Privacy Office, Mail Stop 0655*

December 15, 2009

Mr. Nathan D. Cardozo  
Open Government Legal Fellow  
Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco CA 94110-1914 USA

Re: **DHS/OS/PRIV 09-868**

Dear Mr. Cardozo:

This is an interim response to your June 19, 2009, Freedom of Information Act (FOIA) requests submitted to the Department of Homeland Security (DHS) Office of Inspector General (OIG) and the Office of the General Counsel (OGC). You requested copies of the following records:

- 1.) All reports submitted to the Intelligence Oversight Board ("IOB") pursuant to Section 2.4 of Executive order 12863 from February 25, 2008 to February 29, 2008; and
- 2.) All reports submitted to the IOB of the Director of National Intelligence ("DNI") pursuant to Section 1.7(d) of Executive order 12333 from February 29, 2008 to the present.
- 3.) All reports of any assessments or reviews of intelligence activities by the President's Intelligence Advisory Board (PIAB") to the DHS pursuant to Sec. 4(a)(ii) of Executive Order 13462 from February 29, 2008 to the present.
- 4.) All recommendations concerning intelligence matters identified by the PIAB to the DHS pursuant to Sec. 4(b) of Executive Order 13462 from February 29, 2008 to the present.
- 5.) All reports and recommendations by the IOB to the DHS pursuant to Sec. 6(c) of Executive Order 13462 concerning the performance of the DHS under Executive Order 13462 from February 29, 2008 to the present.
- 6.) All records containing information and all recommendations for corrective action submitted by the IOB to the DHS pursuant to Sec. 6(d) of Executive Order 13462 from February 29, 2008 to the present.
- 7.) All requester for investigations of intelligence activities by the IOB to the DHS and reports by the DHS to the IOB of the results of those investigations pursuant to Sec. 6(e) of Executive Order 13462 from February 29, 2008 to the present.
- 8.) All reports made by the DHS to the IOB or PIAB pursuant to Sec. 8(c) of Executive order 13462, concerning the reasons for not implementing a PIAB or IOB recommendation from February 29, 2008 to the present.

To date, our search has produced 51 pages of responsive records. Of those pages, I have determined that 31 pages are releasable in their entirety, 13 pages are partially releasable, and 7 pages are withheld in their entirety pursuant to the FOIA, 5 U.S.C. §§ 552 (b)(2)(high), (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E). Enclosed are 44 pages with certain information withheld, as described below:

Exemption 2 (high) protects information applicable to internal administrative matters to the extent that disclosure would risk circumvention of an agency regulation or statute, impede the effectiveness of an agency's activities, or reveal sensitive information that may put the security and safety of an agency activity or employee at risk. Exemption 5 exempts from disclosure certain inter- and intra-agency communications protected by deliberative process privilege, attorney work-product privilege, and attorney-client privilege. Exemption 6 exempts from disclosure records the release of which would cause a clearly unwarranted invasion of personal privacy. Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

Although this matter is currently in litigation, please be advised that the DHS FOIA regulations, 6 C.F.R. § 5.9, set forth procedures for filing an appeal. Appeals must be submitted to DHS within 60 days of the date of our final response, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [http://www.dhs.gov/xlibrary/assets/FOIA\\_FedReg\\_Notice.pdf](http://www.dhs.gov/xlibrary/assets/FOIA_FedReg_Notice.pdf); Internet; accessed December 11, 2009.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. As a media requester, you are responsible for the cost of duplication only in excess of 100 pages. Therefore, there is no charge associated with this response. As such, your request for a fee waiver is moot.

Our office continues to process your request. If you have any questions regarding this response, you may contact this office at 866-431-0486 or 703-235-0790. Please reference **DHS/OS/PRIV 09-868** in any future correspondence with this office.

Sincerely,



Vania T. Lockett  
Associate Director, Disclosure & FOIA Operations

Enclosures: As stated, 44 pages