



Court & Cedar Courtyard, 231 G Street, No. 7, Davis, California 95617 USA

Directors

September 24, 2002

Richard Glen Boire

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Office of Information and Privacy
Suite 570, Flag Building
Department of Justice
Washington, DC 20530-0001

Advisors

John Perry Barlow

Ram Dass

Rick Doblin, Ph.D.

Alex Grey

Federal Bureau of Investigation
Chief, FOI/PA Section, Rm. 6296 JEH
9th St. & Pennsylvania Ave., N.W.
Washington, DC 20535

Freedom of Information Act Request

Lester Grinspoon, M.D.

Laura Archera Huxley

Ralph Metzner, Ph.D.

Jonathan Ott

Dale Pendell

Sadie Plant, Ph.D.

David Presti, Ph.D.

Douglas Rushkoff

Alexander T. Shulgin, Ph.D.

Myron Stolaroff, M.A.

Thomas Szasz, M.D.

Dear FOI Officer:

This letter is a Freedom of Information Act request, pursuant to the federal Freedom of Information Act, 5 U.S.C. Sec. 552. It is submitted on behalf of the Center for Cognitive Liberty & Ethics (CCLE). The USA PATRIOT Act gave the FBI and Department of Justice (DOJ) new powers to obtain the lending records of public library users. We understand that similar new policies concerning the seizure of library records were included in the Attorney General's "Guidelines on General Crimes, Racketeering and Terrorism," that were released to the public on May 30, 2002.

Our FOIA request includes the following:

- 1) The titles of any and all books, names of specific authors or publishing companies, which are considered suspicious by the FBI, or which might constitute, alone or with other evidence of crime, as grounds for further surveillance of a library user or bookstore patron.
- 2) 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 to obtain library or bookstore records.
- 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 National Security Letters to obtain records from libraries or bookstores.
- 4) Any interagency communications from DOJ and/or the FBI to the DEA concerning specific titles books, names of specific authors or publishing companies, which are considered suspicious by the FBI, DOJ, or DEA, or which might constitute, alone or with other evidence of crime, as grounds for further surveillance of a library user or bookstore patron.
- 5) The number of times since the Act's effective date that the DOJ and/or FBI has sought orders, under 50 U.S.C. § 1861 et seq., as amended by Section 215 of the

Act, directing a library or bookstore to produce tangible things. Of this number,

- (i) the number of times the order related to a specific book or other specifically identified content;
- (ii) the number of times the order related to a named individual,
- (iii) the number of times the order related to a named United States citizen,
- (iv) the number of times the order related to a named permanent resident, and
- (v) 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.

6) The number of times since the Act's effective date that the DOJ and/or FBI has sought records or any other materials, including electronic communication transactional records, from libraries or bookstores by means of a National Security Letter. Of this number,

- (i) the number of times the request related to a specific book or other specifically identified content;
- (ii) the number of times the request related to a named individual, the number of times the request related to a named United States citizen,
- (iii) the number of times the request related to a named permanent resident,
- (iv) the number of times the request was sought at least in part on the basis of activities protected by the First Amendment to the United States Constitution.

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)

The CCLE is a nonprofit public education organization pursuant to Internal Revenue Code section 501(c)(3), and 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. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We maintain an informative website at <http://www.cognitiveliberty.org>, which highlights important “Cognitive Liberty News.” We also disseminate information via free e-mail lists to subscribers, as well as publish an educational *Journal of Cognitive Liberties*.

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 CCLE is a nonprofit 501(c)3 research and education organization working to increase citizen awareness of 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., Zara Gelsey, "Who's Reading Over Your Shoulder?" *The Humanist* (Sept/Oct. 2002); 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 provisions of Patriot Act); J. Michael Kennedy, "Reading? Somebody May Be Watching: Librarians and booksellers want to know just how far the FBI has gone in its effort to root out terrorists," *Los Angeles Times* (July 29, 2002) (noting fear of librarians and booksellers that FBI has been basing law enforcement decisions on activity protected by the First Amendment); Susan Schmidt & Dan Eggen, "FBI Given More Latitude: New Surveillance Rules Remove Evidence Hurdle," *Washington Post* (May 30, 2002) (noting that new Justice Department guidelines allow FBI agents to monitor Internet sites, libraries, and religious institutions without having to offer evidence of criminal activities); Editorial, "On gag rules, spy tools and freedom of speech," *Baltimore Sun* (April 22, 2002) (characterizing surveillance implications of Patriot Act as "chilling"); Nat Hentoff, "Big John Wants Your Reading List," *Village Voice* (February 22, 2002) (expressing concern at FBI's use of surveillance powers to obtain library and bookstore records); Molly Ivins, Commentary, "We are all suspects, if Ashcroft has his way," *Chicago Tribune* (December 6, 2001) (expressing concern at the Attorney General's apparent contempt for civil liberties); Carrie Kirby, "Watchdogs say terror bill goes too far," *San Francisco Chronicle* (October 25, 2001) (describing particular provisions of Patriot Act that might easily be abused).

If our request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the act. We also expect you to release all segregable portions of otherwise exempt material and, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

We look forward to your reply within 20 business days, as the statute requires under Section 552(a)(6)(A)(I).

Thank you for your prompt attention to this matter.

Sincerely,

Richard Glen Boire
The Center for Cognitive Liberty & Ethics
Court & Cedar Courtyard
231 G Street, No. 7
Davis, CA 95616

Telephone/Fax: (530) 750-7912