



U.S. Department of Justice

Criminal Division

Office of Enforcement Operations

Washington, D.C. 20530

VIA Electronic Mail

April 17, 2020

Jonathan Manes, Esq.
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Request No. CRM-300680988
Privacy International et al. v. Federal
Bureau of Investigation, et al., 18-cv-1488
(W.D.N.Y.)

Dear Mr. Manes:

This is the fifth installment of the Criminal Division's rolling production regarding your Freedom of Information Act request dated September 10, 2018, for certain records pertaining to "computer network exploitation" or "network investigative techniques." Your request is currently in litigation, Privacy International, et al. v. Federal Bureau of Investigation, et al., 18-cv-1488 (W.D.N.Y.). You should refer to this case number in any future correspondence with this Office. This request is being processed in accordance with the interpretation and parameters set forth by defendants in the July 12, 2019, letter to you from Senior Trial Counsel Marcia Sowles, as well as subsequent conversations regarding the Criminal Division's processing of the request.

Please be advised that a search has been conducted in the appropriate sections, and we are continuing to review and process potentially responsive records. After carefully reviewing 527 pages of records, I have determined that seven pages are responsive to your request: four pages are appropriate for release in full, copies of which are enclosed. Additionally, three pages are exempt from disclosure pursuant to 5 U.S.C. § 552(b)(5), which concerns certain inter- and intra-agency communications protected by the deliberative process privilege and the attorney work-product privilege.

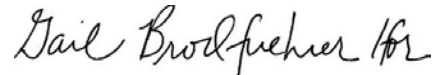
For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact Senior Trial Counsel Marcia K. Sowles by phone at (202) 514-4960, by email at Marcia.Sowles@usdoj.gov, or by mail at the Civil Division, Federal Programs Branch, 1100 L Street, N.W., Room 10028, Washington, D.C. 20005, for any further assistance and to discuss any aspect of your request.

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 of your right to an administrative appeal of this determination. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account on the following website: <https://foiastar.doj.gov>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Amanda Marchand Jones
Chief
FOIA/PA Unit

cc: Marcia K. Sowles
Senior Trial Counsel
Civil Division, Federal Programs Branch
1100 L Street, N.W., Room 11028
Washington, D.C. 20005
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Enclosures



Protecting Sensitive Investigative Techniques

KEITH BECKER, CEOS

BEN FITZPATRICK, CCIPS


Network Investigative Techniques (NITs)

- ▶ Source code
- ▶ Exploited vulnerability



Application of Legal Frameworks in Cases

Operation Pacifier



- ▶ NIT Discovery requests:
 - ▶ Full source code for NIT
- ▶ Defense theory:
 - ▶ what if you/others planted evidence on my computer?