

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CHELSEA MANNING,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE and the  
FEDERAL BUREAU OF INVESTIGATION,

Defendants.

Case No. 1:15-cv-01654-APM

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Defendants, by and through their undersigned counsel, hereby move for summary judgment pursuant to Federal Rule of Civil Procedure 56. Accompanying this motion is a memorandum of points and authorities in support of this motion. Defendants respectfully request that the Court grant this motion for the reasons described in the memorandum and in the attached declaration.

Dated: March 15, 2016

Respectfully submitted,

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## INTRODUCTION

On November 28, 2010, the organization WikiLeaks published numerous documents that it contended were Department of State embassy cables. The following day, then-Attorney General Eric H. Holder, Jr. stated that the Department of Justice had initiated a criminal investigation into the potential unauthorized release of classified information. *See* Ellen Nakashima and Jerry Markon, *WikiLeaks Founder Could Be Charged Under Espionage Act*, WASHINGTON POST (Nov. 30, 2010, 12:13 AM), <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/29/AR2010112905973.html>. Despite Manning's conviction, that investigation continues to this day.

This case arises out of Plaintiff Chelsea Manning's attempts to obtain information from the government's files about that investigation. In February 2014, Manning submitted a FOIA request to the Federal Bureau of Investigation ("FBI") seeking records relating to the FBI's investigation of Manning and alleged civilian co-conspirators' involvement in disclosure of "classified and sensitive but unclassified" information. *See* Ex. A (request to FBI).

Manning's request is a quintessential example of an improper attempt to use FOIA to force the government to open its investigative files to public inspection. But Congress did not enact FOIA to permit such unwarranted intrusion. Through Exemption 7(A), FOIA protects from disclosure "records or information compiled for law enforcement purposes" when the disclosure of such records "could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. § 552(b)(7)(A). In response to Manning's request, the FBI determined that all responsive documents are protected from disclosure by Exemption 7(A). Defendants, accordingly, move for summary judgment pursuant to Federal Rule of Civil Procedure 56.



## BACKGROUND

On or about February 20, 2014, Manning submitted a FOIA request<sup>1</sup> to the FBI seeking the following:

- a. Documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to investigation conducted by the Washington Field Office of the Federal Bureau of Investigation and the U.S. Attorney's Office of the Eastern District of Virginia into the alleged disclosures of classified and sensitive but unclassified information by Private First Class (PFC) Bradley E. Manning beginning in late 2010 and continuing until an unknown date, but as late as mid-2012.
- b. Any other documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Federal Bureau of Investigation and the U.S. Attorney's Office of the Eastern District of Virginia into alleged civilian co-conspirators of the disclosures of information by Manning.

*See* Declaration of David M. Hardy ("Hardy Decl."), Ex. 1; *see also* Ex. A. On March 7, 2014, the FBI sent Manning a letter acknowledging receipt of the request and informing her that the request "did not contain sufficient information to conduct an adequate search of the Central Records System" and requesting additional information. *See* Ex. B. On March 18, 2014, Manning supplemented her request with the additional personal information requested and made slight modifications to her request. *See* Ex. C. Specifically, Manning requested:

- a. Documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Washington Field Office (WFO), the Department of Justice Counterepionage [sic] Section (CES), the U.S. Attorney's Office for the Eastern District of Virginia (E.D.Va.) into the alleged disclosures of classified and sensitive by [sic] unclassified information by then-Private First Class (PFC) Bradley Edward Manning (a.k.a. Chelsea Elizabeth Manning)."

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<sup>1</sup> Manning also requested the same information under the Privacy Act, 5 U.S.C. § 552a. *See* Hardy Decl. (Ex. 1), Exs. A, C. The Office of Information Policy informed Manning that the records responsive to her request were exempt from the access provision of the Privacy Act. Ex. K. Manning's Complaint in this suit seeks relief only under FOIA. *See* Compl. at 7. Nevertheless, in its declaration, the FBI has also provided adequate justification for non-disclosure under the Privacy Act. *See* Hardy Decl. ¶¶ 35–36.

- b. Any other documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Federal Bureau of Investigation and other agencies into suspected or alleged civilian co-conspirators of the disclosures alleged to have been conducted by Manning.

*Id.* On April 8, 2014, the FBI denied the request. *See* Ex. F. The FBI explained that the materials Manning requested were exempt from disclosure under FOIA Exemption 7(A) because they “are law enforcement records; there is a pending or prospective law enforcement proceeding relevant to these records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings.” *Id.* Manning appealed the FBI’s determination to the Department of Justice’s Office of Information Policy (“OIP”). *See* Ex. H. On August 7, 2014, OIP affirmed the denial of Manning’s request. *See* Ex. K. OIP explained that the FBI “properly withheld” the requested materials because they consisted of “information compiled for law enforcement purposes the release of which could reasonably be expected to interfere with enforcement proceedings.” *Id.* Manning then requested that the Office of Government Information Services (“OGIS”) at the National Archives and Records Administration provide mediation regarding the FOIA request. *See* Ex. L. OGIS further explained the denial of Manning’s FOIA request, informing Manning that “Exemption 7(A) remains applicable throughout long-term law enforcement investigations” and “is still applicable to the records sought at the time of [an] appeal.” Ex. N.

Manning filed her Complaint on October 8, 2015, *see* ECF No. 1, and Defendants answered the Complaint on November 25, 2015, *see* ECF No. 9. Pursuant to the Court’s Minute Order of December 15, 2015, Defendants now move for summary judgment based on the

applicability of 5 U.S.C. § 552(b)(7)(A).<sup>2</sup> As set forth in the attached declaration, the FBI conducted a reasonable search for the records and determined that all responsive records are protected from disclosure under Exemption 7(A).

### **STANDARD OF REVIEW**

The Freedom of Information Act, 5 U.S.C. § 552, “represents a balance struck by Congress between the public’s right to know and the government’s legitimate interest in keeping certain information confidential.” *Ctr. for Nat’l Sec. Studies v. U.S. Dep’t of Justice*, 331 F.3d 918, 925 (D.C. Cir. 2003). FOIA requires agencies to release documents responsive to a properly submitted request, except for those documents (or portions of documents) subject to any of nine statutory exemptions to the general disclosure obligation. *See* 5 U.S.C. §§ 552(a)(3), (b)(1)–(b)(9).

In discharging its obligations under FOIA, an agency generally must conduct a reasonable search for responsive documents. “In order to obtain summary judgment[,] the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.” *Oglesby v. U.S. Dep’t of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990). The agency’s search is evaluated on the basis of affidavits, and “affidavits that explain in reasonable detail the scope and method of the search conducted by the agency will suffice to demonstrate compliance with the obligations imposed by the FOIA.” *Meeropol v. Meese*, 790 F.2d 942, 952 (D.C. Cir. 1986).

Although FOIA requires agency disclosure under certain circumstances, the statute recognizes “that public disclosure is not always in the public interest.” *Baldrige v. Shapiro*, 455

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<sup>2</sup> Should the Court deny Defendants’ Motion For Summary Judgment based on Exemption 7(A), Defendants have preserved their right to invoke and justify additional FOIA exemptions. *See* Joint Status Report, ECF No. 11.

U.S. 345, 352 (1982). FOIA provides nine exemptions that “reflect Congress’ recognition that the Executive Branch must have the ability to keep certain types of information confidential.” *Hale v. U.S. Dep’t of Justice*, 973 F.2d 894, 898 (10th Cir. 1992), *vacated on other grounds*, 509 U.S. 918 (1993). To sustain its burden of justifying nondisclosure of information, *see* 5 U.S.C. § 552(a)(4)(B), an agency may submit a declaration or index describing the withheld material with reasonable specificity, explaining the reasons for nondisclosure, and demonstrating with reasonable specificity that reasonably segregable material has been released. *See U.S. Dep’t of Justice v. Reporters Comm. For Freedom of Press*, 489 U.S. 749, 753 (1989). A court reviews an agency’s response to a FOIA request *de novo*, *see* 5 U.S.C. § 552(a)(4)(B), but given the unique nature of FOIA cases, an agency declaration is accorded substantial weight. *See Gardels v. CIA*, 689 F.2d 1100, 1104 (D.C. Cir. 1982).

In evaluating the applicability of Exemption 7(A) in this case, it is important to note that the information sought by Manning “implicat[es] national security, a uniquely executive purview.” *Ctr. for Nat’l Sec. Studies*, 331 F.3d at 926. Manning seeks records concerning a government investigation into the unauthorized disclosure of classified information. As former Secretary of State Hillary Clinton recognized, the disclosure of such information “puts people’s lives in danger, threatens our national security, and undermines our efforts to work with other countries to solve shared problems.” *See Sec’y Hillary Clinton, Remarks to the Press on Release of Purportedly Confidential Documents by Wikileaks* (Nov. 29, 2010), <http://www.state.gov/secretary/20092013clinton/rm/2010/11/152078.htm>. Time and again, courts have recognized the “propriety of deference to the executive in the context of FOIA claims which implicate national security.” *Ctr. for Nat’l Sec. Studies*, 331 F.3d at 927–28.

## ARGUMENT

### **I. THE FBI CONDUCTED ADEQUATE SEARCHES FOR RESPONSIVE RECORDS**

An agency can show that it discharged its obligations under FOIA and is entitled to summary judgment by submitting declarations that demonstrate that the agency “made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.” *Oglesby*, 920 F.2d at 68. “The adequacy of an agency’s search is measured by a standard of reasonableness, and is dependent upon the circumstances of the case.” *Weisberg v. U.S. Dep’t of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Conducting a “reasonable” search is a process that requires “both systemic and case-specific exercises of discretion and administrative judgment and expertise” and is “hardly an area in which the courts should attempt to micro manage the executive branch.” *Schrecker v. U.S. Dep’t of Justice*, 349 F.3d 657, 662 (D.C. Cir. 2003).

Moreover, an agency’s declaration will be relied upon if it is “relatively detailed, nonconclusory, and submitted in good faith.” *Greenberg v. U.S. Dep’t of Treasury*, 10 F. Supp. 2d 3, 12–13 (D.D.C. 1998). “The standard . . . is not meticulous documentation [of] the details of an epic search.” *Texas Indep. Producers Legal Action Ass’n v. IRS*, 605 F. Supp. 538, 547 (D.D.C. 1984), *rev’d in part*, 802 F.2d 1483 (D.C. Cir. 1986). A sufficiently detailed declaration is presumed to be in good faith, a presumption that can be rebutted only with clear evidence of bad faith. *See SafeCard Servs., Inc. v. SEC*, 926 F.2d 1197, 1200 (D.C. Cir. 1991).

The FBI’s declaration adequately explains the search the agency conducted. The declaration explains the scope of the conducted search, the search terms used in that search, and the basis for the FBI’s belief that the search would reasonably be expected to locate any documents responsive to Manning’s request. Specifically, the FBI indicates that it conducted a

search of its Central Records System (“CRS”) using a six-way phonetic breakdown of Manning’s names, including “Manning, Bradley, Edward,” “Manning, Bradley, E,” “Manning, B, E,” “Manning, Bradley,” “Manning, B,” “Manning, Edward,” “Manning, E,” “Manning, Chelsea, Elizabeth,” “Manning, Chelsea, E,” “Manning, C, E,” “Manning Chelsea,” “Manning C,” and “Manning Elizabeth.” Hardy Decl. ¶ 30. The FBI also used Manning’s date of birth, place of birth, the case number Manning provided and her description of the relevant investigation (including dates). *Id.* The FBI used the terms to search both the main entries (those records indexed to the main subjects of a file) and cross-references (entries pertaining to a different subject matter in which the relevant individual is merely mentioned or referenced) in its system. *Id.* ¶¶ 30–31. Upon review of the results of these searches, the FBI determined that the search captured records responsive to both parts of Manning’s request—records about herself and records about alleged civilian co-conspirators. *Id.* ¶ 32. Based on the FBI’s previous knowledge of these records from a prior FOIA request involving records related to the FBI’s investigation of the unauthorized disclosure of classified information that was published on the WikiLeaks website, *see Elec. Privacy Info. Ctr. v. Dep’t of Justice Criminal Div.*, 82 F. Supp. 3d 307 (D.D.C. 2015) (“*EPIC*”), and FBI’s further review of the responsive records here, the FBI concluded that a separate search for records responsive to the second part of Manning’s request was unnecessary. Hardy Decl. ¶ 32. The FBI also determined that the responsive records are part of and related to pending enforcement proceedings. *Id.* ¶¶ 30–31.

Courts have routinely found that FBI searches of its CRS fully meet the standards of adequacy and reasonableness established under FOIA. *See, e.g., EPIC*, 82 F. Supp. 3d at 317; *Marshall v. FBI*, 802 F. Supp. 2d 125, 132–33 (D.D.C. 2011); *McGehee v. U.S. Dep’t of Justice*, 800 F. Supp. 2d 220, 229–30 (D.D.C. 2011). Here, a search of the CRS using the above-

mentioned terms was likely to locate any responsive documents. Hardy Decl. ¶ 33. CRS is where the FBI indexes information about individuals, organizations, events, and other subjects of investigative interest for future retrieval. Because Manning sought investigative records pertaining to herself, such information would reasonably be expected to be located in the CRS via the index search methodology. *Id.* Accordingly, the FBI's search was both comprehensive and sufficient. The FBI "made a good faith effort to search for the records requested," and its "methods were reasonably expected to produce the information requested." *Kidd v. Dep't of Justice*, 362 F. Supp. 2d 291, 294 (D.D.C. 2005). Thus, the Court should enter summary judgment on this issue in favor of Defendants.

## **II. THE FBI PROPERLY WITHHELD ALL RESPONSIVE DOCUMENTS UNDER EXEMPTION 7(A)**

The FBI determined that all records responsive to Manning's request are subject to and are being withheld pursuant to Exemption 7(A), which applies to "records or information compiled for law enforcement purposes" to the extent that the production of such records "could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. § 552(b)(7)(A). As detailed below, the FBI has met its burden under FOIA and established that it properly withheld all responsive records under this exemption.

### **A. The Records Were "Compiled for Law Enforcement Purposes"**

"In assessing whether records are compiled for law enforcement purposes, . . . the focus is on how and under what circumstances the requested files were compiled, and 'whether the files sought relate to anything that can fairly be characterized as an enforcement proceeding.'" *Jefferson v. Dep't of Justice, Office of Prof'l Responsibility*, 284 F.3d 172, 176–77 (D.C. Cir. 2002) (quoting *Aspin v. Dep't of Def.*, 491 F.2d 24, 27 (D.C. Cir. 1973)). "Because the DOJ is an agency 'specializ[ing] in law enforcement, its claim of a law enforcement purpose is entitled

to deference.” *Ctr. for Nat’l Sec. Studies*, 331 F.3d at 926. To demonstrate that the records were compiled for law enforcement purposes, an agency “must establish (1) ‘a rational nexus between the investigation and one of the agency’s law enforcement duties;’ and (2) ‘a connection between an individual or incident and a possible security risk or violation of federal law.’” *Id.* (quoting *Campbell v. U.S. Dep’t of Justice*, 164 F.3d 20, 32 (D.C. Cir. 1998), *as amended* (Mar. 3, 1999)).

Here, the FBI’s declaration makes clear that the information withheld under this exemption was “compiled for law enforcement purposes” because it is part of a broader, ongoing investigation being conducted by the Department of Justice into the unauthorized disclosure of classified information published on the WikiLeaks website. Hardy Decl. ¶¶ 39–41. The investigation of criminal conduct, particularly when it entails serious threats to national security, is plainly a high-priority law enforcement duty of the Department. *See Ctr. for Nat’l Sec. Studies*, 331 F.3d at 926 (recognizing that the Exemption 7(A) threshold is satisfied by an investigation concerning “a heinous violation of federal law as well as a breach of this nation’s security”). Insofar as individuals are being investigated for their role in the unauthorized disclosure of classified information, there is a clear nexus between the subjects “and a possible security risk or violation of federal law.” *Id.* Indeed, in a prior case in this circuit, the Electronic Privacy Information Center (“EPIC”) made a similar FOIA request for documents relating to the WikiLeaks investigation, and the court concluded that the responsive records “were quite obviously related to the FBI[’s] . . . law enforcement duties to enforce criminal laws and to protect against national security threats.” *EPIC*, 82 F. Supp. 3d at 319. Because the records at issue were compiled as part of an FBI investigation into possible violations of federal law, they were “compiled for law enforcement purposes,” and the threshold inquiry under Exemption 7(A) is satisfied.



**B. Disclosure of the Records “Could Reasonably Be Expected to Interfere with Enforcement Proceedings”**

The FBI has also determined that the disclosure of the responsive records could reasonably be expected to interfere with ongoing enforcement proceedings. “Exemption 7(A) explicitly requires a predictive judgment of the harm that will result from disclosure of information.” *Ctr. for Nat’l Sec. Studies*, 331 F.3d at 927. Given that the Department’s investigation concerns matters of national security, the declaration must be “viewed in light of the appropriate deference to the executive on issues of national security.” *Id. See also id.* at 927–28 (“Just as we have deferred to the executive when it invokes FOIA Exemptions 1 and 3, we owe the same deference under Exemption 7(A) in appropriate cases,” including those in which “the government’s declarations raise legitimate concerns that disclosure would impair national security.”).

In justifying its reliance on Exemption 7(A), the government need not discuss the exemption on a document-by-document basis. To do so could itself impede the investigation, as providing details such as the volume of the responsive material or the nature of particular documents could itself reveal sensitive information that could impede the investigation. Instead, an agency may “group[] documents into relevant categories that are sufficiently distinct to allow a court to grasp ‘how each . . . category of documents, if disclosed, would interfere with the investigation.’” *Bevis v. Dep’t of State*, 801 F.2d 1386, 1389 (D.C. Cir. 1986) (quoting *Campbell v. Dep’t of Health & Human Servs.*, 682 F.2d 256, 265 (D.C. Cir. 1982)). As set forth below, the FBI has reviewed the responsive documents, and identified “functional” categories, such that the court may “trace a rational link between the nature of the document and the alleged likely interference.” *Crooker v. Bureau of Alcohol, Tobacco & Firearms*, 789 F.2d 64, 67 (D.C. Cir. 1986). The declaration adequately explains the categories of responsive records, the

enforcement proceedings to which the responsive records relate, and the likely interference release of the records would entail.

The declaration explains that the requested documents relate to an ongoing national security investigation. In 2010, the FBI's Washington Field Office opened a criminal/national security investigation into the possible disclosure of classified information that was published on the WikiLeaks website. Hardy Decl. ¶ 39. That investigation concerns potential violations of federal criminal laws, in the form of serious threats to the national security, and the investigation continues today. *Id.* From the terms of her request, it is clear that Manning seeks to obtain documents concerning that investigation. Although the investigation began several years ago, the documents relating to it remain under the protection of Exemption 7(A). *See EPIC*, 82 F. Supp. 3d at 319–22 (holding that the WikiLeaks investigation documents remained subject to Exemption 7(A) in light of the ongoing investigation). It is well-established that although Exemption 7(A) is temporal in nature, it nevertheless remains viable throughout the duration of long-term investigations. *See, e.g., Juarez v. Dep't of Justice*, 518 F.3d 54, 57 (D.C. Cir. 2008) (recognizing that an investigation that was pending in 2002 remained ongoing in 2008, even though the investigating agency had interviewed the subject of the investigation several years prior to 2008, and had—according to the subject—“showed no further interest in [her] participation in their investigation”); *Dickerson v. Dep't of Justice*, 992 F.2d 1426, 1431 (6th Cir. 1993) (affirming the district court's conclusion in 1991 and 1992 that FBI's investigation into the 1975 disappearance of Jimmy Hoffa remained open and pending).

In describing the categories of records at issue, the declaration explains that the records responsive to Manning's request consist of evidentiary, investigative, and administrative materials related to the investigation. Hardy Decl. ¶ 45. The records are further described by

type—such as confidential source statements, communications between the FBI and other law enforcement agencies, and documentary evidence gathered in the course of the investigation—in ways that indicate the information contained in the materials. *Id.* ¶¶ 46–47. By describing the responsive documents in the functional categories, the agency has provided sufficient detail to meet their burden under Exemption 7(A). *See, e.g., Edmonds v. FBI*, 272 F. Supp. 2d 35, 54–55 (D.D.C. 2003) (upholding agency’s declaration that grouped withheld material into two categories, “evidentiary” and “investigative” materials). *Cf. Bevis*, 801 F.2d at 1390 (rejecting use of categories such as “letters” that give “absolutely no indication of the substance of the information contained”).

Moreover, the declaration provides substantive explanations for the harms that would result from disclosure. For example, the FBI has withheld information that, if disclosed, would identify potential witnesses and other individuals who have cooperated with the investigation. Specifically, the FBI has explained that the documents include statements made to the FBI by sources who were given expressed or implied assurances that their identities would remain confidential. Hardy Decl. ¶ 46(a). These statements contain information provided by individuals with knowledge of potential criminal activities. *Id.* As the FBI explains, disclosure of the information would mean that “the sources that have chosen to cooperate with law enforcement could be subjected to retaliation, intimidation, or physical or mental harm.” *Id.* Aside from the harms that disclosure would cause to the sources themselves, it is the judgment of the FBI that this would have a chilling effect on these investigations and any future prosecutions resulting from these cases. *Id.*

The harms associated with revealing the identities of cooperating individuals are well-recognized in cases applying Exemption 7(A). *See, e.g., Ctr. for Nat’l Sec. Studies*, 331 F.3d at

929 (discussing courts that have found the “likelihood of witness intimidation and evidence tampering” to be sufficient concerns under Exemption 7(A)); *Alyeska Pipeline Serv. Co. v. EPA*, 856 F.2d 309, 311 (D.C. Cir. 1988) (agreeing that disclosure might identify individuals who had assisted investigation by providing documents, and would “thereby subject them to potential reprisals and deter them from providing further information”); *Edmonds*, 272 F. Supp. 2d at 55 (recognizing potential harms that would result if disclosure “stifle[d] cooperation” or “le[d] to the harassment or intimidation of individuals involved in the investigations”); *Kay v. FCC*, 976 F. Supp. 23, 39 (D.D.C. 1997), *aff’d*, 172 F.3d 919 (D.C. Cir. 1998) (recognizing that an agency “need not establish that witness intimidation is certain to occur, only that it is a possibility”); *Crowell & Moring v. Dep’t of Def.*, 703 F. Supp. 1004, 1011 (D.D.C. 1989) (agreeing that disclosing witnesses’ identities would impair the government’s ability to obtain cooperation during an investigation).

The FBI has also asserted Exemption 7(A) to protect exchanges of information between the FBI and other law enforcement agencies. Hardy Decl. ¶ 46(b). Release of this information “would reveal the scope and focus of the investigation; identify and tip off individuals of interest to law enforcement; and provide suspects or targets the opportunity to destroy evidence and alter their behavior to avoid detection.” *Id.*

Courts time and again have recognized the harms that would result from disclosing the scope of an investigation, and refused to allow FOIA to be used as a tool to force the government to prematurely provide a roadmap of its investigative plans. *See, e.g., Ctr. for Nat’l Sec. Studies*, 331 F.3d at 928 (disclosure “would enable al Qaeda or other terrorist groups to map the course of the investigation,” thus giving them “a composite picture”); *Solar Sources, Inc. v. United States*, 142 F.3d 1033, 1039 (7th Cir. 1998) (agreeing that disclosure could reveal “scope and nature” of

investigation); *J.P. Stevens & Co. v. Perry*, 710 F.2d 136, 143 (4th Cir. 1983) (disclosure would “hinder [the agency’s] ability to shape and control investigations”); *Suzhou Yuanda Enter. Co. v. U.S. Customs & Border Prot.*, 404 F. Supp. 2d 9, 14 (D.D.C. 2005) (accepting that disclosure of evidence of criminal conduct “would interfere with an agency investigation [by] informing the public of the evidence sought and scrutinized by this type of investigation”); *Envtl. Prot. Servs. v. EPA*, 364 F. Supp. 2d 575, 588 (N.D.W. Va. 2005) (disclosure “would prematurely reveal the EPA’s case”); *Edmonds*, 272 F. Supp. 2d at 55 (recognizing potential harms that would result if disclosure “reveal[ed] the nature and scope of the investigations, investigative activities, the cooperation of particular individuals, the identity of potential witnesses, and the investigative steps taken to pursue interviews with individuals who can inform investigators”).

The agency has also determined that releasing certain evidentiary materials gathered during the investigations would identify “the subjects of, and persons of investigative interest in, the investigation.” Hardy Decl. ¶ 46(c). As explained in the declaration, “[o]nce subjects and persons of interest become aware of the FBI’s attention, they are able to take defensive actions to conceal their activities, elude detection, mislead the investigation, and/or suppress or fabricate evidence.” *Id.*

It is well-established that Exemption 7(A) provides for the non-disclosure of information that would alert individuals that they are of interest to a pending investigation. *See, e.g., Juarez*, 518 F.3d at 58 (agreeing that release “would compromise the investigation as it could lead to destruction of evidence”); *Moorefield v. U.S. Secret Serv.*, 611 F.2d 1021, 1026 (5th Cir. 1980) (agreeing that disclosure would enable targets “to elude the scrutiny of the [Secret] Service”); *Azmy v. Dep’t of Def.*, 562 F. Supp. 2d 590, 605 (S.D.N.Y. 2008) (disclosure of “names of individuals and organizations of ongoing law enforcement interest” could reasonably be

expected to interfere with investigation because “subjects of the Government’s interest would likely attempt to conceal their activities”); *Kay*, 976 F. Supp. at 38–39 (finding that disclosure would harm an investigation because it would provide the requester with insight into the focus of the agency’s investigation and evidence, and permit him to intimidate witnesses and circumvent the investigation).

Disclosure of the administrative materials the FBI has identified as responsive to Manning’s FOIA request would have similar effects on the ongoing investigations. For example, the reporting communications would reveal “the investigative steps taken to obtain witness and source interviews; techniques and investigative methods used to compile and/or solicit information from various sources; and any potential or perceived challenges in the investigation.” Hardy Decl. ¶ 47(a). Disclosure of miscellaneous administrative documents would “provide information useful in identifying witnesses and sources, ascertaining investigative strategies, and determining what evidence the FBI has collected,” thus undermining its investigative efforts. *Id.* ¶ 47(b). Finally, disclosure of administrative instructions would reveal “specific investigative procedures employed in the investigation,” thus “permit[ting] subjects or individuals of investigative interest to the FBI to anticipate law enforcement actions and to alter, destroy, or fabricate evidence to their benefit, or to mislead the investigation.” *Id.* ¶ 48. Revelation of any of these materials would interfere with the ongoing enforcement proceedings.

The FBI has reviewed the responsive material, and determined that it is exempt in its entirety under Exemption 7(A). As a result, there are no segregable, non-exempt portions that may be released to Manning. Hardy Decl. ¶ 49. Defendants’ assertion of Exemption 7(A)

should thus be upheld. *See EPIC*, 82 F. Supp. 3d at 322 (agreeing with the FBI's determination that there is no segregable material in documents involving the WikiLeaks investigation).

**CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court grant their Motion for Summary Judgment and enter final judgment for them in this matter.

Dated: March 15, 2016

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
CHELSEA MANNING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 15-CV-01654-APM
	)	
U.S. DEPARTMENT OF JUSTICE, <i>et al</i> ,	)	
	)	
Defendants.	)	
_____	)	

**DECLARATION OF DAVID M. HARDY**

I, David M. Hardy, declare as follows:

(1) I am the Section Chief of the Record/Information Dissemination Section (“RIDS”), Records Management Division (“RMD”), in Winchester, Virginia. I have held this position since August 1, 2002. Prior to my joining the Federal Bureau of Investigation (“FBI”), from May 1, 2001 to July 31, 2002, I was the Assistant Judge Advocate General of the Navy for Civil Law. In that capacity, I had direct oversight of Freedom of Information Act (“FOIA”) policy, procedures, appeals, and litigation for the Navy. From October 1, 1980 to April 30, 2001, I served as a Navy Judge Advocate at various commands and routinely worked with FOIA matters. I am also an attorney who has been licensed to practice law in the State of Texas since 1980.

(2) In my official capacity as Section Chief of RIDS, I supervise approximately 233 employees who staff a total of ten (10) Federal Bureau of Investigation Headquarters (“FBIHQ”) units and two (2) field operational service center units whose collective mission is to effectively plan, develop, direct, and manage responses to requests for access to FBI records and



information pursuant to the FOIA as amended by the OPEN Government Act of 2007 and the OPEN FOIA Act of 2009; the Privacy Act of 1974; Executive Order 13,526; Presidential, Attorney General, and FBI policies and procedures; judicial decisions; and Presidential and Congressional directives. My responsibilities also include the review of FBI information for classification purposes as mandated by Executive Order 13,526,<sup>1</sup> and the preparation of declarations in support of Exemption 1 claims asserted under the FOIA. I have been designated by the Attorney General of the United States as an original classification authority and a declassification authority pursuant to Executive Order 13,526 §§ 1.3 and 3.1. The statements contained in this declaration are based upon my personal knowledge, upon information provided to me in my official capacity, and upon conclusions and determinations reached and made in accordance therewith.

(3) Due to the nature of my official duties, I am familiar with the procedures followed by the FBI in responding to requests for information pursuant to the provisions of the FOIA, 5 U.S.C. § 552 and the Privacy Act (“PA”) of 1974, 5 U.S.C. § 552a. Specifically, I am aware of the FBI’s response to the FOIPA request of plaintiff, Chelsea E. Manning, seeking access to certain FBI records relating to the “investigation conducted by the Washington Field Office of the Federal Bureau of Investigation and U.S. Attorney’s Office of the Eastern District of Virginia into the alleged disclosures of classified and sensitive but unclassified information by Private First Class (PFC) Bradley E. Manning” and relating to the investigation “into alleged civilian co-conspirators of the disclosures of information by Manning.”<sup>2</sup>

(4) The FBI submits this declaration in support of its motion for summary judgment. The Court granted the parties’ proposal to bifurcated summary judgment proceedings, allowing

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<sup>1</sup> 75 Fed. Reg. 707 (2010).

<sup>2</sup> Plaintiff has legally changed her name from Bradley Edward Manning to Chelsea Elizabeth Manning.

the FBI to litigate first the applicability of Exemption 7(A) only, while preserving any additional underlying exemptions that may apply. *See* Minute Order (Dec. 15, 2015); *see also* ECF No. 11, Joint Status Report and Proposed Schedule. In accordance with *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), this declaration provides the Court and plaintiff with an explanation of the FBI's recordkeeping system, the procedures used to search for records responsive to plaintiff's request, and provides justification for the FBI's withholding of information pursuant to Privacy Act Exemption (j)(2), 5 U.S.C. § 552a(j)(2) and FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). In the event Exemption 7(A) expires during the pendency of this FOIA litigation, or if the Court denies the FBI's motion for summary judgment based on Exemption 7(A), the FBI preserves the right to, and will, assert additional underlying FOIA exemptions that may apply.

#### **PROCEDURAL HISTORY OF PLAINTIFF'S FOIPA REQUEST**

(5) A chronology and description of pertinent correspondence concerning plaintiff's FOIA request is set forth below. Copies of the relevant correspondence are attached hereto as **Exhibits A-N**.

(6) By letter dated February 20, 2014, plaintiff submitted a FOIPA request seeking access to "documents, papers, working papers, reports, letters, and memoranda from the Federal Bureau of Investigation and the Department of Justice," and specifically:

- A. "Documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to investigation conducted by the Washington Field Office of the Federal Bureau of Investigation and the U.S. Attorney's Office of the Eastern District of Virginia into the alleged disclosures of classified and sensitive but unclassified information by Private First Class (PFC) Bradley E. Manning beginning in late 2010 and continuing until an unknown date, but as late as mid-2012."
- B. "Any other documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Federal Bureau of Investigation and the U.S. Attorney's Office

of the Eastern District of Virginia into alleged civilian co-conspirators of the disclosures of information by Manning.”

Plaintiff acknowledged a willingness to pay for fees for more than (2) hours of search effort and for duplication charges in excess of one hundred (100) pages, and set no monetary limits on her willingness to pay fees associated with the processing of her request. Finally, plaintiff sought expedited processing of her request arguing an “urgency to inform the public about an actual or alleged government activity,” and a “matter of widespread and exceptional media interest in which there exist possible questions about the governments integrity which affect public confidence.” (*See Exhibit A.*)

(7) By letter dated March 7, 2014, the FBI acknowledged receipt of plaintiff’s FOIPA request, assigning it FOIPA number 1255610-000. The FBI advised plaintiff her FOIPA request did not contain sufficient information to conduct an accurate search of the FBI’s Central Records System (“CRS”) and enclosed a Certification of Identity form for plaintiff to fill out and sign under perjury statement attesting to her identity. The FBI advised plaintiff that failure to return the completed form within thirty (30) days from the date of the letter would result in her request being closed. Finally, the FBI notified plaintiff that she could appeal this determination to the Department of Justice’s Office of Information Policy (“OIP”) within sixty (60) days from the date of the letter. (*See Exhibit B.*)

(8) By letter dated March 18, 2014, plaintiff perfected her FOIPA request by returning the signed Certificate of Identity form with the requested additional personal identifiers in order for the FBI to conduct an accurate search. The plaintiff made a few modifications to her February 20, 2014, FOIPA request. Specifically, plaintiff requested:

- A. “Documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Washington Field Office (WFO), the Department of Justice

Counterepionage [*sic*] Section (CES), the U.S. Attorney's Office for the Eastern District of Virginia (E.D.Va.) into the alleged disclosures of classified and sensitive by [*sic*] unclassified information by then-Private First Class (PFC) Bradley Edward Manning (a.k.a. Chelsea Elizabeth Manning)."

- B. "Any other documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Federal Bureau of Investigation and other agencies into suspected or alleged civilian co-conspirators of the disclosures alleged to have been conducted by Manning."

Plaintiff specified that she was seeking any responsive records from "May 2010 to [the] present" and provided "Case No. 10-GJ-3793" as additional information she thought would assist the FBI in locating responsive records. She also renewed her request for expedited processing of her request. (*See Exhibit C.*)

(9) By letter dated March 21, 2014, the FBI acknowledged receipt of plaintiff's now perfected FOIPA request. The FBI advised her that it was searching its CRS for potentially responsive records and that she could check for the future status of her request at [www.fbi.gov/foia](http://www.fbi.gov/foia). (*See Exhibit D.*)

(10) By letter dated April 3, 2014, the FBI denied plaintiff's request for expedited processing. The FBI concluded that the topic of her request was not a matter "in which there exist possible questions about the government's integrity which affect public confidence." Finally, the FBI advised plaintiff that she could appeal this determination to OIP within sixty (60) days from the date of the letter. (*See Exhibit E.*)

(11) By letter dated April 8, 2014, the FBI advised plaintiff the information she requested was located in a pending investigative file exempt from disclosure pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A), which exempts from disclosure "records or information compiled for law enforcement purposes [when disclosure] could reasonably be expected to interfere with enforcement proceedings... ." The FBI advised plaintiff that she could

appeal this determination to OIP within sixty (60) days from the date of the letter. (**See Exhibit F.**)

(12) By letter dated April 11, 2014, plaintiff appealed the FBI's denial of her request for expedited processing to OIP. (**See Exhibit G.**)

(13) By letter dated April 17, 2014, plaintiff appealed the FBI's denial of her request pursuant to FOIA Exemption 7(A) to OIP. In her appeal, she also challenged the FBI's failure to address her request for disclosure of the requested records under the Privacy Act. (**See Exhibit H.**)

(14) OIP acknowledged receipt of plaintiff's appeal concerning the FBI's denial of expedited processing by letter dated April 29, 2014, and advised plaintiff it was closing the appeal because the FBI had already responded to her FOIPA request, rendering the expedited processing request moot. (**See Exhibit I.**)

(15) By letter dated May 7, 2014, OIP acknowledged receipt of plaintiff's April 17, 2014 appeal of the FBI's denial of her request pursuant to Exemption 7(A) and assigned it appeal number AP-2014-02758. OIP advised her that it received her appeal on April 30, 2014, and also that it would notify her of its decision as soon as possible. (**See Exhibit J.**)

(16) By letter dated August 7, 2014, OIP affirmed the FBI's action on plaintiff's request. OIP determined the records responsive to plaintiff's request were exempt from the access provision of the Privacy Act, citing 5 U.S.C. § 552a(j)(2) and see also 28 C.F.R. § 16.96 (2013). OIP further determined that the FBI properly denied her request pursuant to Exemption 7(A). OIP advised plaintiff she could file a lawsuit in federal district court if she was dissatisfied with OIP's action. In addition, OIP informed plaintiff that as a non-exclusive alternative to litigation, she could seek the mediation services of the Office of Government Information

Services (“OGIS”), National Archives and Records Administration (“NARA”), in order to potentially resolve her dispute with the FBI. (*See Exhibit K.*)

(17) By letter dated January 5, 2015, plaintiff asked for assistance from OGIS in her FOIPA dispute with the FBI. (*See Exhibit L.*)

(18) By letter dated January 16, 2015, OGIS acknowledged receipt of plaintiff’s mediation services request, assigning it Case Number 201500307. (*See Exhibit M.*)

(19) By letter dated February 24, 2015, OGIS responded to plaintiff’s mediation assistance request. OGIS provided additional explanation about the application of Exemption 7(A) generally and suggested that since Exemption 7(A) is temporal in nature, that plaintiff may wish to make a new request for her records at some point in the future to see if Exemption 7(A)’s protections have been lifted. (*See Exhibit N.*)

(20) Plaintiff filed this instant lawsuit on October 8, 2015. *See* ECF No. 1, Complaint.

### **THE FBI’S CENTRAL RECORDS SYSTEM**

(21) The Central Records System (“CRS”) is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled and maintained by the FBI in the course of fulfilling its integrated missions and functions as a law enforcement, counterterrorism, and intelligence agency to include performance of administrative and personnel functions. The CRS spans the entire FBI organization and encompasses the records of FBI Headquarters (“FBIHQ”), FBI Field Offices, and FBI Legal Attaché Offices (“Legats”) worldwide.

(22) The CRS consists of a numerical sequence of files, called FBI “classifications,” which are organized according to designated subject categories. The broad array of CRS file classification categories include types of criminal conduct and investigations conducted by the

FBI, as well as categorical subjects pertaining to counterterrorism, intelligence, counterintelligence, personnel, and administrative matters. For identification and retrieval purposes across the FBI, when a case file is opened, it is assigned a Universal Case File Number (“UCFN”) consisting of three sequential components: (a) the CRS file classification number, (b) the abbreviation of the FBI Office of Origin (“OO”) initiating the file, and (c) the assigned individual case file number for that particular subject matter.<sup>3</sup> Within each case file, pertinent documents of interest are “serialized,” or assigned a document number in the order which the document is added to the file, typically in chronological order.

### **THE CRS GENERAL INDICES AND INDEXING**

(23) The general indices to the CRS are the index or “key” to locating records within the enormous amount of information contained in the CRS. The CRS is indexed in a manner which meets the FBI’s investigative needs and priorities, and allows FBI personnel to reasonably and adequately locate pertinent files in the performance of their law enforcement duties. The general indices are arranged in alphabetical order and comprise an index on a variety of subject matters to include individuals, organizations, events, or other subjects of investigative interest that are indexed for future retrieval. The entries in the general indices fall into two category types:

- a. Main entry. This entry pertains to records indexed to the main subject(s) of a file, known as “main file” records. The “main” entry carries the name of an individual, organization, or other subject matter that is the designated subject of the file.

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<sup>3</sup> For example, in a fictitious file number of “11Z-HQ-56789;” the “11Z” component indicates the file classification, “HQ” indicates that FBI Headquarters is the FBI OO of the file, and “56789” is the assigned case specific file number.

- b. Reference entry. This entry, or a “cross-reference,” pertains to records that merely mention or reference an individual, organization, or other subject matter that is contained in a “main” file record about a different subject matter.

(24) FBI Special Agents (“SA”) and/or designated support personnel may index information in the CRS by individual (persons), by organization (organizational entities, places, and things), and by event (*e.g.*, a terrorist attack or bank robbery). Indexing information in the CRS is based on operational necessity, and the FBI only indexes that information considered relevant and necessary for future retrieval. Accordingly, the FBI does not index every individual name or other subject matter in the general indices.

### **AUTOMATED CASE SUPPORT**

(25) Automated Case Support (“ACS”) is an electronic, integrated case management system that became effective for FBIHQ and all FBI Field Offices and Legats on October 1, 1995. As part of the ACS implementation process, over 105 million CRS records were converted from automated systems previously utilized by the FBI into a single, consolidated case management system accessible by all FBI offices. ACS has an operational purpose and design to enable the FBI to locate, retrieve, and maintain information in its files in the performance of its myriad missions and functions.<sup>4</sup>

(26) The Universal Index (“UNI”) is the automated index of the CRS and provides all offices of the FBI a centralized, electronic means of indexing pertinent investigative information to FBI files for future retrieval via index searching. Individual names may be recorded with applicable identifying information such as date of birth, race, sex, locality, Social Security Number, address, and/or date of an event. Moreover, ACS implementation built upon and

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<sup>4</sup> ACS and the next generation Sentinel system are relied upon by the FBI daily to fulfill essential functions such as conducting criminal, counterterrorism, and national security investigations; background investigations; citizenship and employment queries, and security screening, to include Presidential protection.



incorporated prior automated FBI indices; therefore, a search employing the UNI application of ACS encompasses data that was already indexed into the prior automated systems superseded by ACS. As such, a UNI index search in ACS is capable of locating FBI records created before its 1995 FBI-wide implementation to the present day in both paper and electronic format.<sup>5</sup> Currently, UNI consists of approximately 112.5 million searchable records and is updated daily with newly indexed material.

### **ACS and SENTINEL**

(27) Sentinel is the FBI's next generation case management system that became effective FBI-wide on July 1, 2012. Sentinel provides a web-based interface to FBI users, and it includes the same automated applications that are utilized in ACS. After July 1, 2012, all FBI generated records are created electronically in case files via Sentinel; however, Sentinel did not replace ACS and its relevance as an important FBI search mechanism. Just as pertinent information was indexed into UNI for records generated in ACS before July 1, 2012, when a record is generated in Sentinel, information is indexed for future retrieval. Moreover, there is an index data sharing nexus between the Sentinel and ACS systems whereby components of information indexed into Sentinel are also replicated or "backfilled" into ACS. In sum, the Sentinel case management system builds on ACS and shares its operational purpose; Sentinel provides another portal to locate information within the vast CRS for FBI records generated on or after July 1, 2012.

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<sup>5</sup> Older CRS records that were not indexed into UNI as a result of the 1995 ACS consolidation remain searchable by manual review of index cards, known as the "manual indices." A search of the manual indices is triggered for requests on individuals if the person was born on or before January 1, 1958; and for requests seeking information about organizations or events on or before January 1, 1973. In this case, plaintiff was born in 1987, so any potentially responsive records would be captured through a UNI search.

**SEARCH FOR RECORDS RESPONSIVE TO PLAINTIFF'S FOIPA REQUEST**

(28) Main and Cross-Reference Files. At the time of plaintiff's perfected March 18, 2014 FOIPA request, it was RIDS policy to search for and identify only "main" files responsive to most FOIPA requests at the administrative stage. Therefore, during the litigation stage RIDS conducted an additional search of the CRS to locate any potential "cross reference" material responsive to plaintiff's request.<sup>6</sup>

(29) Index Searching. To locate CRS information, RIDS employs an index search methodology. Index searches of the CRS are reasonably expected to locate responsive material within the vast CRS since the FBI indexes pertinent information into the CRS to facilitate retrieval based on operational necessity. Given the broad range of indexed material in terms of both time frame and subject matter that it can locate in FBI files, the automated UNI application of ACS is the mechanism RIDS employs to conduct CRS index searches. Since plaintiff's request seeks records that may have been generated on or after July 1, 2012, an overlapping search of ACS via the UNI application and a Sentinel index search are performed.

(30) CRS Searches and Results. In response to plaintiff's perfected March 18, 2014 FOIPA request, RIDS conducted a CRS index search on April 8, 2014, for responsive main files records employing the UNI application of ACS and a Sentinel index search by utilizing a six-way phonetic breakdown of the subject's names, including any variations of the first, or last, e.g. "Manning, Bradley, Edward," "Manning, Bradley, E," "Manning, B, E," "Manning, Bradley," "Manning, B," "Manning, Edward," "Manning, E," "Manning, Chelsea, Elizabeth," "Manning, Chelsea, E," "Manning, C, E," "Manning, Chelsea," "Manning, C," and "Manning, Elizabeth." The FBI also used the subject's date of birth, place of birth, plaintiff's description of the relevant

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<sup>6</sup> Reference entries, or cross-references, are mere mentions of a subject, individual, or organization in files that are indexed to other subjects, individuals, organization, events, or activities.

investigation (including dates), and case number she provided (10-GJ-3793) to facilitate the identification of responsive records. As a result of these search efforts, potentially responsive investigative records were located. The FBI concluded, based on review of the investigative case file containing potentially responsive records and communications with the Special Agent (“SA”) in charge of the investigation, that the records were part of and related to pending enforcement proceedings.

(31) The FBI subsequently conducted an additional search for any cross references responsive to plaintiff’s request. The FBI conducted (a) a search of the CRS index employing the UNI application of ACS and (b) a Sentinel index search, both using the same search terms it used in its original search as described in paragraph 30.<sup>7</sup> This additional search of the CRS confirmed the results of the original search for main files and also identified additional responsive cross-references. Review of these cross-references revealed that they also are part of and related to pending enforcement proceedings.

(32) The FBI concluded that a separate search for records responsive to the second part of plaintiff’s request (seeking records about the FBI’s investigation of other individuals involved in the unauthorized disclosure of classified materials that were published on the WikiLeaks website) was unnecessary. The investigative files containing records responsive to the first part of plaintiff’s request (for records about herself) were the same files located and processed by the FBI in response to the FOIA request at issue in *EPIC v. DOJ*, another lawsuit involving records related to the FBI’s investigation of the unauthorized disclosure of classified information that was published on the WikiLeaks website. *See* 82 F. Supp. 3d 307 (D.D.C. 2015). As a result of the *EPIC* case, the FBI was aware that the records responsive to both parts of plaintiff’s request

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<sup>7</sup> The search cut-off date for the cross-reference searches was determined to be April 8, 2014, the day the FBI conducted its original search for responsive records. *See* 28 C.F.R. § 16.4(a).

were maintained in the same files, which were identified during the FBI's search for records responsive to plaintiff's request about herself. This conclusion was confirmed upon the review of the files located in the FBI's search for records about plaintiff. Accordingly, the FBI concluded that a separate search for records responsive to the second part of plaintiff's request was unnecessary.

(33) Scope of Search. RIDS conducted a search reasonably calculated to locate records responsive to plaintiff's request. First, given its comprehensive nature and scope, the CRS is the principal records system searched by RIDS to locate information responsive to most FOIPA requests, because the CRS is where the FBI indexes information about individuals, organizations, events, and other subjects of investigative interest for future retrieval. *See infra* ¶ 21. Second, given plaintiff's request seeking investigative records pertaining to herself, such information would reasonably be expected to be located in the CRS via the index search methodology. Indeed, this search methodology led to the specific investigation described by plaintiff in her request – *i.e.*, the FBI's investigation related to plaintiff's unauthorized disclosures of classified information that was published on the WikiLeaks website.<sup>8</sup>

(34) The records responsive to plaintiff's request are part of the FBI's active, ongoing criminal investigation into the above-described disclosure of classified information. The FBI has determined that these records are exempt from disclosure pursuant to FOIA Exemption 7(A) because disclosure would adversely affect the FBI's pending investigation and any resulting prosecutions. Further, the FBI has determined that these records may also be exempt, in whole or in part, under one or more other FOIA exemptions. Finally, the FBI concluded, upon review,

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<sup>8</sup> This is a high-profile case and has been the subject of other FOIA requests and one lawsuit (*EPIC v. DOJ*, 12-cv-0127 (D.D.C.)), so even before conducting the searches described in this declaration, RIDS was aware of the investigation about which plaintiff requested records.

that no public source material is available for release because any such disclosure at this point would adversely affect the FBI's pending investigation.<sup>9</sup>

**JUSTIFICATION FOR NON-DISCLOSURE UNDER THE PRIVACY ACT**

(35) When an individual requests records about himself/herself from the FBI, RIDs first analyzes the request under the Privacy Act, which generally provides individuals a right of access to records about them maintained in government files, unless the records are part of a system of records exempted from individual access. *See* 5 U.S.C. § 552a(d). One such exemption is Privacy Act Exemption (j)(2), which exempts from mandatory disclosure systems of records “maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals ... .” 5 U.S.C. § 552a(j)(2).

(36) Under the Privacy Act, agencies may promulgate rules to exempt systems of records from various provisions of the Act, to include individual requests for access or amendment. *See* 5 U.S.C. § 552a(d), (j) and (k). Pursuant to this authority, the U.S. Department of Justice (“DOJ”) promulgated regulations exempting certain systems of records from individual access, *inter alia*. The FBI is a criminal and regulatory enforcement agency within DOJ responsible for enforcing federal laws, and DOJ has exempted FBI law enforcement investigative records maintained in the CRS from the Privacy Act's access provision pursuant to (j)(2). *See* 28 C.F.R. § 16.96(a)(1).<sup>10</sup> Consequently, plaintiff has no individual right of access to

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<sup>9</sup> While the FBI has acknowledged that it is investigating whether anyone else was involved with plaintiff in the unauthorized disclosures of classified information made to WikiLeaks, the FBI has not and is not confirming or denying whether it is investigating any particular person, pursuant to FOIA Exemptions 6, 7(A), and 7(C).

<sup>10</sup> Privacy Act System of Records FBI-002, 63 FR 8671 (1998) (last publication of complete notice).

investigative records about herself under the Privacy Act. Having reached this conclusion, the FBI then considered whether she could access those records under the FOIA.

**JUSTIFICATION FOR NON-DISCLOSURE UNDER THE FOIA**

(37) As previously noted, the FBI concluded that records responsive to plaintiff's request are part of and related to the FBI's active, ongoing investigation into the unauthorized disclosure of classified information that subsequently was published on the WikiLeaks website. Accordingly, it withheld these records pursuant to FOIA Exemption 7(A). The FBI's basis for asserting Exemption 7(A) is detailed below.<sup>11</sup>

**EXEMPTION 7 THRESHOLD**

(38) FOIA Exemption 7 exempts from mandatory disclosure records or information compiled for law enforcement purposes when disclosure could reasonably be expected to cause one of the harms enumerated in the subparts of the exemption. *See* 5 U.S.C. § 552(b)(7). Here, the FBI is relying on Exemption 7 to prevent interference with ongoing law enforcement investigations and proceedings.

(39) In order to rely on Exemption 7, an agency first must demonstrate that the records or information it seeks to withhold were compiled for law enforcement purposes. Law enforcement agencies such as the FBI must demonstrate that the records at issue are related to the enforcement of federal laws and that the enforcement activity is within its law enforcement duties. Here, responsive records are contained in files pertaining to the FBI's investigation of the unauthorized disclosure of classified information that was published on the WikiLeaks website. The FBI's Washington Field Office opened a criminal/national security investigation into these

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<sup>11</sup> The same investigative records at issue here were also at issue in *EPIC v. DOJ*, 12-cv-0127 (D.D.C.). This Court upheld the FBI's protection of the records pursuant to Exemption 7(A). *See EPIC v. DOJ*, 2015 WL 971756 (D.D.C. Mar. 4, 2015) (Memorandum Opinion granting DOJ's motion for summary judgment).

allegations in 2010 and maintains them pursuant to applicable Attorney General Guidelines. The investigations are ongoing and clearly are within the law enforcement duties of the FBI to detect and undertake investigations into possible violations of Federal criminal laws. *See* 28 U.S.C. § 533. Thus, all of the records responsive to plaintiff's FOIPA request were compiled for law enforcement purposes and readily meet the threshold for applying FOIA Exemption 7.<sup>12</sup>

**EXEMPTION 7(A) – PENDING ENFORCEMENT PROCEEDINGS**

(40) FOIA Exemption 7(A) exempts from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... could reasonably be expected to interfere with enforcement proceedings.

5 U.S.C. § 552(b)(7)(A).

(41) Application of this exemption requires: the existence of law enforcement records; a pending or prospective law enforcement proceeding; and a determination that release of the information could reasonably be expected to interfere with the enforcement proceeding. The FBI has withheld all responsive records pursuant to Exemption 7(A). As established above, these records are law enforcement records that are part of and related to a pending FBI investigation. The FBI has determined that disclosure of any responsive records in the midst of this pending investigation, and prior to any prosecutions that may result from the investigation, is reasonably expected to interfere with the investigation as well as any resulting prosecutions. As such, the release of these records would interfere with pending and prospective enforcement proceedings.

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<sup>12</sup> The FBI's files contain responsive records originating from other government agencies ("OGAs"). Because the FBI is withholding all records pursuant to Exemption 7(A), it has not referred these records to their originating OGAs for review and application of other exemptions. The FBI believes these records are also subject to one or more of the other exemptions whose applicability will be preserved for future assertion. If the FBI's Exemption 7(A) withholdings are not upheld, it will refer the records to the originating OGAs for review and a direct response to plaintiff.

### **Types of Documents Protected By Exemption 7(A)**

(42) Providing a document-by-document description or listing of the records potentially responsive to plaintiff's request at this juncture would undermine the very interests that the FBI seeks to protect under Exemption 7(A). In order to protect these interests, the FBI instead has described the types of potentially responsive records that are being withheld in full pursuant to Exemption 7(A).<sup>13</sup> The FBI then grouped the document types into functional categories and described the potential harm associated with disclosing each category of information.

(43) The pending investigative files contain the following types of documents:

(a) Electronic Communication ("EC"): The purpose of an EC is to communicate within the FBI in a consistent format that can be uploaded by the originating Division or office, transmitted, and downloaded by recipient Divisions or offices within the FBI's internal computer network.

(b) FBI Letter: This is a letter or formal correspondence in a format used by the FBI to communicate with the Department of Justice ("DOJ"), U.S. Attorneys' Offices, other government agencies ("OGAs"), other law enforcement agencies (including federal, state, local, and tribal), commercial businesses, and private citizens. Its format is identical to the business letters utilized by commercial agencies except that it contains the FBI Seal at the top of the first page, as well as specific identifying information regarding the originating office within the FBI that sent the letter (*e.g.*, Omaha Division or FBIHQ).

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<sup>13</sup> Similarly, disclosing the total volume of responsive information protected by Exemption 7(A) and/or another exemption would reveal information about the nature, scope, focus, and conduct of active, on-going investigations, and thus cannot be publicly disclosed without undermining the law enforcement interests the FBI is seeking to protect by application of Exemption 7(A) in this case.



(c) FD-302 (Interview Form):<sup>14</sup> This is an internal FBI form on which the results of FBI interviews of persons are recorded. Such interview information may later be used as evidence at criminal trials. These interview forms are often incorporated into FBI Investigative Reports. The contents of these forms may also be incorporated into ECs for purposes of setting/covering leads.

(d) FD-542 (Investigative Accomplishment Form): This is an internal FBI form on which employees claim accomplishments and investigative methods used in investigations.

(e) FD-794 (Payment Request): This is an internal FBI form used by employees to request payment for reimbursement of expenses incurred during an investigation.

(f) Memorandum: This is ordinarily a communication from the FBI to the Attorney General and/or other DOJ component officials; from one employee/official to another at FBIHQ; or from one employee/official to another within an FBI field division. It serves to assist in the overall supervision of a case by summarizing pertinent details of an investigation.

(g) E-mails: These are electronic messages exchanged between and among FBI Special Agents, other FBI employees, and personnel from OGAs, concerning these investigations.

(h) Letterhead Memorandum (“LHM”): This memorandum is an interim summary that reports information, usually derived from FD-302s, concerning the subject of an investigation. It is designed to alert other field offices and/or FBIHQ about pertinent developments in an investigation. Usually, an LHM is attached to a cover sheet, which is typically an FBI letter. The LHM can also be detached from the cover sheet and disseminated to other Government agencies as a “Law Enforcement Sensitive/For Official Use Only” document.

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<sup>14</sup> All forms with the designation “FD-” are forms created and utilized internally by the FBI.

(i) FBI Records Checks: These are computerized print-outs of the results of checks of databases concerning FBI records, local law enforcement records, and/or business records. The information from these records checks is often incorporated into Investigative Reports and ECs for lead purposes.

(j) FBI Investigative Reports: These are summaries of investigations as of the date of the report. The purpose of these documents is to advise FBIHQ and FBI field offices of the investigative information that has been obtained concerning a particular investigation.

(k) FBI Computer Printouts: These are printouts from internal FBI computer systems that describe information concerning FBI investigations. The information included on the documents may include file numbers, names, and addresses of subjects and suspects, key dates and places of crimes, names of Special Agents (“SAs”) assigned to investigations, and other similar information.

(l) FBI Investigative Inserts: Internal FBI forms used to record investigative actions such as an FBI records check of a database of law enforcement records. These inserts are often incorporated into FBI Investigative Reports.

(m) Other Investigative Documents: This category consists of various types of documents reflecting information and evidence gathered during an FBI investigation, the sources from/by which such information and evidence was gathered, methods used to obtain the information and evidence, and methods used to analyze the information and evidence. To describe the documents in this category any more specifically would reveal the scope of the FBI’s investigations, as well as the sources and methods being utilized by the FBI.

(n) Miscellaneous Administrative Documents: The FBI uses various types of forms throughout a criminal investigation, including storage envelopes, bulky exhibit cover

sheets, transmittal forms (*i.e.*, facsimile cover sheets), letters, and routing slips. Also included are forms that are placed in a file to document when a serial has been removed and placed elsewhere. For example, an FD-5A (Automated Serial Permanent Charge-Out) is placed in a file to show that a serial was transferred to a sub-file. Other documents in this category include notes, memoranda, letters, telegrams, and other attachments of an administrative nature which do not fall into an official government format.

#### **Reasonable Expectation of Interference**

(44) In processing requests under the FOIA, the FBI has established procedures to implement the FOIA as efficiently as possible. When the FBI receives a request for records about a pending investigation, it commonly asserts FOIA Exemption 7(A) to protect the pending investigation and/or any related prospective investigations and prosecutions. Nonetheless, the FBI reviews the records to identify and release any reasonably segregable information contained in the responsive file(s) that would not jeopardize ongoing or future enforcement proceedings. As discussed below, the FBI's review of the responsive records in the pending cases reveals no materials that can be released without jeopardizing current or prospective investigative and/or prosecutive efforts. In addition, a review of the responsive records determined there is no public source material available for release that would not adversely affect pending or prospective enforcement proceedings if disclosed.

(45) Here, RIDS has reviewed and categorized the types of documents described above into two categories: Evidentiary/Investigative Materials and Administrative Materials. Each

responsive record, and the information contained in each record, falls into one or both of these categories.<sup>15</sup>

(46) ***Evidentiary/Investigative Materials.*** This category includes copies of records or evidence, analyses of evidence, and derivative communications discussing or incorporating evidence. A derivative communication describes, verbatim or in summary, the contents of the original record, how it was obtained, and how it relates to the investigation. Other derivative communications report this information to other FBI field offices, law enforcement agencies, or Federal agencies, either to advise them about the progress of the investigation, or to elicit their assistance in handling investigative leads. The following subparagraphs describe the types of evidentiary materials in the responsive records and the anticipated harm that could reasonably result from the release of the materials.

(a) **Confidential Source Statements:** Statements made to the FBI by sources based on express or implied assurances of confidentiality are one of the principal tools used in proving facts that form the basis for a prosecution. These statements contain information obtained from individuals or organizations with knowledge of potential criminal activities related to the unauthorized disclosure of classified information being investigated by the FBI. If the FBI were to release this information, the sources that have chosen to cooperate with law enforcement could be subjected to retaliation, intimidation, or physical or mental harm. This would have a chilling effect on the FBI's investigative efforts here and any resulting prosecutions, inasmuch as potential witnesses and/or sources might fear exposure and reprisals from the subjects of these investigations and/or from other individuals. Implicit in conducting interviews in investigations of this nature is the notion that a source's identity and the information he/she/it provided will be

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<sup>15</sup> A single record – e.g., an FBI Investigative Report – may serve several purposes and may contain multiple categories of information, such as witness statements, administrative directions, and/or evidentiary materials; such a report could be included in both categories, as could the information contained in the report.

afforded confidentiality. The FBI goes to great lengths to protect and maintain sources' confidentiality because it is an integral part of successful investigations and prosecutions. The release of source statements in the responsive records at issue here would disrupt and harm ongoing investigative actions and any resulting prosecutions.

(b) Exchange of Information Between FBI and Other Law Enforcement

Agencies: Release of information exchanged between the FBI and its law enforcement partners would disclose evidence, investigative information, and criminal intelligence developed by agencies that have cooperated with and provided information to the FBI, and that are still doing so, in the pending investigation. Inherent in this cooperative effort is the mutual understanding that information provided to the FBI by these agencies will not be prematurely released. This information was gathered, and is continuing to be gathered, to help identify subjects, suspects, and/or other individuals of potential investigative interest; to identify and assist in locating witnesses and/or confidential sources; and to further the progress of the investigation. Release of this information at this point in the investigative process would reveal the scope and focus of the investigation; identify and tip off individuals of interest to law enforcement; and provide suspects or targets the opportunity to destroy evidence and alter their behavior to avoid detection. All of this clearly would negatively impact the pending investigation.

(c) Documentary Evidence/Information Concerning Documentary Evidence:

Disclosure of documentary evidence being gathered in the ongoing investigation, or information discussing, describing, or analyzing the documentary evidence, would undermine the investigation and any resulting prosecutions by prematurely revealing the scope and focus of the investigation, and also the subjects of, and persons of investigative interest in, the investigation. Once subjects and persons of interest become aware of the FBI's attention, they are able to take

defensive actions to conceal their activities, elude detection, mislead the investigation, and/or suppress or fabricate evidence. Additionally, disclosure of documentary evidence and/or information concerning documentary evidence also could reasonably lead to the identification of the sources of the evidence. This too would adversely impact the ongoing investigation and any resulting prosecutions because it could result in possible intimidation of or harm to those witnesses and sources. This evidence, and information about this evidence in other documents, is pertinent and integral to the FBI's ongoing investigation and future prosecutions, and thus its disclosure while the investigation is pending would adversely affect this and any resulting prosecutions.

(47) *Administrative Materials.* Materials that fall within this category include items such as case captions, serial numbers, identities of FBI field offices, dates of investigations, and detailed instructions designed to ensure that investigative procedures are conducted within the appropriate FBI and DOJ guidelines. The following subparagraphs describe the types of administrative materials contained in the responsive records and the anticipated harms that could reasonably result from the disclosure of such materials in the midst of the FBI's ongoing investigation and in any resulting prosecutions. In many instances, administrative information is contained at the beginning or end of correspondence or documents that fall within the Investigative/Evidentiary Material category, such that release of the administrative information would also reveal the investigative interests of the FBI and could enable suspects, targets, and individuals of interest to the FBI to discern a "road map" of the investigations.

(a) Reporting Communications: These communications permit an agency to monitor the progress of the investigation and facilitate its conduct. They can reveal or confirm the cooperation of other Government agencies in the investigation; are replete with detailed

information about the FBI's investigative activities and about potential witnesses/sources to be interviewed; and contain background information about third party individuals, the origins of information connecting them to the investigations, and their connections to subjects and individuals of investigative interest to the FBI. The release of this information would prematurely reveal the nature and scope of this active and ongoing investigation by revealing: the investigative steps taken to obtain witness and source interviews; techniques and investigative methods used to compile and/or solicit information from various sources; and any potential or perceived challenges in the investigation.

(b) Miscellaneous Administrative Documents: These materials include items such as storage envelopes, transmittal forms, and standardized forms used for a variety of particular purposes. These types of materials have been used throughout the investigation for many routine purposes; however, the manner in which they have been used and organized in the files in and of itself reveals information of investigative value, the premature disclosure of which could undermine the pending investigation and any resulting prosecutions. An example is the evidentiary envelope used to store records obtained from a source under an express or implied assurance of confidentiality. While the envelope is not specific to these investigations, handwritten notations on the envelope identify dates, places, and the identities of the sources providing the information. In addition, the mere fact that an FBI Special Agent used an envelope for the storage of records he/she has obtained from a source is revealing on its own. The disclosure of these materials could harm the investigation by providing details that, when viewed in conjunction with knowledge possessed by subjects or others knowledgeable about the unauthorized disclosure of classified information being investigated, would provide information

useful in identifying witnesses and sources, ascertaining investigative strategies, and determining what evidence the FBI has collected.

(48) Administrative Instructions: This type of information, whether it originates in communications from the FBI or other government or law enforcement agencies, would disclose specific investigative procedures employed in the investigation. Release of this information would thus permit subjects or individuals of investigative interest to the FBI to anticipate law enforcement actions and to alter, destroy, or fabricate evidence to their benefit, or to mislead the investigation. Specific examples of these instructions include the setting out of investigative guidelines and requests for specific investigative inquiries and affirmative tasking to various FBI field offices or to other government or law enforcement agencies. These are commonly referred to as “investigative leads” and are set forth in documents throughout the course of the investigation.

### CONCLUSION

(49) The FBI has performed a reasonable search for records responsive to plaintiff’s request, identified the specific investigation about which plaintiff requested records, and located the records that plaintiff requested. The FBI first analyzed the request under the Privacy Act and concluded that plaintiff’s access to the records is exempted under Privacy Act Exemption (j)(2) and DOJ’s regulation exempting the CRS from the Privacy Act’s access provisions. The FBI then considered the request under the FOIA. The FBI carefully reviewed the responsive records; determined that they are part of and related to a pending investigation and that disclosure at this time could reasonably be expected to adversely affect the investigation and any resulting prosecutions; and denied plaintiff’s request for them pursuant to FOIA Exemption 7(A).<sup>16</sup> The

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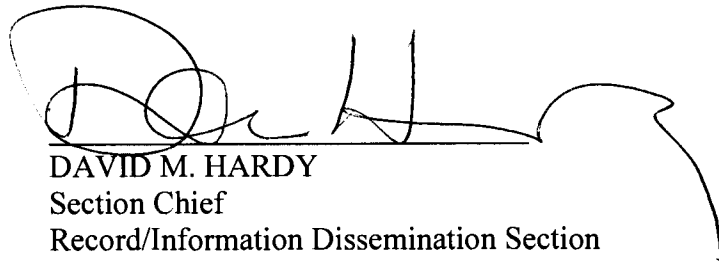
<sup>16</sup> Pursuant to the parties’ proposal to bifurcated summary judgment proceedings, which the Court granted, the FBI initially is defending only the applicability of Exemption 7(A), but preserves the right to defend any



FBI's segregability review determined there is no reasonably segregable information, including public source material, which can be released at this time without adversely affecting the investigation and any resulting prosecutions.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct, and that Exhibits A through N attached hereto are true and correct copies.

Executed this 10<sup>th</sup> day of March, 2016.

A handwritten signature in black ink, appearing to read 'D. Hardy', is written over a horizontal line. The signature is stylized and extends to the right of the line.

DAVID M. HARDY  
Section Chief  
Record/Information Dissemination Section  
Records Management Division  
Federal Bureau of Investigation  
Winchester, Virginia

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additional underlying exemptions that may apply. See Minute Order (Dec. 15, 2015); see also ECF No. 11, Joint Status Report and Proposed Schedule.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)
CHELSEA MANNING	)
	)
Plaintiff,	)
	)
v.	)
	)
UNITED STATES DEPARTMENT	)
OF JUSTICE, ET AL	)
	)
Defendants	)
_____	)

Civil Action No. 1:15-CV-01654-APM

**Exhibit A**

**Chelsea E. Manning**

89289

1300 North Warehouse Road

Fort Leavenworth, Kansas 66027-2304

2014.02.20

**Federal Bureau of Investigation**

935 Pennsylvania Avenue

Washington, D.C. 20620

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. § 552), the Privacy Act (PA) (5 U.S.C. § 552a), and Part 16 of Title 28 of the U.S. Code of Federal Regulations (32 C.F.R. §§ 16.1 et seq.), I hereby request the following documents, papers, working papers, reports, letters, and memoranda from the Federal Bureau of Investigation and the Department of Justice.

a. Documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to investigation conducted by the Washington Field Office of the Federal Bureau of Investigation and the U.S. Attorney's Office of the Eastern District of Virginia into the alleged disclosures of classified and sensitive but unclassified information by Private First Class (PFC) Bradley E. Manning beginning in late 2010 and continuing until an unknown date, but as late as mid-2012.

b. Any other documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Federal Bureau of Investigation and the U.S. Attorney's Office of the Eastern District of Virginia into alleged civilian co-conspirators of the disclosures of information by Manning.

Pursuant to 32 C.F.R. § 16.11, I acknowledge a willingness to pay for fees for more than two (2) hours of search effort, and for duplication charges in excess of one hundred (100) pages. There is no monetary limit to my willingness to pay for fees. Though, I am not waiving any exemptions provided by federal statute or regulation. Also pursuant to 32 C.F.R. § 16.5(d), I hereby request "expedited processing" of this request due to an "urgency to inform the public about an actual or alleged federal government activity," and a "matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence," in accordance with 32 C.F.R. § 16.5(d)(1)(ii) and (d)(1)(iv).

Thank you,



CHELSEA E. MANNING

10 MAR 2014

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)
CHELSEA MANNING	)
	)
Plaintiff,	)
	)
v.	)
	)
UNITED STATES DEPARTMENT	)
OF JUSTICE, ET AL	)
	)
Defendants	)
_____	)

Civil Action No. 1:15-CV-01654-APM

**Exhibit B**



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

March 7, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This acknowledges receipt of your Freedom of Information/Privacy Act (FOIPA) request to the FBI. The FOIPA number listed above has been assigned to your request. Your letter did not contain sufficient information to conduct an accurate search of the Central Records System.

Full Name: \_\_\_\_\_

Current Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

Daytime Telephone Number: \_\_\_\_\_

Please provide any additional information that you think would assist the FBI with our search for records, such as prior addresses, employments, aliases, approximate time frame for the information sought.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Under penalty of perjury, I hereby declare that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of Title 18 U.S.C. § 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of Title 5 U.S.C. § 552a (i)(3), as a misdemeanor and by a fine of not more than \$5,000. **The signature must be legible.**

Signature \_\_\_\_\_


Date \_\_\_\_\_

You can fax your request to (540) 868-4997, or mail to 170 Marcel Drive, Winchester, VA 22602, to the Attn: Initial Processing. If we do not receive a response from you within 30 days from the date of this letter, your request will be closed. You must include the FOIPA request number with any communication regarding this matter.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-000, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

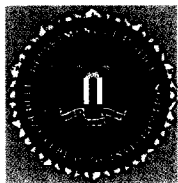
Enclosed for your information is a copy of the FBI Fact Sheet.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", with a stylized flourish at the end.

David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure



## FBI FACT SHEET

- **The primary functions of the FBI are national security and law enforcement.**
- **The FBI does not keep a file on every citizen of the United States.**
- **The FBI was not established until 1908 and we have very few records prior to the 1920s.**
- **FBI files generally contain reports** of FBI investigations of a wide range of matters, including counterterrorism, counter-intelligence, cyber crime, public corruption, civil rights, organized crime, white collar crime, major thefts, violent crime, and applicants.
- **The FBI does not issue clearances or non-clearances for anyone other than its own personnel or persons having access to FBI facilities.** Background investigations for security clearances are conducted by many different Government agencies. Persons who received a clearance while in the military or employed with some other government agency should contact that entity. Most government agencies have websites which are accessible on the internet which have their contact information.
- **A criminal history summary check or “rap sheet” is NOT the same as an “FBI file.”** It is a listing of information taken from fingerprint cards and related documents submitted to the FBI in connection with arrests, federal employment, naturalization or military service. The subject of a “rap sheet” may obtain a copy by submitting a written request to FBI, Criminal Justice Information Services (CJIS) Division, Record Request, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. Along with a specific written request, the individual must submit a new full set of his/her fingerprints in order to locate the record, establish positive identification, and ensure that an individual’s records are not disseminated to an unauthorized person. The fingerprint submission must include the subject’s name, date and place of birth. There is a required fee of \$18 for this service, which must be submitted by money order or certified check made payable to the Treasury of the United States. A credit card payment option is also available. Forms for this option and additional directions may be obtained by accessing the FBI Web site at [www.fbi.gov/about-us/cjis/background-checks/background\\_checks](http://www.fbi.gov/about-us/cjis/background-checks/background_checks).
- **The National Name Check Program (NNCP)** conducts a search of the FBI’s Universal Index (UNI) to identify any information contained in FBI records that may be associated with an individual and provides the results of that search to a requesting federal, state or local agency. Names are searched in a multitude of combinations and phonetic spellings to ensure all records are located. The NNCP also searches for both “main” and “cross reference” files. A main file is an entry that carries the name corresponding to the subject of a file, while a cross reference is merely a mention of an individual contained in a file. The results from a search of this magnitude can result in several “hits” and “idents” on an individual. In each instance where UNI has identified a name variation or reference, information must be reviewed to determine if it is applicable to the individual in question.
- **The Record/Information Dissemination Section (RIDS)** searches for records and provides copies of FBI files responsive to Freedom of Information or Privacy Act (FOIPA) requests for information. RIDS provides responsive documents to requesters seeking “reasonably described information.” For a FOIPA search, the subject’s name, event, activity, or business is searched to determine whether there is an associated investigative file. This is called a “main file search” and differs from the NNCP search.

**FOR GENERAL INFORMATION ABOUT THE FBI, VISIT OUR WEBSITE AT**  
**[www.fbi.gov](http://www.fbi.gov)**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)
CHELSEA MANNING	)
	)
Plaintiff,	)
	)
v.	)
	)
UNITED STATES DEPARTMENT	)
OF JUSTICE, ET AL	)
	)
Defendants	)
_____	)

Civil Action No. 1:15-CV-01654-APM

**Exhibit C**



**Chelsea E. Manning**

89289

1300 North Warehouse Road

Fort Leavenworth, Kansas 66027-2304

2014.03.18

**Federal Bureau of Investigation**

FOIPA Initial Processing

170 Marcel Drive

Winchester, Virginia 22602-4843

**Subject:** Freedom of Information Act and Privacy Act Request No. 1255610-000

Initial Processing,

I received your letter, dated 2014.03.07, acknowledging receipt of my Freedom of Information Act (FOIA) (5 U.S.C. § 552) and Privacy Act (PA) (5 U.S.C. § 552a) request pursuant to Part 16 of Title 28, U.S. Code of Federal Regulations (28 C.F.R. §§ 16.1 et seq.) requesting for documents, papers, working papers, reports, letters, and memoranda from the Federal Bureau of Investigation and Department of Justice.

I attempted to provide as much information as possible in order to conduct your search, however, you indicated that my letter did not contain sufficient information in order to "conduct an accurate search of the Central Records System." I enclosed the copy of your letter which in which the declaration under penalty of perjury is attached. The information provided is as follows:

- a. **Full Name.** Bradley Edward Manning, a.k.a. Chelsea Elizabeth Manning.
- b. **Current Address.** 1300 North Warehouse Road, Fort Leavenworth, Kansas 66027-2304.
- c. **Date of Birth.** 1987 [FRCP 3.2]
- d. **Place of Birth.** Oklahoma City, Oklahoma.
- e. **Daytime Telephone Number.** 913.758.3740 / 913.758.5798
- f. **Prior Address.** 1492 Selworthy Road, Potomac, Maryland 20854.
- g. **Time Frame.** 2010.05.25 to an unknown date.
- h. **Case Number.** 10-GJ-3793. (Request is not limited to just this, however.)

**Subject:** Freedom of Information Act and Privacy Act Request No. 1255610-000

I respectfully repeat for clarity that I am requesting the following documents, of and relating to investigations conducted from 2014.05.25 to an unknown date:

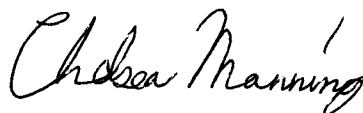
a. Documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Washington Field Office (WFO), the Department of Justice Counterepionage Section (CES), the U.S. Attorney's Office for the Eastern District of Virginia (E.D.Va.) into the alleged disclosures of classified and sensitive by unclassified information by then-Private First Class (PFC) Bradley Edward Manning (a.k.a. Chelsea Elizabeth Manning).

b. Any other documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Federal Bureau of Investigation and other agencies into suspected or alleged civilian co-conspirators of the disclosures alleged to have been conducted by Manning.

I also acknowledged a willingness to pay for fees for more than two (2) hours of search effort, and for duplication charges in excess of one hundred (100) pages. There is no monetary limit to my willingness to pay for fees. However, I did not waive any exemptions provided by federal statute or regulation (28 C.F.R. § 16.5(d)(1)(iii)).

And, I requested "expedited processing" of this request due to an "urgency to inform the public about an actual or alleged federal government activity," and this "matter of widespread and exceptional media interest" (28 C.F.R. § 16.5(d)(1)(iv)).

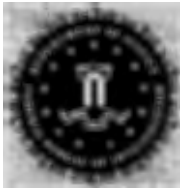
With warm regards,



CHELSEA E. MANNING

**Enclosures: 1**

1. FOIPA Receipt Letter, 1255610-000, 2014.03.07.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

March 7, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This acknowledges receipt of your Freedom of Information/Privacy Act (FOIPA) request to the FBI. The FOIPA number listed above has been assigned to your request. Your letter did not contain sufficient information to conduct an accurate search of the Central Records System.

Full Name: BRADLEY EDWARD MANNING, A.K.A. CHELSEA ELIZABETH MANNING  
Current Address: 1300 NORTH WAREHOUSE ROAD, FORT LEAVENWORTH, KS 66027  
Date of Birth: [F.R.C.P. 5-2] 1987 Place of Birth: OKLAHOMA CITY, OK  
Daytime Telephone Number: 913.758.3740 913.758.5793

Please provide any additional information that you think would assist the FBI with our search for records, such as prior addresses, employments, aliases, approximate time frame for the information sought.

PRIOR ADDRESS: 1492 SELWORTHY ROAD, POTOMAC, MARYLAND 20854  
TIME FRAME: MAY 2010 TO PRESENT  
CASE No: 10-GJ-3793 (NOT LIMITED TO)

Under penalty of perjury, I hereby declare that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of Title 18 U.S.C. § 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of Title 5 U.S.C. § 552a (i)(3), as a misdemeanor and by a fine of not more than \$5,000. **The signature must be legible.**

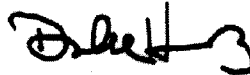
Signature Chelsea E. Manning  
Date 17 MARCH 2014

You can fax your request to (540) 868-4997, or mail to 170 Marcel Drive, Winchester, VA 22602, to the Attn: Initial Processing. If we do not receive a response from you within 30 days from the date of this letter, your request will be closed. You must include the FOIPA request number with any communication regarding this matter.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-000, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Enclosed for your information is a copy of the FBI Fact Sheet.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", with a stylized flourish at the end.

David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

CHELSEA MANNING )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 UNITED STATES DEPARTMENT )  
 OF JUSTICE, ET AL )  
 )  
 Defendants )

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Civil Action No. 1:15-CV-01654-APM

**Exhibit D**

U.S. Department of Justice



**Federal Bureau of Investigation**  
Washington, D.C. 20535

March 21, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This acknowledges receipt of your Freedom of Information/Privacy Acts (FOIPA) request to the FBI.

- Your request has been received at FBI Headquarters for processing.
- Your request has been received at the [ \_\_\_\_\_ Resident Agency / \_\_\_\_\_ Field Office] and forwarded to FBI Headquarters for processing.
- We are searching the indices to our Central Records System for the information responsive to this request. We will inform you of the results in future correspondence.
- Your request for a fee waiver is being considered and you will be advised of the decision at a later date.
- Please check for the status of your FOIPA request at [www.fbi.gov/foia](http://www.fbi.gov/foia).

The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request. Your patience is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", is positioned below the word "Sincerely".

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

CHELSEA MANNING )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 UNITED STATES DEPARTMENT )  
 OF JUSTICE, ET AL )  
 )  
 Defendants )

---

Civil Action No. 1:15-CV-01654-APM

**Exhibit E**

U.S. Department of Justice



Federal Bureau of Investigation  
Washington, D.C. 20535

April 3, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This is in reference to your letter to the FBI, in which you requested expedited processing for the above-referenced Freedom of Information /Privacy Acts (FOIPA) request. Under Department of Justice (DOJ) standards, expedited processing can only be granted in the following situations.

You have requested expedited processing according to:

- 28 C.F.R. §16.5 (d)(1)(i): "Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual."
- 28 C.F.R. §16.5 (d)(1)(ii): "An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information."
- 28 C.F.R. §16.5 (d)(1)(iii): "The loss of substantial due process of rights."
- 28 C.F.R. §16.5 (d)(1)(iv): "A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence."

You **have not** provided enough information concerning the statutory requirements for expedition; therefore, your request is denied. Specifically, the topic of this request is not a matter "in which there exist possible questions about the government's integrity which affect public confidence."

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Sincerely,

David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

CHELSEA MANNING )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 UNITED STATES DEPARTMENT )  
 OF JUSTICE, ET AL )  
 )  
 Defendants )

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Civil Action No. 1:15-CV-01654-APM

**Exhibit F**

U.S. Department of Justice



Federal Bureau of Investigation  
Washington, D.C. 20535

April 8, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This responds to your Freedom of Information/Privacy Acts (FOIPA) request.

The material you requested is located in an investigative file which is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(7)(A). 5 U.S.C. § 552(b)(7)(A) exempts from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... could reasonably be expected to interfere with enforcement proceedings...

The records responsive to your request are law enforcement records; there is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings. For a further explanation of this exemption, see the enclosed Explanation of Exemptions.

**In accordance with standard FBI practice and pursuant to FOIA exemption (b)(7)(E)/ Privacy Act exemption (j)(2) [5 U.S.C. § 552/552a (b)(7)(E)/(j)(2)], this response neither confirms nor denies the existence of your subject's name on any watch lists.**

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) (2006 & Supp. IV (2010)). 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.

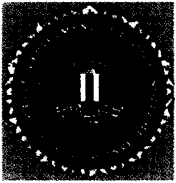
You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over the typed name.

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

Enclosures



## FBI FACT SHEET

- **The primary functions of the FBI are national security and law enforcement.**
- **The FBI does not keep a file on every citizen of the United States.**
- **The FBI was not established until 1908 and we have very few records prior to the 1920s.**
- **FBI files generally contain reports** of FBI investigations of a wide range of matters, including counterterrorism, counter-intelligence, cyber crime, public corruption, civil rights, organized crime, white collar crime, major thefts, violent crime, and applicants.
- **The FBI does not issue clearances or non-clearances for anyone other than its own personnel or persons having access to FBI facilities.** Background investigations for security clearances are conducted by many different Government agencies. Persons who received a clearance while in the military or employed with some other government agency should contact that entity. Most government agencies have websites which are accessible on the internet which have their contact information.
- **A criminal history summary check or “rap sheet” is NOT the same as an “FBI file.”** It is a listing of information taken from fingerprint cards and related documents submitted to the FBI in connection with arrests, federal employment, naturalization or military service. The subject of a “rap sheet” may obtain a copy by submitting a written request to FBI, Criminal Justice Information Services (CJIS) Division, Record Request, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. Along with a specific written request, the individual must submit a new full set of his/her fingerprints in order to locate the record, establish positive identification, and ensure that an individual’s records are not disseminated to an unauthorized person. The fingerprint submission must include the subject’s name, date and place of birth. There is a required fee of \$18 for this service, which must be submitted by money order or certified check made payable to the Treasury of the United States. A credit card payment option is also available. Forms for this option and additional directions may be obtained by accessing the FBI Web site at [www.fbi.gov/about-us/cjis/background-checks/background\\_checks](http://www.fbi.gov/about-us/cjis/background-checks/background_checks).
- **The National Name Check Program (NNCP)** conducts a search of the FBI’s Universal Index (UNI) to identify any information contained in FBI records that may be associated with an individual and provides the results of that search to a requesting federal, state or local agency. Names are searched in a multitude of combinations and phonetic spellings to ensure all records are located. The NNCP also searches for both “main” and “cross reference” files. A main file is an entry that carries the name corresponding to the subject of a file, while a cross reference is merely a mention of an individual contained in a file. The results from a search of this magnitude can result in several “hits” and “idents” on an individual. In each instance where UNI has identified a name variation or reference, information must be reviewed to determine if it is applicable to the individual in question.
- **The Record/Information Dissemination Section (RIDS)** searches for records and provides copies of FBI files responsive to Freedom of Information or Privacy Act (FOIPA) requests for information. RIDS provides responsive documents to requesters seeking “reasonably described information.” For a FOIPA search, the subject’s name, event, activity, or business is searched to determine whether there is an associated investigative file. This is called a “main file search” and differs from the **NNCP** search.

**FOR GENERAL INFORMATION ABOUT THE FBI, VISIT OUR WEBSITE AT**  
**[www.fbi.gov](http://www.fbi.gov)**

**EXPLANATION OF EXEMPTIONS****SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ( A ) could reasonably be expected to interfere with enforcement proceedings, ( B ) would deprive a person of a right to a fair trial or an impartial adjudication, ( C ) could reasonably be expected to constitute an unwarranted invasion of personal privacy, ( D ) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, ( E ) would disclose techniques and 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, or ( F ) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a**

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)
CHELSEA MANNING	)
	)
Plaintiff,	)
	)
v.	)
	)
UNITED STATES DEPARTMENT	)
OF JUSTICE, ET AL	)
	)
Defendants	)
_____	)

Civil Action No. 1:15-CV-01654-APM

**Exhibit G**

RRK def

PS copy

**Chelsea E. Manning**

89289

1300 North Warehouse Road

Fort Leavenworth, Kansas 66027-2304

2014.04.11

RECEIVED

APR 24 2014

Office of Information Policy

FUIA  
ⓐ  
FBI  
→ exped.  
processing

**Department of Justice**

Office of Information Policy (OIP)

1425 New York Avenue NW, Suite 11050

Washington, D.C. 20530-0001

**Subject:** Appeal to Denial of Expedited Processing for Freedom of Information Act/Privacy Act (FOIPA) Request No. 1255610-000

Director of Office of Information Policy:

I hereby appeal the decision of David M. Hardy, Section Chief, Record/Information Dissemination Section, Records Management Division, Federal Bureau of Investigation for the denial of my request for expedited processing for my Freedom of Information Act/Privacy Act (FOIPA) Request, Request No. 1255610-000 requesting for documents pertaining to the criminal investigation surrounding the alleged unauthorized release and publication of documents by former Private First Class (PFC) Bradley E. Manning, now known as Chelsea E. Manning.

My request cited part 16.5(d)(1)(iv) of title 28, Code of Federal Regulations (28 CFR § 16.5(d)(1)(iv)) in which I indicated that this request is "a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." This request was denied, allegedly because I had not "provided enough information concerning the statutory requirements for expedition," and specifically, that this request is not a matter "in which there exist possible questions about the government's integrity which affect public confidence."

This is an unusual denial made with bad faith on the part of the Federal Bureau of Investigation, especially given the extremely widespread and very public debate regarding the Department of Justice's unusual stance and posture regarding national security leaks and investigating journalists and prosecuting their sources with the clear intent of prosecuting journalists.

**Subject:** Appeal to Denial of Expedited Processing for Freedom of Information Act/Privacy Act (FOIPA) Request No. 1255610-000

This interest is especially acute in the case which I am requesting information from, the investigation and court-martial by the military of then-PFC Manning; a case in which the Federal Bureau of Investigation and Department of Justice played a vital role since the beginning of the investigation on 2010.05.25.

Respectfully requested,

A handwritten signature in cursive script that reads "Chelsea Manning".

CHELSEA E. MANNING

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)
CHELSEA MANNING	)
	)
Plaintiff,	)
	)
v.	)
	)
UNITED STATES DEPARTMENT	)
OF JUSTICE, ET AL	)
	)
Defendants	)
_____	)

Civil Action No. 1:15-CV-01654-APM

**Exhibit H**



AMJ

dup of  
Apr. 2014 02594?  
→ expd. deny  
(most)

**Chelsea E. Manning**  
89289  
1300 North Warehouse Road  
Fort Leavenworth, Kansas 66027-2304

2014.04.17

FOIA  
(A)  
FBI

**Department of Justice**  
Director, Office of Information Policy  
1425 New York Avenue, NW, Suite 11050  
Washington, D.C. 20530-0001

**Subject:** Appeal to Freedom of Information Act and Privacy Act Request—Request No. 1255610-000

Director, Office of Information Policy,

This letter is in response to the denial of my request under the Freedom of Information/Privacy Act (FOIPA) (5 U.S.C. §§ 552, 552a) by the Federal Bureau of Investigation (FBI), Request No. 1255610-000.

I hereby request an appeal to the decision on 2014.04.08 by the Section Chief, Record/Information Dissemination Section, Records Management Division, FBI to exempt the documents I requested pursuant to § 552(b)(7)(A):

... records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information [ . . . ] could reasonably be expected to interfere with enforcement proceedings . . .

I also note that my request also invoked the Privacy Act (PA) (5 U.S.C. § 552a). No cognizable response to the Privacy Act portion of my request was given in the letter, though if it is a form of *Glomar* response, I shall also now appeal the *Glomar* response.

Respectfully submitted,  
*Chelsea Manning*

CHELSEA E. MANNING

RECEIVED  
APR 30 2014  
Office of Information Policy

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
CHELSEA MANNING	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:15-CV-01654-APM
	)	
UNITED STATES DEPARTMENT	)	
OF JUSTICE, ET AL	)	
	)	
Defendants	)	
_____	)	

**Exhibit I**



**U.S. Department of Justice**  
**Office of Information Policy**  
*Suite 11050*  
*1425 New York Avenue, NW*  
*Washington, DC 20530-0001*

*Telephone: (202) 514-3642*

**April 29, 2014**

Ms. Chelsea E. Manning  
Register No. 89289  
1300 North Warehouse Road  
Fort Leavenworth, KS 66027-2304

Re: Appeal No. AP-2014-02594  
Request No. 1255610-000  
SRO:RRK

**VIA: U.S. Mail**

Dear Ms. Manning:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received in this Office on April 24, 2014. You appealed from the FBI's denial of your request for expedited treatment of your request.

The FBI responded to your request by letter dated April 8, 2014. (copy enclosed). Because the FBI responded to your request, your appeal from the FBI's failure to grant expedited processing of your request is moot. Accordingly, I am closing your appeal file in this Office.

Sincerely,

A handwritten signature in cursive script that reads "Sean O'Neill".

Sean R. O'Neill  
Chief  
Administrative Appeals Staff

**Enclosure**

U.S. Department of Justice



Federal Bureau of Investigation  
Washington, D.C. 20535

April 8, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This responds to your Freedom of Information/Privacy Acts (FOIPA) request.

The material you requested is located in an investigative file which is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(7)(A). 5 U.S.C. § 552(b)(7)(A) exempts from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... could reasonably be expected to interfere with enforcement proceedings...

The records responsive to your request are law enforcement records; there is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings. For a further explanation of this exemption, see the enclosed Explanation of Exemptions.

In accordance with standard FBI practice and pursuant to FOIA exemption (b)(7)(E)/ Privacy Act exemption (j)(2) [5 U.S.C. § 552/552a (b)(7)(E)/(j)(2)], this response neither confirms nor denies the existence of your subject's name on any watch lists.

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) (2006 & Supp. IV (2010)). 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 file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Sincerely,

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David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

Enclosures



## FBI FACT SHEET

- **The primary functions of the FBI are national security and law enforcement.**
- **The FBI does not keep a file on every citizen of the United States.**
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- **A criminal history summary check or "rap sheet" is NOT the same as an "FBI file."** It is a listing of information taken from fingerprint cards and related documents submitted to the FBI in connection with arrests, federal employment, naturalization or military service. The subject of a "rap sheet" may obtain a copy by submitting a written request to FBI, Criminal Justice Information Services (CJIS) Division, Record Request, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. Along with a specific written request, the individual must submit a new full set of his/her fingerprints in order to locate the record, establish positive identification, and ensure that an individual's records are not disseminated to an unauthorized person. The fingerprint submission must include the subject's name, date and place of birth. There is a required fee of \$18 for this service, which must be submitted by money order or certified check made payable to the Treasury of the United States. A credit card payment option is also available. Forms for this option and additional directions may be obtained by accessing the FBI Web site at [www.fbi.gov/about-us/cjis/background-checks/background\\_checks](http://www.fbi.gov/about-us/cjis/background-checks/background_checks).
- **The National Name Check Program (NNCP)** conducts a search of the FBI's Universal Index (UNI) to identify any information contained in FBI records that may be associated with an individual and provides the results of that search to a requesting federal, state or local agency. Names are searched in a multitude of combinations and phonetic spellings to ensure all records are located. The NNCP also searches for both "main" and "cross reference" files. A main file is an entry that carries the name corresponding to the subject of a file, while a cross reference is merely a mention of an individual contained in a file. The results from a search of this magnitude can result in several "hits" and "idents" on an individual. In each instance where UNI has identified a name variation or reference, information must be reviewed to determine if it is applicable to the individual in question.
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**FOR GENERAL INFORMATION ABOUT THE FBI, VISIT OUR WEBSITE AT**  
**[www.fbi.gov](http://www.fbi.gov)**

**EXPLANATION OF EXEMPTIONS****SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ( A ) could reasonably be expected to interfere with enforcement proceedings, ( B ) would deprive a person of a right to a fair trial or an impartial adjudication, ( C ) could reasonably be expected to constitute an unwarranted invasion of personal privacy, ( D ) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, ( E ) would disclose techniques and 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, or ( F ) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a**

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

CHELSEA MANNING )

Plaintiff, )

v. )

UNITED STATES DEPARTMENT )  
OF JUSTICE, ET AL )

Defendants )

---

Civil Action No. 1:15-CV-01654-APM

**Exhibit J**





**U.S. Department of Justice**

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

May 7, 2014

Mr. Chelsea E. Manning  
No. 89289  
1300 North Warehouse Road  
Fort Leavenworth, KS 66027-2304

Re: Request No. 1255610

Dear Mr. Manning:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on April 30, 2014.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **AP-2014-02758**. Please mention this number in any future correspondence to this Office regarding this matter. Please note that if you provide an e-mail address or another electronic means of communication with your appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at the number above. If you have submitted your appeal through this Office's online electronic appeal portal, you may also obtain an update on the status of your appeal by logging into your portal account.

Sincerely,

A handwritten signature in black ink, appearing to read "Priscilla Jones".

Priscilla Jones  
Supervisory Administrative Specialist

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

CHELSEA MANNING

Plaintiff,

v.

UNITED STATES DEPARTMENT  
OF JUSTICE, ET AL

Defendants

---

Civil Action No. 1:15-CV-01654-APM

**Exhibit K**



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

**August 7, 2014**

Ms. Chelsea E. Manning  
Register No. 89289  
United States Disciplinary Barracks  
1300 North Warehouse Road  
Fort Leavenworth, KS 66027

Re: Appeal No. AP-2014-02758  
Request No. 1255610  
SRO:AMJ

**VIA: U.S. Mail**

Dear Ms. Manning:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records concerning yourself, formerly known as Bradley E. Manning.

After carefully considering your appeal, I am affirming the FBI's action on your request. In order to provide you with the greatest possible access to responsive records, your request was reviewed under both the Privacy Act of 1974 and the Freedom of Information Act. This Office has determined that the records responsive to your request are exempt from the access provision of the Privacy Act. See 5 U.S.C. § 552a(j)(2); see also 28 C.F.R. § 16.96 (2013). For this reason, I have reviewed your appeal under the FOIA.

The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. The FBI properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(A). This provision concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to interfere with enforcement proceedings.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue

- 2 -

litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean O'Neill", written in a cursive style.

Sean R. O'Neill  
Chief  
Administrative Appeals Staff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
CHELSEA MANNING	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:15-CV-01654-APM
	)	
UNITED STATES DEPARTMENT	)	
OF JUSTICE, ET AL	)	
	)	
Defendants	)	
_____	)	

**Exhibit L**

**Chelsea E. Manning**

89289

1300 North Warehouse Road

Fort Leavenworth, Kansas 66027-2304

2015.01.05

**Office of Government Information Services**

National Archives and Records Administration

8601 Adelphi Road, Room 2510

College Park, Maryland 20740-6001

RECEIVED

by OGIS

JAN 13 2015

Office of Government  
Information Services

**Subject:** Request for Assistance to Freedom of Information Act Request—Federal Bureau of Investigation Records Pertaining to Chelsea E. Manning (formerly Bradley E. Manning)

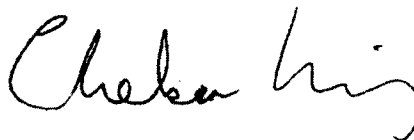
To Whom It May Concern:

As an alternative to inevitable and potentially protracted litigation before a Federal District Court, I request that you mediate and resolve the dispute between myself and the Attorney General regarding my Freedom of Information Act (FOIA) 5 U.S.C. § 552) request for:

- a. Records of and pertaining to the investigation conducted by the Washington Field office of the Federal Bureau of Investigation (FBI) and the U.S. Attorney's Office of the Eastern District of Virginia into the alleged disclosures of classified and sensitive but unclassified information by then Private First Class (PFC) Bradley E. Manning—now Chelsea E. Manning—beginning in late 2010 and continuing until an unknown date, but as late as mid-2012; and,
- b. Any other records of and relating to the investigation conducted by the FBI and the U.S. Attorney's Office of the Eastern District of Virginia into alleged civilian co-conspirators of the disclosures of information by then-PFC Manning.

I believe that the FBI and the Attorney General are improperly withholding this information in full under exemption (7)(A) of the FOIA. 5 U.S.C. § 552(b)(7)(A). My position is that the FBI is withholding documents in full that can be redacted and released to the public—and that the documents in question are in the public interest due to an ongoing question of the role of the FBI and this administration in conducting politically charged investigations to stifle domestic dissent.

Respectfully Requested,



**Enclosures: 11**

CHELSEA E. MANNING  
FOIA Requestor

**Chelsea E. Manning**  
89289  
1300 North Warehouse Road  
Fort Leavenworth, Kansas 66027-2304

2014.02.20

**Federal Bureau of Investigation**

935 Pennsylvania Avenue  
Washington, D.C. 20620

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. § 552), the Privacy Act (PA) (5 U.S.C. § 552a), and Part 16 of Title 28 of the U.S. Code of Federal Regulations (32 C.F.R. §§ 16.1 et seq.), I hereby request the following documents, papers, working papers, reports, letters, and memoranda from the Federal Bureau of Investigation and the Department of Justice.

c. Documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to investigation conducted by the Washington Field Office of the Federal Bureau of Investigation and the U.S. Attorney's Office of the Eastern District of Virginia into the alleged disclosures of classified and sensitive but unclassified information by Private First Class (PFC) Bradley E. Manning beginning in late 2010 and continuing until an unknown date, but as late as mid-2012.

d. Any other documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Federal Bureau of Investigation and the U.S. Attorney's Office of the Eastern District of Virginia into alleged civilian co-conspirators of the disclosures of information by Manning.

Pursuant to 32 C.F.R. § 16.11, I acknowledge a willingness to pay for fees for more than two (2) hours of search effort, and for duplication charges in excess of one hundred (100) pages. There is no monetary limit to my willingness to pay for fees. Though, I am not waiving any exemptions provided by federal statute or regulation. Also pursuant to 32 C.F.R. § 16.5(d), I hereby request "expedited processing" of this request due to an "urgency to inform the public about an actual or alleged federal government activity," and a "matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence," in accordance with 32 C.F.R. § 16.5(d)(1)(ii) and (d)(1)(iv).

Thank you,

  
CHELSEA E. MANNING

U.S. Department of Justice



Federal Bureau of Investigation

Washington, D.C. 20535

March 7, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This acknowledges receipt of your Freedom of Information/Privacy Act (FOIPA) request to the FBI. The FOIPA number listed above has been assigned to your request. Your letter did not contain sufficient information to conduct an accurate search of the Central Records System.

Full Name: BRADLEY EDWARD MANNING, A.K.A. CHELSEA ELIZABETH MANNING

Current Address: 1300 NORTH WAREHOUSE ROAD, FORT LEAVENWORTH, KS 66027

Date of Birth: [FRCP 5.2] 1987 Place of Birth: OKLAHOMA CITY, OK

Daytime Telephone Number: 913.758.3740 913.758.5798

Please provide any additional information that you think would assist the FBI with our search for records, such as prior addresses, employments, aliases, approximate time frame for the information sought.

PRIOR ADDRESS: 1492 SELWORTHY ROAD, POTOMAC, MARYLAND 20854

TIME FRAME: MAY 2010 TO PRESENT

CASE No: 10-GJ-3793 (NOT LIMITED TO)

Under penalty of perjury, I hereby declare that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of Title 18 U.S.C. § 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both; and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of Title 5 U.S.C. § 552a (i)(3), as a misdemeanor and by a fine of not more than \$5,000. The signature must be legible.

Signature Chelsea E. Manning

Date 17 MARCH 2014

You can fax your request to (540) 868-4997, or mail to 170 Marcel Drive, Winchester, VA 22602, to the Attn: Initial Processing. If we do not receive a response from you within 30 days from the date of this letter, your request will be closed. You must include the FOIPA request number with any communication regarding this matter.



You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-000, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Enclosed for your information is a copy of the FBI Fact Sheet.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", with a stylized flourish at the end.

David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure

**Chelsea E. Manning**

89289

1300 North Warehouse Road

Fort Leavenworth, Kansas 66027-2304

2014.03.18

**Federal Bureau of Investigation**

FOIPA Initial Processing

170 Marcel Drive

Winchester, Virginia 22602-4843

**Subject:** Freedom of Information Act and Privacy Act Request No. 1255610-000

Initial Processing,

I received your letter, dated 2014.03.07, acknowledging receipt of my Freedom of Information Act (FOIA) (5 U.S.C. § 552) and Privacy Act (PA) (5 U.S.C. § 552a) request pursuant to Part 16 of Title 28, U.S. Code of Federal Regulations (28 C.F.R. §§ 16.1 et seq.) requesting for documents, papers, working papers, reports, letters, and memoranda from the Federal Bureau of Investigation and Department of Justice.

I attempted to provide as much information as possible in order to conduct your search, however, you indicated that my letter did not contain sufficient information in order to "conduct an accurate search of the Central Records System." I enclosed the copy of your letter which in which the declaration under penalty of perjury is attached. The information provided is as follows:

- a. **Full Name.** Bradley Edward Manning, a.k.a. Chelsea Elizabeth Manning.
- b. **Current Address.** 1300 North Warehouse Road, Fort Leavenworth, Kansas 66027-2304.
- c. **Date of Birth.** 1987. [FRCP 5.2]
- d. **Place of Birth.** Oklahoma City, Oklahoma.
- e. **Daytime Telephone Number.** 913.758.3740 / 913.758.5798
- f. **Prior Address.** 1492 Selworthy Road, Potomac, Maryland 20854.
- g. **Time Frame.** 2010.05.25 to an unknown date.
- h. **Case Number.** 10-GJ-3793. (Request is not limited to just this, however.)

**Subject:** Freedom of Information Act and Privacy Act Request No. 1255610-000

I respectfully repeat for clarity that I am requesting the following documents, of and relating to investigations conducted from 2014.05.25 to an unknown date:

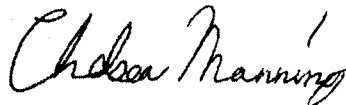
a. Documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Washington Field Office (WFO), the Department of Justice Counterepionage Section (CES), the U.S. Attorney's Office for the Eastern District of Virginia (E.D.Va.) into the alleged disclosures of classified and sensitive by unclassified information by then-Private First Class (PFC) Bradley Edward Manning (a.k.a. Chelsea Elizabeth Manning).

b. Any other documents, papers, reports, letters, memoranda, films, electronic data, photographs, audio and video recordings of or relating to the investigation conducted by the Federal Bureau of Investigation and other agencies into suspected or alleged civilian co-conspirators of the disclosures alleged to have been conducted by Manning.

I also acknowledged a willingness to pay for fees for more than two (2) hours of search effort, and for duplication charges in excess of one hundred (100) pages. There is no monetary limit to my willingness to pay for fees. However, I did not waive any exemptions provided by federal statute or regulation (28 C.F.R. § 16.5(d)(1)(iii)).

And, I requested "expedited processing" of this request due to an "urgency to inform the public about an actual or alleged federal government activity," and this "matter of widespread and exceptional media interest" (28 C.F.R. § 16.5(d)(1)(iv)).

With warm regards,



CHELSEA E. MANNING

**Enclosures: 1**

1. FOIPA Receipt Letter, 1255610-000, 2014.03.07.

U.S. Department of Justice



Federal Bureau of Investigation  
Washington, D.C. 20535

March 21, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This acknowledges receipt of your Freedom of Information/Privacy Acts (FOIPA) request to the FBI.

- Your request has been received at FBI Headquarters for processing.
- Your request has been received at the [ \_\_\_\_\_ Resident Agency / \_\_\_\_\_ Field Office] and forwarded to FBI Headquarters for processing.
- We are searching the indices to our Central Records System for the information responsive to this request. We will inform you of the results in future correspondence.
- Your request for a fee waiver is being considered and you will be advised of the decision at a later date.
- Please check for the status of your FOIPA request at [www.fbi.gov/foia](http://www.fbi.gov/foia).

The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request. Your patience is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over the typed name.

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

U.S. Department of Justice



Federal Bureau of Investigation  
Washington, D.C. 20535

April 3, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This is in reference to your letter to the FBI, in which you requested expedited processing for the above-referenced Freedom of Information /Privacy Acts (FOIPA) request. Under Department of Justice (DOJ) standards, expedited processing can only be granted in the following situations.

You have requested expedited processing according to:

- 28 C.F.R. §16.5 (d)(1)(i): "Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual."
- 28 C.F.R. §16.5 (d)(1)(ii): "An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information."
- 28 C.F.R. §16.5 (d)(1)(iii): "The loss of substantial due process of rights."
- 28 C.F.R. §16.5 (d)(1)(iv): "A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence."

You have not provided enough information concerning the statutory requirements for expedition; therefore, your request is denied. Specifically, the topic of this request is not a matter "in which there exist possible questions about the government's integrity which affect public confidence."

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Sincerely,

David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

U.S. Department of Justice



Federal Bureau of Investigation  
Washington, D.C. 20535

April 8, 2014

MS. CHELSEA E. MANNING  
89289  
1300 NORTH WAREHOUSE ROAD  
FORT LEAVENWORTH, KS 66027-2304

FOIPA Request No.: 1255610-000  
Subject: MANNING, BRADLEY E.

Dear Ms. Manning:

This responds to your Freedom of Information/Privacy Acts (FOIPA) request.

The material you requested is located in an investigative file which is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(7)(A). 5 U.S.C. § 552(b)(7)(A) exempts from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... could reasonably be expected to interfere with enforcement proceedings...

The records responsive to your request are law enforcement records; there is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings. For a further explanation of this exemption, see the enclosed Explanation of Exemptions.

In accordance with standard FBI practice and pursuant to FOIA exemption (b)(7)(E)/ Privacy Act exemption (j)(2) [5 U.S.C. § 552/552a (b)(7)(E)/(j)(2)], this response neither confirms nor denies the existence of your subject's name on any watch lists.

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) (2006 & Supp. IV (2010)). 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 file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Sincerely,

A handwritten signature in black ink, appearing to read "D Hardy", is placed below the word "Sincerely".

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

Enclosures

**Chelsea E. Manning**

89289

1300 North Warehouse Road

Fort Leavenworth, Kansas 66027-2304

2014.04.11

**Department of Justice**

Office of Information Policy (OIP)

1425 New York Avenue NW, Suite 11050

Washington, D.C. 20530-0001

**Subject:** Appeal to Denial of Expedited Processing for Freedom of Information Act/Privacy Act (FOIPA) Request No. 1255610-000

Director of Office of Information Policy:

I hereby appeal the decision of David M. Hardy, Section Chief, Record/Information Dissemination Section, Records Management Division, Federal Bureau of Investigation for the denial of my request for expedited processing for my Freedom of Information Act/Privacy Act (FOIPA) Request, Request No. 1255610-000 requesting for documents pertaining to the criminal investigation surrounding the alleged unauthorized release and publication of documents by former Private First Class (PFC) Bradley E. Manning, now known as Chelsea E. Manning.

My request cited part 16.5(d)(1)(iv) of title 28, Code of Federal Regulations (28 CFR § 16.5(d)(1)(iv)) in which I indicated that this request is "a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." This request was denied, allegedly because I had not "provided enough information concerning the statutory requirements for expedition," and specifically, that this request is not a matter "in which there exist possible questions about the government's integrity which affect public confidence."

This is an unusual denial made with bad faith on the part of the Federal Bureau of Investigation, especially given the extremely widespread and very public debate regarding the Department of Justice's unusual stance and posture regarding national security leaks and investigating journalists and prosecuting their sources with the clear intent of prosecuting journalists.

**Subject:** Appeal to Denial of Expedited Processing for Freedom of Information Act/Privacy Act (FOIPA) Request No. 1255610-000

This interest is especially acute in the case which I am requesting information from, the investigation and court-martial by the military of then-PFC Manning; a case in which the Federal Bureau of Investigation and Department of Justice played a vital role since the beginning of the investigation on 2010.05.25.

One only needs to enter the phrase "national security leak" in any Internet search engine to find evidence that this case is one "in which there exist possible questions about the government's integrity which affect public confidence."

Respectfully requested,



CHELSEA E. MANNING



**Chelsea E. Manning**

89289

1300 North Warehouse Road

Fort Leavenworth, Kansas 66027-2304

2014.04.17

**Department of Justice**

Director, Office of Information Policy

1425 New York Avenue, NW, Suite 11050

Washington, D.C. 20530-0001

**Subject:** Appeal to Freedom of Information Act and Privacy Act Request—Request No. 1255610-000

Director, Office of Information Policy,

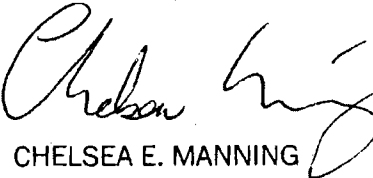
This letter is in response to the denial of my request under the Freedom of Information/Privacy Act (FOIPA) (5 U.S.C. §§ 552, 552a) by the Federal Bureau of Investigation (FBI), Request No. 1255610-000.

I hereby request an appeal to the decision on 2014.04.08 by the Section Chief, Record/Information Dissemination Section, Records Management Division, FBI to exempt the documents I requested pursuant to § 552(b)(7)(A):

... records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information [. . .] could reasonably be expected to interfere with enforcement proceedings . . .

I also note that my request also invoked the Privacy Act (PA) (5 U.S.C. § 552a). No cognizable response to the Privacy Act portion of my request was given in the letter, though if it is a form of *Glomar* response, I shall also now appeal the *Glomar* response.

Respectfully submitted,



CHELSEA E. MANNING



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

**April 29, 2014**

Ms. Chelsea E. Manning  
Register No. 89289  
1300 North Warehouse Road  
Fort Leavenworth, KS 66027-2304

Re: Appeal No. AP-2014-02594  
Request No. 1255610-000  
SRO:RRK

**VIA: U.S. Mail**

Dear Ms. Manning:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received in this Office on April 24, 2014. You appealed from the FBI's denial of your request for expedited treatment of your request.

The FBI responded to your request by letter dated April 8, 2014. (copy enclosed). Because the FBI responded to your request, your appeal from the FBI's failure to grant expedited processing of your request is moot. Accordingly, I am closing your appeal file in this Office.

Sincerely,

A handwritten signature in black ink that reads "Sean O'Neill".

Sean R. O'Neill  
Chief  
Administrative Appeals Staff



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

May 7, 2014

Mr. Chelsea E. Manning  
No. 89289  
1300 North Warehouse Road  
Fort Leavenworth, KS 66027-2304

Re: Request No. 1255610

Dear Mr. Manning:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on April 30, 2014.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **AP-2014-02758**. Please mention this number in any future correspondence to this Office regarding this matter. Please note that if you provide an e-mail address or another electronic means of communication with your appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at the number above. If you have submitted your appeal through this Office's online electronic appeal portal, you may also obtain an update on the status of your appeal by logging into your portal account.

Sincerely,

A handwritten signature in black ink, appearing to read "Priscilla Jones".

Priscilla Jones  
Supervisory Administrative Specialist



U.S. Department of Justice  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

August 7, 2014

Ms. Chelsea E. Manning  
Register No. 89289  
United States Disciplinary Barracks  
1300 North Warehouse Road  
Fort Leavenworth, KS 66027

Re: Appeal No. AP-2014-02758  
Request No. 1255610  
SRO:AMJ

VIA: U.S. Mail

Dear Ms. Manning:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records concerning yourself, formerly known as Bradley E. Manning.

After carefully considering your appeal, I am affirming the FBI's action on your request. In order to provide you with the greatest possible access to responsive records, your request was reviewed under both the Privacy Act of 1974 and the Freedom of Information Act. This Office has determined that the records responsive to your request are exempt from the access provision of the Privacy Act. See 5 U.S.C. § 552a(j)(2); see also 28 C.F.R. § 16.96 (2013). For this reason, I have reviewed your appeal under the FOIA.

The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. The FBI properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(A). This provision concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to interfere with enforcement proceedings.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue

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litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean R. O'Neill". The signature is written in a cursive style with a large, prominent "S" and "O".

Sean R. O'Neill  
Chief  
Administrative Appeals Staff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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CHELSEA MANNING )

Plaintiff, )

v. )

UNITED STATES DEPARTMENT )  
OF JUSTICE, ET AL )

Defendants )

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Civil Action No. 1:15-CV-01654-APM

**Exhibit M**



OFFICE *of* GOVERNMENT INFORMATION SERVICES

January 16, 2015- Sent via U.S. mail

Ms. Chelsea Manning  
89289  
1300.....

Re: Case No. 201500307

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

8601 ADELPHI ROAD  
COLLEGE PARK, MD  
20740-6001

web: [www.ogis.archives.gov](http://www.ogis.archives.gov)

e-mail: [ogis@nara.gov](mailto:ogis@nara.gov)

phone: 202-741-5770

toll-free: 1-877-684-6448

fax: 202-741-5769

Dear Ms. Manning:

Thank you for contacting the Office of Government Information Services (OGIS). Your request for assistance, which we received on January 13, 2015, via U.S. mail, will be assigned to an OGIS facilitator who will contact you directly.

For tracking purposes, we assigned your request for assistance the case number listed above. Please cite this case number in all communications to our office regarding this matter.

Sincerely,

The OGIS Staff  
Office of Government Information Services



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

\_\_\_\_\_  
CHELSEA MANNING )

Plaintiff, )

v. )

UNITED STATES DEPARTMENT )  
OF JUSTICE, ET AL )

Defendants )  
\_\_\_\_\_ )

Civil Action No. 1:15-CV-01654-APM

**Exhibit N**





OFFICE of GOVERNMENT INFORMATION SERVICES

February 24, 2015 — Sent via U.S. mail

Ms. Chelsea E. Manning  
Register No. 89289  
United States Disciplinary Barracks  
1300 North Warehouse Road  
Fort Leavenworth, KS 66027

Re: Case No.: 201500307  
NG: CM

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

8601 ADELPHI ROAD  
OGIS  
COLLEGE PARK, MD  
20740-6001

web: [www.ogis.archives.gov](http://www.ogis.archives.gov)  
e-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
phone: 202-741-5770  
toll-free: 1-877-684-6448  
fax: 202-741-5769

Dear Ms. Manning:

This responds to your January 5, 2015 request for assistance from the Office of Government Information Services (OGIS), which we received via U.S. mail. Your request for assistance pertains to your records request to the Federal Bureau of Investigation (FBI).

Congress created OGIS to complement existing Freedom of Information Act (FOIA) practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

Please know that when an individual requests access to his or her own records, it is most often, but not always, considered a Privacy Act, or first-party, request. Privacy Act matters fall outside the scope of our office's mission as the Freedom of Information Act (FOIA) Ombudsman. However, many Privacy Act requests overlap with FOIA; therefore, OGIS provides ombuds services, including providing information about the process and the status of requests, to individuals requesting their own records. OGIS does not have a statutory role in reviewing policies, procedures and compliance with the Privacy Act as we do with FOIA.

You filed a request with the FBI for records about yourself. The FBI responded to your request by withholding all responsive records pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). You appealed this response, and the Department of Justice Office of Information Policy upheld the FBI's determination on your request.

Exemption 7(A) protects law enforcement records pertaining to a pending or prospective law enforcement investigation or proceeding when release of information could "reasonably be expected to interfere" with that investigation or enforcement proceeding, meaning it would cause some articulable harm. Courts have recognized specific harm that disclosure of records can cause a law enforcement proceeding, including the premature release of witness statements and potential documentary evidence.



Ms. Chelsea E. Manning  
February 24, 2015  
Page 2 of 2

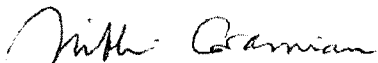
In your correspondence to OGIS, you cite the public and media interest in your legal situation. Please know that unlike some other FOIA exemptions, agencies withholding records pursuant to Exemption 7(A) are not required to balance public interest in the withheld records against privacy concerns.

Exemption 7(A) is temporal in nature and not intended to "endlessly protect material simply because it is in an investigatory file," according to the Department of Justice Guide to the Freedom of Information Act. Courts have ruled that Exemption 7(A) remains applicable throughout long-term law enforcement investigations. It may be helpful to know that as part of the appeals process on cases such as yours, OIP confirms that Exemption 7(A) is still applicable to the records sought at the time of the appeal.

While the FBI cannot provide information about when Exemption 7(A) may no longer apply to particular records, you may wish to file a new request for these records at some point in the future to see if 7(A)'s protections have been lifted. Please be aware that once Exemption 7(A) is no longer applicable to the records you seek, other FOIA exemptions may apply.

I hope you find this information useful in understanding why the FBI withheld the material it did in response to your request. At this time, there is no further assistance OGIS can offer. Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,



Nikki Gramian, Acting Director  
Office of Government Information Services (OGIS)

cc: Dennis Argall, FBI FOIA Public Liaison

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CHELSEA MANNING,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE and the  
FEDERAL BUREAU OF INVESTIGATION,

Defendants.

Case No. 1:15-cv-01654-APM

**STATEMENT OF MATERIAL FACTS  
AS TO WHICH THERE IS NO GENUINE ISSUE**

As required by Local Rule 7(h)(1), and in support of the Motion for Summary Judgment filed on behalf of the Department of Justice and the Federal Bureau of Investigation (“Defendants”), Defendants hereby make the following statement of material facts as to which there is no genuine issue:

1. Manning sent the FBI a document request dated February 20, 2015. *See* Declaration of David M. Hardy (“Hardy Decl.”), *attached to* Defendants’ Motion for Summary Judgment *as* Ex. 1, ¶ 6; Ex. A to Ex. 1.

2. Manning’s request sought records “of or relating to investigation conducted by the Washington Field Office of the Federal Bureau of Investigation and the U.S. Attorney’s Office of the Eastern District of Virginia into the alleged disclosures of classified and sensitive but unclassified information by Private First Class (PFC) Bradley E. Manning, beginning in late 2010 and continuing until an unknown date, but as late as mid-2012.” Hardy Decl. ¶ 6, Ex. A. Manning also sought records “of or relating to the investigation conducted by the Federal Bureau

of Investigation and the U.S. Attorney's Office of the Eastern District of Virginia into alleged civilian co-conspirators of the disclosures of information by Manning." Hardy Decl. ¶ 6, Ex. A.

3. The FBI responded to Manning's request in a letter dated March 7, 2014. *See* Hardy Decl. ¶ 7, Ex. B. The FBI informed Manning that her request "did not contain sufficient information to conduct an adequate search of the Central Records System" and requesting additional information. *See* Hardy Decl. ¶ 7, Ex. B.

4. Manning supplemented her request by letter dated March 18, 2014. *See* Hardy Decl. ¶ 8, Ex. C. Manning also modified her request to include records "of or relating to the investigation conducted by . . . the Department of Justice Counterepionage [sic] Section" into Manning's disclosures and records "of or relating to the investigation conducted by the Federal Bureau of Investigation and other agencies" into alleged co-conspirators. Hardy Decl. ¶ 8, Ex. C.

5. By letter dated March 21, 2014, the FBI acknowledged receipt of Manning's FOIA request and advised her that it was searching its records system for potentially responsive records. Hardy Decl. ¶ 9, Ex. D.

6. By letter dated April 3, 2014, the FBI denied Manning's request for expedited processing, explaining its conclusion that the topic of her request was not a matter "in which there exist possible questions about the government's integrity which affect public confidence." Hardy Decl. ¶ 10, Ex. E. The FBI also advised Manning that she could appeal this determination within sixty days from the date of the letter.

7. On April 8, 2014, the FBI conducted an index search of its Central Records System ("CRS"), which is a comprehensive system that includes administrative, applicant,

criminal, personnel, and other files compiled for law enforcement purposes. The FBI determined that its search of the CRS was likely to locate any responsive documents. Hardy Decl. ¶ 29, 33. The FBI searched the CRS for responsive main files records, using a six-way phonetic breakdown of Manning's names, including any variations of the first or last. The FBI also used Manning's date of birth, place of birth, her description of the relevant investigation and case number. Hardy Decl. ¶ 30. The FBI located potentially responsive investigative records; upon review and following communications with the Special Agent in charge of the investigation, the FBI concluded that the records were part of and related to pending enforcement proceedings. *Id.*

8. The FBI subsequently conducted an additional search for any cross references responsive to Manning's request using the same search terms used in its original search. Hardy Decl. ¶ 31. This search confirmed the results of the original search for main files and also identified additional responsive cross references. Review of the cross references revealed that they are also part of and related to pending enforcement proceedings. *Id.*

9. The FBI concluded that a separate search for records responsive to the second part of plaintiff's request (seeking records about the FBI's investigation of other individuals involved in the unauthorized disclosure of classified materials that were published on the WikiLeaks website) was unnecessary because those records were maintained in the same files containing the records responsive to the first part of plaintiff's request (for records about herself). Hardy Decl. ¶ 32.

10. The FBI determined that disclosure of the responsive records would adversely affect the FBI's pending investigation and any resulting prosecutions and that there was no reasonably segregable information. Hardy Decl. ¶ 38-48. The FBI also determined that the

records may be exempt, in whole or in part, under one or more other FOIA exemptions. Hardy Decl. ¶ 33.

11. By letter dated April 8, 2104, the FBI advised Manning that the information she requested was located in a pending investigative file exempt from disclosure pursuant to FOIA Exemption 7(A). The FBI also advised Manning that she could appeal this determination to the Department of Justice's Office of Information Policy ("OIP") within sixty days from the date of the letter. Hardy Decl. ¶ 11, Ex. F.

12. By letter dated April 11, 2014, Manning appealed the FBI's denial of her request for expedited processing to OIP. Hardy Decl. ¶ 12, Attachment G.

13. By letter dated April 17, 2014, Manning appealed the FBI's denial of her request pursuant to FOIA Exemption 7(A) to OIP and also challenged the FBI's failure to address her request for disclosure of the requested records under the Privacy Act. Hardy Decl. ¶ 13, Ex. H.

14. By letter dated April 29, 2014, OIP acknowledged receipt of Manning's appeal of the denial of expedited processing and advised Manning it was closing the appeal because the FBI had already responded to her request, rendering the expedited processing request moot. Hardy Decl. ¶ 14, Ex. I.

15. By letter dated May 7, 2014, OIP acknowledged receipt of Manning's April 17, 2104 appeal of the FBI's denial of her request pursuant to Exemption 7(A) and advised her that it would notify her of its decision as soon as possible. Hardy Decl. ¶ 15, Ex. J.

16. By letter dated August 7, 2014, OIP affirmed the FBI's action on Manning's request, determining that the FBI properly denied the request pursuant to Exemption 7(A) and that the records responsive to the request were exempt from the access provision of the Privacy

Act. Hardy Decl. ¶ 16, Exhibit K. OIP further advised Manning that she could file a lawsuit in federal district court and/or seek the mediation services of the Office of Government Information Services (“OGIS”) at the National Archives and Records Administration to resolve her dispute with the FBI. *Id.*

17. By letter dated January 5, 2015, Manning requested assistance from OGIS. Hardy Decl. ¶ 17, Ex. L.

18. By letter dated January 16, 2015, OGIS acknowledged receipt of Manning’s mediation services request. Hardy Decl. ¶ 18, Ex. M.

19. By letter dated February 24, 2015, OGIS responded to Manning’s mediation request and provided additional explanation about the application of Exemption 7(A). Hardy Decl. ¶ 19, Ex. N.

20. Manning filed the instant lawsuit on October 8, 2015. *See* ECF No. 1 (Complaint).

Dated: March 4, 2016

Respectfully submitted,

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

CHANNING D. PHILLIPS  
United States Attorney

ELIZABETH J. SHAPIRO  
Deputy Director

/s/ Aimee W. Brown  
AIMEE W. BROWN (IL Bar No. 6316922)  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch

20 Massachusetts Avenue, N.W.  
Washington, D.C. 20530  
Telephone: (202) 305-0845  
Fax: (202) 616-8470  
Email: Aimee.W.Brown@usdoj.gov

*Counsel for Defendants*



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CHELSEA MANNING,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE and the  
FEDERAL BUREAU OF  
INVESTIGATION,

Defendants.

Case No. 1:15-cv-01654-APM

**[PROPOSED] ORDER**

Upon consideration of Defendants' Motion for Summary Judgment, it is hereby  
ORDERED that Defendants' Motion for Summary Judgment is GRANTED.

Date: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE AMIT P. MEHTA  
UNITED STATES DISTRICT JUDGE