

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

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BARTON GELLMAN  
One Whitehall Street  
15th Floor  
New York, NY 10004,

Plaintiff,

v.

DEPARTMENT OF HOMELAND SECURITY  
Washington, D.C. 20528

DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

OFFICE OF THE DIRECTOR OF NATIONAL  
INTELLIGENCE  
Washington, D.C. 20511,

Defendants.

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Civil Action No.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Privacy Act (“PA”), 5 U.S.C. § 552a, for declaratory, injunctive, and other appropriate relief. Plaintiff Barton Gellman (“Plaintiff” or “Mr. Gellman”) is a Pulitzer Prize-winning veteran journalist. In connection with his reporting, Mr. Gellman has submitted requests under FOIA and the PA to each of the above-named agencies and components thereof seeking records concerning himself. Plaintiff is statutorily entitled to the disclosure of the records he has requested, and Defendants have improperly withheld them in violation of the law. Plaintiff, other members of the press, and the public have a powerful interest in timely obtaining

information regarding the nature and extent of the records held by government agencies concerning journalists like Mr. Gellman.

### **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this matter and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. § 552a(g). This Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

3. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. § 552a(g).

### **PARTIES**

4. Plaintiff is a reporter who has worked as a journalist and author covering the federal government and military, diplomatic, intelligence, national security, and legal affairs for 28 years. He has written regularly for national publications including *The Washington Post*, where he has been a national correspondent, and *TIME* Magazine. In addition, Mr. Gellman holds appointments as Lecturer at the Woodrow Wilson School of Public and International Affairs and Author in Residence at the Center for International Security Studies at Princeton University. Mr. Gellman is currently also a Senior Fellow at The Century Foundation. His office is located at One Whitehall Street, 15th Floor, New York, NY 10004.

5. Defendant United States Department of Homeland Security (“DHS”) is an agency of the federal government within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 702 that has possession, custody, and/or control of records that Plaintiff seeks. The Office of Intelligence and Analysis (“OIA”) and the Transportation Security Administration (“TSA”) are components of DHS.

6. Defendant United States Department of Justice (“DOJ”) is an agency of the federal government within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 702 that has

possession, custody, and/or control of records that Plaintiff seeks. The Federal Bureau of Investigation (“FBI”) is a component of DOJ.

7. Defendant Office of the Director of National Intelligence (“ODNI”) is an agency of the federal government within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 702 that has possession, custody, and/or control of records that Plaintiff seeks.

## **FACTS**

### **Background**

8. Mr. Gellman is an award-winning journalist who has covered the federal government, and national security and legal affairs since 1988. During the course of his career, Mr. Gellman has met with and interviewed numerous top-level officials in the U.S. government, communicated with public affairs officers at dozens of federal agencies, including Defendants, and written numerous stories about the federal government for national publications.

9. From 1989 until 2010, Mr. Gellman was a reporter for *The Washington Post*, where he worked as a legal, diplomatic, military, and foreign correspondent. Mr. Gellman has continued to report for *The Washington Post* since 2010.

10. In 1999, Mr. Gellman was a finalist for the Pulitzer Prize in the beat reporting category and a finalist for the Goldsmith Investigative Reporting Prize for his work covering the United Nations Special Commission’s efforts to disarm Iraq.

11. In 2002, Mr. Gellman was a member of *The Washington Post* reporting team that won the Pulitzer Prize for national reporting for its coverage of the war on terrorism.

12. In 2004, Mr. Gellman was a finalist for the Pulitzer Prize in the beat reporting category for his work covering the search for weapons in Iraq.

13. In 2008, Mr. Gellman shared the Pulitzer Prize in the national reporting category and the Goldsmith Investigative Reporting Prize with Jo Becker for their series of articles published in *The Washington Post* on the influence of former Vice President Dick Cheney. That series also received the 2007 George Polk Award for political reporting. Mr. Gellman's book *Angler: The Cheney Vice Presidency* won the *Los Angeles Times* Book Prize in 2008 and was selected by *The New York Times* and *The Washington Post* as a best book of 2008.

14. In 2014, Mr. Gellman was a member of *The Washington Post* reporting team that won the Pulitzer Prize for public service for its coverage of surveillance by the National Security Agency. Mr. Gellman also won the 2013 George Polk Award for national security reporting for his stories on that same topic.

15. Mr. Gellman is currently working on a book, to be published by Penguin Press, as well as news stories for a number of publications, that report on the U.S. government's collection and use of data and other information relating to journalists like himself.

16. The government's collection and use of information concerning journalists is a matter of significant public concern and implicates important constitutional, statutory, and regulatory protections for newsgathering and reporting. For example, the Privacy Protection Act of 1980, 42 U.S.C. § 2000aa, generally prohibits government officers and employees investigating crimes from searching or seizing work product or documentary materials "possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication." Similarly, in recognition of the detrimental, chilling effect caused by government intrusion into the newsgathering process, the DOJ has issued guidelines limiting the use of subpoenas and warrants to obtain records of or

belonging to journalists, including records obtained from third-party communications service providers. *See* 28 C.F.R. § 50.10.

17. Beginning in January 2015, Mr. Gellman submitted requests pursuant to FOIA and the PA to a number of federal agencies whom he reasonably believed possessed records concerning him, including the agencies named as defendants in this Complaint (hereinafter, collectively, the “FOIA/PA Requests”).

18. Each of the FOIA/PA Requests sought copies of all agency records that mention Mr. Gellman’s name. In order to assist the responding agencies in conducting a search for responsive records, each of the FOIA/PA Requests included additional information about Mr. Gellman and his career as a journalist.

19. In each of the FOIA/PA Requests, Mr. Gellman asked for expedited processing. Mr. Gellman informed each responding agency, among other things, that the requested records were related to an impending deadline for a *Washington Post* story on “surveillance of investigative journalists,” and for a book chapter on the same topic.

20. Each of the FOIA/PA Requests also included a request for a fee benefit as a representative of the news media as well as a request for a fee waiver. Mr. Gellman stated in each of the FOIA/PA Requests that the request was being made “in support of a newsgathering operation,” and informed each agency that he would be using any information released in a news story. Mr. Gellman further wrote that “release of this information is in the public interest because it will contribute significantly to public understanding of the operations or activities of the government.”

21. In each of the FOIA/PA Requests, Mr. Gellman certified that the facts stated in his request, including the statements concerning the need for expedited processing, were true and correct to the best of his knowledge and belief.

22. Mr. Gellman's FOIA/PA Requests for all records that mention his name seek records directly relevant to his reporting on government information-gathering as it relates to investigative journalists. Since Mr. Gellman is a well-known and well-respected investigative journalist with a decades-long career covering stories related to national security and privacy, government records that mention Mr. Gellman's name would inform his reporting on this important issue.

23. Mr. Gellman submitted a total of 12 of the FOIA/PA Requests to Defendants that are at issue in this case.

**Plaintiff's FOIA/PA Requests to the Department of Homeland Security**

*Plaintiff's FOIA/PA Requests to DHS Headquarters*

24. On July 6, 2015, Mr. Gellman sent three FOIA/PA requests (collectively, the "DHS HQ Request") via electronic mail to the Office of the General Counsel, Office of Legislative Affairs, and Office of Public Affairs, respectively, at the Department of Homeland Security. The contents of those requests are described in Paragraphs 17–22 of this Complaint. Mr. Gellman included a copy of Form DOJ-361 for identification purposes in order to facilitate processing of those requests pursuant to the PA. True and correct copies of the three requests which, collectively, constitute the DHS HQ Request are attached as Exhibit A and are incorporated by reference herein.

25. The DHS HQ Request complied with all applicable agency regulations regarding submitting FOIA requests.

26. By letter dated July 15, 2015, Jimmy Wolfrey, a FOIA Program Specialist at DHS, sent a letter acknowledging Mr. Gellman's requests. Mr. Wolfrey construed the DHS HQ Request as seeking eight broad categories of records, and determined that it was "too broad in scope."

27. On July 27, 2015, Mr. Gellman, through counsel, sent a letter by electronic mail clarifying his request. The letter stated: "Pursuant to the FOIA and PA, Mr. Gellman requested that you conduct a search for *all* records that mention his name. The additional information included in Mr. Gellman's request, which you referred to in your letter as Items 1-8, is background information that Mr. Gellman included in order to assist you in conducting your search and locating responsive records. These items do not constitute independent record requests."

28. On August 3, 2015, Mr. Gellman, through counsel, re-sent the July 27 letter via facsimile, as requested by the DHS Privacy Office.

29. On August 10, 2015, Mr. Gellman, through counsel, re-sent the July 27 letter via electronic mail, as requested by the DHS Privacy Office.

30. On August 10, 2015, the DHS Privacy Office responded via electronic mail that Mr. Gellman's clarification of his request "does not narrow the search area and can delay the response time."

31. On August 12, 2015, counsel for Mr. Gellman spoke with Mr. Wolfrey by telephone regarding Mr. Gellman's requests. Mr. Wolfrey requested that Mr. Gellman designate certain systems of records for DHS to search in response to the DHS HQ Request.

32. In response to Mr. Wolfrey's request, on August 26, 2015, Mr. Gellman, through counsel, submitted a letter designating eight systems of records for DHS to search.<sup>1</sup> In the letter, Mr. Gellman requested that DHS search the following systems of records, all of which appear on the DHS Privacy Act website listing the DHS systems of records: MSPB/GOVT-1, OPM/GOVT-2, OPM/GOVT-3, DHS/ALL-001, DHS/ALL-002, DHS/ALL-005, DHS/ALL-016, and DHS/ALL-029.

33. Thereafter, in a letter dated September 16, 2016 sent directly to Mr. Gellman via email, Mr. Wolfrey stated: "After discussing your FOIA/PA request with your Counsel via phone on August 12, 2015, we received an email, dated August 26, 2015, that contained additional information."

34. Mr. Wolfrey's September 16, 2015 letter further stated that Mr. Gellman would need to submit his request to separate FOIA offices within other agencies with respect to the MSPB/GOVT-1, OPM/GOVT-2 and OPM/GOVT-3 systems of records.

35. With respect to DHS/ALL-001 and DHS/ALL-0016, the September 16, 2015 letter stated that DHS was "unable to locate or identify any responsive records."

36. With respect to DHS/ALL-005, the September 16, 2015 letter stated that the request had already been "referred to TSA for processing and direct response to you" and therefore that DHS would take no further action.

37. With respect to DHS/ALL-002 and DHS/ALL-017, the September 16, 2015 letter stated that "we have queried the appropriate component(s) of DHS for responsive records."

38. With respect to DHS/ALL-029, the September 16, 2015 letter stated that "if such records exist, they may be under the purview of Civil Rights and Civil Liberties (CRCL), a DHS

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<sup>1</sup> A complete list of the DHS Systems of Records can be found at Department of Homeland Security Systems of Records Notices, <http://www.dhs.gov/system-records-notices-sorns>.



component.” As a result, Mr. Wolfrey referred the DHS HQ Request to CRCL for further action.

39. On September 22, Mr. Gellman, through counsel, via U.S. Mail, submitted an administrative appeal regarding the failure of DHS to conduct an adequate search as to DHS/ALL-001 and DHS/ALL-016 as well as the failure of DHS to make a timely determination as to searches of DHS/ALL-002, DHS/ALL-005, DHS/ALL-017, and DHS/ALL-029. The administrative appeal further stated that DHS had failed to make a timely determination as to Mr. Gellman’s request for expedited processing and reiterated his request for a fee waiver.

40. On October 19, 2015, Mr. Gellman, through counsel, approached OGIS for assistance regarding the DHS HQ Request and appeal. Mr. Gellman’s request for OGIS assistance was assigned Case No. 201600099.

41. By letter dated December 22, 2015, the United States Coast Guard Office of the Chief Administrative Law Judge (“ALJ”) responded to Mr. Gellman’s appeal. The ALJ upheld the adequacy of DHS’s search of DHS/ALL-001 and DHS/ALL-016. The ALJ directed the Privacy Office to consider whether Mr. Gellman’s request is entitled to expedited processing and/or a fee waiver.

42. On February 26, 2016, OGIS closed Case No. 201600099.

43. As of the date of this Complaint, it has been 187 business days since the DHS HQ Request was submitted. No responsive records have been produced by DHS.

*Plaintiff’s FOIA/PA Requests to the Office of Intelligence and Analysis*

44. On January 15, 2015, Mr. Gellman sent a FOIA/PA request (the “First OIA Request”) via U.S. Mail to the Office of Intelligence & Analysis (“OIA”). The contents of the First OIA Request, which was dated January 14, 2015, are described in Paragraphs 17–22 of this

Complaint. Mr. Gellman included a copy of Form DOJ-361 for identification purposes in order to facilitate processing of his request pursuant to the PA.

45. By electronic mail dated January 30, 2015, Priscilla Waters, FOIA Officer at OIA, acknowledged Mr. Gellman's request and notified Mr. Gellman that his requests for expedited processing and for a fee waiver had been granted.

46. By electronic mail dated February 6, 2015, Ms. Waters notified Mr. Gellman that OIA was "unable to locate or identify any responsive records" in response to the First OIA Request.

47. On July 6, 2015, Mr. Gellman sent a FOIA/PA request (the "Second OIA Request") via electronic mail to the OIA. The Second OIA Request was substantially the same as the First OIA Request. A true and correct copy of the Second OIA Request is attached as Exhibit B and is incorporated by reference herein.

48. By electronic mail dated July 23, 2015, Ms. Waters acknowledged Mr. Gellman's request and notified Mr. Gellman that his request for expedited processing had been denied because he "failed to demonstrate a particular urgency to inform the public about the government activity involved in the request." The acknowledgment letter appeared to misunderstand the request, and construed Mr. Gellman's request as a request for eight separate categories of records.

49. The acknowledgment letter did not make a determination as to Mr. Gellman's request for news media requestor fee status or for a fee waiver.

50. On July 27, 2015, Mr. Gellman submitted, through counsel, via electronic mail, a letter clarifying that the "additional information included in Mr. Gellman's request, which [Ms.

Waters] referred to in [her] letter as Questions 1–8, is background information . . . . These items do not constitute independent record requests.”

51. By electronic mail dated July 28, 2015, Ms. Waters issued a final response to the Second OIA Request. Ms. Waters stated that, to the extent records responsive to the Second OIA Request exist, such records are “totally exempt from the access provision of the Privacy Act of 1974 pursuant to 5 U.S.C. §§ 552a(k)(2) in conjunction with 6 C.F.R. Part 5, App. C.” Ms. Waters further wrote that “the fact of the existence or nonexistence of records pertaining to your request would be exempted from disclosure pursuant to 50 U.S.C. § 3024(i) and 6 U.S.C. § 121(d)(11).”

52. On August 18, 2015, Mr. Gellman submitted, through counsel, via U.S. Mail, an administrative appeal regarding the failure of OIA to conduct an adequate search and to properly segregate and produce non-exempt material in response to the Second OIA Request. Mr. Gellman appeal stated that OIA’s “claim that it possesses only records that are exempt from disclosure is all the more troubling because just months ago, in response to an earlier request by Mr. Gellman for records that pertain to him, [OIA] claimed that it was ‘unable to locate or identify any responsive records.’”

53. On October 19, 2015, Mr. Gellman, through counsel, approached OGIS for assistance regarding the Second OIA Request and appeal. Mr. Gellman’s request for OGIS assistance was combined with his request for OGIS assistance regarding his DHS HQ Request and appeal, and was assigned Case No. 201600099.

54. On February 26, 2016, OGIS informed counsel for Mr. Gellman that the Privacy Office had sent Mr. Gellman’s appeal to the U.S. Coast Guard’s Administrative Law Judge

(ALJ) on December 4, 2015, and had not received a decision regarding that appeal, and closed Case No. 201600099.

55. By letter dated March 16, 2016, the ALJ responded to Mr. Gellman's appeal. The ALJ upheld OIA's response.

56. As of the date of this Complaint, it has been 187 business days since the Second OIA Request was submitted. No responsive records have been produced by OIA.

*Plaintiff's FOIA/PA Request to the Transportation Security Administration*

57. On January 15, 2015, Mr. Gellman sent a FOIA/PA request (the "TSA Request") to the Transportation Security Administration ("TSA") via U.S. mail. The contents of the TSA Request are described in Paragraphs 17–22 of this Complaint. Mr. Gellman included a copy of Form DOJ-361 for identification purposes in order to facilitate processing of his request pursuant to the PA. A true and correct copy of the TSA Request is attached as Exhibit C and is incorporated by reference herein.

58. The TSA Request complied with all applicable agency regulations regarding submitting FOIA requests.

59. Mr. Gellman did not receive any correspondence acknowledging receipt of the TSA Request.

60. On June 24, 2015, Mr. Gellman submitted, through counsel, via U.S. Mail, an administrative appeal regarding the TSA Request. The appeal stated that the TSA had failed to make a determination regarding Mr. Gellman's request within the statutory time limit.

61. On September 15, 2015, Kimberly Walton, Assistant Administrator for Civil Rights and Liberties, Ombudsman and Traveler Engagement, responded to Mr. Gellman's appeal. The response stated: "As the FOIA Office has not taken any final action on your request

there is no administratively appealable action for review at this time.” The response further stated that TSA anticipated making a release determination within 45 days.

62. On October 19, 2015, Mr. Gellman, through counsel, approached OGIS for assistance regarding this request and appeal. Mr. Gellman’s request for OGIS assistance was assigned Case No. 201600107.

63. On December 7, 2015, Regina McCoy, FOIA Officer, responded to Mr. Gellman’s request. Ms. McCoy’s letter enclosed ten pages of responsive documents. Ms. McCoy did not inform Mr. Gellman regarding whether or how many documents were withheld in full pursuant to any claimed exemptions.

64. On December 15, 2015, OGIS informed counsel for Mr. Gellman that the TSA expected to respond to Mr. Gellman’s request shortly, and closed Case No. 201600107.

65. On January 5, 2016, Mr. Gellman submitted, through counsel, via U.S. Mail, an administrative appeal (the “Second TSA Appeal”) regarding the failure of TSA to conduct an adequate search and to properly segregate and produce non-exempt material. Mr. Gellman reiterated his request that TSA inform him of its legal basis for withholding any records, and noted that TSA did not disclose whether it was withholding any records in full pursuant to any claimed exemption.

66. Mr. Gellman also appealed from the TSA’s finding that parts of the records it produced are properly exempt pursuant to Exemption 3. Mr. Gellman challenged TSA’s assertion that certain parts of the records that pertain to Mr. Gellman are exempt because disclosure of information that would “be detrimental to the security of transportation” is prohibited. 49 U.S.C. § 114(r).

67. As of the date of this Complaint, no further communication has been received by Mr. Gellman regarding either the TSA Request or his administrative appeal.

68. As of the date of this Complaint, it has been 304 business days since the TSA Request was submitted, and 61 business days since the Second TSA Appeal was submitted. No responsive records have been produced by TSA.

**Plaintiff's FOIA/PA Requests to the Department of Justice**

*Plaintiff's FOIA/PA Requests to the Federal Bureau of Investigation*

69. On January 15, 2015, Mr. Gellman sent a FOIA/PA request, (the "First FBI Request") to the Federal Bureau of Investigation ("FBI") via U.S. Mail. The contents of the First FBI Request, which was dated January 14, 2015, are described in Paragraphs 17–22 of this Complaint. Mr. Gellman included a copy of Form DOJ-361 for identification purposes in order to facilitate processing of his request pursuant to the PA. A true and correct copy of the First FBI Request is attached as Exhibit D and is incorporated by reference herein.

70. The First FBI Request complied with all applicable agency regulations regarding submitting FOIA requests.

71. By letter dated January 27, 2015, David M. Hardy, Section Chief of the Record/Information Dissemination Section of the Records Management Division of the FBI, confirmed receipt of the First FBI Request by mail and informed Mr. Gellman that his request for a fee waiver was being considered.

72. By letter dated January 27, 2015, Mr. Hardy sent, via U.S. Mail, a letter denying Mr. Gellman's request for expedited processing. The January 27 letter stated that Mr. Gellman had not "provided enough information proving 'an urgency to inform the public about an actual or alleged federal government activity . . . .'"

73. The FBI did not make a determination as to Mr. Gellman's request for news media requestor fee status or for a fee waiver.

74. On February 12, 2015, Mr. Gellman appealed the denial of expedited processing to the Director of the Office of Information Policy ("OIP") at the DOJ.

75. By email dated March 16, 2015, Sean R. O'Neill, Chief of the Administrative Appeals Staff at the OIP, denied Mr. Gellman's appeal of the denial of expedited processing of his request.

76. On June 24, 2015, Mr. Gellman submitted, through counsel, via U.S. Mail, an administrative appeal (the "First FBI Appeal") to the OIP regarding the First FBI Request. The appeal stated that the FBI had failed to make a determination regarding Mr. Gellman's request within the statutory time limit.

77. On July 13, 2015, Mr. O'Neill responded to Mr. Gellman's administrative appeal. The response stated: "Department of Justice regulations provide for an administrative appeal . . . only after there has been an adverse determination by a component." The letter further stated that the FBI's failure to respond to Mr. Gellman's request did not constitute an adverse determination and that OIP therefore could not consider the appeal.

78. On July 6, 2015, Mr. Gellman sent a second FOIA/PA request (the "Second FBI Request") to the FBI via electronic mail. The contents of the Second FBI Request are described in Paragraphs 17–22 of this Complaint. Mr. Gellman specified that the FBI should search the Central Records System, ELSUR, Bureau mailing lists, and N-DEx. A true and correct copy of the Second FBI Request is attached as Exhibit E and is incorporated by reference herein.

79. On August 18, 2015, Mr. Gellman submitted, through counsel, via U.S. Mail, an administrative appeal (the "Second FBI Appeal") to the OIP regarding the Second FBI Request.

The appeal stated that the FBI had failed to make a determination regarding Mr. Gellman's request within the statutory time limit.

80. On September 15, 2015, Mr. O'Neill responded to the Second Administrative Appeal. The response stated: "Department of Justice regulations provide for an administrative appeal . . . only after there has been an adverse determination by a component." The letter further stated that the FBI's failure to respond to Mr. Gellman's request did not constitute an adverse determination and that OIP therefore could not consider the Second Administrative Appeal. The OIP informed Mr. Gellman's counsel that the Second FBI Request "is being considered supplemental" to the First FBI Request.

81. On October 19, 2015, Mr. Gellman, through counsel, approached OGIS for assistance regarding his requests and appeals. Mr. Gellman's request for OGIS assistance was assigned Case No. 201600103.

82. On November 16, 2015, OGIS informed counsel for Mr. Gellman that his requests had been placed in the FBI's "medium" queue and that the FBI estimated that it would complete processing the requests within six months. OGIS closed Case No. 201600103.

83. As of the date of this Complaint, it has been 304 business days since the First FBI Request was submitted. It has been 187 business days since the Second FBI Request was submitted. No responsive records have been produced by the FBI.

*Plaintiff's FOIA/PA Request to the Criminal Division*

84. On March 16, 2015, Mr. Gellman sent a FOIA/PA request (the "CRM Request") to the Criminal Division via electronic mail. The contents of the CRM Request are described in Paragraphs 17-22 of this Complaint. Mr. Gellman included a copy of Form DOJ-361 for identification purposes in order to facilitate processing of his request pursuant to the PA. A true



and correct copy of the CRM Request is attached as Exhibit F and is incorporated by reference herein.

85. The CRM Request complied with all applicable agency regulations regarding submitting FOIA requests.

86. By letter dated April 22, 2015, Kenneth Courter, Chief of the FOIA/PA Unit at the Criminal Division, confirmed receipt of Mr. Gellman's FOIA/PA request. Mr. Courter wrote that Mr. Gellman's request presented "unusual circumstances" that required the Criminal Division to conduct a search in other offices and therefore to extend the time for the search "beyond the ten additional days provided by the statute." In that acknowledgment letter, the Criminal Division also granted Mr. Gellman's request for expedited processing.

87. The acknowledgment letter did not make a determination as to Mr. Gellman's request for news media requestor fee status or for a fee waiver.

88. On May 28, 2015, the Criminal Division informed Mr. Gellman, via electronic mail, that it had identified one record responsive to the CRM Request and had referred that record to the OIP.

89. On June 11, 2015, OIP informed Mr. Gellman that it was "consulting" with the Offices of the Attorney General and Public Affairs regarding the disclosure of the one record that the Criminal Division had referred to OIP.

90. On June 24, 2015, Mr. Gellman submitted, through counsel, via U.S. Mail, an administrative appeal to the OIP regarding the CRM Request (the "First CRM Appeal"). The appeal stated that the Criminal Division had failed to conduct an adequate search and had failed to make a determination regarding Mr. Gellman's request within the statutory time limit.

91. On July 10, 2015, Mr. O'Neill responded to Mr. Gellman's appeal. Mr. O'Neill determined that the OIP's referral was proper and the Criminal Division's search was adequate and reasonable.

92. On October 19, 2015, Mr. Gellman, through counsel, approached OGIS for assistance regarding this request and appeal. Mr. Gellman's request for OGIS assistance was combined with his other requests to the DOJ and was assigned Case No. 201600101.

93. On January 7, 2016, Vanessa R. Brinkmann, Senior Counsel at OIP, responded to Mr. Gellman's CRM request as well as his OPA Request, as alleged in Paragraph 105 below. Concerning the CRM Request, Ms. Brinkmann noted that OIP had determined that the Criminal Division had conducted an adequate search. Ms. Brinkmann also noted that OIP had finished its review of twelve pages of material referred to it by the Criminal Division, and that OIP had determined that the twelve pages must be withheld in full pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5).

94. On January 19, 2016, OGIS closed Case No. 201600101.

95. On March 7, 2016, Mr. Gellman, submitted, through counsel, via the OIP's FOIAonline portal, an administrative appeal to the OIP regarding the CRM Request as well as the OPA Request (the "Second CRM Appeal"). Concerning the CRM Request, Mr. Gellman appealed the OIP's determination that the responsive records are entirely exempt from disclosure under Exemption 5 because they are protected by the deliberative process privilege.

96. As of the date of this Complaint, it has been 264 business days since the CRM Request was submitted. No responsive records have been produced by the Criminal Division.

*Plaintiff's FOIA/PA Request to the Office of Public Affairs*

97. On March 16, 2015, Mr. Gellman sent a FOIA/PA request (the "OPA Request") to the Office of Public Affairs via electronic mail. The contents of the OPA Request are described in Paragraphs 17–22 of this Complaint. Mr. Gellman included a copy of Form DOJ-361 for identification purposes in order to facilitate processing of his request pursuant to the PA. A true and correct copy of the OPA Request is attached as Exhibit G and is incorporated by reference herein.

98. The OPA Request complied with all applicable agency regulations regarding submitting FOIA requests.

99. On March 26, 2015, Vanessa R. Brinkmann, Senior Counsel at OIP, confirmed receipt of Mr. Gellman's FOIA/PA request by email. Ms. Brinkmann wrote that Mr. Gellman's request presented "unusual circumstances" that required OPA to conduct a search in another office and therefore to extend the time for the search. In that acknowledgment letter, OPA also granted Mr. Gellman's request for expedited processing.

100. The acknowledgment letter did not make a determination as to Mr. Gellman's request for news media fee requestor status or for a fee waiver.

101. On June 24, 2015, Mr. Gellman submitted, through counsel, via U.S. Mail, an administrative appeal to the OIP regarding the OPA Request. The appeal stated that the OPA had failed to make a determination regarding Mr. Gellman's request within the statutory time limit.

102. On July 13, 2015, OIP responded to the administrative appeal. The response stated: "Department of Justice regulations provide for an administrative appeal . . . only after there has been an adverse determination by a component." The letter further stated that the

OPA's failure to respond to Mr. Gellman's request did not constitute an adverse determination and that OIP therefore could not consider the administrative appeal.

103. On October 19, 2015, Mr. Gellman, through counsel, approached OGIS for assistance regarding this request and appeal. Mr. Gellman's request for OGIS assistance was combined with his other requests to the DOJ and was assigned Case No. 201600101.

104. On December 2, 2015, Mr. Gellman and Douglas Hibbard of OIP communicated via electronic mail regarding his request. Mr. Gellman agreed that his request may be bifurcated, with substantive records concerning Mr. Gellman ("Category 1" records) provided within one month, and records consisting of news articles by Mr. Gellman ("Category 2" records) provided within three months.

105. On January 7, 2016, Vanessa R. Brinkmann, Senior Counsel at OIP, responded to Mr. Gellman's OPA Request as well as the CRM Request. Concerning the OPA Request, Ms. Brinkmann noted that OIP had located five records, totaling 100 pages, responsive to Mr. Gellman's request for Category 1 records. Ms. Brinkmann also noted that OIP had determined that all responsive documents should be withheld in full pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). Finally, Ms. Brinkmann informed Mr. Gellman that OIP was continuing to process the remainder of the Category 1 records, which numbered ten documents totaling twenty-nine pages.

106. On January 19, 2016, OGIS closed Case No. 201600101.

107. On March 7, 2016, Mr. Gellman, submitted, through counsel, via the OIP's FOIAonline portal, an administrative appeal to the OIP regarding the OPA Request as well as the CRM Request. Concerning the OPA Request, Mr. Gellman appealed the adequacy of OIP's

search, as well as its determination that the responsive records are entirely exempt from disclosure because they are protected by the deliberative process privilege.

108. As of the date of this Complaint, it has been 264 business days since the OPA Request was submitted. No responsive records have been produced by the Office of Public Affairs.

*Plaintiff's FOIA/PA Request to the National Security Division*

109. On January 15, 2015, Mr. Gellman sent a FOIA/PA request (the "NSD Request") to the National Security Division via electronic mail. The contents of the NSD Request are described in Paragraphs 17–22 of this Complaint. Mr. Gellman included a copy of Form DOJ-361 for identification purposes in order to facilitate processing of his request pursuant to the PA.

110. The NSD Request complied with all applicable agency regulations regarding submitting FOIA requests.

111. On February 12, 2015, Mr. Gellman resubmitted the above-referenced request to the NSD. A true and correct copy of the NSD Request is attached as Exhibit H and is incorporated by reference herein.

112. On February 25, 2015, Arnetta Mallory, Section Chief of the Record/Information Dissemination Section of the Records Management Division of the NSD, informed Sam Adler-Bell, Mr. Gellman's research assistant, that the NSD would not process Mr. Gellman's February 12, 2015 request because it was a duplicate of his January 15, 2015 request.

113. On March 9, 2015, Ms. Mallory confirmed receipt of the NSD Request by U.S. Mail. In that letter, Ms. Mallory denied Mr. Gellman's request for expedited processing and his request for a fee waiver.

114. On June 24, 2015, Mr. Gellman submitted, through counsel, via U.S. Mail, an administrative appeal to the OIP regarding the NSD Request. The appeal stated that the National Security Division had failed to make a determination regarding Mr. Gellman's request within the statutory time limit. Mr. Gellman also reiterated his request for a fee benefit as a member of the news media.

115. On September 9, 2015, OIP responded to the administrative appeal. The response stated: "Department of Justice regulations provide for an administrative appeal . . . only after there has been an adverse determination by a component." The letter further stated that the National Security Division's failure to respond to Mr. Gellman's request did not constitute an adverse determination and that OIP therefore could not consider the administrative appeal. With respect to Mr. Gellman's appeal of his fee status, OIP stated: "If in the future NSD assesses fees in connection with the processing of your request, you may renew your request to be classified as a representative of the news media for fee purposes."

116. On October 19, 2015, Mr. Gellman, through counsel, approached OGIS for assistance regarding this request and appeal. Mr. Gellman's request for OGIS assistance was combined with his other requests to the DOJ and was assigned Case No. 201600101.

117. On December 3, 2015, Ms. Mallory informed Mr. Gellman, via electronic mail, that the NSD had granted Mr. Gellman's request for expedited processing and a fee waiver on March 25, 2015.

118. On January 19, 2016, OGIS informed Mr. Gellman that the NSD was coordinating with another office in a search for responsive documents and was unable to provide an estimated date of completion for Mr. Gellman's request. OGIS closed Case No. 201600101.

119. As of the date of this Complaint, it has been 304 business days since the NSD Request was submitted. No responsive records have been produced by the National Security Division.

**Plaintiff's FOIA/PA Request to the Office of the Director of National Intelligence**

120. On January 15, 2015, Mr. Gellman sent a FOIA/PA request (the "ODNI Request") to the Office of the Director of National Intelligence ("ODNI") via U.S. Mail. The contents of the ODNI Request, which was dated January 14, 2015, are described in Paragraphs 17–22 of this Complaint. Mr. Gellman included a copy of Form DOJ-361 for identification purposes in order to facilitate processing of his request pursuant to the PA. A true and correct copy of the ODNI Request is attached as Exhibit I and is incorporated by reference herein.

121. The ODNI Request complied with all applicable agency regulations regarding submitting FOIA requests.

122. By letter dated February 5, 2015, Jennifer Hudson, Director of the Information Management Division of ODNI, confirmed receipt of the ODNI Request by U.S. Mail. In that letter, Ms. Hudson denied Mr. Gellman's request for expedited processing. Ms. Hudson also noted that ODNI "may be unable to provide a response" within FOIA's statutory deadline.

123. On February 12, 2015, Mr. Gellman submitted, via U.S. Mail, an administrative appeal to the ODNI (the "ODNI Appeal") regarding the denial of expedited processing for the ODNI Request.

124. Mr. Gellman has received no correspondence or communications from ODNI regarding the ODNI Appeal.

125. On January 14, 2016, Sally Nicholson, an ODNI employee, and Mr. Gellman spoke by phone regarding the ODNI Request.

126. By letter dated January 28, 2016, Ms. Hudson provided Mr. Gellman with an interim response to his request under the Privacy Act. Ms. Hudson informed Mr. Gellman that ODNI had searched its Security, Personnel, and Human Resources files and located no records responsive to his request.

127. Ms. Hudson further stated that ODNI denied Mr. Gellman's request for "classified intelligence files." Ms. Hudson stated that the "fact of the existence or nonexistence of requested records is currently and properly classified," and neither confirmed nor denied that such records may or may not exist.

128. Ms. Hudson further stated that ODNI had begun its search and review of the following categories of information: (1) All documents or emails that contain reactions to, or conversations about, Mr. Gellman and/or Mr. Gellman's articles; (2) emails that concern planning/guidance instructions regarding Mr. Gellman's reporting; (3) Damage Assessments made due to Mr. Gellman's reporting; (4) policy changes made due to Mr. Gellman's reporting.

129. Ms. Hudson notified Mr. Gellman that he would be provided appeal rights when ODNI sent its final response to him.

130. On March 21, 2016, Mr. Gellman received 560 pages of records from the United States Air Force in response to a separate FOIA request not at issue in this case. The records Mr. Gellman received indicate that ODNI possesses records responsive to the ODNI Request.

131. As of the date of this Complaint, it has been 304 business days since the ODNI Request was submitted. No responsive records have been produced by ODNI.



**CAUSES OF ACTION**

**Count I**

**(All Defendants)**

**Violation of FOIA for Failure to Comply with Statutory Deadlines**

132. Mr. Gellman repeats and re-alleges the foregoing paragraphs.

133. Defendants are agencies subject to FOIA.

134. Mr. Gellman properly asked for records within the custody and control of Defendants.

135. Defendants have failed to process the Requests as soon as practicable. 5 U.S.C. § 552(a)(6)(E)(iii).

136. Defendants failed to make a determination with respect to all Requests within the 20 working day deadline required by FOIA. 5 U.S.C. § 556(a)(6)(A).

137. Defendant DHS failed to make an adequate determination with respect to the TSA Request by failing to inform Mr. Gellman of the scope of the documents that the TSA withheld under any FOIA exemptions.

138. Mr. Gellman has exhausted and/or is deemed to have exhausted the applicable administrative remedies with respect to his requests and administrative appeals. 5 U.S.C. § 552(a)(6)(C)(i).

**Count II**

**(All Defendants)**

**Violation of FOIA for Wrongful Withholding of Agency Records**

139. Mr. Gellman repeats and re-alleges the foregoing paragraphs.

140. Mr. Gellman properly asked for records within the custody and control of Defendants.

141. Defendants have failed to make responsive records available to Mr. Gellman, in violation of FOIA. 5 U.S.C. § 552(a)(3)(A).

142. Mr. Gellman has exhausted and/or is deemed to have exhausted the applicable administrative remedies with respect to his requests. 5 U.S.C. § 552(a)(6)(C)(i).

### **Count III**

#### **(All Defendants)**

#### **Violation of FOIA for Failure to Conduct a Reasonable Search**

143. Mr. Gellman repeats and re-alleges the foregoing paragraphs.

144. Mr. Gellman properly asked for records within the custody and control of Defendants.

145. Defendant DHS failed to conduct a proper search in responding to the OIA Request by failing to identify any records that are not exempt from disclosure.

146. Defendant DHS failed to conduct a proper search in responding to the TSA Request by failing to conduct a search reasonably calculated to uncover all relevant documents.

147. Defendant DOJ failed to conduct a proper search in responding to the CRM Request by failing to identify any records that are not exempt from disclosure.

148. Defendant DOJ failed to conduct a proper search in responding to the OPA Request by failing to identify any records that are not exempt from disclosure.

149. Defendant ODNI failed to conduct a proper search in responding to the ODNI Request by failing to identify any records that are not exempt from disclosure.

150. Defendants' failure to conduct a proper search in response to the above-referenced requests violates their respective obligations under FOIA. 5 U.S.C. § 552(a)(3).

151. Mr. Gellman has exhausted and/or is deemed to have exhausted the applicable administrative remedies with respect to his requests. 5 U.S.C. § 552(a)(6)(C)(i).

#### **Count IV**

#### **(Defendants DHS and DOJ)**

#### **Violation of FOIA for Failure to Segregate and Produce Non-Exempt Material**

152. Mr. Gellman repeats and re-alleges the foregoing paragraphs.

153. Mr. Gellman properly asked for records within the custody and control of Defendant.

154. Defendant DHS failed to segregate and produce non-exempt material in response to the OIA Request.

155. Defendant DHS failed to segregate and produce non-exempt material in response to the TSA Request.

156. Defendant DOJ failed to segregate and produce non-exempt material in response to the CRM Request.

157. Defendant DOJ failed to segregate and produce non-exempt material in response to the OPA Request.

158. Defendants' failure to segregate and produce non-exempt material in response to the above-referenced requests violates their obligations under FOIA. 5 U.S.C. § 552(b).

159. Mr. Gellman has exhausted and/or is deemed to have exhausted the applicable administrative remedies with respect to his requests. 5 U.S.C. § 552(a)(6)(C)(i).

**Count V**

**(All Defendants)**

**Violation of FOIA for Failure to Grant News Media Fee Status**

160. Mr. Gellman repeats and re-alleges the foregoing paragraphs.

161. In his Requests, Mr. Gellman set forth facts supporting a determination that he was entitled to news media fee status.

162. Defendants failed to make a determination with regard to Mr. Gellman's news media fee status, in violation of FOIA. 5 U.S.C. § 552(a)(4).

163. Mr. Gellman has exhausted and/or is deemed to have exhausted the applicable administrative remedies with respect to his fee status determination. 5 U.S.C. § 552(a)(6)(C)(i).

**Count VI**

**(All Defendants)**

**Violation of FOIA for Failure to Grant Fee Waiver**

164. Mr. Gellman repeats and re-alleges the foregoing paragraphs.

165. In his Requests, Mr. Gellman set forth facts supporting a determination that he was entitled to fee waivers.

166. The above-referenced Defendants failed to make a determination with regard to Mr. Gellman's news media fee status, in violation of FOIA. 5 U.S.C. § 552(a)(4).

167. Mr. Gellman has exhausted and/or is deemed to have exhausted the applicable administrative remedies with respect to his fee status determination. 5 U.S.C. § 552(a)(6)(C)(i).

**Count VII**

**(All Defendants)**

**Violation of the Privacy Act for Failure to Comply with an Individual Request**

168. Mr. Gellman repeats and re-alleges the foregoing paragraphs.

169. Mr. Gellman properly requested access to information pertaining to him contained in records maintained by Defendants.

170. Defendants failed to permit Mr. Gellman to review the requested record(s) or to have a copy made. 5 U.S.C. § 552a(d)(1).

171. Defendants failed to comply with Mr. Gellman's request, in violation of their obligations under the Privacy Act. 5 U.S.C. § 552(g)(1)(B).

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests this Court:

- (1) order Defendants and their components to conduct a search for all records responsive to Mr. Gellman's FOIA/PA Requests, and to immediately disclose all non-exempt records responsive to Mr. Gellman's FOIA/PA Requests in their entirety;
- (2) issue a declaration that Mr. Gellman is entitled to disclosure of the requested records;
- (3) issue a declaration that Mr. Gellman is entitled to news media requestor fee status;
- (4) issue a declaration that Mr. Gellman is entitled to a fee waiver with respect to each of the FOIA/PA Requests;
- (5) issue a declaration that Defendants and their personnel have acted arbitrarily and/or capriciously with respect to withholding records responsive to Mr. Gellman's FOIA/PA Requests pursuant to 5 U.S.C. § 552(a)(4)(F)(i);

(6) award Mr. Gellman reasonable attorney's fees and costs pursuant to 5 U.S.C. § 552(a)(4)(E) and 5 U.S.C. § 552a(G)(3)(B); and

(7) grant such other relief as the Court may deem just and proper.

Dated: April 4, 2016

Respectfully submitted,

/s/ Katie Townsend

Katie Townsend

DC Bar No. 1026115

THE REPORTERS COMMITTEE FOR  
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*Of counsel for Plaintiff Barton Gellman*

\*Application to practice in the District of Columbia pending; practicing under the supervision of Plaintiff's counsel of record

# **EXHIBIT A**

July 6, 2015

Office of Legislative Affairs  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear FOIA officer -

Under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a, please furnish me with copies of all records that mention my name, Barton Gellman (aka Bart Gellman), held by the Department of Homeland Security, Office of Legislative Affairs

**Responsive records may pertain to:**

- information relating to my travels, domestic and international, since 1980, including ticket and flight information, Passenger Name Records, records pertaining to inspections or secondary inspections (whether or not secondary inspections were actually conducted), IE Entry/Exit Records, I94 records, HR records, ITRAC, other data collected and/or stored by ATS;
- data in any form, electronic or otherwise, shared with the US government by airlines, travel agencies, financial, lodging or other non-government travel service providers (including IP addresses, user agents and browser data logged by service provider web sites);
- records indicating that any of the aforementioned information has been disseminated or shared in any form with other federal, state, local, tribal or foreign personnel, organizations or agencies; and if so, what was shared and when;
- my interaction with Edward Snowden since 2013 and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;
- my work as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- informational and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted areas, including but not limited to the Pentagon



and other U.S. and allied defense facilities and proximity to senior civilian and uniformed officials.

- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;

**Date Range:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton David Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Please provide the records as they become available, and, where possible, via electronic means such as fax or email attachments.**

**Fees:** As a “representative of the news media,” I am only required to pay for the direct cost of duplication after the first 100 pages. (6 CFR. 5.11 (d)(3)) Through this request, I am gathering information that will reveal how the government interprets its authority to collect and retain information on journalists like myself. This is of current interest to the public because of the ongoing debate—in the courts, the media, and Congress—over government surveillance, and because of widespread concern that journalists and their sources are being subject to surveillance. This information is being sought on behalf of *The Washington Post* and myself for dissemination to the general public.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. The information sought will inform my ongoing reporting, as well as an upcoming book, on privacy, security and surveillance in the digital age. The release of this information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government," (6 CFR. 5.11 (k)(1)(i)), namely, the government's surveillance of and retention of information about journalists, like myself, who report on national security issues.

If my fee waiver is denied, I am willing to pay up to \$50 for the processing of this request. Please inform me if the estimated fees will exceed this limit before processing my request.

**Expedited Processing:** I am requesting expedited processing for this request pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 CFR. 5.5(d)(1)(ii). My job as a national correspondent for *The Washington Post* qualifies me as “a person primarily engaged in disseminating information.” Moreover, the information requested pertains to an “actual or alleged federal government activity” of urgent public concern. I have a “compelling need” for the records sought for the following reasons:

1) The public, as well as Congress and the courts, continue to debate whether and how to narrow the scope of the government’s authority to collect data on its citizens.<sup>1</sup> The documents sought will help inform that debate, by allowing me to report on how the government interprets its authority to collect and retain information on journalists like myself. A few weeks ago, Congress voted in favor of the USA Freedom Act—in some part, thanks to my own reporting<sup>2</sup> on the intelligence documents leaked to me by Edward Snowden—which curtails the NSA’s ability to collect Americans’ phone records in bulk.<sup>3</sup> Many privacy advocates agree, however, that bulk collection under section 215 of the Patriot Act is by no means the most invasive or concerning surveillance power revealed over the past year.<sup>4</sup> In the coming months, Congress will consider whether to further rein in the government’s surveillance activities—including the warrantless search of American communications via Sec. 702 of the FISA Amendments Act.<sup>5</sup> In the courts, the Second Circuit Court of Appeals ruled that bulk metadata collection is not legal under Patriot Act sec 215.<sup>6</sup> Other appeals courts have also heard arguments about the legality of surveillance programs. A split among the opinions of these courts could prompt a

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<sup>1</sup> “A Year After Reform Push, NSA Still Collects Bulk Domestic Data, Still Lacks Way to Assess Value,” by Dan Froomkin. *The Intercept*. 29 Jan. 2015.

<https://firstlook.org/theintercept/2015/01/29/one-year-major-report-nsa-still-collecting-bulk-domestic-data-still-clueless-much-good-surveillance/>

<sup>2</sup> Edward Snowden comes forward as source of NSA leaks,” by Barton Gellman, Aaron Blake, Greg Miller. *The Washington Post*. 9 Jun. 2013.

[http://www.washingtonpost.com/politics/intelligence-leaders-push-back-on-leakers-media/2013/06/09/fff80160-d122-11e2-a73e-826d299ff459\\_story.html](http://www.washingtonpost.com/politics/intelligence-leaders-push-back-on-leakers-media/2013/06/09/fff80160-d122-11e2-a73e-826d299ff459_story.html)

<sup>3</sup> “Congress passes NSA surveillance reform in vindication for Snowden,” by Sabrina Siddiqui. *The Guardian*. 3 Jun. 2015. <http://www.theguardian.com/us-news/2015/jun/02/congress-surveillance-reform-edward-snowden>

<sup>4</sup> “Don’t Worry, the Government Still Has Plenty of Surveillance Power if Section 215 Sunsets,” Electronic Frontier Foundation, 15 May. 2015.

<https://www.eff.org/deeplinks/2015/05/dont-worry-government-still-has-plenty-surveillance-power-if-section-215-sunsets>

<sup>5</sup> “Surveillance reform wars continue,” by Patrick Eddington. *The Hill*. 15 Jun. 2015. <http://thehill.com/blogs/congress-blog/homeland-security/244891-surveillance-reform-wars-continue>

<sup>6</sup> “N.S.A. Collection of Bulk Call Data Is Ruled Illegal,” by Charlie Savage. *New York Times*. May 7, 2015. [http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?\\_r=0](http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?_r=0)

Supreme Court review.<sup>7</sup> My reporting on whether agencies have collected and stored information on journalists like myself could influence the outcome of these cases.

2) Documents leaked by Edward Snowden on January 19 reveal that the NSA's British partner agency, GCHQ, has collected the communications of journalists and editors at the *BBC*, *Reuters*, the *Guardian*, the *New York Times*, *Le Monde*, *NBC* and the *Washington Post*.<sup>8</sup> As we know from previously declassified and leaked documents, the US and Britain cooperate closely on signals intelligence.<sup>9</sup> Thus, there is at present an urgent public interest and “exceptional media interest” in knowing how the American government interprets its own authority to collect and retain information on journalists, and whether or not the US government has engaged in comparable surveillance (intentional or incidental) of American journalists like myself.<sup>10</sup>

3) A majority of journalists believe the government is collecting their data. A Pew Research – Columbia University study released February 5, 2015, found that 64% of American investigative journalists believe the U.S. government has “probably collected data about their phone calls, emails or online communications,” and 80% believe that being a journalist “increases the likelihood that their data will be collected.”<sup>11</sup> These

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<sup>7</sup> “If the Supreme Court Tackles the NSA in 2015, it’ll be one of these five cases,” by Cyrus Farivar. *Ars Technica*. Jan 1, 2015. <http://arstechnica.com/tech-policy/2015/01/if-the-supreme-court-tackles-the-nsa-in-2015-itll-be-one-of-these-five-cases/>

<sup>8</sup> “GCHQ captured emails of journalists from top international media,” by James Ball, *The Guardian*. 19 Jan. 2015. <http://www.theguardian.com/uk-news/2015/jan/19/gchq-intercepted-emails-journalists-ny-times-bbc-guardian-le-monde-reuters-nbc-washington-post>

<sup>9</sup> “British Spy Chiefs Secretly Begged to Play in NSA’s Data Pools,” by Ryan Gallagher. *The Intercept*. Apr. 30, 2015 <https://firstlook.org/theintercept/2014/04/30/gchq-prism-nsa-fisa-unsupervised-access-snowden/>

<sup>10</sup> “Edward Snowden files reveal GCHQ scooped up journalist e-mails,” by Karla Adam. *Washington Post*. Jan 19, 2015. [http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c\\_story.html](http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c_story.html) “How have journalists responded to revelations of mass surveillance?” by Stuart Dredge. *The Guardian*. <http://www.theguardian.com/technology/2015/feb/06/investigative-journalists-mass-surveillance-nsa-edward-snowden>

<sup>11</sup> “Investigative Journalists and Digital Security.” Jesse Holcomb, Amy Mitchell, Kristen Purcell. *Pew Research Center*. Feb. 5, 2015. <http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>; “Investigative journalists are pretty sure the U.S. government is watching them,” by Andrea Peterson. *Washington Post*. <http://www.washingtonpost.com/blogs/the-switch/wp/2015/02/06/investigative-journalists-are-pretty-sure-the-u-s-government-is-watching-them/>

beliefs have changed the way that many journalists report stories, share or store sensitive documents, and communicate with other journalists, editors, and producers.<sup>12</sup> As a joint ACLU, Human Rights Watch report confirms,<sup>13</sup> this climate of fear and speculation is dangerous and could compromise the ability of journalists to fulfill their role in shedding light on government activity. There is therefore an urgent public interest in knowing whether the government is collecting information on journalists, and if so, what sort of information. The documents sought in this request will allow me to report, in concrete detail, on that story.

4) I have an imminent deadline for a *Washington Post* story on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the subject due in 60 days. The time for this story is now—when public, congressional and judicial attention is focused on questions of government surveillance, journalistic freedom and privacy rights. The information sought in this request will be of much lesser value to my reporting and to the public if received after Congress moves on from debating surveillance reforms and/or after the exceptional media interest in this story has passed.

**Please send the results as they are available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

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<sup>12</sup> “Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.” Ibid.

<sup>13</sup> “With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law and American Democracy.” by Human Rights Watch and ACLU. July 2014. <https://www.aclu.org/sites/default/files/assets/dem14-withlibertytomonitorall-07282014.pdf>

Sincerely,



**Barton Gellman**

*The Washington Post*, National Correspondent

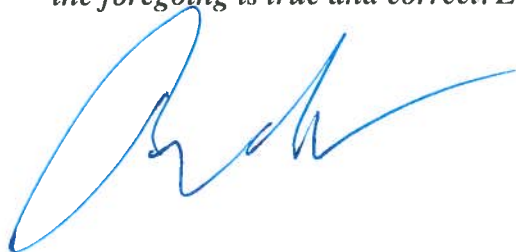
910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: [gellmanb@gmail.com](mailto:gellmanb@gmail.com)

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 6, 2015.*



July 6, 2015

Office of Public Affairs  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear FOIA officer -

Under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a, please furnish me with copies of all records that mention my name, Barton Gellman (aka Bart Gellman), held by the Department of Homeland Security, Office of Public Affairs

**Responsive records may pertain to:**

- information relating to my travels, domestic and international, since 1980, including ticket and flight information, Passenger Name Records, records pertaining to inspections or secondary inspections (whether or not secondary inspections were actually conducted), IE Entry/Exit Records, I94 records, HR records, ITRAC, other data collected and/or stored by ATS;
- data in any form, electronic or otherwise, shared with the US government by airlines, travel agencies, financial, lodging or other non-government travel service providers (including IP addresses, user agents and browser data logged by service provider web sites);
- records indicating that any of the aforementioned information has been disseminated or shared in any form with other federal, state, local, tribal or foreign personnel, organizations or agencies; and if so, what was shared and when;
- my interaction with Edward Snowden since 2013 and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;
- my work as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- informational and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted areas, including but not limited to the Pentagon

and other U.S. and allied defense facilities and proximity to senior civilian and uniformed officials.

- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;

**Date Range:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton David Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Please provide the records as they become available, and, where possible, via electronic means such as fax or email attachments.**

**Fees:** As a “representative of the news media,” I am only required to pay for the direct cost of duplication after the first 100 pages. (6 CFR. 5.11 (d)(3)) Through this request, I am gathering information that will reveal how the government interprets its authority to collect and retain information on journalists like myself. This is of current interest to the public because of the ongoing debate—in the courts, the media, and Congress—over government surveillance, and because of widespread concern that journalists and their sources are being subject to surveillance. This information is being sought on behalf of *The Washington Post* and myself for dissemination to the general public.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. The information sought will inform my ongoing reporting, as well as an upcoming book, on privacy, security and surveillance in the digital age. The release of this information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government," (6 CFR. 5.11 (k)(1)(i)), namely, the government's surveillance of and retention of information about journalists, like myself, who report on national security issues.

If my fee waiver is denied, I am willing to pay up to \$50 for the processing of this request. Please inform me if the estimated fees will exceed this limit before processing my request.

**Expedited Processing:** I am requesting expedited processing for this request pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 CFR. 5.5(d)(1)(ii). My job as a national correspondent for *The Washington Post* qualifies me as “a person primarily engaged in disseminating information.” Moreover, the information requested pertains to an “actual or alleged federal government activity” of urgent public concern. I have a “compelling need” for the records sought for the following reasons:

1) The public, as well as Congress and the courts, continue to debate whether and how to narrow the scope of the government’s authority to collect data on its citizens.<sup>1</sup> The documents sought will help inform that debate, by allowing me to report on how the government interprets its authority to collect and retain information on journalists like myself. A few weeks ago, Congress voted in favor of the USA Freedom Act—in some part, thanks to my own reporting<sup>2</sup> on the intelligence documents leaked to me by Edward Snowden—which curtails the NSA’s ability to collect Americans’ phone records in bulk.<sup>3</sup> Many privacy advocates agree, however, that bulk collection under section 215 of the Patriot Act is by no means the most invasive or concerning surveillance power revealed over the past year.<sup>4</sup> In the coming months, Congress will consider whether to further rein in the government’s surveillance activities—including the warrantless search of American communications via Sec. 702 of the FISA Amendments Act.<sup>5</sup> In the courts, the Second Circuit Court of Appeals ruled that bulk metadata collection is not legal under Patriot Act sec 215.<sup>6</sup> Other appeals courts have also heard arguments about the legality of surveillance programs. A split among the opinions of these courts could prompt a

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<sup>1</sup> “A Year After Reform Push, NSA Still Collects Bulk Domestic Data, Still Lacks Way to Assess Value,” by Dan Froomkin. *The Intercept*. 29 Jan. 2015.

<https://firstlook.org/theintercept/2015/01/29/one-year-major-report-nsa-still-collecting-bulk-domestic-data-still-clueless-much-good-surveillance/>

<sup>2</sup> Edward Snowden comes forward as source of NSA leaks,” by Barton Gellman, Aaron Blake, Greg Miller. *The Washington Post*. 9 Jun. 2013.

[http://www.washingtonpost.com/politics/intelligence-leaders-push-back-on-leakers-media/2013/06/09/fff80160-d122-11e2-a73e-826d299ff459\\_story.html](http://www.washingtonpost.com/politics/intelligence-leaders-push-back-on-leakers-media/2013/06/09/fff80160-d122-11e2-a73e-826d299ff459_story.html)

<sup>3</sup> “Congress passes NSA surveillance reform in vindication for Snowden,” by Sabrina Siddiqui. *The Guardian*. 3 Jun. 2015. <http://www.theguardian.com/us-news/2015/jun/02/congress-surveillance-reform-edward-snowden>

<sup>4</sup> “Don’t Worry, the Government Still Has Plenty of Surveillance Power if Section 215 Sunsets,” Electronic Frontier Foundation, 15 May. 2015.

<https://www.eff.org/deeplinks/2015/05/dont-worry-government-still-has-plenty-surveillance-power-if-section-215-sunsets>

<sup>5</sup> “Surveillance reform wars continue,” by Patrick Eddington. *The Hill*. 15 Jun. 2015. <http://thehill.com/blogs/congress-blog/homeland-security/244891-surveillance-reform-wars-continue>

<sup>6</sup> “N.S.A. Collection of Bulk Call Data Is Ruled Illegal,” by Charlie Savage. *New York Times*. May 7, 2015. [http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?\\_r=0](http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?_r=0)



Supreme Court review.<sup>7</sup> My reporting on whether agencies have collected and stored information on journalists like myself could influence the outcome of these cases.

2) Documents leaked by Edward Snowden on January 19 reveal that the NSA's British partner agency, GCHQ, has collected the communications of journalists and editors at the *BBC*, *Reuters*, the *Guardian*, the *New York Times*, *Le Monde*, *NBC* and the *Washington Post*.<sup>8</sup> As we know from previously declassified and leaked documents, the US and Britain cooperate closely on signals intelligence.<sup>9</sup> Thus, there is at present an urgent public interest and “exceptional media interest” in knowing how the American government interprets its own authority to collect and retain information on journalists, and whether or not the US government has engaged in comparable surveillance (intentional or incidental) of American journalists like myself.<sup>10</sup>

3) A majority of journalists believe the government is collecting their data. A Pew Research – Columbia University study released February 5, 2015, found that 64% of American investigative journalists believe the U.S. government has “probably collected data about their phone calls, emails or online communications,” and 80% believe that being a journalist “increases the likelihood that their data will be collected.”<sup>11</sup> These

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<sup>7</sup> “If the Supreme Court Tackles the NSA in 2015, it’ll be one of these five cases,” by Cyrus Farivar. *Ars Technica*. Jan 1, 2015. <http://arstechnica.com/tech-policy/2015/01/if-the-supreme-court-tackles-the-nsa-in-2015-itll-be-one-of-these-five-cases/>

<sup>8</sup> “GCHQ captured emails of journalists from top international media,” by James Ball, *The Guardian*. 19 Jan. 2015. <http://www.theguardian.com/uk-news/2015/jan/19/gchq-intercepted-emails-journalists-ny-times-bbc-guardian-le-monde-reuters-nbc-washington-post>

<sup>9</sup> “British Spy Chiefs Secretly Begged to Play in NSA’s Data Pools,” by Ryan Gallagher. *The Intercept*. Apr. 30, 2015 <https://firstlook.org/theintercept/2014/04/30/gchq-prism-nsa-fisa-unsupervised-access-snowden/>

<sup>10</sup> “Edward Snowden files reveal GCHQ scooped up journalist e-mails,” by Karla Adam. *Washington Post*. Jan 19, 2015. [http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c\\_story.html](http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c_story.html) “How have journalists responded to revelations of mass surveillance?” by Stuart Dredge. *The Guardian*. <http://www.theguardian.com/technology/2015/feb/06/investigative-journalists-mass-surveillance-nsa-edward-snowden>

<sup>11</sup> “Investigative Journalists and Digital Security.” Jesse Holcomb, Amy Mitchell, Kristen Purcell. *Pew Research Center*. Feb. 5, 2015. <http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>; “Investigative journalists are pretty sure the U.S. government is watching them,” by Andrea Peterson. *Washington Post*. <http://www.washingtonpost.com/blogs/the-switch/wp/2015/02/06/investigative-journalists-are-pretty-sure-the-u-s-government-is-watching-them/>

beliefs have changed the way that many journalists report stories, share or store sensitive documents, and communicate with other journalists, editors, and producers.<sup>12</sup> As a joint ACLU, Human Rights Watch report confirms,<sup>13</sup> this climate of fear and speculation is dangerous and could compromise the ability of journalists to fulfill their role in shedding light on government activity. There is therefore an urgent public interest in knowing whether the government is collecting information on journalists, and if so, what sort of information. The documents sought in this request will allow me to report, in concrete detail, on that story.

4) I have an imminent deadline for a *Washington Post* story on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the subject due in 60 days. The time for this story is now—when public, congressional and judicial attention is focused on questions of government surveillance, journalistic freedom and privacy rights. The information sought in this request will be of much lesser value to my reporting and to the public if received after Congress moves on from debating surveillance reforms and/or after the exceptional media interest in this story has passed.

**Please send the results as they are available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

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<sup>12</sup> “Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.” Ibid.

<sup>13</sup> “With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law and American Democracy.” by Human Rights Watch and ACLU. July 2014. <https://www.aclu.org/sites/default/files/assets/dem14-withlibertytomonitorall-07282014.pdf>

Sincerely,



**Barton Gellman**

*The Washington Post*, National Correspondent

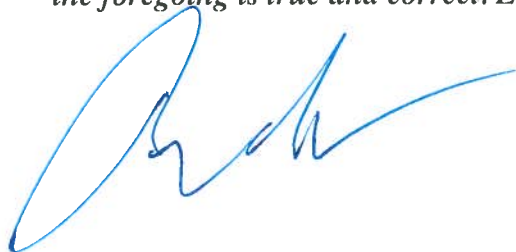
910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: [gellmanb@gmail.com](mailto:gellmanb@gmail.com)

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 6, 2015.*



July 6, 2015

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear FOIA Officer -

Under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a, please furnish me with copies of all records that mention my name, Barton Gellman (aka Bart Gellman), held by the Department of Homeland Security, Office of the General Counsel.

**Responsive records may pertain to:**

- information relating to my travels, domestic and international, since 1980, including ticket and flight information, Passenger Name Records, records pertaining to inspections or secondary inspections (whether or not secondary inspections were actually conducted), IE Entry/Exit Records, I94 records, HR records, ITRAC, other data collected and/or stored by ATS;
- data in any form, electronic or otherwise, shared with the US government by airlines, travel agencies, financial, lodging or other non-government travel service providers (including IP addresses, user agents and browser data logged by service provider web sites);
- records indicating that any of the aforementioned information has been disseminated or shared in any form with other federal, state, local, tribal or foreign personnel, organizations or agencies; and if so, what was shared and when;
- my interaction with Edward Snowden since 2013 and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;
- my work as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- informational and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted areas, including but not limited to the Pentagon

and other U.S. and allied defense facilities and proximity to senior civilian and uniformed officials.

- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;

**Date Range:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton David Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Please provide the records as they become available, and, where possible, via electronic means such as fax or email attachments.**

**Fees:** As a “representative of the news media,” I am only required to pay for the direct cost of duplication after the first 100 pages. (6 CFR. 5.11 (d)(3)) Through this request, I am gathering information that will reveal how the government interprets its authority to collect and retain information on journalists like myself. This is of current interest to the public because of the ongoing debate—in the courts, the media, and Congress—over government surveillance, and because of widespread concern that journalists and their sources are being subject to surveillance. This information is being sought on behalf of *The Washington Post* and myself for dissemination to the general public.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. The information sought will inform my ongoing reporting, as well as an upcoming book, on privacy, security and surveillance in the digital age. The release of this information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government," (6 CFR. 5.11 (k)(1)(i)), namely, the government's surveillance of and retention of information about journalists, like myself, who report on national security issues.

If my fee waiver is denied, I am willing to pay up to \$50 for the processing of this request. Please inform me if the estimated fees will exceed this limit before processing my request.

**Expedited Processing:** I am requesting expedited processing for this request pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 CFR. 5.5(d)(1)(ii). My job as a national correspondent for *The Washington Post* qualifies me as “a person primarily engaged in disseminating information.” Moreover, the information requested pertains to an “actual or alleged federal government activity” of urgent public concern. I have a “compelling need” for the records sought for the following reasons:

1) The public, as well as Congress and the courts, continue to debate whether and how to narrow the scope of the government’s authority to collect data on its citizens.<sup>1</sup> The documents sought will help inform that debate, by allowing me to report on how the government interprets its authority to collect and retain information on journalists like myself. A few weeks ago, Congress voted in favor of the USA Freedom Act—in some part, thanks to my own reporting<sup>2</sup> on the intelligence documents leaked to me by Edward Snowden—which curtails the NSA’s ability to collect Americans’ phone records in bulk.<sup>3</sup> Many privacy advocates agree, however, that bulk collection under section 215 of the Patriot Act is by no means the most invasive or concerning surveillance power revealed over the past year.<sup>4</sup> In the coming months, Congress will consider whether to further rein in the government’s surveillance activities—including the warrantless search of American communications via Sec. 702 of the FISA Amendments Act.<sup>5</sup> In the courts, the Second Circuit Court of Appeals ruled that bulk metadata collection is not legal under Patriot Act sec 215.<sup>6</sup> Other appeals courts have also heard arguments about the legality of surveillance programs. A split among the opinions of these courts could prompt a

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<sup>2</sup> Edward Snowden comes forward as source of NSA leaks,” by Barton Gellman, Aaron Blake, Greg Miller. *The Washington Post*. 9 Jun. 2013.

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<sup>3</sup> “Congress passes NSA surveillance reform in vindication for Snowden,” by Sabrina Siddiqui. *The Guardian*. 3 Jun. 2015. <http://www.theguardian.com/us-news/2015/jun/02/congress-surveillance-reform-edward-snowden>

<sup>4</sup> “Don’t Worry, the Government Still Has Plenty of Surveillance Power if Section 215 Sunsets,” Electronic Frontier Foundation, 15 May. 2015.

<https://www.eff.org/deeplinks/2015/05/dont-worry-government-still-has-plenty-surveillance-power-if-section-215-sunsets>

<sup>5</sup> “Surveillance reform wars continue,” by Patrick Eddington. *The Hill*. 15 Jun. 2015. <http://thehill.com/blogs/congress-blog/homeland-security/244891-surveillance-reform-wars-continue>

<sup>6</sup> “N.S.A. Collection of Bulk Call Data Is Ruled Illegal,” by Charlie Savage. *New York Times*. May 7, 2015. [http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?\\_r=0](http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?_r=0)

Supreme Court review.<sup>7</sup> My reporting on whether agencies have collected and stored information on journalists like myself could influence the outcome of these cases.

2) Documents leaked by Edward Snowden on January 19 reveal that the NSA's British partner agency, GCHQ, has collected the communications of journalists and editors at the *BBC*, *Reuters*, the *Guardian*, the *New York Times*, *Le Monde*, *NBC* and the *Washington Post*.<sup>8</sup> As we know from previously declassified and leaked documents, the US and Britain cooperate closely on signals intelligence.<sup>9</sup> Thus, there is at present an urgent public interest and “exceptional media interest” in knowing how the American government interprets its own authority to collect and retain information on journalists, and whether or not the US government has engaged in comparable surveillance (intentional or incidental) of American journalists like myself.<sup>10</sup>

3) A majority of journalists believe the government is collecting their data. A Pew Research – Columbia University study released February 5, 2015, found that 64% of American investigative journalists believe the U.S. government has “probably collected data about their phone calls, emails or online communications,” and 80% believe that being a journalist “increases the likelihood that their data will be collected.”<sup>11</sup> These

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<sup>8</sup> “GCHQ captured emails of journalists from top international media,” by James Ball, *The Guardian*. 19 Jan. 2015. <http://www.theguardian.com/uk-news/2015/jan/19/gchq-intercepted-emails-journalists-ny-times-bbc-guardian-le-monde-reuters-nbc-washington-post>

<sup>9</sup> “British Spy Chiefs Secretly Begged to Play in NSA’s Data Pools,” by Ryan Gallagher. *The Intercept*. Apr. 30, 2015 <https://firstlook.org/theintercept/2014/04/30/gchq-prism-nsa-fisa-unsupervised-access-snowden/>

<sup>10</sup> “Edward Snowden files reveal GCHQ scooped up journalist e-mails,” by Karla Adam. *Washington Post*. Jan 19, 2015. [http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c\\_story.html](http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c_story.html) “How have journalists responded to revelations of mass surveillance?” by Stuart Dredge. *The Guardian*. <http://www.theguardian.com/technology/2015/feb/06/investigative-journalists-mass-surveillance-nsa-edward-snowden>

<sup>11</sup> “Investigative Journalists and Digital Security.” Jesse Holcomb, Amy Mitchell, Kristen Purcell. *Pew Research Center*. Feb. 5, 2015. <http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>; “Investigative journalists are pretty sure the U.S. government is watching them,” by Andrea Peterson. *Washington Post*. <http://www.washingtonpost.com/blogs/the-switch/wp/2015/02/06/investigative-journalists-are-pretty-sure-the-u-s-government-is-watching-them/>

beliefs have changed the way that many journalists report stories, share or store sensitive documents, and communicate with other journalists, editors, and producers.<sup>12</sup> As a joint ACLU, Human Rights Watch report confirms,<sup>13</sup> this climate of fear and speculation is dangerous and could compromise the ability of journalists to fulfill their role in shedding light on government activity. There is therefore an urgent public interest in knowing whether the government is collecting information on journalists, and if so, what sort of information. The documents sought in this request will allow me to report, in concrete detail, on that story.

4) I have an imminent deadline for a *Washington Post* story on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the subject due in 60 days. The time for this story is now—when public, congressional and judicial attention is focused on questions of government surveillance, journalistic freedom and privacy rights. The information sought in this request will be of much lesser value to my reporting and to the public if received after Congress moves on from debating surveillance reforms and/or after the exceptional media interest in this story has passed.

**Please send the results as they are available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

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<sup>12</sup> “Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.” Ibid.

<sup>13</sup> “With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law and American Democracy.” by Human Rights Watch and ACLU. July 2014. <https://www.aclu.org/sites/default/files/assets/dem14-withlibertytomonitorall-07282014.pdf>



Sincerely,



**Barton Gellman**

*The Washington Post*, National Correspondent

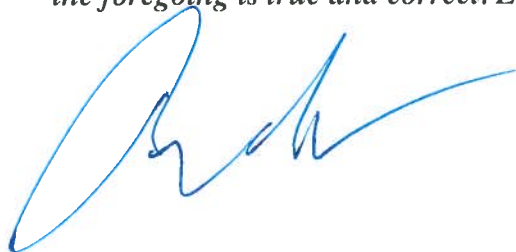
910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: [gellmanb@gmail.com](mailto:gellmanb@gmail.com)

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 6, 2015.*



# **EXHIBIT B**

July 6, 2015

Office of Intelligence & Analysis (I&A)  
U.S. Department of Homeland Security  
Washington, D.C. 20528  
FOIA Officer/Public Liaison: Priscilla Waters

Dear Ms. Waters,

Under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a, please furnish me with copies of all records that mention my name, Barton Gellman (aka Bart Gellman), held by the Department of Homeland Security, Office of Intelligence and Analysis.

**Responsive records may pertain to:**

- information relating to my travels, domestic and international, since 1980, including ticket and flight information, Passenger Name Records, records pertaining to inspections or secondary inspections (whether or not secondary inspections were actually conducted), IE Entry/Exit Records, I94 records, HR records, ITRAC, other data collected and/or stored by ATS;
- data in any form, electronic or otherwise, shared with the US government by airlines, travel agencies, financial, lodging or other non-government travel service providers (including IP addresses, user agents and browser data logged by service provider web sites);
- records indicating that any of the aforementioned information has been disseminated or shared in any form with other federal, state, local, tribal or foreign personnel, organizations or agencies; and if so, what was shared and when;
- my interaction with Edward Snowden since 2013 and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;
- my work as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- informational and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to

clear me for access to restricted areas, including but not limited to the Pentagon and other U.S. and allied defense facilities and proximity to senior civilian and uniformed officials.

- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;

**Date Range:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton David Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Please provide the records as they become available, and, where possible, via electronic means such as fax or email attachments.**

**Fees:** As a “representative of the news media,” I am only required to pay for the direct cost of duplication after the first 100 pages. (6 CFR. 5.11 (d)(3)) Through this request, I am gathering information that will reveal how the government interprets its authority to collect and retain information on journalists like myself. This is of current interest to the public because of the ongoing debate—in the courts, the media, and Congress—over government surveillance, and because of widespread concern that journalists and their sources are being subject to surveillance. This information is being sought on behalf of *The Washington Post* and myself for dissemination to the general public.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. The information sought will inform my ongoing reporting, as well as an upcoming book, on privacy, security and surveillance in the digital age. The release of this information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government," (6 CFR. 5.11 (k)(1)(i)), namely, the government's surveillance of and retention of information about journalists, like myself, who report on national security issues.

If my fee waiver is denied, I am willing to pay up to \$50 for the processing of this request. Please inform me if the estimated fees will exceed this limit before processing my request.

**Expedited Processing:** I am requesting expedited processing for this request pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(d)(1)(ii). My job as a national correspondent for *The Washington Post* qualifies me as “a person primarily engaged in disseminating information.” Moreover, the information requested pertains to an “actual or alleged federal government activity” of urgent public concern. I have a “compelling need” for the records sought for the following reasons:

1) The public, as well as Congress and the courts, continue to debate whether and how to narrow the scope of the government’s authority to collect data on its citizens.<sup>1</sup> The documents sought will help inform that debate, by allowing me to report on how the government interprets its authority to collect and retain information on journalists like myself. A few weeks ago, Congress voted in favor of the USA Freedom Act—in some part, thanks to my own reporting<sup>2</sup> on the intelligence documents leaked to me by Edward Snowden—which curtails the NSA’s ability to collect Americans’ phone records in bulk.<sup>3</sup> Many privacy advocates agree, however, that bulk collection under section 215 of the Patriot Act is by no means the most invasive or concerning surveillance power revealed over the past year.<sup>4</sup> In the coming months, Congress will consider whether to further rein in the government’s surveillance activities—including the warrantless search of American communications via Sec. 702 of the FISA Amendments Act.<sup>5</sup> In the courts, the Second Circuit Court of Appeals ruled that bulk metadata collection is not legal under Patriot Act sec 215.<sup>6</sup> Other appeals courts have also heard arguments about the legality of surveillance programs. A split among the opinions of these courts could prompt a

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<sup>1</sup> “A Year After Reform Push, NSA Still Collects Bulk Domestic Data, Still Lacks Way to Assess Value,” by Dan Froomkin. *The Intercept*. 29 Jan. 2015.

<https://firstlook.org/theintercept/2015/01/29/one-year-major-report-nsa-still-collecting-bulk-domestic-data-still-clueless-much-good-surveillance/>

<sup>2</sup> Edward Snowden comes forward as source of NSA leaks,” by Barton Gellman, Aaron Blake, Greg Miller. *The Washington Post*. 9 Jun. 2013.

[http://www.washingtonpost.com/politics/intelligence-leaders-push-back-on-leakers-media/2013/06/09/fff80160-d122-11e2-a73e-826d299ff459\\_story.html](http://www.washingtonpost.com/politics/intelligence-leaders-push-back-on-leakers-media/2013/06/09/fff80160-d122-11e2-a73e-826d299ff459_story.html)

<sup>3</sup> “Congress passes NSA surveillance reform in vindication for Snowden,” by Sabrina Siddiqui. *The Guardian*. 3 Jun. 2015. <http://www.theguardian.com/us-news/2015/jun/02/congress-surveillance-reform-edward-snowden>

<sup>4</sup> “Don’t Worry, the Government Still Has Plenty of Surveillance Power if Section 215 Sunsets,” Electronic Frontier Foundation, 15 May. 2015.

<https://www.eff.org/deeplinks/2015/05/dont-worry-government-still-has-plenty-surveillance-power-if-section-215-sunsets>

<sup>5</sup> “Surveillance reform wars continue,” by Patrick Eddington. *The Hill*. 15 Jun. 2015. <http://thehill.com/blogs/congress-blog/homeland-security/244891-surveillance-reform-wars-continue>

<sup>6</sup> “N.S.A. Collection of Bulk Call Data Is Ruled Illegal,” by Charlie Savage. *New York Times*. May 7, 2015. [http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?\\_r=0](http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?_r=0)

Supreme Court review.<sup>7</sup> My reporting on whether agencies have collected and stored information on journalists like myself could influence the outcome of these cases.

2) Documents leaked by Edward Snowden on January 19 reveal that the NSA's British partner agency, GCHQ, has collected the communications of journalists and editors at the *BBC*, *Reuters*, the *Guardian*, the *New York Times*, *Le Monde*, *NBC* and the *Washington Post*.<sup>8</sup> As we know from previously declassified and leaked documents, the US and Britain cooperate closely on signals intelligence.<sup>9</sup> Thus, there is at present an urgent public interest and “exceptional media interest” in knowing how the American government interprets its own authority to collect and retain information on journalists, and whether or not the US government has engaged in comparable surveillance (intentional or incidental) of American journalists like myself.<sup>10</sup>

3) A majority of journalists believe the government is collecting their data. A Pew Research – Columbia University study released February 5, 2015, found that 64% of American investigative journalists believe the U.S. government has “probably collected data about their phone calls, emails or online communications,” and 80% believe that being a journalist “increases the likelihood that their data will be collected.”<sup>11</sup> These

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<sup>7</sup> “If the Supreme Court Tackles the NSA in 2015, it’ll be one of these five cases,” by Cyrus Farivar. *Ars Technica*. Jan 1, 2015. <http://arstechnica.com/tech-policy/2015/01/if-the-supreme-court-tackles-the-nsa-in-2015-itll-be-one-of-these-five-cases/>

<sup>8</sup> “GCHQ captured emails of journalists from top international media,” by James Ball, *The Guardian*. 19 Jan. 2015. <http://www.theguardian.com/uk-news/2015/jan/19/gchq-intercepted-emails-journalists-ny-times-bbc-guardian-le-monde-reuters-nbc-washington-post>

<sup>9</sup> “British Spy Chiefs Secretly Begged to Play in NSA’s Data Pools,” by Ryan Gallagher. *The Intercept*. Apr. 30, 2015 <https://firstlook.org/theintercept/2014/04/30/gchq-prism-nsa-fisa-unsupervised-access-snowden/>

<sup>10</sup> “Edward Snowden files reveal GCHQ scooped up journalist e-mails,” by Karla Adam. *Washington Post*. Jan 19, 2015. [http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c\\_story.html](http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c_story.html); “How have journalists responded to revelations of mass surveillance?” by Stuart Dredge. *The Guardian*. <http://www.theguardian.com/technology/2015/feb/06/investigative-journalists-mass-surveillance-nsa-edward-snowden>.

<sup>11</sup> “Investigative Journalists and Digital Security.” Jesse Holcomb, Amy Mitchell, Kristen Purcell. *Pew Research Center*. Feb. 5, 2015. <http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>; “Investigative journalists are pretty sure the U.S. government is watching them,” by Andrea Peterson. *Washington Post*. <http://www.washingtonpost.com/blogs/the-switch/wp/2015/02/06/investigative-journalists-are-pretty-sure-the-u-s-government-is-watching-them/>

beliefs have changed the way that many journalists report stories, share or store sensitive documents, and communicate with other journalists, editors, and producers.<sup>12</sup> As a joint ACLU, Human Rights Watch report confirms,<sup>13</sup> this climate of fear and speculation is dangerous and could compromise the ability of journalists to fulfill their role in shedding light on government activity. There is therefore an urgent public interest in knowing whether the government is collecting information on journalists, and if so, what sort of information. The documents sought in this request will allow me to report, in concrete detail, on that story.

4) I have an imminent deadline for a *Washington Post* story on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the subject due in 60 days. The time for this story is now—when public, congressional and judicial attention is focused on questions of government surveillance, journalistic freedom and privacy rights. The information sought in this request will be of much lesser value to my reporting and to the public if received after Congress moves on from debating surveillance reforms and/or after the exceptional media interest in this story has passed.

**Please send the results as they are available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

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<sup>12</sup> “Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.” Ibid.

<sup>13</sup> “With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law and American Democracy.” by Human Rights Watch and ACLU. July 2014. <https://www.aclu.org/sites/default/files/assets/dem14-withlibertytomonitorall-07282014.pdf>

Sincerely,



**Barton Gellman**

*The Washington Post*, National Correspondent

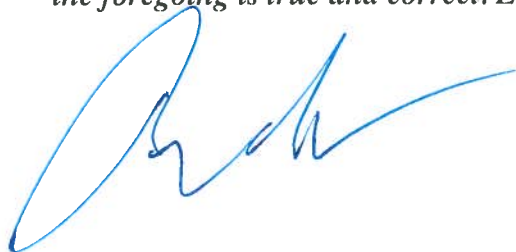
910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: [gellmanb@gmail.com](mailto:gellmanb@gmail.com)

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 6, 2015.*





# **EXHIBIT C**

January 15, 2015

Teri Miller and Amanda Deplitch, Acting FOIA Officers  
Transportation Security Administration, TSA-20, East Tower  
FOIA Division  
601 South 12th Street  
Arlington, VA 20598-6020

Dear Officers Miller and Deplitch,

Under the Freedom of Information Act, 5 U.S.C. subsection 552 and the Privacy Act, 5 U.S.C. section 552a, please furnish me, Barton Gellman, with copies of all Transportation Security Administration (TSA) records that mention my name, Barton Gellman (aka Bart Gellman).

I believe the Administration may have records or reports about me due to my 30-plus year career covering national security issues. **I am interested in any and all records about me, including, but not limited to:**

**I am interested in any and all records about me, including, but not limited to:**

- information relating to my travels, domestic and international, since 1980, including ticket and flight information, Passenger Name Records, records pertaining to inspections or secondary inspections (whether or not secondary inspections were actually conducted), IE Entry/Exit Records, I94 records, HR records, ITRAC, any other data collected and/or stored by ATS-P;
- data in any form, electronic or otherwise, shared with the US government by airlines, travel agencies, financial, lodging or other non-government travel service providers (including IP addresses, user agents and browser data logged by service provider web sites);
- records indicating that any of the aforementioned information has been disseminated or shared in any form with other federal, state, local, tribal or foreign personnel, organizations or agencies; and if so, what was shared and when;
- my work in general as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present; and more specifically:
- my interaction with Edward Snowden and other government and former government employees and contractors since 2013, and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;

- my 2007 series in The Washington Post and 2008 book, both entitled Angler: The Cheney Vice Presidency;
- my overseas residence in the UK between 1982 and 1985 and Israel between 1994 and 1997, and my overseas travels and contacts (as a student, a journalist and a private citizen) in Europe, Asia, the Americas, the Near East and Africa.
- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;

**Date Range:** 1982 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton David Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Please provide the records as they become available, and, where possible, via electronic means such as fax or email attachments.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

**Fees:** I am requesting a fee waiver for any files found, including those not indexed to my name, because I am acting as a representative of the news media. If my waiver is denied, I am willing to pay up to \$50 for reproduction costs. Please contact me if the cost of information will exceed this amount.

**Expedited request:** I am requesting expedited processing. As a national correspondent for the *Washington Post*, I am “a person primarily engaged in disseminating information.” Moreover, the information requested pertains to an “actual or alleged federal government activity” of urgent public concern. (6 CFR. 5.5(d)(1)(ii)) In the context of a wide-ranging debate about the boundaries of surveillance and privacy, I am seeking information regarding the collection, retention and dissemination of travel information of citizens and, in particular, of journalists who are covering the subject.

Sincerely,

**Barton Gellman**

*The Washington Post*, National Correspondent

910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: [gellmanb@gmail.com](mailto:gellmanb@gmail.com)

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 15, 2015.*

# **EXHIBIT D**

January 14, 2015

**FBI**

David M. Hardy  
Chief, Record/Information Dissemination Section,  
Records Management Division  
*Attn: FOIPA Request*  
170 Marcel Drive  
Winchester, VA 22602-4843

Dear Mr. Hardy:

Under the Freedom of Information Act, 5 U.S.C. subsection 552 and the Privacy Act, 5 U.S.C. section 552a, I, Barton Gellman, am requesting Bureau files that mention my name, Barton Gellman (aka Bart Gellman).

I request that any information available be expedited. Pursuant to 28 CFR 16.5, I am writing as a member of the press, or a disseminator of information. I will be using the information to inform the public about the actions of government.

**Please search the FBI's indices to the Central Records System for the information responsive to this request related – but not limited – to:**

- my interaction with Edward Snowden and other government and former government employees and contractors since 2013, and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- my reporting for TIME magazine between 2010 and 2013 on subjects including Wikileaks, extremist U.S. militias, the investigation of Gen. David Petraeus and a cover profile of former Director Robert Mueller;
- my 2007 series in The Washington Post and 2008 book, both entitled Angler: The Cheney Vice Presidency;
- my coverage of the U.N. Special Commission (UNSCOM) in Iraq and disclosure of U.S. intelligence gathering under UNSCOM cover in the 1990s;
- any mention of me or my stories in efforts to identify, track, report or assess media leaks or cryptologic insecurities, to include intelligence community efforts under the cover name FIRSTFRUITS, whether or not the efforts led to a formal leak investigation;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;

- my work in general as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- information and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted areas, including but not limited to the Pentagon and other U.S. and allied government facilities and proximity to senior civilian and uniformed government officials;
- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;
- my overseas residence in the UK between 1982 and 1985 and Israel between 1994 and 1997, and my overseas travels and contacts (as a student, a journalist and a private citizen) in Europe, Asia, the Americas, the Near East and Africa.

**Date range of request:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**General Description of Request:** I, Barton Gellman, request access to files or information in records maintained about myself. I have been a full-time journalist since 1988, and freelance since 1980. I have written on questions of national security for 30 years and have reason to believe that I have been a subject and a source in government investigations pertaining to both other people and myself.

**I am requesting a fee waiver and expedited processing for this material.** As a national correspondent for *The Washington Post*, I will be using these materials to write stories of general and urgent public interest in addition to a book for Penguin Press, due in 2015, about government records and surveillance. I am “a person primarily engaged in disseminating information” seeking to “inform the public about an actual or alleged federal government activity.”

**If my fee waiver is denied, I am willing to pay up to \$50 for the processing of this request.** Please inform me if the estimated fees will exceed this limit before processing my request.

**Please send the results as they are available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

Sincerely,

**Barton Gellman**

*The Washington Post*, National Correspondent

910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: gellmanb@gmail.com

***I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 14, 2015.***



# **EXHIBIT E**

July 6, 2015

**FBI**

David M. Hardy  
Chief, Record/Information Dissemination Section,  
Records Management Division  
*Attn: FOIPA Request*  
170 Marcel Drive  
Winchester, VA 22602-4843

Dear Mr. Hardy:

Under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a, please furnish me with copies of all records that mention my name, Barton Gellman (aka Bart Gellman), held by the Federal Bureau of Investigation.

Please search the FBI’s Central Records System, ELSUR, Bureau mailing lists, and N-DEx.

**Responsive records may pertain to:**

- my interaction with Edward Snowden and other government and former government employees and contractors since 2013, and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- my reporting for TIME magazine between 2010 and 2013 on subjects including Wikileaks, extremist U.S. militias, the investigation of Gen. David Petraeus and a cover profile of former Director Robert Mueller;
- my 2007 series in The Washington Post and 2008 book, both entitled Angler: The Cheney Vice Presidency;
- my coverage of the U.N. Special Commission (UNSCOM) in Iraq and disclosure of U.S. intelligence gathering under UNSCOM cover in the 1990s;
- any mention of me or my stories in efforts to identify, track, report or assess media leaks or cryptologic insecurities, to include intelligence community efforts under the cover name FIRSTFRUITS, whether or not the efforts led to a formal leak investigation;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;

- my work in general as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- information and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted areas, including but not limited to the Pentagon and other U.S. and allied government facilities and proximity to senior civilian and uniformed government officials;
- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;
- my overseas residence in the UK between 1982 and 1985 and Israel between 1994 and 1997, and my overseas travels and contacts (as a student, a journalist and a private citizen) in Europe, Asia, the Americas, the Near East and Africa.

**Date range of request:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Fees:** As a “representative of the news media,” I am only required to pay for the direct cost of duplication after the first 100 pages. (28 CFR § 16.11 (d)(3)) Through this request, I am gathering information that will reveal how the government interprets its authority to collect and retain information on journalists like myself. This is of current interest to the public because of the ongoing debate—in the courts, the media, and Congress—over government surveillance, and because of widespread concern that journalists and their sources are being subject to surveillance. This information is being sought on behalf of *The Washington Post* and myself for dissemination to the general public.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. The information sought will inform my ongoing reporting, as well as an upcoming book, on privacy, security and surveillance in the digital age. The release of

this information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government," (28 CFR § 16.11 (k)(1), namely, the government's surveillance of and retention of information about journalists, like myself, who report on national security issues.

If my fee waiver is denied, I am willing to pay up to \$50 for the processing of this request. Please inform me if the estimated fees will exceed this limit before processing my request.

**Expedited Processing:** I am requesting expedited processing for this request pursuant to DOJ FOIA guidelines in 28 CFR § 16.5. I am a member of the media, and I have a "compelling need" for the records sought for the following reasons:

1) The public, as well as Congress and the courts, continue to debate whether and how to narrow the scope of the government's authority to collect data on its citizens.<sup>1</sup> The documents sought will help inform that debate, by allowing me to report on how the government interprets its authority to collect and retain information on journalists like myself. A few weeks ago, Congress voted in favor of the USA Freedom Act—in some part, thanks to my own reporting<sup>2</sup> on the intelligence documents leaked to me by Edward Snowden—which curtails the NSA's ability to collect Americans' phone records in bulk.<sup>3</sup> Many privacy advocates agree, however, that bulk collection under section 215 of the Patriot Act is by no means the most invasive or concerning surveillance power revealed over the past year.<sup>4</sup> In the coming months, Congress will consider whether to further rein in the government's surveillance activities—including the warrantless search of American communications via Sec. 702 of the FISA Amendments Act.<sup>5</sup> In the courts, the Second Circuit Court of Appeals ruled that bulk metadata collection is not legal under

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<sup>1</sup> "A Year After Reform Push, NSA Still Collects Bulk Domestic Data, Still Lacks Way to Assess Value," by Dan Froomkin. *The Intercept*. 29 Jan. 2015. <https://firstlook.org/theintercept/2015/01/29/one-year-major-report-nsa-still-collecting-bulk-domestic-data-still-clueless-much-good-surveillance/>

<sup>2</sup> "Edward Snowden comes forward as source of NSA leaks," by Barton Gellman, Aaron Blake, Greg Miller. *The Washington Post*. 9 Jun. 2013. [http://www.washingtonpost.com/politics/intelligence-leaders-push-back-on-leakers-media/2013/06/09/fff80160-d122-11e2-a73e-826d299ff459\\_story.html](http://www.washingtonpost.com/politics/intelligence-leaders-push-back-on-leakers-media/2013/06/09/fff80160-d122-11e2-a73e-826d299ff459_story.html)

<sup>3</sup> "Congress passes NSA surveillance reform in vindication for Snowden," by Sabrina Siddiqui. *The Guardian*. 3 Jun. 2015. <http://www.theguardian.com/us-news/2015/jun/02/congress-surveillance-reform-edward-snowden>

<sup>4</sup> "Don't Worry, the Government Still Has Plenty of Surveillance Power if Section 215 Sunsets," Electronic Frontier Foundation, 15 May. 2015. <https://www.eff.org/deeplinks/2015/05/dont-worry-government-still-has-plenty-surveillance-power-if-section-215-sunsets>

<sup>5</sup> "Surveillance reform wars continue," by Patrick Eddington. *The Hill*. 15 Jun. 2015. <http://thehill.com/blogs/congress-blog/homeland-security/244891-surveillance-reform-wars-continue>

Patriot Act sec 215.<sup>6</sup> Other appeals courts have also heard arguments about the legality of surveillance programs. A split among the opinions of these courts could prompt a Supreme Court review.<sup>7</sup> My reporting on whether agencies have collected and stored information on journalists like myself could influence the outcome of these cases.

2) Documents leaked by Edward Snowden on January 19 reveal that the NSA's British partner agency, GCHQ, has collected the communications of journalists and editors at the *BBC*, *Reuters*, the *Guardian*, the *New York Times*, *Le Monde*, *NBC* and the *Washington Post*.<sup>8</sup> As we know from previously declassified and leaked documents, the US and Britain cooperate closely on signals intelligence.<sup>9</sup> Thus, there is at present an urgent public interest and “exceptional media interest” in knowing how the American government interprets its own authority to collect and retain information on journalists, and whether or not the US government has engaged in comparable surveillance (intentional or incidental) of American journalists like myself.<sup>10</sup> The information sought, therefore, involves “a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” (28 CFR § 16.5(d)(iv))

3) A majority of journalists believe the government is collecting their data. A Pew Research – Columbia University study released February 5, 2015, found that 64% of American investigative journalists believe the U.S. government has “probably collected data about their phone calls, emails or online communications,” and 80% believe that

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<sup>6</sup> “N.S.A. Collection of Bulk Call Data Is Ruled Illegal,” by Charlie Savage. *New York Times*. May 7, 2015. [http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?\\_r=0](http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?_r=0)

<sup>7</sup> “If the Supreme Court Tackles the NSA in 2015, it’ll be one of these five cases,” by Cyrus Farivar. *Ars Technica*. Jan 1, 2015. <http://arstechnica.com/tech-policy/2015/01/if-the-supreme-court-tackles-the-nsa-in-2015-itll-be-one-of-these-five-cases/>

<sup>8</sup> “GCHQ captured emails of journalists from top international media,” by James Ball, *The Guardian*. 19 Jan. 2015. <http://www.theguardian.com/uk-news/2015/jan/19/gchq-intercepted-emails-journalists-ny-times-bbc-guardian-le-monde-reuters-nbc-washington-post>

<sup>9</sup> “British Spy Chiefs Secretly Begged to Play in NSA’s Data Pools,” by Ryan Gallagher. *The Intercept*. Apr. 30, 2015 <https://firstlook.org/theintercept/2014/04/30/gchq-prism-nsa-fisa-unsupervised-access-snowden/>

<sup>10</sup> “Edward Snowden files reveal GCHQ scooped up journalist e-mails,” by Karla Adam. *Washington Post*. Jan 19, 2015. [http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c\\_story.html](http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c_story.html) “How have journalists responded to revelations of mass surveillance?” by Stuart Dredge. *The Guardian*. <http://www.theguardian.com/technology/2015/feb/06/investigative-journalists-mass-surveillance-nsa-edward-snowden>

being a journalist “increases the likelihood that their data will be collected.”<sup>11</sup> These beliefs have changed the way that many journalists report stories, share or store sensitive documents, and communicate with other journalists, editors, and producers.<sup>12</sup> As a joint ACLU, Human Rights Watch report confirms,<sup>13</sup> this climate of fear and speculation is dangerous and could compromise the ability of journalists to fulfill their role in shedding light on government activity. There is therefore an urgent public interest in knowing whether the government is collecting information on journalists, and if so, what sort of information. The documents sought in this request will allow me to report, in concrete detail, on that story. There is therefore an “urgency to inform the public” about the federal government’s alleged surveillance of journalists. [28 C.F.R. § 16.5(d)(ii)]

4) I have an imminent deadline for a *Washington Post* story on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the subject due in 60 days. The time for this story is now—when public, congressional and judicial attention is focused on questions of government surveillance, journalistic freedom and privacy rights. The information sought in this request will be of much lesser value to my reporting and to the public if received after Congress moves on from debating surveillance reforms and/or after the exceptional media interest in this story has passed.

**Please send the results as they are available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

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<sup>11</sup> “Investigative Journalists and Digital Security.” Jesse Holcomb, Amy Mitchell, Kristen Purcell. *Pew Research Center*. Feb. 5, 2015.

<http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>; “Investigative journalists are pretty sure the U.S. government is watching them,” by Andrea Peterson. *Washington Post*. <http://www.washingtonpost.com/blogs/the-switch/wp/2015/02/06/investigative-journalists-are-pretty-sure-the-u-s-government-is-watching-them/>

<sup>12</sup> “Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.” *Ibid*.

<sup>13</sup> “With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law and American Democracy.” by Human Rights Watch and ACLU. July 2014. <https://www.aclu.org/sites/default/files/assets/dem14-withlibertytomonitorall-07282014.pdf>

Sincerely,



**Barton Gellman**

*The Washington Post*, National Correspondent

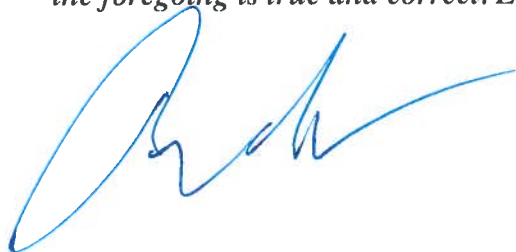
910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: [gellmanb@gmail.com](mailto:gellmanb@gmail.com)

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 6, 2015.*



**EXHIBIT F**



March 16, 2015

Kenneth Courter, Chief  
FOIA/PA Unit  
Criminal Division  
Department of Justice  
Suite 1127, Keeney Building  
Washington, DC 20530-0001

Dear Ms. Kassier,

Under the Freedom of Information Act, 5 U.S.C. subsection 552 and the Privacy Act, 5 U.S.C. section 552a, please furnish me with copies of all records that mention my name, Barton Gellman (aka Bart Gellman), held by the Department of Justice Criminal Division.

**I am interested in any and all records about me or that mention my name, including, but not limited to:**

- my interaction with Edward Snowden and other government and former government employees and contractors since 2013, and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- my reporting for TIME magazine between 2010 and 2013 on subjects including Wikileaks, extremist U.S. militias, the investigation of Gen. David Petraeus and a cover profile of former Director Robert Mueller;
- my 2007 series in The Washington Post and 2008 book, both entitled Angler: The Cheney Vice Presidency;
- my coverage of the U.N. Special Commission (UNSCOM) in Iraq and disclosure of U.S. intelligence gathering under UNSCOM cover in the 1990s;
- any mention of me or my stories in efforts to identify, track, report or assess media leaks or cryptologic insecurities, to include intelligence community efforts under the cover name FIRSTFRUITS, whether or not the efforts led to a formal leak investigation;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;
- my work in general as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- information and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted

and in connection with the security screenings required to clear me for access to restricted areas, including but not limited to the Pentagon and other U.S. and allied facilities and proximity to senior civilian and uniformed officials.

- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;
- my overseas residence in the UK between 1982 and 1985 and Israel between 1994 and 1997, and my overseas travels and contacts (as a student, a journalist and a private citizen) in Europe, Asia, the Americas, the Near East and Africa.

**Date Range:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Please send the results as they become available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

**Fees:** I am requesting a fee waiver for any files found because I am acting as a representative of the news media. These documents will be used to report an upcoming story in the *Washington Post*, where I am a national correspondent. If my waiver is denied, I am willing to pay up to \$50 for reproduction costs. Please contact me if the cost of information will exceed this sum.

**Expedited Processing:** I am requesting expedited processing for this request pursuant to DOJ FOIA guidelines in 28 CFR 16.5. I am a member of the media, and I have a “compelling need” for the records sought for the following reasons:

1) The public, as well as Congress and the courts, continue to debate whether and how to narrow the scope of the government's authority to collect data on its citizens.<sup>1</sup> The documents sought will help inform that debate, by allowing me to report on how the government interprets its authority to collect and retain information on journalists like myself. At present, Congress is debating how to implement the surveillance reforms proposed in Presidential Policy Directive-28<sup>2</sup> and must decide by June 1 whether to reauthorize section 215 of the Patriot Act, under which many of the government's surveillance programs are justified.<sup>3</sup> It is urgent that Congress and the public be informed well before June 1 about the sorts of records maintained on journalists like myself by federal agencies so that they can make informed choices about how to reform the government's data collection programs. In the courts, former CBS News reporter Sharyl Attkisson has filed a lawsuit in D.C. Superior Court<sup>4</sup> alleging that the Dept. of Justice hacked and spied on her personal computer,<sup>5</sup> and some experts believe the US Supreme Court is likely to take up one of a number of lawsuits filed against the NSA's surveillance programs sometime this year.<sup>6</sup> My reporting on whether agencies have collected and stored information on journalists like myself could influence the outcome of either of these cases.

2) Documents leaked by Edward Snowden on January 19 reveal that the NSA's British partner agency, GCHQ, has collected the communications of journalists and editors at the *BBC*, *Reuters*, the *Guardian*, the *New York Times*, *Le Monde*, *NBC* and the *Washington Post*.<sup>7</sup> As we know from previously declassified and leaked documents, the US and Britain cooperate closely on

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<sup>1</sup> "A Year After Reform Push, NSA Still Collects Bulk Domestic Data, Still Lacks Way to Assess Value," by Dan Froomkin. *The Intercept*. 29 Jan. 2015.

<https://firstlook.org/theintercept/2015/01/29/one-year-major-report-nsa-still-collecting-bulk->

<sup>2</sup> "Congress Readies Push to Rein in the Nation's Spooks," By Gopal Ratnam. *Foreign Policy*. Jan. 29, 2015. <http://foreignpolicy.com/2015/01/29/congress-readies-push-to-rein-in-the-nations-spooks/>

<sup>3</sup> "Administration highlights surveillance reforms," by Josh Gertstein. *Politico*. Feb 3, 2015. <http://www.politico.com/blogs/under-the-radar/2015/02/administration-highlights-surveillance-reforms-202037.html>

<sup>4</sup> *Attkisson v. Holder, et al* <http://www.washingtonpost.com/r/2010-2019/WashingtonPost/2015/01/05/Editorial-Opinion/Graphics/attkisson-lawsuit.pdf>

<sup>5</sup> "Sharyl Attkisson's computer intrusions: 'Worse than anything Nixon ever did,'" by Erik Wemple. *Washington Post*. Oct. 27 2014. <http://www.washingtonpost.com/blogs/erik-wemple/wp/2014/10/27/sharyl-attkissons-computer-intrusions-worse-than-anything-nixon-ever-did/>

<sup>6</sup> "If the Supreme Court Tackles the NSA in 2015, it'll be one of these five cases," by Cyrus Farivar. *Ars Technica*. Jan 1, 2015. <http://arstechnica.com/tech-policy/2015/01/if-the-supreme-court-tackles-the-nsa-in-2015-itll-be-one-of-these-five-cases/>

<sup>7</sup> "GCHQ captured emails of journalists from top international media," by James Ball, *The Guardian*. 19 Jan. 2015. <http://www.theguardian.com/uk-news/2015/jan/19/gchq-intercepted-emails-journalists-ny-times-bbc-guardian-le-monde-reuters-nbc-washington-post>

signals intelligence.<sup>8</sup> Thus, there is at present an urgent public interest and “exceptional media interest” in knowing how the American government interprets its own authority to collect and retain information on journalists, and whether or not the US government has engaged in comparable surveillance (intentional or incidental) of American journalists like myself.<sup>9 10</sup> The information sought, therefore, involves “a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.” [28 C.F.R. § 16.5(d)(iv)]

3) A majority of journalists believe the government is collecting their data. A Pew Research – Columbia University study released February 5, 2015, found that 64% of American investigative journalists believe the U.S. government has “probably collected data about their phone calls, emails or online communications,” and 80% believe that being a journalist “increases the likelihood that their data will be collected.”<sup>11</sup> These beliefs have changed the way that many journalists report stories, share or store sensitive documents, and communicate with other journalists, editors, and producers.<sup>12</sup> As a joint ACLU, Human Rights Watch report confirms,<sup>13</sup> this climate of fear and speculation is dangerous and could compromise the ability of journalists to fulfill their role in shedding light on government activity. There is therefore an urgent public interest in knowing whether the government is collecting information on journalists, and if so, what sort of information. The documents sought in this request will allow me to report, in concrete detail, on that story. There is therefore an “urgency to inform the public” about the federal government’s alleged surveillance of journalists. [28 C.F.R. § 16.5(d)(ii)]

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<sup>8</sup> “British Spy Chiefs Secretly Begged to Play in NSA’s Data Pools,” by Ryan Gallagher. *The Intercept*. Apr. 30, 2015 <https://firstlook.org/theintercept/2014/04/30/gchq-prism-nsa-fisa-unsupervised-access-snowden/>

<sup>9</sup> “Edward Snowden files reveal GCHQ scooped up journalist e-mails,” by Karla Adam. *Washington Post*. Jan 19, 2015. [http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c\\_story.html](http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c_story.html)

<sup>10</sup> “How have journalists responded to revelations of mass surveillance?” by Stuart Dredge. *The Guardian*. <http://www.theguardian.com/technology/2015/feb/06/investigative-journalists-mass-surveillance-nsa-edward-snowden>

<sup>11</sup> “Investigative Journalists and Digital Security.” Jesse Holcomb, Amy Mitchell, Kristen Purcell. *Pew Research Center*. Feb. 5, 2015.

<http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>;  
 “Investigative journalists are pretty sure the U.S. government is watching them,” by Andrea Peterson. *Washington Post*. <http://www.washingtonpost.com/blogs/the-switch/wp/2015/02/06/investigative-journalists-are-pretty-sure-the-u-s-government-is-watching-them/>

<sup>12</sup> “Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.” *Ibid*.

<sup>13</sup> “With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law and American Democracy.”, by Human Rights Watch and ACLU. July 2014. <https://www.aclu.org/sites/default/files/assets/dem14-withlibertytomonitorall-07282014.pdf>

4) I have a deadline for a Washington Post story next month on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the same subject due in 120 days. The time for this story is now—when public, congressional and judicial attention is focused on questions of government surveillance, journalistic freedom and privacy rights. The information sought in this request will be of much lesser value to my reporting and to the public if received after the June 1<sup>st</sup> Section 215 sunset date and/or after the exceptional media interest in this story has passed.

Sincerely,



**Barton Gellman**

*The Washington Post*, National Correspondent

910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: gellmanb@gmail.com

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 16, 2015.*



# **EXHIBIT G**

March 16, 2015

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

Dear FOIA Coordinator:

Under the Freedom of Information Act, 5 U.S.C. subsection 552 and the Privacy Act, 5 U.S.C. section 552a, please furnish me, Barton Gellman, with copies of all records that mention my name, Barton Gellman (aka Bart Gellman), held by the Public Affairs office.

Emails from or to myself need not be considered responsive—unless that correspondence was then forwarded to another party, if another party was included on the email but BCC'd, or any other circumstances in which the full correspondence and its participants would not already be saved in my own email inbox.

**I am interested in any and all records about me, including, but not limited to:**

- my interaction with Edward Snowden and other government and former government employees and contractors since 2013, and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- my reporting for TIME magazine between 2010 and 2013 on subjects including Wikileaks, extremist U.S. militias, the investigation of Gen. David Petraeus and a cover profile of former Director Robert Mueller;
- my 2007 series in The Washington Post and 2008 book, both entitled Angler: The Cheney Vice Presidency;
- my coverage of the U.N. Special Commission (UNSCOM) in Iraq and disclosure of U.S. intelligence gathering under UNSCOM cover in the 1990s;
- any mention of me or my stories in efforts to identify, track, report or assess media leaks or cryptologic insecurities, to include intelligence community efforts under the cover name FIRSTFRUITS, whether or not the efforts led to a formal leak investigation;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;
- my work in general as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;

- information and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted areas, including but not limited to the Pentagon and other U.S. and allied facilities and proximity to senior civilian and uniformed officials.
- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;
- my overseas residence in the UK between 1982 and 1985 and Israel between 1994 and 1997, and my overseas travels and contacts (as a student, a journalist and a private citizen) in Europe, Asia, the Americas, the Near East and Africa.

**Date Range:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Please send the results as they become available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

**Fees:** I am requesting a fee waiver for any files found because I am acting as a representative of the news media. If my waiver is denied, I am willing to pay up to \$50 for reproduction costs. Please contact me if the cost of information will exceed this sum.

**Expedited Processing:** I am requesting expedited processing for this request pursuant to DOJ FOIA guidelines in 28 CFR 16.5. I am a member of the media, and I have a “compelling need” for the records sought for the following reasons:



1) The public, as well as Congress and the courts, continue to debate whether and how to narrow the scope of the government's authority to collect data on its citizens.<sup>1</sup> The documents sought will help inform that debate, by allowing me to report on how the government interprets its authority to collect and retain information on journalists like myself. At present, Congress is debating how to implement the surveillance reforms proposed in Presidential Policy Directive-28<sup>2</sup> and must decide by June 1 whether to reauthorize section 215 of the Patriot Act, under which many of the government's surveillance programs are justified.<sup>3</sup> It is urgent that Congress and the public be informed well before June 1 about the sorts of records maintained on journalists like myself by federal agencies so that they can make informed choices about how to reform the government's data collection programs. In the courts, former CBS News reporter Sharyl Attkisson has filed a lawsuit in D.C. Superior Court<sup>4</sup> alleging that the Dept. of Justice hacked and spied on her personal computer,<sup>5</sup> and some experts believe the US Supreme Court is likely to take up one of a number of lawsuits filed against the NSA's surveillance programs sometime this year.<sup>6</sup> My reporting on whether agencies have collected and stored information on journalists like myself could influence the outcome of either of these cases.

2) Documents leaked by Edward Snowden on January 19 reveal that the NSA's British partner agency, GCHQ, has collected the communications of journalists and editors at the *BBC*, *Reuters*, the *Guardian*, the *New York Times*, *Le Monde*, *NBC* and the *Washington Post*.<sup>7</sup> As we know from previously declassified and leaked documents, the US and Britain cooperate closely on signals intelligence.<sup>8</sup> Thus, there is at present an urgent public interest and "exceptional media

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<sup>1</sup> "A Year After Reform Push, NSA Still Collects Bulk Domestic Data, Still Lacks Way to Assess Value," by Dan Froomkin. *The Intercept*. 29 Jan. 2015.

<https://firstlook.org/theintercept/2015/01/29/one-year-major-report-nsa-still-collecting-bulk->

<sup>2</sup> "Congress Readies Push to Rein in the Nation's Spooks," By Gopal Ratnam. *Foreign Policy*. Jan. 29, 2015. <http://foreignpolicy.com/2015/01/29/congress-readies-push-to-rein-in-the-nations-spooks/>

<sup>3</sup> "Administration highlights surveillance reforms," by Josh Gertstein. *Politico*. Feb 3, 2015. <http://www.politico.com/blogs/under-the-radar/2015/02/administration-highlights-surveillance-reforms-202037.html>

<sup>4</sup> *Attkisson v. Holder, et al* <http://www.washingtonpost.com/r/2010-2019/WashingtonPost/2015/01/05/Editorial-Opinion/Graphics/attkisson-lawsuit.pdf>

<sup>5</sup> "Sharyl Attkisson's computer intrusions: 'Worse than anything Nixon ever did,'" by Erik Wemple. *Washington Post*. Oct. 27 2014. <http://www.washingtonpost.com/blogs/erik-wemple/wp/2014/10/27/sharyl-attkissons-computer-intrusions-worse-than-anything-nixon-ever-did/>

<sup>6</sup> "If the Supreme Court Tackles the NSA in 2015, it'll be one of these five cases," by Cyrus Farivar. *Ars Technica*. Jan 1, 2015. <http://arstechnica.com/tech-policy/2015/01/if-the-supreme-court-tackles-the-nsa-in-2015-itll-be-one-of-these-five-cases/>

<sup>7</sup> "GCHQ captured emails of journalists from top international media," by James Ball, *The Guardian*. 19 Jan. 2015. <http://www.theguardian.com/uk-news/2015/jan/19/gchq-intercepted-emails-journalists-ny-times-bbc-guardian-le-monde-reuters-nbc-washington-post>

<sup>8</sup> "British Spy Chiefs Secretly Begged to Play in NSA's Data Pools," by Ryan Gallagher. *The Intercept*. Apr. 30, 2015 <https://firstlook.org/theintercept/2014/04/30/gchq-prism-nsa-fisa-unsupervised-access-snowden/>

interest” in knowing how the American government interprets its own authority to collect and retain information on journalists, and whether or not the US government has engaged in comparable surveillance (intentional or incidental) of American journalists like myself.<sup>9 10</sup> The information sought, therefore, involves “a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.” [28 C.F.R. § 16.5(d)(iv)]

3) A majority of journalists believe the government is collecting their data. A Pew Research – Columbia University study released February 5, 2015, found that 64% of American investigative journalists believe the U.S. government has “probably collected data about their phone calls, emails or online communications,” and 80% believe that being a journalist “increases the likelihood that their data will be collected.”<sup>11</sup> These beliefs have changed the way that many journalists report stories, share or store sensitive documents, and communicate with other journalists, editors, and producers.<sup>12</sup> As a joint ACLU, Human Rights Watch report confirms,<sup>13</sup> this climate of fear and speculation is dangerous and could compromise the ability of journalists to fulfill their role in shedding light on government activity. There is therefore an urgent public interest in knowing whether the government is collecting information on journalists, and if so, what sort of information. The documents sought in this request will allow me to report, in concrete detail, on that story. There is therefore an “urgency to inform the public” about the federal government’s alleged surveillance of journalists. [28 C.F.R. § 16.5(d)(ii)]

4) I have a deadline for a Washington Post story next month on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the same subject due in 120 days. The time for this story is now—when public, congressional and judicial attention is focused on

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<sup>9</sup> “Edward Snowden files reveal GCHQ scooped up journalist e-mails,” by Karla Adam. *Washington Post*. Jan 19, 2015. [http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c\\_story.html](http://www.washingtonpost.com/world/europe/edward-snowden-files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c_story.html)

<sup>10</sup> “How have journalists responded to revelations of mass surveillance?” by Stuart Dredge. *The Guardian*. <http://www.theguardian.com/technology/2015/feb/06/investigative-journalists-mass-surveillance-nsa-edward-snowden>

<sup>11</sup> “Investigative Journalists and Digital Security.” Jesse Holcomb, Amy Mitchell, Kristen Purcell. *Pew Research Center*. Feb. 5, 2015.

[http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/;](http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/)

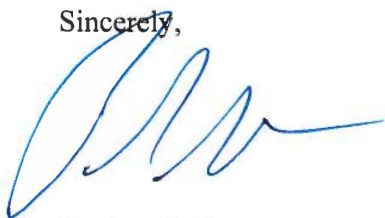
“Investigative journalists are pretty sure the U.S. government is watching them,” by Andrea Peterson. *Washington Post*. <http://www.washingtonpost.com/blogs/the-switch/wp/2015/02/06/investigative-journalists-are-pretty-sure-the-u-s-government-is-watching-them/>

<sup>12</sup> “Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.” *Ibid*.

<sup>13</sup> “With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law and American Democracy.” by Human Rights Watch and ACLU. July 2014. <https://www.aclu.org/sites/default/files/assets/dem14-withlibertytomonitorall-07282014.pdf>

4) I have a deadline for a Washington Post story next month on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the same subject due in 120 days. The time for this story is now—when public, congressional and judicial attention is focused on questions of government surveillance, journalistic freedom and privacy rights. The information sought in this request will be of much lesser value to my reporting and to the public if received after the June 1<sup>st</sup> Section 215 sunset date and/or after the exceptional media interest in this story has passed.

Sincerely,



**Barton Gellman**

*The Washington Post*, National Correspondent

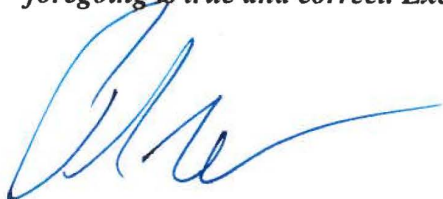
910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: gellmanb@gmail.com

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 16, 2015.*



# **EXHIBIT H**

February 12, 2015

Arnetta Mallory  
FOIA Initiatives Coordinator  
National Security Division  
Room 6150  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Ms. Mallory:

Under the Freedom of Information Act, 5 U.S.C. subsection 552 and the Privacy Act, 5 U.S.C. section 552a, please furnish me, Barton Gellman, with copies of all Department of Justice records that mention my name, Barton Gellman (aka Bart Gellman).

**I am interested in any and all records about me, including, but not limited to:**

- my interaction with Edward Snowden and other government and former government employees and contractors since 2013, and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- my reporting for TIME magazine between 2010 and 2013 on subjects including Wikileaks, extremist U.S. militias, the investigation of Gen. David Petraeus and a cover profile of former Director Robert Mueller;
- my 2007 series in The Washington Post and 2008 book, both entitled Angler: The Cheney Vice Presidency;
- my coverage of the U.N. Special Commission (UNSCOM) in Iraq and disclosure of U.S. intelligence gathering under UNSCOM cover in the 1990s;
- any mention of me or my stories in efforts to identify, track, report or assess media leaks or cryptologic insecurities, to include intelligence community efforts under the cover name FIRSTFRUITS, whether or not the efforts led to a formal leak investigation;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;
- my work in general as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- information and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted

areas, including but not limited to the Pentagon and other U.S. and allied facilities and proximity to senior civilian and uniformed officials.

- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;
- my overseas residence in the UK between 1982 and 1985 and Israel between 1994 and 1997, and my overseas travels and contacts (as a student, a journalist and a private citizen) in Europe, Asia, the Americas, the Near East and Africa.

**Date Range:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please also see attached a copy of DOJ-361, provided for identification purposes.

**Please send the results as they become available and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

**Fees:** I am requesting a fee waiver for any files found because I am acting as a representative of the news media. If my waiver is denied, I am willing to pay up to \$50 for reproduction costs. Please contact me if the cost of information will exceed this sum.

**Expedited Processing:** I am requesting expedited processing for this request pursuant to DOJ FOIA guidelines in 28 CFR 16.5. I am a member of the media, and I have a “compelling need” for the records sought for the following reasons:

1) The public, as well as Congress and the courts, continue to debate whether and how to narrow the scope of the government's authority to collect data on its citizens.<sup>1</sup> The documents sought

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<sup>1</sup> “A Year After Reform Push, NSA Still Collects Bulk Domestic Data, Still Lacks Way to Assess Value,” by Dan Froomkin. *The Intercept*. 29 Jan. 2015.

<https://firstlook.org/theintercept/2015/01/29/one-year-major-report-nsa-still-collecting-bulk-domestic-data-still-clueless-much-good-surveillance/>

will help inform that debate, by allowing me to report on how the government interprets its authority to collect and retain information on journalists like myself. At present, Congress is debating how to implement the surveillance reforms proposed in Presidential Policy Directive-28<sup>2</sup> and must decide by June 1 whether to reauthorize section 215 of the Patriot Act, under which many of the government's surveillance programs are justified.<sup>3</sup> It is urgent that Congress and the public be informed well before June 1 about the sorts of records maintained on journalists like myself by federal agencies so that they can make informed choices about how to reform the government's data collection programs. In the courts, former CBS News reporter Sharyl Attkisson has filed a lawsuit in D.C. Superior Court<sup>4</sup> alleging that the Dept. of Justice hacked and spied on her personal computer,<sup>5</sup> and some experts believe the US Supreme Court is likely to take up one of a number of lawsuits filed against the NSA's surveillance programs sometime this year.<sup>6</sup> My reporting on whether agencies have collected and stored information on journalists like myself could influence the outcome of either of these cases.

2) Documents leaked by Edward Snowden on January 19 reveal that the NSA's British partner agency, GCHQ, has collected the communications of journalists and editors at the *BBC*, *Reuters*, the *Guardian*, the *New York Times*, *Le Monde*, *NBC* and the *Washington Post*.<sup>7</sup> As we know from previously declassified and leaked documents, the US and Britain cooperate closely on signals intelligence.<sup>8</sup> Thus, there is at present an urgent public interest and "exceptional media interest" in knowing how the American government interprets its own authority to collect and retain information on journalists, and whether or not the US government has engaged in comparable surveillance (intentional or incidental) of American journalists like myself.<sup>9 10</sup> The

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<sup>2</sup> "Congress Readies Push to Rein in the Nation's Spooks," By Gopal Ratnam. *Foreign Policy*. Jan. 29, 2015. <http://foreignpolicy.com/2015/01/29/congress-readies-push-to-rein-in-the-nations-spooks/>

<sup>3</sup> "Administration highlights surveillance reforms," by Josh Gertstein. *Politico*. Feb 3, 2015. <http://www.politico.com/blogs/under-the-radar/2015/02/administration-highlights-surveillance-reforms-202037.html>

<sup>4</sup> *Attkisson v. Holder, et al* <http://www.washingtonpost.com/r/2010-2019/WashingtonPost/2015/01/05/Editorial-Opinion/Graphics/attkisson-lawsuit.pdf>

<sup>5</sup> "Sharyl Attkisson's computer intrusions: 'Worse than anything Nixon ever did,'" by Erik Wemple. *Washington Post*. Oct. 27 2014. <http://www.washingtonpost.com/blogs/erik-wemple/wp/2014/10/27/sharyl-attkissons-computer-intrusions-worse-than-anything-nixon-ever-did/>

<sup>6</sup> "If the Supreme Court Tackles the NSA in 2015, it'll be one of these five cases," by Cyrus Farivar. *Ars Technica*. Jan 1, 2015. <http://arstechnica.com/tech-policy/2015/01/if-the-supreme-court-tackles-the-nsa-in-2015-itll-be-one-of-these-five-cases/>

<sup>7</sup> "GCHQ captured emails of journalists from top international media," by James Ball, *The Guardian*. 19 Jan. 2015. <http://www.theguardian.com/uk-news/2015/jan/19/gchq-intercepted-emails-journalists-ny-times-bbc-guardian-le-monde-reuters-nbc-washington-post>

<sup>8</sup> "British Spy Chiefs Secretly Begged to Play in NSA's Data Pools," by Ryan Gallagher. *The Intercept*. Apr. 30, 2015 <https://firstlook.org/theintercept/2014/04/30/gchq-prism-nsa-fisa-unsupervised-access-snowden/>

<sup>9</sup> "Edward Snowden files reveal GCHQ scooped up journalist e-mails," by Karla Adam. *Washington Post*. Jan 19, 2015. <http://www.washingtonpost.com/world/europe/edward-snowden->

information sought, therefore, involves “a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.” [28 C.F.R. § 16.5(d)(iv)]

3) A majority of journalists believe the government is collecting their data. A Pew Research – Columbia University study released February 5, 2015, found that 64% of American investigative journalists believe the U.S. government has “probably collected data about their phone calls, emails or online communications,” and 80% believe that being a journalist “increases the likelihood that their data will be collected.”<sup>11</sup> These beliefs have changed the way that many journalists report stories, share or store sensitive documents, and communicate with other journalists, editors, and producers.<sup>12</sup> As a joint ACLU, Human Rights Watch report confirms,<sup>13</sup> this climate of fear and speculation is dangerous and could compromise the ability of journalists to fulfill their role in shedding light on government activity. There is therefore an urgent public interest in knowing whether the government is collecting information on journalists, and if so, what sort of information. The documents sought in this request will allow me to report, in concrete detail, on that story. There is therefore an “urgency to inform the public” about the federal government’s alleged surveillance of journalists. [28 C.F.R. § 16.5(d)(ii)]

4) I have a deadline for a Washington Post story next month on the subject of government data collection—in particular, the surveillance of investigative journalists, especially those reporting on privacy and security. I also have a book chapter on the same subject due in 120 days. The time for this story is now—when public, congressional and judicial attention is focused on questions of government surveillance, journalistic freedom and privacy rights. The information sought in this request will be of much lesser value to my reporting and to the public if received after the June 1<sup>st</sup> Section 215 sunset date and/or after the exceptional media interest in this story has passed.

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[files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c\\_story.html](http://files-reveal-gchq-scooped-up-journalist-e-mails/2015/01/19/40b64644-028a-45a6-b025-fd0d4cf83a2c_story.html)

<sup>10</sup> “How have journalists responded to revelations of mass surveillance?” by Stuart Dredge. *The Guardian*. <http://www.theguardian.com/technology/2015/feb/06/investigative-journalists-mass-surveillance-nsa-edward-snowden>

<sup>11</sup> “Investigative Journalists and Digital Security.” Jesse Holcomb, Amy Mitchell, Kristen Purcell. *Pew Research Center*. Feb. 5, 2015. <http://www.journalism.org/2015/02/05/investigative-journalists-and-digital-security/>; “Investigative journalists are pretty sure the U.S. government is watching them,” by Andrea Peterson. *Washington Post*. <http://www.washingtonpost.com/blogs/the-switch/wp/2015/02/06/investigative-journalists-are-pretty-sure-the-u-s-government-is-watching-them/>

<sup>12</sup> “Nearly half (49%) say they have at least somewhat changed the way they store or share sensitive documents, and 29% say the same of the way they communicate with other reporters, editors or producers.” *Ibid*.

<sup>13</sup> “With Liberty to Monitor All: How Large-Scale US Surveillance is Harming Journalism, Law and American Democracy.” by Human Rights Watch and ACLU. July 2014. <https://www.aclu.org/sites/default/files/assets/dem14-withlibertytomonitorall-07282014.pdf>



Sincerely,

**Barton Gellman**

*The Washington Post*, National Correspondent

910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: gellmanb@gmail.com

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 12, 2015.*

# **EXHIBIT I**

January 14, 2015

Jennifer L. Hudson  
Director, Information Management Division  
Office of the Director of National Intelligence  
Washington, D.C. 20511

Dear Ms. Hudson:

Under the Freedom of Information Act, 5 U.S.C. subsection 552 and the Privacy Act, 5 U.S.C. section 552a, I, Barton Gellman, request copies of all records that mention my name, Barton Gellman (aka Bart Gellman).

**Agency records about me may include, but should not be limited to:**

- my interaction with Edward Snowden and other government and former government employees and contractors since 2013, and my role in reporting on electronic surveillance and other intelligence operations, policies, targets, sources and methods during that period;
- my reporting for TIME magazine between 2010 and 2013 on subjects including Wikileaks, extremist U.S. militias, the investigation of Gen. David Petraeus and a cover profile of former Director Robert Mueller;
- my 2007 series in The Washington Post and 2008 book, both entitled Angler: The Cheney Vice Presidency;
- my coverage of the U.N. Special Commission (UNSCOM) in Iraq and disclosure of U.S. intelligence gathering under UNSCOM cover in the 1990s;
- any mention of me or my stories in efforts to identify, track, report or assess media leaks or cryptologic insecurities, to include intelligence community efforts under the cover name FIRSTFRUITS, whether or not the efforts led to a formal leak investigation;
- any mention of me, whether as a potential subject, target, witness or in any other role, in connection with a leak investigation or any other investigation, including but not limited to criminal, counterintelligence and counterterrorism investigations;
- my work in general as a journalist and author covering the federal government, military, diplomatic, intelligence, national security and legal affairs from 1983 to present;
- information and comments by and about me in connection with security screenings of other people (for positions of trust or access to secure facilities or classified information) and in connection with the security screenings required to clear me for access to restricted areas, including but not limited to the Pentagon and other U.S. and allied defense facilities and proximity to senior civilian and uniformed officials.

- my contacts with foreign nationals, governmental and nongovernmental, while in the United States and overseas;
- my overseas residence in the UK between 1982 and 1985 and Israel between 1994 and 1997, and my overseas travels and contacts (as a student, a journalist and a private citizen) in Europe, Asia, the Americas, the Near East and Africa.

**Date Range:** 1980 – present

To help identify information about me in your record systems, I am providing the following required information:

**Full Name:** Barton David Gellman

**Current Address:** 910 West End Ave. Apt 12A, New York, NY 10025

**Birthdate:** November 3, 1960

**Place of Birth:** Philadelphia, PA

**Citizenship Status:** USA

Please see attached a copy of DOJ-361, provided for identification purposes.

**Pursuant to the Department of Defense Freedom of Information Act Program (DoD 5400.7-R, paragraph C1.5.4.3.2), I am requesting expedited processing.** My job as a national correspondent for *The Washington Post* qualifies me as “an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity.”

**Pursuant to the Department of Defense Freedom of Information Act Program (DoD 5400.7-R, paragraph C6.1.4.3.1), I am requesting a fee waiver.** Because I am using this information in a series of stories and a forthcoming book about national security and government surveillance activities, disclosure of this information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government.”

**Please send the results as they become available, and, where possible, in an electronic format.**

**Use of information:** This request is being made in support of a newsgathering operation. If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law.

**Fees:** I am requesting a fee waiver for any files found, because I am acting as a representative of the news media. If my waiver is denied, I am willing to pay up to \$50 for reproduction costs. Please contact me if the cost of information will exceed this amount.

Sincerely,

**Barton Gellman**

*The Washington Post*, National Correspondent

910 West End Ave. Apt 12A

New York, NY 10025

Phone: 347-422-7801

E-Mail: gellmanb@gmail.com

*I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 14, 2015.*

**CIVIL COVER SHEET**

JS-44 (Rev. 3/16 DC)

<b>I. (a) PLAINTIFFS</b> Barton Gellman  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>88888</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> Department of Homeland Security Department of Justice Office of the Director of National Intelligence  COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
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(e) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Katie Townsend The Reporters Committee for Freedom of the Press 1156 15th Street NW, Suite 1250 Washington, D.C. 20005	ATTORNEYS (IF KNOWN)
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<b>II. BASIS OF JURISDICTION</b> (PLACE AN X IN ONE BOX ONLY)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b>																								
<input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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**IV. CASE ASSIGNMENT AND NATURE OF SUIT**

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act  <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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<input type="radio"/> <b>E. General Civil (Other)</b>	<input type="radio"/> <b>F. Pro Se General Civil</b>
Real Property <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  Personal Property <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	Bankruptcy <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
Forfeiture/Penalty <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
 1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district (specify)  
  6 Multi-district Litigation  
  7 Appeal to District Judge from Mag. Judge

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 5 U.S.C. 552, Violation of the Freedom of Information Act

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: April 4, 2016	SIGNATURE OF ATTORNEY OF RECORD
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**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

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

\_\_\_\_\_  
*Plaintiff*

v.

Department of Homeland Security, Department of  
Justice, Office of the Director of National Intelligence  
\_\_\_\_\_  
*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

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

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

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

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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

\_\_\_\_\_  
*Plaintiff*

v.

Department of Homeland Security, Department of  
Justice, Office of the Director of National Intelligence  
\_\_\_\_\_  
*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

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Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

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

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

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

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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

\_\_\_\_\_  
*Plaintiff*  
  
v.  
Department of Homeland Security, Department of  
Justice, Office of the Director of National Intelligence  
*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

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

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

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

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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

\_\_\_\_\_)  
*Plaintiff*)  
)  
v.)  
Department of Homeland Security, Department of  
Justice, Office of the Director of National Intelligence )  
\_\_\_\_\_)  
*Defendant*)

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

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

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

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

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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

\_\_\_\_\_  
*Plaintiff*

v.

Department of Homeland Security, Department of  
Justice, Office of the Director of National Intelligence  
\_\_\_\_\_  
*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

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

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

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

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: