



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 60650B
15 April 2010

Mr. Nathan Cardozo
Electronic Frontier Foundation
454 Shotwell Street
San Francisco, CA 94110

Dear Mr. Cardozo:

This is a supplemental response to your Freedom of Information Act (FOIA) request of 19 June 2009 to the Director of National Intelligence (DNI) for Intelligence Oversight reporting. Copies of your request and the 25 February 2008 request from Ms. Marcia Hofmann, are enclosed. The DNI referred 11 pages to the National Security Agency/Central Security Service (NSA/CSS) on 20 January 2010 for our review and direct response to you. We sent a final response to your request on 25 February 2010, providing you those pages.

Upon further review of the documents provided to you with our 25 February 2010 response, we determined that additional information could be released to you. Enclosed please those pages with additional information released on three of the pages. The exemptions applied to the withheld information were explained to you in our 25 February letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pamela N. Phillips".

PAMELA N. PHILLIPS
Chief
FOIA/PA Office

Encls:
a/s



Electronic Frontier Foundation

February 25, 2008

BY FACSIMILE — (301) 688-4762

National Security Agency
Pamela N. Phillips
Chief, FOIA/PA Office, DJP4
9800 Savage Road, Suite 6248
Ft. George G. Meade, MD 20755-6248

RE: Freedom of Information Act Request

Dear Ms. Phillips:

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted to the National Security Agency on behalf of the Electronic Frontier Foundation ("EFF"). We make this request as part of EFF's FOIA Litigation for Accountable Government ("FLAG") Project, which works to obtain government documents and make them widely available to the public.

We are seeking copies of all reports submitted by the National Security Agency to the Intelligence Oversight Board ("IOB") pursuant to Section 2.4 of Executive Order 12863. That section provides, in pertinent part, as follows:

Inspectors General and General Counsel of the Intelligence Community, to the extent permitted by law, shall report to the IOB at least on a quarterly basis and from time to time as necessary or appropriate, concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.¹

We seek such reports submitted to the IOB since January 1, 2001.

Request for News Media Fee Status

EFF asks that it not be charged search or review fees for this request because EFF qualifies as a representative of the news media pursuant to the FOIA and 32 C.F.R. § 286.28(e)(7). In requesting this classification, we note that the National Security Agency, Department of Homeland Security, and Department of State have recognized that EFF qualifies as a "news media" requester, based upon the publication activities set forth below (see DHS stipulation, NSA letter, and State Department letter attached hereto). We further note that the U.S. Court of Appeals for the D.C. Circuit has stressed that "different agencies [must not] adopt inconsistent interpretations of the FOIA." *Al-Fayed v. CIA*, 254 F.3d 300, 307 (D.C. Cir. 2001), quoting *Pub. Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1287 (D.C. Cir. 1983).

¹ The National Security Agency is a member of the "Intelligence Community." See <http://www.intelligence.gov/1-members.shtml>.

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EFF is a non-profit public interest organization that works "to protect and enhance our core civil liberties in the digital age."² One of EFF's primary objectives is "to educate the press, policymakers and the general public about online civil liberties."³ To accomplish this goal, EFF routinely and systematically disseminates information in several ways.

First, EFF maintains a frequently visited web site, <http://www.eff.org>, which received 46,682,194 hits in July 2007 — an average of 62,744 per hour. The web site reports the latest developments and contains in-depth information about a variety of civil liberties and intellectual property issues.

EFF has regularly published an online newsletter, the EFFector, since 1990. The EFFector currently has more than 77,000 subscribers. A complete archive of past EFFectors is available at <http://www.eff.org/effector/>.

Furthermore, EFF publishes a blog that highlights the latest news from around the Internet. DeepLinks (<http://www.eff.org/deeplinks/>) reports and analyzes newsworthy developments in technology. It also provides miniLinks, which direct readers to other news articles and commentary on these issues. DeepLinks had 510,633 hits in July 2007.⁴

In addition to reporting hi-tech developments, EFF staff members have presented research and in-depth analysis on technology issues in no fewer than eighteen white papers published since 2002. These papers, available at <http://www.eff.org/wp/>, provide information and commentary on such diverse issues as electronic voting, free speech, privacy and intellectual property.

EFF has also published several books to educate the public about technology and civil liberties issues. *Everybody's Guide to the Internet* (MIT Press 1994), first published electronically as *The Big Dummy's Guide to the Internet* in 1993, was translated into several languages, and is still sold by Powell's Books (<http://www.powells.com>). EFF also produced *Protecting Yourself Online: The Definitive Resource on Safety, Freedom & Privacy in Cyberspace* (HarperEdge 1998), a "comprehensive guide to self-protection in the electronic frontier," which can be purchased via Amazon.com (<http://www.amazon.com>). Finally, *Cracking DES: Secrets of Encryption Research, Wiretap Politics & Chip Design* (O'Reilly 1998) revealed technical details on encryption security to the public. The book is available online at <http://cryptome.org/cracking-des.htm> and for sale at Amazon.com.

² GuideStar Basic Report, Electronic Frontier Foundation, <http://www.guidestar.org/pqShowGsReport.do?npId=561625> (last visited Feb. 1, 2008).

³ *Id.*

⁴ These figures include hits from RSS feeds through which subscribers can easily track updates to DeepLinks and miniLinks.

Most recently, EFF has begun broadcasting podcasts of interviews with EFF staff and outside experts. *Line Noise* is a five-minute audio broadcast on EFF's current work, pending legislation, and technology-related issues. A listing of *Line Noise* podcasts is available at feed://www.eff.org/rss/linenoisemp3.xml and feed://www.eff.org/rss/linenoiseogg.xml. These podcasts were downloaded more than 2,600 times from EFF's web site in July 2007.

Request for a Public Interest Fee Waiver

EFF is entitled to a waiver of duplication fees because disclosure of the requested information is in the public interest within the meaning of 5 U.S.C. § 552(a)(4)(a)(iii) and 32 C.F.R. § 286.28(d). To determine whether a request meets this standard, Department of Defense components determine whether disclosure of the requested information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government," and whether such disclosure "is not primarily in the commercial interest of the requester." 32 C.F.R. §§ 286.28(d)(3)(i), (ii). This request clearly satisfies these criteria.

First, disclosure of the requested information will "will significantly contribute to the public understanding of the operations or activities of the Department of Defense." 32 C.F.R. § 286.28(d)(3)(i)(A). EFF has requested information that will shed light on the agency's interpretation of laws governing intelligence activities, and how well it conforms to those laws.

Second, the "informative value" of the records EFF has requested is likely to be meaningful. 32 C.F.R. § 286.28(d)(3)(i)(B). EFF has requested information that will shed light on the manner in which the agency reviews and reports intelligence matters to the IOB. This information is unlikely to be duplicative of information about the Army's operations and activities already in the public domain.

Third, the requested material will contribute to the general public's understanding of how the agency interprets applicable laws and monitors internal compliance. 32 C.F.R. § 286.28(d)(3)(i)(C). (internal quotation marks omitted). This information will contribute not only to EFF's understanding of the agency's interpretation and use of legal authority, but to the understanding of a reasonably broad audience of persons interested in the subject. EFF will make the information it obtains under the FOIA available to the public and the media through its web site and newsletter, which highlight developments concerning privacy and civil liberties issues, and/or other channels discussed more fully above.

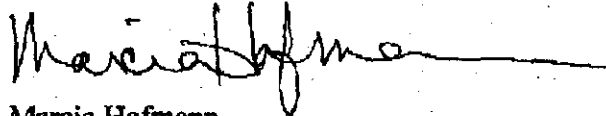
Fourth, the disclosure will contribute significantly to the public's knowledge and understanding of how the agency seeks compliance with laws governing intelligence activities. 32 C.F.R. § 286.28(d)(3)(i)(D). Disclosure of the requested information will help inform the public about the agency's actions, as well as contribute to the public debate about how intelligence activities should be conducted.

Freedom of Information Act Request
February 25, 2008
Page 4

Furthermore, a fee waiver is appropriate here because EFF has no commercial interest in the disclosure of the requested records. 32 C.F.R. § 286.28(d)(3)(ii). EFF is a 501(c)(3) nonprofit organization, and will derive no commercial benefit from the information at issue here.

Thank you for your consideration of this request. If you have any questions or concerns, please do not hesitate to contact me at (415) 436-9333 x. 116. As the FOIA provides, I will anticipate a determination on this request from your office within 20 working days.

Sincerely,



Marcia Hofmann
Staff Attorney

Enclosures



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20785-6000

FOIA Case: 52276
6 February 2007

Ms. Marcia Hofmann
Electronic Frontier Foundation
1875 Connecticut Avenue, NW
Suite 650
Washington, DC 20009

Dear Ms. Hofmann:

This is an initial response to your Freedom of Information Act (FOIA) request submitted via facsimile on 23 January 2007, which was received by this office on 24 January 2007, for all agency records (including, but not limited to, electronic records) related to the NSA's review of and input on the configuration of the Microsoft Windows Vista operating system ("Vista"). Your request has been assigned Case Number 52276.

As we began to process your request, we realized that the first page of the actual request was missing from your 18-page facsimile package. On 1 February 2007, a member of my staff contacted you to advise you of this fact. As a result, you submitted another facsimile of your original five-page request, which we received and have begun to process. There is certain information relating to this processing about which the FOIA and applicable Department of Defense (DoD) and NSA/CSS regulations require we inform you.

For purposes of this request and based on the information you provided in your letter, you are considered a representative of the media. Unless you qualify for a fee waiver or reduction, you must pay for duplication in excess of the first 100 pages. Your request for a fee waiver has been granted. In addition, please be advised your request for expedited treatment has been accepted. We are currently in the process of searching for responsive documents and will notify you of the status of your request as soon as that search has been completed.

Correspondence related to your request should include the case number assigned to your request, which is included in the first paragraph of this letter. Your letter should be addressed to National Security Agency, FOIA Office

(DC34), 9800 Savage Road STE 6248, Ft. George G. Meade, MD 20755-6248
or may be sent by facsimile to 443-479-3612. If sent by fax, it should be
marked for the attention of the FOIA office. The telephone number of the FOIA
office is 301-688-6527.

Sincerely,

for Marianne Steyer

PAMELA N. PHILLIPS
Chief
FOIA/PA Office

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC FRONTIER
FOUNDATION

Plaintiff,

v.

DEPARTMENT OF HOMELAND
SECURITY,

Defendant.

Civil Action No. 06-1988 (ESH)

STIPULATED DISMISSAL OF PLAINTIFF'S SECOND CAUSE OF ACTION

Plaintiff Electronic Frontier Foundation (EFF) and Defendant Department of Homeland Security (DHS), by counsel, hereby stipulate and agree as follows:

1. Defendant DHS has granted news media status to Plaintiff EFF based on the representations contained in EFF's FOIA requests, which demonstrate that EFF is an "entity that is organized and operated to publish or broadcast news to the public." 6 C.F.R. § 5.11(b)(6). Defendant DHS will continue to regard Plaintiff EFF as a "representative of the news media" absent a change in circumstances that indicates that EFF is no longer an "entity that is organized and operated to publish or broadcast news to the public." 6 C.F.R. § 5.11(b)(6).

2. Accordingly, the parties herewith agree to the dismissal of Plaintiff EFF's Second Cause of Action, related to EFF's status as a "representative of the news media."

3. The parties further agree that each will pay its own fees and costs for work on the dismissed claim.

SO STIPULATED AND AGREED this 27th day of February, 2007.

/s/ David L. Sobel
DAVID L. SOBEL
D.C. Bar 360418

MARCIA HOFMANN
D.C. Bar 484136

ELECTRONIC FRONTIER FOUNDATION
1875 Connecticut Avenue, N.W.
Suite 650
Washington, D.C. 20009
(202) 797-9009

Counsel for Plaintiff

PETER D. KEISLER
Assistant Attorney General

JEFFREY A. TAYLOR
United States Attorney

ELIZABETH J. SHAPIRO
D.C. Bar 418925
Assistant Branch Director
U.S. Department of Justice
Civil Division, Federal Programs Branch

/s/ John R. Coleman
JOHN R. COLEMAN
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, NW, Room 6118
Washington, D.C. 20530
(202) 514-4505

Counsel for Defendant



United States Department of State
Washington, D.C. 20520

May 1, 2007
Case Number: 200701765

Ms. Marcia Hofmann
Electronic Frontier Foundation
1875 Connecticut Avenue, N.W., Suite 650
Washington, DC 20009

Dear Ms. Hofmann:

This is in response to your Freedom of Information Act (FOIA) request, dated March 19, 2007 for copies of documents concerning copyright matters between the U.S. and Canada.

We will begin the processing of your request based upon the information provided in your communication. We will notify you as soon as responsive material has been retrieved and reviewed.

We wish to advise you that the cut-off date for retrieving records is either the date you have given the Department by specifying a particular time frame or the date the search is initiated.

Fees: The Freedom of Information Act requires agencies to assess fees to recover the direct costs of processing requests, unless a fee waiver has been granted.

By making a FOIA request, you have agreed to pay all applicable fees up to \$25.00 unless a fee waiver has been granted. You may

Office of Information Programs and Services
U.S. Department of State SA-2
Washington, DC 20522-8100
Web site: foia.state.gov

Inquiries: 202-261-8484
Phone: 1-202-261-8579
email: FOIAStatus@state.gov

specify a willingness to pay a greater or lesser amount. If the estimated fees exceed this limit, you will be notified.

Based upon the information that you have provided, we have placed you in the "news media" requester category. This category requires us to assess:

- duplication costs after first 100 pages.(see 22 CFR 171, enclosed)

Therefore, without an agreement to pay fees please be advised that your request will be processed without cost up to the required duplication of the first 100 pages.

Please let us know if you are willing to pay the fees that will incurred in the processing of your request. You may set a limit of the maximum amount that you wish to pay.

Based upon the information provided in your letter, your request for a fee waiver has been denied. If you wish to appeal this decision, you may write to the Chief, Requester Liaison Division, at the address given on the bottom of this page. Your appeal should address the points listed in the enclosed sheet entitled "Requests for Fee Waivers." Your appeal must be sent to us within 30 days from the date that you receive this letter.

While we will make every effort to meet the time limits cited in the Freedom of Information Act (5 USC § 552), unusual circumstances

Office of Information Programs and Services
U.S. Department of State SA-7
Washington, DC 20522-8100
Web site: foia.state.gov

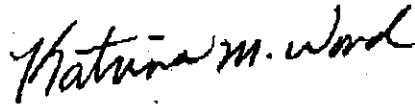
Inquiries:
Phone: 1-202-261-8484
FAX: 1-202-261-8579
email: FOIAStatus@state.gov

may arise for extending the time limit (see enclosure). We appreciate your patience in this matter.

If you have any questions, please do not hesitate to contact us. We can provide faster service if you include the case number of your request in your communications with us.

We are pleased to be of service to you.

Sincerely,



Katrina M. Wood
Requester Communications Branch

Enclosure: As stated.



ELECTRONIC FRONTIER FOUNDATION
Protecting Rights and Promoting Freedom on the Electronic Frontier

June 19, 2009

BY FACSIMILE — (301) 688-4762

National Security Agency
Pamela N. Phillips
Chief, FOIA/PA Office (DJP4)
9800 Savage Road, Ste 6248
Fort George G. Meade, MD 20755-6248

RE: Freedom of Information Act Request

Dear Ms. Phillips:

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted to the National Security Agency ("NSA") on behalf of the Electronic Frontier Foundation ("EFF"). We make this request as part of EFF's FOIA Litigation for Accountable Government ("FLAG") Project, which works to obtain government documents and make them widely available to the public.

We are seeking copies of all NSA records, including but not limited to electronic records, as follows:

1.) All reports submitted to the Intelligence Oversight Board ("IOB")¹ pursuant to Section 2.4 of Executive Order 12863 from February 25, 2008 to February 29, 2008.² That section provides, in pertinent part, as follows:

Inspectors General and General Counsel of the Intelligence Community, to the extent permitted by law, shall report to the IOB at least on a quarterly basis and from time to time as necessary or appropriate, concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.³

2.) All reports submitted to the IOB or the Director of National Intelligence ("DNI") pursuant to Section 1.7(d) of Executive Order 12333 from February 29, 2008 to the present. That section, incorporated by reference by Section 8(b)(i)(A) of Executive Order 13462,⁴ provides that heads of departments shall "[r]eport to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning

¹ On February 25, 2008, EFF requested all reports submitted to the IOB from January 1, 2001 through the date of the request. On June 8, 2009, the NSA issued a partial response to that request, FOIA case number 54854A. EFF today appeals that response under separate cover.

² Executive Order 12863 was explicitly revoked by Executive Order 13462 on February 29, 2008.

³ The NSA is a member of the "Intelligence Community." See <http://www.intelligence.gov/1-members.shtml>.

⁴ Executive Order 13462, Section 8(b)(i)(A) provides that all heads of department shall ensure that the DNI receives "copies of reports submitted to the IOB pursuant to section 1.7(d) of Executive Order 12333[.]"

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fax +1 415 436 9993

web www.eff.org

email information@eff.org

June 19, 2009
Page 2 of 5

any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.”

3.) All reports of any assessments or reviews of intelligence activities by the President's Intelligence Advisory Board (“PIAB”) to the NSA pursuant to Sec. 4(a)(ii) of Executive Order 13462 from February 29, 2008 to the present.

4.) All recommendations concerning intelligence matters identified by the PIAB to the NSA pursuant to Sec. 4(b) of Executive Order 13462 from February 29, 2008 to the present.

5.) All reports and recommendations by the IOB to the NSA pursuant to Sec. 6(c) of Executive Order 13462 concerning the performance of the NSA under Executive Order 13462 from February 29, 2008 to the present.

6.) All records containing information and all recommendations for corrective action submitted by the IOB to the NSA pursuant to Sec. 6(d) of Executive Order 13462 from February 29, 2008 to the present.

7.) All requests for investigations of intelligence activities by the IOB to the NSA and reports by the NSA to the IOB of the results of those investigations pursuant to Sec. 6(e) of Executive Order 13462 from February 29, 2008 to the present.

8.) All reports made by the NSA to the IOB or PIAB pursuant to Sec. 8(c) of Executive Order 13462, concerning the reasons for not implementing a PIAB or IOB recommendation from February 29, 2008 to the present.

Request for News Media Fee Status

EFF asks that it not be charged search or review fees for this request because EFF qualifies as a representative of the news media pursuant to the FOIA and 32 C.F.R. § 286.28(e)(7). In requesting this classification, we note that the National Security Agency, Department of Justice, Department of Homeland Security, and Department of State have recognized that EFF qualifies as a “news media” requester, based upon the publication activities set forth below (see NSA letter, DOJ letter, DHS stipulation, and State Department letter attached hereto). We further note that the U.S. Court of Appeals for the D.C. Circuit has stressed that “different agencies [must not] adopt inconsistent interpretations of the FOIA.” *Al-Fayed v. CIA*, 254 F.3d 300, 307 (D.C. Cir. 2001), quoting *Pub. Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1287 (D.C. Cir. 1983).

EFF is a non-profit public interest organization that works “to protect and enhance our core civil liberties in the digital age.”⁵ One of EFF's primary objectives is “to educate

⁵ Guidestar Basic Report, Electronic Frontier Foundation, <http://www.guidestar.org/pqShowGsReport.do?npofid=561625> (last visited June 12, 2009).

June 19, 2009
Page 3 of 5

the press, policymakers and the general public about online civil liberties.⁶ To accomplish this goal, EFF routinely and systematically disseminates information in several ways.

First, EFF maintains a frequently visited web site, <http://www.eff.org>, which reports the latest developments and contains in-depth information about a variety of civil liberties and intellectual property issues.

EFF has regularly published an online newsletter, the EFFector, since 1990. The EFFector currently has more than 77,000 subscribers. A complete archive of past EFFectors is available at <http://www.eff.org/effector/>.

Furthermore, EFF publishes a blog that highlights the latest news from around the Internet. DeepLinks (<http://www.eff.org/deeplinks/>) reports and analyzes newsworthy developments in technology. It also provides miniLinks, which direct readers to other news articles and commentary on these issues.

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Request for a Public Interest Fee Waiver

EFF is entitled to a waiver of duplication fees because disclosure of the requested information is in the public interest within the meaning of 5 U.S.C. § 552(a)(4)(a)(III) and

⁶ *Id.*

June 19, 2009

Page 4 of 5

32 C.F.R. § 286.28(d). To determine whether a request meets this standard, Department of Defense components determine whether disclosure of the requested information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government," and whether such disclosure "is not primarily in the commercial interest of the requester," 32 C.F.R. §§ 286.28(d)(3)(i), (ii). This request clearly satisfies these criteria.

First, disclosure of the requested information will "will significantly contribute to the public understanding of the operations or activities of the Department of Defense." 32 C.F.R. § 286.28(d)(3)(i)(A). EFF has requested information that will shed light on the agency's interpretation of laws governing intelligence activities, and how well it conforms to those laws.

Second, the "informative value" of the records EFF has requested is likely to be meaningful. 32 C.F.R. § 286.28(d)(3)(i)(B). EFF has requested information that will shed light on the manner in which the agency reviews and reports intelligence matters to the IOB. This information is unlikely to be duplicative of information about the Army's operations and activities already in the public domain.

Third, the requested material will contribute to the general public's understanding of how the agency interprets applicable laws and monitors internal compliance. 32 C.F.R. § 286.28(d)(3)(i)(C). (internal quotation marks omitted). This information will contribute not only to EFF's understanding of the agency's interpretation and use of legal authority, but to the understanding of a reasonably broad audience of persons interested in the subject. EFF will make the information it obtains under the FOIA available to the public and the media through its web site and newsletter, which highlight developments concerning privacy and civil liberties issues, and/or other channels discussed more fully above.

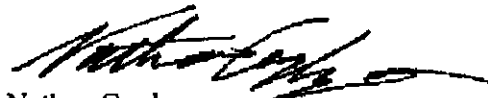
Fourth, the disclosure will contribute significantly to the public's knowledge and understanding of how the agency seeks compliance with laws governing intelligence activities. 32 C.F.R. § 286.28(d)(3)(i)(D). Disclosure of the requested information will help inform the public about the agency's actions, as well as contribute to the public debate about how intelligence activities should be conducted.

Furthermore, a fee waiver is appropriate here because EFF has no commercial interest in the disclosure of the requested records. 32 C.F.R. § 286.28(d)(3)(ii). EFF is a 501(c)(3) nonprofit organization, and will derive no commercial benefit from the information at issue here.

June 19, 2009
Page 5 of 5

Thank you for your consideration of this request. If you have any questions or concerns, please do not hesitate to contact me at (415) 436-9333 x. 136. As the FOIA provides, I will anticipate a determination on this request from your office within 20 working days.

Sincerely,



Nathan Cardozo
Open Government Legal Fellow

Enclosures



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 52276
6 February 2007

Ms. Marcia Hofmann
Electronic Frontier Foundation
1875 Connecticut Avenue, NW
Suite 650
Washington, DC 20009

Dear Ms. Hofmann:

This is an initial response to your Freedom of Information Act (FOIA) request submitted via facsimile on 23 January 2007, which was received by this office on 24 January 2007, for all agency records (including, but not limited to, electronic records) related to the NSA's review of and input on the configuration of the Microsoft Windows Vista operating system ("Vista"). Your request has been assigned Case Number 52276.

As we began to process your request, we realized that the first page of the actual request was missing from your 18-page facsimile package. On 1 February 2007, a member of my staff contacted you to advise you of this fact. As a result, you submitted another facsimile of your original five-page request, which we received and have begun to process. There is certain information relating to this processing about which the FOIA and applicable Department of Defense (DoD) and NSA/CSS regulations require we inform you.

For purposes of this request and based on the information you provided in your letter, you are considered a representative of the media. Unless you qualify for a fee waiver or reduction, you must pay for duplication in excess of the first 100 pages. Your request for a fee waiver has been granted. In addition, please be advised your request for expedited treatment has been accepted. We are currently in the process of searching for responsive documents and will notify you of the status of your request as soon as that search has been completed.

Correspondence related to your request should include the case number assigned to your request, which is included in the first paragraph of this letter. Your letter should be addressed to National Security Agency, FOIA Office

FOIA Case: 52276

(DC34), 9800 Savage Road STE 6248, Ft. George G. Meade, MD 20755-6248
or may be sent by facsimile to 443-479-3612. If sent by fax, it should be
marked for the attention of the FOIA office. The telephone number of the FOIA
office is 301-688-6527.

Sincerely,



PAMELA N. PHILLIPS
Chief
FOIA/PA Office



U.S. Department of Justice

Office of the Inspector General

July 22, 2008

Marcia Hoffman
Staff Attorney
Electronic Frontier Foundation
454 Shotwell Street
San Francisco, California 94110

Subject: Freedom of Information/Privacy Act Request [08-OIG-164]

Dear Ms. Hoffman:

Your Freedom of Information Act (FOIA) request seeking records relating to the Federal Bureau of Investigation's use of National Security Letters was received in this office on July 21, 2008. We have assigned your request control number 08-OIG-164. Please cite this number in any future inquiry relating to your request.

You requested that we expedite your request pursuant to 28 C.F.R. § 16.5(d)(1)(ii), which provides that a request will be given expedited treatment if it is "made by a person primarily engaged in disseminating information" and the responding component determines that there is "[a]n urgency to inform the public about an actual or alleged federal government activity." The regulations further provide that in order to satisfy this provision a requestor must "establish a particular urgency beyond the public's right to know about government activity generally." Id. § 16.5(d)(3).

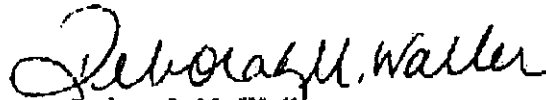
As support for your expedition request you state that "there is an urgency to inform the public about the information [you] seek." However, you have not explained the nature of this urgency beyond the public's general right to know. Accordingly, we are denying your request for expedition.

You have also requested a fee waiver on the basis of §16.11(b)(6) (representative of the news media) and §16.11(k) (public interest). We are granting your request for news media status and accordingly, you will not incur search fees in connection with your request. We will make

a determination regarding your request under §16.11(k) once we have completed our search for responsive documents and are in a better position to determine whether disclosure of the requested information is likely to contribute significantly to public understanding of the operations or activities of the government. We will inform you regarding our decision on this aspect of your fee waiver prior to incurring any expense that could be attributed to you.

If you are dissatisfied with my action regarding your request for expedited processing, you may appeal by writing to the Director, Office of Information and Privacy, U.S. Department of Justice, 1425 New York Avenue, Suite 11050, Washington, D.C. 20530, within 60 days of the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." In the event you are dissatisfied with the results of any such appeal, judicial review will thereafter be available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia.

Sincerely,



Deborah M. Waller
FOI/PA Specialist

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

ELECTRONIC FRONTIER
FOUNDATION

Plaintiff,

v.

DEPARTMENT OF HOMELAND
SECURITY,

Defendant.

Civil Action No. 06-1988 (ESH)

STIPULATED DISMISSAL OF PLAINTIFF'S SECOND CAUSE OF ACTION

Plaintiff Electronic Frontier Foundation (EFF) and Defendant Department of Homeland Security (DHS), by counsel, hereby stipulate and agree as follows:

1. Defendant DHS has granted news media status to Plaintiff EFF based on the representations contained in EFF's FOIA requests, which demonstrate that EFF is an "entity that is organized and operated to publish or broadcast news to the public." 6 C.F.R. § 5.11(b)(6). Defendant DHS will continue to regard Plaintiff EFF as a "representative of the news media" absent a change in circumstances that indicates that EFF is no longer an "entity that is organized and operated to publish or broadcast news to the public." 6 C.F.R. § 5.11(b)(6).
2. Accordingly, the parties herewith agree to the dismissal of Plaintiff EFF's Second Cause of Action, related to EFF's status as a "representative of the news media."
3. The parties further agree that each will pay its own fees and costs for work on the dismissed claim.

SO STIPULATED AND AGREED this 27th day of February, 2007.

/s/ David L. Sobel

DAVID L. SOBEL
D.C. Bar 360418

MARCIA HOFMANN
D.C. Bar 484136

ELECTRONIC FRONTIER FOUNDATION
1875 Connecticut Avenue, N.W.
Suite 650
Washington, D.C. 20009
(202) 797-9009

Counsel for Plaintiff

PETER D. KEISLER
Assistant Attorney General

JEFFREY A. TAYLOR
United States Attorney

ELIZABETH J. SHAPIRO
D.C. Bar 418925
Assistant Branch Director
U.S. Department of Justice
Civil Division, Federal Programs Branch

/s/ John R. Coleman

JOHN R. COLEMAN
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, NW, Room 6118
Washington, D.C. 20530
(202) 514-4505

Counsel for Defendant

**United States Department of State***Washington, D.C. 20520*

May 1, 2007

Case Number: 200701765

Ms. Marcia Hofmann
Electronic Frontier Foundation
1875 Connecticut Avenue, N.W., Suite 650
Washington, DC 20009

Dear Ms. Hofmann:

This is in response to your Freedom of Information Act (FOIA) request, dated March 19, 2007 for copies of documents concerning copyright matters between the U.S. and Canada.

We will begin the processing of your request based upon the information provided in your communication. We will notify you as soon as responsive material has been retrieved and reviewed.

We wish to advise you that the cut-off date for retrieving records is either the date you have given the Department by specifying a particular time frame or the date the search is initiated.

Fees: The Freedom of Information Act requires agencies to assess fees to recover the direct costs of processing requests, unless a fee waiver has been granted.

By making a FOIA request, you have agreed to pay all applicable fees up to \$25.00 unless a fee waiver has been granted. You may

Office of Information Programs and Services
U.S. Department of State SA-7
Washington, DC 20522-8100
Web site: foia.state.gov

Phone: 1-202-261-8484
FAX: 1-202-261-8579
email: FOIA@state.gov

- 2 -

specify a willingness to pay a greater or lesser amount. If the estimated fees exceed this limit, you will be notified.

Based upon the information that you have provided, we have placed you in the "news media" requester category. This category requires us to assess:

- duplication costs after first 100 pages.(see 22 CFR 171, enclosed)

Therefore, without an agreement to pay fees please be advised that your request will be processed without cost up to the required duplication of the first 100 pages.

Please let us know if you are willing to pay the fees that will incurred in the processing of your request. You may set a limit of the maximum amount that you wish to pay.

Based upon the information provided in your letter, your request for a fee waiver has been denied. If you wish to appeal this decision, you may write to the Chief, Requester Liaison Division, at the address given on the bottom of this page. Your appeal should address the points listed in the enclosed sheet entitled "Requests for Fee Waivers." Your appeal must be sent to us within 30 days from the date that you receive this letter.

While we will make every effort to meet the time limits cited in the Freedom of Information Act (5 USC § 552), unusual circumstances

*Office of Information Programs and Services
U.S. Department of State SA-2
Washington, DC 20522-8100
Web site: foia.state.gov*

*Inquiries:
Phone: 1-202-261-8484
FAX: 1-202-261-8579
email: FOIAStatus@state.gov*

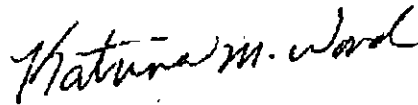
- 3 -

may arise for extending the time limit (see enclosure). We appreciate your patience in this matter.

If you have any questions, please do not hesitate to contact us. We can provide faster service if you include the case number of your request in your communications with us.

We are pleased to be of service to you.

Sincerely,



Katrina M. Wood
Requester Communications Branch

Enclosure: As stated.

~~SECRET//COMINT//NOFORN~~



NATIONAL SECURITY AGENCY
11411 GEORGE L. MEADE, MARYLAND 20755 6000

OCT 6, 2008

MEMORANDUM FOR STAFF DIRECTOR, SENATE SELECT
COMMITTEE ON INTELLIGENCE

SUBJECT: (U//FOUO) Congressional Notification - News Media to Raise
Serious Allegations Concerning NSA Operations -
INFORMATION MEMORANDUM

(b)(3)-P.L. 86-36

(S) This is to inform you of an upcoming televised interview of
James Bamford by ABC News Chief Investigative Correspondent Brian Ross,
which is expected to soon air allegations that, after 9/11, the National
Security Agency (NSA) engaged in improper intelligence activities.

(b)(1)
(b)(3)-P.L. 86-36

~~(S//SI//NF)~~

[Redacted]
[Redacted]
[Redacted] on allegations made last year by SGT Adrienne J.
Kinne, US Army Reserve [Redacted]
[Redacted] Although SGT Kinne was not an
NSA employee during the timeframe of her allegations [Redacted]
[Redacted]

~~(S//SI)~~ In 2007, NSA's Inspector General (IG) concluded an inquiry
into SGT Kinne's allegations that NSA personnel had engaged in improper
intelligence activities. The inquiry was unable to substantiate her
allegations. The attached NSA IG Memorandum to the Assistant to the
Secretary of Defense (Intelligence Oversight) dated 14 December 2007
(Encl. 2) summarizes the findings of the NSA IG inquiry. The IG for the U.S.
Army Intelligence & Security Command (INSCOM) has completed its own
investigation of several of the same allegations by SGT Kinne. The INSCOM
investigation also concludes that there is insufficient evidence to support
SGT Kinne's allegations of improper intelligence activities.

(b)(1)
(b)(3)-P.L. 86-36

[Redacted]

Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20320108

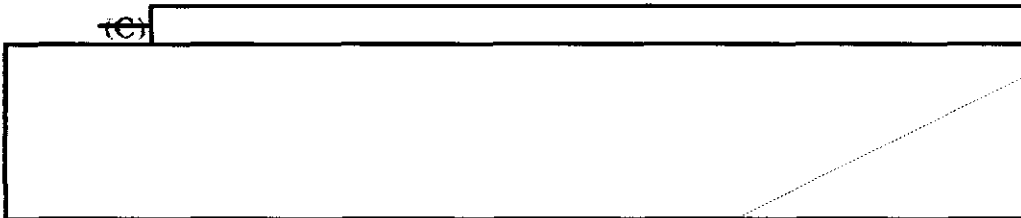
~~SECRET//COMINT//NOFORN~~

Approved for Supplemental
Release by NSA on
04-14-2010, FOIA Case #

~~SECRET//COMINT//NOFORN~~

~~(U//FOUO)~~ ABC News requested an NSA official appear on camera to comment on the allegations made by Mr. Bamford. We have declined an on camera interview and responded with a very brief statement. "The civilian and military members of the National Security Agency/Central Security Service take an oath to support and uphold the Constitution of the United States. We have been entrusted to protect and defend the nation with integrity, accountability, and respect for the law. As Americans, we take this obligation seriously. Our employees work tirelessly for the good of the nation, and serve this country proudly."

(c)



(b) (3)-P.L. 86-3

~~(U//FOUO)~~ Should you have any questions, please contact



JONATHAN E. MILLER
Associate Director
Legislative Affairs Office

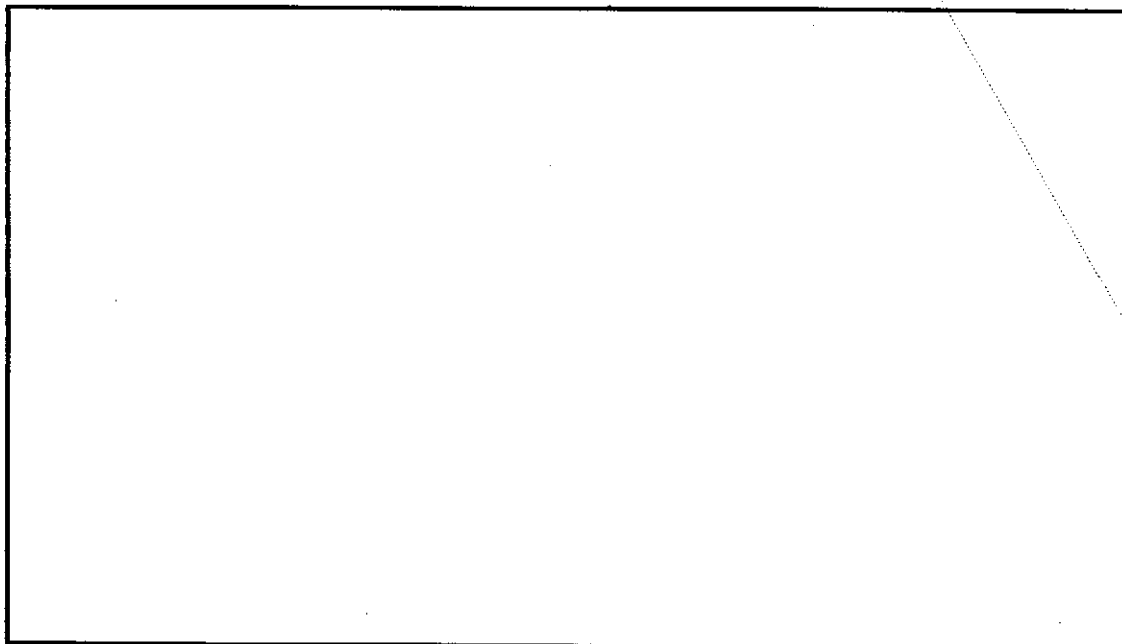
2 encls. a/s

Copy Furnished:
Minority Staff Director, Senate
Select Committee on Intelligence

~~SECRET//COMINT//NOFORN~~

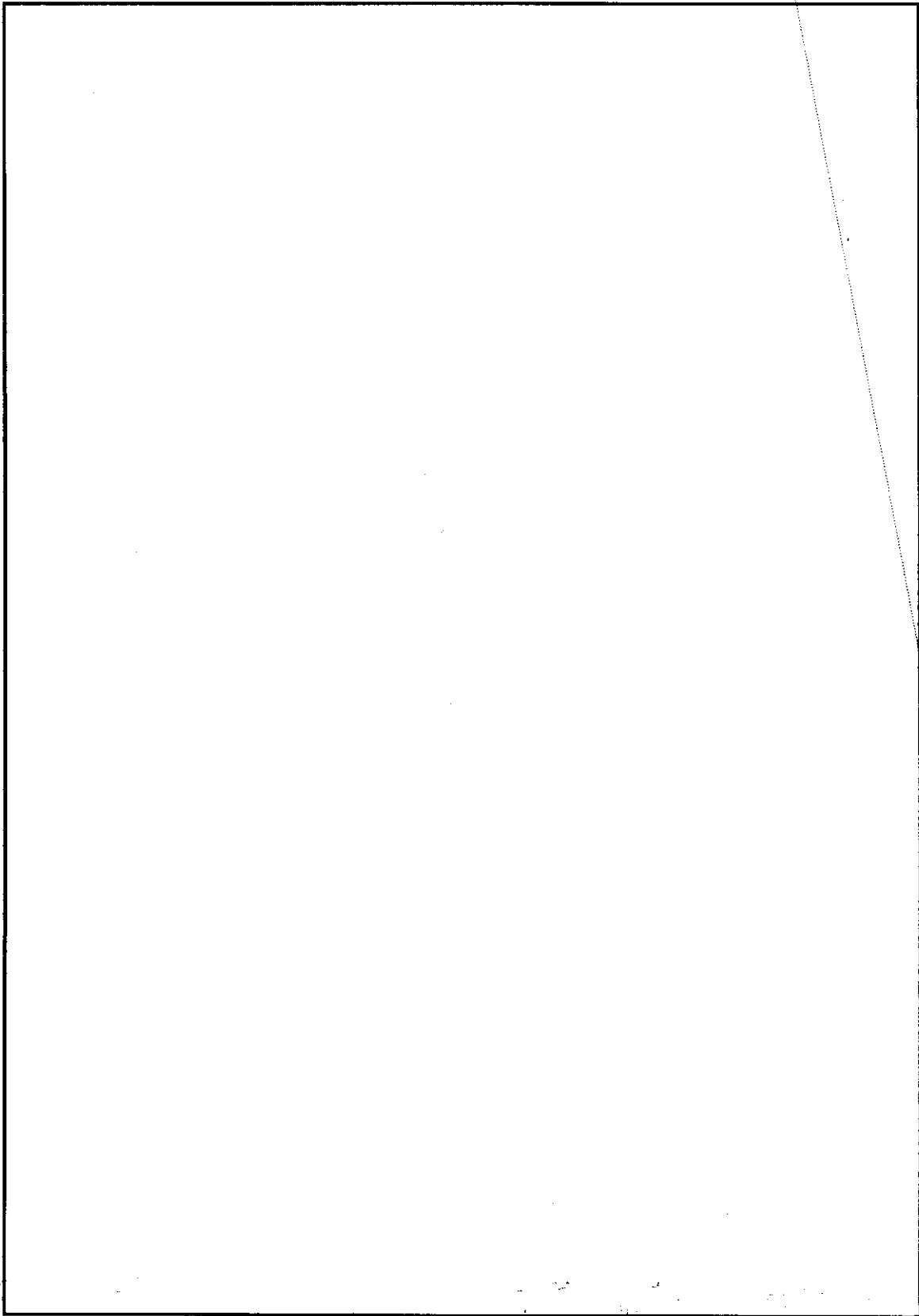
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(b) (3) - P.L. 86-36

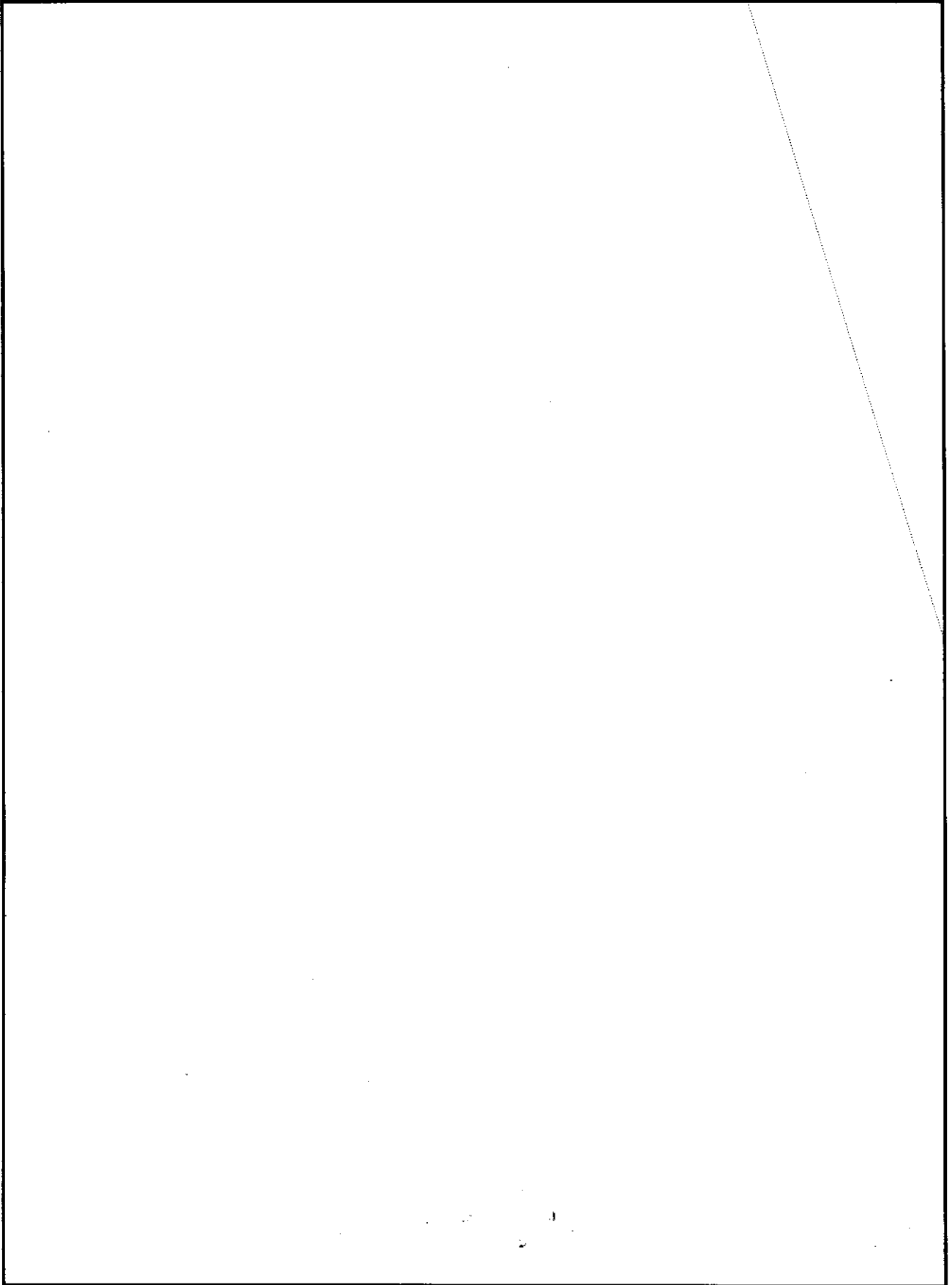


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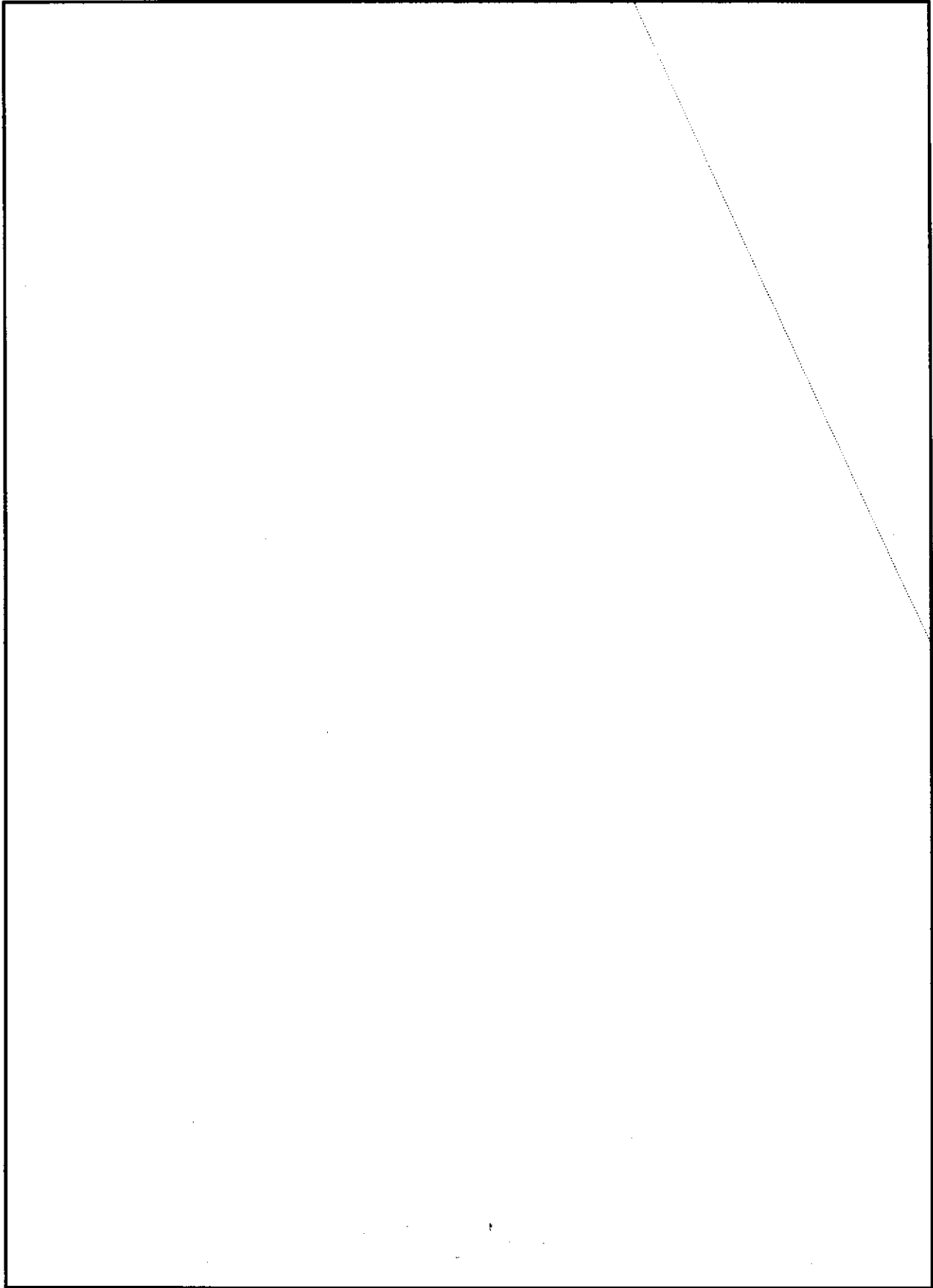
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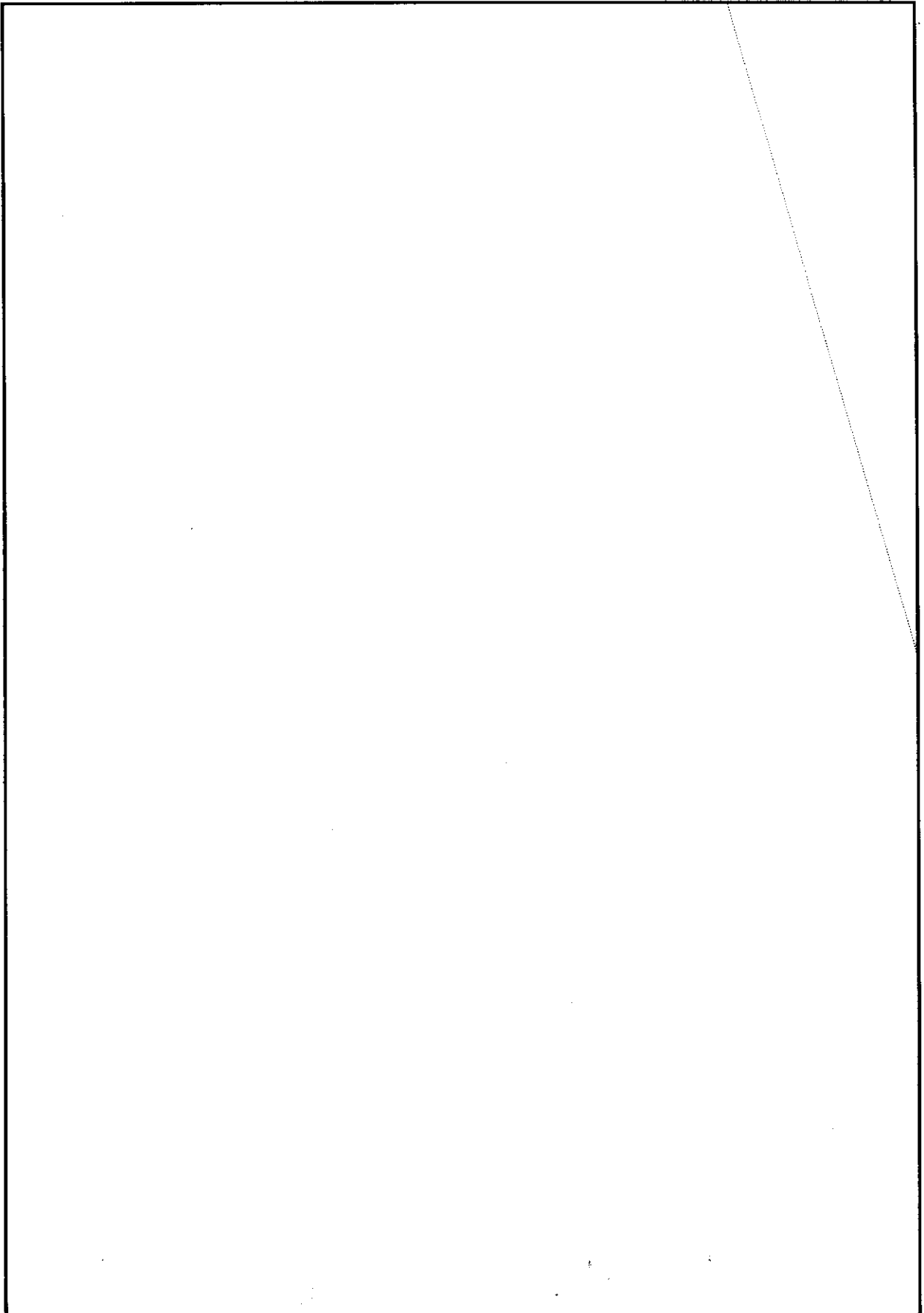
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(b) (3)-50 USC 403
(b) (3)-P.L. 86-36



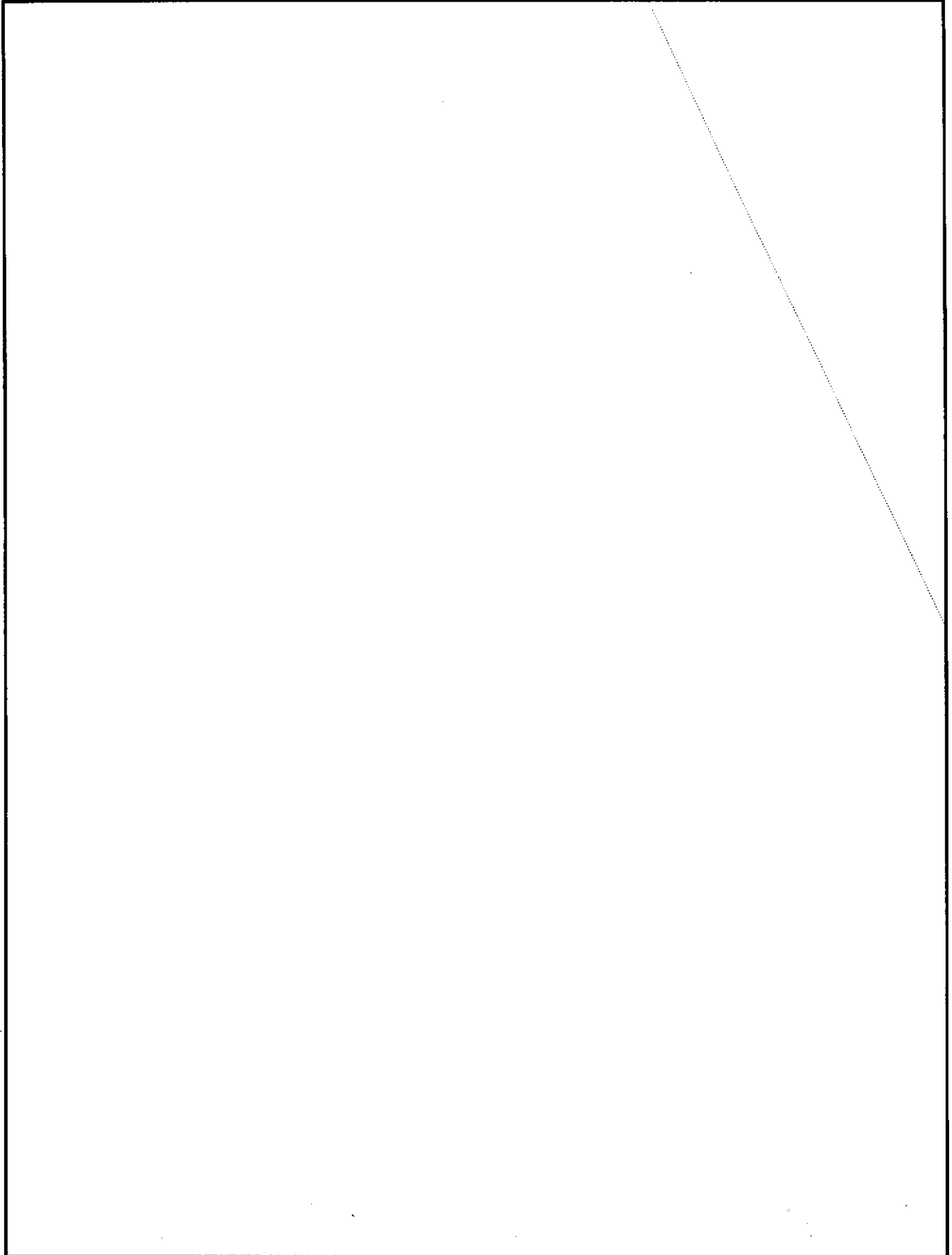
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~~SECRET // CF // NOFORN~~



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(b) (3)-P.L. 86-36





~~SECRET//COMINT//NOFORN//20320108~~
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

14 December 2007

MEMORANDUM FOR ASSISTANT TO THE SECRETARY OF DEFENSE
(INTELLIGENCE OVERSIGHT)

(U//FOUO)

(b) (3)-P.L. 86-36

SUBJECT: ~~(U)~~ Inquiry from Senator Leahy Concerning Possible USSID SP0018
Violations [redacted]

REFERENCE: (U) ATSD(IO) Memorandum subject: Same, received on 5
December 2007, Classified SECRET//SI//NOFORN

~~(S//SI//NF)~~ Per your request in Reference above, we reviewed the
allegations of improper intelligence activities and possible USSID SP0018
violations made by SGT Adrienne J. Kinne, US Army Reserve deployed to Fort
Gordon, GA, on 3 October 2001. [redacted]

(b) (3)-P.L. 86-36

[redacted] we were
unable to substantiate her claims of improper intelligence activities. [redacted]

[redacted]

~~(S//SI)~~ [redacted]

(b) (1)
(b) (3)-P.L. 86-36

~~(S//SI)~~ [redacted]

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(b) (3)-18 USC 798
(b) (3)-50 USC 403
(b) (3)-P.L. 86-36

Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20320108

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(b) (3)-P.L. 86-36

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[Redacted]

(U//FOUO)

(b) (3)-P.L. 86-36

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[Redacted]

(S//SI)

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(b) (3)-P.L. 86-36

(S//SI)

[Redacted]

(U//FOUO)

(b) (3)-P.L. 86-36

[Redacted]

[Redacted]

(b) (1)
(b) (3)-P.L. 86-36

~~SECRET//COMINT//NOFORN//20320108~~

~~SECRET//COMINT//NOFORN//20320108~~

[Redacted]

Assigned personnel were surveyed to determine their level of knowledge of intelligence oversight regulations and associated responsibilities. Personnel within the operational areas were well versed in the authorities.

(U//FOUO) Our review revealed no unauthorized or inappropriate intelligence activities [Redacted] from October 2001 to 2004, and we see no reason to continue the inquiry. We provide you with this notification for your review and further action, as you deem necessary. If you need additional information or clarification, please contact

(b)(3)-P.L. 86-36

[Redacted] Assistant Inspector General for Intelligence Oversight, on

George Ellard
GEORGE ELLARD
Inspector General

- cc:
The Inspector General, Department of Defense
The Inspector General, Department of the Army
The Inspector General, U.S. Army Intelligence and Security Command

~~SECRET//COMINT//NOFORN//20320108~~