MORGAN, LEWIS & BOCKIUS LLP
Stephen Scotch-Marmo (admitted *pro hac vice*)
stephen.scotch-marmo@morganlewis.com
Michael James Ableson (admitted *pro hac vice*)
michael.ableson@morganlewis.com
101 Park Avenue
New York, NY 10178
Telephone: (212) 309-6000; Facsimile: (212) 309-6001

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN CALIFORNIA
Linda Lye (SBN 215584), llye@aclunc.org
Julia Harumi Mass (SBN 189649), jmass@aclunc.org
39 Drumm Street
San Francisco, CA 94111
Telephone: (415) 621-2493; Facsimile: (415) 255-8437

ASIAN AMERICANS ADVANCING
JUSTICE - ASIAN LAW CAUCUS
Christina Sinha (SBN 278893), christinas@advancingjustice-alc.org
55 Columbus Avenue
San Francisco, CA 94111
Telephone: (415) 848-7711; Facsimile: (415) 896-1702

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WILEY GILL; JAMES PRIGOFF; TARIQ RAZAK; KHALID IBRAHIM; and AARON CONKLIN,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE; LORETTA LYNCH, in her official capacity as the Attorney General of the United States; PROGRAM MANAGER – INFORMATION SHARING ENVIRONMENT; KSHEMENDRA PAUL, in his official capacity as the Program Manager of the Information Sharing Environment,

Defendants.

Case No. 3:14-cv-03120-RS-KAW

DECLARATION OF TARIQ RAZAK IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Hearing Date:	December 8, 2016
Time:	1:30 pm
Judge:	Hon. Richard Seeborg
Courtroom:	3, 17th Floor
Date of Filing:	July 10, 2014
Trial Date:	None Set

I, Tariq Razak, declare as follows:

1. I am one of the Plaintiffs in the above-titled action. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment and Plaintiffs' Opposition to Defendants' Motion for Summary Judgment. I have personal knowledge of each fact stated in this declaration and, if called as a witness, I could and would competently and truthfully testify hereto.

2. I am a U.S. citizen of Pakistani descent. I reside in Placentia, California.

3. I currently work as an Automation Engineer for a bio-technology company in Southern California. I previously worked at Quest Diagnostics as a Clinical Lab Associate.

4. On May 16, 2011, I went to the Santa Ana Regional Transportation Center, also known as the Depot, because I had an appointment at the Santa Ana Work Center, which connects job seekers with resources and opportunities and is housed at the Depot. I had recently been laid off from my job at Quest Diagnostics and was hoping to find new job opportunities in my field. I unfortunately was running late, and by the time I arrived, I had already missed my appointment. I decided to go in and see if a job counselor could squeeze me in for an appointment, or at least pick up some materials to aid my search.

5. My mother and I had been running errands earlier that day, and she accompanied me to the Depot. She wears a hijab in public.

6. I had never been to the Depot before, and had some trouble locating the Work Center, whose location within the Depot is not readily apparent; we looked around the Depot for a while, attempting to discern its location, but also enjoying the look of the Depot, which is an interesting building with some distinctive architecture. We eventually took an elevator to an upper floor and found the Center. I separated from my mother, who went in search of a restroom, while I spoke briefly with one of the employees and utilized some of the free materials that the Center offered job seekers. I then walked to the restrooms and waited outside for my mother. When she came out of the restroom, we walked back to our car and left the Depot.

7. At no point during my visit to the Depot did I engage in any conduct that could reasonably be interpreted as indicating that I was involved with, or preparing to commit, any criminal activity.

8. My attorneys subsequently showed me a copy of a Suspicious Activity Report about me from the Santa Ana Police Department; a true and correct copy is attached to this declaration as Exhibit 1. According to that report, a security officer at the Depot called the Santa Ana Police Department to report me as suspicious after my brief visit to the Depot. The Report also indicates that the police officer who responded to the call obtained my identity—apparently through my license plate number—and created a Suspicious Activity Report recounting what the security officer had told him about me.

9. The Suspicious Activity Report's factual synopsis states, "Male of Middle Eastern decent [sic] observed surveying entry/exit points," and it describes me as "Male / Arab." The Report recounts that the security officer at the Depot stated that I "appeared to be observant" of my surroundings and that I was "constantly surveying" the Depot. It also describes my mother as "Female / Arab" and as wearing "a white burka head dress." According to the security officer, my conduct "was similar to examples shown in her training raising her suspicion and making the decision to notify police." The officer who submitted the Report requested that it be forwarded to the Orange County Intelligence Assessment Center "for review and possible follow-up."

10. I am deeply troubled that a security officer found my innocent behavior suspicious; that she tracked me through the Depot and recorded my license plate number; and that she reported me to the Santa Ana Police Department without any valid reason for doing so.

11. I am also deeply troubled that the Suspicious Activity Report reflects the officers' apparent suspicion of what is actually my South Asian, not Arab, heritage and my mother's hijab (which is quite different from a "burka head dress").

12. Through my attorneys, I submitted a request on February 18, 2014 to the FBI under the Freedom of Information Act for documents in the FBI's possession about me. In response, the FBI produced redacted documents by letter dated February 13, 2015 ("FBI Documents"). A true and correct copy of those documents (with my personally identifying information further redacted) is attached to this declaration as Exhibit 2. The documents seem to show that the FBI maintains information about me related to the incident reported in the

Suspicious Activity Report about me in some kind of database.

13. The FBI Documents show that the FBI's Counterterrorism Division and Los Angeles field office took various actions in response to the information they received in the Suspicious Activity Report about me. For instance, the documents show that on June 27, 2011—over a month after the FBI had received the Suspicious Activity Report about me—someone at the FBI reviewed the Report and information obtained from data checks and "found no evidence of the Subject's being involved in terrorism or criminal activity." It further states that the writer of the entry "believes the lead was sent only because [redacted]." Another entry from the same date states that the writer "request[ed] the lead [be] closed."

14. Despite the above, another entry from the same document, dated July 06, 2011—about a week after the above entry requesting the lead be closed—indicates that the Report about me was nonetheless reviewed further. That later entry states that "[a]fter interviewing the Subject and verifying his story through a contact at the EDD. [sic] Writer request the lead closed."

15. I find these two entries about me deeply troubling, not just because it seems as though my innocent and lawful behavior was investigated, but also because the investigation apparently continued despite the "writer" finding that my behavior had no nexus to terrorism. It is worrisome indeed that my innocent behavior was turned into a Suspicious Activity Report that was investigated for weeks after the fact, and presumably by at least two investigators. The fact that the investigation continued even after an agent requested that the "lead" be closed makes me worry that the investigation could be reopened at any time without good cause.

16. Based on my review of the Defendants' Answer in this matter, it is my understanding that an incident report containing information in the Suspicious Activity Report about me was uploaded to eGuardian, which I understand is a national database to which thousands of law enforcement agencies have access.

17. I am deeply troubled by what has occurred, and what may yet occur, due to the collection, maintenance, and dissemination in national databases of a Report describing me as engaging in suspicious activity with a potential nexus to terrorism. As a result of the inclusion of

this information about me in these databases, my reputation has been injured, as I have been branded as a person engaged in activity with a potential nexus to terrorism, even though I was simply walking through a train station looking for an employment resource center and waiting for my mother to exit the restroom.

18. In addition, as a result of the inclusion of this information about me in these databases, my privacy has been invaded because any person with access to the database has access to information about me.

19. I am worried that the maintenance of the Suspicious Activity Report about me in the FBI database or any database will cause law enforcement officers who see it to further scrutinize and vilify my lawful behavior, since the Suspicious Activity Report makes it seem as though I take part in nefarious activities. This worry is only compounded by my understanding that the Suspicious Activity Report has been distributed widely to other law enforcement officers via these databases.

20. I am also troubled that the FBI's file on me includes my address and a description of my vehicle and license plate number, all described as relevant to "Counterterrorism." I am concerned that the retention and dissemination of that information will draw undue law enforcement attention to my home and vehicle, and will intensify the law enforcement response during any otherwise routine encounters with law enforcement.

21. On April 9, 2015, through my attorneys, I appealed the FBI's redactions of the documents produced on February 13, 2015. A true and correct copy of the appeal is attached as Exhibit 3. By letter dated May 21, 2015, the FBI denied my appeal and asserted its view that I do not have a right to access certain information that the FBI possesses about me under the Privacy Act or FOIA. A true and correct copy of the FBI's May 21, 2015 letter is attached as Exhibit 4.

22. The FBI's response to my FOIA request leads me to believe that, because of the Suspicious Activity Report about me, information about me has been uploaded not only to eGuardian, but also to a separate FBI database.

23. On June 25, 2014, I submitted a request to the FBI and the Program Manager for

the Information Sharing Environment seeking an expungement of information in their files that describes conduct of mine that does not support reasonable suspicion of criminal activity or that does not implicate criminal conduct. The expungement request is attached to this declaration as Exhibit 5. To my knowledge, as of the date of the filing of this declaration, neither the FBI nor the Program Manager has responded to my request.

24. I believe that the defendants in this case would have benefited from input from the public on the standard for suspicious activity reporting. I would have wanted the defendants to know when they adopted their standard for suspicious activity reporting that a standard that does not require reasonable suspicion of criminal activity harms innocent people, like me, who have not engaged in any wrongdoing: it makes us the targets of law enforcement scrutiny; puts our information in government databases; and adversely affects our reputations by identifying us as individuals who have engaged in conduct with a potential nexus to terrorism. I would also have wanted the defendants to know the specific facts of my case, so that they could understand the factual basis for my concerns. I would specifically have wanted the defendants to understand, based on what happened to me, that their standard for suspicious activity reporting encourages racial and religious profiling. I was not aware that the defendants sought input on the standard for suspicious activity reporting. As a result, I did not have an opportunity to share my perspective or the factual basis for my concerns.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 14th day of September 2016 in Placentia, California.

By: _____
Tariq Razak

FILER'S ATTESTATION

I, Phillip J. Wiese, am the ECF user whose identification and password are being used to file this DECLARATION OF TARIQ RAZAK IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT. Pursuant to L.R. 5-1(i)(3), I hereby attest that concurrence in the electronic filing of this document has been obtained from each of the other signatories.

Dated: September 22, 2016 By */s/ Phillip J. Wiese*
Phillip J. Wiese

EXHIBIT 1

Santa Ana Police Department
60 Civic Center Plaza -- Santa Ana, CA 92701

Case No. 2011-15770

Information Report

Case Type:	Suspicious Activity Report
Prepared by:	Ofc. J. Gallardo #3203 Section: Patrol Watch 1/NE
Date prepared:	5/16/2011 1502 hours

Reviewed by: R. Rodriguez 2755 Date/Time: 5-16-11 1720 (Rev. 0.60)

Records Distribution: Review: 1182 Total Copies: 2 By: 1882 Date: _____

☐ Animal Control	☐ Court Liaison	☐ Orangewood	☐ Traffic	☐ Trackers
☑ District Inv.	☐ CAP	☐ Evidence	☐ Vice	☐ Sex Crimes
☐ Domestic Violence	☐ Crime Prevention	☐ Narcotics	☐ Juvenile Inv.	☐ Graffiti
☐ Career Criminal Unit	☐ Crime Analysis	☐ Gangs	☐ Fax/Name _____	
☐ Juvenile Hall	☐ Stats	☐ Rap	☑ Other Homeland Sec	
#310000000000024029	☐ Other _____		☐ Other _____	

Incident Activity Summary:

Special Attention:

Information Report: Train Station Subject

Incident Date/Time: Occurred: 05/16/2011 10:20 to 05/16/2011 10:30
Reported: 05/16/2011 12:18

Location Occurred: 1000 E. Santa Ana Boulevard, Santa Ana, CA 92702-0000
Grid: 205 Dist.: 2

Factual Synopsis: Male of Middle Eastern decent observed surveying entry/exit points.

Person: **Karina De La Rosa**
Involvement: **Contact**
Person Note: *Security Officer*
Gender/Race: Female / Hispanic
DOBs:
Address:
Grid: 205 Dist.: 2
Contact Info:

Description: Physical: 5'05" tall, 125 lbs., thin build, long brown straight hair, black eyes,

Person: **Tariq Razak**
Involvement: **Mentioned**
Person Note:

	Close Cropped Beard.
Gender/Race:	Male / Arab
Address:	Location association: Resides
Description:	[redacted] Physical: 5'11" tall, 175 lbs., medium build, short black straight hair, brown eyes, beard,

Person:	**Unknown**
Involvement:	**Mentioned**
Person Note:	*Uknown information about female.*
Gender/Race:	Female / Arab

Vehicle:	**Passenger Car**
Involvement:	**Involved** / Retained by Owner
Description:	2007 Honda Accord, 4 Door Sedan or Hatchback, White/White
License Plate:	CA, Reg 07/2011
Registered owner:	
Legal owner:	

Narrative:

On 5-16-11 at about 1220 hours, I responded to The Santa Ana Train Depot at 1000 E Santa Ana Blvd.

I contacted Security Officer Karina De La Rosa who told me the following:

At approximately 1020 hours, Karina took the elevator from the second floor to the first floor. In the elevator with Karina was a male between male of who Karina believed was of Middle Eastern descent. Karina's suspicion became aroused because the male appeared to be observant of his surroundings and was constantly surveying all areas of the facility. The male's appearance was neat and clean with a closely cropped beard, short hair wearing blue jeans and a blue plaid shirt.

Upon exiting the elevator, Karina observed the male meticulously study the entry/exit points, different lobby areas of the train station where large groups of passengers gather. The male then went to the north end of station where male and female restrooms are located and stood by outside the restrooms. Minutes later, a female wearing a white burka head dress, black pants and a blue shirt exited the restroom.

The two individuals then both exited the train station out of the north doors, entered a white 2007 Honda Accord (Ca Li) and left the Train Station in an unknown direction.

Karina continued to say that she received 'suspicious activity as related to terrorism training' by a local police agency. Karina said the behavior depicted by the male was similar to examples shown in her training raising her suspicion and making the decision to notify police. Attached to this report is a photocopy of Karina's incident report.

Request this report be forwarded to SAPD Homeland Security Division and to the Orange County Intelligence Assessment Center (OCIAC) for review and possible follow-up.

Ofcr. J. Gallardo # 3203
Terrorism Liaison Officer (TLO)
Santa Ana Police Department

EXHIBIT 2

U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

February 13, 2015

MR. YAMAN SALAHI
ADVANCING JUSTICE- ASIAN LAW CAUCUS
STAFF ATTORNEY
55 COLUMBUS AVENUE
SAN FRANCISCO, CA 94111

FOIPA Request No.: 1253741-000
Subject: RAZAK, TARIQ

Dear Mr. Salahi:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Explanation of Exemptions:

Section 552		Section 552a
☐ (b)(1)	☐ (b)(7)(A)	☐ (d)(5)
☐ (b)(2)	☐ (b)(7)(B)	☑ (j)(2)
☐ (b)(3)	☑ (b)(7)(C)	☐ (k)(1)
_____	☐ (b)(7)(D)	☐ (k)(2)
_____	☑ (b)(7)(E)	☐ (k)(3)
_____	☐ (b)(7)(F)	☐ (k)(4)
☐ (b)(4)	☐ (b)(8)	☐ (k)(5)
☐ (b)(5)	☐ (b)(9)	☐ (k)(6)
☑ (b)(6)		☐ (k)(7)

13 pages were reviewed and 13 pages are being released.

☐ Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:

☐ referred to the OGA for review and direct response to you.
☐ referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

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

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S. C. § 552(c) (2006 & Supp. IV (2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. Enclosed for your information is a copy of the Explanation of Exemptions.

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

☐ The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

☑ See additional information which follows.

Sincerely,

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

Enclosure(s)

The enclosed documents responsive to your request are exempt from disclosure in their entirety pursuant to the Privacy Act, Title 5, United States Code, Section 552(a), subsection (j)(2). However, these records have been processed pursuant to the Freedom of Information Act, Title 5, United States Code, Section 552, thereby affording you the greatest degree of access authorized by both laws.

This material is being provided to you at no charge.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

(b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;

(b)(2) related solely to the internal personnel rules and practices of an agency;

(b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could be reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could be reasonably expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

(b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(b)(9) geological and geophysical information and data, including maps, concerning wells.

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

(d)(5) information compiled in reasonable anticipation of a civil action proceeding;

(j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;

(k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;

(k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;

(k)(4) required by statute to be maintained and used solely as statistical records;

(k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service he release of which would compromise the testing or examination process;

(k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Sentinel Working Copy

[redacted] b7E

Filing and Security
Primary Case: [redacted]

Case Title: (S) ZERO FILE -

Serial Number: [redacted]

Serialized: 05/19/2011

Initiated: 01/04/2009

b7E

Details

Serial #: [redacted]

Type: OTHER

b7E

Document Title: 11-0236 SUSPICIOUS SUBJECT OBSERVED AT THE SANTA ANA TRAIN S

Approval Date: 05/19/2011
Classification: U

Contents: Unclassified

IncidentNum: (U) [redacted]
IncidentType: (U) Suspicious Activity
Status: (U) Open
ModifiedTmstp: (U) 2011-05-25 21:55:46.0
IncidentPriority: (U) Routine
ReceiptMethod: (U) Other
SuspiciousActivityCode: (U) [redacted]
ReportSummary: (U) 11-0236 Suspicious subject observed at the Santa Ana train station

b7E

Assessment Type: (U) [redacted]

Disposition: (U) [redacted]

IncidentFacts: (U) On 17 May 2011 OCIAC received information from the Santa Ana Police Department regarding a suspicious subject seen at the Santa Ana train station on 16 May. Santa Ana PD was contacted by [redacted] due to heighten security concerns regarding the rail sector and [redacted] noticed a male subject who she believed was exhibiting suspicious behavior. During her contact with Ofc. [redacted] she described the incident which occurred at the train station on 16 May at about 1020 in the morning. [redacted] said she first encountered the male subject in the elevator at the station and described him as being a male Middle-Eastern in his late 20's, 5'-11", with short dark hair, a beard, and wearing a blue plaid shirt and jeans. A short time later she saw the same subject pacing in the lobby of the station paying "meticulous" attention to the exits, signage, tenant areas, and areas where large groups of passengers gather. [redacted] continued to watch the subject as he moved to the North end of the station near the restrooms. She then saw [redacted] then left the station and drove away in a White Honda Accord with a license plate of [redacted] documented her observations on a Securitas Incident Report, see attached copy.A records check on the license plate of [redacted] revealed it was currently registered to Tariq RAZAK with an address of [redacted] in Irvine, CA. A records check on RAZAK revealed he matches the description provided by [redacted] as he is 27 years old, 6'-00", with brown hair and brown eyes. A driver's license photo was located for RAZAK, however it was taken in early 2000. [redacted]

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b7E

[redacted]

b7E

[redacted]

b7E

Subjects:
FullName: (U) Tariq , Anjum, Razak
GenderDesc: (U) Male
FileType: (U) PERSON
WhiteUsPersonDesc: (U) Yes
NoDescriptiveText: (U) DOB: [redacted]

FullName: (U) [redacted]
GenderDesc: (U) [redacted]
FileType: (U) [redacted]
WhiteUsPersonDesc: (U) [redacted]
NoDescriptiveText: (U) [redacted]

b6
b7C

Sources:
SourceName: (U) Ofc [redacted]
SourceTypeDesc: (U) Law Enforcement
SourceGenderCode: (U) M
Protect: (U) N
Credible: (U) YES
Contact: (U) Y
Polygraph: (U) N
SourceContactInfo: (U) [redacted]

b6
b7C

Targets:

Weapons:

Vehicles:
MakeDesc: (U) Honda
ModelText: (U) ACCORD
YearText: (U) 2007

[redacted]

b7E

ProvinceDesc: (U) California
CountryDesc: (U) United States
Tag: (U) [redacted]
Description: (U) 4 door

Leads:

Tasks:

Notes:
AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:41:24
Instruction: (U) Referred to [redacted] per their request. b7E

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31
Instruction: (U) Location Name: Santa Ana Train Station
Location Type: OTHER
Location Street: 1000 E. Santa Ana, Blvd
Location
City: Santa Ana
Location State: CA
Location Country: USA

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

 [redacted]

b7E

Instruction: (U) ORI ID: CAFCU0000
ORI Name: Los Angeles JRIC
ORI Phone: [redacted]
ORI Email:
ORI Street
Number: [redacted]
ORI Street Name: [redacted]
ORI City: [redacted]
ORI State: CA
ORI Country: US
ORI Postal Code: 90650
ORI
Field Office Code: LA

b6
b7C
b7E

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

b7E

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31
Instruction: (U) [redacted]
Police Report Number: 11-0236
Creator
Surname: [redacted]
Creator Given Name: [redacted]
Creator Email: [redacted]
Creator Telephone: [redacted]

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b7E

b7E

Groups:

Unclassified

Filing and Security

Primary Case: [redacted]

Case Title: (S) ZERO FILE -

Serial Number: [redacted] b7E

Serialized: 05/19/2011

Initiated: 01/04/2009

Details

Serial #: [redacted]

Type: OTHER

Document Title: 11-0236 SUSPICIOUS SUBJECT OBSERVED AT THE SANTA ANA TRAIN S

Approval Date: 05/19/2011

Classification: U

Contents: Unclassified

IncidentNum: (U) [redacted]
IncidentType: (U) Suspicious Activity
Status: (U) Closed
ModifiedTmstp: (U) 2011-07-28 14:18:41.0
IncidentPriority: (U) Routine
ReceiptMethod: (U) Other
SuspiciousActivityCode: (U) [redacted] b7E
ReportSummary: (U) 11-0236 Suspicious subject observed at the Santa Ana train station

Assessment Type: (U) [redacted]

Disposition: (U) CLOSED

DispositionNotes: (U) (U) On 07/06/2011, After interviewing the Subject and verifying his story through a contact at the EDD. Writer request the lead closed.

(U) On 06/27/2011, After reviewing the lead. Writer has found no nexus to terrorism and
request the lead closed inconclusive.

It is noted that the individuals and groups identified during the assessment do not
warrant further FBI investigation at this time. It is recommended that this assessment be
closed.

Incident close request sent by [redacted] on 2011-06-27 13:12:27.0. b6 b7C

Incident close request sent by [redacted] on 2011-07-06 18:04:15.0.

** Incident closed by [redacted] on 2011-07-28 14:18:41.0. **

IncidentFacts: (U) On 17 May 2011 OCIAC received information from

b7E

the Santa Ana Police Department
regarding a suspicious subject
seen at the Santa Ana train station on 16 May. Santa Ana PD was
contacted by
Due to heighten security concerns regarding the rail
sector and
noticed a male
subject who she believed was exhibiting suspicious behavior. During
her contact with Ofc.
she described the incident
which occurred at the train station on 16 May at about 1020 in the
morning. said she first
encountered the male subject
in the elevator at the station and described him as being a male
Middle-Eastern in his late 20's, 5'-11",
with short dark hair, a
beard, and wearing a blue plaid shirt and jeans. A short time later
she saw the same subject pacing in the lobby of the station
paying "meticulous" attention to the exits, signage, tenant areas,
and areas where large groups of passengers gather.
continued to watch the subject as he moved to the North end of the
station near the restrooms. She then saw
then left
the station and drove away in a White Honda Accord with a license
plate of documented her observations on a
Securitas Incident Report, see attached copy.A records check on the
license plate of revealed it was currently registered
to Tariq RAZAK with an address of in
Irvine, CA. A records check on RAZAK revealed he matches the
description provided by as he is 27 years old, 6'-00",
with brown hair and brown eyes. A driver's license photo was
located for RAZAK, however it was taken in early 2000.

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Subjects:
FullName: (U) Tariq , Anjum, Razak
GenderDesc: (U) Male
FileType: (U) PERSON
WhiteUsPersonDesc: (U) Yes
NoDescriptiveText: (U) DOB:

FullName: (U)
GenderDesc: (U)
FileType: (U)
WhiteUsPersonDesc: (U)
NoDescriptiveText: (U)

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Sources:
SourceName: (U) Ofc [redacted]
SourceTypeDesc: (U) Law Enforcement
SourceGenderCode: (U) M
Protect: (U) N
Credible: (U) YES
Contact: (U) Y
Polygraph: (U) N
SourceContactInfo: (U) [redacted]

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Targets:

Weapons:

Vehicles:
MakeDesc: (U) Honda
ModelText: (U) ACCORD
YearText: (U) 2007
ProvinceDesc: (U) California
CountryDesc: (U) United States

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Tag: (U)
Description: (U) 4 door

Leads:

Tasks:

Notes:
AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U)
CreatedOn: (U) 2011-05-19 17:41:24
Instruction: (U) Referred to per their request. b7E

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U)
CreatedOn: (U) 2011-05-19 17:44:31
Instruction: (U) Location Name: Santa Ana Train Station
Location Type: OTHER
Location Street: 1000 E. Santa Ana, Blvd
Location
City: Santa Ana
Location State: CA
Location Country: USA

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U)
CreatedOn: (U) 2011-05-19 17:44:31

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U)
CreatedOn: (U) 2011-05-19 17:44:31
Instruction: (U) ORI ID:
ORI Name: Los Angeles JRIC
ORI Phone: b6
ORI Email: b7C
ORI Street b7E
Number:
ORI Street Name:
ORI City:
ORI State: CA
ORI Country: US
ORI Postal Code: 90650
ORI
Field Office Code: LA

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U)

b7E

CreatedOn: (U) 2011-05-19 17:44:31
Instruction: (U) [redacted] b6 b7C b7E
Police Report Number: 11-0236
Creator
Surname: [redacted]
Creator Given Name: [redacted]
Creator Email: [redacted]
Creator Telephone: [redacted]

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

b7E

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Hq - Counterterrorism
Fromuserdesc: (U) [redacted]
CreatedOn: (U) 2011-05-19 17:44:31

AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Access/examine FBI/DOJ records, and obtain information from FBI/DOJ personnel.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U) [redacted] b6 b7C
CreatedOn: (U) 2011-06-21 15:25:26
Instruction: (U) (U) [redacted] b7E
Subject Tariq.

AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Access/examine FBI/DOJ records, and obtain information from FBI/DOJ personnel.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U) [redacted] b6 b7C
CreatedOn: (U) 2011-06-21 15:27:30
Instruction: (U) (U) [redacted] b7E

AssignmentTypeDesc: (U) Note

b7E

InvestigativeMethod: (U) Access/examine FBI/DOJ records, and obtain information from FBI/DOJ personnel.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U)
CreatedOn: (U) 2011-06-21 16:03:33
Instruction: (U) (U)

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AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Access/examine FBI/DOJ records, and obtain information from FBI/DOJ personnel.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U)
CreatedOn: (U) 2011-06-21 16:30:03
Instruction: (U) (U)

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AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Access/examine FBI/DOJ records, and obtain information
from FBI/DOJ personnel.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U)
CreatedOn: (U) 2011-06-21 16:35:49
Instruction: (U) (U)

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AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Administrative note for informational purposes.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U)
CreatedOn: (U) 2011-06-27 12:58:43
Instruction: (U) (U) On 06/27/2011, After reviewing the lead and information obtained from data
checks. Writer has found no
evidence of the Subject's being involved in terrorism
or criminal activity. Writer believes the lead was sent only because

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AssignmentTypeDesc: (U) Note
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U)
CreatedOn: (U) 2011-06-29 20:36:51

b7E

Instruction: (U) (U) SSA has reviewed this incident and b6 b7C
determined it is being worked
in accordance to the DIOG and
has recently been updated. b7E

AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Interview or request information from
members of
the public and private entities.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U)
CreatedOn: (U) 2011-07-05 13:48:06
Instruction: (U) (U) On 06/29/2011, Writer and drove
to
Irvine, Ca. 92702 this being the
home address on record for Subject Razak.

b6 b7C

AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Interview or request information from
members of the public and private
entities.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U) b6 b7C
CreatedOn: (U) 2011-07-05 14:03:13
Instruction: (U) (U) On 06/29/2011, Writer was contacted via phone
by Subject Razak. After
identifying myself and the reason
for the contact he agreed to talk to me. He said he
was at the Santa Ana train station on that day. He
said he
has been
out of work for about two months and was at the EDD office located
on the second
floor above the train station. He
said he was waiting
He said he was b6 b7C
pacing and
looking
around the station
He said he drives
everyday since he is not working. He provided writer with his
cell phone number and said to contact him if
writer needed.

b7E

AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Access/examine FBI/DOJ records, and obtain information
from FBI/DOJ personnel.
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U) [redacted] b6
CreatedOn: (U) 2011-07-05 14:55:19 b7C
Instruction: (U) (U) On 07/05/2011, Writer provided SA [redacted] the Subject's
information. SA [redacted] will
check with his EDD
contact to verify the Subject's story about being at the Santa Ana office.

AssignmentTypeDesc: (U) Note
InvestigativeMethod: (U) Request info/view records from other govt agencies/entities
(federal/state/local/tribal/foreign).
StatusDesc: (U) Completed
Tofieldofficedesc: (U) Los Angeles
Fromuserdesc: (U) [redacted] b6
CreatedOn: (U) 2011-07-06 17:55:44 b7C
Instruction: (U) (U) On 07/06/2011, Writer was advised by SA [redacted]
that the Subject was still getting
Unemployment Insurance
benefits from the Santa Ana office of the EDD. SA [redacted]
received the information from his contact, EDD Investigator [redacted]
[redacted]

Groups:

Unclassified

EXHIBIT 3

ASIAN AMERICANS
ADVANCING
JUSTICE
ASIAN LAW CAUCUS

April 9, 2015

VIA FEDEX NEXT DAY AIR

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

Re: Freedom of Information Act Appeal on Behalf of Tariq Razak; FOIPA Request No. 1253741-000

Dear Director:

We write to appeal the U.S. Department of Justice's (the "Department") February 13, 2015 letter exempting large portions of a production responsive to FOIPA Request Number 1253741-000, which we filed on behalf of Tariq Razak on February 18, 2014.[1] The Department produced thirteen highly redacted pages in response to Mr. Razak's request. For the reasons set forth below, we appeal all of the exemptions upon which the Department declined to disclose responsive information, and respectfully request reconsideration of the Department's initial exemption determinations.

I. The Department Has Failed to Substantiate Use of Exemptions

The Department cites sections (b)(6), (b)(7)(c), (b)(7)(e), and (j)(2) to justify withholding significant portions of the 13-page production. Review of the production, however, reveals that these exemptions were not properly asserted and that redactions were over broadly applied.

The Department asserts (b)(6), which relates to personnel and medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6). This exemption is intended to protect an individual's private information from disclosure to third parties. Here, however, the Department invoked (b)(6) to justify denying Mr. Razak access to records that have no plausible nexus to a third party's personnel and medical files. For example, page six of the production states: "After reviewing the lead and

[1] Copies of our February 18, 2014 request and the Department's February 13, 2015 response are attached hereto as Exhibits A and B, respectively.

information obtained from data checks[,] Writer has found no evidence of the Subject's being involved in terrorism or criminal activity. Writer believes the lead was sent only because [REDACTED (b)(6) and (b)(7)(c)]." The Writer's conclusion as to why a lead was sent on Mr. Razak has no connection to a third party's personnel and medical files and, thus, this information was improperly redacted. *See Local 598 v. Dept. of Army Corps of Eng'rs*, 841 F.2d 1459, 1463 (9th Cir. 1988) ("In the Act generally, and *particularly under Exemption (6)*, there is a strong presumption in favor of disclosure.") (emphasis added).

The Department also improperly asserts (b)(7)(c) and (b)(7)(e). Exemption (b)(7)(c) applies to records or information compiled for law enforcement purposes, the disclosure of which could be reasonably expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(7)(c). Exemption (b)(7)(e), in turn, protects from disclosure law enforcement guidelines or techniques. *Id*. at § 552(b)(7)(c). The Department, however, invoked these exemptions to justify redacting materials related to incidents at which Mr. Razak was present. For example, on page seven of the production, the Department redacted the entire narrative regarding the Writer's visit to Mr. Razak's home based on (b)(6) and (b)(7)(e). Also on page seven, the Department redacted portions of statements that Mr. Razak himself made to the Writer based on the same exemptions. *See, e.g.*, p. 7 ("He said he was at the Santa Ana train station [REDACTED] on that day. . . . He said he was waiting [REDACTED]. He said he was pacing and looking around the station [REDACTED]. He said he drives [REDACTED] everyday since he is not working.") None of this information risks invading a third party's personal privacy, nor does it relate to law enforcement guidelines or techniques. Accordingly, it was improperly redacted and should have been disclosed. *See Local 598*, 841 F.2d at 1463 (FOIA "embodies a strong policy of disclosure and places a duty to disclose on federal agencies. . . . 'disclosure, not secrecy, is the dominant objective of the Act.'") (internal citation omitted). In addition, the FBI's response fails to cite any federal law the enforcement of which is related to the withheld information. Therefore, redactions based on any of the subsections of exemption 7 would be unsupported here. *See ACLU v. FBI*, Case No. 10-03759 RS, Dkt. 128 (N.D. Cal. Mar. 23, 2015).

II. The Department Has Failed to Produce All Segregable Portions

FOIA requires that "[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection." 5 U.S.C. § 552(b). Review of the heavily redacted production indicates that the Department overly exempted information and did not produce all segregable portions. For example, on pages 5 through 7 of the production, the "Instruction" specifics are redacted wholesale on five different occasions. In other portions of the production, however, the Department properly segregated non-exempt portions of the "Instruction" information from exempt portions. As an additional example, on page seven of the production, the Department

redacted the entire narrative regarding the Writer's visit to Mr. Razak's home and did not segregate any non-exempt portions.

These are just a few examples of the overly redacted nature of the production. Thus, to the extent the Department stands by its reliance on the exemptions, it is nonetheless required to disclose the segregable non-exempt portions of the production.

III. Conclusion

We respectfully request re-consideration of the Department's redaction determinations. We also respectfully request that the Department re-review and ensure that all reasonably segregable portions of the production are released.

Thank you for your attention to this appeal. Please do not hesitate to contact me at (415) 848-7711 or by email at yamans@advancingjustice-alc.org if you have any questions. We look forward to your prompt response.

Sincerely,

Yaman Salahi
Staff Attorney

Enclosures

EXHIBIT 4

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

Telephone: (202) 514-3642

Yaman Salahi, Esq.
Advancing Justice - Asian Law Caucus
55 Columbus Avenue
San Francisco, CA 94111
yamans@advancingjustice-alc.org

Re: Appeal No. AP-2015-03075
Request No. 1253741
MWH:JMB

VIA: E-mail

Dear Mr. Salahi:

You appealed on behalf of your client, Tariq Razak, from the action of the Federal Bureau of Investigation on his request for access to records concerning himself. I note that your appeal concerns only the withholdings made by the FBI.

After carefully considering your appeal, I am affirming the FBI's action on your client's request. In order to provide you with the greatest possible access to responsive records, your request was reviewed under both the Privacy Act of 1974 and the Freedom of Information Act. I have determined that the records responsive to your client's request are exempt from the access provision of the Privacy Act. See 5 U.S.C. § 552a(j)(2); see also 28 C.F.R. § 16.96 (2014). For this reason, I have reviewed your appeal under the FOIA.

The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. The FBI properly withheld certain information because it is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties;

5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties; and

5 U.S.C. § 552(b)(7)(E), which concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures for law enforcement investigations or prosecutions.

Additionally, to the extent that your client's request seeks access to records that would either confirm or deny an individual's placement on any government watch list, the FBI properly refused to confirm or deny the existence of any records responsive to your client's request because the existence of such records is protected from disclosure pursuant to 5 U.S.C. § 552(b)(7)(E). FOIA Exemption 7(E) concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures for law enforcement investigations or prosecutions. This response should not be taken as an indication that records do or do not exist. Rather, this is the standard response made by the FBI.

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

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

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your client's right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

5/21/2015

X 

Sean R. O'Neill
Chief, Administrative Appeals Staff
Signed by: O'Neill, Sean (OIP)

EXHIBIT 5

ASIAN AMERICANS
ADVANCING
JUSTICE
ASIAN LAW CAUCUS

June 25, 2014

Via Certified U.S. Mail, Return Receipt Requested

Federal Bureau of Investigation
Attn: Privacy Act Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

Federal Bureau of Investigation – Los Angeles Field Office
Attn: Privacy Act Request
Record/Information Dissemination Section
Suite 1700, FOB 11000 Wilshire Blvd
Los Angeles, CA 90024-3672

Mr. Kshemendra Paul
Program Manager, Information Sharing Environment
Office of the Director of National Intelligence
Attn: Program Manager, Information Sharing Environment
Washington DC, 20511

Orange County Intelligence Assessment Center
PO Box 1755
Santa Ana, CA 92702-1755

Re: Privacy Act Request for Expungement of Records for Mr. Tariq Razak

Dear Sir/Madam:

This letter constitutes a request for expungement of records made pursuant to the Privacy Act, 5.U.S.C. § 552a(d)(2), (e)(1), (e)(5), and (e)(7) on behalf Mr. Tariq Razak for all records, including but not limited to Suspicious Activity Reports, pertaining to or referencing Mr. Razak. Mr. Razak is being represented in this matter by attorneys at the American Civil Liberties Union of Northern California ("ACLU-NC") and Advancing Justice-Asian Law Caucus ("ALC"). Please find his Certification of Identity and Authorization to Release Information enclosed herewith.

We request, based on the Privacy Act, 5 U.S.C. §§ 552a(e)(1), (e)(5), (e)(7), (d)(1) and (d)(2), the opportunity to review any and all records maintained by the Federal Bureau of Investigation ("FBI"), the Orange County Intelligence Assessment Center ("OCIAC"), or the Information Sharing Environment ("ISE") (collectively, the "Agencies") containing information pertaining to Mr. Razak, and to amend or expunge all records that describe Mr. Razak's exercise of rights guaranteed by the First Amendment (including free exercise of religion), describe conduct that does not support reasonable suspicion of criminal activity, or describe conduct that does not implicate criminal conduct in any way. To be clear, this includes, but is not limited to: (i) any such records maintained by the Agencies, whether or not they are in the Agency's system of records, as the term is defined in 5 U.S.C. § 552a(a)(5), and whether or not they are traceable by Mr. Razak's name or some other identifying characteristic and (ii) any such records maintained by the Agencies from which records described above are retrievable through a "cross reference" search for files that mention Mr. Razak. *See MacPherson v. IRS*, 803 F.2d 479, 481 (9th Cir. 1986) ("Section (e)(7) requires only that the record be maintained by an agency that *keeps* a system of records, not that the record be a *part* of that system") (emphasis in original).

The following information may assist you in searching for records pertaining to Mr. Razak.

- We have reason to believe a Suspicious Activity Report (SAR) concerning Mr. Razak was filed with the Orange County Intelligence Assessment Center and/or the F.B.I. on or around May 16, 2011 by Officer J. Gallardo, #3203, a Terrorism Liaison Officer at the Santa Ana Police Department. Per records of the Santa Ana Police Department, the report was given Case No. 2011-15770. The factual synopsis is "Male of Middle Eastern descent observed surveying entry/exit points." The person who filed the report with Santa Ana PD is Karina De La Rosa, a Security Officer at the Santa Ana Train Depot at 1000 E. Santa Ana Boulevard, Santa Ana, CA 92702. Officer Gallardo's report states, in part, "At approximately 1020 hours, Karina took the elevator from the second floor to the first floor. In the elevator with Karina was a male between male of who Karina believed was of Middle Eastern descent. Karina's suspicion became aroused because the male appeared observant of his surroundings and was constantly surveying all areas of the facility. The male's appearance was neat and clean with a closely cropped beard, short hair wearing blue jeans and a blue plaid shirt. Upon exiting the elevator, Karina observed the male meticulously study the entry/exit points, different lobby areas of the train station where large groups of passengers gather. The male then went to the north end of the station where male and female restrooms are located and stood by outside the restrooms. Minutes later, a female wearing a white burka head dress, black pants and a blue shirt exited the restroom. The two individuals then both exited the train station out of the north doors, entered a white 2007 Honda Accord (CA Lic. [redacted]) and left the Train Station in an unknown direction."

Based on this record, we have reason to believe that the Agencies, or one of the Agencies, maintains records related to Mr. Razak that may describe his protected First Amendment activities. Since Mr. Razak's activities were lawful, we have reason to believe that records mainted by one or more of the Agencies related to Mr. Razak are not based on allegations of criminal conduct, nor supported by reasonable suspicion of criminal conduct. Any such records that bear a title or marking that would tend to suggest Mr. Razak's actions had a potential nexus to terrorism would be inaccurate, irrelevant, and incomplete and unnecessary to any legitimate law enforcement purpose. Therefore, we request all such records be expunged or amended to omit all references to Mr. Razak, any identifying characteristics, and his activities, pursuant to §§ 552a(e)(1), (e)(5), (e)(7), and (d)(2) of the Privacy Act.

If this request is denied in whole or in part, we request that you justify any refusals to expunge the records by reference to specific provisions of the Privacy Act. We reserve the right to appeal a decision to deny Mr. Razak's request.

Mr. Razak has also filed a FOIA/Privacy Act requesting disclosure of similar records, under FOIPA Request No. 1253741-000.

Please direct all correspondence regarding this request to:

Yaman Salahi
Advancing Justice—Asian Law Caucus
55 Columbus Ave.
San Francisco, CA 94111

If you have any questions, I can be reached by phone at (415) 848-7711.

Sincerely,

Yaman Salahi
Staff Attorney

Enclosures