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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MEJ

CV 10 3759

20 THE AMERICAN CIVIL LIBERTIES UNION  
21 OF NORTHERN CALIFORNIA, ASIAN LAW  
22 CAUCUS, SAN FRANCISCO BAY  
23 GUARDIAN

Case No.

COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF;  
VIOLATION OF THE FREEDOM OF  
INFORMATION ACT

Plaintiffs,

v.

25 FEDERAL BUREAU OF INVESTIGATION,  
26 Defendant.

27  
28

1 **I. INTRODUCTION**

2 1. The American Civil Liberties Union of Northern California, Asian Law Caucus,  
3 and the *San Francisco Bay Guardian* (collectively, "the plaintiffs"), file this action against the  
4 Federal Bureau of Investigation, including its field offices in San Francisco and Sacramento  
5 ("FBI") to enforce the public's right to information under the Freedom of Information Act  
6 ("FOIA"), 5 U.S.C. § 552. The plaintiffs allege as follows:

7 2. Approximately five months ago, the plaintiffs sought the expedited processing and  
8 release of records concerning the investigation and surveillance of Muslim communities in  
9 Northern California from the FBI offices located in Winchester, Virginia; San Francisco,  
10 California; and Sacramento, California. Although the FBI granted the plaintiffs' request for  
11 expedited processing, the FBI has failed to release any documents in response to the plaintiffs'  
12 FOIA requests. By this action, the plaintiffs seek information from the FBI responsive to their  
13 FOIA requests and other appropriate relief.

14 **II. PARTIES**

15 3. The plaintiff American Civil Liberties Union of Northern California ("ACLU-  
16 NC") is a regional affiliate of the American Civil Liberties Union, which is a national, non-profit,  
17 and non-partisan organization dedicated to protecting the civil liberties of all people and  
18 safeguarding of the basic constitutional rights to privacy, free expression, and due process. The  
19 ACLU-NC is established under the laws of the State of California, and has its headquarters in  
20 San Francisco, California. The ACLU-NC has a membership of approximately 50,000. In  
21 support of its mission, ACLU-NC uses its communications department to disseminate  
22 information to the public about issues of concern to the ACLU-NC and the general public.

23 4. The plaintiff Asian Law Caucus ("ALC") is a non-profit public interest  
24 organization that is incorporated under the laws of the State of California and has its headquarters  
25 in San Francisco, California. The ALC works to promote, advance, and represent the legal and  
26 civil rights of the Asian and Pacific Islander communities. A main component of ALC's work is  
27 to disseminate information of public interest to both the Asian Pacific American communities and  
28 the general public.

1           5.       The plaintiff *San Francisco Bay Guardian* (“*The Bay Guardian*”) is a corporation  
2 organized in the State of California with its headquarters in San Francisco, California. It is a  
3 newspaper of general circulation and has the largest circulation of a newsweekly in Northern  
4 California, with an audited weekly distribution of 100,000. *The Bay Guardian* is locally owned,  
5 independent, and has been published continuously since 1966. *The Bay Guardian’s* primary  
6 activity is publishing or otherwise disseminating information to the public, and it is prepared to  
7 publish appropriate articles concerning the FBI’s surveillance based on information sought by the  
8 FOIA requests at issue here.

9           6.       The defendant Federal Bureau of Investigation is a component of the United States  
10 Department of Justice. The FBI is an agency within the meaning of 5 U.S.C. § 552(f). The FBI  
11 has its headquarters in Washington, D.C., and field offices all over the country, including  
12 San Francisco and Sacramento, California.

### 13       **III.    JURISDICTION**

14           7.       This Court has subject matter jurisdiction over this action and personal jurisdiction  
15 over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). This Court also has  
16 jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1346.

### 17       **IV.    VENUE AND INTRADISTRICT ASSIGNMENT**

18           8.       Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C.  
19 § 1402. The plaintiffs have their principle places of business in this district.

20           9.       Assignment to the San Francisco division is proper pursuant to Local Rule 3-2(c)  
21 and (d) because a substantial portion of the events giving rise to this action occurred in this  
22 district and division. The plaintiffs ACLU-NC, ALC, and *The Bay Guardian* each have their  
23 headquarters in San Francisco, California.

### 24       **V.     FACTUAL ALLEGATIONS**

#### 25           **A.     THE FBI’S SURVEILLANCE OF MUSLIM COMMUNITIES IS A** 26           **MATTER OF SIGNIFICANT PUBLIC INTEREST**

27           10.       The government’s surveillance of individuals and groups in Muslim communities  
28 is a matter of significant public interest both to the members of Muslim communities and to the

1 public at large. According to a 2007 survey by the Pew Research Center, there are approximately  
2 2.35 million Muslims living in the United States. Michael B. Farrell, "Fort Hood Shootings: US  
3 Muslims Feel New Heat," *Christian Science Monitor*, Nov. 17, 2009. The government's  
4 surveillance raises significant public issues, such as the following: (1) The impact of the  
5 surveillance on the civil liberties of individuals and groups targeted by the surveillance, including  
6 the impact on fundamental First Amendment rights to free exercise of religion, freedom of  
7 association, and freedom of expression; and (2) The impact of certain government surveillance  
8 tactics on U.S. national security, including potential harm to community relationships that are  
9 important to furthering safety and national security. The media has widely reported on these  
10 issues. For example:

11 11. On December 18, 2009, the *New York Times* reported that "Several high-profile  
12 cases in which informers have infiltrated mosques and helped promote plots . . . have sown a  
13 corrosive fear among [Muslim-Americans] that FBI informers are everywhere, listening." Paul  
14 Vitello and Kirk Semple, "Muslims Say FBI Tactics Sow Anger and Fear," *New York Times*,  
15 Dec. 18, 2009.

16 12. A month later, the *New York Times* reported that President Barack Obama had  
17 ordered national security officials "to develop a plan 'that addresses the unique challenges posed  
18 by lone recruits,' a reference to Muslim individuals who become extremists but aren't formal  
19 members of any group." Free Press Staff Writer, "Calls for Surveillance Rise With Jump in U.S.  
20 Terrorism Cases," *Detroit Free Press*, Jan. 17, 2010.

21 13. The *Christian Science Monitor* recently reported, "Many Muslim[] Americans are  
22 concerned by news that paid FBI informants . . . have been targeting impressionable Muslim  
23 Americans to incite and then entrap them. The Muslim community is also concerned by reports  
24 that law enforcement agents are coercing Muslim Americans to serve as informants in exchange  
25 for immigration ease." Further, the *Christian Science Monitor* warned, "[F]ear within  
26 communities can cut off the goodwill and sources of information needed to prevent another  
27 attack." Alejandro J. Beutel, "Muslim Americans and US Law Enforcement: Not Enemies, But  
28 Vital Partners," *Christian Science Monitor*, Dec. 30, 2009.

1           14.     In January 2010, the *Detroit Free Press* published an article about the “growing  
2 concern among Muslims and civil rights advocates about undercover surveillance in religious  
3 institutions,” and the concern that “using informants in mosques infringes on the constitutional  
4 right to free assembly and worship.” Niraj Warikoo, “Deadly FBI Raid of Detroit Mosque  
5 Prompts Concern Over Informants: Muslims, Civil Rights Advocates Decry Tactic,” *Detroit Free*  
6 *Press*, Jan 17, 2010; Niraj Warikoo, “Informants Amid the Faithful,” *Detroit Free Press*, Jan. 17,  
7 2010.

8           15.     The media has also reported a chilling effect that government surveillance has had  
9 on members of Muslim communities with regard to religious practices and to cooperation with  
10 the FBI in counterintelligence. The *Christian Science Monitor* reported:

11                   Many Muslim groups accuse the FBI and other counterterrorism  
12                   agents of using overly aggressive tactics to strong-arm mosque  
13                   attendees into becoming informants. Others say Muslims are often  
14                   victims of racial profiling.

15                   The scrutiny has created a **siege mentality** in some Muslim  
16                   communities. **Many are afraid to talk** to newcomers for fear of  
17                   being entrapped by FBI informants. Some are afraid to express  
18                   political views, and **others have stopped attending mosque**  
19                   altogether.

20           Michael B. Farrell, “Fort Hood Shootings: US Muslims Feel New Heat,” *Christian Science*  
21 *Monitor*, Nov. 17, 2009 (emphasis added). The media is replete with similar reports. See Paul  
22 Vitello and Kirk Semple, “Muslims Say FBI Tactics Sow Anger and Fear,” *New York Times*,  
23 Dec. 18, 2009 (“[A] national coalition of Islamic organizations warned that it would cease  
24 cooperating with the FBI unless the agency stopped infiltrating mosques and using ‘agents  
25 provocateurs to trap unsuspecting Muslim youth.’”); Nick Meyer, “US Attorney General Eric  
26 Holder Addresses Detroit Community,” *Arabs, Muslims*, *New America Media*, Nov. 24, 2009  
27 (commenting that recent events “have combined to increase tensions between law enforcement  
28 agencies like the FBI and both Arabs and Muslims over issues of discrimination and profiling.”);  
Charlie Savage, “Loosening of FBI Rules Stirs Privacy Concerns,” *New York Times*, Oct. 29,  
2009 (FBI’s Domestic Investigations and Operations Guidelines authorize agents to take into  
account ethnicity or religion, “specific and relevant ethnic behavior” and to “identify locations of

1 concentrated ethnic communities” when determining whether to “open an ‘assessment’ to  
2 ‘proactively’ seek information about whether people or organizations are involved in national  
3 security threats.”); Alejandro J. Beutel, “Muslim Americans and U.S. Law Enforcement: Not  
4 Enemies, But Vital Partners,” *Christian Science Monitor*, Dec. 30, 2009; Editorial, “FBI Works  
5 With Arab Community,” *Detroit News*, Oct. 8, 2009; Teresa Watanabe and Paloma Esquivel,  
6 “L.A. Area Muslims Say FBI Surveillance Has A Chilling Effect On Their Free Speech And  
7 Religious Practices,” *Los Angeles Times*, Mar. 1, 2009; Jacqueline L. Salmon, “Muslim  
8 Americans At Odds Over FBI Contact,” *Washington Post*, Mar. 28, 2009. Along these lines,  
9 Attorney General Eric Holder reportedly stated in an address to members of the Arab American  
10 community in Detroit, “This is simply intolerable, and the tension that arises [between the  
11 Muslim American community and the FBI] is unacceptable.” Nick Meyer, “US Attorney General  
12 Eric Holder Addresses Detroit Community, Arabs, Muslims,” *New American Media*, Nov. 24,  
13 2009.

14 16. The media has also reported on the FBI’s practices of recruiting Muslim and Arab-  
15 American children, as well as others, through the FBI’s Junior Agent program. Michelle Toy,  
16 “FBI’s Newest Recruits: Arabic-Speaking Kids,” *NBC Bay Area*, Jan. 8, 2010; Candice Williams,  
17 “Green Elementary Kids Train to Be FBI Junior Agents,” *Detroit News*, Jan. 20, 2010.

18 17. The information the plaintiffs seek is also relevant to the public’s opportunity to  
19 provide accurate analyses and comments to the FBI regarding the released Domestic Investigative  
20 Operational Guidelines (“DIOG”) and its implementation vis-à-vis Muslim communities. The  
21 General Counsel for the FBI, Ms. Valerie Caproni, wrote in a letter to Senate Select Committee  
22 on Intelligence Chairman John D. Rockefeller IV, on December 15, 2008, that “we understand  
23 that the expansion of techniques available . . . has raised privacy and civil liberties concerns [but]  
24 we believe that our policies and procedures will mitigate those concerns.” Senate Report of the  
25 Select Committee on Intelligence 34 (Mar. 9, 2009), *available at*  
26 [http://frwebgate.access.gpo.gov/cgi-](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_reports&docid=f:sr006.111.pdf)  
27 [bin/getdoc.cgi?dbname=111\\_cong\\_reports&docid=f:sr006.111.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_reports&docid=f:sr006.111.pdf). She stated that the FBI  
28 would reassess the policy judgments made in the DIOG, and that the reassessment will be

1 “informed by our experience in the coming year, as well as by comments and suggest[ions]  
2 received from Congress and interested parties.” The FBI’s General Counsel reaffirmed this  
3 intention in an interview posted on the FBI website by stating, “to the extent that the public has  
4 comments and concerns, they should let us know because nothing is written in stone and we hope  
5 we’ve gotten it right but if we haven’t gotten it right, our goal is to make it right.” Federal  
6 Bureau of Investigation, *The New Attorney General Guidelines*, PRESS ROOM: INSIDE THE FBI  
7 PODCAST (Jan. 16, 2009), <http://www.fbi.gov/inside/archive/inside011609.htm>. See  
8 “Investigative Guidelines Cement FBI Role as Domestic Intelligence Agency, Raising New  
9 Privacy Challenges,” Center for Democracy & Technology, Oct. 29, 2008; Press Release,  
10 American Civil Liberties Union, “ACLU Condemns New FBI Guidelines,” Oct. 3, 2008;  
11 American Civil Liberties Union, “Fact Sheet - New Attorney General Guidelines,” Oct. 8, 2008,  
12 <http://www.aclu.org/print/national-security/fact-sheet-new-attorney-general-guidelines>.

13 18. Given the impact of the surveillance on national security and the exercise of core  
14 civil liberties, it is imperative that the public gain a better understanding of the methods and scope  
15 of the FBI’s surveillance of Muslim communities in the United States.

16 19. Expedited processing is appropriate for several reasons: (a) to further the public’s  
17 interest in providing comments to the FBI in light of the FBI’s General Counsel’s December 2008  
18 suggestion that any review and changes to the DIOG would be based on experience in  
19 implementation “in the coming year”; (b) the wide-spread media attention focused on the subject  
20 of the requests; and (c) the urgency to inform the public about government actions that potentially  
21 intrude upon constitutional protections, including equal protection, privacy rights, freedom of  
22 association, freedom of expression, and the free exercise of religion.

23 **B. THE FBI HAS FAILED TO ADEQUATELY RESPOND TO THE**  
24 **PLAINTIFFS’ FOIA REQUESTS**

25 20. The FBI has failed to adequately respond to the plaintiffs’ FOIA requests.

26 21. On March 9, 2010, the plaintiffs under 5.U.S.C. § 552 and other applicable  
27 regulations requested the disclosure of various FBI records pertaining to the surveillance of  
28 Muslim Americans. The plaintiffs’ FOIA requests included exhibits of 40 media reports relating

1 to the FBI's surveillance of Muslim communities. A copy of the plaintiffs' FOIA requests  
2 (without exhibits) is appended hereto as Exhibit A and incorporated herein by reference.

3 22. The plaintiffs requested FBI agency records regarding the FBI's policies and  
4 practices regarding:

- 5 (a) the use of informants by the FBI;
- 6 (b) opening or carrying out "assessments;"
- 7 (c) materials setting forth the legal reasoning or authority relied  
8 upon by the FBI in conducting investigations and assessments;
- 9 (d) training for FBI agents regarding Islam, Muslim culture, and/or  
10 Muslim, Arab, South Asian, or Middle Eastern communities in  
11 the United States;
- 12 (e) the FBI's use of race, religion, ethnicity, language, or national  
13 origin for law enforcement purposes, including the contexts of  
14 geo-mapping and domain management;
- 15 (f) the FBI Citizenship Academy;
- 16 (g) the FBI Junior Agent Program; and
- 17 (h) domain management.

18 23. The plaintiffs also requested records concerning FBI activities in Northern  
19 California from January 2005 to the present regarding the following: (a) investigations of  
20 mosques, Islamic centers, Muslim community centers, members of mosques, Muslim leaders, and  
21 imams; (b) the FBI Citizenship Academy and its alumni, and the FBI Junior Agent Program; and  
22 (c) domain management and other records related to "community race and ethnicity" analyses or  
23 assessments in the FBI domains of northern California.

24 24. The plaintiffs further requested data regarding the targets and outcomes of law  
25 enforcement activity in Northern California in relation to the rest of the country, including the  
26 following types of information: (i) FBI assessments and investigations of Islamic centers,  
27 mosques, churches and synagogues; (ii) FBI assessments and investigations of religious leaders;  
28 (iii) FBI contacts with imams; (iv) criminal prosecutions and immigration proceedings arising



1 from terrorism-related investigations and assessments with regard to the use of informants and  
2 terrorism-related charges, and litigation results; and (v) the FBI's Special Citizenship Academy  
3 and Junior Agent programs.

4 25. The plaintiffs asked that their FOIA requests be processed on an expedited basis  
5 because they pertain to information about which there is an "urgency to inform the public about  
6 an actual or alleged federal government activity" and the FOIA requests were "made by [persons]  
7 primarily engaged in disseminating information." See 5 U.S.C. § 552(a)(6)(E)(v)(II); 28 C.F.R.  
8 §§ 16.5(d)(1)(iv) and (ii). The FOIA statute provides for expedited processing of requests where  
9 there is a compelling need. 5 U.S.C. § 552(a)(6)(E). Under the statute, the urgency to inform the  
10 public of actual or alleged federal government activity constitutes a "compelling need" where the  
11 request is made by persons primarily engaged in disseminating information. 5 U.S.C.  
12 § 552(a)(6)(E)(v)(II).

13 26. Department of Justice regulations state that a FOIA request is entitled to expedited  
14 processing when the information requested involves "[a] matter of widespread and exceptional  
15 media interest in which there exist possible questions about the government's integrity which  
16 affect public confidence." 28 C.F.R. § 16.5(d)(1)(iv).

17 27. The FBI conceded that expedited processing is appropriate here. In granting the  
18 plaintiffs' request for expedition, the FBI agreed, by letter dated March 19, 2010, that the  
19 plaintiffs had "provided sufficient information concerning the statutory requirements permitting  
20 expedition" under federal regulations that provide for expedited processing of "matter[s] of  
21 widespread and exceptional media interest in which there exist possible questions about the  
22 government's integrity which affect public confidence." 28 C.F.R. § 16.5(d)(1)(iv). A copy of  
23 the FBI's March 19, 2010 letter is appended hereto as Exhibit B and incorporated herein by  
24 reference.

25 28. Also on March 19, 2010, the FBI issued a letter to the plaintiffs acknowledging  
26 receipt of the plaintiffs' FOIA requests and assigning tracking number 1144839-000 to those  
27 requests. A copy of the FBI's March 19, 2010 letter is appended hereto as Exhibit C. In this  
28 letter, the FBI stated that it was searching its Central Records System for the information the

1 plaintiffs requested and that the FBI would inform the plaintiffs of the results “as soon as  
2 possible.”

3 29. Under 32 C.F.R. § 1700.12(b), a request that is granted expedited processing—  
4 such as the plaintiffs’ FOIA requests—“shall be given priority and shall be processed *as soon as*  
5 *practicable*.” 32 C.F.R. § 1700.12(b) (emphasis added); *see* 5 U.S.C. § 552(a)(6)(E)(iii).  
6 Expedited processing entitles the requester to move immediately to the front of an agency  
7 processing queue. Under 5 U.S.C. § 552(a)(7)(B)(ii), the FBI is also required to provide “an  
8 estimated date on which the agency will complete action on the request.”

9 30. On June 15, 2010—over three months after plaintiffs’ FOIA requests—the FBI  
10 wrote to inform the plaintiffs that it was searching for responsive documents. A copy of the  
11 FBI’s June 15, 2010 letter is appended hereto as Exhibit D. The FBI, however, has failed to  
12 provide an estimated date on which it would complete action of the request and produce  
13 responsive documents.

14 31. Notwithstanding the FBI’s grant of expedited processing, the FBI has exceeded the  
15 generally applicable 20-day statutory deadline for processing standard, non-expedited FOIA  
16 requests.

17 32. As of the date of this filing, the FBI has neither made any of the requested records  
18 available to the plaintiffs nor informed the plaintiffs of an anticipated date for the completion of  
19 the processing of their requests.

20 33. The plaintiffs have exhausted all applicable administrative remedies with respect  
21 to their FOIA requests.

22 34. The FBI has wrongfully withheld the requested records from the plaintiffs.

### 23 **FIRST CLAIM FOR RELIEF**

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

25 35. The plaintiffs repeat and reallege paragraphs 1-34.

26 36. Pursuant to 5 U.S.C. § 552(a)(6)(E)(iii), the FBI has wrongfully withheld agency  
27 records requested by the plaintiffs and have failed to comply with the statutory time limits for the  
28 processing of the plaintiffs’ FOIA requests.

1           37. Pursuant to 5 U.S.C. § 552(a)(7)(B)(ii), the FBI has inadequately responded to the  
2 plaintiffs' expedited request for records by failing to provide an estimated date on which the  
3 agency will complete action on the request.

4           38. The plaintiffs have exhausted the applicable administrative remedies with respect  
5 to FBI's wrongful withholding of the records requested in the plaintiffs' FOIA requests.

6           39. The plaintiffs are entitled to injunctive relief with respect to the release and  
7 disclosure of the requested documents under 5 U.S.C. § 552(a)(4)(B) because the FBI continues  
8 to improperly withhold agency records in violation of FOIA. The plaintiffs will suffer irreparable  
9 injury from, and have no adequate legal remedy for, the FBI's illegal withholding of government  
10 documents pertaining to the FBI's surveillance and investigation of Muslim communities in  
11 Northern California.

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**REQUESTED RELIEF**

WHEREFORE, the plaintiffs pray that this Court:

- A. Declare that FBI's failure to disclose the records requested by the plaintiffs is unlawful;
- B. Order the FBI to process immediately the requested records in their entirety;
- C. Order the FBI to make the requested records in their entirety available to the plaintiffs;
- D. Provide for expeditious proceedings in this action;
- E. Enter a preliminary and permanent injunction against the FBI ordering the relief requested herein;
- F. Award to the plaintiffs their litigation costs and reasonable attorneys' fees incurred in this action; and
- G. Grant such other relief as the Court may deem just and proper.

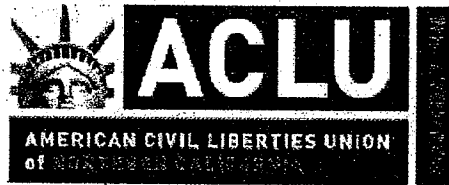
Dated: August 24, 2010

SOMNATH RAJ CHATTERJEE  
PATRICIA SVILIK  
CHRISTIE L. YANG  
MORRISON & FOERSTER LLP

By:   
SOMNATH RAJ CHATTERJEE

Attorneys for Plaintiffs  
THE AMERICAN CIVIL LIBERTIES  
UNION OF NORTHERN  
CALIFORNIA, ASIAN LAW  
CAUCUS, AND THE SAN  
FRANCISCO BAY GUARDIAN

# Exhibit A



**Asian Law Caucus**

**GUARDIAN**  
THE SAN FRANCISCO BAY GUARDIAN

March 9, 2010

**Via Certified Mail, Return Receipt Requested**

**Federal Bureau of Investigation**  
Record Information/Dissemination Section  
170 Marcel Drive  
Winchester, VA 22602-4843

**Federal Bureau of Investigation – San Francisco**  
450 Golden Gate Avenue, 13<sup>th</sup> Floor  
San Francisco, CA 94102-9253

**Federal Bureau of Investigation – Sacramento**  
4500 Orange Grove  
Sacramento, CA 95841

Re: **Freedom of Information Act Request**  
***Expedited Processing Requested***

Attention:

The Asian Law Caucus (“ALC”), the American Civil Liberties Union of Northern California (including the ACLU Foundation of Northern California) (“ACLU-NC”), and the *San Francisco Bay Guardian* (“Guardian”) submit this expedited Freedom of Information Act (“FOIA”) request for records to the Federal Bureau of Investigation (“FBI”) pertaining to the investigation and surveillance of Muslim communities in Northern California. The ALC, ACLU-NC, and the *Guardian* submit this request pursuant to the FOIA, 5 U.S.C. § 552, implementing regulations 8 C.F.R. § 103.10 and 6 C.F.F. § 5 and any other applicable regulations.

Community members, civil rights organizations, and mainstream media have reported that the FBI is surveilling and infiltrating Muslim American communities and building a dragnet that is detrimentally affecting the lives of innocent Americans. As a December 18, 2009 article

NANCY FEMBERTON, CHAIRPERSON | M. DUINN DELANEY, LINDA LYE, PHILIP MONRAD, VICE CHAIRPERSONS | DICK DROSBOLL, SECRETARY/TREASURER  
ABDI SOLTANI, EXECUTIVE DIRECTOR | CHERI BRYANT, DEVELOPMENT DIRECTOR | LAURA SAPONARA, COMMUNICATIONS DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR  
MARGARET C. CROSBY, ELIZABETH GILL, JULIA HARUMI MASS, MICHAEL RISHER, JORY SYEELE, STAFF ATTORNEYS | NATASHA MINSKER, NICOLE A. OZER, DIANA TATE VERMEIRE, POLICY DIRECTORS  
STEPHEN V. BOHSE, GENERAL COUNSEL

in the *New York Times* explained, "Several high-profile cases in which informers have infiltrated mosques and helped promote plots . . . have sown a corrosive fear among [Muslim-Americans] that F.B.I. informers are everywhere, listening." Paul Vitello and Kirk Semple, "Muslims Say FBI Tactics Sow Anger and Fear," *New York Times*, December 17, 2009. The "corrosive fear" and widespread anxiety felt among Muslim Americans not only has a chilling effect on civic and religious participation in these communities, but also undermines FBI-community relations essential to national security.

Further, this widely-reported surveillance of Muslim communities by the federal government erodes the values and constitutional principles upon which the United States stands. Improper government intrusion and discrimination experienced by Muslim Americans may violate the privacy rights of United States residents and amount to racial and religious profiling. Given these implications for national security and civil rights, it is imperative that the public gain a better understanding of the methods and scope of FBI surveillance and infiltration of Muslim communities in the United States.

#### I. REQUEST FOR INFORMATION

We are seeking disclosure of agency records<sup>1</sup> in your<sup>2</sup> possession that fall within the following categories:

- (1) Final memoranda, policies, procedures, directives, guidance, protocols, legal analysis, training materials, and other documents reflecting policy pertaining to the following matters that were created or effective since September 2001:
  - a. Use of informants by the FBI<sup>3</sup>;
  - b. Opening or carrying out "assessments"<sup>4</sup>;

<sup>1</sup> The term "records" as used herein includes all records or communications preserved in written or electronic form, including but not limited to: correspondence, documents, data, videotapes, audio tapes, emails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, training materials, other manuals, or studies. With respect to privacy concerns for members of the public, we will accept copies that are redacted to protect identifying information such as names, social security numbers, and alien numbers, but we would object to the redaction of birthplaces that would interfere with our ability to determine the country of origin for members of the public. In addition, we request that members of the public whose identifying information is redacted be identified with an alphanumeric code so that multiple records related to the same individual will be recognized as such. This redaction agreement does not apply to identifying information such as names and badge numbers of federal agents.

<sup>2</sup> Requestors seek records in the possession or control of the parties in the above named FBI offices and any field offices within their jurisdictions.

<sup>3</sup> By "FBI" the requestors mean the Federal Bureau of Investigation and its agents and employees as well as any other federal, state, or local agencies working in collaboration with the Federal Bureau of Investigation, such as local Joint Terrorism Task Force personnel. The term "informants" is intended to include "undisclosed participants" and "confidential human sources" as referenced in the FBI's Domestic Investigative Operations Guidelines.

<sup>4</sup> "Assessments" and "domain management" are used here to refer to the activities referred to by the same terms in the FBI's Domestic Investigative Operations Guidelines.

- c. Written materials setting forth legal reasoning or authority relied upon by FBI in conducting investigations and assessments;
- d. Training for FBI agents regarding Islam, Muslim culture, and/or Muslim, Arab, South Asian, or Middle Eastern communities in the United States. This includes but is not limited to any training materials, outlines, instructions or other documents used or provided to agents, and records showing the names and titles of participants and trainers, dates, hours, and locations of trainings, and any evaluations or related material;
- e. The FBI's use of race, religion, ethnicity, language, or national origin for law enforcement purposes, including but not limited to the contexts of geo-mapping and domain management. The requestors also seek any draft documents that are responsive to this subparagraph;
- f. The FBI Citizenship Academy;
- g. The FBI Junior Agent Program; and
- h. Domain management.

(2) Individual records related to FBI activities in northern California<sup>5</sup> from January 2005 to the present pertaining to:

- a. FBI investigations and assessments of mosques; Islamic centers; Muslim community centers; members of mosques, Islamic centers or Muslim community centers based on their membership or affiliation with such centers; Muslim leaders; and imams;
- b. Records related to the FBI Citizenship Academy, FBI Citizenship Academy Alumni activities, and FBI Junior Agent Program; and
- c. Domain management, including but not limited to maps or other records relating to or describing "domains;" and records of "concentrated ethnic communities," "ethnic-oriented businesses" and any other records related to "community race and ethnicity" analyses or assessments in the FBI "domains" of northern California.

(3) Aggregate Data: We seek the following aggregate data, disaggregated by date, location, and/or as further designated below.<sup>6</sup>

- a. Number and names of mosques or Islamic centers in the United States with open assessments or investigations;
- b. Number and names of mosques or Islamic centers in northern California with open assessments or investigations;

<sup>5</sup> For all purposes in this correspondence, "northern California" is defined to mean the counties of California north of and including Monterey, Kings, Tulare, and Inyo.

<sup>6</sup> If accurate data are not available due to lack of consistent record-keeping, please so indicate in your response and provide data based on any available records, even if incomplete.



- c. Number of churches in the United States with open assessments or investigations;
- d. Number of churches in northern California with open assessments or investigations;
- e. Number of synagogues in the United States with open assessments or investigations;
- f. Number of synagogues in northern California with open assessments or investigations;
- g. Number of imams in the United States with open assessments or investigations;
- h. Number of imams in northern California with open assessments or investigations;
- i. Number of imams in the United States contacted<sup>7</sup> by the FBI since 2001 to the present, disaggregated by year;
- j. Number of imams in northern California contacted by the FBI since 2001 to the present, disaggregated by year;
- k. Number of criminal prosecutions in the United States arising from terrorism-related investigations involving the use of informants since 2001;
- l. Number of criminal prosecutions in northern California arising from terrorism-related investigations involving the use of informants since 2001;
- m. Number of criminal prosecutions in northern California arising from terrorism-related investigations not involving the use of informants since 2001;
- n. Number of criminal prosecutions in the United States arising from terrorism-related investigations not involving the use of informants since 2001;
- o. For subparagraphs k-n above, the number of cases in which terrorism-related charges were included in the prosecutions, disaggregated by subparagraph;
- p. For subparagraphs k-n above, the number of cases in which there was a guilty verdict on any terrorism-related criminal charge, disaggregated by subparagraph;
- q. Number of immigration proceedings in the United States arising from terrorism-related investigations involving the use of informants since 2001;
- r. Number of immigration proceedings in northern California arising from terrorism-related investigations involving the use of informants since 2001;

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<sup>7</sup> "Contact," as used herein, encompasses the breadth of law enforcement contact such as rebuffed requests for interviews, consensual encounters of persons approached by the FBI, ongoing relationships, and questioning of persons in custody.

- s. Number of immigration proceedings in the United States arising from terrorism-related investigations not involving the use of informants since 2001;
- t. Number of immigration proceedings in northern California arising from terrorism-related investigations not involving the use of informants since 2001;
- u. Number of individuals who have gone through the "Special Citizenship Academy," since its inception disaggregated by individuals' countries of origin;
- v. Number of "Junior Agent" Programs that have been implemented in the United States and their locations.

## II. REQUEST FOR EXPEDITED PROCESSING.

Title 5 U.S.C. § 552(a)(6)(E) provides for expedited processing of requests for information in cases in which the person requesting the records demonstrates a compelling need. By statute, for requests made by persons primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged federal government activity constitutes a "compelling need." § 552(a)(6)(E)(v)(II). In addition, Department of Justice regulations state that FOIA requests are entitled to expedited processing when information requested involves "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." 28 C.F.R. § 16.5(d)(1)(iv). Here, the requestors of this information are primarily engaged in disseminating information and, for reasons made clear below, there is urgency to inform the public concerning federal government activity in connection with the FBI's investigation of Muslim communities.<sup>8</sup> FBI activities which the instant FOIA request is intended to reveal have been widely reported, caused widespread anxiety, and raised widespread concerns about the federal government's misconduct, including racial and religious profiling and violations of the constitutional rights of United States residents, both aliens and citizens.

### 1. Requestors.

The Asian Law Caucus is a nonprofit public interest organization that works to promote, advance and represent the legal and civil rights of the Asian and Pacific Islander communities. Since its establishment in 1972, ALC has been dedicated to achieving its mission using a three prong strategy: (1) community education and organizing, (2) provision of direct legal services, and (3) strategic impact litigation. As such, a main component of ALC's work is to disseminate information of public interest to both the Asian Pacific American communities and the public-at-large.

<sup>8</sup> In 2006, a federal court ordered the Department of Defense to comply with a request for expedited processing request by the ACLU-NC and the *Guardian*. *ACLU-NC, et. al. v. Dept. of Defense*, 2006 WL 1469418, Case No. 06-01698 (N.D. Cal. May 25, 2006). See also *American Civil Liberties Union v. Dept. of Defense*, 339 F.Supp. 2d 501 (S.D.N.Y. 2004) (setting schedule for disclosure of documents to ACLU under expedited processing request).

The American Civil Liberties Union of Northern California (including the ACLU Foundation of Northern California), is an affiliate of the ACLU, a national organization that works to protect the civil liberties of all people, including the safeguarding of the basic constitutional rights to privacy, free expression, and due process of law. The ACLU-NC is responsible for serving the population of northern California. The communications department of the ACLU-NC is the division of the ACLU-NC that is responsible for disseminating information to the public about issues of concern to the ACLU-NC and to the general public.

The *San Francisco Bay Guardian* is the largest circulation newsweekly in northern California, with an audited weekly distribution of 150,000. The paper is locally owned, independent, and has been published continuously since 1966.

## 2. Widespread Media Interest and Concerns Regarding Government Activities.

According to media reports, testimony of civil rights organizations, and members of the community, the FBI has been engaged in a deliberate plan to infiltrate Muslim communities through the use of informants and other covert actions.<sup>9</sup> Indeed, allegations of such activities have been the subject of numerous news articles that demonstrate the public interest and concerns about improper government intrusion and discrimination. *See, e.g.*, Susan Saulny, "Inquiry Into F.B.I. Raid That Killed Cleric," *New York Times*, February 3, 2010 (Appendix A, Tab 2); Niraj Warikoo, "Deadly FBI raid of Detroit mosque prompts concern over informants: Muslims, civil rights advocates decry tactic," *Detroit Free Press*, January 17, 2010 (Appendix A, Tab 5); Paul Vitello and Kirk Semple, "Muslims Say FBI Tactics Sow Anger and Fear," *New York Times*, December 18, 2009 (Appendix A, Tab 11); Scott Shane, "American Sues F.B.I., Saying He Was Detained in Africa," *New York Times*, November 11, 2009 (Appendix A, Tab 16); David Matingly, Jeanne Meserve, and Mike Ahlers, "Wife and Mother of Terror Suspect Says FBI Tricked Her," *CNN*, July 29, 2009 (Appendix A, Tab 21); Salvador Hernandez, "Muslim groups disagree that relations with FBI are 'very good,'" *The Orange County Register*, June 9, 2009 (Appendix A, Tab 24); Sean Emery, "Rift Develops Between Muslims, FBI Over Mosque Surveillance," *The Orange County Register*, March 26, 2009 (Appendix A, Tab 32); Elliott C. McLaughlin, "FBI Planting Spies in U.S. Mosques, Muslim Groups Say," *CNN*, March 20, 2009 (Appendix A, Tab 33); Paloma Esquivel, "Some Influential Muslim Groups Question FBI's Actions," *L.A. Times*, April 20, 2009 (Appendix A, Tab 30); Scott Glover, "FBI Monitored Members of O.C. Mosques At Gyms, Alleged Informant Says," *L.A. Times*, April 28, 2009 (Appendix A, Tab 29).

The FBI's relationship with Muslim communities is a matter of great public concern due to the important role Muslim Americans can play in terrorist investigations. But, in large part due to intrusive FBI investigative practices, relations between the FBI and Muslim communities have been strained. Over the past two years, many Muslim religious and cultural organizations

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<sup>9</sup> The news articles mentioned in this letter, as well as several other articles that demonstrate wide-spread media interest in the matters that are the subject of this request, are attached hereto as Appendix A.

have considered cutting ties with the F.B.I., and the F.B.I. has affirmatively distanced themselves from one mainstream Muslim civil rights organization, the Council on American Islamic Relations. As Attorney General Eric Holder said recently during a keynote address to members of the Arab American community in Detroit, "This is simply intolerable, and the tension that arises [between the Muslim American community and the FBI] is unacceptable." Specifically, Attorney General Holder was speaking about the tensions that have risen since the death of Detroit Imam Luqman Ameen Abdullah, who was killed in an FBI raid under questionable circumstances. See, e.g. Alejandro Beutel, "Muslim Americans and U.S. law enforcement: not enemies, but vital partners," *Christian Science Monitor*, December 30, 2009 (Appendix A, Tab 8); Nick Mayer, "US Attorney General Eric Holder Addresses Detroit Community, Arabs, Muslims," *Arab American News*, November 24, 2009 (Appendix A, Tab 14); "FBI works with Arab community," *Detroit News*, October 8, 2009 (Appendix A, Tab 19); Teresa Watanabe and Paloma Esquivel, "L.A. area Muslims say FBI surveillance has a chilling effect on their free speech and religious practices," *Los Angeles Times*, March 1, 2009 (Appendix A, Tab 35); American Muslim Taskforce, "U.S. Muslim Coalition Considers Suspending Relations with FBI," March 17, 2009 (Appendix A, Tab 34); Jacqueline L. Salmon, "Muslim Americans at Odds Over FBI Contact," *Washington Post*, March 28, 2009 (Appendix A, Tab 31). Recruiting Muslim and Arabic children, as well as others, through the FBI's Junior Agent program has also been the subject of media attention. Michelle Toy, "FBI's Newest Recruits: Arabic-Speaking Kids," *NBC Bay Area*, January 8, 2010 (Appendix A, Tab 7); Candice Williams, "Green Elementary kids train to be FBI junior agents," *The Detroit News*, January 20, 2010 (Appendix A, Tab 3).

In response to widespread public and media scrutiny of the newly released FBI Domestic Investigative Operational Guidelines ("DIOG"), Valerie Caproni, the General Counsel for the F.B.I wrote in a letter to Senate Select Committee on Intelligence Chairman John D. Rockefeller IV, dated December 15, 2008, "we understand that the expansion of techniques available . . . has raised privacy and civil liberties concerns [but] we believe that our policies and procedures will mitigate those concerns." Ms. Caproni stated that the FBI will "reassess the policy judgments made in the DIOG. . . ." She stated that the reassessment will be "informed by our experience in the coming year, as well as by comments and suggestions received from Congress and interested parties." More recently, in an interview posted on the FBI website, Ms. Caproni said, "to the extent that the public has comments and concerns, they should let us know because nothing is written in stone and we hope we've gotten it right but if we haven't gotten it right, our goal is to make it right." See Appendix A, Tab 37. See, e.g., "Investigative Guidelines Cement FBI Role as Domestic Intelligence Agency, Raising New Privacy Challenges," October 29, 2008 (Appendix A, Tab 38); Press Release, American Civil Liberties Union, "ACLU Condemns New FBI Guidelines," October 3, 2008 (Appendix A, Tab 40); American Civil Liberties Union, "Fact Sheet - New Attorney General Guidelines," October 8, 2008 (Appendix A, Tab 39).

The information requested herein is particularly important to the public's opportunity to provide accurate analyses and feedback regarding the DIOG and their implementation with respect to Muslim communities. Expedited processing is necessary to further the public's interest in providing comments in light of Ms. Caproni's December 2008 suggestion that any

review and changes to the DIOGs would be based on experience in implementation "in the coming year," in addition to the independent grounds that the subject of the request is a matter of wide-spread media attention and that there is an urgency to inform the public about government actions that intrude upon constitutional protections to be free from racial and religious profiling and rights to privacy, freedom of association, freedom of expression and the free exercise of religion.

### III. REQUEST FOR WAIVER OF PROCESSING FEES UNDER FREEDOM OF INFORMATION ACT BY REPRESENTATIVES OF THE NEWS MEDIA.

The *Guardian* and the communications departments of the ALC and ACLU-NC are "representative[s] of the news media."<sup>10</sup> Fees associated with the processing of this request should therefore be "limited to reasonable standard charges for document duplication." 5 U.S.C. § 552(a)(4)(A)(ii)(II).

ALC regularly disseminates information regarding civil rights and civil liberties, including changes and developments in government policies in the areas of civil rights and immigration, to the Asian and Pacific Islander communities and public-at-large through several methods:

- Community education presentations in public forums: In the last twelve months, ALC has provided on average one community education forum per week, reaching a total audience of over 2500 individuals. Community education presentations have been held at community centers, senior citizen and low-income housing developments, community festivals and fairs, religious institutions, and universities. At these presentations, written materials in multiple languages are distributed to attendees and outside institutions for wider distribution.
- Publication of Newsletter, Issue Briefs and Reports: ALC regularly publishes a newsletter which is sent to a mailing list of approximately 4000 members and supporters. The newsletters are also available online at ALC's website. In addition to the newsletter, ALC communicates with its members and supporters through an e-mail listserv of approximately 2,100 members. ALC publishes approximately one to two in-depth reports or issue briefs per year.<sup>11</sup>

<sup>10</sup> Notably, courts have found that organizations with missions similar to that of the ACLU and ALC that also engage in similar information dissemination activities are "primarily engaged in disseminating information." See, e.g., *Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005) (*Leadership Conference on Civil Rights*); *ACLU v. Dep't of Justice*, 321 F. Supp. 2d at 30 n.5 (*Electronic Privacy Information Center*).

<sup>11</sup> For example, ALC published a recent report on Customs and Border Protection practices and two issue briefs regarding language access and chemical hazards in the nail salon industry. Other publications by ALC include "Sound Barriers: Asian Americans and Language Access in Elections 2004," detailing problems faced by Asian American voters discovered through poll monitoring conducted by ALC and its partner organizations; "Equal Justice, Unequal Access: Immigrants and America's Legal System" describing barriers legal services faced by immigrants; and "Reinforcing the Seams: Guaranteeing the Promise of California's Landmark Anti-Sweatshop

- Maintaining a frequently-visited website: <http://www.asianlawcaucus.org> contains in-depth information about legal and civil rights and policies of special interest to the Asian and Pacific Islander community, and makes ALC's newsletters and reports available on line. It receives an average of 1,196 hits per week.
- Producing written materials in multiple languages: ALC specifically targets monolingual and underserved communities that traditional news media organizations may not reach. Most of ALC's materials and presentations are provided in multiple languages and many are reproduced verbatim by ethnic media outlets, including ethnic newspapers, radio and television stations, for wider distribution.

Similarly, the ACLU-NC's communication department publishes newsletters, news briefings, right-to-know documents, and other materials that are disseminated to the public. Its material is widely available to everyone, including tax-exempt organizations, not-for-profit groups, law students and faculty, for no cost or for a nominal fee. The ACLU-NC's communication department also disseminates information through the website, <http://www.aclunc.org>, which had 142,000 visitors who viewed 472,000 pages in 2009. This website addresses civil liberties issues in depth and provides features on civil liberties issues on which the ACLU-NC is focused. ACLU-NC staff persons are frequent spokespersons in television and print media and make frequent public presentations at meetings and events. Finally, the ACLU-NC's communication department disseminates information through a newsletter, which is distributed to subscribers by mail. Due to these extensive publication activities, the ACLU-NC is a "representative of the news media" under the FOIA and agency regulations.

As noted above, the *Guardian* is the largest circulation newsweekly in northern California, with audited weekly distribution of 150,000 copies. The paper is locally owned, independent, and has been continuously published since 1966. The paper covers breaking news, does detailed investigative reporting, publishes editorials and covers arts, entertainment, and lifestyle issues. The *Guardian* has received more than 100 state, local and national awards for journalistic excellence. The *Guardian* is a member of the California Newspaper Publishers Association and the Association of Alternative Newsweeklies.

The records requested are not sought for commercial use. The ALC and the ACLU-NC plan to use the channels described above to disseminate the information disclosed as a result of this FOIA request.<sup>12</sup>

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Law," evaluating the implementation of a state worker protection law. All are available online at <http://www.asianlawcaucus.org>.

<sup>12</sup> Courts have found similar organizations to be "representatives of the news media" even though they engage in litigation and lobbying activities beyond their dissemination of information/public education activities. See, e.g., *Elec. Privacy Info. Cr.*, 241 F. Supp. 2d 5; *Nat'l Sec. Archive*, 880 F.2d at 1387; see also *Leadership Conference on Civil Rights*, 404 F. Supp. 2d at 260; *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53-54.

IV. REQUEST FOR WAIVER OF PROCESSING FEES UNDER FREEDOM OF INFORMATION ACT BECAUSE DISCLOSURE OF THE REQUESTED INFORMATION IS IN THE PUBLIC INTEREST.

We also request a fee waiver for duplication costs pursuant to 5 U.S.C. § 552(a)(4)(ii)(II)-(iii). Disclosure of the requested information is in the public interest. It will further public understanding of government conduct, in particular the FBI's policies, practices, and methods of surveillance including the use of informants, the use of informants in terrorism-related prosecutions, the rate at which investigations and assessments of Muslim communities result in criminal and other prosecutions, and the extent to which the FBI is currently targeting Muslim communities for investigations and assessments compared to other faith communities.

The ACLU-NC's communications department is a division of a nonprofit 501(c)(3) organization, and both the ACLU-NC's communications department and the *Guardian* are "representative[s] of the news media." The Asian Law Caucus is also a nonprofit 501(c)(3) organization. They are well situated to disseminate information gained through this request to the public, to affected communities, to organizations that protect immigrants' rights, and to political and religious organizations.

If the fee waivers are denied, the requesters are prepared to pay fees up to \$25, and request to be informed of further fees that may be charged, but reserve the right to appeal a denial of fee waivers. If this request for information is denied in whole or in part, we ask that you justify all deletions by reference to specific provisions of the Freedom of Information Act. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information.

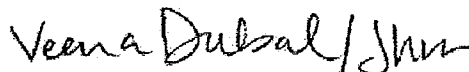
Thank you for your prompt attention to this matter. Please furnish all applicable records to Julia Harumi Mass, American Civil Liberties Union of Northern California, 39 Drumm Street, San Francisco, California 94111, telephone (415) 621-2493.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

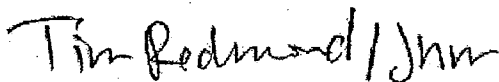
Sincerely,



Julia Harumi Mass  
Staff Attorney, ACLU-NC



Veena Dubal  
Staff Attorney, ALC



Tim Redmond  
Executive Editor, *San Francisco Bay Guardian*

## Appendix A

| TAB | CITATION   |
|-----|--|
| 1   | Linh Tat, "FAME Charter School Implements Changes After Audit Finds Questionable Business Practices," <i>Contra Costa Times</i> , February 21, 2010, <i>available at</i> <a href="http://www.contracostatimes.com/search/ci_14437898?IADID=Search-www.contracostatimes.com-www.contracostatimes.com">http://www.contracostatimes.com/search/ci_14437898?IADID=Search-www.contracostatimes.com-www.contracostatimes.com</a>   |
| 2   | Susan Saulny, "Inquiry into FBI Raid that Killed Cleric," <i>The New York Times</i> , February 3, 2010, <i>available at</i> <a href="http://www.nytimes.com/2010/02/03/us/03imam.html">http://www.nytimes.com/2010/02/03/us/03imam.html</a>  |
| 3   | Candice Williams, "Green Elementary kids train to be FBI junior agents: For students, an 8-week peek into agent's job," <i>The Detroit News</i> , January 20, 2010, <i>available at</i> <a href="http://detnews.com/article/20100120/SCHOOLS/1200357/Green-Elementary-kids-train-to-be-FBI-junior-agents">http://detnews.com/article/20100120/SCHOOLS/1200357/Green-Elementary-kids-train-to-be-FBI-junior-agents</a>  |
| 4   | Niraj Warikoo, "Calls for surveillance rise with jump in U.S. terrorism cases," <i>Detroit Free Press</i> , January 17, 2010, 2010 WLNR 1019658  |
| 5   | Niraj Warikoo, "Deadly FBI raid of Detroit mosque prompts concern over informants: Muslims, civil rights advocates decry tactic," <i>Detroit Free Press</i> , January 17, 2010, 2010 WLNR 1039563  |
| 6   | Rachel Zoll, "U.S. Terror Suspects Mostly Young Men, Study Says No Central Location Found for Radicalism in America," <i>The Denver Post</i> , January 7, 2010, <i>available at</i> <a href="http://www.denverpost.com/nationworld/ci_14137535">http://www.denverpost.com/nationworld/ci_14137535</a>  |
| 7   | Michelle Toy, "FBI's Newest Recruits: Arabic-Speaking Kids: Agency says interest in Arabic charter school just a coincidence" <i>NBC Bay Area</i> , January 8, 2010, <i>available at</i> <a href="http://www.nbcbayarea.com/news/local-beat/FBIs-Newest-Recruits-Arabic-Speaking-Kids-81021242.html">http://www.nbcbayarea.com/news/local-beat/FBIs-Newest-Recruits-Arabic-Speaking-Kids-81021242.html</a>   |
| 8   | Alejandro J. Beutel, "Muslim Americans and US law enforcement: not enemies, but vital partners But first, both Muslim Americans and law enforcement have to change the way they interact." <i>The Christian Science Monitor</i> , December 30, 2009, <i>available at</i> <a href="http://www.csmonitor.com/Commentary/Opinion/2009/1230/Muslim-Americans-and-US-law-enforcement-not-enemies-but-vital-partners">http://www.csmonitor.com/Commentary/Opinion/2009/1230/Muslim-Americans-and-US-law-enforcement-not-enemies-but-vital-partners</a> |
| 9   | Paul Vitello, "Muslims Say Fbi Tactics Sow Mistrust and Fear Agency Defends Practices, Denies Targeting Groups," <i>Sun Sentinel</i> , December 20, 2009, 2009 WLNR 25598494   |
| 10  | Shaun Waterman, "Terrorists recruit on file-host sites Child molesters, criminals share Web techniques," <i>The Washington Times</i> , December 17, 2009, <i>available at</i> <a href="http://www.washingtontimes.com/news/2009/dec/17/terrorists-recruit-on-file-host-sites/">http://www.washingtontimes.com/news/2009/dec/17/terrorists-recruit-on-file-host-sites/</a>  |
| 11  | Paul Vitello and Kirk Semple, "Muslims Say FBI Tactics Sow Anger and Fear," <i>The New York Times</i> , December 18, 2009, <i>available at</i> <a href="http://www.nytimes.com/2009/12/18/us/18muslims.html?_r=2&amp;pagewanted=1">http://www.nytimes.com/2009/12/18/us/18muslims.html?_r=2&amp;pagewanted=1</a>   |
| 12  | Mark Guarino, "David Headley case: What's behind spate of US-based terrorist plots?" <i>The Christian Science Monitor</i> , December 9, 2009, <i>available at</i> <a href="http://www.csmonitor.com/USA/Society/2009/1210/p02s07-ussc.html">http://www.csmonitor.com/USA/Society/2009/1210/p02s07-ussc.html</a>  |



## Appendix A

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| 13  | Paul Gigot, "Interview With Reuel Marc Gerecht," FOX: Journal Editorial Report, November 28, 2009, available at <a href="http://foxnews.com.news-channel.org/story/0,2933,577833,00.html">http://foxnews.com.news-channel.org/story/0,2933,577833,00.html</a>  |
| 14  | Nick Mayer, "US Attorney General Eric Holder Addresses Detroit Community, Arabs, Muslims," Arab American News, November 24, 2009, available at <a href="http://news.newamericamedia.org/news/view_article.html?article_id=73bf47330d40738abf2c6594076287a0">http://news.newamericamedia.org/news/view_article.html?article_id=73bf47330d40738abf2c6594076287a0</a> |
| 15  | Michael B. Farrell, "Fort Hood shootings: US Muslims feel new heat," The Christian Science Monitor, November 22, 2009, available at <a href="http://www.csmonitor.com/USA/Society/2009/1117/p21s01-ussc.html">http://www.csmonitor.com/USA/Society/2009/1117/p21s01-ussc.html</a>  |
| 16  | Scott Shane, "American Sues F.B.I., Saying He Was Detained in Africa," The New York Times, November 11, 2009, available at <a href="http://www.nytimes.com/2009/11/11/us/11aclu.html">http://www.nytimes.com/2009/11/11/us/11aclu.html</a>   |
| 17  | Charlie Savage, "Loosening of FBI Rules Stirs Privacy Concerns," The New York Times, October 29, 2009, available at <a href="http://www.nytimes.com/2009/10/29/us/29manual.html">http://www.nytimes.com/2009/10/29/us/29manual.html</a>  |
| 18  | Sean Emery, "Muslim Group Seeks Uncensored FBI Surveillance Guidelines; Justice Dep't says it doesn't want terrorists to avoid investigations," The Orange County Register, October 21, 2009, 2009 WLNR 20901989   |
| 19  | "FBI works with Arab community," <i>The Detroit News</i> , October 8, 2009, 2009 WLNR 19844932   |
| 20  | Michael B. Farrell, "Zazi case: How far should FBI go in tracking Muslims?" Christian Science Monitor, September 29, 2009, available at <a href="http://www.csmonitor.com/USA/Justice/2009/0930/p02s09-usju.html">http://www.csmonitor.com/USA/Justice/2009/0930/p02s09-usju.html</a>  |
| 21  | David Matingly, Jeanne Meserve, and Mike Ahlers, "Wife and Mother of Terror Suspect Says FBI Tricked Her," CNN, July 29, 2009, available at <a href="http://edition.cnn.com/2009/CRIME/07/29/north.carolina.terrorism.wife/index.html?iref=mpstoryview">http://edition.cnn.com/2009/CRIME/07/29/north.carolina.terrorism.wife/index.html?iref=mpstoryview</a>      |
| 22  | Sean Emery, "Muslim donors say they fear government reprisal ; Local leaders back ACLU's stance that terrorism laws have chilled charitable giving to Islamic..." <i>The Orange County Register</i> , June 29, 2009, 2009 WLNR 12440578  |
| 23  | Salvador Hernandez, "Muslim groups at odds with FBI chief on relations ; Local leader says ties are still strained in wake of surveillance allegations," <i>The Orange County Register</i> , June 12, 2009, 2009 WLNR 11332653   |
| 24  | Salvador Hernandez, "Muslim groups disagree that relations with FBI are 'very good'" <i>The Orange County Register</i> , June 9, 2009, available at <a href="http://www.oregister.com/articles/fbi-168311-muslim-mueller.html">http://www.oregister.com/articles/fbi-168311-muslim-mueller.html</a>  |
| 25  | Salvador Hernandez, "Alleged FBI informant says he monitored local gyms," <i>The Orange County Register</i> , May 7, 2009, 2009 WLNR 8767912   |
| 26  | Samantha Henry, "Mosque surveillance strains crucial Muslim relationships" <i>The Star-Ledger</i> , May 5, 2009, 2009 WLNR 8536800   |
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## Appendix A

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# Exhibit B



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

March 19, 2010

MS. JULIA HARUMI MASS  
STAFF ATTORNEY  
AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA  
39 DRUMM STREET  
SAN FRANCISCO, CA 94111

**RECEIVED**

**MAR 22 2010**

FOIPA Request No.: 1144839- 000  
Subject: INVESTIGATION AND  
SURVEILLANCE OF MUSLIM  
COMMUNITIES IN NORTHERN  
CALIFORNIA

Dear Ms. Mass:

This is in reference to your letter directed to the Federal Bureau of Investigation (FBI), in which you requested expedited processing for the above-referenced Freedom of Information /Privacy Acts (FOIPA) request. Pursuant to the Department of Justice (DOJ) standards permitting expedition, expedited processing can only be granted when it is determined that a FOIPA request involves one or more of the below categories.

You have requested expedited processing according to:

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

You have provided sufficient information concerning the statutory requirements permitting expedition; therefore, your request is granted.

Sincerely yours,

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

# Exhibit C



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

March 19, 2010

MS. JULIA HARUMI MASS  
STAFF ATTORNEY  
AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA  
39 DRUMM STREET  
SAN FRANCISCO, CA 94111

**RECEIVED**

**MAR 22 2010**

FOIPA Request No.: 1144839- 000  
Subject: INVESTIGATION AND  
SURVEILLANCE OF MUSLIM  
COMMUNITIES IN NORTHERN  
CALIFORNIA

Dear Ms. Mass:

- This acknowledges receipt of your Freedom of Information-Privacy Acts (FOIPA) request to the FBI. The FOIPA number listed above has been assigned to your request.
- For an accurate search of our records, please provide the complete name, alias, date and place of birth for the subject of your request. Any other specific data you could provide such as prior addresses, or employment information would also be helpful. If your subject is deceased, please include date and proof of death.
- To make sure information about you is not released to someone else, we require your notarized signature or, in place of a notarized signature, a declaration pursuant 28 U.S.C. § 1746. For your convenience, the reverse side of this letter contains a form which may be used for this purpose.
- If you want the FBI's Criminal Justice Information System (CJIS) to perform a search for your arrest record, please follow the enclosed instructions in Attorney General Order 556-73. You must submit fingerprint impressions so a comparison can be made with the records kept by CJIS. This is to make sure your information is not released to an unauthorized person.
- We are searching the indices to our Central Records System for the information you requested, and will inform you of the results as soon as possible.
- Processing delays have been caused by the large number of requests received by the FBI. We will process your request(s) as soon as possible.

Your request has been assigned the number indicated above. Please use this number in all correspondence with us. Your patience is appreciated.

Very truly yours,

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

# Exhibit D



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

June 15, 2010

MS. JULIA HARUMI MASS  
STAFF ATTORNEY  
AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA  
39 DRUMM STREET  
SAN FRANCISCO, CA 94111

**RECEIVED**  
**JUN 21 2010**

Request No: 1144839-000

Subject: INVESTIGATION AND  
SURVEILLANCE OF MUSLIM  
COMMUNITES IN NORTHERN  
CALIFORNIA

Dear Ms. Mass:

The purpose of this letter is to advise you of the status of your pending Freedom of Information/Privacy Acts (FOIPA) request at the Federal Bureau of Investigation (FBI). Currently the FBI is searching for, retrieving, scanning, and evaluating files that may be responsive to your request. Many factors may contribute to the time required to process your request; however, the greatest single factor is the number of documents associated with your request.

Once your files have been evaluated as potentially responsive, your request will be forwarded to the "perfected backlog", where your request will wait for assignment to an analyst.

You may inquire as to the status of your request by calling the FBI's FOIPA Public Information Center at 540-868-4593.

Sincerely yours,

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